

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 16<sup>th</sup> March, 2023

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

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

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

Ring the Quorum Bell for another two minutes.

*(The Quorum Bell was rung)*

Serjeant-at-arms, I am informed that we do have the requisite quorum. You may stop the Quorum Bell.

#### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION OF UNIVERSITY STUDENT LEADERS FROM KISII COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon of a visiting delegation of Student Leaders from various universities in Kisii County. The delegation is in the Senate for a one-day academic exposition.

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

I will allow the Senate Majority Leader to say short welcoming remarks to the visiting students.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I join you on behalf of the Senate to welcome the visiting delegation from Kisii University.

I know a bit of history about this particular university and how they eventually became a fully chartered institution, and the journey they have had to walk as an institution.

I am proud to say that, currently, despite being young and not in the league of the older institutions of higher learning in the country; they are among those doing extremely well in terms of students' population, the courses offered and overall as an institution.

If you were to rank our public institutions especially the new ones, that are maybe 20 years and below, you will find that Kisii University ranks among the very best. Therefore, we celebrate these students that have come to the Senate on a visit.

*(Sen. Onyonka walked into the Chamber)*

I see their Senator walking in. I had taken over your duty because you are my neighbour. Kisii and Kericho are like two conjoined twins, you cannot separate them. We share so much in common. Therefore, I feel privileged to have had an opportunity. I hope they learn to the full extent of their study, the things they came to find out.

Take some time to learn about the institution. This House has no less than 10 former student leaders of various university including yours truly that are in this House. I believe even as these student leaders get to learn the ways of their country and about leadership, they will grow to become better.

I believe amongst them in the future, when senior Sen. (Dr.) Oburu and myself will have moved on to do other things, they will replace us in this House and do even greater things for this country. I welcome the team from Kisii University.

#### CHANGES IN THE LEADERSHIP OF THE MINORITY COALITION

**The Speaker** (Hon. Kingi): Hon. Senators, I have a further communication.

Hon. Senators, yesterday afternoon, the Senate Minority Leader rose on a point of order seeking that the Speaker makes a communication on changes in the leadership of the Minority Side on the grounds that the Political Parties Tribunal had made a ruling yesterday, 14<sup>th</sup> March, 2023, striking out the complaint that had been launched with it by the Senate Minority Whip on the grounds that it had no jurisdiction in the matter. The Minority Leader did not provide any evidence on such order having been made but instead alleged that the matter was in the public domain.

To this point of order, I ruled that in the same manner that I had previously withheld my Communication in response to the correspondence that the Senate Minority Leader had furnished me with after receipt of an order of the Tribunal served on my office, I could similarly only pronounce myself on the matter after receiving an order to the contrary effect. I further ruled, which is trite law, and which is in keeping with the precedents of this House, that the Chair is not to rely on rumour, hearsay or newspaper or other media accounts.

Subsequently, Senator Okongo Mogeni, SC tabled a document asserting that it was a ruling of the Tribunal in the matter. After a series of other interventions and points of order canvassed by Senators from both sides, Sen. Faki also tabled a document which he purported to be the order of the Tribunal in the matter.

Hon. Senators will appreciate that the Chair may not always be able to verify or authenticate documents laid on the Table instantly and there will be many occasions when it will be necessary that documents of significance be scrutinized and a determination be made thereafter. I, therefore, informed the House that I was retreating to my Chambers to scrutinize the documents laid on the Table and to consider the interventions canvassed.

Hon. Senators, upon arriving at my Chambers, I received from the Directorate of Legal Services of the Senate a certified copy of the ruling and the orders of the Tribunal in PPDT Complaint No.E003 of 2023: Fatuma Dullo and Jubilee Party, as first and second complainants versus Azimio la Umoja-One Kenya Coalition Party, as the respondent and Stewart Madzayo, Ledama Olekina and the Speaker of the Senate of the Republic of Kenya as the first, second and third interested parties, respectively. It is noteworthy that the ruling and the order were received by the Senate Legal team on behalf of the Speaker as the third interested party.

Hon. Senators, I have perused the document tabled by Sen. Okong'o Omogeni purporting to be the ruling of the Tribunal and the document laid on the Table by Sen. Mwinyihaji Faki purporting to be the ruling of the Tribunal against the documents of the like designation obtained by our Legal Office and I am satisfied as to their authenticity.

Hon. Senator, just walk in please.

*(Sen. Wakili Sigei walked into the Chamber)*

The ruling of the Tribunal at paragraph 15 reads as follows-

“Having found that the Tribunal lacks jurisdiction, it follows that delving into the question of the second complaints representation will be an exercise in futility. That leaves us with no option but to down our tools.”

In the disposition at paragraph 52, the Ruling is to the following effect-

In light of the foregoing, we order as follows-

- i) That the complaint and the application herein be and is hereby struck out;
- ii) Each party to bear its own costs.

The ruling is dated and delivered at Nairobi on 14<sup>th</sup> March, 2023.

The order on the other hand which is in the same terms as the ruling is issued, dated and signed at Nairobi on 15<sup>th</sup> March 2023 and is under the hand and seal of the tribunal.

