

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 10th August 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

Serjeant-at-Arms, I am informed we now have the quorum, so you may stop the Bell.

(Loud Consultations)

Order! hon. Senators. Clerk, kindly proceed to call the first Order.

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PETITION**REPORT ON PETITION: LAND INJUSTICES SUFFERED
BY THE KIPSIGIS COMMUNITY**

The Speaker (Hon. Kingi): Proceed, Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I beg to lay the following Petition on the Table of the Senate, today, Thursday, 10th August, 2023-

Report on a Petition filed by the Kipsigis Community Clans Organisation regarding historical land injustices against the Kipsigis Community.

I am told I have limited time. I would love to speak to this particular Petition in the shortest time possible. I want to highlight the fact that this Petition was filed by the Senate Majority Leader, the Senator for Kericho County on 9th March, 2023 following which it was committed the Committee on Justice, Legal Affairs and Human Rights for consideration.

Mr. Speaker, Sir, the salient issues in this particular Petition relates to the brutal systematic eviction of the Kipsigis Community out of their ancestral land, currently or presently Kericho, Bomet, Nandi and sections of Nakuru counties.

These particular members who have petitioned this House were evicted without compensation, resettlement or any consideration of their ancestral land in what was the colonial government's British settlers, now white islands, where a number of multinationals are running large-scale tea plantations.

Mr. Speaker, Sir, the Petition by this particular community, therefore, seeks their ancestral land to be either reinstated, compensated or enabled to pursue the legal cases which are in various courts inside and outside the country. Therefore, for that purpose, to ensure they get reparations for the pain, loss, and suffering that the community has been subjected to for almost a century.

Mr. Speaker, Sir, in considering the Petition, we visited the counties of Kericho and Bomet where we had first-hand experience. We met the community representatives. We understood the issues that were within the affected communities and the interventions that they have attempted to have over time.

This report has had first-hand experiences from the grassroots. We further held serious engagements with the Kenya Tea Growers Association (KTGA), which incorporates the large-scale tea producers in the counties of Kericho and Bomet.

We also considered previous submissions from the National Land Commission (NLC), the Kenya National Commission on Human Rights (KNCHR) and the Office of the Attorney-General (OAG). All these are covered in the report which is detailed together with all the relevant documentation which were presented before the Committee by the various stakeholders that we picked.

Among the issues which we observed in the course of our investigations is that these are long-lasting complaints which over time, have been subjected to various

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agencies for determination. In some, certain decisions have been rendered. For instance, the NLC made a determination sometimes in April, 2023. However, this particular determination was challenged in the High Court. It also pronounced itself by quashing the determination by the NLC, out of which, the County Government of Kericho has appealed against that particular judgment. It is a matter that is currently present and active in the Court of Appeal. There is also an existing advisory opinion that has been filed by the County Government of Kericho and it is pending in the Supreme Court of the Republic of Kenya.

Mr. Speaker, Sir, we further observed that the community in this particular case, has also filed other cases in the High Court in the United Kingdom (UK) seeking compensation and reparations from the British Government. These cases are currently pending before that particular court.

During the time when the Petition was under consideration, efforts were ongoing between the county governments of Kericho and Bomet and the large-scale tea growers. The efforts were aimed at getting a mutually agreeable and amicable solution, taking into account the interests of the various stakeholders, the time that it has taken for these communities to also get reparations or compensation, and to ensure that the business community continues with their business enterprises.

(Sen. Maanzo, Sen. Nyamu and Sen. Miraj consulted loudly)

The Speaker (Hon. Kingi): Sen. Maanzo, Sen. Nyamu and Sen. Miraj, I call you to order.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir, for protecting yours truly. Out of the engagements and the meeting that we have had and the reports that we studied as a Committee, we have, besides the presentation of the documentation we have, come up with five key recommendations.

Mr. Speaker, Sir, allow me to highlight the basic of these recommendations one of which is with regard to the mandate of the NLC. We have recommended that the NLC immediately reopen its investigations into the historical land injustices as claimed on behalf of this particular community living in Kericho, Nakuru, Bomet and Nandi counties.

Also, to ensure that there is a proper report that captures the concerns of all the parties including the complainants, the large-scale tea growers who went to court to challenge the earlier pronouncement by the NLC on the allegation that they were not given an opportunity to advance their case before the NLC. The Committee has recommended that be reopened in order to ensure that the stakeholders who were not given an opportunity to present their case are heard before a final determination is made.

Secondly, the Committee has also recommended that the NLC, in consultation with the director of surveys, to immediately submit to this hon. House, documentation in respect of the land in question that is owned by the 11 large-scale tea producers in Kericho, Bomet and Nandi counties, including the registry index map within a period, not

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more than 30 days. In any case, it has to be tabled unless otherwise, justification for later submission is given.

Thirdly, the Committee has also recommended that the large-scale tea producers who are domiciled in the county governments of Kericho and Bomet, with the local community, continue in the current ongoing collaboration engagements, in order to ensure that there are innovative means and ways, which also will give them a structured engagement towards sustainable coexistence. This is born out of an ongoing engagement that the Committee was presented with the course of its investigation.

Mr. Speaker, Sir, further, the Committee has recommended that the NLC prepares and submit to this Hon. House, within 60 days, a status report on all investigations, initiated pursuant to Article 67 (2) of the Constitution of Kenya.

The report should contain among others, matters, the actions taken, the redress which has been recommended, whether the recommendations have been implemented or challenged in court and the reasons for the same.

Further, the Committee has also recommended that the NLC creates and maintains an accurate database and register of all land leases out of the large-scale tea growers, within the two counties. That is the counties of Bomet and Kericho, in order to ensure that there is appropriate dissemination of that report in accordance with Section 8 of the Land Act. The report and the copy of the register are to be submitted to the Senate within six months of tabling of this particular report.

Mr. Speaker, Sir, on its part, this Committee in the course of its investigations, established that there are certain legislative interventions that it must do.

It has undertaken to initiate an amendment to Section 15 of the National Land Commission Act, No.5 of 2012 in order to ensure that the deletion of Section 15(3)(e) and Section 15 (11) which limits the mandate of the NLC on investigating present and past historical injustices. This is contrary to the provision of Article 67 of the Constitution.

Mr. Speaker, Sir, the provisions of Section 15(3)(e), 3 and 11, in this case inhibits the mandate of the National Land Commission (NLC) to investigate historical land injustices beyond 10 years which is contrary to the provisions of Article 67, that mandates the National Land Commission to undertake such investigations without limiting the time.

Lastly, the Committee has also undertaken to follow the proceedings in the Supreme Court Advisory Opinion Ref. No.2/2020 and once the matter is concluded, initiate appropriate reforms to implement the findings and recommendations on the matter. This is because of the desire to ensure that lasting resolutions are arrived at, both within the Senate and in the matter that is pending before the Supreme Court.

Mr. Speaker, Sir, allow me to thank the Members of the Committee for their diligence and insights during the consideration of this Petition. I wish to thank the Petitioners and the Senator for Kericho County, who is also the Senate Majority Leader. I also thank all those who participated in bringing this matter to the attention of the House, leading to the matter being committed to the Committee. I further wish to thank the

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stakeholders who presented submissions before the Committee, including the large-scale tea producers, the National Land Commission, the Kenya National Commission on Human Rights (KNHCR) and the Office of the Attorney General.

Lastly, I wish to thank the offices of the Speaker and Clerk for the support accorded to the Committee during the consideration of this report. I also thank the Secretariat and Members of the Committee for their commitment to the course.

Mr. Speaker, Sir, it is now my pleasure and duty, pursuant to Standing Order No.238 (2), to present the report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Petition by the Kipsigis Community Clans Organisations regarding historical land injustices against the Kipsigis Community.

I thank you.

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

The Speaker (Hon. Kingi): Next Order.

PAPERS LAID

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of this Senate, today Thursday, 10th August, 2023-

THE WATER SERVICES REGULATIONS, LEGAL NOTICE NO. 168 OF 2021

The Water Services Regulations, Legal Notice No. 168 of 2021.

REPORT ON THE FINANCIAL STATEMENT OF KISUMU COUNTY EMERGENCY FUND

Report of the Auditor-General on the financial statements of Kisumu County Emergency Fund for the year ended 30th June, 2023.

(Sen. (Dr.) Khalwale laid the documents on the Table)

The Speaker (Hon. Kingi): Hon. Senators, I wish to rearrange the sequence of today's Order Paper. If you look at Order No.8; that is a Motion that we need to dispense with today being the last day of our sitting. It is, therefore, a priority. We shall move to prosecute Order No.8. Once we are done, we will come back to Order No.7.

Clerk, proceed to call that Order.

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MOTION

ADOPTION OF REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES
ON THE INQUIRY INTO THE CONDUCT OF SEN. ORWOBA, MP

The Speaker (Hon. Kingi): Hon. Senators, from the report, you will notice that I am the Chairperson of the Committee of Powers and Privileges. I presided over that inquiry. Therefore, I cannot preside over the debate on that Report. I will allow Sen. Wakili Sigei to relieve me so that you may proceed with the debate on that particular report.

(Sen. (Dr.) Khalwale stood up in his place)

Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, similarly, you have to guide the House. You cannot move the Motion because you are the Chairperson. Kindly indicate who is going to move the Motion.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale that has already been taken care of. A Member of the Committee is going to move the Motion.

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

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

*(The Temporary Speaker (Sen. Wakili Sigei)
consulted the Clerk-at-the-Table)*

The Temporary Speaker (Sen. Wakili Sigei): Order, hon. Members. I would like to call upon Sen. Shakila Abdalla to move the Motion.

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

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, it would have been nice if Members were supplied with accessible copies of that Report. I can confirm that my neighbour, Sen. Crystal Asige, does not have an accessible copy of the Report.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, I am informed that the Report is in all the iPads. However, I direct that the Clerks-at-the-Table avail a copy of the Report to all those who are not able to digitally access it from the iPad.

(Sen. Cherarkey crossed the Floor without bowing to the Chair)

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

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The Temporary Speaker (Sen. Wakili Sigei): Sen. Wambua, what is your point of order?

Sen. Wambua: Mr. Temporary Speaker, Sir, mine is just a matter of procedure. It is these small things that really reduce the dignity of this House. I have seen Sen. Cherarkey casually just cross over. I even warned him, but he proceed to cross to the other side. We must give dignity to this House. Honestly?

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherargei, I remember a similar incident happened yesterday. The Chair will not hesitate to apply the rules as required. You are out of order. Kindly comply and do what is procedurally required of you. As a ranking Member of this House, you cannot ignore the fact that there are rules that are to be followed.

Proceed, Sen. Cherarkey.

(Sen. Cherarkey proceeded to the bar and bowed to the Chair)

Sen. Shakila Abdalla, please take to the Floor and move your Motion.

Sen. Shakila Abdalla: Thank you, Mr. Temporary Speaker, Sir. I beg to move-

THAT, the Senate adopts the Report of the Committee of Powers and Privileges into an inquiry, on its own motion, into the conduct of Senator Gloria Orwoba, MP and to establish if the conduct constituted breach of Parliamentary Privilege, laid on the Table of the Senate on Wednesday, 9th August, 2023.

Mr. Temporary Speaker, Sir, the Committee of Powers and Privileges is established under Section 15(1) of the Parliamentary Powers and Privileges Act, No.29 of 2017. Section 15(4) of the Act provides for the function of the Committee as follows -

“The functions of the Committee of Powers and Privileges shall be to -

(a) Inquire in to the conduct of a Member whose conduct is alleged to constitute breach of privilege in terms of Section 16.

(b) Perform such other functions as may be specified in this Act”

Section 15(5) of the Act empowers the Committee of Powers and Privileges to inquire, either by its own motion, or as a result of a complaint made by any person in to the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16.

Mr. Temporary Speaker, Sir, the Members of the Committee are as follows -

(1) The Chairperson is the Speaker, Rt. Hon. Amason Kingi.

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

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order Sen. Dullo?

Sen. Dullo: Mr. Temporary Speaker, Sir, I am requesting that the students to be recognised and released so that we can discuss this matter comfortably.

Sen. Shakila Abdalla: Mr. Temporary Speaker, Sir, the Members are listed. I will go through the charges briefly.

Charge One: The conduct constituting a breach of privilege under Section 16(e) and paragraph (7)(a) of the Fourth Schedule in the Parliamentary Powers and Privileges Act, 2017.

Count One: Allegation of Pursuit of Sexual Favours. The Senator, on diverse dates, made unsubstantiated allegations that there were instances of pursuit of sexual favours in Parliament by posting various messages on the Senate Business *WhatsApp* Group.

(Loud consultations)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Shakila Abdalla, the Chair is speaking. What is your point of order, Sen. Wamatinga?

Sen. Wamatinga: Thank you, Mr. Temporary Speaker, Sir. I think it is prudent that you rule on what Sen. Dullo requested. Looking up there, I can see that there are young school-going children.

The Temporary Speaker (Sen. Wakili Sigei): You have made your point. We have made arrangements. We are going to recognise them in a moment. We are getting the Communication.

Sen. Wamatinga: Mr. Temporary Speaker, Sir, some of the content of this document is sensitive and we should watch who is in the House when discussing this matter.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Very well, that is noted. The Communication is coming; we shall deal in a moment.

Sen. Cheptumo, what is your point of order?

Sen. Cheptumo: Thank you, Mr. Temporary Speaker, Sir, I think apart from releasing the students, you should direct that until this Motion is finalised, no students should be allowed into the Public Gallery.

The Temporary Speaker (Sen. Wakili Sigei): That is noted.

Sen. Thang'wa,

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir, this is a public House and the debate is live. Even those children at home are watching. I do not see any problem whatsoever with us discussing this issue. They are here to learn so that they can see what we go through or what we say in this House. Unless you have to order we even shut down live proceedings so that it becomes a *Kamukunji*. This is not a personal issue, it is a matter of public concern. It is a report of a Committee. I do not see the reason we should bar anybody from accessing this debate.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, the Chair had ruled and, indeed, the people who were in the Public Gallery have already been discharged. We are going to proceed with the Motion.

Sen. Shakila Abdalla, proceed.

