

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th 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 the requisite quorum?

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

Serjeant-at-arms, please, ring the quorum Bell for five minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

I am informed that we do have the requisite quorum. Clerk, is that the position?

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

Alright. Let us proceed with the Orders.

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY ASSEMBLIES/EXECUTIVES/FUNDS/ ENTITIES

Sen. (Dr.) Lelegwe Ltumbesi: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 15th March, 2023.

Report of the Auditor General on County Assembly of Machakos for the year ended 30th June, 2022.

Report of the Auditor General on Kirinyaga County Health Sector Service for the year ended 30th June, 2022.

Report of the Auditor General on Kirinyaga County Executive Staff Car Loan Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor General on Kirinyaga County Executive Staff Mortgage Scheme Fund for the year ended 30th June, 2022.

Report of the Auditor General on Kirinyaga County Emergency Fund for the year ended 30th June, 2022.

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

Report of the Auditor General on Kirinyaga County Education Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor General on Busia County Agricultural Development Fund for the year ended 30th June, 2022.

Report of the Auditor General on Busia County Alcoholic Drinks Control Fund for the year ended 30th June, 2022.

Report of the Auditor General on the County Assembly of Bungoma for the year ended 30th June, 2022.

Report of the Auditor General on the County Executive of Bungoma for the year ended 30th June, 2022.

Report of the Auditor General on County Executive of Embu for the Year ended 30th June, 2022.

Report of the Auditor General on County Assembly of Embu for the Year ended 30th June, 2022.

Report of the Auditor General on County Executive of Meru for the Year ended 30th June, 2022.

Report of the Auditor General on the Financial Statements of the County Assembly of Meru for the Year ended 30th June, 2022.

I beg to lay.

(Sen. (Dr.) Lelegwe Ltumbesi laid the documents on the Table)

(Several Senators stood at the Bar)

The Speaker (Hon. Kingi): Hon. Senators, kindly take your seats.

*(Several Senators walked into the Chamber
and took their seats)*

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

The Speaker (Hon. Kingi): I have a Communication to make.
Sen. Madzayo, you will rise on your point of order once I am done with this Communication.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MWASERE GIRLS' HIGH SCHOOL, TAITA-TAVETA COUNTY

Hon. Senators, in the Public Gallery, we have 48 students accompanied by three teachers from Mwasere Girls' High School in Taita-Taveta County. They are in the Senate on an education 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 the Senator for Taita-Taveta County, Sen. Mwaruma, to make very brief welcoming remarks.

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for allowing me to join you in inviting the students and teachers from Mwasere Girls' High School.

Mwasere Girls High School is in Mwatate Sub-county of Taita-Taveta. It is one of the best schools in Mwatate and we are very proud of them. Welcome to the Senate of Kenya.

I am your Senator, now serving my second term. I am a Member of Parliament (MP). In Kenya, we have a bicameral Parliament, that is, two Houses of Parliament, which include the Senate and the National Assembly. The National Assembly Member for Mwatate is Hon. Shake, who serves in the other House. I know you will have an opportunity to go to the other House, if you have not done so.

I would like to indicate that I am a teacher by profession. Therefore, it means that our teachers, who are with you, have the capacity to be Senators. I encourage our students to also become teachers.

Mr. Speaker, Sir, I taught for over 16 years in secondary schools in Taita-Taveta County. I taught Mathematics and Physics at Dr. Aggrey High School and St. Mary's High School Lushangonyi. I had a stint to teach at Taita-Taveta University about Inferential and Descriptive Statistics.

Having taught all those years, I get worried that today when you ask our students what they want to be when they grow up, they say a lawyer, engineer or doctor. Who will teach you when you grow up? Who will teach your children and your children's children? I encourage you that in whatever you do, try to aspire to be any of these things. However, do not refuse to be teachers because we require teachers for our next generation.

Mine is to encourage you to learn from the proceedings of the Senate. When you go home, greet our people of Taita-Taveta County. Tell them that you have been sent with greetings from their Senator. Please, aspire to be teachers, it is very important.

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

POINT OF ORDER

CHANGE OF LEADERSHIP IN THE MINORITY COALITION

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Kwa muda wa takribani wiki tatu na nusu hivi zilizopita, hili Bunge la Seneti linahairishwa kabla ya wakati wake kwa kukosa Maseneta wa kufanya kazi ambayo wanatakiwa kufanya.

Haya yote yamesababishwa na Upane wa Upinzani. Mabadiliko yaliyoletwa yawekwe wazi ili mimi kama Kiongozi wa Walio Wachache, niwe na ndugu zangu uongozini. Hivyo ndivyo tutaweza kufanya kazi vizuri kulingana na wajibu wetu.

Bw. Spika, unaelewa ya kwamba katika hiyo harakati, tuliambiwa kuna amri. Mimi mwenyewe sikuiona hiyo amri ambayo nilipewa. Hata hivyo, tulikubaliana kwamba kuna amri ambayo ulitumbia tungoje hadi hiyo kesi iishe.

Bw. Spika, jana alasiri, korti ile ya kuangalia ushaibu wa vyama, - *Political Parties Dispute Tribunal* (PPDT) - walitangaza matokeo ya wale waliopeleka zile kesi mbele yake. Matokeo hayo yako wazi. Wananchi wote nchini Kenya wanajua ya kwamba walijitoa na wakasema kwamba wao hawana haki ya kuangalia hiyo kesi.

Bw. Spika, sasa, jukumu ni lako kuliweka wazi, kwa sababu taarifa hiyo si geni kwako, kwa hawa Seneta wenzangu na taifa nzima la Kenya. *Political Parties Dispute Tribunal* (PPDT) walikaa na wakajitoa. Walisema kwamba wao hawana uwezo wa kuingilia ratiba yoyote inayoendelea ndani ya Bunge la Seneti.

Bw. Spika, kwa hivyo, tunategemea Mawasiliano kutoka kwa kiti kikubwa ulichoketi. Katika harakati zako na hekima, najua unaweza kuona kwamba ni ukweli uongozi wa upande wa Walio Wachache hauko kamili na umeendelea kuzoroteshwa kwa sababu ya uamuzi ambao tulikuwa tunaungoja. Tumeungoja kwa wiki tatu sasa, na niko na matumaini kwamba mwangaza umeonekana.

Hata ndugu yangu, Sen. Cheruiyot, anakubaliana na mimi kwamba alisikia matangazo hayo na anajua hayo. Sote tulio hapa kama Maseneta, tunangoja na anafurahia. Utaona, Bunge hili litajaa sasa.

Asante sana Bw. Spika.

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

The Speaker (Hon. Kingi): I need to dispense with the point of order. I need to rule. A point of order has been brought up by the Senate Minority Leader and it is only fair and just that I rule.

(Loud consultations)

I have enough information from the Senate Minority Leader to rule. If there is something missing, you could have informed him before he sat down. You could have stood on a point of information to inform your Minority Leader. However, having left him to proceed and conclude the point of order, I think it is now upon the Speaker to dispense that point of order.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, mimi sipingi uamuzi wako. Lakini, taratibu za Bunge la Seneti zinasema kuwa ikiwa kuna Wabunge ambao wamesema, “tafadhali Bw. Spika, niko na Hoja ya nidhamu, kwa kawaida, huwa unawapatia nafasi hawa Maseneta waweze kuweka wazi Hoja zao za nidhamu, ili ukifanya uamuzi wako, unafanya kwa pamoja, halafu tuendele. Hata Sen. (Dr.) Khalwale alitaka kuzungumza. Hiyo ndiyo taratibu ya Bunge la Seneti.

The Speaker (Hon. Kingi): Sen. Madzayo, are you teaching the Chair how to preside over this House? Sen. Madzayo, I can rule on any point of order individually. I do not have to rely on other points of order for you to get a ruling on your point of order. The mere fact that I am going to rule on yours does not mean that after I am done with the ruling. I can still give Sen. Sifuna a chance to rise on a point of order. Therefore, the opportunity to stand on points of order is not lost.

Hon. Senators, allow me to just make a very short ruling on the point of order by the Senate Minority Leader. Hon. Senators, we have been in this House on this particular matter a number of times. The last time we agreed that because there was a court order, we abide by the court order until the matter that is before the tribunal is heard and determined; the HANSARD can bear me witness. That was the final ruling of the Chair on this particular matter.

Today, the Senate Minority Leader, standing on a point of order, has indicated that, that particular matter has since been determined. Therefore, the Chair is now free to proceed and make the Communication on the leadership changes in the Minority side.

Hon. Senators, I want to state this: He who alleges, proves. That is straight law. Sen. Sifuna, you are aware of that principle and the retired Judge is also fully aware of that principle in law.

I had hoped that the Senate Minority Leader, while prosecuting his point of order, will table either the ruling or the order, indicating clearly, that the matter has since been dispensed with. You have said that all Kenyans are aware that this matter has been dispensed with, but from where I sit, I am not aware. Where I sit, I do not go by rumours, newspaper cuttings or news on Television (TV).

The only thing that this Chair can hold as proof that indeed that matter has been dispensed with is when either the order is served upon my office or at least at the very least, Senate Minority Leader, you table the ruling or the order. When that is done, then I will move to make that Communication. In the absence of the order served upon the Office of the Speaker or the Senate Minority Leader tabling a ruling on the effect that this matter has been determined in the manner that the Senate Minority Leader has said, I am afraid the Chair may not be able to act on that point of order and proceed to make a ruling.

I believe that, procedurally, when a matter of this nature is dispensed with, a ruling is available to both parties and an order is extracted for purposes of being served upon parties. I implore upon the Senate Minority Leader, within the shortest time possible, to make available either the ruling or the court order, so that this Chair relying on those documents, can proceed to make the communication. The Chair will not relay any Communication until those official documents are made available to the Chair.

I so rule.

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Sifuna? Bear in mind the Standing Order, where you cannot debate a ruling of the Chair. Therefore, Sen. Sifuna, as you stand to prosecute your point of order, be aware of that Standing Order. Mind you, it is disorderly to argue the ruling of the Chair.

Sen. Sifuna: Mr. Speaker, Sir, this is why the Senate Minority Leader was insisting that you at least listen to the rest of us before you make a decision. I have a lot of respect for you, both as my senior in law and as the Speaker of this House. I feel that it is also my responsibility to extend some protection to your Chair.

The point I rise on is that, in fact, when you are party to a matter, you are presumed to be represented before that Tribunal. I remember very clearly in your presentation when you were served with that order, you in fact said that you had been cited individually, so that there would be consequences that would come to you individually if you ignored that court order.

Therefore, any person with knowledge of how the law works would expect that the Hon. Speaker had representation before the Political Parties Dispute Tribunal (PPDT) and whether personally or through legal representation, he was present when the ruling by the PPDT was made yesterday.

Mr. Speaker, Sir, that aside, you have said that if we were to table the ruling or the order, you would waste no time in making the communication. As fate would have it, and maybe, because I went to visit the Archbishop this morning and God is smiling on us, I have just received, at this very instant, a certified copy of that ruling on my phone. I came directly to this House from the registry of PPDT.

I have been a practising lawyer before that Tribunal. As the Secretary-General of the Orange Democratic Party (ODM), which is the most sued political party or entity before that Tribunal, it is unheard of that a decision is made yesterday and by 2.15 p.m., today, when I was leaving the registry, that decision had not been communicated or served upon your office.

Mr. Speaker, Sir, be that as it may, we make presentations in this House that, in fact, we are champions of the rule of law. We said that we will not attack the Tribunal; we will leave this matter to them and we were the fish in the water that is the Tribunal. We knew what was going to happen.

Mr. Speaker, Sir, allow me table my phone because it has that order. If it is not possible, kindly give me five minutes, so that I prepare and present that decision on the Floor of this House for you to issue your Communication.

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

Sen. Wambua: I thank you, Mr. Speaker, Sir, for this opportunity. I do not know how it feels to the Chair and Membership of this House on both sides when every day, for the last three weeks running, we have to ring the Quorum Bell to get Members to come and debate. This matter has already done what we had said it should never do. It has divided this House sharply and brought so much disrepute to it.

Mr. Speaker, Sir, I plead with you as a leader in this country. If we were on the political platform, we would be saying the Hon. Speaker has no dog in this war. This is a matter that purely and squarely has to do with the Minority Side.

I respect the ruling of the Chair because he is shifting the burden of proof to the Minority; that he who alleges must prove. There is no allegation on this issue.

I remember very well, although I could be wrong, that you read your decision on the matter of the leadership of the Minority and cited an order that had been brought to you. I do not remember you tabling that order. You just made reference to an order, and we were okay with it.

Mr. Speaker, Sir, what is good for the goose is good for the gander. The Senate Minority Leader has made reference to a matter that is in the public domain, which, as Sen. Sifuna has said, you were properly seized of because you are party in this ruling.

If this is the direction that this House has decided to take, then some of us have to think very seriously about what we want in this House. I wish you could do the right thing.

As I conclude, and as I said the last time, this side is not asking you to do anything that you should not do. They are just saying ‘communicate the list of our leaders, so that we go into the serious business of this House.’

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

Sen. Cherarkey: Mr. Speaker, Sir, I congratulate the Minority Side for following the rule of law. My advice is that they should not leave it midway. When you look at Standing Order No.23 (5) and (6),

“(5) The removal of a Senator from office under paragraph (3) shall not take effect until a Senator is elected in the manner provided for under paragraph (1)

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

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

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

Mr. Speaker, Sir, if memory serves us right, there was a letter written by the Senate Minority Leader, my brother Sen. (Rt.) Justice Madzayo, that said the status quo be maintained. The question is whether the Senate Minority Leader has written another letter.

I do not know why the Senior Counsel gets worked up.

(A Senator spoke off record)

Mr. Speaker, Sir, may I finish?

The Speaker (Hon. Kingi): He is on a point of order. Do you want to be informed?

Sen. Cherarkey: No, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Kindly, proceed.

Sen. Cherarkey: I doubt the way the bishop is behaving today. It looks like that information is coming from somewhere else.

I do not have a problem. The Minority Side can change their leadership any time they so wish. My only concern is on two things. There was a letter that was written to you, which you read before the House.

The Speaker (Hon. Kingi): Sen. Omogeni and Sen. Madzayo, the good Senator does not want to be informed.

(Loud consultations)

Sen. Omogeni, the Senator does not wish to be informed.

Sen. Cherarkey, kindly proceed and conclude your point of order.

Sen. Cherarkey: Mr. Speaker, Sir, the only time I trusted Senior Counsel, Sen. Omogeni, was when he was releasing me from Gigiri Police Station. However, on this one, I am a bit cagey.

When you read the Communication on the Floor of the House, all of us, the Majority and Minority sides were present. You told us that the Senate Minority Leader had tabled a letter indicating that the status quo be maintained. Standing Order No.23 says that it should be in writing and be communicated.

Mr. Speaker, Sir, they can request for a short recess to obtain the court order, so that you have the opportunity to look at the documentation and make a written ruling.

This is a House of records and traditions. We cannot tell you to rule on issues of rumours, what is on social media or what has been said by a person who was in the Tribunal. Can they get a hard copy, so that we get to know? I do not have a problem if the Minority side want to change their leadership. Let us follow the law and the Constitution.

Mr. Speaker, Sir, you have a right to protect the Constitution. You are not a conveyor belt. It does not mean that if anybody wants you to rule on something, you just become a conveyor belt. You have an obligation.

Thank you, Mr. Speaker, Sir, for the opportunity.

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

Sen. Omogeni: Mr. Speaker, Sir, you know, you are carrying the entire legal profession. Yesterday, we were debating among lawyers that for the first time in the history of the anti-corruption war, we have a commission that has been constituted with five commissioners without a lawyer. This is because Kenyans are beginning to mistrust lawyers. We are losing public faith and trust.

Mr. Speaker, Sir, before you ascended to that seat - and you are my good friend and colleague in the legal profession - we had a non-lawyer who sat in that seat, Sen. Ken Lusaka. We were in this House when we brought to his attention the fact that Sen. (Dr.) Lelegwe had been arrested. There was no evidence at all; it was by word of mouth. He believed us because we are all hon. Members of this House.

When Sen. Malalah was arrested, we did not have any evidence to table before Speaker Lusaka. Nonetheless, he adjourned the House for us to go and look for Sen. Malalah and confirm to the House if he had been arrested. The House was adjourned. That is the trust with which we have transacted our business.

Already, the Senate looks bad out there because we are fighting over a very small matter involving leadership of the Minority side. I want to state that we, as the Minority side, can never dictate who will be the Majority Leader or the Majority Whip. We can never dictate that.

I have been privileged to receive a copy of the ruling that has been delivered by the Tribunal and I am a Seventh Day Adventist (SDA) follower. The message is on my phone. I have read it; Complaint E003.

Mr. Speaker, Sir, that complaint has now been dismissed by the Tribunal. The directive that you gave this House, and we respected your ruling, was to the effect that matter would be left in abeyance until you received the ruling. The ruling is before you. As a way of tabling it, I have forwarded a copy via *WhatsApp* to the Clerk of the Senate.

Mr. Speaker, Sir, I know you have been out of practice. You have been a governor for the last 10 years. Sen. Cherarkey will tell you that nowadays we serve orders through *WhatsApp*. He will confirm. He is here and he is a lawyer.