Hon. Senators, you will recall that on 21<sup>st</sup> February, 2021, it was indicated from this Chair that while we were ready to deliver the ruling on the correspondence from the Senate Minority Leader on the changes made in the minority leadership, the ruling could not be delivered and had to be stayed because of the injunctive orders of the Tribunal and that the ruling from this Chair would issue as soon as the matter at the Tribunal was concluded or the orders vacated.

*(Several Senators stood at the Bar)*

Hon. Senators, kindly walk in.

*(Several Senators walked into the Chamber)*

I will repeat that last paragraph so that we maintain the flow.

Hon. Senators, you will recall that on 21<sup>st</sup> February, 2023, it was indicated from this Chair, that while we were ready to deliver the ruling on the correspondence from the Senate Minority Leader on the changes made in the Minority leadership, the ruling could not be delivered and had to be stayed because of the injunctive orders of the Tribunal and that the ruling from this Chair would issue as soon as the matter at the Tribunal was concluded or the orders are vacated.

On this particular issue, I remember quite a number of points of order were raised on whether this Senate or the Speaker should be injuncted through an order that emanated from the Tribunal.

For the record, Article 159(1) of our Constitution is very clear. It provides that-

“Judicial authority is derived from the people and vests in, and shall be exercised by the courts and tribunals established by or under this Constitution”

So, when our tribunals sits they are exercising judicial authority derived from the people. The question, therefore is, if such a tribunal sits and issues an order, do we ignore it yet they drive their authority directly from the people of Kenya? The answer is that we have to abide by that. This is because by ignoring those orders, as a Chair, I will be disobeying the judicial authority of the people of Kenya.

Hon. Senators, the matter now having been determined in the manner that I have recited above, I will proceed to deliver my ruling on the changes made on the Minority side.

Hon. Senators, as you may recall, at the sitting of the Senate held on Wednesday, 15<sup>th</sup> February, 2023, the Senate Minority Leader rose on a point of order seeking the directions of the Chair regarding a proposed change in the leadership of the Minority Party.

The Senate Minority Leader asserted that he had communicated changes in the leadership of the Minority side the previous day and was concerned that they had not been effected and communicated to the Senate.

The Senate Minority Leader, more or less, demanded that the changes be communicated at that sitting alleging that failure to do so portrayed badly on the part of the Speakership.

Arguments in similar vein were advanced by Senators Ledama Olekina and Sen. Godfrey Osotsi, who also sought the immediate Communication by the Speaker on the matter.

On the other hand, the Senate Majority Leader and the Deputy Speaker, speaking to the point of order raised by the Senate Minority Leader, urged caution, asserting that while it was the prerogative of the Senate Minority Leader to communicate changes in the leadership of the Minority side, pursuant to Standing Order No. 23 of the Senate Standing Orders, it was necessary that the Speaker be accorded time and opportunity to consider the contents of the Communication received and to make a reasoned determination on the matter.

Senator Abdul Haji, who also spoke on the matter, drew the attention of the Senate to the fact that the Jubilee Party, which is a member of the Azimio One Kenya Coalition, had written a letter to the Speaker regarding the matter on the proposed changes to the leadership of the Minority side and sought a ruling by the Speaker on the matter, having also considered the correspondence from the Jubilee Party.

Hon. Senators, by way of background, by a letter Reference SEN/SML/1/2023, dated 14<sup>th</sup> February, 2023, and received in my office on the same day, the Senate Minority Leader communicated to the Office of the Speaker the decision of a meeting of the Azimio La Umoja One Kenya Coalition Parliamentary Group meeting to make certain changes in the leadership of the Minority side.

The letter, states as follows, and I quote-

“RE: DISCHARGE OF A SENATOR FROM LEADERSHIP OFFICE

Pursuant to Standing Order No. 23(6), I hereby convey the decision of the Minority party to discharge Sen. Fatuma Dullo, CBS, MP, from the position of the Senate Minority Whip.

The decision was arrived at a meeting of the Minority party held pursuant to Standing Order No. 23(4). In the place of the Senator, Sen. Ledama Olekina, MP, was elected as the new Senate Minority Whip. Further, Sen. Edwin Sifuna, MP was elected to the position of Deputy Senate Minority Whip.

Attached herewith, please, find the minutes of the meeting at which the decision was made.”

Hon. Senators, attached to the letter were minutes of a meeting of the Azimio La Umoja One Kenya Coalition parliamentary group, indicating that the meeting was held on Tuesday, 14<sup>th</sup> February, 2023 in the Office of the Senate Minority Leader at Parliament Buildings, Nairobi, at 12.00 noon. The minutes contain the resolution of the meeting making changes in the office of the Senate Minority Whip as follows-

(i) THAT, Sen. Fatuma Dullo, MP, be removed from the position of Senate Minority Whip;

(ii) THAT, Sen. Ledama Olekina, MP be elected to the position of Senate Minority Whip; and,

(iii) THAT, Sen. Edwin Watenya Sifuna, MP, be elected to the position of Deputy Senate Minority Whip.

Further, attached to the minutes is a list and signatures of 16 Senators who were present and in support of the resolution.

Hon. Senators, subsequent to my receipt of the letter by the Minority Leader as aforesaid, I received two other letters dated 14<sup>th</sup> February, 2023 and 15<sup>th</sup> February, 2023, respectively, from Sen. Abdul Haji and Sen. Fatuma Dullo.

