

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 23rd March, 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 the Speaker)

Serjeant-at-Arms, kindly, ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

Clerk, do we now have the requisite quorum? Kindly, proceed to call the first Order.

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE BY THE NATIONAL ASSEMBLY OF THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS No.9 OF 2023)

The Speaker (Hon. Kingi): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Division of Revenue Bill (National Assembly Bills No.9 of 2023).

Pursuant to the provisions of Standing Order Nos.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

“WHEREAS the Division of Revenue Bill (National Assembly Bills No.9 of 2023) was published *vide* Kenya Gazette Supplement No.32 of 20th March, 2023, to provide for the equitable division of revenue raised nationally among the national Government and county levels of government for the Financial Year 2023/2024 as required by Article 218 of the Constitution;

AND WHEREAS the National Assembly considered the said Bill and passed it on Tuesday, 21st March, 2023, without amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Orders Nos.41 and 142 of the National Assembly, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order No.163, which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading, in accordance with Standing Order No.144, the Division of Revenue Bill (National Assembly Bills No.9 of 2023) is listed in today’s Order Paper. At the appropriate time, I shall call upon the Clerk to read the said Bill a First Time.

I thank you.

Let us move on to the next Order.

PETITION

MISTREATMENT AND HUMAN RIGHTS VIOLATION METED ON THE FAMILY OF THE LATE HON. JEAN MARIE SERONEY

The Speaker (Hon. Kingi): Since Sen. Cherarkey is not here, the Petition is deferred.

(Petition deferred)

Let us move on to the next Order.

PAPERS LAID

REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS ENTITIES

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 23rd March, 2023-

Performance Audit Report of the Auditor-General on implementation of the Kenya Towns Sustainable Water Supply and Sanitation Programme.

Report of the Auditor-General on the financial statement of the County Assembly of Meru Staff Car Loan and Housing Scheme Fund for the year ended 30th June 2020.

Report of the Auditor-General on the financial statement of the County Executive of Isiolo for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Assembly of Isiolo for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Executive of Uasin Gishu for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Assembly of Uasin Gishu for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Municipality of Murang'a for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kahuti Water and Sanitation Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Fort Beverage Industries Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Gatamathi Water and Sanitation Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Murang'a South Water and Sanitation Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kwale Members and Staff Loan Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statements of the Kwale County Emergency Fund for the year ended 30th June, 2022.

Report of the Auditor-General on financial statements of the Kwale County Youth, Women and Persons with Disability Revolving Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kwale County Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kwale County Trade Revolving Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kwale Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Executive of Marsabit for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Assembly of Marsabit for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Marsabit County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Marsabit Mortgage Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Marsabit - County Revenue Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Marsabit Car Loan Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Marsabit County Education Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Marsabit County Emergency Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Nyandarua County Emergency Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Ol Kalou Water and Sanitation Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Nyandarua County Civil Servants' Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Executive of Laikipia for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Assembly of Laikipia for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Laikipia County Development Authority for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Laikipia County Assembly Co-operative Development Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Othaya Mukurweini Water Services Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Naromoru Water and Sanitation Company Ltd for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Executive of Samburu for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Assembly of Samburu for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Samburu County Community Conservancies Fund for the year ended 30th June, 2022.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson or any Member of the Committee on Justice, Legal Affairs and Human Rights can proceed to lay the Paper.

REPORT ON CONSIDERATION OF PRESERVATION OF HUMAN DIGNITY
AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS
BILL (SENATE BILLS NO.7 OF 2022)

Sen. Chimera: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 23rd March, 2023-

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No.7 of 2022).

(Sen. Chimera laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

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

STATEMENTS

CREDIBILITY OF COURSES OFFERED TO KENYAN IMMIGRANT WORKERS BY NITA

Sen. Kibwana: Mr. Speaker, Sir, I will do that on her behalf. This is a Statement on credibility of courses offered to Kenyan immigrant workers by the National Industrial Training Authority (NITA).

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Education on the credibility of courses offered to Kenyan immigrant workers by NITA.

In the Statement, the Committee should-

(1) State whether the curriculum offered by NITA to Kenyan immigrants working in the Middle East is recognised by the Ministry of Education.

(2) State the cost and duration of the course and;

(3) List all colleges or institutions that NITA has accredited to offer the same curriculum and state the standards required of such institutions.

This is the Statement by Sen. Tabitha Mutinda.

I thank you.

The Speaker (Hon. Kingi): Sen. Osotsi, please, proceed. I see you on the dashboard.

Sen. Osotsi: For my Statement?

The Speaker (Hon. Kingi): Not for your Statement. If it is for your Statement, you do not need to log on the dashboard. I will call you. I follow the sequence given in the Order Paper. You can proceed to comment.

Sen. Osotsi: Mr. Speaker, Sir, I believe we must thank Sen. Tabitha Mutinda for this Statement. This is because training of immigrants is very important. We have had many problems with Kenyans who travel to Saudi Arabia and the Middle East looking for opportunities. Some of them have died in mysterious circumstances, while others have been arrested and locked in. I am sure in this House we have had many Statements relating to the issue of immigrants who have gone to the Middle East.

One of the reasons they get in trouble is that the training offered to them is inadequate. Sometimes, there is no training at all. They just process papers, put them on a flight and that is how they start working.

This is a very important Statement. I ask the relevant Committee, which is the Committee on Labour and Social Welfare, to give it a lot of focus and consideration so that the licensed institutions that conduct these processes, the agencies, together with NITA, need to stick to the regulations especially on matters to do with training.

Mr. Speaker, Sir, I support this Statement. I would recommend that this Statement be given priority and possibly, a report presented to this House for a consideration. This is because the matter of Kenyans suffering and dying in the Middle East is a serious challenge that affects many Kenyans. I am sure Members in this House have had to deal with this problem before.

I support.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, a few months ago, you chaired a meeting when we had training for Senate leadership together with I think the Chairpersons of Committees in the United Arabs Emirates (UAE). We took time to listen to Kenyans who work there.

They presented us with very concrete proposals on what they think we can do as a country to take advantage of the labour market that exists in that region. Bearing in mind that because of language and our education system, we are perhaps the most competitive country in the continent. We compete with the very best on the globe, including countries like Philippines, which supply labour to the Middle East in the millions.

However, they pointed out to us a key ingredient that separates us and those that are able to send citizens to go and work in these countries as being the training that Sen. Tabitha Mutinda wants us to request NITA to infuse into our curriculum. That way, many young men and women who go to work in the Middle East can have sufficient competence.

Also, at a multilateral level, we are able to enter into the necessary arrangements that will open up the job market for our young people; not just the manual jobs that many people are used to, but including skilled labour as well.

You remember that when we engaged those Kenyans, they challenged us, as the leaders in the country. I am glad that Sen. Tabitha Mutinda has remembered to follow through on the promise that we gave those Kenyans living in Dubai that we would ensure that we push NITA to introduce the exit courses.

Many of them are not even to do with technical details. They include just basic fine etiquette and cultural challenges that they will face when they get to that part of the country. Also, their rights and very basic things for lack of which, on many occasions, many Kenyans end up falling afoul of the law and are locked up or lose job opportunities.

On the more serious front, we cannot access some of the jobs that are available because Kenya has not signed the necessary bilateral with that country because of this specific trade in.

Therefore, once you commit this to the relevant Departmental Committee, it is my sincere wish that they will expedite this. NITA should come and give a commitment before this House so that in the next few months, we know that when Kenyans leave the

country, they have undergone this training. The amendment that they want us to do will enforce and ensure that.

Each time we see the President visiting different parts of the world. This is something that we can brandish and show them that our workers are fully prepared for the labour market in any part of the world.

Therefore, it is my most sincere hope that the Departmental Committee that you will refer this matter to will demand of NITA that we complete this exercise. The Ministry of Foreign and Diaspora Affairs can then move ahead and do that what is necessary so that ordinary Kenyans can access available job opportunities. The only missing ingredient is what Sen. Tabitha Mutinda is reminding us.

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

Sen. Wambua: Thank you, Mr. Speaker, Sir, for giving me an opportunity to also input into this Statement by Sen. Tabitha Mutinda. A few minutes ago, when I walked into the Chamber, my colleague Sen. Sifuna, was very worried that I was wearing green. He thought I am joining FORD-(K). However, I gave him the assurance that I am in green today as an outward manifestation of the peace that we stand for in this House and outside.

Mr. Speaker, Sir, this Statement by Sen. Tabitha Mutinda may sound simple. However, it can actually form the genesis of coming up with a legislation to safeguard the labour rights of our children and citizens working outside the country. It will also properly equip them as they take up jobs in other countries.

Mr. Speaker, Sir, we must also appreciate that Kenya has become a major source market for cheap and semi-skilled labour for especially the United Arab Emirates (UAE), Saudi Arabia, European Union (EU) and the United States of America (USA). This is especially in homecare services.

The hundreds and thousands of young people who fly through Jomo Kenyatta International Airport (JKIA) to take up jobs outside the country is reason enough for the National Industrial Training Authority (NITA) to take the training of immigrant workers more seriously. They should train them even on some very basic things such as basic accounting. That knowledge will enable them to know when to exchange their money once they get their paycheck or when to hold until the rates are better to exchange.

They will have some knowledge on their rights as workers outside this country for them to contribute to the national economy back home. This training will be necessary for the workers and also for staff working in recruitment agencies in this country. They will be properly equipped to prepare the workers.

In conclusion, it should be appreciated by all of us that the export of cheap and semi-skilled labour to the countries of export is business for us. This is business that must bring returns to both the workers and the economy of this country.

I support.

The Speaker (Hon. Kingi): Proceed, Sen. Mungatana, MGH.

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir, I wish to associate myself with the comments of the hon. Senators who have spoken before me. However, there is an important key word that is missing in all the submissions. It is not general

training. It is credibility of these trainings that this Committee must seek out. It is because from my experience in the courts, the agents who take our children do not give them the real requirements that are necessary for the successful execution of the duties they are going to undertake in the foreign countries.

I hope that the Committee captures the real thing in this Statement. They must investigate the credibility of those certificates awarded here. Are the certificates credible? I am inviting the Committee to ask information from the National Intelligence Service (NIS) and the Directorate of Criminal Investigations (DCI).

There was a big scandal that our children are given certificates through these agents. When they go there and these people call, they discover that, in fact, this particular person being employed never went through that course and have no idea. It is really tarnishing the image of our country as a great supplier of trained labour.

I am asking the Committee to really go deep. They must get private information on what has been happening. I am aware the scandal involved some people within that institution being arrested and prosecuted. I am sure Sen. Tabitha Mutinda must have heard this because it happened here in Nairobi City County.

I am asking these people to go deep into it and not just to talk and look at the general standards. We must know electronic databases. For example, if you are taking plumbers, we must have a proper database. It should show their qualifications and when they went in and came out, their grades and the duration of the training. Electronics, in most cases, do not lie. They are less prone to human error.

Like other Senators have said, I am praying that a proper report be brought here so that we can look at it and possibly, legislation be fashioned in such a way that we guard the dignity of the quality and kind of labour force that Kenya is known for abroad.

The Speaker (Hon. Kingi): Hon. Senators, we have spent considerable time on this particular Statement. We will move to next Statement.

Proceed, Sen. Wamatinga.

(Sen. Olekina spoke off record)

Sen. Olekina, under Standing Order No.51, we are only given under one hour to prosecute all the Statements. If we spend more time on just one, we may not make any headway.

Proceed, Sen. Wamatinga.

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I rise to support this Statement--

(Laughter)

The Speaker (Hon. Kingi): Sen. Wamatinga, that has been closed.

Sen. Wamatinga: Pardon, Mr. Speaker, Sir. I am guided.

ALLEGED IRREGULARITIES IN LAND ACQUISITION
FOR DAM CONSTRUCTION PROJECTS

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. Yes, I do have time. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Committee on Land, Environment and Natural Resources on irregularities of land acquisition for dams construction projects. In the Statement, the Committee should -

(1) Provide the list and particulars of parcels of land acquired by the National Land Commission (NLC) for the purpose of the dam construction project from 2020, stating the amounts paid for them as compensation to the respective owners and indicating the market value of those parcels;

(2) Investigate and table the findings on the report on collusion and conspiracy between individuals, companies and officials of the Ministry of Lands, Housing and Urban Development and NLC, to acquire land in anticipation of projects and dispose them to the Government at exorbitant prices for these projects, therefore, occasioning loss of money by the taxpayers;

(3) State the action to be taken against those involved, including measures to surcharge for the loss of the Government; and,

(4) State measures being taken to promote awareness to communities whose land has been marked for Government projects to inconspicuous and unscrupulous land speculators.

Thank you.

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the Statement by the distinguished Senator for Nyeri County and the Chairperson of the Standing Committee on Energy and Petroleum. This is a very important Statement because so often, we violate Article 68(c)(ii) of the Constitution, which is supposed to regulate how land moves from one use to another. Often, you will find that when land is acquired for Government projects, the Land Use Policy is never adhered to. I request the Committee that you will task that report, to do an analysis of all the land that has been acquired and whether the Land Use Policy and Article 68(c)(ii) of the Constitution were complied with.

Secondly, lest we forget that in most cases, all the scandals we get in this country relate to land that is acquired for Government projects. If history serves me right, when the land was being acquired along Mlolongo and the landowners were paid money so that they make way for the expressway, and additionally, when the land was acquired to create the link road to Gachie and this one for Kilimani, people were hiding documents and going to court to seek for more money. You would find that many people who work in the Lands Department were complicit in this matter.

It will be important for the Standing Committee on Land, Environment, and Natural Resources to largely identify what parcels of land have already been earmarked to be used for Government projects. When people know that the Government is going to build a huge dam, they sell the land at exorbitant prices, which is costing Kenyan taxpayers a lot of money.

This Statement is very important. I hope that the issues I have raised can be included in that Statement so we can on a yearly basis know how much money the Ministry of Lands, Public Works, Housing and Urban Development will use to acquire land for Government projects.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Cheptumo, you may proceed to contribute to the Statement.