I mean, we already have that title of hon. Members. If the issue was for the Speaker to be served with the ruling of the Tribunal, that has already been done. Let us not play games with a very small matter. There are so many issues that we need to come together and discuss as Senators. We have the constitutional amendment Bill that touches on our welfare as Senators. That is what we should be debating here.

We have serious issues touching on devolution that we should be debating. On this one, I want Mr. Speaker to reflect on the prayer that we said this afternoon before we commenced business. We started by saying, "Almighty God beseech us to behold." We can recite it.

Mr. Speaker, Sir, I beseech you. Let us have a moment and reflect. We want to be proud of you as our Speaker. We do not want people to start bashing lawyers. I am a lawyer, a very proud one. I am proud of my legal professions and I want you to uphold the integrity of the legal profession.

Let us agree that now that this ruling is before you, do the right thing this hour, this moment, so that when you retreat tonight, you will write in your memoirs that on this particular day, you did the right thing. You are an independent office holder. You should not listen to any voices.

So, as I sit down with a heavy heart ---

The Speaker (Hon. Kingi): I want to get you correctly. You are doing very well so far. Are you saying that if I make the Communication today, that is the only right thing I will have done for the time I have sat here as a Chair?

(Laughter)

Is that your submission?

Sen. Omogeni: Mr. Speaker, Sir, it can never be, but this one is pulling us back; it is holding us back. That is why I began by saying that I am speaking as your colleague; do the right thing.

Senate Majority Leader, Sen. Cheruiyot, there are serious issues that can---

Mr. Speaker, Sir, so that we make progress - I am not directing the Speaker, you have many options - you can even step down from the Chair, write the Communication, come and read it, and we make progress.

Otherwise, we are going to look so bad out there, as a Senate, and that is not in the best interest of this House. I beseech you---

The Speaker (Hon. Kingi): Sen. Omogeni, do you want to be informed?

Sen. Omogeni: Who is informing me?

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

Sen. Omogeni: That is my colleague, a lawyer. I welcome his information. Sen. Cherarkey, the next time you are locked up, I will not come to remove you.

Sen. Faki: Thank you, Mr. Speaker, Sir. I wanted to inform the House and Sen. Omogeni that the Senate was the subject of an editorial this morning by *The Daily Nation* Newspaper. Therefore, if you think that some of us think that this matter is trivial, look at the editorial of *The Daily Nation* Newspaper today.

I thank you.

Sen. Omogeni: Mr. Speaker, Sir, because I do not want to leave everything to chance, I have before me the decision of the Tribunal and Complaint No.E003 of 2023; Fatuma Adan Dullo versus Azimio La Umoja Coalition against Stewart Madzayo as interested party; Ledama Olekina as second interested party and the Speaker of the Senate, as a third interested party.

Mr. Speaker, Sir, at Page 18, which deals with the appropriate orders, it says and I wish to read with your permission:

“Having found that the Tribunal lacks jurisdiction, it follows that delving into the question of the second complainant’s representation will be an exercise in futility. That leaves no option but to down our tools and have the complaint struck off.”

As we speak, the complaint that was the subject of the injunction that was served upon your office has now been dismissed and vacated. This order is certified as a true copy of the original by the Political Parties Disputes Tribunal.

Mr. Speaker, Sir, I beg to table before the House a copy of the said ruling.

(Sen. Omogeni laid the document on the Table)

(Applause)

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

Sen. Omogeni: Mr. Speaker, Sir, I should conclude then he can contribute.

The Speaker (Hon. Kingi): Sen. Omogeni, kindly proceed to conclude.

Sen. Omogeni: Mr. Speaker, Sir, now that you have already given your ruling that once you are served with that order, you will proceed expeditiously and make your Communication, we have done what was required of us.

Sen. Cherarkey said that the burden was on our side. We have discharged that burden. Now, the burden shifts to the Speaker's Office and we beseech you now to also discharge your burden and bring this matter to an end, so that we can conduct the business of the Senate.

Thank you, Mr. Speaker, Sir.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, like I have always said regarding this matter, I do not have a dog in this fight and I am least interested in the decisions of the Minority Side.

I have told you that I only have one simple request to you; that you protect and safeguard the time of this House. It cannot be that every afternoon we gather here, we spend 30 minutes to an hour arguing over a simple matter. That is my only request.

I like the direction that Sen. Omogeni is taking. What the Senate Minority Leader was inviting you to do earlier was akin to turning this House into a circus.

How can you, as a Speaker, rule on the basis that there is a communication that has been issued somewhere? You have said clearly that you have not heard of it and you have not seen it. The minute they bring it to your attention, you will do the needful.

Mr. Speaker, Sir, since then, Sen. Omogeni has gone ahead and given you the purported orders. I am sure that there is a process through which you will conclude this matter in a fair and simple manner. Otherwise, do you want to tell me that every now and then I can just ambush you?

(Sen. Sifuna spoke off record)

The Speaker (Hon. Kingi): Sen. Sifuna, you have been doing very well, but you are getting---

The Senate Majority Leader (Sen. Cheruiyot): He will have his time.

(Sen. Sifuna spoke off record)

The Speaker (Hon. Kingi): Sen. Sifuna, kindly let Sen. Cheruiyot be heard in silence.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, if it has been presented to you---

Sen. Omogeni and Sen. Madzayo, you have been in this House long enough. Please quote for me an instance where anybody has come and tabled anything before the Speaker and told them to go ahead and read it as is.

Honestly, even if it is a ruling and he is supposed to make it this afternoon, he needs time for it to be typed before he can make a communication. So, what do you want him to rule about?

Mr. Speaker, Sir, please, safeguard the time of this House. If you made a ruling---

(Loud consultations)

The Speaker (Hon. Kingi): Order, Senators. You interrupt Sen. Cheruiyot and I throw you out. The Chair knows exactly what he is doing. I had made a ruling. Thank God, Sen. Omogeni, in obedience to that ruling, has tabled an order. Let us take it up from there.

The Senate Majority Leader (Sen. Cheruiyot): Yes.

The Speaker (Hon. Kingi): A shouting match will not take us anywhere. Whether he is going back or forward, it is up to the Chair to rule whether he is out of order or not.

Sen. Wambua: On a point of information.

The Speaker (Hon. Kingi): Sen. Cheruiyot, do you want to be informed by Sen. Wambua?

The Senate Majority Leader (Sen. Cheruiyot): No! Sen. Wambua of the previous Senate would have informed me. However, since he teamed up with Azimio la Umoja-One Kenya Coalition Party, I do not like his thinking anymore.

The Speaker (Hon. Kingi): Proceed and conclude.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, finally, this is my humble request. Please, issue a ruling and let the matter rest.

There is a bad precedent that is being set in this House. I will never encourage it even from Members on my side. The minute you issue a ruling, whether I agree with you or not, you are the final authority of the House.

Mr. Speaker, Sir, once you have given a direction, I will live by it, in the past, now and in the future. I give you my assurance. That is the tradition of the House, which I do not want you to violate. Please, stick by it.

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am pleased to note that the Senator for Nyamira has tabled the ruling.

On my point of order, I want to draw your attention to the traditions, practices and customs of this House. When a document is tabled, the Speaker takes time to look at the report while on the Chair. If the document is admissible, the Speaker then informs the House that it is admissible.

Mr. Speaker, Sir, if, indeed, you have looked at it and it is admissible, then it means that we are now aware that a decision has been made. If that is the case, what is the big deal? Go ahead and make your ruling, so that we can proceed with the business of this House.

The only thing that I request that you include in your ruling on this straightforward issue are the two points that were raised in further points of order when the matter was brought up.

The first one was raised by the Senator for Makeni, who told you that the principle of *sub judice* applies as much to this House when a matter is active in court as it applies to the court when a matter is active here. You need to give that clarity, so that no other Senator will go into a misadventure of carrying a matter that is here and take it to court. That standard should be high and it should remain.

The second issue that came out of the subsidiary point of order is whether a tribunal can injunct Parliament. You also need to be clear, so that in future when this comes back again, we do not waste time if a tribunal will have attempted to injunct Parliament.

To me, if you answer these two points of order, there is nothing completely that you will lose, having confirmed that the document is authentic, even if you rule now, so that the business proceeds.

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

Sen. Cheptumo: Mr. Speaker, Sir, until the time Sen. Omogeni tabled the order, I was at a loss whether we were debating your ruling, which you had given earlier. However, now that an order has been presented to you, I have the following to say.

This is a House of record and procedure. I have been in this House all the time this issue has been debated. There is no time you were not willing to give your communication on this matter. What was delaying your communication was the decision of the Tribunal.

Mr. Speaker, Sir, even when you were making a ruling this afternoon, you still said that you are willing, ready and able to give communication. However, you could not do so because it was agreed with the Minority Side that we wait until the orders are given.

Now that the order has been given, I want to raise a fundamental issue here. What is the mode of service anticipated in law?

(Loud consultations)

Just a moment, I have the Floor.

Mr. Speaker, Sir, you are an advocate of the High Court. Once an order is served procedurally, it is your business to look at it and issue your ruling.

Members of the other side have said that we look bad before the public. It is true, but do we not also look bad if we execute the orders in a haphazard manner?

Mr. Speaker, Sir, I said here before that we have national leaders in this House, irrespective of parties and coalitions that we belong to, the much we want you to be fair in listening to the other side and us.

Even the manner in which you make your ruling is equally important to the public.

I disagree with my senior, Sen. (Dr.) Khalwale, that you can go ahead and make your ruling. I submit that it is for you to verify the Order given to you by Sen. Omogeni. Take your time; tomorrow is another day.

I submit that you will make a decision as the Chair of the House. Preserve the image of this House by following the procedure and give us a ruling at your own time, when you think you need to do it. This is because you had been stopped before, but now you have the Tribunal's order.

I submit that we now forward---

The Speaker (Hon. Kingi): Senator, kindly wind up your thoughts.

Sen. Cheptumo: Mr. Speaker, Sir, I am finishing, but I want to tell you not to be coerced by any Member to give a ruling today.

(Loud Consultations)

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

Sen. Chute: Asante sana, Bw. Spika. Wakati *Agizo* lilikuja kwako lilisimamisha hii Seneti kufanya kazi yake. Leo ningependa kujua, kesho mtu mwingine akileta agizo kama lile la kusema Seneti hii isifanye kazi wala kujadili mambo yoyote, tutafanya vile kweli?

(Loud Consultations)

Bw. Spika nisaidie ili hawa watu wasi---

The Speaker (Hon. Kingi): Senate Minority Leader, Sen. Sifuna and Sen. Olekina, kindly let the Senator be heard in silence.

Proceed, Sen. Chute

(Laughter)

Sen. Chute: Bw. Spika wakati tatizo hili lilitokea, kama Seneta na mzee aliyefanya biashara kwa muda mrefu, niliwatembelea Kiongozi wa Walio Wengi na Kiongozi wa Walio Wachache na kuongea nao. Niliwaeleza kuwa hii nchi inahitaji sisi kama viongozi tufanye kazi. Tulipewa hivi vyeo ili tufanye kazi.

Niliwaeleza kuwa wanafaa waketi na waongee ili tuangalie kama tunaweza kutatua hili tatizo. Bw. Spika nilikuja hadi kwenye ofisi yako kuomba hili jambo litatuliwe.

Nchi hii ina mambo mengi sana ya kutatuliwa hapa. Kama Mheshimiwa ametoka chama chake na kwenda upande mwingine---

(Loud consultations)

Bw. Spika nisaidie---

The Speaker (Hon. Kingi): Order, hon. Senators. Sen. Sifuna, you are overstretching the Chairs patience.

Kindly proceed, Sen. Chute

(Laughter)

Sen. Chute: Ikiwa hujalazimishwa na umetoka ulipokuwa kwa upendo wako na kutangazia Kenya nzima kuwa umehama kile cheo ulichokuwa nacho, achia wengine wapewe pia wafanye mambo yao. Tumepoteza muda na siku nyingi juu ya mambo haya. Haya ni mambo ambayo hayangefaa kuwa katika Seneti. Seneti si nyumba ndogo ambamo watu huongea mambo ya watoto. Hii ni *'Upper House.'*

Bw. Spika nakuomba kwa niaba ya wananchi wa Kenya, kwa sababu dunia nzima inatazama haya mambo yote yanayoendelea---

(Sen. Kinyua spoke off record)

The Speaker (Hon. Kingi): Sen. Kinyua, the Senator is on a point of Order. Kindly, yield and let him wind up his point of order.

Sen. Chute: Bw. Spika, sisi ni watu wazima lakini tunabishana kuhusu mambo ambayo hayafai. Ningependa leo - si kesho - ikiwezekana hata saa hii jambo hili litatuliwe.

Wengine wetu wamechoka. Niko na Hoja kuhusu bei ya nguvu za umeme. Wananchi wameshindwa kulipia nguvu za umeme. Baadhi ya Maseneta hawajakuwa wiki mbili sasa. Hatuwezi kuendelea hivi.

Tafadhali Bw. Spika, nakusihi kwa niaba ya wananchi na kukuomba kwa kuwa leo uko na uwezo. Usipendeleo upande mmoja kwa kuwa wewe ni mwamuzi na unaweza kuamua haki, na hakuna atakaye kulaumu. Usiyafuate mambo ya kesho; yamalize leo ili tuendeleo na kazi yetu.

Shukran.

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

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I am one of the so fatigued Senators. We are being pulled in the Orange Democratic Movement (ODM) business. I am so fatigued. Week in, week out, I come to the House hoping to discuss matters bleeding and free sanitary towels.

Every time I come here, somehow we are drawn into ODM shenanigans.

(Loud consultations)

Sen. Orwoba: Mr. Speaker, Sir, protect me

The Speaker (Hon. Kingi): Order, Senators! Sen. Orwoba, this is an honourable House.

Sen. Orwoba: Mr. Speaker, Sir, I withdraw the word 'shenanigans.'

The Speaker (Hon. Kingi): Proceed. It has been withdrawn.

Sen. Orwoba: Week in, week out, we are subjected to matters that are party affairs. I know that their electorates are watching. Kenyans do not care who is the Senate

Minority and Majority Whip. We do not care. When I come to the Floor of the House, what I only care about is that there is a Speaker and quorum, so that we can debate free sanitary towels.

Every other time we have come here, two, three, four hours---

Sen. Crystal Asige: On a point of information Mr. Speaker, Sir.

Sen. Orwoba: Mr. Speaker, Sir, I do not want to be informed.

(Laughter)

The Speaker (Hon. Kingi): Sen. Orwoba, Sen. Crystal Asige wants to inform you.

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

The Speaker (Hon. Kingi): Kindly, wind up your thoughts.

Sen. Orwoba: Mr. Speaker, Sir, kindly, protect me so that I can deliver my message quickly and swiftly because I am talking about time wastage.

The Speaker (Hon. Kingi): Sen. Orwoba, for your information, the position of the Senate Majority and Minority Leader and all other House leadership are extremely crucial for the better running of this House. This House cannot run without those positions.

(Loud Consultations)

Sen. Orwoba: I have accepted it. They are crucial, but not to the extent where they are paralyzing the business of the House. They then cease to be crucial.

Mr. Speaker, Sir, while we are discussing who is the Minority Leader and Minority Whip of ODM or Azimio Coalition, consider some of us who have no business with these positions and whoever is sitting there. Today, it could be Sen. M. Kajwang' sitting there, but has that affected whether I am debating or not? It has not.

These are the same Senators who have been walking out of this House to ensure there is no quorum for two weeks.

(Loud consultations)

They have been trying to paralyze the business of the House, yet they want the same House to now come and institutionalize whatever business is happening in their Party.

It is very simple. Whether we are dealing with the Azimio Coalition, Orange the Democratic Movement (ODM) or whatever other party, let us be reasonable. When we come to the Senate, all we want is to debate issues that affect Kenyans out there.

Mr. Speaker Sir, I beg and urge you - For almost four-and-half weeks now, I have been waiting for my Motion to be debated. While I wait--

Sen. Crystal Asige: On a Point of Information Mr. Speaker, Sir!

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

The Speaker (Hon. Kingi): Sen. Orwoba has indicated that she has enough information.

Sen. Orwoba: Honesty, I have enough information Mr. Speaker, Sir

(Laughter)

I have enough information about the matter. I have enough information about what is going on. I have been present in this House day-in, day-out. I am very much informed. This is my position and I would like to say so that Kenyans can understand. The Senators of the Azimio Coalition who are sitting across us have for three weeks literally paralyzed and absconded coming to the House. They cannot then come and start saying we have tabled this, do this, do that, do--- What moral authority do they have?

(An hon. Senator spoke off record)

The Speaker (Hon. Kingi): Can you wind up?

Sen. Orwoba: Let me conclude. The Senate has been captured by mediocracy.

(Applause)

The Senate has been captured by mediocracy of the Senators in the Azimio Coalition.

(Applause)

The same way the President has liberated both Mount Kenya and Rift Valley from this mediocrity, we are begging that you liberate us from this mediocrity.

(Applause)

This is 2023. This is not maendeleo in the Senate. It is not maendelo. Kindly save us from this---

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

Sen. Orwoba: I am done with my submissions.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Resume your seat. I have been struggling for the last five minutes to capture your point of order. All that I have heard is a lecture and have not seen any point of order

(Laughter)

Sen. Onyonka, you may proceed.