The letter, by Sen. Haji, Reference No. MW/ADM/2023 (23), dated 14<sup>th</sup> February, 2023 and received in my office on 15<sup>th</sup> February, 2023, is titled “Attempts to Challenge Jubilee Membership in Azimio.” In the letter, Sen. Haji sought to challenge the proposed changes in the leadership of the Minority side on the following grounds-

(i) The Jubilee Party has not formally exercised its right to exit the Azimio Coalition in accordance with Article 22 of the Azimio Coalition Agreement;

(ii)The Jubilee Party has utmost confidence in the leadership of Sen. Fatuma Dullo, CBS, MP as the Senate Minority Whip;

(iii)The Jubilee Party objected against the draconian, un-procedural and unfair attempt to remove the Jubilee Member from the Whip position by only two constituent parties of *Azimio* Coalition;

(iv)The Jubilee Party was unaware of the alleged *Azimio* la Umoja-one Kenya PG to remove Sen. Fatuma Dullo, MP as the Senate Minority Whip and consequently as Jubilee never participated in the process and that the same was therefore not duly constituted and is null and void;

(v)The position of the Senate Minority Whip is a Jubilee Party position as per the *Azimio* la Umoja-One Kenya Coalition Agreement and that any removal ought to be from the Jubilee Party in form of a letter and not from anywhere else; and,

(vi)The positions currently held by Jubilee Party in the Senate were agreed upon by the *Azimio* Coalition and that any attempts to remove any Member from any position is a violation of the coalition arrangement.

Sen. Abdul Haji signed the letter as the National Organizing Secretary of Jubilee Party.

Attached to the letter are the minutes of a meeting of Jubilee Senators stated to have been held on 14<sup>th</sup> February, 2023 at the Serena Hotel with four Senators from the Jubilee Party listed to be present and one absent with apology.

Hon. Senators, the letter, by the Senate Minority Whip, Reference No. MW/ADM/2023 (24) dated 15<sup>th</sup> February, 2023 and received in my office on the same day, is titled '*Violation of Human Rights and Unprocedural Removal of Jubilee Members from Positions*'.

In the letter, the Senate Minority Whip, Sen. Fatuma Dullo, MP, alleges, among other things, that due process was not followed in her purported removal from the office of the Minority Whip and that her human rights as provided for under Article 47 of the Constitution have been violated. She further alleged that her proposed removal from the office of the Minority Whip went against fair administrative action and was a violation of the rules of natural justice. She claims that she was never-

- (1) Given any notice whatsoever of the *Azimio* PG meeting in order to prepare;
- (2) Informed of the reason for which a charge has been brought;
- (3) Given an opportunity to hear the charge and defend against any charge that may be levelled against her;
- (4) Allowed to have legal representation; and
- (5) Given a written decision of the meeting.

The second ground is that she was elected as a leader to represent the Jubilee Party at the *Azimio* la Umoja PG meeting encompassing all the constituent partners in the Coalition and that it would be fair and procedural for any attempt to remove her to follow the same process.

The Jubilee Party and herself were not aware of the alleged *Azimio* PG meeting as the due process was not followed in the convening of the said meeting.

Thirdly, that, the Jubilee Party is still in the *Azimio* Coalition and it has not exited the Coalition.

Fourth, that, there has been unprocedural removal of Jubilee members from committees of the Senate, the most recent case being the removal of Sen. (Prof.) Margaret Kamar, MP, from the Senate Business Committee.

Fifth, that, the Jubilee Party should be recognized as the third largest party with rights similar to those enjoyed by other parties and further that the existing coalition agreement must be taken into account before any removal from office.

Hon. Senators, I am clear in my mind that at the time the Senate Minority Leader rose on a point of order to demand an immediate Communication from the Speaker on what he claimed to be a simple and straight straightforward matter, he was not aware of the foregoing correspondences which the office of the Speaker was seized of.

It cannot be gainsaid that the Office of the Speaker must accord due respect to all Senators and must, at the very least, give due consideration to any matter brought to the attention of the Speaker by any Senator. The outcome of such due consideration is, of course, a separate matter altogether.

Hon. Senators, having considered the letter of the Senate Minority Leader, the annexures thereto and the letters by Sen. Abdul Haji and Sen. Dullo, the following questions commend themselves for my determination-

- i). What is the procedure, including the timelines required of the Speaker when he receives a communication on changes in the political leadership in the Senate as contemplated in Standing Orders Nos. 22 and 23 of the Senate Standing Orders?
- ii). What options are available to the Speaker where proposed changes in the political leadership in the Senate are contested by an aggrieved political party, Senator or Senators?

Hon. Senators, on the first question, as you are aware, Part VI of the Senate Standing Orders provides for the Senate political leadership offices. In respect of the Minority Party, Standing Order No. 23(1) provides for election of Senators by the Minority Party to the offices of the Senate Minority Leader, the Deputy Senate Minority Leader, the Senate Minority Whip and the Deputy Senate Minority Whip.