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Sen. Shakila Abdala: Thank you, Mr. Temporary Speaker, Sir.

Count Two: Allegations of Favoritism and Discrimination. The Senator, on diverse dates, made unsubstantiated allegations that there was discrimination in Parliament by posting various messages on the Senate Business *WhatsApp* Group and made allegations during a media briefing held at the Media Center, Main Parliament Buildings.

Count Three: Allegations of Corruption. The Senator, on diverse dates, made unsubstantiated allegations that there were cases of corruption in Parliament by posting various messages on the Senate Business *WhatsApp* Group.

County Four: Allegations of Kickbacks for the Legislative Agenda. The Senator, on diverse dates, made unsubstantiated allegations that there were requests for kickbacks for the legislative agenda in Parliament by posting various messages on the Senate Business *WhatsApp* Group.

Charge Two: Conduct constituting a breach of privilege under paragraph eight of the Fourth Schedule to the Parliamentary Powers and Privileges Act, 2017 on the Code of Conduct for Members of Parliament.

County One: Allegations of Disrespecting Fellow Senators. The Senator, on diverse dates, published information that was disrespectful towards fellow Senators in the Senate Business *WhatsApp* Group.

Count Two: Allegations of Imputing Improper Motive on Fellow Senators. The Senator on diverse dates imputed improper motives on other Senators by posting various messages on the Senate Business *WhatsApp* Group.

All these postings are in the report.

The Committee, noting the gravity of the charges, the conduct of Sen. Gloria Orwoba, MP, findings of the Committee and having reviewed the sanctions provided for Section 17(3) of the Parliamentary Powers and Privileges Act, 2017, as well as the practice in other jurisdictions, finds Sen. Orwoba's conduct was in breach of Parliamentary Privileges and recommends that-

(1) Pursuant to Section 17(3)(g) of the Parliamentary Powers and Privileges Act, 2017, the Senator be suspended from the House for the remainder of the second Session of the 13th Parliament.

(2) Pursuant to Section 17(3)(d) of the Parliamentary Powers and Privilege Act, 2017, restrictions of access to the precincts of Parliament defined in Section Three of the Parliamentary Powers and Privilege Act, 2017, and Standing Order No.2 of the Senate Standing Orders and withholding the use of enjoyment of any and specified facilities provided to Members by Parliament to be applied to the Senator for the remainder of the second Session of the 13th Parliament.

(3) On resumption of Senate sitting of the 3rd Session, the Senator while on the Bar, apologises to the Senate, hon. Senators, the Clerk of the Senate and the Secretariat of Parliament before being admitted to the Senate, pursuant to Section 17(3)(c) of the Parliamentary Powers and Privilege Act, 2017, in the manner stated in the report.

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Mr. Temporary Speaker, Sir, on behalf of the Committee, I take this opportunity to thank the Members of the Committee for their immense contribution to the inquiry that culminated to the Report. The Committee wishes to also thank the Secretariat of the Senate for the necessary support.

On behalf of the Committee of Powers and Privileges, I have the honor and pleasure to present the Report of the Committee of Powers and Privileges on the inquiry, of its own Motion, into the conduct of Sen. Gloria Orwoba, MP, and to establish if the conduct constituted a breach of Parliament privilege in the Senate.

I thank you.

I request Mr. Wamatinga to second the Motion.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wamatinga, proceed.

Sen. Wamatinga: Thank you, very much, Mr. Temporary Speaker, Sir. I rise to second this Motion.

I sat in the Committee that discussed the conduct of Sen. Gloria Orwoba, MP. What I must say is regardless, we must know that we are all colleagues in this place. We have a collective responsibility to take care of the reputation of this House, and the reputation of its Members. We also have a collective and moral obligation to ensure that the standard of this House, as seen by the public out there, does not become affected in whichever way.

It is my observation and humble submission that we all have other channels of dealing with whatever grievances we might have without resulting in hitting below the belt.

Therefore, I urge my colleagues that for the remaining four years that we will be in this House, let us embrace collegiality, sobriety and most importantly, portray an important and moral obligation of us all to portray this House as a respectable House.

Mr. Temporary Speaker, Sir, we must never forget that people out there look at us as the pace setters and role models. When there are issues that we must discuss, be it on social media or on the Floor of the House, let us not forget that out there, people are watching us debating. We must ensure that we do not in any way undermine the responsibility, privileges and even the dignity that is associated with being hon. Members.

Being an hon. Member has a lot of responsibilities. Most importantly, when we have the Public Gallery, pupils and students come here to learn. Let them learn from the best. I believe there are channels through which we can air our grievances. We can differ in opinion and principles, but hold and treat each other with a lot of decorum. It is important for this House to commit itself to upholding the traditions, dignity and image that is seen by those people out there.

My humble submission is that the collective responsibility we have when walk inside that door, must bind us to ensure that sobriety and most importantly, dignity is upheld.

I second.

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(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, I now call upon Sen. Cherarkey.

(Sen. Cherarkey was not in the Chamber)

Sen. Omogeni, you may proceed.

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir for giving me this opportunity to comment on the Report that has been tabled by the Committee of Powers and Privileges.

I have no doubt that this is unprecedented. In the history that the Parliament has been in existence, I have never seen a situation where such a harsh, excessive and almost unreasonable verdict was meted out on a Member. More so, a lady and young MP who should be nurtured, grow and make the women of the Republic proud.

If there is a day that I feel ashamed as a Senator, it is today. There is a time PLO Lumumba said that you should never respond to a mosquito with a hammer. That is what we have done today. I do not agree with certain conduct of Sen. Orwoba. I do not agree. Many times, I have reached out to Sen. Orwoba to have a word with her as an elder. That is how it should be. We all falter and make mistakes. However, we must walk along with each other.

I have said before, if I see an injustice to any Senator on this or on that side, I will never walk along with it. Therefore, even if we wanted to pass some judgement on Sen. Orwoba, it is not what I am seeing in the Report. A proposal to suspend her for the remainder of the Second Session of the 13th Parliament. In all fairness, that is excessive. It is unjust and unreasonable.

(Applause)

I do not expect that from the United Democratic Alliance (UDA) Government. You should be nurturing these young Senators that you have nominated to this House. We are not the ones who nominated Sen. Orwoba. I am sure that you did proper background checks on her.

I want to go on record and oppose this Report, especially the judgement. You could have even recommended suspending her from five sittings. This is the first time she is facing a disciplinary Committee before the Power and Privileges.

I want to tell you, hon. Senators, today, you are celebrating because it is Sen. Orwoba, tomorrow, it will be you because you want to set a precedent where you do something small, you are expelled for the entire Session. I wish to remind you the words of a senior Senator who served here, Sen. Orenge. He once told Sen. Beth Mugo that revolutions eat their own children. Now, you can see UDA has begun with Sen. Orwoba. Tomorrow, it will be somebody else. On our side, we are used to it. Our leadership here--

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

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order Sen. Cheruiyot?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, Sen. Omogeni is a Commissioner, a man I respect and hold in high regard. Is it in order for him to reduce a report of a Committee of this House into the operations of a party? UDA does not feature anywhere. For your information, the Member who moved the report is a Member of the Minority side.

(Applause)

Bwana Commissioner, please, respect the office you hold and be responsible in your utterances. Lead by example. That is why I told you, if I was in your position, Sen. Omogeni, these are the matters you leave and speak last as an elder. You are the person we refer to as our senior and as a leader. Surely, you cannot reduce a Committee report and play it along with party positions.

You have just seen me consulting with the Senate Minority Leader because this is really embarrassing to this House. We are trying to put our heads together to see what we can do to cover ourselves.

Please, I request you, my good neighbour and friend, you can make better decisions compared to the ones you are making this afternoon. Do not reduce this to a party issue. Please, my brother, I beg you because you are a Commissioner and a man I respect so much

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, what is your point of intervention?

Sen. Sifuna: Mr. Temporary Speaker, Sir, I was a bit concerned by one of the submissions by the Senate Majority Leader. He said that the Report of the Committee was moved by a Member of the Minority side. That has nothing to do with the political sides of the House.

(Sen. Cheruiyot consulted loudly)

Just a minute, Senate Majority Leader, please. I heard you in silence. I am saying that it was a request of the Committee and not a request of the Minority Side for Sen. Shakilla Abdalla to move that Motion. She was just doing her job as a Member of the Committee. I do not think that particular point has been made in good faith. I wish it is clear that Sen. Shakila Abdalla only moved the Report upon request of her Committee. It is not a directive that came from the leadership of the Minority side.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, you take note that this is a serious matter that concerns the privileges of this honourable House. Therefore, you are out of order to refer to the fact that this is either a Minority or Majority Report or

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even to specific utterances regarding the particulars of either party in terms of nomination or otherwise. Kindly refrain. You are a senior ranking Member. Use appropriate Parliamentary language.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I have a lot of respect for the Chair and I cannot question your directive. However, I wonder under what Standing Order the Senate Majority Leader was intervening.

(Loud consultations)

I wish to make it very clear that on issues touching on injustice, I will not be swayed by the majority. I am willing to go on record that I have stood alone on this matter.

Mr. Temporary Speaker, Sir, even when we go to our courts of law, the judgment that you pass on a crime must be reasonable, not excessive. We are setting a precedent that will come back to bite us. Listen to me, Senators. It will come back to bite us. I want to be on record that I will not dance on the grave of the deceased. The point I am trying to make is that I do not agree for a moment with some of the conduct of Sen. Orwoba, but what punishment should we, as a House, mete on her? That is the question I am raising this afternoon.

Mr. Speaker, Sir, I have watched the way we have carried out the proceedings of this House and I stated on many occasions that in a Commonwealth Parliament, debates of this House should be lively.

I watch proceedings of the House of Commons every Wednesdays. The Prime Minister of the United Kingdom comes to the House, he sits there; he is asked questions, people shout at him, shame! However, in this House we have set a precedent where you are supposed to sit as if you are in a funeral. We are going the wrong way.

When we fought to have a Parliament that is independent, we wanted to get a climate that helps us to conduct our business. As practicing Christians we have a duty to ourselves to nurture this young Senator called Sen. Orwoba.

The Standing Orders are very clear. You can start with a warning, a suspension of three days, then you elevate it. If you reach a time when you say that you are now suspending her for the remainder of the term, we will all agree. However, on the first occasion that she is taken before the Powers and Privileges Committee and then you bring a report to us recommending that she should be suspended for the remainder of the term, that is a harsh punishment to say the least.

Therefore, I want to plead with you Senators. There are many things that Sen. Orwoba does that I do not agree with, including when we raised issues of Members of the Minority side who were arrested---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, there is a point of information. Would you like to be informed by Sen. Wambua?

Sen. Omogeni: Mr. Speaker, Sir, Sen. Wambua is a church elder, I will not decline to be informed by him.

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(Laughter)

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Wambua.

Sen. Wambua: Mr. Temporary Speaker, Sir, so that Sen. Omogeni walks the narrow path and the pride path; he has three times made reference to suspension for the remainder of the term. The decision of the Committee - if I got it right - was suspension for the remainder of the Session which expires in December. So that we do not mislead the House and the public, it is suspension for the remainder of the Session and not for the term.

Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, I am sure you are informed as you proceed.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I told you it is always good to be informed by a church elder. I stand corrected, I have seen it is true that it is for the remainder of the second session which takes us to the end of this session in December. I agree with that.

The second point is that - I have read in the Report although I do not have the details that this matter is subject of court proceedings. I have not seen details of the case number because this Report has been circulated while we were in session. If, indeed, it is true that Sen. Orwoba raised the issue of a matter that was pending before court, in the interest of justice, the Committee should have given room to the courts to adjudicate and make a verdict on the matters that were raised by Sen. Orwoba in court.

Mr. Temporary Speaker, Sir, I want to bring it to your attention that the current Leader of Minority in the National Assembly was himself subjected to such a punishment by the National Assembly. However, when the matter went to court, the High Court of the Republic of Kenya, the matter was heard by Justice Odunga who made an observation that any time the Powers and Privileges Committee wants to punish a Member of Parliament, the punishment should not be excessive and or unreasonable.

It is right to pass punishment against Sen. Orwoba, but I plead with the House to support a punishment that is fair and reasonable and that gives Sen. Orwoba an opportunity to reform and to correct her misconduct. I finally agree that it is in order for her to apologize to the House.

I plead with you, Sen. Orwoba, that you are a young Senator and have a long way to go. We love you as our our colleague. We also plead with you to please know how to conduct yourself as a Member of this House. We are your elders. I am speaking to you as your uncle. Learn from what has happened today. In future, conduct yourself in a manner that does not demean the stature of a Senator who has got the privilege of sitting in this House.

Remember your party United Democratic Alliance (UDA) has been very fair to give you a nomination at your age. Sen. Orwoba, go back and do self-reflection and watch how you use social media. You can see even Trump, the former President of the USA is in trouble because of the *tweets* he made while he was President. So, please Sen.

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Gloria, take a moment of reflection and know how to conduct yourself while serving as a Senator.

I oppose the Motion.

(Applause)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cheruiyot, what is your point of Order?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I rise under Standing Order No. 110(1) and wish to read as follows:

“That a Senator who wishes to postpone to some future occasion the further discussion of a Question which has been proposed from the Chair, may for reason stated claim to move that the debate be now adjourned.”

Mr. Temporary Speaker, Sir, I want to humbly call on the collective wisdom of the House because this is a very emotive issue. Number one, it involves a colleague. She might be right or wrong in your opinion. Number two, the person who chaired this Committee is the Speaker of the House. The person who we are told is the victim of these harassments is none other than the Clerk of the House. Whichever way you look at it, there can never be a winner and a loser in this conversation.

We will look so dirty or so silly as a House. It will be bad of us eventually. In fact, I must concede that it was due to a lapse of concentration on my side. If I had known that there was going to be such a debate, perhaps earlier, the prudent thing to do would have been to consult with the Senate Leader of Minority, walk to the Speaker's Chamber and seek that perhaps this matter be handled differently.