Sen. Onyonka: Mr. Speaker, Sir, without transgressing on the rules of the House even though I am on a point of order. From my institutional memory, I would like some of my friends to carefully listen to me. I have been in Parliament for not less than 18 years at the National Assembly.

Mr. Speaker, Sir, I started my politics with you. You remember when the former Speaker, Hon. Marende, during that time when we had the Speaker's position with one vote. I am proud that I am the one who gave that vote. There were certain wonderful and

incredible decisions that Hon. Marende made. Some of the very bad decisions he made, they include that we, in the Opposition, were busy clapping and clamoring on how we were happy that the committees that are supposed to be the Oversight Committees should never be allowed to be with the Opposition.

How we wished that ruling had given us that so that by today you would find all the Oversight Committees held by the Minority side to check and oversight the Majority side. Secondly, without being personal about this and I totally understand, sometimes experience sometimes enables somebody who is this House to even say some things which surprise many.

We are not handling shenanigans in making the argument about why it was necessary or not necessary for this matter to go to the Tribunal. The Tribunal has been incredulous. It has said they have no jurisdiction over this matter. I would like to explain to my leaders in this House--- This matter was so substantive and critical because it meant that somebody out there who is having a matter can come and stop us from debating and discussing that matter in this House had this ruling been accepted. That is so fundamental for the maintenance and sustenance of this Senate.

The second issue I would like to tell my colleagues in this House is that, we may be the people who are going to fight and make noise at each other. However, I would love that we hold our disagreements with decorum, sincerity and respect so that when everything else fails, we can be the people on the last line of defense for our country.

This country is polarized. Our country needs deep thinkers. It needs philosophers to help us maneuver where we are right now. Therefore, I want to reiterate what Sen. Chute has said. It is not trivial. This matter has been rested now. I would like to plead with my colleagues to carry ourselves with dignity, respect each other and listen to each other.

If the National Assembly and the Executive blows up, I would pray that many of you, Members in this House, who are in the Senate you are according to me and nothing changes you are the 'Upper' House. Please protect our country in this House. Let us not trivialize our disagreements. Let us be a little bit philosophical. Let us be much deeper in the way we look at the challenges we have for our country.

I thank you, Mr. Speaker, Sir.

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

Sen. Wafula: Asante sana, Bw. Spika. Ninapooa wenzangu wa mrengo wa Azimio kwa wiki tatu au nne hivi wakija, wanasujudu na kutoka, wakifuata yale wanaamini ni yao, inanikumbusha falsafa ya fisi.

(Laughter)

Kwamba fisi hakati tamaa. Hachoki hadi atakapopata.

(Laughter)

Naona wametulia kwa sababu wakikutazama uso wako wanajua wamepata kile wanachotaka. Lakini maheremu Kijana Wamalwa alisema, iwapo tunataka kuwa viongozi, lazima wakati mmoja ukubali kwamba unaweza kubali watu wapande kwa mabega yako waafiki malengo ya taifa.

Japo mtapata kile mnataka, tafadhali wakati unaokuja, weka Kenya kwanza halafu viti vyenu vya kibinafsi vije baadaye.

Asante, Bw. Spika.

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

(Sen. Faki spoke off record)

There are many points of order, Sen. Faki. We will dispense them according to how they have been queued here.

Sen. Kinyua, proceed to make your contribution.

Sen. Kinyua: Bw. Spika, ninasumbuka kwa sababu tayari wewe ulikuwa umefanya uamuzi kwa jambo hili. Karatasi iliyoletwa hapa na ndugu yangu mwana sharia, Sen. Omogeni, hayo ndio mambo anakuambia ufanye uamuzi.

Wewe mwenyewe unajua ni wakati gani utafanya uamuzi, ni mambo gani utaangalia uweze kufanya uamuzi. Hakuna mtu yeyote katika Bunge hili anaweza kukushurutisha, kukuamrisha ama kukuambia chochote kwa sababu wewe ndio mwenye uwezo na ujuzi wa kufanya hiyo kazi. Na kwa sababu ulikuwa umefanya uamuzi, na umeletewa barua ambayo wewe haujui imetoka wapi. Imesemekana imeletwa siku ya leo.

Bw. Spika, wewe unapaswa kufanya uamuzi bila kuamrisha na mtu yoyote. Lakini mimi nimekaa hapa, ninaona kama vile unavyoongoza Bunge hili, kidogo niko na tashwishi. Hii ni kwa sababu watu wanapooonea, nimemwona Seneta wa Nairobi, Sen. Sifuna, akifanya vile ambavyo inakubalika kisheria. Nimeona leo pia Seneta wa Narok na Sen. Wambua wamekuwa watulivu.

Ukitembea katika Bunge zingine za duniani kama ni Afrika Kusini, Australia na Uingereza, haya si mambo ya kuongea bungeni.

Bw. Spika, watu wakubaliwe waongee katika Bunge. Lakini, nina uoga kidogo wakati mtu akiongea kidogo, unamwambia utamfukuza.

(Laughter)

Bw. Spika tumetembelea nchi zingine ambazo tunaziiga, na tukaona vile wanavyojadili. Wakati mwingine tunapojadili, jadhba inapokupanda unapaswa kusema jambo ulilonalo. Lakini, ikiwa unatuogofya na kutushtua, basi mijadala yetu itakuwa inachechemea.

Bw. Spika, ninakuomba usimame na uamuzi uliotoa kwa sababu tumekaa wiki tatu bila ndugu zangu wa upinzani. Hata wiki ya nne na tano ni sawa. Wangoje ufanye uamuzi wakati utakapotaka, kulingana na Kanuni za Bunge hii.

Bw. Spika, ninashukuru.

(Laughter)

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

Sen. Faki: Bw. Spika, asante kwa kunipa fursa hii. Kuna msemu wa Kiswahili unaosema, ‘Nyani haoni umbile.’ Yaani, nyani haoni umbo lake. Ningetumia lugha nyingine lakini sio ya kistaarabu.

(Loud consultations)

The Speaker (Hon. Kingi): Order, Senators! Sen. Faki is on a point of order. Therefore, you cannot again rise on a point of order.

(Sen. Orwoba walked out of the Chamber)

Sen. Faki: Bw. Spika, tumesikia kauli zilizotolewa na Maseneta kadha wa kadha, akiwemo, Sen. Orwoba, ambaye anatoka hivi sasa.

(Sen. Cherarkey consulted loudly)

The Speaker (Hon. Kingi): Sen. Cherarkey, order, please.

Sen. Faki: Itakumbukwa kwamba wiki tatu zilizopita, Sen. Orwoba, alikuwa hapa Bungeni akiwa ameingia katika hada zake. Sisi kama Maseneta tulimheshimu na tukamvumilia katika ile hali aliyokuwa nayo. Leo ni masikitiko kwamba, Sen. Orwoba anaweza kusimama katika Bunge hili na kukemea haki ya Maseneta wa upinzani, wakidai haki zao.

Bw. Spika, mambo mengi yamezungumzwa. Nimesikia pia Kiongozi wa Walio Wengi akisema kwamba, tunaharibu wakati wa Bunge. Lakini, haki ni haki. Haiwezekani kwamba haki zetu sisi zikataliwe katika Bunge tuliochaguliwa kuwakilisha watu wetu. Ikiwa sisi kama Seneta, haki zetu zinakataliwa, je, itakuwa vipi kwa wale ambao tunaowaakilisha?

Bw. Spika, *ruling* imeletwa mbele yako. Sasa, ninataka kukukabidhi *order* iliyotolewa kuambatana na *ruling* ya korti. Tafadhali niruhusu.

(Sen. Faki laid the document on the Table)

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, kindly, let us not disrupt any process.

Sen. Faki: Bw. Spika, ninashangaa na wakili Sen. Cherarkey ambaye nimemfunza hapa bungeni. Anatauaibisha.

(Laughter)

Hajui kutofautisha---

The Speaker (Hon. Kingi): Sen. Faki, kindly, wind up your thoughts on the point of order.

Sen. Faki: Bw. Spika, ndio namalizia. Kuna tofauti kati ya *ruling* ambayo ni hukumu *tribunal* imetoa na amri ambayo imetolewa kuambatana na hiyo hukumu.

Bw. Spika, tumeweza kukukabidhi stakabadhi zote ambazo ni muhimu kuhusiana na swala hili. Tumetoa hukumu iliyosomwa jana na amri iliyoambatana na hukumu hiyo. Kwa hivyo, iliyobakia ni wewe utoe uamuzi wako.

Kuna ndugu zetu wengine, kama Sen. Chute kutoka Mandera, ambao wamekuja hapa kufanya kazi. Kwa hivyo---

(Sen. Cherarkey consulted loudly)

The Speaker (Hon. Kingi): Sen. Cherarkey, you are out of order. I am cautioning you. If you proceed, you will see the door.

Kindly wind up.

Sen. Faki: Bw. Spika, ninamaliza. Tunaomba tuweza kumaliza swala hili haraka, ili tuweze kurejelea shughuli zetu za kawaida kama Bunge la Seneti la Jamhuri ya Kenya.

Asante sana, Bw. Spika.

The Speaker (Hon. Kingi): Proceed, Sen. Joe Nyutu.

Sen. Joe Nyutu: Mr. Speaker, Sir, thank you for giving me this opportunity, to add my voice to this current debate.

I have sat and listened to my colleague Senators. Sen. Chute and Sen. Orwoba have expressed their frustrations that for about four weeks, we have not been able to conduct the businesses of this House in the way that we should because of this matter of leadership on the Minority side. These are very valid concerns.

Mr. Speaker, Sir, I have listened to you deliver your ruling. I did not hear you say that you are not going to rule in favour of the Minority side. The bone of contention is that you have not received Communication from the tribunal in a way and form that you should.

Mr. Speaker, Sir, I stand to urge our colleagues on the other side to exercise some patience. It is just a matter of time. If the documents they have tabled are authentic, you will also receive the documents from the same offices.

In the interest of Kenyans, whom we are here to serve, I beseech our colleagues to give you a day or two, so that in the meantime, we may continue dispensing the business of this House. Sometimes, some matters call for a middle ground. It should not be like we want to see which side wins against the other.

I rest my case. Again, I request our colleagues on the other side to exercise some patience and give you a day or two. In the meantime, we can continue with the business of this House. I submit.

The Speaker (Hon. Kingi): Hon. Senators, can I have your attention? I have given a lot of room for quite a number of Senators to prosecute their points of order.

However, it seems there is nothing new we expect, even if I am to allow all of you to communicate. It all surrounds one thing.

When the Senate Minority Leader stood on a point of order, I made a ruling to the effect that the only way we can be persuaded by the submission of the Senate Minority Leader is when a ruling or an order is tabled. I made that ruling.

Pursuant to that ruling, two Senators rose on point of orders. One tabled the ruling while the other tabled the order, in compliance with the ruling of the Chair. That is commendable.

Hon. Senators, this matter must be laid to rest. I will, therefore, seek your indulgence for not more than half-an-hour. I will allow a Member of the Speaker's Panel to take this Chair, as I retire to my office to do my Communication and then come back to the Floor of the House, resume the Chair and deliver my Communication.

Sen. Abdul Haji, please come.

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

[The Temporary Speaker (Sen. Abdul Haji) in the Chair]

The Temporary Speaker (Sen. Abdul Haji): Next Order.

STATEMENT

DEMISE OF MR. FRANCIS WANGUSI, MBS,
FORMER DIRECTOR-GENERAL OF THE CAK

Sen. Osotsi: Mr. Temporary Speaker, Sir, I wish to make a Statement on an issue of general topical concern, on the demise of Mr. Francis Wangusi, MBS, the former Director-General of the Communications Authority of Kenya, (CAK).

I rise pursuant to Standing Order No.52(1) to make a Statement on an issue of general topical concern and national importance, namely, the demise of Mr. Francis Wangusi, MBS, the former Director-General of the Communications Authority of Kenya, (CAK).

It is with deep sadness that I rise to mourn the death of Mr. Francis Wangusi, MBS, on 7th, March 2023, in The Nairobi Hospital. Mr. Wangusi was a man of many talents but perhaps his greatest gift was his ability to connect with people from all walks of life.

He was an exceptional leader in the ICT and telecommunications industry. His contributions to the development of the sector in Kenya, Africa and globally at large cannot be overstated.

Francis Wangusi began his career in the telecommunications industry in 1988 when he joined the then Kenya Posts and Telecommunications Corporation (KPTC) as an Assistant Engineer. He rose through the ranks to become the Head of Transmission

Department before being appointed the Director of Licensing and Compliance at the newly formed CAK in the year 2000.

Mr. Temporary Speaker, Sir, in 2012, Mr. Francis Wangusi was appointed the Director-General of CAK, a position he held until his retirement in 2019. During his tenure, he played a crucial role in transforming, not just the IT sector but the telecommunications sector, overseeing the liberalization of the sector and the introduction of competition, which gave birth to Safaricom, Airtel and others which also led to increased investments, innovations like Mpesa and others, as well as expansion of telecommunications in this country.

Mr. Francis Wangusi was a visionary leader who believed that access to information and communication technology was essential for socio-economic development. He worked tirelessly to ensure that Kenya's telecommunications sector was at the forefront of innovation and development, and his efforts did not go unnoticed. Under his leadership, the country made significant strides in expanding access to affordable, reliable and meaningful communication services which had a positive impact on the lives of millions of Kenyans and Africans.

Mr. Wangusi was a strong advocate for the development of information and communication technology infrastructure as the former Director-General of CAK. Mr. Wangusi played a vital role in the transition from analogue to digital television broadcasting, making Kenya one of the first African countries to embrace this new frontier, opening up the broadcasting industry in profound ways. He was also instrumental in the rollout of the 4G mobile technology in Kenya which revolutionized how Kenyans access and use the internet.

Beyond his professional accomplishments, Francis was a man of great character. He was a kind, humble and generous person who touched the lives of everyone he met. He was a mentor to many and a friend to all. His infectious smile, positive attitude, and unwavering dedication to his work and community inspired many. He was a man of integrity who lived his life with honesty, humility and dedication and inspired others to do the same.

Mr. Temporary Speaker, Sir, as we mourn the loss of Francis Wangusi, let us also celebrate the many ways in which he touched our lives. He was a true champion for the people of Kenya and a beacon of hope for Africa in matters telecommunication. His legacy will live on through the countless individuals whose lives he touched and the impact he made on the telecommunications industry in Kenya and beyond.

Mr. Speaker, Sir, as I wind up, may Francis Wangusi rest in peace. He will be deeply missed but he will never be forgotten because of his contribution to the ICT and telecommunications sector.

Mr. Temporary Speaker, Sir, I made this Statement because this is a man I have known for long as a practitioner in the ICT sector. I had to make this Statement because many people outside there who are in this industry have given tribute to this great leader who happens to come from Bungoma where my colleague, Sen. Wafula, comes from.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Olekina.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I stand here today a very sad man. I have been caught by shock because I did not know that my good friend, Francis Wangusi, had passed on. This is a man whom I had tremendous respect for because of his agility and dedication to servicing this country.

I will remember Mr. Wangusi as a man who stood firm and fought every attempt by the Government to try and take over the CAK. The fights that he fought including challenging telecommunication companies like Safaricom and when we were introducing digital broadcasts with the media houses will never be forgotten.

As tears fill my eyes because of this sad moment, I just want us to remind us here that any time we serve here, we have to ask ourselves what will become of us the moment we leave this prestigious position that we serve.

I remember an appeal which was made by the family of the late Director-General of CAK, Mr. Wangusi, when his blood levels had gone down as he fought cancer while he was admitted at The Nairobi Hospital. He was one of the most renowned scientists in this country. However, after he served this country, he disappeared into oblivion and we forgot him.

This is the time we must remember him as we pay tribute and thank him for the service that he gave to this country.

I want to thank the distinguished Senator for Vihiga, who is also the Chair of County Public Investments and Special Funds Committee, Sen. Osotsi, for bringing this Statement. Sometimes we think we know everything because we read a lot but I do not know how this one escaped me.

I want to tell the family that I will be mourning with them because that man personally touched my life. I will remember him for the good work and his contribution in the telecommunication industry in this country.

There were a few controversies during his tenure but I think they teach us a lot. There was a time when people were up in arms about gadgets which are out there to monitor communication between different people.

If there is one thing that I will remember the most about the late Wangusi, it is the fact that he went there to serve Kenyans. He did not care about the decision that the Board made even after he was sent on compulsory leave for four months. He went back and said he would not retire or go home until a substantive replacement was made to take over the organisation. That is the kind of agility and dedication to service that all of us must always practise.

Mr. Temporary Speaker, Sir, on behalf of the people of the great county of Narok and on my own behalf, I send my sincere condolences and prayers to the family of the late Wangusi. I hope that the good Lord will receive his spirit and also reward him for the time he served this country.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Wafula.

Sen. Wafula: Asante, Bw. Spika wa Muda, kwa nafasi hii tunapoomboleza kifo cha Bw. Wangusi.

Wangusi anatoka Eneo Bunge la Sirisia. Ana makazi Eneo Bunge la Kimilili na vile vile Eneo Bunge la Kanduyi. Ukienda kule mashinani, wengi walikuwa wanamjua kama Mzee Wangusi kwa sababu alikuwa mpole na mcheshi. Hakuwa mtu wa kujigamba ama kutembea na maafisa wa polisi ili kuwatisha wananchi.