Standing Order No.23 provides for the removal from office of a Senator elected to a leadership position. At paragraphs (4), (5) and (6), the Standing Order provides as follows: -

- 1) A Senator elected under paragraph (1) may be removed by a majority of the votes of all Senators belonging to the Minority Party;

Paragraph (5) provides as follows:

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

- 2) Paragraph (6) provides:

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

In the case of the removal of the Senate Minority Leader or the Deputy Senate Minority Leader, by the Senate Minority Whip; and in the case of the removal of the Senate Minority Whip or the Deputy Senate Minority Whip, by the Senate Minority Leader.

This is as far as the Standing Orders go. They neither provide for what the Speaker should do or give an indication of any timelines within which the Speaker should act. This omission may be a matter that the Senate may consider for reform in future amendments to the Standing Orders.

Nevertheless, I am convinced that this omission is not fatal and that it is open to me to draw inspiration from Article 259 (8) of the Constitution which provides that: - (that is in relation to construing the Constitution)

“If a particular time is not prescribed for performing a required act, the act shall be done without unreasonable delay and as often as the occasion arises”

Indeed, hon. Senators will recall that when the Senate Minority Leader raised this matter in the Senate on 15<sup>th</sup> February, 2023, I indicated that the Communication will be processed in the usual manner and that a Communication would be given in terms of the Standing Orders without inordinate delay.

These are no idle pronouncements. What constitutes a reasonable time must depend on the totality of the circumstances. For example, the Communication on proposed changes could be received on a Friday afternoon or during a long recess as at the end of a Session.

Clearly, the Standing Orders do not contemplate that the Speaker would communicate the said changes to the plenary on a weekend or that the Senate would be called for a special sitting for the purpose only of the Speaker communicating the changes to the plenary.

This must mean that the gaps occasioned by the Standing Orders not providing the manner, medium or timing of communication of the changes must be filled in the manner most consistent with a purposive interpretation of the Standing Orders, and that seeks to give effect to the letter and spirit of the Standing Orders rather than to defeat them.

Similarly, there can be no doubt that in giving due consideration to the communication received, the Speaker, cannot be oblivious of any correspondence pertinent to the matter that is brought to his attention.

The upshot of this is that a claim that the Speaker must forthwith upon receipt of a letter from the Senate Minority Leader, rush to the Chamber and read it to the assembled Senate is without merit and I reject it. It cannot be! The Speaker must, in each case, properly address himself to the correspondence and any accompanying annexures to satisfy himself as to compliance with Standing Order 23.

If there is any other correspondence on the matter, he must also consider it, the only caveat being that all this must be done within a reasonable time. The importance of *bona fide* Senate leadership of both sides being in place at all times cannot be gainsaid.

The lacuna in respect of the process and the timelines, notwithstanding, will find backing in Standing Order No.1 which among other things provides that in all cases where matters are not expressly provided for by the Standing Orders, any procedural question shall be decided by the Speaker whose decisions shall be based *inter alia* on the Constitution of Kenya, statute law and the usages, forms, and precedents of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

Precedent has been set on this matter where changes in the Senate political leadership were effected during the term of the 12<sup>th</sup> Parliament. The first time that this



matter was addressed by the Speaker was on the 15<sup>th</sup> and 20<sup>th</sup> of March 2018 respectively during the consideration of the proposed removal of the then Senate Minority Leader, Hon. Moses Wetangula.

On that occasion, the Speaker found that the provisions of the Standing Orders had been met in respect of the removal of Sen. Wetangula as the Senate Minority Leader but that the provisions of the Standing Orders on the election of a new Senate Minority Leader to replace him had not been met.

The Speaker, therefore, suspended the removal until and unless another Senator was elected in compliance with the Standing Orders and communication to that effect with the minutes evidencing the election was made to his office.

Hon. Senators, the prerequisite for a lawful removal of a leader as set out in the ruling of the Speaker on that occasion are that-

(1) The removal is undertaken by a majority of the Members of the Parliamentary Party as known and recognized in the Senate, in accordance with the Standing Orders.

(2) The minutes evidencing the removal are attached and the Senators who have signed up as supporting such removal are indicated in the said minutes.

(3) The removal is communicated to the Speaker by the designated office holder as provided for in the Standing Orders.

(4) The Speaker peruses and satisfies himself as to the validity, correctness of the documentation received.

(5) A new Senator replacing the removed office holder is validly elected by the recognized political party.

Hon. Senators, applying this principle, it is clear that the recognized parliamentary political parties in the Senate at this time are the Kenya Kwanza Coalition as the Majority Party and the Azimio la Umoja-One Kenya Coalition as the Minority Party.

In terms of Standing Order No.23(6), the letter by the Senate Minority Leader, communicated the decision by 16 Senators, being a majority of the Members of the minority party, to remove the Senate Minority Whip. The minutes evidencing such removal were attached, and it fell to me to ascertain whether this was in compliance with the Standing Orders.

Hon. Senators, kindly, walk in.

*(Several Senators entered the Chamber)*

Hon. Senators, I now turn to the second question; which is the question of the options available to the Speaker where the proposed changes in the political leadership in the Senate are contested by an aggrieved political party, Senator or Senators.