Mr. Temporary Speaker, Sir, you know for a fact that last time when the National Assembly had such a situation where a report was brought and the House defeated it, they amended their Standing Orders. Today, if you go to the National Assembly, the Powers and Privilege Committees is not chaired by their Speaker for the obvious reason that it is not just proper and decent for you to be Speaker and preside over a House, bring a report of a committee which was chaired by you, then it be subject to discussion by Senators who will critique your work. Some will say certain things that you may not like.

I plead with all my colleagues. I called the Senate Minority Leader aside – we have a consultation room – and pleaded with him. I told him that he is my senior and an elder. I asked him whether he liked the debate that was going on in the House.

He told me that he was equally agonized over it and tried to speak to Members of his delegation, asking them what should be done. I suggested to him that we seek leave of the House and allow the leadership to retreat, to reconsider this matter and find a way of resolving it without having to air our dirty linen in public.

I plead with you, colleague Senators. Perhaps you may be holding a different view on this issue or there is something you may want to say. Allow us to adjourn the debate to a later date, the same way we have consulted with the Senate Minority Leader. Perhaps he will have a chance to explain what he thinks about this.

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Mr. Temporary Speaker, Sir, I beg to move that we adjourn debate on this matter until a later date. I request the Senate Minority Leader to second.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Senate Minority Leader.

The Senate Minority Leader (Sen. Madzayo): Mr. Temporary Speaker, Sir, I have been in this House long enough. This is the first time we are coming across such a challenge. It requires wisdom to keep the dignity of this House, and we should not expose it by washing not so good linen in public.

I second what the Senate Majority Leader has stated. It will go a long way to sort out a number of issues.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I will allow Members to contribute on the request by the Senate Majority Leader, seconded by the Senate Minority Leader, to adjourn the Motion, but not on the merits of the Motion that we had earlier on began to debate on.

Sen. Thang'wa: On a point of order, Mr. Temporary Speaker, Sir. I do not want it to appear that I do not agree with the Senate Majority Leader. However, you re-arranged the Order Paper and said we were going to Order No.8. Therefore, we skipped Questions and Statements because you wanted this issue to be expedited before we go on recess. I do not know whether we are going against your ruling. I seek your indulgence on the issue.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, what I get from you is that you are opposing the adjournment. You can state whether you do not want the Motion to be adjourned or not.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, what the Senate Minority Leader has brought before this House is what is called a dilatory Motion, which attempts to stop proceedings on a Motion that had procedurally been brought before the House. I invite you to look at Standing Order No.110 (3), which states as follows-

“If the Speaker is of the opinion that a dilatory Motion is an abuse of the proceedings of the Senate, the Speaker may forthwith put the question thereon or decline to propose it.”

Mr. Temporary Speaker, Sir, this Standing Order invites you to make a decision before you propose the Motion to open debate. I, therefore, invite you to exercise your powers in Standing Order No.110(3). As you do so, consider two issues.

The first one is that it will be an abuse of the proceedings of the Senate if a Motion that has been approved by the Speaker is stood down. It will also be an abuse of the proceedings of the Senate if a Motion, which has clear timelines, is stood down so that the timelines are negated. This Motion is supposed to be concluded within 14 days.

Mr. Temporary Speaker, Sir, if you make that determination and allow us to go ahead, there are many who want to support or oppose. I am glad to tell Members on this

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point of order that as the Senate Majority Whip, we have no Kenya Kwanza position. This is a private matter to this House for housekeeping purposes.

If you are happy that you can be called a rapist, then you will oppose the Motion. This is a housekeeping Motion. Let us keep out the issue of the Opposition and the Government side or parties and allow Members to speak their mind.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, the Chair had made a determination under Standing Order No.110(2) regarding to the dilatory Motion that was moved by the Senate Majority Leader. A question was put for Members to debate on whether we should adjourn or not. Therefore, your concern had already been taken care of by the time the Chair made that particular decision.

I will allow Members to debate on that dilatory Motion, that is, whether or not we should adjourn. My dashboard is full. We need to limit time for purposes of progress. I will allow each Member two minutes to speak on the Motion moved by the Senate Majority Leader.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I do not have a problem with the House leadership going aside to build consensus on the matter before us, considering it is more of a private issue that concerns a Member. My only concern, which you should provide guidance, is that we had stood down some urgent business on the Order Paper.

Maybe you should allow the House leadership to congregate and consult, as we proceed with the other items on the Order Paper. Today is Thursday and next week we will be having the Devolution Conference. If the House leadership consults and tells us their position, then that will be in order.

We have done that before. In many cases, we have requested for suspension or adjournment of the House so that we consult. I agree that in future, as a House, we must seek leave to go in-camera on such matters because it concerns a Member, although I know Article 118 of the Constitution and open parliamentary procedures.

Mr. Temporary Speaker, Sir, with those many remarks, I allow the wisdom of the House to prevail.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Ogola, please, proceed.

Sen. Ogola: Mr. Temporary Speaker, Sir, I had pressed my button earlier. I am wondering how the Majority and Minority Leaders would come in at this point in time, yet this has been going on all along for the last few weeks as we all watched. We expressed a desire that you come and sort out this issue as leaders, then you come in at this point and tell us to give you time to find an alternative.

The Temporary Speaker (Sen. Wakili Sigei): I will limit the Members whom I will allow to speak, so that we progress. I will give two more Members on each side - the Majority and Minority. You will take two minutes each.

Sen. Tabitha Keroche, please, proceed.

Sen. Tabitha Keroche: Thank you, Mr. Temporary Speaker, Sir. I rise maybe to support what the Majority and Minority Leaders have proposed. However, I ask, as the leaders, why did we allow it to come this far?

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I know the Minority Leader has said that he has been here for long. He needed to advise the young upcoming Senator on how it is supposed to be done. I personally called her and asked her what all this was about. She told me she had gone to all the offices and nobody has helped her. That was why she threw it on social media. I am not supporting her, but maybe she could not find anywhere else to go.

As leaders, we have failed in this. We should have taken it up before it reached to this point. Going forward, we must ensure that it never happens again.

(Applause)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, the direction the Chair gave was that our debate is on whether to adjourn the Motion or not; not a debate on the Motion. So, as we speak---

(Loud consultations)

Before I put the question, Sen. Mumma, please, proceed. Give Sen. Mumma the microphone.

Proceed to the Dispatch Box.

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir. I seek some direction on what happens. The Senate Majority Leader and the Senate Minority Leader are asking for adjournment, but we are not clear what it is for. They have not given direction in that regard.

I think as Members of this House, we need to stand for justice for all people involved. I wish to state that the Clerk, who has been accused of very serious issues, is not present in this House.

We are being watched by the public, which would include children of the Clerk and his spouse. Allegations made are serious and I would want us to resolve the best way possible, even if it is internally, but we want direction.

The Senate Majority Leader and Senate Minority Leader may be abusing their space if they do not give us clear direction on how to resolve this issue. Those of you who are on *WhatsApp* are aware that this is a matter that has gone on for long. We need to put it to rest.

The Temporary Speaker (Sen. Wakili Sigei): Lastly, Deputy Speaker, please, proceed.

Sen. Kathuri: Mr. Temporary Speaker, Sir, without going to the merits and demerits of the Motion that is before this House, I thank both the Senate Majority Leader and Senate Minority Leader for that bold move that they have taken this afternoon.

When things come to the family - this House is a family - it is always important to caution ourselves. When a member of the family is under siege, it is always important for the whole family to come together and think of an alternative way other than debating

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this Report. If we could go ahead, debate this Motion and punch holes, yet the Chair of this Committee is the Speaker, that could be going the wrong way.

I support but I advise Sen. Orwoba, and I want her to listen to me. As a Njuri Ncheke elder, I called her to my office before this Committee sat. I told her that there were things that needed not to progress the way they were doing. So, I request---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Kathuri, the debate was in the confines of adjournment or not.

Sen. Kathuri: I understand the Standing Order, but there is an advice to Sen. Orwoba.' I am not retrogressing.

The Temporary Speaker (Sen. Wakili Sigei): That cannot be done within the time---

Sen. Kathuri: I am requesting her from today---

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, order please.

Sen. Kathuri and Sen. Cherarkey, please, take your seats. Hon. Members, I am not going to entertain any additional interventions. I will proceed to put the question.

*(Question, that debate on the Motion
be now adjourned put and agreed to)*

(Applause)

Hon. Members, you recall the Order Paper had earlier on been rearranged. We would like to go back to Order No.7, which is Questions and Statements.

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

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Montet Betty?

Sen. Montet Betty: Mr. Temporary Speaker, Sir, I stand to ask whether Sen. (Dr.) Murango is dressed properly according to the latest guidelines given by the Speaker.

(Loud consultations)

The Temporary Speaker (Sen. Wakili Sigei): Order, Members. Please, take your seats. If you are consulting, do so in low tones. Senate Minority Leader, Sen. Madzayo, Sen. Wamatinga and Sen. Mo Fire, order please. Kindly consult in low tones.

Next Order!

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QUESTIONS AND STATEMENTS**STATEMENTS**

The Temporary Speaker (Sen. Wakili Sigei): Senate Majority Leader, you have a Statement. As we proceed to reorganize the Order Paper, proceed to issue the Statement.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY 5TH SEPTEMBER, 2023

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, pursuant to Standing Order No.57(1), I hereby present the business of the Senate for the week commencing Tuesday, 5th September, 2023.

As you are aware, in accordance with the Senate Calendar approved on the 16th February, 2023, the Senate will proceed on a three-week recess at the rise of the House today. Regular Sittings of the Senate will resume on Tuesday, 5th September, 2023.

At the Sitting of the Senate held on Tuesday, 1st August, 2023, the Senate considered and passed three Bills at the Committee of the Whole and the Third Reading stages.

These Bills have since been referred to the National Assembly for consideration. This, therefore, brings the total number of Senate Bills referred to the National Assembly to six. Additionally, the Senate has also passed two Bills at the Second Reading stage. The Bills have transitioned to the Committee of the Whole stage.

On Tuesday, 8th August, 2023, the Senate adopted the Report of the Senate Standing Committee on Finance and Budget on the County Government's Equitable Share Cash Disbursement Schedule for Financial Year 2023/2024. Thereon approved, the County Government's Equitable Share Cash Disbursement Schedule for Financial Year 2023/2024, pursuant to Section 17(7) of the Public Finance Management (PFM) Act and Starting Order No.189(3)

I take this opportunity to laud the Senate Standing Committee on Finance and Budget for its diligence in considering critical financial instruments that unlock funds for our county governments.

I urge the select committees to emulate this practice by considering the business referred to them and tabling the reports therein in a timely and proper manner pursuant to our Standing Orders.

Mr. Temporary Speaker, Sir, there is still some work to be done as regards the business of the Senate. As indicated in the Order Paper today, at Standing Order Nos.9, 10, 11, and 12, there are Bills scheduled for Division. Three are in the Second Reading stage, and one at the Committee of the Whole stage.

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On this note, I request party Whips to mobilize the requisite numbers of delegations for the Divisions to be undertaken. This will clear the backlog of the Bills scheduled for Division from the Order Paper.

Concerning Motions, 24 Motions are pending conclusion before the Senate and will be accordingly scheduled by the Senate Business Committee (SBC) in the programme of the Senate business for each week. I urge the respective Movers of these Motions to be available in the Senate when the Motions are listed.

In terms of Petitions, 15 Petitions are due for reporting pursuant to Standing Order No.238 (2). Of these Petitions, one is pending before Senate Standing Committee on Agriculture, Livestock and Fisheries. Two are before the Senate Standing Committee on Devolution and Intergovernmental Relations. One is before the Senate Standing Committee on Education and one is before the Senate Standing Committee on Finance and Budget. Two are before the Standing Committee on Justice and Legal Affairs and Human Rights. Two are before the Standing Committee on Labour and Social Welfare. Two are pending before the Standing Committee on Lands, Environment and National Resources Committee and, four are pending before the Standing Committee on Roads, Transportation and Housing.

I urge the Standing Committees to expeditiously conclude the Petitions and table reports under the Standing Orders. If there are challenges in the processing of the Petitions, my office and that of the Senate leadership are open for consultations to address them.

Statements continue to be increasingly sought by Senators. There is a high number of Statements pending consideration under Standing Order No.53 (1) by various Standing Committees. I urge committees to expeditiously consider and finalize the Statements.

Finally, at the meeting of the SBC held on the 8th August, 2023, the Committee approved the set of Questions to be replied to by the respective Cabinet Secretaries on 5th September, 2023. The summary of these questions is as follows-

(a) Question No.18 by Sen. Lomenen to the Cabinet Secretary of the Foreign and Diaspora Affairs on the inaction of the Kenyan Government to hasten the release of Turkana pastoralists arrested in Uganda;

(b) Question No.19 by Sen. Mbugua to the Cabinet Secretary for Health on accessible health facilities and services to persons with disability;

(c) Question by Sen. Mbugua to the Cabinet Secretary for Labour and Social Welfare and Protection on compliance with the Persons with Disability Act with regard to reservation of employment to PWDs.

Mr. Temporary Speaker, Sir, I take this opportunity to wish all colleagues a safe and fulfilling break. I wish them well as they travel as well to the Devolution Conference in Uasin Gishu County. I wish that we can engage and have a fruitful consideration on the same.

Finally, I wish to thank the House for listening, though grudgingly. I know there are those who do not agree with us on the decision that we have taken. However, I

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believe it is in the best interest of the House. I listened to the comments by Sen. Mumma, a lady I hold in such high regard. She said that she will judge us extremely harshly as a Leadership if we let this matter pass.

I know it is not just about one of our colleagues, but one of our very senior staff, a man that I equally respect and have worked with very closely for five good years; a man of impeccable character; a great Kenyan and a patriot. Therefore, allow us to go behind the tent as they say, and find ways.

I believe that with the wisdom of Rtd. Judge, Sen. Madzayo, myself, and ladies of great distinction like yourself, we will find an amicable solution to this. We felt it will be a better route to consider it that way, as opposed to the route that had been prescribed. Apologies that it had to come to this for us to realize the difficult place we found ourselves in as a Senate.

I thank you, Mr. Temporary Speaker, Sir. I lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table)

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senate Majority Leader, Sen. Cheruiyot.

Sen. Omogeni, please, proceed with the Statement under Standing Order No.50

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Sifuna, please, approach the Chair.