Kila mara mwaka ulipoanza na katika hafla za kitaifa, alikuwa anawaalika watu katika makazi yake ili kula na kunywa nao. Watu wetu husema kwamba mkikaa ama kunywa na mtu, si kwamba huna kile anachokupa, lakini mnafurahia gumzo ama mazungumzo nyumbani kwake.

Sisi kama wakazi wa Kaunti ya Bungoma tumepoteza mchapakazi. Nitamlinganisha na aliyekuwa Mwenyekiti wa Tume Huru ya Mipaka na Uchaguzi, yani *Independent Electoral and Boundaries Commission (IEBC)*, Bw. Chebukati kwa sababu si rahisi ujue watu wapole wanafikiria nini. Alikuwa ni mtu ambaye ungedhani ungeweza kumtisha kumbe anakuangalia na kukucheka kwa sababu hujamjua.

Sen. Osotsi amesema kwamba wakati huo kulikuwa na mibabe ama mafidhuli. Kulikuwa na kundi la wanabiashara ambalo lilikuwa limejipanga kuteka nyara nchi hii kupitia teknolojia lakini Bw. Wangusi alisimama kidete. Aliwapa Wakenya nafasi ya kujiandaa kwa mfumo mpya wa mawasiliano.

Vyombo vya mawasiliano vimeenea nchini humu kwa sababu wa uongozi wa Bw. Wangusi. Vile vile, kulikuwa na siasa kati ya kampuni za Safaricom, Airtel na Telkom. Bw. Wangusi alisimama kidete na kusema kuwa kila kiwanda na mwanabiashara lazima atii sheria na kuafiki malengo ya Serikali. Hadi wa leo, vita hivyo vimetulia na kila mtu anatafuta shilingi yake kwa haki.

Sisi kama watu wa Bungoma tumempoteza kiongozi shupavu. Langu ni kurai Serikali kwamba iwapo wafanyakazi wamefanyia kazi kwa muda mrefu na wana tajriba ya juu, si vyema kuwatelekeza na kuwarudisha mashinani ilhali weledi wao, historia yao na kumbukumbu za kazi zinahitajika kwa vizazi vijavyo.

Kwa familia ambayo najua binafsi, kwa niaba ya viongozi wa Kaunti ya Bungoma na wananchi wa Kaunti ya Bungoma, tunasema pole. Mungu hupeana na Mungu hutoa. Mimi naamini tutakutana kule Paradiso ambao ni mji wa asali na maziwa. Tutakumbuka umbali tumetoka.

Ee Mungu, anapoenda Wangusi, tupe muda zaidi tuishi Kenya hii tunyoroshe mambo ili tutakapokutana na Wangusi tutasema *it has been a good journey*. Mungu atuneemeshe na tufikie hatima ya mapenzi yake.

Bw. Spika wa Muda, kwa hayo mengi, nashukuru kwa nafasi hii.

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I will interrupt the proceedings to make a communication on visiting teachers and students from Miathene Boys High School in Meru County.

(Interruption of debate on statements)

COMMUNICATION FROM THE CHAIRVISITING DELEGATION FROM MIATHENE
BOYS HIGH SCHOOL, MERU COUNTY

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation from Miathene Boys High School in Tigania West Constituency, Meru County. The delegation comprises six teachers and 117 students who are in the Senate for a one-day study visit.

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

I thank you.

(Applause)

Sen. Kisang, you can continue with the contribution. Sorry, hold on Sen. Kisang. I did not see the Senator for Meru County. That is why I jumped the queue.

Sen. Tabitha Mutinda: Mr. Temporary Speaker, Sir, I am married in Meru---

The Temporary Speaker (Sen. Abdul Haji): Okay, let us allow Sen. Tabitha Mutinda to make a welcoming remark.

Sen. Tabitha Mutinda: Mr. Temporary Speaker, Sir, I take this opportunity to welcome the students from Meru County. Meru is also my home because that is where I am married. I am happy to see the good students that are here. Feel welcome.

This Senate is the "Upper House" and we are the Senators. Your elected Senator is Sen. Murungi Kathuri. He is the Deputy Speaker of the Senate. We also have Members of Parliament (MPs) who sit on the other side. Like I said yesterday to the students from Nairobi, because I am nominated under Nairobi, I come from Ukambani and I am the face of Kenya.

I like telling students about this. We have two books that guide us. We have the Standing Orders which are the in-house rules, the same way in school you have rules and regulations on, for example, the type of uniform that you are supposed to wear.

We also have the Constitution. In Kiswahili, it is called *Katiba*. That is what governs us and that is where the rules and the laws are. We also have the Head of the House who is the Speaker, the same way you have the headteacher who is your boss in that institution.

Mine is to tell you to keep working hard and pull up your socks. You can also be in this House at any one time in future. Listen to your teachers and parents and do your best to shine. God bless you.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Most welcome. Proceed, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Temporary Speaker, Sir. I was going to---

The Temporary Speaker (Sen. Abdul Haji): Sorry, Sen. Kisang. What is your point of order, Senator for Homa Bay?

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I have observed that certain traditions of the House are being violated. It is our tradition to welcome visitors and the visitors sit in the Gallery as directed by the Speaker. However, when Members are contributing and welcoming visitors, we tend to speak directly to them.

The tradition of Parliament is that we address the Chair and any advice should be through the Chair. If we want to provide advice directly to the visitors, we can always retreat with them to the restaurant or outside. That is the correct tradition of Parliament.

If we do not discuss it, then it shall become common practice. It happens in all other parliaments that we go to, that you do not speak directly to persons sitting at the gallery. I thought that was important to sanitize proceedings of this House.

The Temporary Speaker (Sen. Abdul Haji): Thank you very much, Sen. M. Kajwang'. I guess all Senators stand guided.

Sen. Kisang: Thank you, Mr. Speaker, Sir. I want to extend a warm welcome to the students from Meru on behalf of the Senator of Meru, hon. Sen. Kathuri. We were together in the National Assembly for ten years and he is our Deputy Speaker.

Welcome and enjoy your stay here in Parliament. As you study, it is also important to tell you that to reach this level, what is important is discipline. So, get disciplined, work hard in your studies and you might find yourselves here in the future.

Secondly, I take this opportunity on my own behalf and on behalf of the Elgeyo-Marakwet County and the people of Kenya to send my condolences to the family of Mr. Francis Wangusi, who was the Director General of the Communication Authority of Kenya (CAK) for nine years.

I knew Mr. Wangusi as a close friend. We worked together for 10 years when I was in the National Assembly as a Member of the Standing Committee on Information, Communication and Technology (ICT) and also as its Chairperson from 2017 to 2021 before we were fired.

Mr. Wangusi was a very smart scientist. He was employed as a trainee in the former Kenya Posta and Telecommunications Commission and rose through the ranks up to the Director General level. He saw the sector moving from 1G, 2G, 3G up to the current level where we are now of about 5G.

Mr. Wangusi was quiet, humble and not corrupt. By the time, he retired at the age of 60 years, he was still living in a Cooperation House. In fact, I saw there was an issue where the Communication Authority of Kenya almost forced him out of the house but thank God, he went to court and then he stayed in the house close to six months before he moved to his own house in Mbugani Road on Karen.

Mr. Wangusi did a lot for this country. It is unfortunate sometimes those who work hard are not corrupt are not rewarded in the society.

The current ruling Party, the Kenya Kwanza, I know is a very good Government. They reward the loyal and hardworking citizens. They will take care of Mr. Wangusi's children and reward them. If possible, they can pick one of his children who has

graduated and be employed even if it is not in the CAK but in the sector because he contributed a lot.

I remember in the Financial Year 2018/2019, we had an inquiry into the Telecommunications Subsector because there was a lot of monopoly. We did an inquiry. Mr. Wangusi stood with us and the Telecommunications sector was compelled to use and share towers.

That is why you saw the cost of communication came down especially in seven regions of our country where the network was very poor. These included the Isiolo County and the northern counties of Kenya including Turkana. The four major telecommunication operators were forced to share towers.

May the Almighty God rest Wangusi's soul in eternal peace; give the family peace, strength and acceptance during this difficult time.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Sen, Nyamu, you may proceed with your Statement.

Okay, if there is no Statement---

Sen. M Kajwang': On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. M. Kajwang'?

Sen. M Kajwang': Mr. Temporary Speaker, Sir, I am looking at the Order Paper for today and on Order No.7. it says -

"Statements as listed in the appendix" but there is no appendix to the Order Paper that lists the Statements, at least the ones that I am looking at electronically.

That is important so that it allows Members to anticipate the business that will be before the House and where you have an interest, you can prepare yourself to contribute.

Will it be in order for the House to be guided on where that appendix is? If it is not there, then perhaps, we should not proceed with the Statements.

The Temporary Speaker (Sen. Abdul Haji): Sen. M. Kajwang' the appendix is on page 143 of the Order Paper, Number 3 - Statements.

Sen. M Kajwang': Mr. Speaker, Sir, the electronic Order Paper that I am looking before me ends at page 144 and I think that is why I raised that concern.

If we do not address such small things, it is possible one day that a Speaker sitting on that Chair will not be as civilised and disciplined as you are. It will be very possible that business that has not been processed by the House Business Committee can be sneaked before the House.

So, may be the Clerks can amend that so that we can get up to page 146 in the electronic version of the Order Paper.

The Temporary Speaker (Sen. Abdul Haji): Thank you.

What is your point of order, Sen. Mandago?

Sen. Mandago: Mr. Speaker, Sir, it is about the conduct of hon. Sen. Nyamu who approaches the seat of the Chair without bowing. It is becoming increasingly dangerous that the traditions of the House are being violated and this has an impact on the image of the Senate. It is imperative that all Senators stick to the Standing Orders and to the rules of the House.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator, for bringing that to my attention.

We will move to the next Statement by the Chairperson, Senate Standing Committee on Roads, Transport and Housing.

(Resumption of debate on statements)

STATUS REPORT ON PETITION: PUBLIC TRANSPORT IN LAKE
VICTORIA BETWEEN MFANGANO ISLAND IN SUBA
CENTRAL SUBCOUNTY AND MBITA

Sen. Thang’wa: Thank you, Mr. Temporary Speaker, Sir. I rise to give a Statement pursuant to Standing Order No.56(1)(a) that provides: -

“that a Chairperson of a committee may make a Statement relating to legislative business before the Committee.

Mr. Speaker, Sir, pursuant to the above Standing Order, I wish to issue a Statement which is - a status report on the consideration of a Public Petition regarding public transport in Lake Victoria between Mfangano Island in Suba Central Subcounty and Mbita.

The Petition was presented before the Senate on 18th October, 2022 by the Sen. M. Kajwang’ MP. Senator for Homa Bay County on behalf of Mr. Daniel Rakoro and other residents.

In accordance with Standing Order No.238, the Petition was subsequently referred to the Senate Standing Committee on Roads, Transportation and Housing for consideration and reporting back this House as well as to the petitioners.

The quoted Standing Order requires the Committee within 60 days to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

Upon committal of this Petition to the Committee, the Committee adopted a work plan for consideration of the Petition and in accordance with this workplan, proceeded to meet with the Petitioners on Tuesday, 8th November, 2022.

During the meeting, the Committee engaged the petitioners on the content of the Petition and prayers that they sort to be addressed by the Committee.

Among the prayers by the petitioners was that the Committee visit the respective Island to ascertain the suffering and the challenges experienced by the people. In this respect, the Committee scheduled a visit to Homa Bay County for 9th and 10th March, 2023. However, the area Senator, Sen. M Kajwang’ who is also a Member of the Committee requested for a postponement of the visit to 17th and 18 March. 2023. The Committee considered the request and granted it.

The Committee was prepared to visit the County in a bid to conclude its consideration of the Petition and table its report before this House. However, on the 14th March, 2023, the Committee was requested to postpone the scheduled visit to Homa Bay County.

The reason given for this postponement was that on the date of the scheduled visit, there were reports of planned political demonstrations and protests expected in Homa Bay County. Subsequently, due to the uncertainty of the alleged planned demonstrations and protests in the area, the Committee was forced to indefinitely postpone the visit.

Mr. Temporary Speaker, Sir, while the Committee appreciates the importance of the input of the area Senator – also being the Senator who presented the Petition on behalf of the residents of Homa Bay County – these regular postponements are now derailing the Committee’s efforts to conclude this matter, in accordance with Standing Order No.238 and for the benefit of the petitioners.

Mr. Temporary Speaker, Sir, despite the uncertainties surrounding the planned visit to Homa Bay County, I wish to report that the Standing Committee on Roads, Transportation and Housing remains committed to concluding its consideration of this Petition and will proceed to Table its report before the Senate.

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

The Temporary Speaker (Sen. Abdul Haji): Sen. M. Kajwang’, what is your point of order?

Sen. M. Kajwang’: Mr. Temporary Speaker, Sir, I appreciate the statement by the Chairperson of the Committee on Roads, Transportation and Housing, which I am also a Member. The Chairperson has given a chronology of events relating to the Petition I presented to this House, on behalf of the residents of Mfangano, Takawiri, Remba and other islands. They have been disenfranchised since Independence due to lack of a public ferry.

When I presented that Petition, I believed the Senate would be in a position to deliberate on the matter in a bipartisan manner, that is shielded from the politics of the day that is going on outside this House.

The Chairperson has noted that there have been two postponements. There was a scheduled visit last week and another that was to be begin this Friday. It is true that I spoke to the County Commissioner of Homa Bay County. He indicated that he had received an application of a planned demonstration from Bunge la Wananchi, in line with their constitutional rights this Friday.

Mr. Temporary Speaker, Sir, the decision I had to make was whether to allow Senators to be in Homa Bay County in a convoy of 10 plus black Land cruisers and Prados, on a day when I knew there was going to be protests and demonstrations. It is my conviction that my request to the Chairperson and the Committee was done in good faith. It was not meant to defeat or derail the activities of the Committee.

I take exception on two things. One, I am Member of the Committee and upon my request being put to the Chair, we ought to have deliberated as a Committee and made a resolution. I have been a Chair in this House for a long time. I do not think this is how we should be prosecuting Committee business. We should deliberate and take a decision as Members of a Committee. What I needed to do was just to make the request and it was upon them Members to make that consideration.

I take exception that this matter has found its way on the Floor of the House, without the Committee having deliberated upon it. I believe---

An Hon. Senator: On a point of order, Mr. Temporary Speaker, Sir.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I am on a point of order. I believe that, ultimately, we are pursuing justice for the residents of the islands. Even though the 60-day period has elapsed, last week we had a Liaison Committee meeting where we reflected as Chairpersons on the inadequacy of the 60 days provided by the Standing Orders. We agreed that it was important that going forward, we provide adequate time for consideration of these petitions.

I conclude by asking the distinguished Senator for Kiambu County to visit Homa Bay County when the political climate is not foul or poisoned. I would like my distinguished Committee Members to come to my county and appreciate the beauty, potential and sit down with its people in a candid conversation, that is aimed at addressing some of the social and economic injustices that they face.

Probably, when we go back to the Committee, we shall discuss because the postponement is not indefinite. I believe that we can find an appropriate day so that we can serve justice to the people of Mfangano. I have reached out to the petitioners and they are in agreement with me as their Senator, that this Friday and Saturday is not the best day for the Senate to visit.

There is no malice, intention to defeat or derail the activities of the Committee. Had we spent a few minutes before coming to the Floor, we would not have given the impression that the Senator for Homa Bay County is out to derail the activities of the Committee.

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

The Temporary Speaker (Sen. Abdul Haji): Before I take any points of order, Sen. Maanzo, please, undo your intervention button because it seems to be perpetually hanging on the screen.

(Sen. Maanzo spoke off record)

No, it has been there for long. First, undo it. Sen. Wamatinga, kindly do the same. This is a new request.

I will take a point of order from Sen. Olekina.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. Petitions is a way for Kenyans to get some form of justice. This House pronounces itself through Motions and Bills; or in Committees where interrogate matters brought before us as per the Constitution.

I have listened to both Chairpersons of the Committee on Roads, Transportation and Housing as well as the Committee on Public Accounts, Sen. M. Kajwang. He brought the Petition on behalf of the petitioners.

With your guidance, I beseech the Committee; some of these issues are defined by our Standing Orders, setting a limited time of 60 days. Last week, this House passed a Motion that had been time barred because for various reasons. The reasons that have been given are valid.

Even though this matter is expressly provided for in the Standing Orders in terms of the duration where a petition should be investigated and report tabled, I invite you to use your wisdom and apply Standing Order No.1 as well.

Under the prevailing circumstances, nobody would want what was happening in Kisumu County today to happen to them. It was very wise and logical for the Senator for Homa Bay County to postpone the visit. If the people of the county would have seen a huge convoy of about six, seven or ten SUVs, they would have actually gone after them.

Mr. Temporary Speaker, Sir, it is wise that as we try to balance our Standing Orders; our rules of engagement, I beseech and request you to give some more time. If we can do that for a matter that is expressly provided for in the Constitution, what about matters provided for in the Standing Orders? I am afraid of having this matter coming back here. We shall spend more taxpayers' money if it is re-introduced afresh by the same petitioners.