As stated by Speaker Lusaka in the Sen. Wetangula case-

“It cannot be gainsaid that political parties are recognized under Article 91 of the Constitution and are subject to the requirements there under. Political parties are also subject to legislations made, pursuant to Article 92 of the Constitution. In the context of the Senate, political parties have the opportunity to present themselves for recognition in the Senate, either as single political parties or as alliance or coalitions of parties operating under coalition agreements, deposited with the Registrar of Political Parties. It is their prerogative and choice. However, when they make that choice, they must abide by the consequences of that choice.

Coalitions enjoy the benefit of being a coalition, such as enhanced numbers, resulting therefrom but must similarly put up with the language that comes up with the coalition status such as decision making required under standing Order No.23.”

The meaning of this is that political parties cannot be wild creatures, roaming in the national landscape without reference to the Constitution. Similarly, it is not open to their constituent entities to approbate and reprobate in representing themselves to the Senate.

The Senate recognizes single parties presenting themselves for recognition as parliamentary parties or a number of parties presenting themselves to the Senate as a coalition enjoying parliamentary party status.

The answer to the second question, therefore, is that, it is not open to the Speaker to entertain and find valid the correspondence of a coalition on the status of its leadership and at the same time accept a contrary position on the same matter from constituent entities or individuals of the same coalition.

Hon. Senators, it is therefore my finding and I so rule, that the letter sent to me by the Senate Minority Leader, met the requirements of the Standing Orders as stipulated in Standing Order No.23 and accordingly-

(1) Sen. Fatuma Adan Dullo, CBS, MP, has been validly removed as the Senate Minority Whip;

(2) Sen. Ledama Olekina, MP, has been validly elected as the Senate Minority Whip and is now the Senate Minority Whip; and,

(3) Sen. Edwin Watanya Sifuna, MP, has been validly elected as the Deputy Senate Whip and is now the Deputy Senate Minority Whip.

I so rule.

Hon. Senators, Sen. Dullo is away on parliamentary business.

I have a directive to the Senate Minority Leader. The office that she occupied as the Senate Minority Whip contains her personal belongings. I do not expect after this ruling for the minority side to rush, break the door and remove or take away the belongings of Sen. Dullo.

You shall wait until her return. She will open that office and given time to remove her belongings. It is only after she has removed her belongings that that office will be available to be occupied by her successor. I so direct.

Let us go to the next Order.

## PAPERS LAID

### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY ENTITIES

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 16<sup>th</sup> March, 2023-

Report of the Auditor-General on the Mathira Water and Sanitation Company Ltd for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Kirinyaga County Alcoholic Drinks and Substance Abuse Control Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Receiver of Revenue – County Government of Kirinyaga for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the County Revenue Fund – County Government of Kirinyaga for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Gatanga Community Water Scheme for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Murang'a County Education Scholarship Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Nyeri County Elimu Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Nyandarua County Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Kakamega County Microfinance Corporation for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Kakamega County Maternal Child Health and Family Planning Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the County Executive of Busia for the Year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the County Assembly of Busia for the year ended 30<sup>th</sup> June, 2022.

Thank you, Mr. Speaker, Sir.

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

**The Speaker** (Hon. Kingi): Let us go to the next Order, which is Notice of Motion. If Sen. (Dr.) Murango is not here, let us go to the next Order.

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

**The Speaker** (Hon. Kingi): Hon. Senators, I will proceed to re-arrange this Order Paper, the reason being that there is a Joint Report that we need to adopt which is between us and the National Assembly who have already moved to debate and adopt it.

Before we move to Statements, we will first prosecute Order No.8 and thereafter come back to Statements.

Clerk, kindly call that Order.

## MOTION

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

THAT the Senate adopts the Report of the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the Approval Hearing for the Nominees for Appointment as Members of the National Climate Change Council laid on

the Table of the Senate on Tuesday, 14th March, 2023; and pursuant to Section 7 (4) of the Climate Change Act and Section 8 of the Public Appointments (Parliamentary Approval) Act, approves the nomination of Ms. Emily Mwendu Waita; Mr. John Kioli; and Prof. George Odera Outa for appointment as Members of the National Climate Change Council, and rejects the nomination of Ms. Umra Omar.

*(Sen. (Dr.) Lelegwe Ltumbesi on 15.3.2023)*

*(Resumption of debate interrupted on 15.3.2023)*

**The Speaker** (Hon. Kingi): Before we adjourned yesterday, Sen. Cherarkey was making his contribution and he has a balance of six minutes.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir, for this opportunity. These are my final remarks so that my colleagues can have the opportunity to contribute to this Motion.

I congratulate the Committees on Lands, Environment and Natural Resource for the National Assembly and the Senate for this Report. The clarion call of the President and one of his biggest trademark and agenda is the issue of climate action and climate change. That is where the world is.

Many Kenyans used to think that climate change was only restricted to the first world countries such as America, Europe and others. However, climate change is here with us. We are experiencing unusual long drought and famine, which was unheard of when some of us were growing up.

Therefore, it is important that the Government comes in and ensures that this Climate Change Council is in place and competent men and women are appointed to serve as members.

Rains have begun in most parts of Kenya. Where I come from in Nandi, rains began two weeks ago. In Nairobi, it rained throughout the night until this morning.