Sen. Cheptumo: Thank you, Mr. Speaker, Sir. I rise to also support the Statement by the Senator for Nyeri County, Sen. Wamatinga. The construction of dams in our country helps to avail water to our citizens. However, many of these dams have been frustrated because of a number of factors. In my practice of law, I have had cases where there is a conflict between the citizens and the Government because of compensation. There is no public participation between the relevant Ministry and the public. You talk of a situation where people have to surrender their portions of land for the dams to be built. For people to surrender their pieces of land, they should be compensated.

The process of compensation is an issue that I want this Committee to look into. The real value of the land should be given to the owners of the land. Sometimes, there is under valuing and other times, over valuing of the land. A piece of land that was supposed to be Kshs1 million per acre can be valued at Kshs.3 million per acre. This is because of certain considerations and understandings between the officials of the Ministry of Lands, Public Works, Housing and Urban Development and the Ministry of Roads and Transport. That is something that I want the Committee to look into.

If you go to the National Lands Commission (NLC) today and look at the pending bills on unpaid claims, where the Commission has issued certificates, it is in billions of shillings. One wonders why that is so because once the Government has decided to build either a road or a dam, they allocate the money for that particular purpose; money for the dam to be constructed and for compensation. You wonder then why we have huge unpaid bills by the NLC. The owners of those pieces of land are subjected to a lot of suffering. They are asked to go to the National Treasury to be paid the pending bills.

I am a Member of the Committee on Lands, Environment and Natural Resources and our Chairperson is here. We need to interrogate that issue too. Why does money set aside for either compensation or for the dams end up not being available to the owners of the land? This is a very important Statement. I agree that this House should rise up through the relevant Standing Committee and ensure that citizens who have suffered because of non-payment of compensation for their pieces of land are compensated accordingly.

I support Mr. Speaker, Sir.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir. I rise to support and contribute to this Statement. Beyond the issue of speculation on infrastructure development, the Committee needs to look at the issue of social risk management in infrastructure

development in Kenya. Beyond the compensation of land, we have had many community and Government conflicts over a number of projects that have had to be stopped because communities rose and objected to those projects proceeding for one reason or another.

As Sen. Cheptumo has said, this goes to the issue of public participation. Often times, we have had no public participation where allocation is identified for development and the communities are not consulted resulting in conflict. Sometimes, the piece of the land picked is even sentimental, has cultural or religious value. We have not taken the issue of compensation seriously. Beyond this, I am recommending that the Committee look at the issue of social risk management in infrastructure development in Kenya so that we can develop a policy that can guide reasonable compensation as well as look at other social risks to development projects.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Next Statement? Sen. (Dr.) Murango, you may proceed.

Sen. (Dr.) Murango: Thank you, Mr. Speaker, Sir. I have two Statements.

ESTABLISHMENT OF POLICE STATIONS, POLICE POSTS & PATROL BASES IN KIRINYAGA COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defense, and Foreign Relations regarding the establishment of more police stations, police posts, and police patrol bases in Kirinyaga County. In the statement, the Committee should-

(1) List the electoral wards, administrative locations, and administrative sub-locations without a police station or a police post, or even a police patrol base in Kirinyaga County;

(2) State the stop-gap measures in place to ensure that security in the affected areas is enhanced and;

(3) Explain what measures are in place to establish police stations, police posts, and patrol bases in those areas.

STATUS OF THE UPGRADE OF KUTUS-KIMBIMBI-KANJINI-PIAI ROAD TO BITUMEN STANDARD

Sen. (Dr.) Murango: Mr. Speaker, Sir, in my second Statement, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads and Transportation regarding the status of the project to upgrade the Kutus-Kimbimbi-Kanjini- Piai Road in Kirinyaga County to bitumen standard. In the Statement, the Committee should-

(1) Provide an update on the status of construction of the road, which is crucial to the economy of Kirinyaga County and whose construction started in 2022 but has since stalled;

(2) Provide details of the total contract sum for the project and state the cost implication occasioned by the delay in its completion;

(3) Indicate when the contractor will resume works on the stalled project and also state the expected date of completion; and,

(4) State the measures that the contractor will put in place to reduce dust emissions, which has become a health hazard to the residents.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. (Dr.) Murango of Kirinyaga County.

Mr. Speaker, Sir, looking at the establishment of police stations, posts and patrol bases, it is not only in Kirinyaga County as he has indicated, but also in other counties. Sometimes, I wonder when I look at the living conditions and standards of the security personnel. Some of them live under very poor conditions yet the stations are established. Facilities are lacking and the standards are very poor.

Mr. Speaker, Sir, we have been crying because of corruption by the police. However, they are subjected to some situations where for them to survive and live, they have to request for little favors in exchange of service.

The establishment of these posts and patrol bases is very necessary because Kenyans need security. It is important that the ratio of police officers to civilians be improved so that security is also improved.

I also wonder about the budgetary allocation to security personnel, in view of where they live as they serve this nation. It is important for it to be increased. This will help them live in an honorable manner and serve Kenyans with dignity and commitment to their work.

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

Sen. Kisang: Thank you, Mr. Speaker, Sir. I rise to support the Statement by the Senator in terms of increasing the number of police stations, posts and patrol bases.

Mr. Speaker, Sir, when you increase the number of police stations, you will increase the number of police officers in different areas. We can propose that every sub-location should have either a police station or a police post, to enhance security in those areas. It is not only in Kirinyaga County, but also, other areas, especially that are prone to banditry and insecurity like Kerio-Valley.

I know some communities across the country have put up police stations, posts and patrol bases using their own resources, or through the National Government Constituencies Development Fund (NG-CDF) or county funds. However, a majority of them, especially in North-Rift, have not been gazetted. The National Police Service (NPS) has also not posted police officers who would assist to enhance security in those areas. This is very important.

Mr. Speaker, Sir, it is good to note that the Constitution mandates the Government to ensure that the lives of people and their property are secured and protected.

About five weeks ago, I requested for a Statement on gazettelement of police stations in Elgeyo/Marakwet County and beginning of operations in that region. Up to now, six or so weeks down the line, I have not received feedback for that Statement.

Mr. Speaker, Sir, that is why, it is important that the amendments we were discussing yesterday are passed today so that the Cabinet Secretaries (CSs) come to the House. We will put them to task and ask additional supplementary questions, instead of asking so many Statements that go unanswered.

Mr. Speaker, Sir, I support the Statement by the Senator for Kirinyaga County.

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

Sen. Ogola: Mr. Speaker, Sir, thank you for giving me a chance to contribute to the noble Statement that has been brought to the Floor by the Senator for Kirinyaga County, Sen. (Dr.) Murango.

Mr. Speaker, Sir, as we talk about the establishment of more police stations, posts and patrol bases in Kirinyaga County, it is only important that the Committee considers equity across the country. This is because the noble service that police officers provide to Kenyans is needed across the country.

Mr. Speaker, Sir, as we establish these police posts, let us also think about the welfare and salary of the police officers. There has been a challenge with salaries for the police, especially for police officers who have gone for further studies.

The world over, we encourage our young people to go for further studies. However, in other disciplines, you find that once the professionals have furthered their studies, their employers upgrade their salaries. However, this has not been happening with the National Police Service. We have heard a lot of cry from police officers who have studied and achieved university education.

People acquire education to enhance their performance, skills and understanding of the work that they do. However, in the police service, once police officers struggle to go for further studies, they come back to their stations and they are neither upgraded nor is their salary increased. It looks like we are not motivating our police officers once they go for further studies.

Mr. Speaker, Sir, with regard to the welfare of the general police officers, in terms of their housing, a few of them live in a bit of comfort. However, if you travel across this country, you will be in tears because of the state of housing of some of the police posts that we have. We cannot expect an officer to secure you, your businesses and work place and then they go back to live in deplorable houses. As we address their housing and establishment of more police posts, the Government must ensure that the police officers are adequately housed and accorded the respect like other professions.

Mr. Speaker, Sir, let me remind Kenyans of what we saw on Monday 20th March, 2023, when we had the demos that were called by Azimio la Umoja-One Kenya Coalition. The police were in the middle of the conflict. During the presser by Kenya Kwanza, I saw the expectation they had of police officers that they should do particular things to the demonstrators.

On our side as Azimio la Umoja-One Kenya Coalition, we also expected the police officers to protect the protestors and businesses of Kenyans. However, the police officers were in the middle of a conflict.

I was one of the demonstrators that day. As we were demonstrating, I saw police officers running after protestors from 8 a.m. up to evening, without water, milk or anything to support themselves.

Mr. Speaker, Sir, Kenyans need the services of police officers, but as we establish police posts, the Government must give the requisite provisions that go with the establishment of those posts.

I support this noble Statement.

The Speaker (Hon. Kingi): Next Statement by Sen. Cherarkey.

Is Sen. Cherarkey not here? The Statement is deferred.

ALLEGED MISMANAGEMENT AT THE SPORTS,
ARTS AND SOCIAL DEVELOPMENT FUND

(Statement deferred)

The Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 28TH MARCH, 2023

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.57(1) to present the Statement of the Business of the Senate for the week commencing Tuesday, 28th March, 2023.

There are 19 Bills that are before the Senate for consideration at the Second Reading stage. Ten of these Bills are scheduled in today's Order Paper. Four were read a First Time yesterday and are committed to the respective Standing Committees, pursuant to Standing Order No.145(1).

The remaining five Bills will be scheduled in the Order Paper for Second Reading upon the conclusion of the 30-day period for committees to report on Bills. One other Bill is listed in the Order Paper at No.20 and is at the Committee of the Whole stage.

Mr. Speaker, Sir, it is important for Chairpersons of committees to note the revised statutory time as per our Standing Orders; the time period which committees have to consider Bills once they have been read a First Time in this House.

We are seeing a trend that is cropping up where after the 30-day period, committees begin to request the House to either extend time or give them additional few days to consider the Business that is before them. It is too early in our parliamentary calendar to encourage such practices.

I would wish to request your good offices that you stick to the time and be firm. Once the 30-day period lapses, let us proceed and debate the Bill. In any case, there is

nothing in our Standing Orders that bars debate on Second Reading on any Bill in the absence of a report of a committee.

Mr. Speaker, Sir, I have argued before on this Floor that this issue of committee reports and Second Reading is a chicken-and-egg situation. Many are the times when Members read through the committee report, which projects their thinking to a particular direction, yet if you want to hear an adulterated opinion of Members on what they plainly think about a particular issue, then that is the time the committee needs to sit down and listen to the debate; take into consideration the view of the Members and, perhaps, include them in their final findings when they present a report to this House that will guide us when we go to Third Reading. Therefore, I request that we stick to the statutory 30-day period that is provided by our Standing Orders.

As I have enumerated above, our legislative agenda is beginning to get heavy. It would be necessary for the Senate to expeditiously conclude on these Bills within the Second Session. I, therefore, urge the respective Movers to be available in the Senate whenever these Bills are scheduled in the Order Paper. I also urge respective Standing Committees---

The Speaker (Hon. Kingi): Just a moment, Senate Majority Leader. What is your point of order, Sen. Olekina?

Sen. Olekina: Mr. Speaker, Sir, I did not want to interrupt the Majority Leader when he was giving his Statement for the upcoming week. However, I got concerned with one statement that we are to debate Bills in this House in the Second Reading without considering the committee reports, yet these reports normally enrich debates. The law requires us, in Article 118 of the Constitution, to consider public participation.

I would like to beseech the Majority Leader that I am happy with the 30 days and I think we should stick to that, but in the event that we are debating a Bill without taking into consideration the citizen's views and debate without their input, we will actually be bypassing and violating the Constitution.

Mr. Speaker, Sir, I did not want to disturb his line of thought, but I want him to reconsider that thought because the Second Reading is very important. During the Third Reading, we do not have time to do anything.

The Speaker (Hon. Kingi): Sen. Olekina, what is out of order with what the Majority Leader said?

Sen. Olekina: Mr. Speaker, Sir, my concern is---

The Speaker (Hon. Kingi): No, I did not ask about your concern. What is out of order?

Sen. Olekina: Mr. Speaker, Sir, if this House adopts a culture of debating Bills in the Second Reading without considering the committee reports, we will be violating Article 118 of the Constitution. That is the issue in terms of public participation.

The Speaker (Hon. Kingi): Sen. Olekina, if that is your persuasion, then you may have to move to amend the Standing Orders. The Standing Orders are very clear that once committed to the committee, the committee has 30 days within which to do all that which you are talking about; public participation and any other acts that ought to be done prior to tabling the report.

Therefore, failure of the Committee cannot be visited upon the House. The Standing Orders are very clear that upon expiry of that period, the House can proceed. It is incumbent upon the committee whose Bill has been committed to, to make sure that they act within the 30-days window.

I will give you an example that I had the other day from the Chair of the Committee on Agriculture. A letter was written to me seeking my approval to extend the 30 days period. I dug through our Standing Orders and did not find anywhere where the Speaker has powers to extend the 30-day period.

I would not want to exercise the power that I do not have. If you read the Section following the Standing Order that gives the 30 days, clearly after the 30 days, the House can proceed with the First Reading.

If you want to neaten out as per your concern, it is a matter that must be through amendment of the Standing Orders. However, as the Standing Orders stand now, after the expiry of the 30 days, the House can proceed. Therefore, the committee has only those 30 days to do its work.

Those are our Standing Orders and, as the Chair, I have no powers whatsoever to extend that period. It is a question that we grappled with at the Senate Business Committee (SBC) and when I was served with that particular letter. That is the position provided for under our Standing Orders.

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, my colleague needs to read Standing Order No. 148(2). I am concerned that you are treading on dangerous ground where, when I am presenting my Statement, if somebody for one reason or another does not agree with it, then you open it up for debate. That way, I will never be able to do my Statements.

I seek your protection. What Sen. Olekina was raising is a point of debate and not a point of order. Anyway, I will proceed.

Number four, with respect to petitions, the Senate has received 10 petitions that have been committed to respective Standing Committees pursuant to Standing Order No.238(1). I urge committee chairpersons to spearhead the timely processing of the petitions within the 60-day period, as per the provisions of Standing Order No. 238(2).