I request that you find it within yourself to extend the time when the Committee on Roads, Transportation and Housing can table the findings of the Petition. Let the Chairperson engage the sponsor of the Petition so that at the time when it is convenient and peaceful on the road, they can visit Mfangano Island and try to give justice to those people. If we can extend the Budget Policy Statement decision, I think this other issue which is affecting Kenyans can also be extended.

I thank you.

Sen. (Dr.) Lelegwe Ltumbesi: On a point of order Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. (Dr.) Lelegwe Ltumbesi, what is your point of order?

Sen. (Dr.) Lelegwe Ltumbesi: Thank you Mr. Temporary Speaker, Sir. I was not intending to rise on a point of order. However, when Sen. M. Kajwang was giving his submissions or the response to the Statement raised by the Chairperson, I indicated that I wanted to inform him that the Standing Orders, laws and communications guide this House.

When you gave this Committee the go ahead to deliberate on that Petition, we had limited time to look at it. The Senator has requested more than twice to postpone this matter. The Committee was ready. The Chairperson did the right thing to communicate to the House through Standing Order No. 56 which is the Statement that was deliberated by the Committee today.

The Senator was unable to attend the meeting. In the agenda list of our deliberation as a Committee today this morning, this matter was discussed extensively and a decision was reached that the Chairperson communicates this decision by the Committee so that the Chairperson can give guidance because time is of the essence when we consider Petitions to the Committee.

I thank you.

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

The Temporary Speaker (Sen. Abdul Haji): Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, it is very unfortunate that in the Senate Business Committee (SBC), we have been urging that Statements that have overstayed in Committees should be brought to the House. We never knew the Chairperson of the Standing Committee on Roads, Transport and Housing was going through this kind of frustration.

I congratulate the Chairperson of the Committee for being candid and disclosing, risking the possibility that he would be cited for attempting to discuss a Senator without a Substantive Motion.

It is now clear that some---

(Sen. Dr. Khalwale's microphone went off)

Mr. Temporary Speaker, Sir, it is now clear that some leaders in this country in the hope that they will walk the journey of adventure, will zone off this country so that when you are going to certain parts of this country, you have this feeling that I am away from Kenya or away from home.

The Senator for Homa Bay is not a security officer. If there were security challenges in that area, the security organs would have alerted Parliament and discouraged it from sending the Committee to that place. I say this in all honesty. I was personally in Homa Bay to mourn with my younger brother when my former colleague Sen. Otieno Kajwang died. My brother will know that when he brought this Statement, I rode on it because I know the importance of that Petition.

I am risking pointing a finger at my colleague knowing that even as late as today, the Deputy Governor of Kisumu County Hon. Mathew Owili has assembled youth who have stormed a function chaired by---

(Sen. Olekina spoke off record)

I am on a point of order. You will speak. I am not discussing you. I am not discussing Owili. I am stating a fact. Take it easy. This pride of yours will take you nowhere. Kenya is too big.

(Sen. Olekina spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Continue Senator.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. The Deputy Governor pushed youths to attack the function that was presided by the Head of the Communication Authority (CA) to mark the World Bank Food Awareness Day. The Deputy Governor was heard saying: 'We are preparing for Monday.' They want to give the impression that that part of Kenya is not governable. It is a lie and to suffer the consequences of this misadventure, this Petition should be dismissed. We want to spend time carrying out serious business.

I appeal to leaders from that region to give the people of that region an opportunity to enjoy Government services. *Muwache hii mchezo yenu. Kwendeni kabisa.* Now you can speak.

(Sen. M. Kajwang spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Wait, I will give everyone an opportunity to speak. Everyone has made a request on a point of order. Let us be orderly. Sen. Kinyua, you may proceed.

Sen. Kinyua: Bw. Spika wa Muda, nashukuru kwa kunipa fursa. Mimi ni Mwanakamati wa Kamati ya Kudumu ya Barabara, Usafiri na Makazi.

((Sen. M. Kajwang spoke off record))

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators. Order Senators.

(Sen. (Dr.) Khalwale spoke off record)

Order Hon. Senators. Order Hon. Senators.

((Sen. M. Kajwang spoke off record))

Order Hon. Senators.

(Loud consultations)

Hon. Senators, please take your seats. Sen. M. Kajwang, please take your seat. Hon. Senators, please let us be orderly.

(Sen. Oketch Gicheru and Sen. (Dr.) Khalwale spoke off record)

The Senate Majority Whip kindly take your seat.

Sen. Oketch Gicheru and Majority Whip, I will give an opportunity to everyone to make their point of order.

Please let us give Sen. Kinyua an opportunity to finish.

(Sen. Sifuna spoke off record)

Sen. Sifuna, kindly maintain order.

((Sen. M. Kajwang spoke off record))

Sen. M. Kajwang, I see that you have made a request to make a point of order. I will give you an opportunity so that you can reply to him. Let us allow Sen. Kinyua to finish so that I can give other Senators opportunity to also make their points.

Sen. Kinyua, you may proceed.

Sen. Kinyua: Bw. Naibu Spika wa Muda, ukisoma kitabu---

Ni vizuri ijulikane ya kwamba viongozi ama mashujaa huchipuka wakati kuna janga na wakati huu kuna janga. Mimi ni mmoja wa Kamati hii ya Barabara, Uchukuzi na Makazi. Tulipata ujumbe kutoka kwa Seneta wa Homa Bay akisema ya kwamba ombi lililokuwa limeombwa na sisi tulikuwa tumejitayarisha kuendelea na haya maneno kwa sababu ya muda uliowekwa.

Japo, Sen. M. Kajwang akatuambia kunaweza kuwa na mvutano na vurugu. Ni vizuri kwa sababu hakutaka tujipate katika hali ya sinto fahamu wakati tukifika huko. Lakini tumekuwa tukisema kila wakati tutatembea pale, kunakuwa na sababu ambayo inatuzuia kufanya kazi yetu.

Hata ijapokuwa anasema kutakuwa na maandamano, na ninataka kukubaliana na Kiranja wa Walio Wengi ya kwamba Seneta rafiki yangu Sen. M. Kajwang sio afisa wa usalama. Yeye hafanyi katika idara ile. Kwa hivyo, ijulikane wazi hakuna Seneta yeyote hawezi kuzuiwa kufanya kazi yake ya uangalizi na mtu yoyote. Nakumbuka Bunge lililopita aliyekuwa Waziri wa Usalama Mheshimiwa Matiang'i alisema hatutakwenda Laikipia kwa sababu ya ukosefu wa usalama. Lakini tukasema, liwalo na liwe. Nataka kumpongeza Sen. Wetangula. Alisema ya kwamba Seneta hawezi kuzuiwa kufanya kazi yake hata kwenda kuangalia zile sehemu ambazo zina shida ni kazi yake.

Sen. M. Kajwang', nilitaka twende Mbita, Mfangano, tuone kama maandamano yamefanywa kama vile ulivyotaka. Hiyo ni kazi yetu. Tunataka kwenda kufanya kazi yetu. Hatuwezi kuzuliwa.

Bw. Spika wa Muda, ningependa kupongeza Mwenyekiti kwa sababu kama hatungefanya kazi yetu na muda unaendelea kuyoyoma, tungekemewa na kukejeliwa kama Kamati, ya kwamba hatufanyi kazi yetu.

Mwenyekiti alikuja kusema kwamba muda uliotupa wa siku sitini unayoyoma. Hatuwezi kaa kitako halafu tukuje kusomewa ndani ya Seneti. Seneta alisema kwa mtandao wa Kamati yetu kwamba kutakuwa na vurugu na mvurutano. Kwa hivyo, Mwenyekiti alifanya inavyopaswa. Tumekuwa tukisema hayo.

Ninakumbuka Sen. M. Kajwang' alinipongeza nilipokuwa Mwenyekiti wa Kamati ya Ugatuzi, kwa sababu kila wakati nilikuwa nikileta Ripoti ya vile Kamati inavyoendelea.

(Sen. M. Kajwang' spoke off record)

Bw. Spika wa Muda, ninakumbuka tulipokuwa tukiwasiliana katika ile Kamati, Sen. M. Kajwang' hakuwepo.

Kulingana na vile amesema kwamba, hakujulishwa na Kamati, ninachukua jukumu kama Mwanachama, kumuomba msamaha. Kuomba msamaha haionyeshi unyonge, inaonyesha uongozi. Ni vizuri wakati mwingine sisi kama viongozi kukubali makosa ambayo tumefanya na tuombe msamaha, ndiyo tuweze kuendelea.

Bw Spika wa Muda, dua lile ---

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Sen. Kinyua, please conclude.

Sen. Kinyua: Bw. Spika wa Muda, nikinge kutokana na huyu kiongozi kwa sababu sijamaliza.

(Sen. Oketch Gicheru stood in his place and consulted loudly)

The Temporary Speaker (Sen. Abdul Haji): Sen. Oketch Gicheru, you will get an opportunity. Let him conclude.

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Sen. Oketch Gicheru, you will speak. Can he conclude? He is on a point of order and you also want to rise on a point of order. Let him conclude.

Is it a point of information?

(Sen. Oketch Gicheru spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Please conclude, Sen. Kinyua.

Sen. Kinyua: Bw. Spika wa Muda, ninaweza kuongea kuhusu Senata aliyepo katika Nyumba hii kwa sababu yuko na fursa ya kujitetea. Sikuongea kwa ubaya.

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Please conclude.

Sen. Kinyua: Huyu Seneta ni mgeni. Hana uzoefu wa Kanuni za Bunge.

Bw. Spika wa Muda, chukua fursa hii, upeleke Maseneta wageni ambao hawana uzoefu wapate mafunzo.

The Temporary Speaker (Sen. Abdul Haji): Seneta, ninakuomba umalize.

Sen. Kinyua: Bw. Spika wa Muda, hana uzoefu. Haongei kwa sababu anajua, anafahamu au anazimenya sheria. Debe tupu haliwachi kutiririka, ndiposa sasa unasikia linaendelea kutiririka. Ni vizuri tuseme ukweli.

Bw. Spika wa Muda, Sen. M. Kajwang' ambaye tunamwongelea amenyamaza na kutulia kwa sababu ananielewa.

Nikiwa kama Mwanakamati, ninamuomba msamaha kwa sababu hakujulishwa.

An. hon. Senator: On a point of order, Mr. Temporary Speaker, Sir.

Sen. Kinyua: Bw. Spika wa Muda, niko kwa hoja ya nidhamu.

The Temporary Speaker (Sen. Abdul Haji): Sen. Kinyua, ninakuomba umalize.

Sen. Kinyua: Bw. Spika, Mwenyekiti wa Kamati amefanya vilivyo, kwa kuleta Ripoti hii, ili iweze kujulikana wazi sababu ya Kamati kutoweza kuenda Mfangano. Hiyo ndiyo sababu. Tumeomba msamaha kwa Seneta.

The Temporary Speaker (Sen. Abdul Haji): Asante Seneta.

Sen. Oketch Gicheru, please sit down.

Senators, please allow me to jump the queue and call Sen. M. Kajwang', to make his point of order because he has been mentioned several times.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, how I wish that the debate on this matter could be truncated and terminated. This is the wrong use of the Standing Orders. I have reservations even though Sen. (Dr.) Lelegwe Ltembesi has informed me that there was a meeting in the morning of which I apologized because I did not attend.

When a Chair comes to this House and makes a Statement that mentions adversely a fellow Senator, the courtesy is to alert the Senator he or she will read a Statement, which the Senator has been mentioned and its contents. He does not have to do it but that is the courtesy that has guided this House for the last 10 years.

Mr. Temporary Speaker, Sir, my request to the Chairman of the Committee on Roads and Transportation is that, we needed one of two answers, yes or no.

If the Chairman feels that I am not well trained on matters of security and intelligence, then, he had the option of taking the Committee to Homa Bay. However, if he thinks that the views of the local Senator and the person who brought the Petition before the House deserves some consideration, I would have expected the Chairman to engage and inform me that he would be reporting to the House on this matter and this is the kind of prayer he was to make.

Mr. Temporary Speaker, Sir, I have no problem with the Report that the Chairman has given to the House. My biggest concern is on the conclusion of that Report.

Sen. (Dr.) Lelegwe Ltembesi says more than twice, this is the second time I am requesting the Committee to consider going to Homa Bay.

Mr. Temporary Speaker, Sir, if the Chairman believes that my concerns are idle or my briefs around intelligence and assessment of political situation in Homa Bay, this week is irrelevant then, let the Chairman take the Committee to Mfangano in Homa Bay.

In fact, this matter should have never come to the Floor of the House to be discussed. In as much as my colleagues want to comment on this, I urge you to rule, so that we close this matter and not fall into the trap of discussing a fellow Senator adversely without notification.

The Temporary Speaker (Sen. Abdul Haji): Senators, I follow seniority and allow Sen. Madzayo to make his point of order.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika wa Muda, jambo la kwanza, mimi pia ni *Member* wa hiyo Kamati. Habari hiyo ilipoletwa, mtu wa kwanza kupinga na kusema kwamba hatuwezi kuruhusu kuongelea mwenzetu ambaye ni Seneta ndani ya Kamati, ikiwa tupo na wafanyikazi na watu wengine kutoka sehemu za Kenya.

Bw. Spika wa Muda, ni jambo la kusikitisha sana. Seneta wenzangu, Sen. (Dr.) Lelegwe Ltumbesi na Sen. Kinyua walikuwa hapo.

The Temporary Speaker (Sen. Abdul Haji): Sen. Madzayo, would you like to be informed by Sen. (Dr.) Lelegwe Ltumbesi?

The Senate Minority Leader (Sen. Madzayo): *No*. Sitaki kujulishwa.

The Temporary Speaker (Sen. Abdul Haji): Continue.

The Senate Minority Leader (Sen. Madzayo): Utapata wakati wako. Kuwa na heshima wakati ninapongea.

Bw. Spika, nisikize vizuri. Kanuni zetu za Kudumu No.111(4), inasema kwamba:

“Seneta hatatoa kizingizio kuhusu Seneta mwingine, au Mbunge wa Bunge la Taifa, isipokua kwa hoja hususan ambayo aarifa yake imetolewa angalau siku tatu kabla ya hoja ya kujadili mwenendo wa Mbunge au Seneta huyo”.

(Loud consultations)

Bw. Spika wa Muda, ingekuwa bora kama ungenitetea kwa sababu hawa Maseneta wanaongea ninapozungumza ili usisikize kile ninachosema. Kanuni hizi zetu ni Kanuni za Kudumu na hizo ndio tunafuata. Lakini leo cha ajabu ni kwamba nilipopinga kwamba hatuwezi kuongea habari za Sen. M. Kajwang’, mwenyekiti aliyokuwa ameketi hapo saa hizo - na mashahidi wangu ni Sen. (Dr.) Lelegwe na Sen. Kinyua - alikiuka sheria.

Ni jambo la aibu kuona Seneta mwingine anaweza kusimama hapa mbele ya watu kutoka sehemu mbali mbali za Taifa--- Ikiwa mimi ninaweza kusimama hapa na ndugu yangu wakili yuko hapa, alafu niongee juu yake kwa njia ambayo sio sawa ili Wakenya wengine wapate kujua.

Mimi ninawaheshimu sana Sen. Wakili Sigei, Sen. (Dr.) Lelegwe na Kiranja wa walio Wengi. Sijawahi kuskia hata siku moja kwamba Kiranja wa walio Wengi amefanya tabia kama hiyo. Ingekuwa vizuri kama sisi hatungeingiliana hapa. Tufundishane heshima.

Ahsante.

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Sifuna?

Sen. Sifuna: Mr. Temporary Speaker, Sir, I am also a Member of the Committee on Roads and Transportation and the chairperson here is my friend. I am extremely disappointed that that statement has actually been made on this Floor.

One of the things that is very frustrating for us, as the Minority side is that we agreed in this House that when someone is on a point of order, they will be heard in silence. There are people who are using and abusing that opportunity that we agreed on in order for us to have orderly debate, to throw very insulting words against colleagues in this House and against people who are not present in this House.

We request that the Speaker should insist on enforcing the rules by making sure that when somebody utters something, they must substantiate. This afternoon we were told that we could not speak about a court order that the Speaker has not seen. We brought the court order physically and tabled it here. We tabled the ruling.

When Sen. (Dr.) Khalwale stands up on the Floor of this House and says that people who are supporters of Azimio or ODM have raided a meeting of a Government agency and stolen food, without any substantiation, you must substantiate.

(Loud consultations)

Stop heckling here, Sen. (Dr.) Khalwale. I can assure you that no Government agency will hold a meeting anywhere where you are gouging on food bought by public resources, yet Kenyans are starving. Sen. (Dr.) Khalwale, even in Kakamega, you will not hold a meeting of the staff of your office or anything without Kenyans coming to avail themselves of that food. I can assure you.

(Loud consultations)

Mr. Temporary Speaker, Sir, protect me! I am on a point of order. I have to finish.

The Temporary Speaker (Sen. Abdul Haji): Senator, conclude. Senators, let him conclude.

Sen. Sifuna: Mr. Temporary Speaker, Sir, as the Senator of Nairobi I want to tell every Kenyan that having seen the increase of the budget for State House for buying tea and mandazi, that tea and mandazi is meant for Kenyans. Wherever they meet a Government agency holding a meeting, they should go there to eat that food. That is their food.