I challenge all Senators to lead by planting trees. There is nothing as beautiful as planting a tree. It can change the environment. The reason many people like to go to hotels is not because of buildings but because trees are planted there. They may be ornamental or indigenous. The beauty of trees attracts many people.

Mr. Speaker, Sir, look at Karura Forest where a number of us go to train daily trying to lose weight in order to get summer bodies - It is a big challenge. I am proud of Nandi because it is the only county that has three forests; Nandi North, Nandi South and the forest that is near Kapsabet Town.

Therefore, the clarion call of the President is that in the next 10 years, we should at least plant 15 billion trees. We are aware of the challenges of climate change. The burden of these men and women that have being approved by the House to be appointed by the President, is to take that charge and ensure they bring a link between the counties and the national Government.

As the House that protects the interests as per Article 96 of the Constitution, for devolution and counties, there will be that link between the national Government and the counties.

I have seen there is representation of the National Treasury, the Ministry of Environment, the Council of Governors (COG) where you luckily served when you were a Governor and Chair of Justice, Legal Affairs and Human Rights Committee (JLAC). I was then the Chair of the same Committee in the Senate. This will bring synergy in terms of refocussing our energies into an appropriate way of focussing on energy.

Mr. Speaker, Sir, when you go to Kericho, Nandi and Bomet counties, you find expansive farms there. We need to plant trees in those farms in order to improve on carbon credits.

When you go to Uasin Gishu County especially Moiben Sub-County where Sen. Mandago aka Jack Ma comes from, you see expansive farms. It is not Jack Ma from China but our local Jack Ma. Moiben is very expansive but you cannot see trees. It behoves such counties to come up with measures of planting trees anywhere.

Mr. Speaker, Sir, I know Nairobi has the “grabiosis” disease where most of its land has been grabbed. I challenge the Senator for Nairobi to be part of reclaiming those parcels of land and transforming them into forests which are very important.

The issue of climate and environment is at the core of our Constitution. I am happy that at this time and age, the President has taken a personal initiative. When we have the blessings of the highest office, things will move.

Mr. Speaker, Sir, today, we had those blessings when we were launching the Open Governance Partnerships (OGP). We also had blessings from your office. We thank the Secretariat and Senator colleagues who joined us led by the Senate Minority and Majority Leaders and other House leaderships and representatives. There was even secretarial and catering services.

Mr. Speaker, Sir, I am happy today because Senators had a wonderful five-star breakfast. Mr. Speaker, Sir, I think you should make it your tradition so that our loyalty is absolute. Be making sure that every morning we can have a five-star breakfast.

With those many remarks, I support this Motion and hope that we can expedite it. I congratulate the members who have been nominated and are being approved by this House

**The Speaker** (Hon. Kingi): Sen. Osotsi.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for the opportunity to also contribute to this important Motion of approval for the nomination of the members of the National Climate Change Council.

Climate change is an important topic globally because it affects all of us. Someone said yesterday that we used to think that climate change only affects western countries and America, but right now in Malawi, there is a serious problem. Over 200 people have died as a result of flooding. The other year, we had the same problem in Mozambique.

Mr. Speaker, Sir, these are the effects of climate change which are even affecting the African Continent. We need to take climate change very seriously, especially in our counties.

In my county, the Governor is an expert in climate change. He has taken positive steps putting in place serious measures on matters of carbon credit and responses to climate change.

This is an important Council which we should all support. I know one of the nominees was rejected for not meeting the requirements of this position.

This is because, the individuals who serve in this Council will be people who will be interacting with the very best people on matters of climate change in various fora globally. Therefore, we needed to take our very best personalities to address this matter of climate change.

Mr. Speaker, Sir, as we talk about climate change, we need to enhance our efforts in planting more trees across the country. This will enable us to earn more carbon credits and also mitigate the challenges of drought, climate change and food security. If we plant trees that also produce food, we will be killing several birds with one stone.

A lot of funds go to our counties on matters of climate change but we know some counties have misused these funds. I know the relevant committees are dealing with this matter. We need to get to the bottom of this matter so that whatever funding that comes to mitigate against climate change is utilized for that purpose.

We look forward to these individuals in helping this country to position herself as a country that also plays a big role in matters climate change.

Mr. Speaker with those few remarks, I support. Thank you for making that ruling. On the Minority side, we have been longing for that ruling. We will now be able to move on well as one House. I encourage that we continue with our bipartisan arrangement that we have had and position the Senate as a House of honour and dignity, so that we move forward.

I support

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

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this chance. I join the rest of my colleagues in supporting this Motion. It has been brought jointly by the Committee on Environment, Forestry and Mining of the National Assembly; and the Senate Committee on Land, Environment and Natural Resources.

This Joint Committee approved the nomination of three nominees and rejected one. It is important that as a House, we reflect on the importance of the National Climate Change Council (NCCC).

Mr. Speaker, Sir, I was woken up by a very beautiful sound this morning. It was something that we have not heard in quite a while and we were beginning to get extremely worried. Most residents of this city woke up to the sound of rain. It was pounding quite heavily and it felt extremely nice because the last few months have been extremely difficult for us, as a country.

Those of us who come from the food basket areas have been extremely worried. Going home every weekend, we would be covered in dust. Even the hard crops such as tea that hardly go dry were beginning to turn yellow. Sometimes tea bushes can stay for months without rain but still maintain its green colour.