As it is now, two petitions are already due for reporting by the Standing Committee on Roads and Transportation and the Standing Committee on Agriculture, Livestock and Fisheries, respectively.

Number five, Statements are increasingly being sought pursuant to Standing Order No.53 and others issued pursuant to Standing Order No.52. I urge Standing Committees to expeditiously consider the Statements and report back to the House.

Mr. Speaker, Sir, in conclusion, on Tuesday, 28th March, 2023, the SBC will consider and approve the business for the day. This will contain business that will not be concluded from today's Order Paper, and any other business scheduled by the SBC.

The Order Paper for Wednesday, 29th March, 2023, and Thursday, 30th March, 2023, will contain business that will not be concluded on Tuesday, 28th March, 2023 and

Wednesday, 29th March, 2023, respectively. The SBC will also schedule any other business as well as Petitions and Statements pursuant to the Standing Orders.

I want to end by highlighting that pursuant to the Calendar of the Senate approved on 16th February, 2023, the Senate will proceed on a short recess at the rise of the House on Thursday, 30th March, 2023. It is, therefore, imperative that Bills and Motions be prioritized during Plenary sittings.

I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Hon. Senators, before we move to the next Order, I have two communications to make.

COMMUNICATIONS FROM THE CHAIR

VISIT BY HANSARD REPORTER FROM UASIN GISHU COUNTY ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of Mr. Wesley Abuya, a Hansard Reporter from the County Assembly of Uasin Gishu, who is on a one-week benchmarking visit on Hansard audio-visual solutions in the Senate.

Hon. Senators, I request him to stand to be acknowledged in the Senate tradition. On behalf of the Senate and my own behalf, I extend a warm welcome and wish him a fruitful visit.

(Applause)

VISITING DELEGATION FROM KONDABILET HIGH SCHOOL, ELGEYO-MARAKWET COUNTY

The Speaker (Hon. Kingi): Again, hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation from Kondabilet High School in Elgeyo-Marakwet County. The delegation comprises of four teachers and 47 pupils, who are in the Senate for a one-day study tour.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

I will allow Sen. Kisang to give very short welcoming remarks to both delegations.

Sen. Kisang: Mr. Speaker, Sir, I wish to welcome the two delegations to the Senate today. Kondabilet Secondary School is in Markwet West Constituency of Elgeyo-Markwet County. It is a young school that was started in 2007. That was the first time I vied to be a Member of Parliament (MP), but did not succeed then.

Eventually, I served as the MP for the Constituency for two terms from 2013 to 2022. We used a lot of resources from National Government-Constituencies Development Fund (NG-CDF) for Markwet West to put up the school infrastructure, houses for the teachers and even bought a bus.

I want to welcome them for the study. This is Senate of Kenya and your former MP was promoted to come to this House. This is the “Upper House” where we have mature MPs.

We legislate here. We also represent the people and oversight resources that we pass to go to the counties, in your case, Elgeyo-Markwet County. We ensure that the governor and his executive give you value for money.

The two delegations, welcome to the Senate of Kenya. I will see you outside later on.

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

BILL

First Reading

THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.9 OF 2023)

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

The Speaker (Hon. Kingi): Next Order.

MOTION

ADOPTION OF THE FIFTH REPORT OF PROCEDURE AND RULES COMMITTEE ON REVIEW OF THE SENATE STANDING ORDERS

THAT, pursuant to Standing Orders 267 and 270, the Senate approves the Fifth Report of the Procedure and Rules Committee on periodic amendments to the Standing Orders of the Senate, laid on the Table of the Senate, on Tuesday 21st March, 2023, and pursuant to the provisions of Article 124 (1) of the Constitution and Standing Orders 270 and 272-

- (i) Resolves to amend its Standing Orders as contained in Appendix 2 to the Report; and
- (ii) Orders that the amendments to the Standing Orders as contained in Appendix 2 to the Report come into effect on the 11th April, 2023.

(Sen. Cheruiyot on 22.3.2023)

(Resumption of debate interrupted on 22.3.2023)

The Speaker (Hon. Kingi): Hon. Senators, we will resume debate that was interrupted yesterday, Wednesday, 22nd March, 2023. At that juncture, Sen. Orwoba was actually on her feet contributing to this Motion. She had a balance of four minutes, but I do not see her in the House. Therefore, I will call upon Senators wishing to contribute to do so.

Proceed, Sen. Methu.

Sen. Methu: Thank you very much, Mr. Speaker, Sir, for according me this opportunity to comment on this Motion. I rise to support, but before I make my contribution, I have not had an opportunity to congratulate our two brothers who rose to positions of leadership, that is, Sen. Sifuna and Sen. Olekina. I congratulate them.

Mr. Speaker, Sir, as I rise to support this Motion, this afternoon, we have had many Statements from different Senators on different issues and they were committed to different committees of the House. We had the Statement by the Senator for Kirinyaga on the establishment of police stations, police posts and police patrol bases in Kirinyaga.

Mr. Speaker, Sir, about two weeks ago, the Senator for Kirinyaga was arrested for holding demonstrations in Kiamanyeki following the unfortunate death of two brothers who were brutally killed. Burial is this Saturday.

The reason I support this Motion and believe that Cabinet Secretaries (CSs) should come to answer questions, is because of the Statement by the Senator for Kirinyaga and, indeed, many other Senators who raise Statements in this House.

If the Cabinet Secretary (CS) for Interior and National Administration had an opportunity to come to this House, he would be the right person with all the requisite information that the Senator for Kirinyaga and all the other Senators who seek Statements in this House want.

I was surprised yesterday when our colleagues from the Opposition opposed what, in my view, has been their push through and through, because they seek for Statements and say that they want answers from a CS of a certain Ministry.

For instance, the Senator for Kiambu would have had an opportunity to hear from the CS for Agriculture and Livestock Development, Hon. Mithika Lithuri, on why fertilizer has not been distributed to Nyandarua and Kiambu counties, when it is a planting season.

Instead of seeking a Statement then it is directed to the Committee on Agriculture, Livestock and Fisheries, which has to write to the Principal Secretary (PS) and CS, I will

be glad to get the answers directly from the CS on why fertilizer has not been distributed to Nyandarua County.

Some issues require urgent and immediate answers. Sometimes, for example, questions are asked about circumstances under which a young man called Geoffrey Mwathi met his unfortunate demise. If the CS was able to come here, we will not have the luxury of time asking the Committee on National Security, Defence and Foreign Relations, chaired by Sen. Cheptumo, to look for the Inspector-General of Police, Director of Criminal Investigations (DCI) or the CS. I am convinced that we shall have cured very many issues.

I speak this as a Chairperson of a Committee that deals with five Cabinet Secretaries (CSs) and gets statements for five or six different State Departments that I am supposed to give answers to.

I support this Motion. I am a happy and firm believer that His Excellency the President, Dr. William Ruto, has followed through what he promised when he appeared before Parliament, when he was making his inaugural address. He promised that to ensure we play our oversight role on the Executive, he would ensure a mechanism to have his CSs come to Parliament, so that they answer questions from Members of Parliament.

Article One of the Constitution says that all sovereign power belongs to the people. They can exercise it directly or through their elected representatives. We are the elected representatives. Therefore, when we have been given an opportunity to be asking questions directly to the Executive and from the CSs, then we should ensure that we build that framework and have Standing Orders that will support it.

Finally, as I was walking in this afternoon, I have been greatly embarrassed by Sen Sifuna, and it is important that I mention it. They keep telling us that power is transient and other many things.

Our offices at KICC are just adjacent. Since, I did not have a car, he invited me to drive in his Government vehicle. He told me, “these are the things that you were opposing and you are now benefiting from them.”

So, I want to tell you, Sen. Sifuna, the same way I opposed your rising to become the Deputy Minority Whip, and I have benefited from riding in your car, is the same way you shall benefit from CSs coming to this House when you get an opportunity to ask them questions.

Sen Wambua: Thank you, Mr. Speaker, Sir. From the onset and for the record, I am opposed to this Motion.

(Sen. Wambua’s Microphone went off)

You oppose and then the microphone goes off. I am not opposed to this Motion just for the purposes of opposing. I want the Senate Majority Leader to listen to this because it is important that he listens.

It is true that all of us in this House and the National Assembly would want CSs to appear before us, so that we can interrogate and ask questions that will be lost in

transition if they are answered through Committees. It will make the work of representation a lot easier.

What I am opposed to is the route we want to use to get the CSs to appear before the Senate. The principle of separation of powers among the three arms of Government in this county is well established. That principle of separation extends beyond the academic categorization of the three arms; the Executive, the Judiciary and the Legislature.

That separation finds meaning in the execution of the role of those arms of Government. Much as we all agree that these three arms of Government need to complement each other in the execution of their roles for better service delivery to our people, we must be structured in the way that we create a platform for that complementary role to be played.

This Constitution Kenyans gave themselves has a presidential system of government. We had the option of going for a parliamentary system or a hybrid system. However, under the Constitution, 2010, Kenyans agreed that the way to go will be a presidential system of government, where the Executive sits outside Parliament. That is a conscious decision that we took as a nation.

The beauty of our Constitution is that it does not put us in a strait jacket. It provides options and ways in which we can amend it and make provisions, especially on matters governance. If there is a change or a shift in thinking as to what system of governance will best serve this county, if you want to go for the Parliamentary System or a hybrid system, the Constitution has provisions on how we can do that. I am grossly opposed to a situation where we want to use Standing Orders of the Senate to change the Constitution of Kenya.

I have read through this Report. It invites Senators who took oath of office to defend the Constitution, to change the constitutional provisions on a system of government through an amendment to a Standing Order.

My submission is that, yes, it will be important for CSs to appear before the Senate, but let us use the right route to get them to the Senate.

I thank you.

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

Sen. Mungatana MGH: Mr, Speaker, Sir, I thank you for giving me the opportunity to also add my thinking. I was listening to Sen. Wambua, who is my neighbour. I respect the thinking behind his submissions. That is why I want him to also listen to me carefully.

The Constitution has provided a very clear way in which it is supposed to be interpreted. The Constitution does not invite each and every one of us to interpret it in the manner we want. It has given a self-interpretation mechanism.

I want my honourable colleague to hear me out. I invite him if he has his copy of Constitution here - and I know he has it - to read with me. I know this one, the hon. Sen. Sifuna must have memorized and also the Speaker because we belong to the same breed.

Article 259 of the Constitution – Construing this Constitution reads -

“This Constitution shall be interpreted in a manner that—

(a) promotes its purposes, values and principles;

- (b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;
- (c) permits the development of the law; and
- (d) contributes to good governance.”

Mr. Speaker, Sir, this Constitution also gives a way that makes it very clear. Whenever you interpret the Constitution, you expand the interpretation to allow for expansion of freedoms. You do not expand; you construe the Constitution to construct those freedoms that have been guaranteed in this Constitution.

So, if you are interpreting the principles of freedom of separation of power, we have to interpret them in the manner that says we are expanding the space. How are we expanding the space? Principles of good governance require accountability. In fact, it is in our national values. Article 10 of the Constitution states that we must hold all public servants accountable to us, as a people.

I wanted to convince my colleague to see that by requiring those officers to come to this House, we are expanding and not construing the space of democracy in this country. I want him to be persuaded. Let us not oppose this Motion. I stand to very strongly support it. I am inviting my colleague---

Sen. Oketch Gicheru: On a point of information, Mr. Speaker, Sir.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I can only be informed by my learned friend, maybe Sen. Sifuna. For now, I do not want to be informed by him.

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senator, your request for information has been declined.

Sen. Mungatana, MGH: Mr. Speaker, Sir, let me finish.

(An hon. Senator spoke off record)

Sen. Mungatana, MGH: Are you a learned friend? If you are not a learned friend, you cannot inform me.

(Laughter)

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

Sen. Mungatana, MGH: Mr. Speaker, Sir, I was just about to wind up. I am saying that sincerely and honestly--- I like the way Sen. Wambua is talking here. He says he is supporting the idea, but not the method.

What he should do is take comfort in the fact that we are on the same bench, same thinking and we must do everything to expand the space of democracy. Let us not allow these people to behave like previous Cabinet Secretaries (CSs) of Interior and Coordination of National Government, who used to think they are above the law. They used to---

(Sen. Mungatana's microphone was switched off)

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, please, proceed.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir, for giving me an opportunity to be able to contribute to this matter. On a lighter note, I inform my brother, Sen. Mungatana that sometimes you do not need to be a lawyer to inform any Member of this House.

(Applause)

Some of us have taken time---

(Loud consultations)

Mr. Speaker, Sir, this is a very serious issue in this country. I think there is an attempt to excuse for mischief from the side where I studied. I call it excuse for mischief because if you start bringing these kinds of propositions in the Senate in the context of an ensuring ultimate accountability, then you defy your own Constitution.

Let me draw your attention in the spirit of what my brother, Sen. Mungatana, has talked about. He talked of accountability to Article 125 of the Constitution. I will take my time to read it, so that he might change his mind on some of these thoughts that are shared.

Article 105 of the Constitution says-

“(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court—

(a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;

(b) to compel the production of documents; and

(c) to issue a commission or request to examine witnesses abroad.”

Mr. Speaker, Sir, this power indicates that this House actually already has enough powers to summon or engage any CS. It is because they are persons within the borders of this country. However, for the benefit of doubt, for people like my brother, Sen. Mungatana, who this might not sink as much, I advance to Article 153(3) of the Constitution, which even makes it clearer. It says-

“A Cabinet Secretary shall attend before a committee of the National Assembly, or the Senate, when required by the committee, and answer any question concerning a matter for which the Cabinet Secretary is responsible.”

Mr. Speaker, Sir, this means that the Constitution, while understanding that we are in a presidential system, still gives us a provision that allows us to ensure that accountability. That means that the only way we can have CSs come to this House is if, as a House, we choose to change the House into a Committee of the Whole. This is

according to our Standing Orders and the Constitution. Therefore, this Motion is completely unnecessary.