Any person in their right mind cannot go to hold a symposium on food right now and yet you know Kenyans are starving. You bring food only for yourselves and think that people will just sit there and look at you. They say a hungry man is an angry man.

Let me finish by speaking on this question of marginalization.

Hon. Senators: On a point of order.

Sen. Sifuna: I am on a point of order.

The Temporary Speaker (Sen. Abdul Haji): Order, Senators. Let him conclude.

Sen. Sifuna: I will be heard in silence! I want to demonstrate to you that you are abusing the points of order. That is what I will do. I am on the Floor on a point of order.

The Temporary Speaker (Sen. Abdul Haji): Senators, resume your seats. We want to hear everybody. Let the Senator conclude and then we listen to the second speaker. We cannot be exchanging utterances like this. Let us hear the Senator and let him conclude.

Sen. Sifuna, please conclude.

Sen. Sifuna: Thank you, Mr. Temporary Speaker, Sir. You have already ruled, allow me to speak.

I want to tell Kenyans that anytime you hear there is a Government agency sitting somewhere, drinking tea and *mandazi*, that is your money. Go and join them. That is what we want to see. Every time we speak about addressing the question of inequity in this country, people do not want to listen.

Khalwale, you are lucky that you come from Kakamega where there are roads. All the people of Homa Bay are asking for is one ferry. Over the weekend we took the *maandamano* to Kwale County and we used the Likoni Channel. I saw a brand new ferry being utilized by the people there. I also saw old ferries parked there. They have taken someone from Nandi or the Rift Valley and made him the Managing Director of Kenya Ports Authority (KPA). That job---

(Loud consultations)

Sen. Sifuna: I must conclude! I am on a point of order.

The Temporary Speaker (Sen. Abdul Haji): Sen. Sifuna, resume your seat.

(Loud consultations)

Hon. Senators, at this point, I will have to end this debate on these points of order. Sen. Sifuna, when you are referring to another Senator, refer to him or her as a Senator and not by their name.

So, please, continue and conclude.

Sen. Sifuna: Thank you, Mr. Temporary Speaker, Sir. I am on a point of order and I am being heckled throughout. If this conduct was coming from me, I would have been thrown out of this House already. Can you protect me so that I am heard in silence? I need to be protected.

Mr. Speaker, Sir, if this was Sifuna, he would have been thrown out of the House. I cannot speak because I am being heckled by these hecklers.

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators!

Sen. Sifuna: This illegitimate Government has sent someone from Nandi to go and become the chairperson of KPA; somebody with the same name as the President. It is ridiculous. We want to end marginalization in this country.

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Sen. Sifuna! Hon. Senators! Sen. Sifuna, the Senate Majority Leader and Sen. Cherarkey!

Sen. Sifuna, the Chair is standing.

(Loud consultations)

Hon. Senators, at this point I cannot even follow the proceedings. Sen. Oketch Gicheru, I do not want to throw anyone out of the House but I cannot allow these points of order to continue. We are not able to listen to each other. I will have to make a ruling on this issue.

Hon. Senators, I have heard the contributions by the chairperson of the Committee on Roads and Transportation who made his Statement on consideration of the Petition presented by Sen. M. Kajwang’.

The gist of it is that the committee has not concluded the consideration of the Petition, owing to the request by the Senator for Homa Bay to defer the visits.

Hon. Senators, we know that the timeline provided in the Standing Orders is 60 days and they have lapsed. That said and done, it does not stop the committee to still continue with the matter even when 60 days have lapsed.

Hon. Senators, the time for consideration of the Petition has lapsed but there is precedent in the Senate where timelines have been extended. The Chair is commended for his report, but there is nothing stopping the committee from proceeding with visits at the appropriate time and tabling its report.

Let us go to the next Order.

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Oketch Gicheru? I hope it is not on the same issue that I have ruled.

(Loud consultations)

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, protect me from goons on the other side. Like this goon talking here.

The Temporary Speaker (Sen. Abdul Haji): Sen. Oketch Gicheru, you cannot refer to other Members of this House as goons. Please withdraw.

Sen. Oketch Gicheru: He called me a goon. I thought it is a common language between me and him. So, he is a goon as well but I withdraw.

The Temporary Speaker (Sen. Abdul Haji): Thank you.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I rise on a point of order.

(Laughter)

Can you relax Sen. Cherarkey? *Wewe uli-fail mtihani?*

The Temporary Speaker (Sen. Abdul Haji): Sen. Oketch Gicheru, talk to the Chair.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, the substantive Speaker did indicate that he would give us 30 minutes, so that he comes back and makes a ruling on the previous matter. Looking at the time now, it is way over 50 minutes.

(Loud consultations)

Mr. Temporary Speaker, Sir, why is it that people are heckling in this House?

The Temporary Speaker (Sen. Abdul Haji): Order, Senators.

Sen. Oketch Gicheru: It is approaching 5.30 p.m. and that is way beyond. It is almost an hour now. Can we have guidance on this matter because it is extremely important that we conclude on that business today?

(Loud consultations)

(Sen. Oketch Gicheru spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Sen. Oketch Gicheru, you have concluded your speech.

(Loud consultations)

I have protected Sen. Oketch Gicheru.

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Can I talk, Sen. Sifuna?

(Sen. Sifuna spoke off record)

Sen. Sifuna, do you want me to enforce the rules?

Sen. Sifuna: Start with me. Enforce the rules.

The Temporary Speaker (Sen. Abdul Haji): Get out Sen. Sifuna. You can get out of the House. As per the Standing Orders, I have asked you.

Sen. Sifuna: Which one?

The Temporary Speaker (Sen. Abdul Haji): I will not tell you. Serjeant-at-Arms, get Sen. Sifuna out of this House. Get out!

(Sen. Sifuna spoke off record)

Sen. Sifuna, you are rubbish yourself. Get out! You called me rubbish?

(Sen. Sifuna walked out of the Chamber)

(Loud consultations)

Order Senators! Order Senators!

(Sen. Oketch Gicheru spoke off record)

Order, Sen. Oketch Gicheru.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Omogeni?

Sen. Omogeni: Mr. Temporary Speaker, Sir, and colleagues, we can have differences here but I plead with all of us that we try and have dignity.

The problem with what is happening nowadays is that with WhatsApp, whatever we are doing here could easily find its way out there. Once information goes out there, this House is going to be equated to some Members of County Assemblies (MCAs) somewhere.

We can always differ but we want a House that is exciting and interesting and where we can challenge each other. However, let us always remember that people are watching.

Sen. (Dr.) Khalwale, even when things were so bad during the Second World War, Roosevelt was able to sit down with Stalin. They discussed and came up with the United Nation (UN) League of Nations that we have up to today.

So, let us agree on the rules of the game or ground rules. When the Speaker is on the Chair, I plead, let us give him respect because he is the one who guides deliberations and moderates debate. Please, the shouting across is okay but I plead---

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Let the Senator be heard in silence please.

Sen. Omogeni: I plead. For the sake of posterity, Sen. Cherarkey, we should retain the dignity of this House.

We have had Senators who have argued their points with passion. The then Senator and now Cabinet Secretary (CS), Hon. Murkomen could tackle Senior Counsel Hon. Oremo but he did it within the rules and that is how it should be.

Mr. Temporary Speaker, Sir, I plead with us, even when we have differences, let us retain the dignity of this House. I plead with you, that in all our emotions, let us maintain the dignity of the House.

I thank you.

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, just for ten seconds. There are two issues that I want to talk about.

I agree with everything Sen. Omogeni has said. The only thing I want to humbly plead is that we can exchange with Sen. Oketch Gicheru as much as we want. He is my age mate and a friend. If I say things that he does not like, and I agree with Sen. Omogeni that we are guided on what we say, that is between us as colleagues.

Mr. Temporary Speaker, Sir, I have been in this House for sure. Even in the worst of times when we never used to greet each other as colleagues, there is no time that a Senator used to insult the Speaker. That is the truth. You cannot run away from it.

Senate Minority Leader, I want to plead with you my brother, teach Sen. Sifuna how to behave in Parliament. This is not the only time he has abused the Speaker. He has equally abused the Substantive Speaker. That is not right.

We can exchange as colleagues, that is fine. How may time do you and I trade things that we do not like but we will go out and share a cup of tea. That is a normal part of Parliamentary practice but we should not encourage the habit of insulting the Speaker,

Lastly. Sen. Omogeni said something that I agree with. I want it to go on record to the people running Parliamentary Broadcasting Unit (PBU), they are the ones who share some of these clips; the things Sen. Omogeni saying. This is because nobody else has access to these clips.

So, I want to humbly plead with the Clerks-at-the Table here that if there are certain things--- I was in Parliamentary Service Commission (PSC) when we made the decision to allow PBU to be our own internal unit. That was because when we previously used to allow media to be the ones, they would focus on non-issues.

They, for example, beam on a Senator sleeping or a slip of the tongue by the Senator. So, we said that let us have our own professional broadcasting unit that is within Parliament.

Unfortunately, every time nowadays when there are exchanges, the following day, you will see the same clips being relied yet the broadcasting belongs to this House.

I humbly plead with the PBU - I have forgotten the name of the head - but the reason why we kept PBU inside the House of Parliament is that so that you focus on the core business. Not to be sharing clips of members in unfortunate exchanges that are not helpful to Kenyans.

I do not expect the clip that has been seen for example between Members saying one or two things to each other, to be found outside there.

I thank you.

(Loud consultations)

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

The Temporary Speaker (Sen. Abdul Haji): The Senate Minority Leader, you have the Floor.

The Senate Minority Leader (Sen. Madzayo): Ahsante Bw. Spika. Ninataka kukubaliana na ndugu yangu, Sen. Cheruiyot alivyosema, mia kwa mia kwamba yuko sawa.

Mimi leo, ningependa uwe na moyo mkunjufu, moyo mkubwa, kama Spika wetu. Ninaelewa ya kwamba vile tulivyofanya, yale maneno yote tuliyofanya hapa, si ya usawa kulingana na wewe ukiwa umeketi kwenye Kiti.

Ndugu wakiketi ama katika hafla yetu kama hii ya Masenata kuwa katika mjadala, ni lazima pengine tutakosoana kidogo. Kwa hivyo kama yamefanyika, ni bahati mbaya, hatukutarajia kama yatafika hapo. Kwa ndugu zangu, leo tumekosea hii Seneti. Na huo ndio ukweli wa mambo. Sisi zote, upande ule na upande huu, tumekosea.

Tumekosa na ni lazima tukubaliane ya kwamba maneno yaliyopelekwa upande ule na upande huu, mengine mimi siwezi kuyatamka. Haya ni kwa sababu ya vile

ninavyofikiria kwamba wale walio nyumbani na wale wanafunzi ambao wanakuja hapa wanaona mtu kama Sen. (Dr.) Khalwale, wanamwona Sen. Madzayo, Sen. Cheruiyot, wanaona kijana shupavu, Sen. Wakili Sigei, tukiwa tunarushiana maneno kama hayo.

Bw. Spika, kwa yote, piga moyo konde yaweke nyuma. Ninajua katika ile hasira ukiwa kinara katika hii Seneti unaweza kutoa uamuzi kuhusian na ile hasira iloyokuja kwa ghafla na wewe ni binadamu. Hakuna mtu anayeweza kukuita hivyo na wewe usimwite.

Yeye akiwa ameenda kidogo upande ambao umezidi, mimi ningeomba hiyo. Hata pengine vile ulivyotamka pengine ulisema ilikuwa katika *spur of the moment*. Hata hivyo, yote hayo tuliyoyafanya, nimi ninasema tuyaweke nyuma tugange yale yanayokuja.

Kwa ndugu zangu, mimi ninaweza kusema, kwa pande zote mbili, lazima tuonyeshe mfano. Kila siku, watu wanakuja hapa wakituona. Wanaoketi pale, wanaoangalia ndani ya nyumba kwa runinga, wanaoangalia katika *ma-hall* makubwa makubwa, sisi kama mfano, *please, I plead with you, let us use good language. Let us Parliamentary Language so that we can at least save this House.*

Pole, ninatumia lugha mbili. Lakini tunaendelea kudidimia kiheshima. Ningesema zote tuwe kitu kimoja ili tuweke heshima ya Seneti kwa sababu sio sisi peke yetu wa mwisho kukaa hapa ndani. Vizazi na vizazi vitakuja kukaa hapa Ni lazima tuweke msingi wa heshima nzuri tunayopeana katika Seneti.

Sen. (Dr.) Kkalwale: Point of order, Mr. Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. (Dr.) Kkalwale, you have the Floor.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I rise on Standing Order No.123 to move the following Motion, that Sen. Sifuna Watanya be suspended from the Service of the Senate. This is a Standing Order that was drafted to speak to what we have witnessed today.

(Loud consultations)

This Motion does not require substantiation, allow me to say one thing in the footsteps of the Senator of Nyamira County.

Senators who are shouting at me, I respect you and I cannot expect you to respect me. However, let me tell you, amongst you are lawyer. I am the only Member of Parliament in the Republic of Kenya, who has been decorated by the Law Society of Kenya (LSK).

I have been awarded the highest award of respect, the Father Kaiser Award. I have been decorated by the International Federation of Women Lawyers (FIDA). I appeal - without naming names- to the young Senators I am seeing in the House including Sen. Oketch Gicheru, Sen. Sifuna, Sen. Olekina to make time and swallow you pride and learn from us.

It is not by accident that we have these number of years behind us in experience. It is not by accident that we have these many years of traversing the Globe.

Mr. Temporary Speaker, Sir, if you do not apply Standing Order No. 123 through my Motion, we will have lost this House.

I thank you.

(Loud consultations)

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

Sen. (Dr.) Khalwale: Sorry, Mr. Temporary Speaker, Sir, before you give Sen. Olekina time, I request Sen. Kinyua, the PSC Commissioner to Second my Motion that Sen. Sifuna---

(Loud Consultations)

The Temporary Speaker (Sen. Abdul Haji): One moment. Sen. Olekina, what is your point of order?

Sen. Olekina: Thank you Mr. Temporary Speaker, Sir. I want to beseech my colleagues that we are mature men and women in this House. A few weeks ago, I mentioned to the Senate Majority Leader, that if these things proceed the way they are doing, he is losing this House.

I have sat here and I have been very calm today, I have listened. I have listened to the Senate Majority Whip; the Senate Majority Whip has constantly used Unparliamentary language. He has also tried to rewrite our Standing Orders by standing and saying, "I am moving a Motion under Standing Order No.123."

Mr. Speaker, Sir, we have to give respect. I have listened the Senate Majority Whip saying, "The young Senators please learn from our wisdom." However, does that learning equate to rewriting the Standing Orders that are not in existence?

Mr. Temporary Speaker, Sir, I do not want us to get to a point where we are now directing the Chair. However, I want to follow the words of wisdom from Sen. Madzayo. I beseech you that with all these emotions; I take full responsibility for what has happened on our side and request us to maintain decorum in this House. That is the only time we shall be seen as different.

This shouting back and forth is not going to help us. Yes, we are all human beings and we lose our cool at any given time and maybe what my colleague said may be unparliamentary. However, having a situation where the Chair and a Senator are exchanging words, really beats the purpose of why we should be in this House in the first place.

Mr. Temporary Speaker, Sir, I hope you can give me an ear. Senate Minority Leader, can you please allow the Chair to hear. Sen. Madzayo, kindly.

(Sen. Madzayo approached the Chair)

Mr. Temporary Speaker, Sir, kindly give me your ear for three minutes. It is true, I have been interrupted. Sen. Madzayo has been talking to you.

(Sen. Madzayo spoke off record)

Mr. Temporary Speaker, Sir, I beseech you not to let the actions of the spur of the moment, dictate how you are going to deal with this matter. You have been invited by the

Majority side, through a very unprocedural way, to effect Standing Order No.123. My plea to you as a colleague, is to let the bygones be bygones.

Let us learn from our mistakes and find a way to cool down these temperatures. We all need each other. At any given time when a Senator is not seated here because of spur of the moment actions, the people that he or she represents end up suffering.

Today, the whole day, I mean, it is 5.32 p.m., and we are still waiting for this Speaker to come back. Moreover, we have not discussed anything the whole day. There, was a Motion of Kenyans who are still seeking compensation from the bombing of 1998. We have issues of electricity that Sen. Chute had discussed. Do you really want to tell me – and this is to all of you, my colleagues – that we shall reduce the two and a half hours that we have in the Senate, to be a time of bickering, hurling insults and calling each other names?

I am really disappointed and ashamed of this House today. I request my colleagues to please act our age. Today we are not acting our age. We are insulting each other back and forth and it is not helping us. I said, I take full responsibility on what happened on our side and I request you; Mr. Temporary Speaker, to let it be bygones. They are highly regretted and the only way we can remain as one House, is when we learn to tolerate one another.

I thank you.

(Loud consultations)

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I am following the order on the screen. Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, Sen. Olekina should listen because he was also imploring to have---

Under Standing Order No.1 and looking at the Motion that Sen. (Dr.) Khalwale has brought under Section 123; I beg of you with all humility, that at that moment Sen. Sifuna should have been invited to apologise and withdraw. That did not happen.