(Sen. Sifuna approached the Chair)

Proceed, Sen. Omogeni.

Sen. Omogeni: Mr. Temporary Speaker, Sir. I first want to salute the Senate Majority Leader, Sen. Cheruiyot, who has displayed a lot of wisdom this afternoon in the way he has managed the matter of Sen. Orwoba.

I am sure that the Leadership will be able to address this matter and give some counsel to Sen. Orwoba.

TRAGIC DEATH OF HON. ELIJAH OSIEMO, MCA AND
MAJORITY LEADER, COUNTY ASSEMBLY OF NYAMIRA

I rise pursuant to Standing Order No.52 (1) to make a Statement on the matter of countrywide and general topic of concern, namely, the Tragic Death of Majority Leader of the County Assembly of Nyamira and Member of the County Assembly for Nyamaiya Ward, Nyamira County, Hon. Elijah Osiemo, in a road accident along the Mai-Mahiu-Naivasha Highway.

The late Hon. Elijah Osiemo was a dedicated public servant who showed unwavering commitment to his constituency and the development of Nyamira County.

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His dedication to public service and the betterment of the community will always be remembered.

It is indeed with deep sorrow---

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Cherarkey?

Sen. Omogeni, there is a point of order from Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, when I made a mistake earlier by crossing the Bar without bowing, it appeared trivial. However, as the matter and procedure of the House, Standing Order No.51(b), talks about the procedure for Questions and Statements, like the one my brother is making.

I sympathise and empathise with him. Let us stick to the rules stipulated under Standing Order No.51(b) on contents of the Questions and Statements. I have heard Senior Counsel and Commissioner, Sen. Omogeni, making some comments outside of what he was supposed to read. Let us follow our procedure.

A few minutes ago, I was called to order for crossing the aisle without bowing. How can you introduce something in a pretext of what you are supposed to read? Is it in order? In future, what will prevent somebody from reading the Statement and debate on it? This is not the procedure of the House.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Omogeni, take note of that requirement of the Standing Orders and proceed to read your Statement in compliance with it.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I note the concerns of Sen. Cherarkey.

The Temporary Speaker (Sen. Wakili Sigei): Deputy Speaker, what is your point of order?

Sen. Kathuri: Mr. Temporary Speaker, Sir, my point of order is not based on what Sen. Omogeni, my good friend, is doing. There was a matter raised by my colleague, Sen. Montet Betty, about the dress code. You did not determine whether the Member was properly dressed.

(Sen. (Dr.) Murango walked out of the Chamber)

(Laughter)

I can see the Member taking off. He has evicted himself.

The Temporary Speaker (Sen. Wakili Sigei): For purposes of record, Sen. Kathuri, it is true that Sen. Montet Betty had raised the issue earlier and the ruling on the matter slipped the Chair's mind.

Sen. (Dr.) Murango from Kirinyaga is not properly dressed. Since he already left the Chamber, he will remain out of this House until he is properly dressed.

Sen. Omogeni, proceed.

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(Sen. Methu spoke off record)

Sen. Methu, allow Sen. Omogeni to finish reading his Statement and then you can raise your concern.

Sen. Omogeni: Mr. Temporary Speaker, Sir, I am lost. This is a Statement on the tragic death of Majority Leader of the County Assembly of Nyamira.

The late Hon. Elijah Osiemo was a dedicated public servant who showed unwavering commitment to his constituents and the development of Nyamira County. His dedication to public service and the betterment of his community will always be remembered. It is with deep sorrow that I acknowledge his passing. My thoughts and prayers go out to his family, friends, colleagues and the people of Nyamira during this difficult time.

The road accident also resulted in the injury of two other hon. Members of the County Assembly of Nyamira, namely, Hon. Duke Masira, Member of County Assembly (MCA), Nyamira Township Ward and Hon. Priscilla Nyatichi, Nominated MCA. I express my sympathies to the injured MCAs who are currently receiving medical care. I have since learnt that Hon. Duke Masira has been discharged from hospital. I pray for quick recovery and return to duty of Hon. Priscilla Nyatichi.

It is imperative that we take this moment to reflect on the importance of road safety and adherence to traffic regulations. It is worthy to note that the actions of a rider on a motorcycle that was carrying an oversized and unsecured load of charcoal may have contributed to the accident. While acknowledging that motorcycles popularly known as *boda bodas* have become an integral part of our transportation system, their widespread use coupled with the practice of carrying oversized and unsecured loads, which violate traffic regulations, poses a danger to all road users. This has led to a significant rise in road accidents.

Ordinarily, a load being carrying by a *boda boda* must be aligned with the rider. It is our responsibility as representatives of the people to address this issue comprehensively. I, therefore, urge the Standing Committee on Roads, Transportation and Housing to collaborate with relevant agencies, law enforcement bodies and stakeholders in the transportation sector to put in place stringent measures aimed at curbing the practice of overloading motorcycles.

I further urge the Standing Committee on Health to engage the Ministry of Health to set up emergency medical trauma centres along the Narok-Mai Mahiu Highway and other highways within the Republic of Kenya, to ensure the provision of timely and effective medical response and care to accident victims and those in need of urgent medical attention. I say this noting with regret that it took over two hours for the late Hon. Osiemo to receive the closest medical emergency attention after the accident.

May his soul rest in eternal peace.

The Temporary Speaker (Sen. Wakili Sigei): For the avoidance of doubt on the issue that was raised earlier on by Sen. Montet Betty on the dress code by the Sen. (Dr.) Murango, it has been brought to my attention that he had made a request to the Speaker in

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the morning, through a written communication, requesting for dress code accommodation today, for medical conditions and the hon. Speaker had granted that exemption to the hon. Senator. It is important to mention this for purposes of the record of this House.

Sen. (Dr.) Murango was properly dressed owing to the exemption that he had been granted by hon. Speaker, out of his request.

Sen. Veronicah Maina, Proceed.

STORAGE OF FOOD COMMODITIES
DURING THE BUMPER HARVEST

Sen. Veronica Maina: Mr. Temporary Speaker, Sir, I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the storage of food commodities during the bumper harvest in Kenya. In the Statement, the Committee should-

(1) State the types of food commodities stored in the Strategic Food Reserves, indicating the storage capacity of the reserves.

(2) Provide the price list of all the food commodities the Government intends to buy or import for the food reserves.

(3) Outline the strategies the national Government and county governments have put in place to effectively manage the storage of food commodities during periods of bumper harvest, to ensure minimal waste and maximum preservation of quality of the food commodities.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mumma, proceed to your Statement under Standing Order No.53.

SAFEGUARDING THE HEALTH AND
RIGHTS OF ADOLESCENTS

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir, for this opportunity.

I rise, pursuant to Standing Order No.53(1) to request for a statement from the Standing Committee on Health on the need for a conducive policy, legislative and programmatic environment for safeguarding the health and rights of adolescents in Kenya.

(Sen. Cherarkey and Sen. Methu consulted loudly)

Mr. Temporary Speaker, Sir, I request that Sen. Cherarkey and Sen. Methu listen to me.

The Temporary Speaker (Sen. Wakili Sigei): Can the Senator be heard in silence? Senators, consult in low tones if you must.

Sen. Mumma: Mr. Temporary Speaker, Sir, aware that there are approximately 11.6 million adolescents in Kenya comprising a significant quarter of our population, the

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2019 census established that the number of adolescents aged eight to 19 years was 14,115,080, making up to 29.7 per cent of the population.

That the population of persons aged up to 25 years, which includes those who will have transitioned from the age of the adolescents, moves this age group to 35 per cent of the total population.

Recognising that adolescence is a period that signifies the transition from childhood to adulthood, it is marked by crucial psychological and mental growth a pivotal phase of human capital development.

It is also an opportune time to reinforce fundamental values and beliefs, given that it is the most defining stage of human growth and development, a stage that comes with vulnerability and risks that require a supportive and protective environment.

It is evident that inadequate, comprehensive investments and guidance to adolescence can lead and has led to unfavourable decisions during this critical phase, with enduring implications into adulthood.

Disturbing statistics indicate that since 2016, our health facilities have attended to a total of 2,347,754 adolescents in antenatal clinics, including an alarming 143,502 children aged between 10 and 14 years, who are pregnant.

Furthermore, the data from 2022 is revealing that 42 per cent of reported 59,715 cases of sexual and gender-based violence are among adolescents aged 10 to 17 years.

Despite interventions implemented from January to March this year, a concerning 8,775 adolescents aged 10 to 17 years, reported incidents of sexual and gender-based violence.

Additionally, in 2022, we witnessed an unsettling trend with approximately 62 new Human Immunodeficiency Virus (HIV) infections, at 62 per cent new infections accruing among adolescents aged 10 to 19 years on a weekly basis. These figures emphasise the urgent need for strategic and targeted interventions to safeguard the well-being and future of our adolescent population.

Mr. Temporary Speaker, Sir, adolescents occupy a distinct phase that bridges childhood to adulthood, where they experience varying treatment as children or adults, depending on circumstances.

This is a stage that is also characterised by legal and policy ambiguities that turn out to be detrimental to adolescents. For instance, the paradox emerges from the definition of all those below 18 years as being children and encompassing adolescents who lack autonomous access to healthcare, yet they are regarded as adults when they become pregnant, even if this is just a 10-year-old.

Curiously, there is tolerance across sectors, to prohibit sex education for school children, while failing to curtail access to permissive internet and social media platforms. This leniency exposes Kenyan children to explicit content, including pornography.

Despite classifying sexual relations with children as defilement, official data that illustrates correspondence data on child abuse cases and prosecutions show that we have high number of children pregnancies, thus, undermining deterrence.

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The official data that illustrates pregnancy records is conspicuously absent, thus undermining the deterrence against defilement within families, schools and religious institutions.

Mr. Temporary Speaker, Sir, aware that adolescents encounter distinct health risks arising from social cultural factors tied to biological and emotional changes of adolescents, including substance abuse, harmful traditions like child marriages, female genital mutilation, mental health concerns, sexual reproductive health and communicable diseases such as HIV among others.

Our health system must adapt to enable accessibility to health services by adolescents. Expressing the concerns over the plight of many children, particularly girls who face defilement, rape, sexual harassment and physical abuse within their social and cultural context, these challenges can and have led to child and teenage pregnancies.

Mr. Temporary Speaker, Sir, acknowledging that adolescent health and rights intersect with various sectors, demanding collaborative efforts from Government entities such as the Education Sector, the Health Sector, the Children's Services, Social Protection, Gender, Law and Justice as well as Private Sector, Families Religious Organisations, I respectfully implore this honourable House to rise up and be the one that will truly represent the rights of adolescents; one that must hold the national and county governments accountable by requiring them to integrate the perspectives and experiences of adolescents when designing healthcare systems dedicated to their welfare.

Presently, our healthcare framework chiefly revolves around infants and adults. It does not take care of adolescents. I, therefore, call upon the Senate Standing Committee on Health to convene in recognition of the different components that comprise the health and rights of adolescents an audience with Cabinet Secretaries in charge of Health, Education, and Internal Security from the national Government and the Council of Governors, with a view to doing the following-

(1) To urgently initiate a national conversation and consultation that shall relay the development of a comprehensive national policy on adolescent health and related rights with a view-

(a) to integrate age appropriate sex education and life skills learning into the Kenyan education system, guided by science, evidence of social-cultural dynamics and the values of our Constitution;

(b) to incorporate a specialized field in adolescent medicine within the Medical Training Institutions and health care facilities, enabling professionals to focus on delivering comprehensive care tailored specifically to the unique health needs of adolescents;

(c) to revise the Kenya demographic and health survey data collection parameters to encompass data from children who have entered puberty. This adjustment is crucial in light of substantial evidence indicating a concerning number of pregnancies among children aged 10 to 14 years;

(d) to review the Universal Health Coverage and National Health Insurance Fund Regulations, to ensure adolescents access cost-free health care services, specifically,

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provision for health care menstrual related diseases like endometriosis, polycystic ovarian syndrome (PCOS), dysmenorrhea, and metrorrhagia, which is abnormal bleeding; essential health services such as HIV and STI care, fistula repair and reparative procedures for issues relating to Female Genital Mutilation; and,

(e) to initiate a review of cases involving laws relating to defilement concerning consensual sexual activity among minors.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mumma.
Proceed, Sen. Miraj.

INTRODUCTION OF DIVING AND LIFEGUARD COURSE AT BANDARI MARITIME ACADEMY

Sen. Miraj: Thank you, Mr. Temporary Speaker, Sir. I rise, pursuant to Standing Order No.53(1) to request for a Statement from the Committee on Land, Environment and Natural Resources on the introduction of diving and lifeguard courses at the Bandari Maritime Academy and other technical institutions. In the Statement, the Committee should-

(1) State measures put in place by the Government to ensure the introduction of diving and lifeguard courses at Bandari Maritime Academy and other technical institutions in Kenya that will equip the youth with skills to compete effectively in the global job market, particularly in sectors related to marine conservation, tourism, and water-based industries.

(2) Provide a timeline for the inclusion of the courses in all technical institutions, indicating how these courses will be integrated into the existing training curriculum.

(3) Shed light into the process undertaken to assess the need and demand for diving and lifeguard courses in Kenya's maritime training institutions, stating the industry stakeholders that were consulted during the assessment.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Senator.
Proceed, Sen. Montet Betty.

PLANNED IMPORTATION OF SUGAR

Sen. Montet Betty: Thank you, Mr. Temporary Speaker, Sir. I rise, pursuant to Standing Order No.53 (1), on behalf of Sen. Sifuna, to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the planned importation of sugar. In the Statement, the Committee should -

(1) State why Government-owned sugar millers, who are already staring at collapse partly due to rampant importation of cheap sugar, have been barred from the planned importation of sugar, yet their inclusion would improve their financial position.

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(2) Explain the decision of the Government to import sugar from outside the Common Market for Eastern and Southern Africa (COMESA) trading bloc, stating whether there is a shortage of sugar within the bloc, and if not, why partner States are unwilling to export the sugar to Kenya.

(3) Apprise the Senate of the measures put in place to ensure foolproof identification of the importers and proper regulation of prices to curb overexploitation of citizens.