I was increasingly getting worried and wondered what we could do. I reflected on all the conversations that we have had about climate change and getting people to socialize themselves with this concept; and the fact that our environment and the climate in general continues to change. If we do not do something as a human population, then we might turn out to be the cursed generation; the one that left the earth worse than when we found it.

Mr. Speaker, Sir, our forefathers did a better job. If you visit many counties, you will realize that we enjoy a very good tree cover courtesy of the good job that was done by our predecessors. Back when we were young and even for those who are much older,

tree planting and generally being mindful of littering the environment, is something that they were accustomed to.

Unfortunately, one of the ugliest scenes that you will see is a well cultured, properly educated, very wealthy and sometimes intelligent looking Kenyans, behaving in a stupid way when it comes to matters of environment.

Mr. Speaker, Sir, it is not unusual to drive down Kenyatta Avenue and see somebody open the window of a brand new Mercedes or Range Rover; and throw out a trash of Coca Cola can or something else. You then wonder what goes on in the minds of such people. Who do they imagine will wake up to just come and pick the trash that they have thrown out of their window?

We have become what is colloquially referred to as environmentally stupid. We do things that continue to hurt our climate but do not bother or mind. If you move around the world--- The privilege of serving as a Member of Parliament (MP) affords each one of us the chance to travel far and wide to almost every corner of the globe.

If you travel to many cities, one of the things that continues to distinguish between cities that are well planned, organized, have order and decency, is generally how they take care of the climate and environment. The policies that they espouse and the decisions that are made by the leaders, to ensure they guide and take good care of our environment---

Mr. Speaker, Sir, that is the work of this Council that we are putting together, courtesy of an Act of Parliament that we passed here in 2016. The Act established this NCCC.

I am happy, because when we had the debate on this Bill, I remember quite vividly, we said that it is good because the environment has become such a topical issue globally. We said that this Committee should be chaired by none other than the President of this country. Actually, this is one of the few functions that we assigned directly to the Office of the Deputy President. We insisted by law – and it is in this Act – that the Vice Chair of this Council is the Deputy President.

Mr. Speaker, Sir, we did this because we considered this to be an extremely important Council. This Council will generate and guide the country in making environmentally smart laws. They are responsible for putting together pieces of legislation, policies and generally guide society on how to take care of our environment.

Therefore, my wish is that this Committee settles down and get on with business. Let them begin the very beautiful exercise of ensuring that many of the decisions that we have made as a people, that continue to erode the gains that have been made--- We attend each year.

Mr. Speaker, Sir, earlier this year when we were in Sharmal Sheikh, I think Kenya was in Egypt. Kenya was among the countries that had the highest delegation of environmental contributors and activist players in that particular space. When we sat together with them most evenings, we asked them where exactly they ply their trade. This is because if there is a country that continues to have less forest cover, unfortunately, Kenya happens to be one of them and we do not have a choice. I know this for a fact having travelled far and wide across this continent,

Many people continue to argue about food prices and all these things that we do, yet we keep on forgetting that Kenya is, by and large, an arid land. Eighty-six per cent of our land is arid. The only part of our land that that has good forest cover and is fertile is

only 14 per cent. On the contrary, our neighbours like Uganda, has almost 90 per cent arable land. That is why they continue to produce food cheaply better than us.

The only way we can catch up is if we have good climate policies that can only be churned if this works. That is if this Committee settles down and does their work, as is expected of them.

Therefore, as we approve this Committee, I expect that these three Members who have been approved by both Houses will settle down quickly, fold their sleeves and begin the work that needs to be done.

Mr. Speaker, Sir, I wish to laud the efforts that have been made by the President in forming the Nairobi River Commission (NRC). It is extremely important. I saw the kind of sentiments by residents of the city and those who live further down the line such as Kitui and Makeni counties. They mentioned what they need to do.

Mr. Speaker, Sir, those of us who grew up in this city know how beautiful the Nairobi Yacht Club and Nairobi River used to be until we became what I continue to refer as environmentally stupid.

We preferred money over lives. People set up big industries, churn out profits yet they continue to litter their waste into public rivers.

We expect this council to reverse that particular trend and ensure that anybody who messes up with climate generally and the environment holistically, meet the full force of the law so that we can leave a better environment for future generations.

I do not expect less from them. This is because in this Council, we ensured that we included the Chairperson of the Council of Governors (COGs) because counties play an important role in so far as climate related policies are concerned. They make laws at the county assemblies. Governors generate policies to ensure that their counties are well taken care of. Their decisions and licenses that they continue to issue to businesses have cultures and practices that protect our climate. That is why I find it important to have the Chairperson of the CoG, at any given time, be a member of this particular Council. Therefore, we expect that they shall sit down, approve and oversee our national climate change action plan. What is it that is expected of us?

We must appreciate and laud the Ministry of Environment, Climate Change and Forestry, which at least, has scored big on the policy of planting 15 billion trees in the next 10 years. However, I bumped into the Cabinet Secretary (CS) for Environment, Climate Change and Forestry, Sen. Soipan Tuya a few days ago. I challenged her that as a Senator who leads the people of Kericho County, I expect to know what is our expected share of contribution so that I can lead the effort.