I am looking at the emotions and I agree that this thing has been generated. We also know you are a human being who has powers of Standing Order No.1. We do not want to take the House to the extreme end. In as much as Sen. Olekina is pleading with you to let bygones be bygones, then there should be some level of remorse. As you take a decision on whether to dispense off with Sen. (Dr.) Khalwale's Motion as per Section 123---

(Loud consultations)

(Sen. Oketch Gicheru spoke off record)

Allow me to finish. I am in line with what you are saying.

(Sen. Oketch Gicheru spoke off record)

It is. Sen. Oketch Gicheru, let me invite you. You know you are my friend. Senior Counsel, can you do your job. You did it well when I was in remand. Can you please continue.

Under Standing Order No.123 and No.1, we are also human. There might have been that altercation but looking at the unity of the House---

Mr. Temporary Speaker, Sir, I have seen that you have invited us for a *kamukunji* tomorrow. These are matters that we can discuss in camera. We are one House. I know the Motion under Standing Order No.123 is too harsh. The standard procedure of the House should have been to invite Sen. Sifuna to withdraw and apologise but it was not done because of the emotions.

*(The Temporary Speaker consulted
Sen. Cheruiyot and Sen. Madzayo)*

Mr. Temporary Speaker, Sir, I know you are consulting the House leadership; the two wise men. I wanted you to listen to this because we are also human and I agree with the wisdom of both the Senate Majority and Minority leaders. The standard procedure would have been to give Sen. Sifuna a chance to withdraw and apologise. I am not playing devil's advocate. This did not happen because we understand that we are human and the House was degenerating.

Secondly, even if we were to agree with the Minority Side, there should be some level of remorse, so that we invite you to invoke under Standing Order No.1.

Finally, looking at the Motion that Sen. (Dr.) Khalwale, the bull fighter, has come up with, it is too harsh at this point. We are one House and we want to work together as a House of union, so that we can move forward.

(Sen. Cheruiyot spoke off record)

Sen. Cherarkey: Mr. Temporary Speaker, Sir, protect me from the Senate Majority Leader.

The Temporary Speaker (Sen. Abdul Haji): Kindly, conclude, Senator.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, protect me from the Senate Majority Leader and the Commissioner of the Parliamentary Service Commission (PSC). He is happy because Parliament has been allocated Kshs40 billion.

In conclusion, ignorance of the law is no excuse. However, looking at the unity and where we want to go as the Senate and coming together as a House of union, you can ensue your wisdom under Standing Order No.1. The House is becoming--- Ground *imechemka*. Maybe tomorrow we can discuss these issues in camera during the *kamukunji* at around 10.00 a.m. We do not want to degenerate to a point where you are insulting the Speaker.

Those are my humble submissions. Let us move forward as one House.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Mr. Temporary Speaker, Sir. I shall go straight to respond to the Motion that was moved by Sen. (Dr.) Khalwale. He knows that he is the father of this book and that we should be learning from him. Clearly and out rightly, he cannot do what he has purported to have done.

Standing Order No.123 begins with naming a Senator. It is after the Senator has been named by the Speaker and not by a Member. The Member will request the Speaker to name a Member. The Speaker has named a Member thereafter; other processes will follow.

Secondly, I have only heard this today that you can name or purport to move a Motion under Standing Order No. 123 after the Senator has already been kicked out by the Speaker.

We put ourselves in a situation that we do not know what to do. Do we recall the Member? What happens? Be it as may, before the Senator for Kakamega County; a man we truly respect moved that Motion, there was bitter exchange. I saw the Senator for Kakamega County exchange with the Senator for Nairobi City County. I saw my colleagues here, including myself, exchange with colleagues on the other side. If we are to go that route, I do not know who will be left in this House. There would be no House today to respect that Chair and yourself.

Mr. Temporary Speaker, Sir, I saw you exchange one on one with a Member and call each other names. I saw that with my eyes today. I will keep on saying this. We have a Senate to take care of. I say that to all of us, including myself. I hope that what has happened today will never happen again. The Senator for Kiambu County and Senate Majority Leader, it is okay. We have said it before. We will say it as many times as we have to say it until we restore order in this House.

Mr. Temporary Speaker, Sir, with those many remarks, I see the Senate Majority Leader is beckoning to do something. This day is it is what it is.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wakili Sigei, you may proceed.

Sen. Wakili Sigei: Thank you, Mr. Temporary Speaker, Sir. We will only restore the dignity of this House when we take responsibility for our actions. We will be a sober House when we are responsible even before we take the microphone to speak to anything that we are dealing with in the House.

This afternoon, I have watched the proceedings. I have listened to my colleagues. It is not lost to any of us that we can all speak. However, what are we speaking to? What were we speaking about? The Senate has all along been seen as a House of sobriety; a House where decorum is exhibited by the Members. However, today that was not the case.

The exchanges among the Members is made worse by what I listened to my colleagues from the Minority side say. It might be that the exchanges went beyond what is expected. Who takes responsibility? The Hon. Sen. (Dr) Khalwale has moved a Motion under Standing Order No.123. As to whether or not a Member ought to have been named prior to that, you have been asked to enforce the rules of the House. How do we

enforce the rules of the House when Members are saying that we are not taking responsibility for our actions?

It is not the best experience that we have had in this House today. It is not an excuse to say that it is the heat of the moment. I believe in taking responsibility. I beseech Members of this House to also sit back, search themselves and think through what has happened in this House, so that we restore the Senate to where it belongs. If we do not do that, we are going to lose the status of this House. We are going to lose this House.

I thank you Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Omogeni, kindly proceed to make your contribution.

Sen. Omogeni: Mr. Temporary Speaker, I would have liked to make my contributions when Sen. (Dr.) Khalwale is in the House. However, let me proceed. I have already made my views on what happened this afternoon, which is regrettable.

We all know that before there is calm, there is always a storm. The way the Senate Majority Leader, Sen. Cheruiyot, is beckoning to me, when a flight is taking off, there is always turbulence. However, after the turbulence, there will always be calm.

I do not know whether in the history of Parliament; not the Senate, there is any elected Member who has stood up to invoke Standing Order No.123 against a colleague. That is the reason I wanted Sen. (Dr.) Khalwale to be here. In the history of the Parliament of Kenya, I do not think that there is any Senator or any elected Member of Parliament who has ever invoked that Standing Order against his colleague.

I ask Sen. (Dr) Khalwale to reflect and be calm because we are setting precedents. I have go through 360 degrees in my professional career. The oppressed have come to me as a lawyer and I have represented them. Those who are in power have also come to me to represent them. When you are digging a hole, warn yourself that tomorrow, you may enter the same hole. If we set a precedent where we, as colleagues, want to - let me use the word 'finish' - each other. We want to invoke Standing Orders to 'finish' our colleagues; that is being over emotional. These disagreements do happen. Some of us who were in this Parliament last, we saw them.

I mentioned the way I used to see serious exchanges between Sen. Orenge and Sen. Murkomen. However, there was a way that the Speaker would always guide the deliberations. I appeal to Sen. (Dr) Khalwale not set to a precedent where tomorrow if I see Sen. Cherarkey who I saw him a bit emotional some three months ago, if he becomes over emotional, I invoke Standing Order No.123. Tomorrow we may not greet each other. We will now convert this House into a House of enemies. That is not what we want to do. We have Muslims and Christians here. The Bible says that we have all sinned and fallen short of God's glory.

As Sen. Cherarkey has stated, Sen. Sifuna, was not even warned before punishment was meted on him this afternoon. The Standing Orders dictate that before you eject him, you warn him first. If he persists, then you evict him.

(Sen. Wamatinga spoke off record)

Hon. Senator, please allow me to finish.

Sen. Sifuna has already received punishment. That is enough. We want to engage. We are trying to discuss. We want to restore calm and run our businesses. The way PLO Lumumba says, do not respond to a mosquito bite with a hammer. Do not go for an over kill. We will set a bad precedent because this a House of records. You invoke it today against Sen. Sifuna, I assure you Senators, tomorrow, it will be you.

In the last Parliament and the Senate Majority Leader, Sen. Cheruiyot, can correct me, we only had one expulsion from the House. Only one for a record of five years. Only Sen. Malala was sent out for the remainder of the day. This Parliament has now done six expulsions. We are not doing so well.

Mr. Temporary Speaker, Sir, if you read Standing Order No.122, before you even call a Senator, it says, on the first occasion if he becomes very disorderly on a second or subsequent occasion during the same Session, you now take it up to seven days. If another time, he again persists, now you can invite Sen. (Dr.) Khalwale, to invoke Standing Order No. 123.

Sen. (Dr.) Khalwale is from Kakamega County and Sen. Sifuna is the Senator for Nairobi City County, but he is his neighbour in Bungoma. I plead, let us not be over-reactive. It is good to express our anger. That is okay because we are human. However, let us also not overact.

Mr. Temporary Speaker, Sir, we have already apologized for what has happened this afternoon. Some of us are new in this House. Therefore, we learning. Please accept. We are also human. I know how you feel when there are these exchanges. It is not good for you.

Nonetheless, you are a son of a respected elder, the late Sen. Yusuf Haji. You know, when we had serious disagreements here on Division of Revenue, we used to refer to him. He is the one who used to guide, calm us and restore order. Therefore, like father like son.

Mr. Temporary Speaker, Sir, calm down. You have already punished Sen. Sifuna. We move on, so that we can become each other's keepers. Today it is me and tomorrow it will be you.

Mr. Temporary Speaker, Sir, I submit.

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, there seems to be a lot of interest on this matter. I will only allow two more speakers. One from the Majority side and the other one from the Minority side. They will only have three minutes each.

Please, can we have Sen. Okenyuri.

Sen. Okenyuri: Thank you, Mr. Temporary Speaker, Sir. While I heed to the advice of some of the ranking Members in this House and, of course, accept their apology, I am disturbed by some few issues that I would like to mention.

Young and new legislators have been widely mentioned in that matter. I believe I am one of the young legislators who is very composed and rational in the way I operate in this House. However, I do not like a situation where we can debate to an extent of saying that this is an illegitimate Government, whereas it was elected by the people and declared by Independent Electoral and Boundaries Commission (IEBC). The same was

challenged at the Supreme Court and no one had issues about it. As hon. Members, can we engage and insult colleagues to that extent?

We are the same people who have been complaining about business in this House taking long to be addressed yet we keep on buying time with this kind of engagement.

It is not the first time Members are apologizing. If I remember well, the other time when Sen. Kathuri was seated there, the same happened. He was actually pointed at. Therefore, we will not keep on doing this similar actions and apologizing. It is going to be a culture.

Sen. Omogeni, I heed to your advice. However, as a young legislator, I differ with the bit that some of the ranking Members or those who were elected with many votes, can insult others and get away with it in the name of apology.

We really need to relook our ways of operation. I rarely speak during such times. However, on this occasion, I had to speak. Young legislators cannot be bundled up together as people who are on a learning curve and that they do not have decorum whereas some of us have actually been carrying ourselves with high level of esteem while engaging with our colleagues.

I also heed to the advice of the Senate Majority Leader, Sen. Cheruiyot, that we should rethink, how we are carrying ourselves in this House.

I also want to say that it is not just about apologizing. People - particularly hon. Members - have repeatedly done this; they apologize, people calm down and the same continues.

We are even disputing matters that have been highlighted in National newspapers as rumours---

(Sen. Okenyuri's microphone went off)

The Temporary Speaker (Sen. Abdul Haji): Your time is up.

Sen. Oketch Gicheru as the last speaker.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, it is almost 6.00 p.m. The House started at 2.30 p.m. The composition of this House is because of donated power to all of us by the people of Kenya. I am glad that my brother, Sen. Cheruiyot is here because the position that he holds is established by the Constitution among other leaders, including my Minority Leader, Sen. Madzayo.

Today is a solemn day because we are not transacting business that helps the people of Kenya. This is very sad because we are sitting here because of privilege or responsibility. The founding father of this nation, His Excellency Jomo Kenyatta, in his book "Facing Mount Kenya" he talks about responsibility. He said that the responsibility of nationhood will be given only to reliable custodians.

I want to urge Sen. Cheruiyot as the Senate Majority Leader and in extension, my brother, Sen. Madzayo to cast their eyes in this House and tell me if they feel that this House is becoming a reliable House that deals with issues that Kenyans want us to be dealing with every day.

We are reducing the House to be a place where we are constantly defending the position of our parties and our coalitions forgetting that we were elected. On 15th September, 2022, most of us were paraded here with the help of the Clerk of the Senate and took an oath that we were beyond elections and were starting to work for the people of Kenya.

I have observed this House and I know that my brother Sen. (Dr.) Khalwale thinks that some of us are young and are, therefore, naïve and do not know what we are doing in this House. Some of us came to this House because we were motivated by the stature that this House had conferred upon this nation.

The idea that when the presidency, the Executive or the National Assembly sometimes had challenges, people like hon. Orengo and hon. Murkomen rose beyond party and coalition positions to stand for this nation. What we are seeing today in this House is completely unacceptable.

Mr. Temporary Speaker, Sir, what Sen. Sifuna said is regrettable and completely unacceptable. I was here and observed all the chaos that were there, I will be humble and apologize on his behalf, if it is allowed. It is not acceptable, not just to engage with the Chair, but to also go ahead and have abusive language with the Chair.

That said, there is a genesis for why emotions are rising high and high. I want to request our leaders to talk. Let us rise above these coalition positions and taking advantage of each other.

If you remember, the reason we found ourselves in that situation is that I rose to raise an issue with the substantive Speaker to give us assurance that he will be back in the House in 30 minutes to give a ruling over a matter that has held this House hostage for the last three weeks. It is now almost---

(Sen. Thang'wa spoke off record)

I am on a point of order, Sen. Thang'wa. It is now 6.00 p.m. That is literally one and a half hours later, but we have not had the communication around this issue.

Mr. Temporary Speaker, Sir, as a House, we are going to kill the efforts that have been made by former Senators who were in this House. They raised the bar that this House became the place for solace, confidence and recourse for this nation.

Let us try. Members of the majority side should talk to those on the minority side. You people should advise us how you want this House to run and how you want to elevate the status of this House. Otherwise, the gains that have been made to make this House the "upper" House will be in vain.

Previously Members from both sides of the House have gone to court to make this House what it is. That is degenerating at a sporadic speed. It is important, that both the majority and minority sides take note that this House is no longer functional and serving the purpose of defending the people.

With that, Mr. Temporary Speaker, Sir, I am remorseful about what has happened. I hope that we can rise to be a united House that stands for a bigger agenda of this nation.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Maanzo, I will give a chance to speak as the last speaker.

Sen. Maanzo: Mr. Temporary Speaker, Sir, I would like us to have a look at Standing Order No.123 which originates from Standing Order No.122 and somehow puts a procedure.

Mr. Temporary Speaker, Sir, under Standing Order No.123, the power rests with you. The Standing Orders assume that you already heard a hearing and made an observation and a ruling by yourself. Lastly, that particular power of delay in any way under Standing Order No.123 purely rests on you.

Mr. Temporary Speaker, Sir, I want to plead with you, having noticed that this House has degenerated into something else I did not expect. I have been an MP now for 12 years. I never saw a thing like this in the National Assembly. Of late, this House has grown into something else maybe because of politics outside this House.

When we come here, we should respect this House. Otherwise, I am beginning to regret why I came to the Senate if this is what I am going to be doing here when I was doing well in the National Assembly.

I want to blame both sides of the House. It should not originate from that side, nor should it originate from this side. I believe all of us must have limits. At times, it begins from the majority side. A shout is made and a reply is made or a shout begins here and a reply is made.

Mr. Temporary Speaker, Sir, owing to the fact that tomorrow we will have a *Kamukunji*, I plead with you. Under Standing Order No.123, the decision rests with you. Having had a worst experience, it will be remembered that we placed a case for apology and sought for forgiveness, and it was granted and goodness prevailed.

I plead with you that that power rests with you. Having listened to us, you should look at it in a way that will bring harmony to the House. Look at it in terms of prosperity. Seasoned Members will engage the new ones, so that matters like these do not arise.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator.

Hon. Senators, I have to conclude this matter. I believe that Sen. Sifuna was thrown out of the House because of Standing Order No.121 about disorderly conduct. I would at this point decline Standing Order No.123 raised by the Majority Whip.

(Applause)

I would like to remind hon. Senators that when we are in this House, apart from the Standing Orders that we have and the rules of this House that we have to follow, we all have to remember that we are individuals of different orientation, mannerism and upbringing. The way you conduct your conversation with one Senator, you should not assume that another Senator will accept it.

At this point, having listened to every Senator in the deliberation of this House, I have decided that Sen. Sifuna will remain out of this House for the remainder of the day. The matter is concluded.

I thank you, hon. Senators.

Let me also remind hon. Senators on the point of order that Sen. Oketch Gicheru had stood up on. The Speaker has indicated that he will be coming back to the House to Communicate the Message he has gone out to write. Senators please, bear that in mind.

Next Order, Clerk.

[The Speaker (Hon. Kingi) walked into the House]

[The Temporary Speaker (Sen. Abdul Haji) left the Chair]

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

The Speaker (Hon. Kingi): Clerk, where are we?

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

Proceed to the next Order. Once you are done, I will make my Communication.