(4) Outline measures put in place to safeguard local sugar millers, particularly from the western region sugar belt, from the effects of the importation and to return them to full productivity, noting that the livelihoods of millions of Kenyans are impacted by the importation and poor performance in the sugar industry.

PLANS BY THE GOVERNMENT TO HAND OVER THE MANAGEMENT OF NOCK TO A PRIVATE INVESTOR

Sen. Montet Betty: Mr. Temporary Speaker, Sir, I rise, pursuant to Standing Order No.53(1), on behalf of Sen. Sifuna, to seek a Statement from the Standing Committee on Energy regarding plans by the Government to hand over the management of National Oil Corporation of Kenya (NOCK) to a private investor. In the Statement, the Committee should-

(1) Clarify why a private investor has been identified to take over the management of NOCK, and if so, disclose their details.

(2) Explain the mechanism used or to be used to identify and appoint the private investor, indicating the measures put in place to safeguard the process from corruption.

(3) Inform the Senate of the entity that will determine the formula to be applied when sharing profits from NOCK between the State and the private investor.

(4) Report on a full audit of NOCK's assets and liabilities to assure the public of the true position of the corporation before the handing over.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Montet Betty. Proceed, Sen. Chute.

STATUS OF INQUIRIES BY EACC IN THE ASAL COUNTIES

Sen. Chute: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the status of inquiries by the Ethics and Anti-Corruption Commission (EACC) in the Arid and Semi-Arid Lands (ASALs) counties of Wajir, Mandera, Marsabit and Samburu. In the Statement, the Committee should-

(1) Provide per county details on the number and status of inquiries by the EACC into allegations of corruption and irregular procurement in the county governments of

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Wajir, Mandera, Marsabit and Samburu, highlighting EACC's findings in each of the inquiries.

(2) Indicate the number of cases the EACC has recommended to the Director of Public Prosecutions (DPP) for prosecution, stating how many of these were prosecuted and how many were referred back to the Commission.

(3) Report on EACC's inquiry into allegations of irregular procurement of a fire engine by Marsabit County Government, listing the quotation bids received, the winning bid and clarifying whether the County Assembly approved the procurement and whether the purchase was supported by any development partners and if so, how much they contributed.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Cherarkey.

TERRORIST ATTACKS IN KENYA

Sen. Cherarkey: Mr. Speaker, Sir, pursuant to Standing Order No.53(1), I rise to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations concerning recent terrorist attacks in several parts of Kenya. In the Statement, the Committee should -

(1) Explain the reasons for the increase in alleged terrorist attacks currently being witnessed in parts of Lamu and the North Eastern region of Kenya.

(2) State the effect of the announcement of the re-opening of the Kenya-Somali border, stating whether security agencies might have dropped guard compared to the previous state of alertness.

(3) Outline any actions taken to involve the communities affected, considering that several attacks happen in the villages, an indication that there might be criminals living among the residents.

(4) State any measures that have been taken to curb terrorism activities from spreading to other parts of the country.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Cherarkey. Proceed, Sen. Oketch Gicheru.

(Sen. Oketch Gicheru crossed the Floor without bowing to the Chair)

Sen. Oketch Gicheru, take appropriate measures to comply with the procedures of this House. You cannot cross the Floor like that, just bow. I made that direction earlier on courtesy of Sen. Cherarkey's non-compliance.

(Sen. Oketch Gicheru bowed to the Chair)

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Sen. Oketch Gicheru, as you proceed to read your Statement, you are required to bow at the Bar. So, in future, ensure that you get to the Bar.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I thank you. You know I always comply.

BOUNDARIES OF COUNTIES IN KENYA

I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the boundaries of counties in Kenya. In the Statement, the Committee should-

(1) Provide an accurate map of Kenya that delineates the boundaries of each district of Kenya established prior to 1992, clearly showing the geographical boundaries of Machakos District; and,

(2) Report on its assessment of the adherence to county boundaries in Kenya, particularly of Machakos County, highlighting any discrepancies in the extent to which counties align with the established boundaries.

Mr. Temporary Speaker, Sir, it is important to note that I am reading this on behalf of Sen. Kavindu Muthama, the Senator for Machakos County.

Thank you, Mr. Temporary Speaker, Sir.

WITHDRAWAL OF SECURITY DETAILS OF AZIMIO ONE KENYA ALLIANCE LEADERS

Sen. Cheptumo: Thank you, Mr. Temporary Speaker, Sir. I rise to give a response to a Statement sought by Sen. Madzayo on the withdrawal of security details attached to the Azimio One Kenya Alliance Leaders.

I rise pursuant to Standing Order No.56(1)(a) to respond to a Statement requested by a Senator from the Committee. Standing Order No. 53(1) of the Senate provides that a Senator may request a Statement from a committee relating to any matter under the mandate of the committee that is of countywide, inter county, national, regional or international concern.

Pursuant to this provision, at a sitting of the Senate held on Thursday, 27th July, 2023, Sen. Madzayo requested for a Statement from the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations on the withdrawal of security details attached to the Azimio One Kenya Alliance leaders.

At a sitting of the Senate held on 3rd August, 2023, the Speaker of the Senate directed that a substantive response to the Statement be submitted to the Senate before the House proceeds for recess today.

Mr. Temporary Speaker, Sir, the Committee has today received a copy of the response from the Cabinet Secretary for Interior and National Administration. It states as follows-

The principal national security is the protection against internal and external threat to Kenya's territorial integrity, sovereignty, its people, their rights, freedom, property,

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peace, stability, prosperity and other national interests. The Government respects and upholds the constitutional provisions including the freedom of association and assembly, the right to demonstrate, picket and petition.

While the Government respects the constitutional right to demonstrate, the organizers must stick to the confines of the Constitution, including and not limited to the stipulated time devoid of violence as stipulated in the Public Order Act. However, anyone planning to cause chaos, sabotage the economy and engage in lawlessness will be dealt with in accordance with the law.

Mr. Temporary Speaker, Sir, the Members of the Azimio la Umoja One Coalition engaged in an illegal demonstration across the country. More often than not, some protestors turned rioters and, in some instances, goons took advantage of the demonstrations to loot businesses and destroy both public and private business across the country.

The demonstrations led to disruption of the economy, injured and killed innocent citizens, looted private property and vandalized public property which led to massive loss in all the sectors of the economy including hotels, bars, markets, supermarkets, shops, financial institutions, schools, petrol stations. This is contrary to Section 5(8)(b) and Section 6 of the Public Order Act.

All persons including current and former political leaders and public office holders have an obligation to follow the law. The mandate of the National Police Service is to ensure protection of the lives and properties of Kenyans. The Azimio One Kenya Alliance leaders organised and engaged in illegal demonstrations which put their security details in direct conflict with the other law enforcement officers.

As a result, their security details were withdrawn since they were escorting these leaders in violation of the law and in the unlawful demonstrations.

A copy of the response from the Cabinet Secretary for Interior and National Administration is annexed to this Statement.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you very much.

Hon. Members, that brings to an end the Statements. I will allow cumulative 20 minutes for Members interested to give a few remarks on all the Statements that have been read this afternoon.

Proceed, Sen. Crystal Asige.

Sen. Crystal Asige: Thank you, Mr. Temporary Speaker, Sir for giving me the opportunity to contribute to the Statements that have been read.

Specifically, I would like to contribute to one that has been read by Sen. Mumma because it struck a chord with me. It is extremely important to look into the healthcare of adolescents in our country. I absolutely agree with the Statement because not only have I had and been apart of the stories of young people who are going through all kinds of challenges accessing healthcare through their adolescent years, but also, because I have been one of those adolescents.

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When I was young and was dealing with the declining of my eyesight when I was a teenager, I was not afforded any type of healthcare or service because, unfortunately, at the time, perhaps technology had not caught up with the condition that I now have and have acquired through that disability.

Mr. Temporary Speaker, Sir, it is extremely important not only for non-disabled adolescents but, of course, for disabled adolescents.

I have given many stories on the Floor of the House about the plight of PwDs. I would like to give one more to underscore the Statement whereby adolescents with disabilities have been removed from sex education classes because they are thought to be asexual.

They are thought to not need to understand sexual education because they have a disability. That is wrong. They also require and deserve to sit in sex education classes to be taught beside the non-disabled adolescence students, so that they are also accorded the knowledge and acquire access they need to healthcare services whatever the form.

The Statement has been read, but I would like it to be expanded if possible, because it is not just about access to physical health or sexual health. It is also about access to mental health services and that is important.

The challenges that young people are going through in 2023 are not in any shape or form the same as what we used to go through when we were adolescents or even our parents and grandparents. I wish they consider adding mental health services for young people.

We have heard in various platforms, including in news and newspapers across our counties, young people complaining about mental health challenges and having to buy and consume antidepressants at 14, 15, and 16 years. The side effects therein are unfathomable.

Mr. Temporary Speaker, Sir, you and all of us were here earlier in this sitting when a Motion was brought by the Powers and Privileges Committee. As the Sponsor of this Statement said, the people who were involved in that particular Motion are going to be affected, not just in this House but outside too. The Clerk was mentioned.

I would like to mention that Sen. Orwoba is privy to all that has been happening. We talked about the dignity of this House. We also talked about---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Crystal Asige, you will recall that that debate was adjourned. I want you to refrain from commenting on it for now.

Sen. Crystal Asige: Mr. Temporary Speaker, Sir, I am just laying a foundation. I am still talking about adolescents' care.

The Temporary Speaker (Sen. Wakili Sigei): Please, confine yourself to that bit. Do not get into the debate on the Motion that was adjourned.

Sen. Crystal Asige: We talked about the people involved in the Motion. However, we did not consider that they have also adolescents who they take care of at home. How will this news affect them now that we have opened a can of worms to the Motion?

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What I am trying to say is, some people are behind some individuals and they are young people. How will they be affected by the viral videos that may have gone round the internet? What will they say to their students in schools? That is what I mean about mental health because it is extremely important.

There was an example today. I just want to underscore and thank the owner of the Statement for bringing it to the House. However, as we look at physical healthcare and access to sexual healthcare, we need to expand and include access to mental healthcare.

The Mental Health Act was assented to and it is now law. However, we need to look into the implementation of the same Act, especially considering young people in our country. That is extremely important because the gap is too wide.

Mr. Temporary Speaker, Sir, I appreciate that this Statement has been brought. I hope that the different barriers to access to healthcare for adolescents will be addressed therein.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, I would like to comment on the Statement by Sen. Kavindu Muthama on border conflicts---

QUORUM

Sen. Oketch Gicheru: On a point of order, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No.40 read together with Standing Order No.41. I would like to seek your guidance on whether this House is properly constituted.

Mr. Temporary Speaker, Sir, as we sit here and discuss, do we have quorum to execute these matters? I request you to check.

The Temporary Speaker (Sen. Wakili Sigei): Clerk, kindly, confirm if we have the quorum.

*(The Clerk-at-the-Table consulted with the
Temporary Speaker (Sen. Wakili Sigei))*

Hon. Senators, having confirmed that we do not have the requisite quorum, I ask the Serjeant-at-Arms to ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

[The Temporary Speaker (Sen. Wakili Sigei) left the Chair]

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

The Temporary Speaker (Sen. Mumma): Hon. Senators, we now have a quorum. The Quorum Bell may stop.

Proceed, Sen. Mungatana.

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Sen. Mungatana: Madam Temporary Speaker, I was to make comments on the statement regarding boundaries that was read to us on behalf of Senator for Machakos, Sen. Kavindu Muthama.

I seek to support this Statement because we have had a lot in terms of border disputes. It is not just the question of Machakos border. The boundaries disputes must be resolved.

I am speaking with advice that there is a problem right now between the boundary of Kitui and Tana River counties. So, as the Committee looks at the issue of the boundaries of Machakos County, may they also advance their investigations to cover the disputes between Kitui and Tana River counties.

Madam Temporary Speaker, the issue that has continued to disturb us is that the colonial districts were the ones that defined the boundaries as we know them. The boundary of Tana River was well-defined by the colonialists. However, what has been happening is that the boundary on the northern side in Bura Constituency has progressively been moving backwards, eating into the land of Tana River. This has caused a lot of tension.

A few years ago, even schools were burnt down and a whole population moved away in favour of Kitui, with support of police, pushing whole populations of Tana River back into Tana River Land.

Madam Temporary Speaker, as we speak, we have the Kenya National Examinations Centres (KNEC) administered from Tana River, but we are told administratively, those schools are in Kitui. You can have voting and polling stations that are voting in Tana River, but then they have an Assistant County Commissioner (ACC) who is in Kitui County.

There is a lot of confusion in that border and much tension. The administration from both sides at the county levels have met, but this has not resolved the issues. In fact, the Regional Commissioners for North Eastern, Coast and Eastern have also met and held a meeting but still the matter has not been resolved.

In the meantime, tension is building. I want the Committee to widen their investigation not to just talk about Machakos but to go ahead and look at the boundary dispute between Tana River and Kitui counties. People have died because of this conflict and right now, nothing has been determined.

I urge the Committee to look into this because the boundary cannot be shifting to towards Bangal. It is very much interior into Tana River County yet Kitui has been pushing it.

Madam Temporary Speaker, I believe one of the fundamental steps that must be taken is that the Director of Survey from Nairobi and not surveyors of Kitui or Tana River counties should come and determine the original colonial boundary before discussions are held. Leaving things the way they are and for wananchi to quarrel is not the way governments should operate.

I thank you, Madam Temporary Speaker.

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Sen. Prof. Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker. I rise to contribute on the Statement on the importation of sugar that has been made this afternoon by the Senator of Nairobi City through nominated Sen. Syengo.

The sugar industry has suffered several challenges that have seen several attempts to privatize the many sugar factories under the Privatization Act. Only a few days ago, the President directed that some of those processes stop so that we are able to get control of our sugar industry and the sugar sector.

Madam Temporary Speaker, let me comment as a sugar cane farmer that the sugar industry is in its death-bed in this country. We can see activities both in factories like Mumias, Muhoroni and Chemelil grinding to a halt and some of our farms are under receivership.