I can assure you that if, as a Senate, we cannot be bipartisan on some of these issues we will expose ourselves to the situation where other Kenyans will take us to court for passing a wrong law.

I want to be on record in this House that I will not support this Motion. I will be the first person to go to court if this House defies its own self and passes this kind of Motion, so that our constitutional court can assist us. This is something that is already provided for within the realm of---

(Sen. Oketch Gicheru's microphone was switched off)

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

Sen. Chimera: Thank you, Mr. Speaker, Sir, for this opportunity. From the outset, I wish to go on record that I fully support this Motion and the proposed amendments therein.

Sen. Mungatana has ably captured the intention of these amendments. Yesterday, I sat here and listened to Sen. Wambua. I have tremendous respect for Sen. Wambua; this is a very fine gentleman from Kitui County. If he aligns himself well politically, he has the future ahead of him.

(Laughter)

Yesterday, Sen. Wambua came before this House and lamented on and about how, as a House, we are not prioritising Motions, not getting Statements being processed and questions not being answered. I am shocked that, today, he comes before this House and says he opposes the very fundamental amendment that will actually help him in prosecuting his agenda.

Mr. Speaker, Sir, I come from Kwale County, a very tiny rural county. We have serious issues that are affecting the people of Kwale County. We have a longstanding battle boundary dispute between us and Makueni County. We will appreciate if, today, the CS for Land, Environment and Natural Resources, came before us to explain this issue. We are not trying to do any mischief.

For the first time since 2010, we have never had a chance within which a mechanism has been found where CSs can come before this House and explain their agenda.

When the President appeared before us in his maiden speech, I happened to have sat next to Sen. Oketch Gicheru. When the President explained why he feels it fit to have Members of his Cabinet appear before us to answer to questions, explain the Government agenda and programmess, Sen. Oketch Gicheru was the one stamping his feet the most. He was the one who was clapping the most. I do not know what has changed today.

(Laughter)

(Sen. Oketch Gicheru spoke off record)

Sen. Chimera: Protect me, Mr. Speaker, Sir. Time has come for Parliament to provide---

The Speaker (Hon. Kingi): Sen. Chimera, there is a point of information. Would you like to be informed?

Sen. Chimera: I do not want to be informed.

(Laughter)

It is on record that I am a lawyer. There is nothing Sen. Oketch Gicheru can inform me. Leave to lawyers what is duly theirs. Our core business as a Parliament is to provide effective oversight. There can never be any oversight without summoning these Cabinet Secretaries (CSs). As a Government, we do not have any mischief or hidden agenda. All we want is accountability.

If I can have a CS appearing before this House today to explain to the people of Kwale County why we have a serious human-wildlife conflict, then I will be happy if that happens. I do not see why these people are opposing us. I beg to support this Motion emphatically.

I thank you

The Speaker (Hon. Kingi): Hon. Senators, for orderly conduct of our business and pursuant to our Standing Orders, when a Senator is making his or her contributions, he must be heard in silence. Shouting at each other reduces the dignity of this House. If you have a point of order, you know exactly what to do. Let us refrain from shouting at each other.

Sen. Sifuna, you have the Floor.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. I have four issues that I wish to address regarding the amendments before us this afternoon. First, allow me to go on record on the question of the propriety of this Report and its being before the House. If you look at page three of the Report, there is a matter titled ‘Consideration and Adoption of the Report of the Committee.’ In my notes, I have underlined the following words on that page-

“THAT, we the undersigned members of the Procedures and Rules Committee having considered this report on the review of the Senate Standing Orders do hereby confirm our agreement with the content of the report and approve the report for tabling before the Senate”.

Mr. Speaker, Sir, my greatest worry is that this particular Report may not be properly before the House because when it comes to the question of approval and adoption of the report, Standing Order No.223 requires that a majority of the members of the Senate---

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

The Speaker (Hon. Kingi): Sen. Sifuna, I was not here when this debate started yesterday, but I am informed that, that matter was raised and a ruling made in that regard. Kindly proceed with your other three points because that is a matter that is now settled. Proceed to make your other points.

Sen. Sifuna: Mr. Speaker, Sir, I felt it was critical that I put my voice to it, but I am duly guided.

The Speaker (Hon. Kingi): A ruling was made on that matter. You know exactly what your actions mean as per the Standing Orders. It amounts to disorderly conduct. Do not proceed, Sen. Sifuna. Just confine yourself to the three points.

Sen. Sifuna: Mr. Speaker, Sir, let me proceed to my second point, on the question of constitutionality. I heard Sen. Mungatana say that he can only be informed by the lawyers. In fact, my senior colleague understands that the question of interpretation of this Constitution has also been defined by who has the powers and ability to interpret the Constitution. It was not left to Sen. Mungatana and certainly not to me. It was provided under Article 165, to be the purview of the High Court.

What we are doing here is reading and understanding the Constitution in the manner in which we do. We are grappling with this question. Pursuant to these amendments, what is going to be the effect of Article 153(3) of the Constitution because this is the only time that the drafters of the Constitution have provided a mechanism for the interaction between the Houses of Parliament and the members of the Executive?

I remind the House that any rules we pass here, including the Standing Orders, are subservient to the Constitution. Nothing should bother you if there is a rule, regulation or Standing Order that is in conflict with the Constitution. Then the Standing Order is the one to give way and not the Constitution.

Mr. Speaker, Sir, finally, is on the question of the content of these amendments. We were with you in Mombasa County during our retreat where Members raised certain frustrations with the rules. Our expectation was that we would see the concerns being captured in the amendments proposed before us. If you look at page seven, other than this so-called amendment on the time taken for the Speaker to communicate changes to leadership, the rest of these amendments are not the product of this House. They have annexed a letter from the head of the Executive, who is the proposer of these particular amendments to the Standing Orders. These are not our amendments. It is evident on page seven that out of the five amendments, only this one has been put cosmetically to try to make it appear that it came from members of the House.

Mr. Speaker, Sir, just this afternoon, you have been grappling with certain amendments that you were hoping to see, including the 30-day period that is given to committees to process bills. Sen. Orwoba has expressed frustration that we need to amend the Standing Orders on the sequence of proceedings, so that we can start with Motions and process them. I have also expressed frustration about the length and duration of the Statements Hour. However, none of those amendments have made it there.

Finally, we have been told that these amendments are supposed to allow people to ask questions directly to the Cabinet Secretaries (CS), but nothing could be further from

the truth. If you look at the proposed amendments themselves, they have limited the scope and manner of asking the CS questions such that it is going to be a cosmetic exercise. It is like there is absolutely no intention to allow members to engage the CSs. This is not what was intended when we said we need to amend the Constitution and bring these people here. Look at the limitations to the number of questions. There are 11 limitations to the context of the questions you can ask the CS. Why are we lying to the public and ourselves? There is absolutely nothing we are achieving with these amendments. It is ridiculous and we need to call a spade a spade.

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

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I rise to support the Motion. I am not a lawyer, but I know how to read. In support of this Motion, I remember Sen. Sifuna saying on television that he was going to lead his people all the way to the doors of the CS for the National Treasury for them to ask questions. *Maandamano* supporters are doing the same thing; they are asking those questions in public. We want to cure all that.

Instead of them taking their people, who elected them, to ask questions at the CSs doors, we want the CS to come here and get to ask the questions. Why did we vote for you to go ask questions and then come for us to ask the questions on your behalf? I said I know how to read. Article 153(4) (b) of the Constitution that has been quoted here severally by my good friend, Sen. Oketch Gicheru, states-

“(4) Cabinet Secretaries shall—

(b) provide Parliament with full and regular reports concerning matters under their control.”

The words of interest are “provide Parliament” Can they do that on radio? Yes, they can. Can they go out to the streets and shout? Yes, they can. However, for the sake of order, we read Article 124 (1) of the Constitution which states-

“(1) Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.”

Mr. Speaker, Sir, we are bringing order by amending the Standing Orders, which will necessitate for them to come and report to this House.

We want them to be in this House to enhance accountability. They have to be accountable to anything that is said in this House when you ask them questions. These Standing Orders are bringing transparency. This is because Cabinet Secretaries (CSs) will be seen by the public and the media answering those questions in front of the people.

These Standing Orders are bringing about information sharing, which will enhance communication. We only see them when they are issuing press conferences. When they come here, they are able to tell us about their policies and what they are doing on particular issues.

It is also going to enhance decision-making. They will have to explain their decisions. I am the Chairperson of the Committee on Roads, Transportation and Housing. You have heard the Senate Majority Leader say that we have some pending reports that we have to give here. We are going to have timelines. For those who have not read this, it is going to happen every Wednesday morning.

The CSs will be coming to this House, so that we can question them. That means we will have to know when they are coming next, so that everybody who has a question can ask.

If every Senator was to issue or request for a Statement, that means they will have 47 of them. I will also have to write 47 letters back and forth. However, if everybody knows that a CS will be coming to this House, we can ask those questions when they are standing here. Within a day, we would have completed all those requests.

Mr. Speaker Sir, I urge, especially the Minority side, to support this. We are bringing them to you, so that you get out of the streets and ask them questions when they are here.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. M. Kajwang’.

Sen. M. Kajwang’: Mr. Speaker, Sir, I rise to oppose this Motion for the following three reasons. Reason number one, the Senator for Mombasa, Sen. Faki, wrote two letters to the relevant Committee to consider amending Standing Order No.195, which talks about the membership of the Committee on Delegated Legislation.

In his argument, Sen. Faki gave comparative jurisdictions, including the United Kingdom (UK) and Australia, all of which fall within the Commonwealth. His argument was that statutory instruments originate from the Government of the day. The duty of the Committee on Delegated Legislation is to oversight and confirm that those statutory instruments have stood the test that has been prescribed by the Constitution.

This was a very reasonable request by Sen. Faki, and it was supported by the signatures of 18 Senators. However, the Committee did not invite Sen. Faki to explain himself and give the background to that proposed amendment. It is unfair for a Member to go out of his way and get 18 Senators in support and make such elaborate arguments and then that matter is dismissed without a hearing.

The second reason I oppose this Motion is that it attempts to amend Standing Order Nos.22 and 23. If it is not broken, do not fix it. Who complained about Standing Order Nos.22 and 23? We have spent almost one month in this House fighting and telling the Speaker to communicate on the changes in the leadership of the Minority side. This amendment is making the Speaker a player in the process.

You are saying in this amendment, that the Speaker shall verify the correspondence received. What is verification? Is it to check whether the signatures are correct? Does the Speaker have the capacity to do that? The Speaker is becoming a player in political party issues. It then goes further to say ‘and deliver a Communication to the Senate within three sitting days’. A deliberate plot to allow people to go to tribunals, the High Court and the streets to seek all sorts of recourse to frustrate whatever is happening in the House.

I oppose the amendment to Standing Order Nos.22 and 23. This is because in the records of the Report of the Committee, nobody complained about it. Why are you fixing something that is not broken? Why are you bringing the Speaker to be part of the decision-making of coalition leadership?

The third reason I oppose this Motion is that there was a Presidential Memorandum dated 9th of December 2022. On this, I must turn my guns on the Clerk of the Senate who sets up a task force to consider the Presidential Memorandum without a resolution of the House, direction of the Chair, resolution of any Committee or prompting by any Member on this Floor.

We have been here for the last three terms of the Senate. Every time the position of the Clerk of the Senate is being whittled away through amendments to the Parliamentary Service Commission Act, it is we, the Senators, who have come together without being partisan, to protect our Clerk.

I want to urge the Clerk not to be a player in this political contest. I take great exception that the Clerk could set up a taskforce to look into the Presidential Memorandum.

A presidential memorandum is post-facto. In the last Parliament and when Uhuru Kenyatta was President, memoranda used to be issued after Parliament had passed a law and not as a prompt for Parliament to amend its procedures.

If we vote and this matter passes, I can tell you that this will be the theatre of the absurd. With the CSs sitting here, they will regret why they said they should come to this House. We shall deal with them properly. They will be coming here not as Members of Parliament (MPs). They will have to be subjected to the rules of debate and of the House.

My final concern is the manner in which the Speaker wants to contain or censure questions. If you look at the proposed amendments No. 51 (a,b,c, and d), the Speaker becomes a censure and threatens freedom of expression and speech in this House. We have parliamentary privileges. You should not be the---

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

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

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I rise to support this Motion. The issue of governance, accountability and transparency across the world has been known by researchers and scholars to have cost the global economy a lot.

The fact is that we are coming from a regime where CSs were behaving like demigods. The wisdom of our President is to try to bring the services closer to the people and the CSs to come to the people's representatives in no lesser House than the Houses of the Senate and the National Assembly.

We, as Chairpersons of Committees, have been faced, in numerous occasions, with situations where we have to seek assistance from the CSs to give us answers that we can give to the people. To have them on the Floor of the House, will give those of us who sit in several Committees an opportunity to ask cross-cutting questions.

It will be totally dishonest for anybody in this House to say that bringing CSs into this House is not honoring the Constitution, advancing the democratic space of Kenya and bringing the intended services closer to the people.

Just this week, I sat in this very same Chamber with a company that is charged with the responsibility of generating power. We had challenges getting people to answer

some of the questions which we needed answers to. We had to write and wait for the answers, which we are still waiting for.

This change of having CSs come to the Floor of this House will not only give us the opportunity to ask them questions, but to also explain the policy direction of our Government. Both sides of the political divide in this House must rise to this occasion.

One Cabinet Secretary charged with the docket of Interior was behaving like he owned Kenya. He intimidated people and blackmailed businesses. He actually went ahead and made this House look like a former shell of itself.

Mr. Speaker, Sir, this is the time to correct that impression. It is the time to show that Cabinet Secretaries are not above the law. They are not demi-gods. They are appointed to serve the people and they can answer the questions from Members of this House.

Therefore, I think our brothers and sisters across the other side who want to get answers and they are saying they have no opportunity to give their petitions; this would be a golden opportunity for them to do that. When we have Cabinet Secretaries come in the Floor of this House, they can answer their questions.