As hon. Senators have said, this matter should not affect the important business of the House. So, it shall be communicated last. Proceed with the more important matters.

MOTION

ADOPTION OF REPORT ON APPOINTMENT OF NOMINEES TO THE CLIMATE CHANGE COUNCIL

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

THAT the Senate adopts the Report of the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the Approval Hearing for the Nominees for Appointment as Members of the National Climate Change Council laid on the Table of the Senate on Tuesday, 14th March, 2023; and pursuant to Section 7 (4) of the Climate Change Act and Section 8 of the Public Appointments (Parliamentary Approval) Act, approves the nomination of Ms. Emily Mwendu Waita; Mr. John Kioli; and Prof. George Odera Outa for appointment as Members of the National Climate Change Council, and rejects the nomination of Ms. Umra Omar.

Mr. Speaker, Sir, this Report contains the proceedings of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing

Committee on Land, Environment and Natural Resources during the approval hearing of Ms Emily Mwendu Waita; Mr. John Kioli; Ms. Umrah Omar and Prof. George Odera Outa, nominees by H.E the President for the appointment as Members of the Climate Change Council pursuant to Section 7(1) of the Climate Change Act No.11 of 2016.

Mr. Temporary Speaker, Sir, after receiving a message from H.E the President on the nomination of Ms. Emily Mwendu Mwaita, Mr. John Kioli, Ms. Umrah Omar and Prof. George Odera Outa to the National Climate Change Council; the Speaker of the National Assembly and the Speaker of the Senate on Tuesday, 14th February, 2023 respectively issued a communication and directed the approval hearing for the nominees for appointment to NCCC be conducted jointly by both Houses of Parliament as required by the Climate Change Act No.11 of 2016.

The names of the nominees and the Curriculum Vitae (CV) were referred by the Speaker of the National Assembly to the departmental Committee on Environment, Forestry and Mining and by the Speaker of the Senate to the Standing Committee on Land, Environment and Natural Resources. The Committees jointly held preliminary sittings on 7th March, 2023 to prepare and consider memoranda received from the public prior to the approval hearing.

Mr. Temporary Speaker, Sir, the aforementioned Committees complied with the constitutional and legal requirements and the establishment procedures for the approval hearing. The Committee ensured public participation and openness in carrying out the approval process. Notifying and inviting the public to submit memoranda were placed in the print media on 20th February, 2023 as required under the law.

The Committee conducted the approval hearing on Tuesday, 17th March, 2023. In conducting the approval hearing the Committee was guided by the provisions of the Constitution, The Climate Change Act No. 11 of 2016 and the Public Appointments Parliamentary Approval Act, 2011 and the Standing Orders of the respective Houses.

The Committee observations contained in the report, on the basis of the constitutional and legal requirements as well as submissions of the nominees during the approval hearing, Section 7(1) of the Climate Change Act No.11 of 2016, mandates the President to nominate candidates for appointment of members of NCCC.

The Committee recommendations as contained on page 39 of the report, are based on the evidence and information from the proceedings during the approval hearing. The Committee recommend that having considered the suitability, capability and integrity of the nominees; and pursuant to Section 7(4) of the Climate Change Act, 2011 and Section 8(2) of the Public Appointments Parliamentary Approval Act No.33 of 2011; Parliament approves the nomination of Ms. Emily Mwendu Mwaita, Mr. John Kioli, and Prof. George Odera Outa for appointment as members of NCCC by the President and rejects the nomination of Ms. Umrah Omar as a member of NCCC.

Mr. Temporary Speaker, Sir, the Committee resolved to reject Ms. Umrah Omar, owing to the failure by the nominee to demonstrate knowledge of topical, technical and administrative issues touching on the matters relating to indigenous knowledge pursuant to Section 7(2)(h) of the Climate Change Act and Section 7(c) of the Public Appointments Parliamentary Approval Act, 2011 during her approval hearing.

Consequently, the nominee lacked the requisite abilities and experience to serve as a member of NCCC.

Further, from the general demeanor of the nominee during the approval hearing coupled with unclear responses to the topical questions appeared not to be adequately prepared and displayed a general lack of interest.

The Committee wishes to thank the Office of the Speaker of the National Assembly, the Office of the Speaker of the Senate, the Clerks of both Houses and their staff for the logistical support accorded to them during the approval hearing.

The Committees are also grateful to the Members of the public who sent memoranda and media for their live coverage of the proceedings thus enhancing accountability and transparency of the approval hearing exercise.

On behalf of the Committee and pursuant to Section 7(4) of the Climate Change Act, 2016 and Sub Section 8 of the Public Appointment Parliamentary Act of 2011, it is my pleasant duty to table the Report of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the joint approval hearings for -

- (a) Ms. Emily Mwenda Waita;
- (b) Mr. John Kioli;
- (c) Ms. Umrah Omar and;
- (d) Prof. George Odera Outa

The nominees for appointment as members of the National Climate Change Council for the debate and adoption by Parliament.

I thank you, Mr. Speaker, Sir. I call Sen. Wamatinga to second.

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I rise to second. I sat through the vetting process and had an opportunity of listening to all four nominees. Three out of the four portrayed high knowledge and passion for environmental issues.

We are aware that we are living at a time when we must engage ourselves with the climate for the sustainability of our future generations. Three of them convinced us beyond reasonable doubt that they had their takes. Therefore, in a joint sitting with our counterparts in the National Assembly, saw it fit to have the three of them.

However, the fourth one failed short of in showing that she had what it takes in terms of total commitment to climate change. As we know, this is an area where the President has pronounced himself in putting Kenya in the global in saving this country of ours.

I, therefore, second the Motion.

The Speaker (Hon. Kingi): Hon. Senators, I now proceed to propose the question.

(Question proposed)

Sen. Thangw'a had put in a request to contribute to the Motion, but he is not in the House.

Sen. Maanzo, you may proceed.

Sen. Maanzo: Thank you, Mr. Speaker, Sir, for giving me an opportunity to comment on this important matter. Climate change is a very serious matter in the country and many of us believe in it. Personally, I do. That is why you see the rains have delayed.

In southern part of Africa, there are serious floods going on now in a country like Malawi and, probably, the same will happen to Kenya because of climate change. I support the appointment of this important team so that they can begin their work of changing the country and preserving the climate.

I thank you, Mr. Speaker, Sir.

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

Sen. Cherarkey: Mr. Speaker, Sir, I rise to support this Motion. I thank the National Assembly and the Senate's Joint Committee on Forestry, Mining, Land, Environment and Natural Resources for a job well done.

I congratulate President William Ruto because one of his core agendas that he is still pushing up to date, is the issue of climate change.

Mr. Speaker, Sir, the country is now struggling with biting drought. For example, where I come from in Nandi County, we have never experienced shortage of rains, until this year. It is because of the adverse effect of climate change. Therefore, the President has put it as one of his agenda, to ensure that we discuss the issue of climate change.

Secondly, the conversation on climate change is very alien. We used to think that it belongs to the first world countries. We did not know that the third world countries could have a conversation of climate change.

In Africa, Kenya is one of the countries that is tackling the issues of climate change. I remember in the last Session, we saw Sen. Olekina, hire planes to fly over forests in Narok and plant trees. At that time, many people did not imagine that it was a serious issue.

Mr. Temporary Speaker, Sir, the President has promised that in the next 10 years, we must plant 10 billion trees. I continue to encourage myself and Sen. Olekina to push and grow more trees, so that we increase the forest cover. However, it has continued to be a challenge.

When you go to the coast where my brother, Sen. Madzayo, comes from, there is also a challenge with the mangrove forests. Erosion in the coast continues to be a big challenge. Therefore, I thank the President for bringing this conversation.

Many people might have more serious challenges. I know Sen. Osotsi may be concerned about the issues of maize, food and the cost of living, which is rightfully so, but we cannot wish away the conversation of climate change. We must plant 10 billion trees in the next 10 years.

Mr. Speaker, Sir, this council will guide ---

Sen. Mwaruma: It is 15 billion.

Sen. Cherarkey: Okay, it is 10 billion trees in the next 10 years. I challenge each and every Senator.

(Sen. Mwaruma spoke off record)

It is actually 15 billion. Thank you, Mwalimu Sen. Mwaruma from Taita.

(Sen. Mwaruma spoke off record)

Sen. Cherarkey: Sorry, it is Sen. Mwaruma, the Senator for Taita/Taveta County.

Mr. Speaker, Sir, 15 billion trees will improve the forest cover across the nation and ensure that we reclaim the issue of carbon credits.

There is also the challenge of biting drought and famine. I agree this was an unusual longest period of drought but we thank God.

When some of us were praying in Nyayo Stadium, many people were wondering we were praying. The rains have started coming.

I encourage farmers to start planting. Yesterday, Sen. (Dr.) Oburu even said that the Government has provided subsidized fertilizer and affordable seeds. Therefore, I encourage farmers to farm.

Mr. Speaker, Sir, on competencies, I can see that one of the candidates, Ms. Umar Omar, was rejected. It says that the nominee did not demonstrate knowledge of topical technical administrative issues, touching on matters of indigenous knowledge. Of course, there is a reason. It is important for Kenyans to be aware, why one of the members was rejected.

A topical issue, for example, you can be asked who is the Senator for Lamu or what is happening somewhere across the world. These are technical and administrative issues that Kenyans should be aware of.

(Sen. Madzayo spoke off record)

Senate Minority Leader, I thought we agreed to work together for the benefit of the Senate. You cannot limit the contribution of a Member. Let the time limit me. If the time is over, then I will finish.

Mr. Speaker, Sir, you must call the Senate Minority Leader to order.

My apologies, Mr. Speaker, Sir.

During approval hearings, consequently the nominee lacks the requisite abilities and experience to serve as a Member of the NCCC,,,,,,. The reason why the nominee was rejected was because of administrative, technical and topical issues.

The second and the final reason was that the general demeanour, body language is important. During the approval hearing coupled with unclear responses to the topical questions, the nominee appeared to not be adequately prepared and displayed a general lack of interest.

Mr. Speaker, Sir, it is not easy to read the demeanour. The issue of demeanour, behaviour or how one expresses himself is important. I do not want anyone going to court or some activist asking why this lady was rejected. She lacked competence, ability and even interest such that the Committee noticed the behaviour, demeanour and the body language of this nominee.

The issue of environment is very critical. It is captured in the Constitution on land and environment. We must treat it with the seriousness it deserves. There is the issue of soil erosion when it rains. I challenge this Climate Council to use schools and educate our children. Let us use schools and training centres like Technical and Vocational Education Training (TVETS) by factoring them in.

Mr. Speaker, Sir, look at the experience that is in this council. I know Senators might be worried about the NCCC and the role of the Senate. There is the issue of connecting county governments and the National Government that is mainstreaming climate change function and creating that NCCC within both levels of government.

There is also approval and overseeing implementation of National Climate Change Action Plan. The President has expressed his intention of ensuring that this issue of climate change is given priority in various aspects.

The third one is to advise the national and county governments. I want to assure Senators and some of us who have been here a bit longer that this is one of the functions where country governments are mentioned expressly unlike others where we have to force.

Mr. Speaker, Sir, it is good that Sen. Wambua is still serving in the Committee on Roads and Transportation, I remember there was a time there was an amendment to the Roads Act where the Member of Parliament, the Women Representative and the Governor were giving nominations to the Board that would sit at the sub-county level at the exclusion of the Senate. We had to beg. We had to throw that law away because the Senate was not mentioned expressly.

There is also the issue of research. We want to know which type of tree to plant in Makueni County where Sen. Maanzo comes from because of the climatic conditions there. When you go to Narok or Nandi, which type of tree should you plant?

Even as we say we want to massively plant trees, which trees should we grow in Garissa where rainfall is not regular unlike Nandi. We need to be very keen on this issue and also administer the Climate Change Fund.

The Committee should invite this council so that we know which type of fund this is. I know the Chairperson of the Public Investment Committee and Special Funds Committee, Sen. Osotsi is smiling because this is one of the special funds.

He has work to audit and invite so that they appear before them. We will now have Climate Change Fund which will fall under the County Public Investments and Special Funds Committee. I can see a number of Members of the committee here. That committee is critical.

Mr. Speaker, Sir, the last point I want to make is on the issue of research. The Climate Change Fund must in some way ensure that we get adequate seedlings, especially from the Kenya Forestry Research Institute (KEFRI). We also have the Kenya Forest Service (KFS) where we can provide seedlings to groups. We have Community Based Organizations (CBOs) at the county and constituency level, including Nyamira, where we visited. We can use KEFRI and KFS to provide trees to them.

When you talk about set targets for regulation of greenhouse emissions, we are aware of the regulation of greenhouse emissions because of factories. I remember there was a case in Athi River where one factory was being---

Mr. Speaker, Sir, I do not know why the Serjeant-at-Arms are approaching the Mace. I am still submitting until the Speaker adjourns the House.

We need to agree on the issue of emissions from Industrial Area. This has brought a serious issue and we continue to have a challenge. I remember in the National Assembly, one of the sugar factories in Western Kenya was near a school for the blind and it became an issue because of gas emissions that we are talking about. We must also look at the fuel that we use.

There is a deal between the national Government and the United Arab Emirates (UAE) to lower costs. We must agree whether to use diesel, petrol or paraffin.

In the first world countries, petrol is cheaper than diesel because they are trying to discourage use of fuels that emit a lot of gases. That is why it is difficult to get diesel-engine cars in the first world countries. However, when you go to Lamu, everybody is using diesel vehicles and they end up emitting a lot of gases causing breathing problems.

Even if we want to encourage people who import vehicles through the Port of Mombasa, what we should be doing is to encourage them to sell petrol-engine vehicles by making them cheaper.

Mr. Speaker, Sir, as you are aware, the NCCC has been formed. The position of the CS is important. We also have the CS in charge of the National Treasury and Planning and the issue of economic planning and energy.

I am also happy that the Council of Governors (CoG)---

The Speaker (Hon. Kingi): Hold on, Sen. Cherarkey.

Sen. Cherarkey: I am submitting seriously.

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

Sen. Thang'wa: Mr. Speaker, Sir, looking at the time, we are away beyond---

The Speaker (Hon. Kingi): We will give you an opportunity, Senator.

Sen. Thang'wa: Mr. Speaker, Sir, I do not think I am even supposed to speak because we are way beyond the time we are supposed to be here. It is beyond 6.30 p.m. As I speak, we are not properly constituted.

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

The Speaker (Hon. Kingi): Yes, Sen. Madzayo.

(Loud consultation)

Yes, Sen. Madzayo, you may proceed.

The Senate Minority Leader (Sen. Madzayo): Thank you, Mr. Speaker, Sir. We have our Standing Orders No.34(2). Give me a chance to read it to you. It says:

“Unless for the convenience of the Senate, the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business, at 6.30p.m. the Speaker or the Chairperson of Committees shall interrupt the business then under

consideration and if the Senate is in Committee, the Chairperson shall leave the Chair and report progress and ask for leave to sit again.”

Mr. Speaker, Sir, with tremendous respect to this House, we were almost closing in on this matter. I do not see the reason; we are prepared now to go back to where we were. I thought we were making progress.

(Sen. Cherarkey spoke off record)

With a lot of respect again, Senator, you do not want me to lose my cool.

The Speaker (Hon. Kingi): Sen. Madzayo, kindly wind up your thoughts, we are transacting business beyond 6.30 p.m.

The Senate Majority Leader (Sen. Madzayo): Yes, and that is why I am making this application now. You promised to Communicate. You promised to come after 30 minutes which is why we have waited here.

My colleague, Sen. Oketch Gicheru said that it will go way beyond 30 minutes. We wanted to find out what was happening. He did not receive a substantive answer.

We have come to 6.30 p.m. We have been talking to you desperately, asking why do you not want to Communicate. We have listened to advices that we have been also receiving from the people who are supposed to advise us. I believe the traditions of this House where we trust what our clerks tell us.

I am surprised that you are departing from what you have promised this House that you are going to deliver the Communication before 6.30 p.m. I am in total shock of how this House is being handled. I am afraid that you are going against your own word.

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

(Loud consultation)

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

Sen Olekina: He allowed me to speak. Please, Sen. Cherarkey. With tremendous respect---

The Speaker (Hon. Kingi): Sen. Olekina, just have your seat.

Senators, the Standing Orders do provide the hours when this Senate is supposed to transact its business. It is between 2.30 p.m. to 6.30 p.m. unless Standing Order No.34(2) or Standing Order No.34(4) is invoked; but both Standing Orders that I have cited must be invoked before 6.30 p.m.

In fact, Standing Order No.34(4) provides that you need to rise and move that Motion half an hour before 6.30 p.m. If, indeed, I have to use my powers for the convenience of the House to proceed, I need to exercise those powers either at 6.30 p.m. or before. If you look at the clock, it is 6.38 p.m.

Indeed, it is true, I promised to deliver the communication which is ready here with me but owing to the fact that the sitting hours as captured under this Standing Order - by 2.30 p.m. tomorrow, I will deliver this Communication. It is ready and available.

ADJOURNMENT

The Speaker (Hon. Kingi): Having said that, hon. Senators, it is now beyond 6.30 p.m. and it is time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 16th March, 2023 at 2.30 p.m.

The House rose at 6.40 p.m.