I wish to point out the fact that the Statement sought on the importation of sugar both from the Common Market for Eastern and Southern Africa (COMESA) and non-COMESA sugar go to circulars that have been raised by the Cabinet Secretary for Agriculture, Livestock and Fisheries allowing importation.

Let me state that the importation is intended to bridge the gap so that the price of sugar can come down. I think it is an effort that we must support, as the Senate, as we improve the industry through deliberate measures of ensuring that we put in money in inputs so that the production of sugar is at a level that is manageable, so that we control prices.

As we do that, we must in the short time ensure that the citizens of this country who consume sugar are able to buy sugar from the shelves at a rate that is affordable. I know that one of the problems that the industry suffers at the moment is the lack of mature cane.

Madam Temporary Speaker, most factories in this country are unable to harvest sugarcane because farmers are unable to produce sugarcane competitively. The sugarcane in the fields is immature and harvested at 18 months. The effect of that is that the level of sucrose in the sugar does not attract competitive prices for the farmer.

The Sugar Bill, 2018, which was tabled before this House has several interesting propositions. This House should support reforms within the sugar sector so that farmers are able to put money in their pockets, which will in turn encourage them to farm sugar cane. This will prevent a situation where certain sugarcane farmers clear their crops in order to produce maize yet maize production has problems too.

Madam Temporary Speaker, I support the Statement. However, we need a deliberate balance between importation in the short term. We also need to ensure that inputs enable the sugar cane farmer to produce sugar that is competitive so that there is money in their pockets for other purposes.

The Temporary Speaker (Sen. Mumma): Sen. Methu.

Sen. Methu: Thank you, Madam Temporary Speaker. I will take a few minutes so that I allow my colleagues to also make their comments.

I rise to comment on the Statement sought by Sen. Veronica Maina on the storage of food commodities during the bumper harvest. This is a serious issue that must be

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addressed urgently. It cannot be that after every bumper harvest, the country goes into a situation where people require food relief. It is sad that even now when some places have a bumper harvest, the Government is still distributing relief food to other places within the Republic.

The country must invest solidly in our food reserve. As it is now, it is a good time in Nyandarua County that I represent in the Senate. We have harvested unprecedented quantities of potatoes, cabbages and carrots. However, it is sad that most of these commodities are perishable. Out of lack of storage for our produce, we are unable to store them for some time.

Madam Temporary Speaker, we take cognizance of the fact that the Government has done a cold-storage plant in Ol Kalou. However, it is not enough because right now, a whole sack of 50 kilograms of potatoes in Nyandarua County is retailing at Kshs1,800.

If we want to help farmers, especially those who produce perishable goods, we must invest heavily by ensuring that we prepare adequate and modern storage facilities for them to store their produce.

We are happy that the Government of the day has committed that they will provide farmers with milk coolers so that they store the milk for some time. The reason why potatoes are retailing at Kshs1,800 in Nyandarua today, is because we are unable to store and sell them when the prices are good. The farmers are left with little or no option but to sell their produce at throwaway prices.

Currently, in Nyandarua County, if a cow sees you headed to its direction carrying cabbages, it will run away because they are there in plenty. However, in a short while, two or three months down the line, the people will be waiting for relief food from the Government. Having gotten such a bumper harvest, two or three months down the line, we will be unable to feed the nation, which is a sad situation.

Madam Temporary Speaker, I support this Statement. The Ministry of Agriculture, Livestock and Fisheries must move with speed and ensure that they sort out this problem.

The Temporary Speaker (Sen. Mumma): Hon. Members, the time allocated for comments on Statements is now up. So, we will move on to the next business.

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

The Temporary Speaker (Sen. Mumma): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Madam Temporary Speaker, I am not supposed to challenge your ruling on any regard. That is not my intention. However, when the time allocated for Statements was given, which was about 20 minutes, the House was slightly scanty.

There are some Statements that were weighty and have impact on our economy. I urge, through your honour, if you could allow some more time for us to deliberate on those Statements that have weighty issues. Find it honourable to give us that time to discuss those Statements.

Thank you, Madam Temporary Speaker.

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*(The Temporary Speaker (Sen. Mumma)
consulted with the Clerks-at-the-Table)*

The Temporary Speaker (Sen. Mumma): Hon. Members, I wish to rule on this. I will allow comments for not more than two minutes for the remainder of the three Senators; Sen. Cherarkey, Sen. Mwaruma and Sen. Osotsi.

Sen. Oketch Gicheru, as you make reference to the fact that the House was empty, that is not the Chair's problem. Members ought to have been in the House because we are in session. I understand the importance of the topics. I will allow two minutes each for the three Senators that are queued.

Sen. Oketch Gicheru, you can speak after Sen. Osotsi. I will give you a chance.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. Two things on Sen. Chute's Statement on the functionality of the Ethics and Anti-Corruption Commission (EACC) and the fight against corruption in counties.

I request further that the Committee on Justice, Legal Affairs and Human Rights (JLAC) to include all counties in order to give us the status on the fight against corruption.

Secondly, Madam Temporary Speaker, I have seen the Statement by the Chairperson of the Committee on National Security and Foreign Relations on the issue of the withdrawal of security bodyguards of the Azimio Members of Parliament (MPs). I agree that when you participate in an illegal demonstration, you are not entitled to be given Government service or security.

The Cabinet Secretary for Interior and National Administration has averred in the letter and in the Statement by the Committee, that under the Public Order Act, it was not possible to allow the police to escort MPs aligned to the Azimio One Kenya Alliance to participate in an illegality. You cannot set police against each other.

Madam Temporary Speaker, I thank this Committee for coming out clearly. We have had cases where even dead bodies were being hired for public sympathy as well as those allegations of cars being shot at.

As I support this Committee's report, I also ask them to go further and investigate allegations of bodies being hired for public sympathy and the issue of cars being shot at or attempted assassinations.

Madam Temporary Speaker, we want the Committee to go further upon your directions. In summary, I agree that any person who participates in an illegal demonstration should not be allowed even an inch of a bodyguard. It would be unfair to allow somebody to go to demonstrations then give them the police officers. The same police officers will shoot at each other.

I support this Statement with the strongest arms possible.

The Temporary Speaker (Sen. Mumma): Sen. Mwaruma, please proceed.

Sen. Mwaruma: Asante Bi. Spika wa Muda kwa fursa hii uliyonipa ili kuchangia taarifa ambayo imeletwa na Senenta wa Kaunti ya Machakos, Sen. Kavindu Muthama, kuhusu mipaka kati ya kaunti mbali mbali.

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Swala la mipaka kati ya kaunti zetu ni swala nyeti. Kaunti nyingi zina utata wa mipaka. Kaunti za sasa hivi zinategemea sheria ya Mikoa na Wilaya ya mwaka wa 1992 ama *District and Provinces Act ya 1992*. Kwa sasa, kuna kaunti nyingi ambazo zina shida ya mipaka. Ukosefu wa kuelewana katika mipaka ya kaunti umeleta utovu wa usalama mara nyingi.

Kule kwetu, Kaunti ya Taita Taveta, tuna shida ya mipaka kati ya Taita Taveta na Kwale; Taita Taveta na Makueni na Taita Taveta na Kajiado. Nimeleta mara zaidi ya mia katika hili Bunge, swala la kuangazia mipaka kati ya Taita Taveta na kaunti ambazo ni jirani.

Bi. Spika wa Muda, kuna taarifa ambayo niliwasilisha mbele ya Kamati ya Ugatuzi na Mahusiano ya Serikali ambayo nafikiri tulielewana na wanakamati waite Kaunti ya Kajiado ili waje tuelewane kuhusu ule mpaka na vile walichukua shamba kule Taita Taveta. Lakini, nafikiri mkutano huo haujafanyika.

Swala la mipaka si la kupeleka kwa Kamati ya Ugatuzi na Mahusiano ya Serikali kwa sababu ni swala la mashamba. Kulingana na mimi, swala la mipaka linafaa---

(Sen. Mwaruma's microphone was switched off)

The Temporary Speaker (Sen. Mumma): Muda wako umeyoyoma lakini nitakupa nusu dakika umalizie sentensi.

Sen. Mwaruma: Swala hili linahitaji ramani au *maps*. Ningefurahia sana kama ile *Statement* yangu ingetolewa katika Kamati ya Ugatuzi na Mahusiano ya Serikali na kukabidhiwa Kamati ya Ardhi, Mazingira na Maliasili.

Mwisho kabisa, kama Bunge la Seneti, mambo ya kubadilisha mipaka iko katika Ibara ya 188 ya Katiba ambayo inapendekeza kuwe na tume ya kuangalia mipaka. Kuna sheria ambayo iko katika Seneti inaitwa *County Boundaries Bill* ambayo tunahitaji kuangazia kwa umakini na haraka ili tuangalia mipaka yote katika Jamhuri ya Kenya.

Kwa hivyo, hiyo *Bill* ipelekwe mbio iishe ili mipaka yote ya kaunti zote 47 za Kenya zipate kuangaziwa.

The Temporary Speaker (Sen. Mumma): Sen. Osotsi, please proceed.

Sen. Osotsi: Thank you Madam Temporary Speaker for the opportunity to comment on the two Statements. One is the Statement on County Boundaries and two is the Statement on sugar.

The issue of county boundaries is very emotive and requires urgent attention by this Senate. Via a Statement, it may not really give us a solution to the problem we want to address. I agree with my colleague, Sen. Mwaruma, that the Bill which is before us in Second Reading, that is the County Boundaries Bill sponsored by Sen. M. Kajwang', must be fast tracked.

I am very disappointed that this Bill keeps on appearing on the Order Paper, but on today's Order Paper, it has disappeared. I implore the Senate Business Committee to prioritise this Bill so that we actualise Article 188 of the Constitution and have this matter of boundaries resolved. For example, there is a boundary issue between my county and

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Kisumu County. These people have lived harmoniously for many years. We would like a frame work which we can address this problem.

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

[The Temporary Speaker (Sen. Wakili Sigei) resumed the Chair]

Sugar been a problem to this country. It is a problem that every successive regime has taken advantage of to allow sugar barons to make money at the expense of farmers.

(Sen. Osotsi's microphone was switched off)

The Temporary Speaker (Sen. Wakili Sigei): Give him one minute to conclude.

Sen. Osotsi: Mr. Temporary Speaker, Sir, the sugar companies have been shut down for four months at their own request. The millers made a request and the Government agreed. However, the Government refused the request by the millers that within those four months when they will be shut down because of cane shortage, they should be allowed to import sugar. The Cabinet Secretary for Agriculture and Livestock Development, in his own wisdom, decided to allow the sugar barons to instead bring in 100,000 metric tonnes of sugar.

This is going to open the gates for the sugar barons to bring in sugar meanwhile the employees of these particular companies are going to be sent home for four months. I know some of them have even done a salary cut of up to 40 per cent. Where are we heading to? If we have a scenario like this, sugar millers should be given the priority to import the sugar and not the barons who are politically connected to make money.

I support the Statements.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Oketch Gicheru, please proceed.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I rise to support the Statement by Sen. Sifuna on sugar importation. Right from the bat, I support the stoppage of importation sugar. Sometimes, people may not understand when they speak about these issues. The cane price is dependant on sugar price in this country so that, when, for instance, you have got 50 kilogrammes of sugar going for about Kshs5,700 as was in the first quarter of production, the cane price would be about Kshs4,583.

However, in this last quarter, we have seen the sugar prices of a 50 kgs bag going for about Kshs5,000 and can prices dropped to about Kshs4,200. The problem with this is that people who come from the sugar growing counties have cane in the farms but the millers, even if they take cane into their farms, because of this duty-free sugar importers and players, there is no commercial sense of crushing that cane. It becomes very difficult for those millers to convert the cane into sugar.

The relevant Committee must come up with a recommendation on how we can regulate the importation of sugar and avoid duty free sugar not only on Common Market

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for Eastern and Southern Africa (COMESA) players, but also outside because the sugarcane industry is dying. Our farmers' sugar cane is drying in the farms. The only thing that can stop it is dealing with some players who are not sugar millers and do not have out grower schemes---

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

The Temporary Speaker (Sen. Wakili Sigei): Your time is up Sen. Oketch Gicheru. However, I have added you 30 seconds.

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. The players who do not even have out grower skills are the players who are given the chance to import sugar.

If the Government of the day is serious, they should know that if you allow our millers to crush our sugarcane without protecting it, you would even make it possible to reduce the price of sugar to Kshs50. It is possible. I am a sugarcane farmer and I know. Therefore, I support that Statement.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I will allow Sen. Mandago to close on this.

Sen. Mandago: Mr. Temporary Speaker, Sir, I thank you very much for the opportunity to comment on this Statement. I rise to support the Statement on the issue of sugar in the country.

Sugarcane farmers have suffered for so many years because of the management that we have had in those sugar factories. We must also take cognizance of what the Government is doing in revamping the sugar industry in Kenya.

The Senator for Vihiga County has, unfortunately, walked out of the House, but I would have wished to inform him that already there is a Cabinet Memo that has been approved and the Government has rescinded the decision to privatize the sugar companies and has decided to pump resources to revamp these sugar factories not just in Western part of Kenya but, in all the sugar factories in this country.

We should take note that, the current importation of sugar is meant to alleviate the high prices that Kenyan citizens are facing. We should differentiate between trade and farming. However, in the future, prudent management should be included in the sugar factories that we have and even in those who are going to be involved in the importation whenever there is a shortage.

These companies and the boards of management must also tell us about this traditional ritual of closing factories for four months under the guise of renovation or some mechanical servicing of these factories in this country. How come these renovations or maintenance of factories are not done systematically so that; we do not shut all the factories at once, therefore creating a local shortage of sugar in the country?

This calls for prudence in terms of the management of these sugar factories. We are asking the boards of those sugar factories in this country to be serious about the management and also scheduling maintenance. In any case, the sugar factories we have in

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this country are not in their thousands. They are just less than 50 and they can have their caucus agree on a maintenance schedule.

Whenever they decide to maintain all the factories at once, the Government will be left with no option but to make sure that sugar is available in the country because sugar is a commodity that is consumed in every house.