It will save this country a lot of time and we will not have to seek answers through throwing of stones and chasing police. We can ask sober questions on the Floor of the House and go on record with the answers that have been given. Most importantly, we will be able to correct the impression that has been created by the Minority side that this Government is not for the people. The CSs will be humble enough to answer their questions in as much as they want to believe it is not the right thing to say.

Mr. Speaker, Sir, as I wind up, it is my humble request that as we are talking and telling people the way to move forward, we should also be honest with ourselves. We have cried for many years. We cried for 10 years because we had a government that was not answerable to the people. This is the time that the Kenyan people have an opportunity to get a government that will stand for them and CSs who are not afraid of them.

I want to thank the President because he promised in his campaign trail that he will make CSs answerable to the Houses. Now that he is making it happen, we can only say “hats off”.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mr. Speaker, Sir, thank you for the opportunity. What we are engaged in right now in terms of introducing Clauses 15 (a) to (d) is an attempt to amend the Constitution through the back door.

(Applause)

We are trying to change the functions of Parliament. If we want to change the functions of Parliament, then let us subject it to Article 256 of the Constitution. We should bring a substantive Motion that must be passed by two-thirds majority. Since the functions of Parliament are entrenched under Article 255, we must subject it to a referendum. We cannot do what we are trying to do here.

Secondly, the only way to become a Member of this House is through an election or a nomination. It is not by making a Report under Article 154 (4) (a).

Under Article 254, the constitutional commissions and holders of independent offices are required to make reports to Parliament. Do they come to the Floor of Parliament? Reports of Parliament are made through the Clerk. There is no other way to make a report to Parliament other than through the Clerk.

I would challenge those who are supporting this Motion, to give me a single example from across the world, where non-members of Parliament address Parliament. In the parliamentary system in the United Kingdom (UK), you have to be a Member of Parliament before becoming a cabinet minister. The same applies to Israel. That is when you have got power originating from the House. When the Executive originates from the House, the Executive has a place in the House and they can address the House. Where the Executive is directly elected by the people, it is a stranger in the House.

(Applause)

That is why even for the President to address the House, he invokes a particular provision of the Constitution. The President cannot walk through that door and address this House. He has no *locus*. He cannot address us. So, we cannot begin playing with this Constitution as if it does not matter. I can assure this House that if we waste our time passing this thing, the courts will shoot it down. It is going nowhere.

(Applause)

That is the truth because the Constitution is very clear. If you look at the mode of asking questions as the other presenters before me have said; just look at how they muzzle the freedom of expression. What is the purpose of having this kind of engagement that can bear no fruit?

Why should I surrender my will to the Speaker? My will in this House is unbridled. That is why we enjoy the privileges when on the Floor of this House to be able to say things as they are. When the Speaker says that he has to decide what we say, what are we up to?

(The Amber light was switched on)

Mr. Speaker, Sir, finally, I request you to pay attention to what I am going to say. You personally are conflicted because you signed this document that is under debate. You cannot be a referee in a game where you are also a player.

(Applause)

I do not understand how it was possible for you to Chair this Committee and to vote.

An hon. Member: The Standing Orders!

Sen. Okiya Omtatah: The Standing Orders do not allow. The Speaker does not have a vote and the Constitution does not allow Speakers to vote on issues. They are referees! So, you cannot be conflicted and then sponsor a Motion in the guise of the Motion being from the Members. For lack of a better word, that is conduct unbecoming.

(Applause)

I pray that you withdraw this Motion and let it go through the proper procedures for getting us to debate an issue on the Floor of the House.

I vehemently oppose.

Thank you very much.

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

Sen. Chute: Thank you, Mr. Speaker, Sir. I am completely confused. I am not a lawyer, but the things happening here today are really confusing. People are talking about Articles in law, but I thought if there is any issue that can be discussed about the law, the Supreme Court of Kenya can interpret that law better than anybody else.

Mr. Speaker, Sir, this morning, *Mzee* Galgalo Sora from Marsabit, who is also a freedom fighter called me. We also have freedom fighters in Marsabit. He asked me if we are going to have Ministers coming to answer questions in Parliament like they used to do before. I said, yes, that might come up.

*(Sen. M. Kajwang' and Sen. Osotsi stood in their places
and consulted with Sen. Olekina)*

The Speaker (Hon. Kingi): Sen. M. Kajwang' and Sen. Osotsi, this is the first caution. You are out of order. What you are doing is contrary to our Standing Orders. Please do not drag me into reading that particular Standing Order. You are seasoned Senators and you know exactly what I am saying.

Proceed, Sen. Chute.

Sen. Chute: Thank you, Mr. Speaker, Sir. I would want to talk about a trip that we went to Nanyuki; Kenya Kwanza was invited by the President. The Cabinet Secretaries were there and the President said that he wants the Cabinet Secretaries to come before the Senate and the National Assembly to answer Questions. Then I asked myself, is he really serious? Later on at State House, he talked about the same thing. Regularly, he has been talking about Cabinet Secretaries coming before the National Assembly and the Senate.

I want to remind by brothers on the other side that if today you are in the Opposition in places like Venezuela, Saudi Arabia, Uganda or China, it would be a miracle to get this kind of an opportunity for a CS to come before you to answer questions. I do not see the reason they should refuse.

I want to reason with my brothers, although I am not a lawyer. I suggest that we pass this Motion. After doing so, my friend or anyone else can go to court. I do not want

to mention the name. I can mention Sen. Okiya Omtatah. He can still go to court and stop it. However, our job here is to pass and support this Motion.

Mr. Speaker, Sir, about a month now, we have been having issues in this House. There was a problem about leaders in the Opposition and we solved it. We do not want to waste more time. We want to do away with this Motion.

I come from Marsabit County where many people do not have the privilege to watch television. They do not have even radios, but use phones. Those phones are called pistol phones and are put on the hips. With those phones, they can listen to what this House debates.

They know when the CS for Energy and Petroleum, CS for Environment and Forestry or CS for Interior and National Administration are before the Senate and appreciate what they say. That is better rather than having a CS appearing before a committee because they will not know what the CS said.

Mr. Speaker, Sir, in support of this Motion, I urge my brothers on the other side not to oppose for the sake of opposing. Let us support this Motion and do away with it. If anyone has any issue with it, they are free to go to the Supreme Court.

I beg to support. Thank you.

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

Sen. Kinyua: Bw. Spika, kuanzia mwanzo, naunga mkono Hoja hii na marekebisho yote yaliyoko. Ni vizuri ijulikane kwamba tukisema Mawaziri watakuwa wakija hapa, haimaanishi hawatakuwa wakialikwa katika kamati zetu jinsi ilivyokuwa.

Mambo mengine yananikera ninaposikia watu wakisema Bunge ni tofauti na uongozi mwingine. Huo ni ukweli. Hata hivyo, tumekuwa tukiwa na vikao vya Seneti nzima kama vile vya kamati kwa sababu huwa tunaalika Mawaziri hapa. Sen. Okiya Omtatah amesema kuwa Waziri hawezi kuja katika Seneti kwa sababu Mawaziri wanaalikwa na kamati.

Bw. Spika, ningependa Sen. M. Kajwang' anisikilize. Amesema kuwa watakuwa wanauliza Mawaziri maswali magumu ambayo watashindwa kujibu. Ningependa kumkumbusha Sen. M. Kajwang' kwamba baadhi ya Mawaziri watakaokuja hapa ni kama Mhe. Kipchumba Murkomen na Mhe. Mithika Linturi ambao wana uzoefu.

Tumekuwa tukisumbuliwa na maswali hapa. Kila wakati tukiuliza maswali, tunataka Mwenyekiti wa Kamati ya Elimu, Sen. Joe Nyutu, ama Mwenyekiti wa Kamati ya Mashamba, Mazingira, na Rasilimali, Sen. Methu, wajibu. Hata hivyo, wanapoyajibu, tunasema kuwa hawajajibu jinsi tulivyotaka. Kwa hivyo, ni vyema Mawaziri waalikwe katika Seneti ili wajibu maswali magumu.

Bw. Spika, nilikuwa hapa wakati tulimwalika Waziri Dkt. Matiang'i. Tulikuwa tunamuuliza maswali magumu na bado alikuwa akija. Kwa hivyo, tunafaa kuweka kwenye sheria ili wawe wakija hapa kuulizwa maswali na kujibu kwa sababu imekuwa kizungumkuti.

Wakati Sen. Wambua anaongea mambo ya ndengu, ni vyema kumwita Mhe. Mithika Linturi ili atueleze kwa kina haya mambo. Tumekuwa tukizungumzia mambo ya usalama. Wakati operesheni inafanywa, tunauliza Seneta wa Baringo, ilhali ujumbe

anaotupa hauridhishi. Tutaambiwa tu kwa barua. Waziri anapokuja mwenyewe, atakuwa anajibu maswali.

Tayari Sen. M. Kajwang' ameunga mkono kwa sababu amesema tutakuwa tunauliza Mawaziri maswali magumu. Alisema kuwa akiangalia Seneti hii, kura ikipigwa, Hoja hii itapitishwa. Huo ni ukweli. Mgala muue na haki umpe.

Tumekuwa tukiuliza Wenyeviti maswali. Baada yao kuleta majibu, huwa tunalalamika kuwa hawajaleta majibu ya kuridhisha. Kwa hivyo, ni vyema tukubaliane.

Bw. Spika, naomba wenzangu wa upande wa upinzani wakubali kwamba ni vyema Mawaziri wawe wakija hapa ili tuwaulize maswali kwa manufaa ya Wakenya wote. Wakija hapa, tutauliza maswali moja kwa moja kwa sababu watu wengi katika nchi hii huuliza maswali.

Sitaki kusema mengi ila kusihhi wenzangu kuunga mkono Hoja hii. Sii vyema kumwingiza Spika katika mambo asiyojua. Ni vyema kuzingatia Kanuni za Kudumu na kutambua kwamba yeye ndiye Spika wetu.

Sen. Okiya Omtatah amesema atakwenda kortini. Yeye anajua vile mahakama itaamua. Sisi tunafuata sheria ilivyo. Akifika pale, pengine ataambiwa vile amezoea kuambiwa; hiyo ni hewa moto.

Asante Bw. Spika, naunga mkono.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir, for giving me this opportunity. Even as I contribute, I want to declare my interest. I am a Member of the Procedure and Rules Committee. This is extremely heavy on me to contribute in this manner. Please forgive me, Mr. Speaker, Sir.

I believe this matter has taken an unnecessary adversarial manner because of the way it is being processed. The notice that called for this meeting came in at 5.23 p.m., on a Wednesday night for a meeting at 9 a.m., without any documents to discuss. Some of us had travelled. We were away and, therefore, not able to discuss. However, that is not the problem.

The matter before this House is a serious one. It would have helped if we looked at it and the Constitution in a bi-partisan manner, in order to see how to deal with it without making it an 'us versus them' issue. I am saddened that we discussed it in a manner that we are discussing yet it is an important matter.

Mr. Speaker, Sir, for those who seem to suggest that CSs should not appear before this House, I would like to inform Kenyans that CSs already appear before this House. If we wanted them to come to the Floor of the House, we would have done the drafting in such a way that it would have first secured the current position, so that it does not appear like we want to weaken the committees of the Senate through this process.

The matter is weighty, and we should not kid ourselves. I wish it could be withdrawn, so that we go back to the drawing board and consider the various issues in a bi-partisan manner. Even the questions that have been put actually curtail freedom. I am disturbed that someone drafted those questions.

If I was drafting that, maybe we would have said that we allow the Cabinet Secretaries (CSs) to come and the committees to continue with their powers. Let us not interfere with the freedoms and rights of legislators within this House.

Mr. Speaker, Sir, I think this matter also affects counties. As you move on to the bottom of this, I would want you to declare that this is a matter that affects counties.

I thank you.

The Speaker (Hon. Kingi): Sen. Mumma, as a Member of the Speaker's Panel, you know it is the prerogative of the Chair to make that ruling. I need not emphasize that point, such that when you sit here, you would not want to be pushed to reason on one side.

You exercise your mind to come with the considered reasoning as to whether a matter concerns counties or not. It is not through an invitation of a Senator contributing. So, I thought you would know better being a Member of the Speakers Panel.

Proceed, Sen. Kathuri.

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for this opportunity. I thank you for guiding the Procedure and Rules Committee as our Chair. I am your Vice-Chair and whatever decision that has been made even though my signature is not on the report, I fully support the work of the Committee as a Member.

(Applause)

I also want to inform Sen. Okiya Omtatah, under Standing Order No. 191.

(Sen. Okiya Omtatah spoke off record)

Sen. Kathuri: Sorry, I am not informing you, I am contributing. Sorry for mentioning your name. Please forget it.

(Laughter)

The Speaker (Hon. Kingi): Sen. Kathuri, proceed to make your contribution without mention hon. Senators.

Sen. Kathuri: Sen. Sifuna, you must be patient with other Members when they are also on the Floor. You know, you contributed without any interference from any source.

The Speaker (Hon. Kingi): Sen. Kathuri, proceed to make your contributions. Hon. Senators, the Deputy Speaker shall be heard in silence.

Sen. Kathuri: Mr. Speaker, Sir, Standing Order No. 191, is giving life to Procedure and Rules Committee. It is very clear that -:

“There shall be a Select Committee known as Procedure and House Rules and the Committee shall comprise of the following—

- (1) The Speaker as the Chairperson;
- (2) The Deputy Speaker as the Vice Chairperson; and,

(3) Members of Speakers Panel and other Senators reflecting the relative majority and minority.”

Mr. Speaker, Sir, Standing Order No. 191 (7) states that-

“The Chairperson who is the Speaker and two other Members of the Committee shall form a quorum.”

So, where do we place the Speaker in this Committee, unless we very fast again, go to amend the Standing Orders to remove the Speaker from this Committee if it is possible? If the Chairperson and two other Members can make a quorum, what stops the Speaker from appending his signature to the report?

Mr. Speaker, Sir, you cannot cook a pot of food that you cannot taste. That is why the Speaker has to append his signature to confirm that he agrees with the report and we are doing the right thing. Therefore, whoever wants to challenge this decision, there is no court which can listen to such a matter.

Under Standing Order No. 268, which was on the issue raised by Sen. Sifuna asking why the Committee did not consider all the issues that have been raised in order to change our Standing Order, we used Standing Order No. 267 because this proposes from the Committee.

Standing Order No.268 gives any other Senator in this House time. You can raise the issue or whatever you want to be amended with support of 15 Senators. Our Committee will sit very fast to listen to you and also to consider issues that any Member would to be amended in this Standing Order.

Mr. Speaker, Sir, I have been in Parliament for now 11 years. Since we started using this Presidential system, nothing has been happening. Members have been asking questions and then Chairs who are not Members of the Executive have been struggling to answer questions from the Ministries.

I was happy; I attended the Committee on Roads and Transport which is Chaired by Sen. Thang’wa from Kiambu. The Senators who were Members there agreed that we really need commitments from the CSs. This is because, sometimes they are giving Statements and commitments, but then they are not there to respond to question that we ask the Committee Members.

I am very happy indeed that the CSs will be appearing before the Committee and come to this House. For instance, as the Chair of Liaison Committee, I want to borrow one minute from the hon. Speaker because first of all, I went through the Standing Orders. I can see his finger is approaching the switch.

So, I was saying, because I Chair the Liaison Committee, we have---

(Sen. Kathuri’s microphone went off)

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

(Sen. Chute stood in his place)

Sen. Chute, there is no Senator speaking and, therefore, you cannot rise on a point of order. You can only rise on a point of order if there is a Senator contributing.

Sen. Chute: He has contributed.

The Speaker (Hon. Kingi): No, he has long done his contribution. Kindly have your seat. I had called Sen. Kisang.

Sen. Kisang: Thank you, Mr. Speaker, Sir. I rise to support the Motion to amend the Standing Orders. It is good to inform Members who might not know that for the last 10 years, under the Kenya Constitution, 2010, Parliament both the National Assembly and Senate have been frustrated by the Executive especially the CSs. When invited to come to Parliament, some of them give standard or flimsy reasons to say they are busy and are on official trips.

This is an opportunity to amend the Standing Orders so that the CSs can come to the House on Wednesday morning as has been suggested. This is so that, we can put them to task, get to ask them supplementary questions and they answer.

I remember in 2013 there was an issue in the National Assembly. The House did not know what to do with the CS for National Treasury. This was because then the CS Treasury was expected to come to the House and read the Budget in the course of the month of June. That time, I think the Standing Orders had to be amended to allow the CS for National Treasury to come and present the estimates to the House.

Mr. Speaker, Sir, this is not the first time that we have attempted to call the CSs to the House. This is a noble exercise that we need to pass so that from the 11th of April, 2023, they come and answer questions and the issues we have on Statements. For instance, when you ask for a Statement, they have a standard way of giving answers and there is no one that you can ask for additional supplementary answers because they are not here.

I believe and we beseech our Members from the Minority side to accept and agree to support these amendments so that we can serve our people well. The county governments now are frustrated. They have not received Exchequer releases for last three and half months. They cannot pay salaries. Who are we going to ask if the CS cannot come here and we put him to task as to why they have not released the Exchequer for the last three months? People have gone for three months without salaries.

Mr. Speaker, Sir, the last one is on your Communication if you get a letter from either the Minority or Majority Leadership. You know, for the last three and half weeks or so, the House has been having issues because there was no limit on when to communicate.

This is a good move. Our colleagues should appreciate because if this amendment was already in place, it means the leadership on the Minority Side would already have had their own Minority Whip and Deputy Minority Whip, three weeks or so ago. We would have passed these amendments by that time.

Mr. Speaker, Sir, I support the amendments. I request our colleagues, please, let us rise above party issues and go out there to serve our people.

Lastly, we are talking about the cost of living. Our people are suffering because the cost of power is high. The right place to articulate the issues to reduce the cost of

living and the cost of power is in this House. It is not outside there. The moment we go outside there and demonstrate, we will be enhancing and escalating the cost of living.

I beg to support.

The Speaker (Hon. Kingi): Thank you.

I can see we still have about eight Members wishing to contribute but I wish to give some guidance. I have sat here quietly listening to your contributions. Anyone listening may think that this is a Government sponsored Motion. We are debating a Report from a Committee of this House. A Committee that draws membership from both sides of this House; the Procedure and Rules Committee.

Now, hon. Senators, if we can only use our political caucuses to advance certain positions, we would find ourselves where we are today. Listening to both sides; it clearly seems that Members of the Committee from the Minority side are distancing themselves from this Report.

I have heard Sen. Mumma and the reason being that she had travelled and the notice was short. That notice was short to every Member of that Committee. Nobody was given a different notice apart from the one you were served.

How I wish before it got to the Floor, some of those very good observations, wonderful and persuasive arguments that the Minority Side is making were made available to the Committee. You could have enriched the Committee in coming to a decision.

Having been given an opportunity at the Committee level and letting that opportunity slide away; and then starting a debate that would have otherwise added a lot of value to all of us at the Committee level, sometimes it puts the Chair in a very difficult position.

I have listed to Sen. M. Kajwang', Sen. Sifuna and Sen. Okiya Omtatah about the role of the Chair. I never imposed myself in that Committee. My role is as given in Standing Order No.191 as the Chairperson of the Committee. If you are not comfortable with the Chair chairing any of the House committees, you know exactly what to do, using the Floor of the House. As you are aware, the Chair cannot participate in debate. That is why I was very quiet because that is how it is supposed to be.

Who was supposed to sign that Report? Who signs reports from these committees? Are they not signed by the Chairperson according to our Standing Orders?

Members, if we have issues with these Standing Orders, there is a way that is provided that we can sanitise these Standing Orders. It may be painful that the Speaker is the Chairperson of that Committee, but that is what the Standing Orders provide. As it is, we have to abide and may be make amendments in future.

If you ask me, I would not want to chair a Committee by virtue of being the Speaker. However, since the Standing Orders are telling me to chair, I have to abide and, in this case, I did abide.

The Committee stage was the opportune moment for those wonderful proposals by Sen. Sifuna, Sen. M. Kajwang", Sen. Olekina and Sen. Okiya Omtatah. When the Committee sat to look at the Standing Orders and proposed amendments, why were this presentation never made?

Three Members of the Minority Side are in that Committee – Sen. Abdul Haji, Sen. Beth Syengo and Sen. Mumma. Where were they when this matter was discussed? Where were these good ideas? Even if you are not a Member of that Committee and you had some amendments that you wanted to be propose, those were your agents. I do not find it neat to let that opportunity go, then we come here and start imputing other things that we could have otherwise addressed then.

Indeed, as Sen. M. Kajwang’ has said, as the Chair and the Speaker, I received proposed amendments from Sen. Faki. However, the Standing Orders again are clear on what a Speaker should do, having received an initiative from a Senator on how to amend the Standing Orders.

Standing Order No.268(3) provides that-

“The Speaker shall, if satisfied that the requirements of paragraphs (1) and (2) have been met, forward the request to the Procedure and Rules Committee.”

In this case, I was satisfied that Sen. Faki’s amendments satisfied Standing Order No.268(1). I referred those proposals to the Procedure and Rules Committee.

Now, Standing Order No.268(4) is very clear. It says-

“The Procedure and Rules Committee shall, within twenty-one days of receipt of a request under paragraph (3), consider the request and table a report in the Senate containing the amendments proposed in the request and the recommendations of the Committee on each such proposal.”

The Procedure and Rules Committee, indeed, considered that matter in its sitting last Thursday. A recommendation was made as per that that particular Standing Order. That recommendation is contained in the Report.

There is no requirement, whatsoever, that the Committee is required to summon the hon. Senator for purposes of giving him a hearing before making---

(Loud consultations)

Hon Senators, when the Chair is speaking, you do not shout back.

Sen. M. Kajwang’: We are reinforcing and encouraging.

The Speaker (Hon. Kingi): Sen. M. Kajwang’, you are trading in extremely slippery grounds. If I were you, I would leave it there.

The requirements as far as the Standing Orders are concerned have been met. This report is properly before the House. Whatever arguments are being advanced now have been overtaken by events. They are wonderful arguments that ought to have been put when the Committee was seating to consider these proposals.

Hon. Members, let us not go back. Either this Report will be defeated or it will carry the day, it is up to you. It is not up to the Chair. My role was to Chair that meeting; which I did and to sign that report as the Chairperson of the Committee as demanded of me by Standing Order No.191; which I did. Those who are yet to make their contributions, kindly be guided.

Sen. Korir, please proceed.

(Hon. Senators spoke off record)

Hon. Senators, the only time you rise on a point of order is when another Senator is on his feet.

(Sen. Cheruiyot spoke off record)

That is very clear in our Standing Orders. Read Standing Order No. 98. I am going to read it to you. It is the only Standing Order that touches on point of order. Since we have abused that particular Standing Order, there have been many points of orders mushrooming that are not guided by our Standing Orders.

I have personally gone through these Standing Orders to see at what point a Senator rises on a point of order. The only Standing Order that allows a Senator to rise on a point of order is Standing Order No.98. I will read it for the benefit of those who do not want to read these Standing Orders.

Standing Order No. 98(1) states-

“(1) Any Senator may raise a point of order at any time during the speech of another Senator stating that the Senator raises a point of order and that Senator shall be required to indicate the Standing Order upon which the point of order is based.”

That is the only Standing Order that touches on the subject of a point of order. If there is any other Standing Order, which speaks to the issue of points of order, I stand guided.

Sen. Korir, please proceed.

Sen. Korir: Thank you, Mr. Speaker, Sir.

(Loud consultations)

The Speaker (Hon. Kingi): Proceed.

Sen. Korir: Thank you, Mr. Speaker, Sir---

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

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

Sen. (Dr.) Murango: Bw. Spika, nasimama kwa kanuni za kudumu 109---

(Loud consultations)

The Speaker (Hon. Kingi): Sen. (Dr.) Murango, can you raise your point of order.

Sen. (Dr.) Murango: Bw. Spika, nasimama kwa msingi wa Kanuni za Kudumu 109 ambayo inaongea kuhusu kuhitimisha mjadala. Kwa hiyo, natoa Hoja kwamba mtoaji wa Hoja sasa aitwe kujibu. Naomba Sen. Korir kuunga mkono Hoja yangu.

(Laughter)

(A number of Senators from the

Minority side consulted with the Speaker)

The Speaker (Hon. Kingi): Senators, can we please take our seats.

Sen. (Dr.) Murango, I want to rule on your point of order. Looking at my dashboard, the interest that this matter has generated, I do not believe this is the right time to call the Mover to reply.

(Sen. Cheruiyot consulted loudly)

Majority Leader, please arm yourself with the Standing Orders. I want you to read Standing Order No.109 (1). The whole of it.

(Sen. Madzayo walked into the Chamber)

(Applause)

For the benefit of other Senators, kindly read it aloud.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, you have asked me to read Standing Order No. 109 (1). I hope you will also allow me to make a comment, in a minute, on why I thought about it.

(Sen. Sifuna spoke off record)

The Speaker (Hon. Kingi): Just read it. Sen. Sifuna, the orderly conduct for this business is the business of the Chair. Kindly, let me do my job.

Sen. Cheruiyot, please proceed. Read that Standing Order. You do not need to explain yourself.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, Standing Order 109 (1) states-

“109. Closure of debate

“(1) After the question on a Motion the Mover of which has a right of reply has been proposed, a Senator rising in his or her place may claim to move “That, the Mover be now called upon to reply”, and, unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the Senate, or an infringement of the rights of Senators, the question “That, the Mover be now called upon to reply”, shall be put forthwith, and decided without amendment or debate and if that question is agreed to, the Mover may immediately reply to the debate, and as soon as the Mover has concluded or, if the Mover does not wish to reply, the Speaker shall put the question, subject to Standing Order 66 (3) (Manner of debating Motions).”

The Speaker (Hon. Kingi): Thank you, Senate Majority Leader. Clearly, that Standing Orders gives powers to the Speaker to rule.

Proceed, Sen. Korir.

Sen. Korir: Thank you, Mr. Speaker, Sir, for giving me this chance to debate on this very important Motion.

I congratulate Members of this House for debating soberly on this matter. The issues raised by the Procedures and Rules Committee touch on Kenyans.

There are a number of questions, Statements and Petitions that have been brought to this House that take a lot of time before being responded to. The number of Committees that we have sometimes give the Cabinet Secretaries (CS) a rough time in terms of answering the questions.

I also want to bring the attention to Members who are opposing this Motion that sometimes you find a Committee has raised a question and because of a lot of work or laxity in the relevant Ministry, they just copy and paste answers and give to Members. This forces them to disagree with those answers and it take rounds before the questions are answered.

It is time to we support this Motion in order to give us room to discuss these issues on the Floor of the House and get instant answers. The Members from the other divide are equally in order because this is a House of debate. However, we have various jurisdictions in this country because of the interpretation of the law. We have competent secretariat in this Parliament who can assist us in interpreting and drafting amendments which cannot come to the Floor of the House unless they have been scrutinized.

It is time for this House and our Members from the other divide to know that anything that comes to the Floor of the House has been scrutinized. Although they have the right to debate, at the end of the day, the majority has their way.

I support this Motion. We are looking forward to assist our brothers to stop them from going for *Maandamano* to ask questions and issues from innocent Kenyans when they can bring them here.

The moment we give them room to go around the streets raising these questions, they will derail the development of this country yet they have the right place to raise them. That is why they have been given the mandate by members of the public. It is time they agree with us on this issue.

At the end of the day, what they need are the answers and to see the CS. This is the platform they will use to ask those questions and get answers.

I totally support. We are looking forward to implementing the same.

The Speaker (Hon. Kingi): Thank you, I can see a number of Senators want to raise points of order. I will call one after the other so that we dispense with them. Sen. M. Kajwang'. Sen. Oketch Gicheru and Sen. Olekina.