I am aware that sugar has been imported outside of COMESA region, but because the Government wanted to reduce the price, there was no choice. You have to look for the cheapest sugar from anywhere in the world to make sure that ordinary Kenyans can get affordable sugar in their houses.

We urge the Cabinet Secretary for Agriculture and Livestock Development and the Kenyan National Trading Corporation that whenever they import, they should also import and make sure that the cost of---

(Sen. Mandago microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, your time is out. Thank you.

Now, Hon. Members, owing to the numbers in the House, we will defer Division on Orders No.9, 10, 11, and 12 to the next sitting.

BILLS

Second Reading

THE PROMPT PAYMENT BILL
(SENATE BILLS NO. 8 OF 2022)

(Bill deferred)

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 16 OF 2023)

(Bill deferred)

Second Reading

THE EQUALIZATION FUND (ADMINISTRATION) BILL
(SENATE BILLS NO. 14 OF 2023)

(Bill deferred)

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COMMITTEE OF THE WHOLE

THE LEARNERS WITH DISABILITIES
BILL (SENATE BILLS NO. 4 OF 2023)

(Committee of the Whole deferred)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I now want to rearrange the Order Paper so that we call out Order No.16
Clerk, call out Next Order.

MOTION

INTEGRATION OF ETHNIC MINORITIES AND
MARGINALIZED COMMUNITIES IN KENYA

AWARE THAT, Kenya is a multi-ethnic country with a rich diversity of cultures, languages, and traditions;

FURTHER AWARE THAT, ethnic minorities and marginalized communities face significant social, economic, and political challenges including discrimination, marginalization, and exclusion;

ACKNOWLEDGING THAT Articles 10 (2)b, 21(3), 27, 56, 91(1)(e), 100, 174(e), 177(1) (c), 204(3)(b), 216(4) and the Fifth Schedule to the Constitution of Kenya obligate the state to promote and protect the welfare of ethnic minorities and marginalized communities;

APPRECIATING THAT, the Government has put in place policies, legal and institutional frameworks including affirmative action programs to address the needs of other special interest groups namely children, persons with disabilities (PWDS), youth, women, and the elderly;

CONCERNED THAT, ethnic minorities and marginalized communities remain largely unaddressed through similar interventions due to the lack of an existing national policy and legislative framework;

NOW THEREFORE the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action, the National Gender and Equality Commission, and any other relevant state departments in collaboration with the Council of Governors: -

i.) Initiate measures to identify and address the specific needs and challenges faced by ethnic minorities and marginalized communities in Kenya; and

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ii.) Develop and implement national policy and legislative framework for the integration of ethnic minorities and marginalized communities in Kenya as envisaged in the Constitution of Kenya.

(Sen. Cheptumo on 2.8.2023)

*(Resumption of debate interrupted
on 2.8.2023 -Morning Sitting)*

The Temporary Speaker (Sen. Wakili Sigei): This one is a Motion that had progressed and was deferred on the 2nd August. Sen. Wamatinga had a balance of 11 minutes, but he is not in the House. Sen. Cherarkey, proceed to make your contributions.

Sen. Cherarkey: Thank you, Mr. Temporary Speaker, Sir. I want to commend Sen. Cheptumo for bringing this Motion on the issue of the integration of ethnic minorities and marginalised communities in Kenya noting that minority groups and ethnic communities have been recognised under Article 56 of the Constitution-

“The State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups– (a) participate and are represented in governance and other spheres of life;”

It takes the attention of the House and Sen. Cheptumo, the Mover of the Motion, to know that in the history of Parliament, especially the Senate in the last session, although we lost him, Sen. Victor Pregnei, was an Ogiek, the first Ogiek to be nominated by a major party then, our former party. May our colleague rest in peace.

Sen. Pregnei was nominated on the strength of Article 56 of the Constitution of Kenya but unfortunately, we always assume--- I do not have a problem with PwDs, but most of the time the huge nominations or hiring normally go to the Pw,Ds. We must also include the marginalised and the minorities in the group.

You remember, and we want to thank President His Excellency William Ruto because the other day he issued citizenship to the newest tribe in the coast, tribe No.44, if I am not wrong, in recognition of the marginalised. There are many marginalised communities; the Kalenjin, the Kikuyu, there are the Dorobos, the Sengwers and the Ogieks.

Article 56(b) of the Constitution states-

“Minorities and marginalised groups;

(b) are provided special opportunities in educational and economic fields;”

Even in Nandi County, we have two marginalised communities; the Talai and the Ogiek. The Ogiek predominantly live in Sergoit both in Nandi Hills and Tinderet Constituency. According to the Population and Housing Census of 2019, there were only 20,000 Ogieks and they live up to Bomet, Kericho, Trans Nzoia, Uasin Gishu, Baringo, Narok and Nakuru in the famous Mau Strap, which they consider their original home.

We want to challenge counties because even in Nandi County, when we did the adoption of land historical injustices of Talai, one of the recommendations that the House

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adopted then was to create affirmative appointments within the County Government of Nandi specifically for the Talai and Ogiek, to try and be in line with this. Unfortunately, the way the Nandi County Executive is constituted, there is no recognition of both the Ogiek and the Talai.

Therefore, even as we call upon the national Government to do this, we must also encourage counties to follow suit. I do not know the formation of Bomet County, maybe when you have a chance to contribute to the Motion, you can share it with the House. I also do not know if Kericho, Narok, Uasin Gishu and other counties have considered those that have those minority groups.

In Migori County, there are communities that feel they are the minority. I encourage Sen. Oketch Gicheru and the Governor (Dr.) Ochillo-Ayacko, Chairperson *Emeritus* Committee on County Public Accounts, to appoint people from minority communities to serve in the county government. This is in complying with the law.

We propose that marginalised communities should even have special opportunities and attention during hiring. We should escalate this to the ongoing recruitment in the Kenya Army, hiring in the Teachers Service Commission (TSC) and the Kenya Police, among other opportunities by national Government.

Normally, they argue that people from marginalised communities, Persons with Disabilities (PwD) and minorities are encouraged to apply. However, when it comes to the actual hiring, they do not do it.

Article 56(c) and (d) of the Constitution states that-

“The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups—

(c) Are provided special opportunities for access to employment.

(d) Develop their cultural values, languages and practices.”

I come from the Ogiek Community which has a population of 20,000. They are located in Tinderet Sub-County and consider the forest their home. They have their own practices and culture that the Constitution recognises. I do not know why they are always being evicted from forests such as the Mau Forest, yet the Ogiek Community’s natural habitat is the forest.

Mr. Temporary Speaker, Sir, I was your predecessor as the Chairperson of the Committee on Justice, Legal Affairs and Human Rights. During my time, I had the opportunity to visit Pernambuco and other four States in Brazil, to discuss the protection of the Amazon. The Amazon is facing many challenges. I saw a documentary where illegal loggers are in the Amazon Region. The Brazilian Government has allowed them to live in the forest.

We are not saying we should borrow this model for the Shamba System in Kenya. We want the Ogiek Community to be allowed to live in the forest because that is their habitat. If they are allowed to live in the forest, they will not destroy it. The people who destroy the forest are the illegal loggers. I have never met the Ogiek who consider the

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forest their home who can destroy it. One of their belief and a culture is protecting the fauna and flora.

Mr. Temporary Speaker, Sir, Article 56(e) of the Constitution states that-

“The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups—

(e) have reasonable access to water, health services and infrastructure.”

The Ogiek Community live in Serengoni, Cherondo, Tereno and Kapchanga areas in Tinderet and Kapchorua Ward. I thank this House because out of the Equalization Fund under Article 204, approximately Kshs200 million was allocated to Nandi County. I am happy a huge chunk of that money will go to Kapchorua Ward where Ogieks live; Serengoni and parts of Soba/Songor Ward.

You cannot access Kapchorua Ward by road. Nandi County Government has done nothing in Kapchorua and Soba/Songor wards where landslides are predominant. Cherondo, Kapchanga, Tereno and Kapkoros are inaccessible. There has been no affirmative action by the County Government to ensure Early Childhood Development (ECD) centres, access to water and education. However, I assure them with the passage of the Equalization Fund, they will have an opportunity. You cannot access Sirwa, Cheptabach and a majority of these people live there. This is an injustice. The Ogiek who live in Serengonik in Nandi County have not been taken care of. I have visited Cherondo, Kapchanga, part of Sirwa and Keben and the roads are in pathetic state. They do not have ECD centres or dispensaries.

As you exit to come to Kapkoros on your way to Meteitei, there is no access to a medical facility. This is a challenge to these communities and we are also violating Article 56 of the Constitution, not to mention Article 43 on the right to access to clean water and health.

Mr. Temporary Speaker, Sir, most county governments have failed in recognising the marginalised and minority communities. The resolutions of this Motion will come to the Committee that you chair. I propose that we do an audit of the recruitment in the national and county governments as stipulated under Article 56 of the Constitution. We need to do this in order to check whether the marginalised communities have access to employment opportunities.

Secondly, let us get audits from the county governments of Nandi, Nakuru, Narok, Uasin Gishu, Kericho, Baringo and Bomet on how many Ogieks have been hired. I would like to know how many ECDs, roads and schools have been constructed to address what Article 56 is talking about on access to water, health services and infrastructure. I would also want to know the data on access to power.

Mr. Temporary Speaker, Sir, let us do an audit through your Committee because that is the only way. You have presented a wonderful Petition, which I wanted to comment on. Land historical injustices did not only affect the Kipsigis Community, but it affected the Nandis as well. We have historical land injustices, especially in Nandi Hills

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and Tinderet sub counties because of the multinational tea companies. We still have a long way to go.

If I had an opportunity, I would have commented on the Petition. I commend your Committee on the report. However, we want to see such a report on the status of integration of the marginalised and minority communities, courtesy of Sen. Cheptumo. This will make them proud.

Finally, I thank the African Charter on Human and People's Rights. I know you are aware of the developments in the human rights court in the African Commission on Human and Peoples' Rights in Tanzania, because you have been strutting corridors of justice like colossus. The case resulted to reparations of the Ogiek Community. They were given a compensation of US\$847,257 individually and US\$491,295 that was given as general damage.

Mr. Temporary Speaker, Sir, this reparation case is important. You being a legal practitioner and learned scholar, when writing the report, please include the decision by this human rights court. The ruling goes ahead to state that the Ogiek should be given land demarcation and titling. They should be shown their land. If they are living in the forest, they should be *degazetted* and demarcated and be given title deeds. This was a decision of the highest human rights court.

We do not want to go to the Bangui Charter of African Human Rights Court, the United Nations (UN) or move to other international courts. This reparation to the Ogiek Community was in a case against the Kenyan Government. Your Committee could write to the Attorney General to understand what the Kenyan Government is doing to implement the decision of African Commission on Human and Peoples' Rights on the reparation case of the Ogiek. This could form a basis and give life to Article 56 on the essence and the value we are giving.

Mr. Temporary Speaker, Sir, the Ogieks in Nandi Hills and Tinderet sub-counties have been calling me day and night. They want to know if the Government is complying with the decision of the court. We need to relook at these issues.

I support this Motion. I hope when the House adopts it, Sen. Cheptumo, in your own Motion *suo moto* which the Committee can have--- This issue of minority communities is weighty. I would like to see the Njemps and Dorobo in Baringo County get opportunities. It looks like there are no minorities or marginalised communities where Sen. Methu comes from. That is where tyranny of numbers is.

With those many remarks, allow me to rest my case. I support this Motion. The best thing is for your Committee to table a progress report in Turkana County during Senate Mashinani.

I hope the secretariat and the office of the Speaker can note that because the Turkanas have also been marginalized for a very long time. We are going to hold the Senate Mashinani in Turkana. So, it is important that we try to investigate these issues, so that we can handle them at that level.

Mr. Speaker, Sir, with those very many remarks, I wish you all the best as we go for the Devolution Conference. Personally, I have nothing to celebrate about devolution

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because, so far, 10 years down the line Kenyans are still struggling to access water, good roads, Early Childhood Development Education (ECDE) and bursaries.

The only bedevilling thing to these county governments has been the exponential growth of corruption and yet the Ethics and Anti-Corruption Commission (EACC) continues to do nothing about fighting corruption in our counties. The EACC should be able to tell us in the Devolution Conference what they are doing to fix corruption in counties,

Mr. Temporary Speaker, Sir, we cannot go for the Devolution Conference when even the basics of making feeder roads is still a challenge. This includes access to water, roads and recognition of majority, minority and marginalized communities in our counties.

Every county has a marginalized or a minority community. So, we want to celebrate, but for someone like me, I would not be very keen.

With those very many remarks I support.

The Temporary Speaker (Wakili Sigei): I am sure you then cannot prosecute your point of order, Sen. Methu.

Hon. Members, there seems to be no other Member in the queue to contribute to this Motion. I, therefore, call upon the Mover to reply.

Proceed, Sen. Cheptumo.

Sen. Cheptumo: Mr. Temporary Speaker, Sir, I want to thank Members for their contributions towards this Motion. This Motion is important to this House.

This Motion will be able to take into account the interest and the welfare of more than three million Kenyans; that is the population of those Kenyans who are either marginalized or they are minorities.

As I said when I was moving this Motion, we are talking about the minorities who are spread across 26 counties in Kenya. There are 79 minorities and marginalized groups in this country giving a total of 3.3 million, which is 9.3 per cent of the population of our country.

I am happy that Sen. Cherarkey has actually confirmed that even for him to be in this House, some of those people who voted for him are these minorities. There are those minorities in his county.

Mr. Temporary Speaker, Sir, out of the 47 Senators in this House, 26 were voted in by the minorities. It is, indeed, our time. When I moved this Motion, I was able to draw the distinction between the affirmative action that has been taken by the Government on the various vulnerable groups.

We are talking about the youth, elderly, women and people with disabilities. These are the groups that is covered well under Article 27 of the Constitution. However, the only group whose needs have not been addressed is this group of the marginalized and minorities. It is now 15 years since we established devolution and whereas we have addressed all the other vulnerable groups, it is only fair that we now as a House move to look into the interests of these people.