(Hon. Senators were not in the House)

Hon. Senators, there being no other Senator wishing to contribute as per my dashboard, I now call the Mover to reply.

(Sen. Tobiko spoke off record)

Sen. Tobiko: Mr. Speaker, Sir, but mine is showing---

The Speaker (Hon. Kingi): Sen. Tobiko, unfortunately, it was captured after I made the ruling.

Proceed, Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I thank colleagues who have taken time to contribute. Those in support and those opposed. That is the beauty of our democracy. That while many will agree with you, there are some who will not. However, we are a constitutional democracy.

While registering my remarks, I must continue to remind the country to be alive to the kind of democracy we are seeing in the Senate these days. When the Minority side senses defeat in any Motion, they walk out. That is why they can never accept results of the Independent Electoral and Boundaries Commission (IEBC). They are not democrats.

I have been in this House for the last five years and I was in the Minority. We used to remain only seven in the House and yet we would speak and make our points. Eventually, we would go ahead and lose honorably because that is the beauty of democracy.

I have listened to the contributions of colleagues who are concerned that there has been a wish list that had been presented by Senators in Mombasa and another part of the country.

What we are debating is a Motion brought to us by the Procedures and Rules Committee in reaction to a letter I wrote requesting that the Standing Orders be amended. If the Minority side wishes to convince the same Committee, I am sure they know the procedures.

Indeed, one of them had tried to do so. That is, Sen. Faki of Mombasa County. He tried to move the Committee to allow that leadership of the Committee on Delegated Legislation be granted to the Minority side.

I listened to the contribution by Sen. M. Kajwang'. I am afraid that he misled this House. If you argue that statutory documents and regulations come to this House from the Executive and it is only the Minority that can oversight them, why then do we have leadership on this side on chairmanship of other Committees?

Almost all Bills and business in this House come from the same Executive. Therefore, I do not agree with those who hold the view such as his in regard to the Committee on Delegated Legislation.

Mr. Speaker, Sir, I agree with the findings of your Committee. I want to be quick about this. I have seen the pain you have gone through this afternoon trying to explain yourself and being drawn into debate. You are so magnanimous. If I was seated on your Chair, I would not have allowed Sen. Okiya Omtatah to get away with the words that he used on you claiming that your conduct is unbecoming.

That shall be left in the copies of the HANSARD of the House. However, because of the unique situation where you find yourself, you had to allow.

I will have you remember that in the 12th Parliament, the National Assembly Speaker Muturi, now Attorney-General, seated where you are, found himself in the same situation such as this. A Member of the National Assembly had behaved in a disorderly

manner and the Committee on Powers and Privileges, chaired by the Speaker, as per their Standing Orders, investigated the matter and recommended some sanctions against the Member.

Unfortunately, when the Motion of the report was brought to the House, it was defeated on the Floor. If you read the exit report of that incident, the Speaker recommended that it is not proper that a Speaker be allowed to Chair a Committee which will be subject to proceedings of the House. I have seen the struggle and the difficulty with which you have had to explain yourself. Therefore, I agree that there should be consideration.

It is not a wise decision, having learned from experience, and seeing what has happened this afternoon, to give the Speaker chairmanship of a Committee whose works will be subject to debate in this House. Perhaps, we might want to restrict it only to the Senate Business Committee (SCB) of which, for reasons on how the Senate is run, must be chaired by the Speaker.

Finally, I listened very keenly to Sen. Okiya Omtatah. However, I am afraid his reading of the Constitution is either lopsided or he has challenges with how he reads and understands it.

Article 153 of our Constitution spells out how Members of the Cabinet shall transact business with this House. It speaks rather that they shall give regular updates on matters that are under their control. What we are doing is providing the 'how.' There is nowhere in this Constitution and I wish the democrats from the Minority side can learn the proper practices of parliamentary democracy where you speak and wait for others also to give their opinion instead of running away like cowards.

I would have them know that there is no clause whatsoever in the Constitution that bars Cabinet Secretaries from coming to this House to make their presentation. We can have a debate. I know that perhaps Members feel very sentimental about these seats. Let them know that many of the Cabinet Secretaries, especially in this Cabinet, have been in Parliament for the past 10, 15 and 20 years. There is nothing exciting about having these seats.

There have been occasions where we had non-members of this House come and debate in this House. We have provided a place where they stand and respond to questions where we normally put governors. That is good a place to suggest for Ministers to answer questions from if there are Members who feel uncomfortable on where they will sit. When we have the Committee of the Whole and you have invited a Speaker and have a sitting of the entire Plenary that is where Members of the Cabinet normally sit in this House.

I do not wish to speak a lot on this topic because I am aware that there are Members who are travelling out of town for parliamentary engagements. With those very many remarks, I want to appreciate the Senators who have taken time to sit down, listen to debate. As we bring it to a close, I appreciate their industry.

I beg to reply.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon Senators, the Mover having replied, it is my determination under Standing Order No.84 (1) that this matter does not affect counties and, therefore, I will proceed to put the question.

(Question put and agreed to)

(Applause)

Next Order.

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

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

BILL

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING)
BILL (SENATE BILL NO. 6 OF 2022)

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

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we are deferring business under Order No.9 to the next sitting.

(Bill deferred)

Next Order.

BILL

Second Reading

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

(Sen. M. Kajwang' on 21.3.2023)

(Resumption of debate interrupted on 21.3.2023)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, this debate was interrupted on Tuesday, 21st March, 2023 and Sen. Sifuna was on the Floor. He has four minutes to

complete his contribution. If he is around, he can proceed and utilize his four minutes. If he is not around, we can give a chance to the next contributor. Surprisingly, I do not see any person interested in this debate.

Sen. Nyutu, do you want to contribute?

Sen. Nyutu: Mr. Deputy Speaker, Sir, we have already sat as a Committee and deliberated on all the provisions of that Bill. It is ready for tabling by Sen. M. Kajwang' who was the Mover. So, I do not have any contribution to make as of now.

The Deputy Speaker (Sen. Kathuri): No. This Bill is under debate now. I am opening the Floor for debate.

Sen. Nyutu: Mr. Deputy Speaker, Sir, I had not prepared some notes for debate on this because we had deliberated on it as I have said at the committee level. So, we may invite other Senators to make their contributions.

The Deputy Speaker (Sen. Kathuri): Yes, the Chairperson of the Standing Committee on Education we are very happy because you are one of the chairpersons who has brought a report before the Second Reading of a Bill. I am encouraging other chairpersons to do the same so that Members can debate with information. Thank you very much the Standing Committee on Education for your report.

Sen. Nyutu: Thank you for the compliment, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): If there is no one interested to contribute, I call upon the Mover who is Sen. M. Kajwang', the owner of this Bill, to reply. If he is not around, then we defer to the next sitting.

(Bill deferred)

Next order.

BILL

Second Reading

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

The Deputy Speaker (Sen. Kathuri): Sen. Tabitha Mutinda, is the Mover. Let her proceed to move the Bill. If she is not present, then we go to the next order. The Bill is deferred.

(Bill deferred)

BILL

Second Reading

THE PRESERVATION OF HUMAN DIGNITY AND
ENFORCEMENT OF ECONOMIC AND SOCIAL
RIGHTS BILL (SENATE BILLS NO. 7 OF 2022)

The Deputy Speaker (Sen. Kathuri): Sen. Mungatana, you may proceed.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, this is an important Bill and it should have come yesterday. It is a Bill that proposes to give effect to one of the most important constitutional articles that we passed in the 2010 Constitution.

In constitutional law, we first have generation rights. They fought because their rights to life, living without discrimination, live in their own land and the colonialists were derogating their basic human rights. Those rights resulted in independent freedom fighters not just in Kenya, but also across the African Continent.

You will find that legends like Sam Nujoma of South West Africa People's Organisation (SWAPO), Nelson Mandela of *uMkhonto we Sizwe*, Robert Mugabe and many others, fought because of the first generation rights. They fought so that their people could get what belonged to them that the colonialists had taken away from them.

Those people then set up the first governments. After the first governments were set up, we started talking about the second generation rights which are basically economic rights. The 2010 Constitution that brought a new era in Kenya tried to capture the socio-economic rights that we also know as second generation rights.

These rights deal with the way people should live in a dignified manner; in a way that ensures they have decent housing, a source of income and socio-economic rights that they exercise within the country in which they exist.

This is one of the Bills of Parliament that was supposed to be brought, so that the economic and social rights of our people in this country could be realized. This Bill tries to set up a framework in which there will be preservation of the dignity of the Kenyan people. There will also be promotion and monitoring of the social rights that are sought to be enforced in this Bill. There will be mechanism established to monitor and promote the social and economic rights of the Kenyan people.

There will be a requirement for county governments to adhere to the promotion of these social and economic rights. This Senate will be setting a new order that will require all the 47 counties to reshape their budgets and approach to budget-making, so that at the end of it, the constitutional goals are achieved. The main one in this particular case is to guarantee the people of Kenya in various counties their social and economic rights.

What are these economic and social rights that we are talking about? This Bill defines them in Part II of the Bill. It states that these are the rights accruing to every person in this country. They are captured under Articles 43(1) and 53(1)(c) of the current Constitution. They include the highest attainable standards of health, which includes the right to healthcare services.

Health services have degraded in many counties, including in my own County of Tana River. Emergency services are also degraded. In fact, if you happen to fall sick in Tana River County today and you need emergency treatment, management of the Hola County Referral Hospital will quickly right a note for you to go to Kilifi County Hospital,

which is our neighbour, or they will take you to Garissa. Those are not referral hospitals. However, because of the degraded situation of the hospitals, that is the current situation.

This Bill seeks to force county governments to treat healthcare as a socio-economic right that must be guaranteed by the counties. It is not only in Tana River, but also in other counties. This Bill will force governors in various counties to make sure that socio-economic rights of the people are not degraded and forgotten.

It includes accessibility to adequate housing. Adequate housing is a problem, especially in urban areas. This Bill will force counties to start thinking about real provision of housing for their people and how our people who are living in various counties are going to be housed. This Bill will force counties to capture the need for housing our people in their development plans. It will force them to think about the right of housing in the long term.

We see that happening in the European or American countries and even some more advanced nations in other parts of the world. When you plan for a county or state, you are forced to even plan for new housing, new cities and new amenities for people in advance because you look at the statistics of the birth rates. This is one of the laws that will force planning to take housing into account.

Mr. Deputy Speaker, Sir, reasonable standards of sanitation must be guaranteed by all county governments under this law. If you go to many parts of the nation, including major cities and the capital city of this country, sanitation is a problem. It is not only a problem in major cities, but also in cities, urban centres and municipalities such as the Hola Municipality and others.

Mr. Deputy Speaker, Sir, when it rains in Tana River County, water cannot move and houses are so close. There is no proper sanitation system. We appreciate the World Bank (WB) grant that has been given and is being applied in various municipalities, including Hola Municipality. That grant is the first attempt at trying to set up proper sanitation systems.

This Bill will force the county governments to think about sanitation in terms of planning in the allocation of resources and reasonable standards of clean, safe water in adequate quantities. Many counties suffer water shortages, inadequate or unsafe water facilities.

Mr. Deputy Speaker, Sir, I can say with authority that in Tana River County, the Tana River Water and Sewerage Company (TAWASCO) has failed the people. People go without water for many days and when the bills come, they come as though people have been collecting and receiving water throughout. They supply the same water from River Tana and the water that comes from your tap is brown. It becomes very difficult for the people to be sure that the water they are receiving is clean and safe.

This Bill addresses itself to standards of water that is provided to the people. It forces county governments such as mine and others to think about putting proper money and reticulation systems, that the water they are providing to the people in our 47 counties is safe and meets hygienic standards that can support proper life in their counties.

Mr. Deputy Speaker, Sir, this Bill talks about the right to be free from hunger and to provide adequate food and in adequate quantities to the people. It is trying to say that there are social and economic rights within the Constitution. It is forcing those rights to be enforced in our counties.

Right now, before the rains started, people were going hungry. You would find many children unable to attend school because there was no food. For example, pictures have been circulating in some of our social media platforms in Tana River County.

You will find that a child has struggled to go to school, walking all the way there. When they reach school, that child is found sleeping on the floor. During the lunch break, that child is not able to play or be effective in communicating with the other children.

Mr. Deputy Speaker, Sir, this Bill is making it compulsory for county governments, not just in Tana River County, but in all the 47 counties, that in their planning, they will give effect to social and economic rights, which include the right to have food. Going forward, governors will be forced to plan so that the population they are leading are not people dying of starvation.

In this Bill, there is a requirement that the national and county governments work together, so that they can deal with actual needs of the people. While we have hunger, the priorities that have occupied certain counties are not reflecting of the hunger situation. Many of them have plans to construct new buildings, not grain storages or water pans where they can tap water.

They are planning to buy new cars for the governors who have just been elected. They will find money for new housing or completion for Speakers and governors who have not built their houses.

They will find money for allowances, to travel trips for training and going abroad. They will take big, nice pictures of county delegations visiting all over the world, but the planning is not capturing the fact that there is hunger.

This Bill will force county governments, county assemblies and the treasuries in those counties to make sure that they are planning for the basic necessity, the dignity of the human person. The Kenyan person will now have an opportunity to truly say that independence has come.

This Bill is intent on giving social security and social assistance to the lowest of the low. Under this Bill, national Government and county governments will be forced to look into their budgets and see how they can support people who are at the bottom of the ladder. This Bill is saying that county governments must come up with creative ways. There should be no people sleeping hungry in your places.

In the European countries where they have social democracy and their governments are in power, you will find that they create soup kitchens in the local authorities, where people are allowed to go and eat something. You do not sleep hungry in that country.

They create areas where if life has beaten or battered you to the point that you have lost all, you can run to a place that is a shelter where you can organize yourself so that you do not die. They are not very good, but you can organize yourself in time for you to go back to the workforce.

Mr. Deputy Speaker, Sir, in various States in the United States of America (USA), they provide for food coupons as part of their social assistance agenda, depending on which State you come from. Food coupons are given to people who are out of work and do not have food, and are literally starving.

They are allowed to access coupons, which they can take to - say in our country if you were to localize it – Tusky's Supermarkets. Those food coupons are specific. They say you are allowed to take three or four packets of unga, one packet of rice, sugar and so on. Once the food coupon is given to the owner of that supermarket, it becomes cash for him. It is because when he takes it and goes to the bank, it is converted into his actual funds.

Mr. Deputy Speaker, Sir, if you look at the objects and purposes of this Bill, they capture the provisions of the Constitution that address themselves to the economic and social rights of the people of Kenya. This Bill tries to enforce it. There has not been a Bill that has really tried to come to make it happen.

It has been left to political parties and leaders to try and say we are a social democracy; we will do this when we get into power; or we will give every household Kshs6,000. Different governors have come up with manifestos. At the presidential level, political parties and candidates have come with different manifestos. However, they are not based in law. It is just a programme that may or may not be followed.

Nevertheless, when we pass this Bill, you will now be required by law to ensure that there is human dignity. One of the major objects and purposes of this Bill is to ensure preservation of the human dignity.

Mr. Deputy Speaker, Sir, this Bill brings the realisation of economic and social rights by national and county governments. With this Bill, every President and Governor will now have to be bottom up. They will have to think of the lowest people in our land. It is because when this Bill becomes law, it will force the national and county governments to realise economic and social rights for the people of Kenya.

It will now be mandatory for the national Government to plan and think how the lowest of the low will be protected under Government or administration. It will force every governor by law, to make sure that the lowest of the low in his county are protected.

This Bill in its object and purposes also says that we want to create a monitoring mechanism. So, it has not been left to the President or the governor to do as he pleases and make sure that maybe it is only one programme that will succeed and not the others.

It is proposed in this Bill to establish a mechanism that will monitor. It will monitor to see that food is given to the hungry and that water is made available to the people of your county and the nation. This mechanism that is proposed in this Bill will monitor that adequate water, housing and sanitation is achieved under any administration. Whether it is this governor or this president, when they move out, still those programmes must continue with the next Government at the national as well as county level.

Mr. Deputy Speaker, Sir, there is the application of the Equalization Fund. For a long time, it has not had a way in which it can work. There has been a problem, even in defining which are the marginalized areas. For us who have been in leadership for some

time and having worked across the breadth and length of our nation, we know that there are some areas where there is always rain. We know some counties where there is always food and those which have shortfall of rainfall. We know that there are counties that will not also have rain and they suffer from drought for a long time.

The marginalised areas are supposed to be the beneficiaries of this Equalization Fund that was set up under the Constitution. The reason being that the Equalization Fund was supposed to help counties such as Tana River County. They have been left behind because of poor Government policies of successive governments. In fact, there was formalization through some white papers that some areas would be developed and others would be left behind. Apparently, those areas that are supposed to be developed are supposed to be of high potential.

This Equalization Fund is supposed to benefit counties such as ourselves. You will find there is very little road network in terms of tarmacked roads in a place like Tana River County. You will find very little in terms of real infrastructural developments such as electricity. It is just in a few towns and that is it.

Mr. Deputy Speaker, Sir, this Bill wants to make this fund operational. This fund was supposed to work for only 20 years, but leaders have not been able to agree. Rich counties that have good soils, receive rains and have agricultural surpluses, have also come back to say that they are also marginalised in some parts. So, it has been difficult to agree on what is a marginalised area.

Mr. Deputy Speaker, Sir, this Bill attempts to resolve that impasse. That impasse has made the National Treasury to have this money stay in Treasury. A justification that has continued to deny the people who deserve to have this money come to their counties.

This is a very good Bill because if it is passed today, there is an attempt to start operationalisation of this Equalization Fund. Now I am aware that the 20-year period that was allocated to it is almost coming to an end without it being operationalised because of squabbles.

Mr. Deputy Speaker, Sir, this Bill attempts to sort out that problem and brings a mechanism in which we know which are the marginalised areas by law and so, who are supposed to receive it.

This Bill creates a mechanism for the national and the county government to cooperate in dealing with the real issues affecting our people in this country. We know that some county governments have had their priorities in terms of budgeting up and down. We witness this in the Senate Public Accounts Committee, when they are being grilled. Many of these counties do not just prioritise the people's needs.

Mr. Deputy Speaker, Sir, this Bill attempts to force even the national Government to put the people in front. This President and all future Presidents will be forced to cooperate with county governments so that the needs of the people at the lower scale of the dichotomy of the economy benefit.

Mr. Deputy Speaker, Sir, this Bill goes on to promote sustainable development. I say sustainable because if the Gross Domestic Product (GDP) is measured in terms of the top people only who deal with industrialization when the people are hungry, that is not sustainable. As I have said before, this Bill is key in the promotion of good governance

and accountability to every bearer of office. If this Bill is implemented, for the first time, the law will enhance transparency, accountability and availability of services.

The national Government has been given obligations. Equally, the county governments have been given obligations under this Bill. The national Government will have to formulate and implement policies, strategies and legislations that will bring to realization social and economic rights.

This means every president who will come to Kenya will have this continuing burden. They must come up with ideas, new formulations and policies that will carry the majority of our people who are in the lower scale of the economy. The national Government is enforced by the passing of this Bill to ensure that every social service will be made available and they will have to report what they are doing towards making the social services available, so that our people can start living decent lives.

Mr. Deputy Speaker, Sir, I have the singular honour of heading the Kenyan delegation to the Pan African Parliament (PAP). The other day, we were in Midrand, South Africa for a session of the PAP. Part of my duty is to also look at what other countries are doing. We had the opportunity to have a reconnaissance in Soweto. Yes, it is supposed to be a slum and it is supposed to be one of the biggest slums like others that are supposed to be Alexandria and so on. However, when you go to those places, there are tarmac roads, electricity, water is flowing and proper sanitation. The houses are small and overcrowded, but there is a roof and a decent life.

Mr. Deputy Speaker, Sir, the African National Congress (ANC) Government has made it a priority to ensure that some of their promises are working. Like all other governments, they are not fulfilling everything, but some of their promises are working. Those places may not have everything, but it is a decent place that you can sleep and go away the next day. That is contrary to what you will see in a country like Kenya. Some of our slums, if there is a fire that occurs, even emergency services to save life and preserve life will not access those areas because there are no roads. When you look properly, sanitation is lacking and there are no adequate facilities for the people.

To our shame, these people come out in large numbers to vote. They put a lot of faith in us. Even the alleged protests and the *maandamano* that are being arranged, the people who are being coerced or induced or easily influenced to come out are these same people who form the bulk of our voters. To our shame, we have never really taken that effort to make their lives better. During the late President Mwai Kibaki's regime was the first time that there was an effort at constructing some housing in these low-income areas. I remember the then Langata MP, the Rt. Hon. Raila Odinga was the first beneficiary of such a project. It did not go far enough because of bad politics. People started saying that, "The Government, will come and take your houses."

Mr. Deputy Speaker, Sir, things are different in other parts of the world. Other national Governments that are going to come will be forced to confront the poverty and the life that our people are living in. You will be forced to care for the lives of the person who drives you, the one who makes your tea, the one who pushes paper in your office, your secretary and all others. By coming into law of this proposed Bill, the leadership of our people will be forced to address and confront the realities of our people.

Mr. Deputy Speaker, Sir, it will be an obligation of the national Government to create and put in place adequate infrastructure that would be necessary to meet the obligation of realizing economic and social rights. The national Government will be told that they must put in place infrastructure. They must go into debt or borrowing or investment or whatever they need to do, but they must put the infrastructure to address the problems of our people.

Even if it means ceding some land because in Nairobi, for example, some of the people are living in very big areas. Somebody lives alone in five acres of land. Five acres! Alone! Since the land is so big, that person is so insecure. Somebody else lives on ten acres in this same Nairobi where people are crowded; ten people living within a small area of occupation.

This Bill will force governments both at the national and county levels to think about these things and to see whether there can be reallocation of land. They should purchase the land from those people who do not need it, reorganize settlements and plan for the people who are at the portal. Let us be called socialists, but we are thinking about our people.

The obligations of the national Government are great because they include having a proper campaign to sensitize citizens on their obligations and duty to ensure that, the rights of other citizens are not infringed. The national Government and county governments have been given serious responsibilities that will help towards making these rights a reality.

Mr. Deputy Speaker, Sir, a commission is proposed that will help in terms of the monitoring and evaluation. This commission will help us in getting real results from all the beautiful ideas that have been proposed.

Mr. Deputy Speaker, Sir, in part four of this Bill, it will be compulsory for county governments to have strategic plans that will address these problems. Each county will have to deal with programmes that are specifically targeted at moving people from the bottom. If they are there, make them live in a decent and dignified manner.

This Bill needs a lot of thinking, planning and input. I am grateful to the Committee on Justice, Legal Affairs and Human Rights for the work they have put in this Bill. We are willing to absorb and look at every idea that will come. However, somebody must start the train.

If we are amending this Bill, let us do so as we go. We must get going. There must be an effort to start the movement towards helping our people to live a dignified and decent life. This Bill is the first attempt. So, I leave it there.

I call upon my colleagues those who are listening to me over the broadcast, physically and virtually, to support this Bill be bipartisan about this.

Poverty and challenges are on both sides. These ideas can be improved. We will be welcoming any ideas that comes from the Majority or Minority sides because this Bill is about our people.

Mr. Deputy Speaker, Sir, I beg to move that this Bill be read a Second Time. I invite the Senate Majority Leader, Hon. Sen. Cheruiyot, to second.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, second the Bill.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, thank you for this chance. I beg to second this Bill that has been brought to us by Sen. Mungatana, a man that is among the many that inspired me to love the work of Parliament.

I watched him back then as a university student every afternoon as I engaged. That was in the 10th Parliament. He is one of those people I used to enjoy following their contributions in the House because of the kind of things he was saying. There and then, I fell in love with Parliament and hoped that one day, God would grant me the chance to be in this House. A few years down the line, I had the chance. As fate will have it, we have finally been teamed up together in one team and doing our duty here in the Senate.

Sen. Mungatana, MGH, has proposed to this House a very interesting Bill. It is titled: ‘The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill, 2022’, is quite a mouthful.

When you think through and imagine everything that he tries to do in one particular Bill, for sure, it will be quite a humongous task. Yet, it is a duty, as he has properly espoused in his moving notes that we must live up to. We must uphold economic and social rights as provided for in our Constitution.

Kenyans in 2010 did not pass this Constitution without due consideration and thinking through that which they intended to achieve in every single Article. If you remember that campaign, there was a strong, vigorous and long debate about the Constitution.

There are those who supported it and there are those who opposed it. That afforded the country the chance to look through this Constitution, clause by clause and article by article, to the last. There is none that was left behind. Many of the people at the time followed the debate in the radio and television stations.

If there was a time where public participation has been properly done, then it was with our Constitution. I remember at that time there were civil society groups that moved from village to village, educating people and calling public *barazas* and informing people. However, many politicians were quoting non-existent clauses in the Constitution.

When members of the public went to these *barazas*, it was not unusual for them to rise up and ask questions. They would ask whether it was true that we were allowing men to marry each other; and they would be taken through the Constitution, clause by clause. They would be told that the only marriage recognized by this Constitution is the one between those of the opposite gender. People would then sit down and agree that if that was case then it was correct.

The same can be said about our social and economic rights. There was a long debate about it. There was a debate about what form of government we were proposing; was it socialism? There had been the conversation about *Majimboism* in the 2005 infamous Kilifi Draft. There were persons who informed the members of the public and said that upon the passage of that Constitution, if you have 100 acres of land and your neighbour has five, it would be put together and shared equally amongst them.

They would then go down to the Constitution and look at a particular clause. That afforded people the opportunity to read through the Bill of Rights. The economic rights to own property. Somebody knew that the property they had nobody would touch it on

account of them voting in that Constitution. Therefore, that we are gathered here and it is taking a Bill of Parliament to enforce; it is still part of the beauty of democracy.

We know that a constitutional provision alone is not enough for our people to enjoy their economic and social rights. It is not enough for their dignity to be preserved. That is why this Bill despite all the challenges and conversations that have arose about it, I am aware that the Members of the Standing Committee on Justice and Legal Affairs have very strong views about certain clauses in it. I have read part of what they are proposing to us.

I listen to them because I know the JLAC is one of the most diligent committees of this House. I look forward to listening to the conversation of the exposition that will be made about this particular Bill by Members of that Committee. We can understand what they feel about the clauses in the Bill that are in direct conflict, or overlap with other constitutional commissions and statutory bodies that have already been set up by a statute.

Be that as it may, we must have a conversation. I love that this Bill pricks our conscience to believe and be mindful about the welfare of every citizen. Our Constitution has guaranteed that all these rights belong to all and every member of this country that is Kenya.

The unfortunate thing is that given we are a capitalist society. We have been nurtured and socialized to believe that so long as I am eating in my house, even if I know for a fact that my next-door neighbour slept hungry, I will still wake up, dress up, have breakfast and go to work without a care in the world.

It begs the question, who do we give the duty to think, consider, enforce and ensure that every citizen enjoys what is rightfully theirs under this Constitution? That wholesomely is what this Bill seeks and intends to do.

Sen. Mungatana, MGH, in his moving notes has quoted various examples from across the globe. Most Members of this House are well traveled. How do you feel when you travel to different capital cities and see how organised and civilized societies take care of their underprivileged, yet in this country, we allow them to live in the slums and think that it is okay?

That is why I must appreciate part of the work being done by this administration under the Affordable Housing Programme. The fact that you can have a decent roof over your head is already part of the realization of the economic and social rights that this Bill is talking about.

We have a plan---

The Deputy Speaker (Sen. Kathuri): Order, Senate Majority Leader. You will have almost 50 minutes because you have one hour to second. So, you will have enough time when this Order resumes.

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 28th March, 2023, at 2:30 p.m.

The Senate rose at 6.31 p.m.