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Mr. Temporary Speaker, Sir, the Women Enterprises Fund, the Youth Enterprises Fund, the cash transfers for the elderly, the nomination of people with disabilities even to this House, is a confirmation that the others have been taken care of through the affirmative action and yet these minorities and marginalized have not been addressed.

If this Motion is passed by this House, I will move forward even to develop a Bill to be able now to come up with the legal framework that is able to address these needs. There is a whole Ministry and department in the Office of the President in charge of these particular groups.

Mr. Temporary Speaker, Sir, the purpose of this Motion as it is well outlined is for this House to pass this Motion compelling the relevant departments and the organs in Government to come up with a legal framework. A framework that outlines what Government should do and also identify the needs of these people.

If you go to a place like Baringo today, I have about seven minority communities. We are talking about the Kikuyu community living in Eldama Ravine in two wards; the Pokot living in Tiaty Constituency and the Ilchamus who live in one ward or two in Baringo South.

Additionally, we have the small minority communities like the Kisiis, Nubians, Somalis and the other small tribes. So, you can see how complex this situation can be. It is important that we all do this.

I just want to say again that it is important to identify the needs and the challenges facing them, not only to recognize them, but identify their needs, access their needs, recognize them and mainstream them. Therefore, in employment opportunities and decision-making in those counties and that will be really good.

I wish to appeal to my colleagues, please let us pass this Motion so that we move to the next level of implementation to enable the State develop the appropriate policy framework. Finally, I will develop a law that is going to help our 9.3 per cent of our population.

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

The Temporary Speaker (Wakili Sigei): Hon. Senators, I rule pursuant to Standing Order No.84(1) that this particular Motion does not affect counties. I, therefore, put the question.

(Question put and agreed to)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, we are further reorganising the Order Paper. We will go to Order No.23. Clerk, please call it out.

MOTIONADJOURNMENT OF THE SENATE PURSUANT TO THE
APPROVED CALENDAR FOR THE 2023 SESSION

The Temporary Speaker (Sen. Wakili Sigei): Sen. Methu, proceed to move the Motion.

Sen. Methu: Mr. Temporary Speaker, Sir, I beg to move-

THAT, pursuant to Standing Order No.31(3), the Senate do adjourn until Tuesday, 5th September, 2023.

This is a Procedural Motion that we adjourn the Senate for a period of about three weeks or thereabout, so that we have time to take stock of what we have done as a Senate and also allow colleague Senators to reenergise.

This has been quite a busy session. We have dealt with quite a number of Bills and Statements. My Committee is one of the most Statements sought from and it has been quite some work.

I also sit in the County Public Accounts Committee (CPAC). We have been sitting almost every day and occasionally fatigue may set in. Therefore, this is an important period to allow all of us to recharge and reenergise.

Mr. Temporary Speaker, Sir, as we are adjourn, we are preparing for an important exercise of this House. That is the Senate Mashinani coming up in September in Turkana. We require time to prepare so that we take devolution where it is supposed to be.

We also need to share experiences. I am sure that after Turkana, we will go to many other counties. We should get the feelings of the people on the ground who we represent.

I also know that, next week, we shall be attending the Devolution Conference as we take stock of these very important aspects of governance that came with the 2010 Constitution. It was those that gave birth to this Senate and the 47 county governments. We call them 48 governments, 47 counties and one national Government, all serving the same purpose and people of Kenya.

It is fair and important that we take time to take stock of how far devolution has worked and identify the gaps that are there. I am so happy that during this Session, we had an opportunity to have a high-level meeting between the Senate and the Council of Governors (CoG) in Naivasha. This was so that, as people who are supposed to deal with representation, legislation and oversight, we can agree and understand, even from the governors' perspective on where they believe and feel that we can support the counties.

It is in one of the Sessions that we passed the Division of Revenue Bill, the Kshs385 billion. We feel very encouraged that the current administration has been able to release these monies to the counties. This is what we have been saying. That once we agree on this money, it has never and it can never be a privilege that the National Treasury sends this money in time to the counties.

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Without taking much time, I move and call upon Sen. Cheptumo to second.

Sen. Cheptumo: Mr. Temporary Speaker, Sir, I rise to second this Motion. As I do so, I inform this House how significant the Kenya Constitution, 2010 has transformed the functions of this House.

If you recall, before the 2010 Constitution, the calendar of Parliament was being controlled and managed by the National Executive. However, today, Standing Order No. 32 says-

“The Senate Business Committee shall, with the approval of the Senate, determine the calendar of the Senate”.

It is not the Executive or the President, it is the Senate itself determining its calendar. That confirming the independence of the Senate, that we can determine when to sit, to go on recess, to come back and what business to deal with.

This is a complete departure from the initial situation where the Executive would actually determine. It was the same for the date of national elections which is no longer determined by the Executive. It will now be done as per the Constitution.

Mr. Temporary Speaker, Sir, you recall, the Senate Majority Leader was able to explain and outline what we have been able to achieve in this House before this Adjournment Motion. I agree with the Mover of the Motion that we have done a lot.

There have been so many statements being sought by Members and replied to by the Standing Committees; many Bills before the House, debated, passed and others have gone to the other House for approval; Petitions before the House. All these confirm the functionality of this House.

I think this recess is justifiable because we are doing it within our powers conferred to us by our Standing Orders and the Constitution. We now prepare for the Devolution Conference, which is also another opportunity for us as a country and a House to assess how far we are with devolution. We will also engage with the Governors so that we see how we can improve devolution.

It is a justifiable Motion. I, therefore, support and second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Oketch Gicheru.

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. I understand the pressure of time on colleagues who have stretched this much to be here today knowing very well that in their minds that we are going to adjourn the House.

I stayed this long because I recognise that this is a privilege Motion. It is always a privilege for any House of Parliament to adjourn. It indicts in our minds without our permission the invitation to go and reflect on what we have achieved in this Session and how we can better go forward. That is why I appreciate my brother the Senator for Nyandarua, Sen. Methu, for pushing forward this Motion.

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This Session has been a tempestuous one because we have sitting in this House while the country has been facing many challenges. However, in the same sense, a lot of opportunities.

I have felt that in some of the deliberations we have had in this House, whether through Statements, Motions, and sometimes some serious Bills that the Movers of the Motions Sen. Methu talked well about, we have been able to engage about those challenges and opportunities.

I also want to say that as a House, we have also been tested. This is because this House sits to endorse the majoritarian element of our governance. The value that a Member of a county brings into our parliamentary arrangement in this country has more weight than the value that a Member of the National Assembly brings into the National Assembly. This is not because of any miniature element, but the representation that comes into this House recognises that there is some element of executive powers that have been devolved and decentralised to our counties for which we are asked to keep to account and to oversight.

Mr. Temporary Speaker, Sir, as we go for recess. I do not want to bore us much because I know that you have spent so much energy. I want to invite this House to go and reflect on this duty whether in law or in the DNA of the country's moral standing, the function of this House being an 'Upper' House can be elevated to that extent.

I congratulate your seat with the substantive Speaker as well as all the Members of the Speaker's Panel. I also congratulate our leaders for having led us to where we are today. I believe that there is an opportunity here as we go for these three weeks of reflection. Let us go and reflect whether this House is living up to his expectations.

There is a bigger function that I would wish as a young Senator sent from Migori and serving under that privilege of power given to me by the people of Migori, censored by the same privilege of this Motion. I believe that there are instances that we have been called into this House to speak to some serious bipartisan issues and we have not risen to the occasion from our own sides of the House. I want to see as reflect on how can we make this House better by enabling debate, deliberations and conversations not between the two Houses, but among us as Senators of Kenya. This is my single wish as we go for this particular recess.

I take this opportunity to thank the members of our administration. They have worked hard, we have learned from them and they have helped us a lot. I hope that they also take this time to re-energize and strengthen that functional unit that make this a Senate. Sometimes we say not all heroes and heroines wear hats. They make this House work.

Mr. Temporary Speaker, Sir, we thank you for staying with us this long. In the same spirit, knowing that sometimes you may be called upon to work in the Committees and even in some other functional responsibilities like the devolution Conference that the Mover talked about, in the little time you will get to rest, reenergize and reflect.

I take this opportunity to wish you well. I hope that you will come back with more energy, more passion and most of all a compassion to lead all of us.

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Thank you, Mr. Temporary Speaker, Sir, I support this Motion.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Oketch Gicheru. Proceed, Sen. Thang'wa.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, I rise to support this Motion. It is Parliamentary tradition that Parliament goes on recess occasionally. The main reason is to give the Senators an opportunity to focus on their constituencies, which are the counties and the constituents, those people who voted for us.

The other day, they started referring to me as the Leader of the majority votes. I believe in this side of Kenya Kwanza, I am the Senator who was voted for with the highest number of votes. You can imagine how big my county is. Those people who voted for me are many. I want get time within these three weeks to interact with them.

The Temporary Speaker (Sen. Sigei): Sen. Karungo, would you like to be informed by Sen. Methu?

Sen. Thang'wa: He is welcomed.

Sen. Methu: Thank you very much, Mr. Temporary Speaker, Sir. I want us to get the facts right. I would like to inform my good elder brother, Sen. Thang'wa, that while we agree that he is the Senator of the majority of votes, it is not fair for him to conclude that he leads the biggest county.

The biggest county in the 10 Mount Kenya counties is Nyandarua County. We are not as populous. However, in terms of size, we are the biggest county. I, therefore, represent the biggest county in my region.

The Temporary Speaker (Sen. Sigei): Proceed, while informed Sen. Thang'wa.

Sen. Thang'wa: Thank you, I am well informed. If you are talking about size, Nyandarua is the biggest county in the Mt. Kenya Region. However, if we are talking about people, Kiambu is the biggest county.

Mr. Temporary Speaker, Sir, when on recess, the Senators will have an opportunity to attend the Eighth Devolution Conference that will be taking place in Uasin-Gishu County in Eldoret town from 15th August 2023.

As a first born of devolution, I was voted for as an MCA in 2013, I have seen devolution grow. This is the only opportunity that we get to show case what we have done as county executives, county assemblies and legislators. We get together and discuss how far the devolution has come.

During the recess, I will have an opportunity to meet my constituents. Yesterday, the President was in my county, Kiambu County in Thika where he commissioned a water project that will serve the people of Thika, Githurai and Ruiru. He promised that he has almost Kshs400 billion that he wants to build a special economic zone in Thika Delmonte Farm. The President gave the leadership of Kiambu 14 days to solve the problem that is making the project delay. There were some issues in court and the Del Monte land.

This will give us a good opportunity and time to go and sit down and relook into this matter because we are supporting the agenda of Kenya Kwanza administration. We

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also believe these special economic zones will create jobs, not only for the people of Kiambu, but also for the people of Murang'á and Kenya at large.

Hon. Senators are also by law or Standing Orders expected to once in a while, address the county assemblies. These assemblies copied the calendars of Parliament and the Senate. However, at this particular time when we are on recess, we can engage the Members of the County Assemblies (MCAs). We are also able to form that kind of consultation so that going forward, when we come back on the 5th September, 2023, we will already have at our fingertips, what our people and our MCAs want us to do.

Mr. Temporary Speaker, Sir, I am the Chairperson of the Committee on Roads and Transportation. The other day, I was giving a report on the Floor of this House. I told the House that in August, we are going to retreat to write three reports. Those reports are on Buxton, where residents were removed from their residences in order to build affordable housing. We have another Petition about the Chiromo Crossing Bridge. We also have another Petition, where the people of Homa Bay County petitioned the Senate to follow up on an issue of a ferry.

We have concluded all these deliberations. During this time of recess, that is when we are going to retreat as a committee and when we come back, we will be able to table these reports because we do have some good news.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, are you willing to be further informed by the Senator for Nyandarua?

Sen. Thang'wa: Mr. Temporary Speaker, Sir, the Bible says that my people perish due to lack of knowledge or information. I need more information.

The Temporary Speaker (Sen. Wakili Sigei): Proceed to inform him.

Sen. Methu: Thank you, Mr. Temporary Speaker, Sir. I only needed to remind my good brother that one of the reports that we are working on is a joint report that my Committee and his Committee are dealing with. It is ready. We shall also be dealing with a Message that came from Nyandarua County Assembly on the Ndunyu Njeru-Ihithe Road and his committee has been very instrumental in that. We have done site visits with his Committee. We shall also be doing that report in addition to the three that he has mentioned.

The Temporary Speaker (Sen. Wakili Sigei): Proceed with your remarks, Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. That was good information because we work closely with the Committee on Land, Environment and Natural Resources, headed by Sen. Methu. We visited that road that is going through Aberdare Ranges, from Ndunyu Njeru in Nyandarua County, all the way to Ihithe in Tetu.

That road is going to shorten a distance of three hours by 45 minutes. You can imagine such a road connecting two counties that are food baskets of this nation and what we are going to do to in this country when it comes to food. Food prices will go down.

Mr. Temporary Speaker, Sir, the other day, I saw in the media the people of Nyandarua complaining because they have too much food and people were not buying.

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That is what we were saying as the Kenya Kwanza administration, that we want to increase food production. With these roads, they will be able to transport their produce to other counties and food will be cheaper, even here in Nairobi. No one will wear *sufurias* on their heads again.

If you ask the people of Nyandarua why they never do that, except the one person who put a *sufuria* on his head, they will tell you the *sufuria* already has *ugali* and it cannot fit on the head.

Mr. Temporary Speaker, Sir, this recess gives us a very nice opportunity to interact with our people. Yesterday was 9th August, 2023. A year ended yesterday since we were voted in. So, we have to go back to our people, give them our score card and tell them what we have been doing.

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, proceed to conclude your remarks.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir. I will conclude there. This recess gives us an opportunity to go back to our counties, give our scorecard to the people who voted for us and tell them what we have been doing.

I know the other day there was a report that showed how many times we have spoken in Parliament. We need to look into that because as much as we speak, we also have to look at substance. You may not speak a lot, but you give substance whenever you speak.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, this was a Motion that does not require putting of the question. There being no other Senator interested in contributing to this Motion, the House will adjourn.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): It is now 6.16 p.m. time to adjourn the Senate. Therefore, the Senate stands adjourned until Tuesday, 5th September, 2023 at 2.30 p.m.

The Senate rose at 6.16 p.m.

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