I know for a fact that if you challenge my good friend and neighbour, the Senator from Kisii County, chances are even him, he does not know what is the expectation of them despite Kisii and Kericho counties, for example, being among the counties that have above 10 per cent forest cover.

There is an expectation on our side. Is it 1, 5 or 10 million trees. I need to know so that we keep track over the period.

This campaign is not just about planting trees. It is about growing trees and ensuring that after planting them, you maintain them for the next 10 or 15 years until they become fully mature trees. That is part of the action plan.

On the scope of marketing that particular programme, I give them an A. However, I have told the CS for Environment, Climate Change and Forestry, that we expect before



this House a report that will tell us what is expected of our particular counties. That way, we can sit down with our Members of the County Assemblies (MCAs) and have a conversation about how they are going to budget. This is because to grow a tree, for example, there must be a budgetary allocation. It is not just enough to buy tree seedlings and put them on the ground. There has to be a budget for maintaining them.

We must laud the counties that have spoken about this. I have seen some plan of Nairobi City County and many other counties. We challenge ourselves so that we have a conversation about how we shall achieve the national climate action plan. Of course, I know part of the things that they need to do is also provide policy direction on research and training on climate change. This includes collection and dissemination of information relating to climate change to the relevant levels of Government; that is both county and national, including the public stakeholders.

Research is extremely important in this programme. Every time, people gather for conferences from Glasgow to London to Sharm El Sheikh in Egypt, and next year in Dubai; the world continues to churn out new research information about climate change and things that countries are doing to ensure that we protect and have a good climate in our countries.

It is important that this Council fulfils one of its key mandates in sharing and disseminating this information so that as county governments sit down to plan, they know what is expected of them.

I have told my own governor that if he is charge of a county, he is a young and well educated. However, I do not expect the business of young people setting up car washes alongside river beds and destroying the environment to continue to happen during our administration.

This is something that we see across almost all our counties. It is a reckless and unfortunate practice. This is because if you are washing cars, you are mixing oil, soap yet you know very well that downstream, there are people whose livelihood depend on the same river. Surely, what is your mind telling you?

These are the policies that you expect that will feature prominently on the information that will be disseminated to our county governments and expect them to act and ensure that we have a good platform to achieve this Marshall plan.

Finally, I know many of my colleagues wish to contribute. While reading, I must note with great impression the work that has been done by this Committee. I took time to read through the Curriculum Vitae (CV) of Madam Umra Omar to see what she studied. Unfortunately, her nomination has been rejected by this Committee. You will realize that she is a well-educated Kenyan. She has a Master's degree in Social Justice from the World Learning Institute in the United States of America (USA). She also has a Bachelor of Arts Degree in Neuroscience, Psychology from Oberlin College in Ohio. If it was Sen. Sifuna, chances, I would have said, "Ohiyo", something close to that.

This lady is well educated. It is not for want of good education that she has been rejected. However, the Committee has pointed out that her understanding of matters environment was found to be wanting.

That is what we expect of our Committees when they vet people. It is not just sufficient to say that I have gone to school. You might have gone to school, but you studied a topic that is completely unrelated to the work for which you have been nominated.

If we begin to fill up our public institutions with people that have relevant knowledge and expertise, then we shall achieve great things as a country. Therefore, I want to laud the work of this Committee.

It is unfortunate that a Kenyan has been denied an opportunity. However, not on account of the fact that she has gone to school but the fact that her experience was found to be wanting in that specific field.

I expect that in future, if she gets another public appointment in something that is related to her training, we shall expeditiously vet and approve her. Otherwise, kudos to the team that did this and ensured that as a House, we also participate in this particular exercise.

Increasingly, if you noticed from around 2015 to 2016, almost all legislative business that came to this House, so long as it made its way to the Senate and there was a process of nomination, we ensure that the vetting process was done in a bicameral manner. Unfortunately, some the vetting exercises are constitutional. Therefore, as a House, our powers are limited on what we can do but, at least, on those that are made by statute, we shall ensure that the Senate has its place, just like our colleagues in the National Assembly in vetting these nominees.

So, I appreciate our team that looked into this law that ensured the Senate participates in this extremely important programme.

I wish the nominees well as they begin their work. Of course, after this House passes their nomination.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Oburu:

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir, for this opportunity. I take this opportunity, first of all, to sincerely thank you for the ruling which you have just made on the issue of the changes on the Minority side.

I have been very uncomfortable for the last three weeks that we have had this altercation on the issue of this leadership. This is because, in my view, I thought that it was a very minor procedural issue that could not have affected our participation as much as it did.

It is unfortunate that it brought a lot of misunderstanding. Finally, we have come to a positive conclusion. I thank you for the ruling.

Mr. Speaker, Sir, having said that, I also stand to support this Motion. This is a very important Motion. It is something which is very popular in the developed world, but here in our country, people give it a second line. They put it at the back of the business, yet it is a very important council.

I remember when I was a young boy, my father who was a teacher knew the importance of planting trees. He knew the importance of trees affecting rainfall. I remember me and my young brother, Raila, used to stay in Bondo in the rural areas. Our father used to work in Kisumu, but he would give us an assignment to plant trees.

He would then come to supervise us every weekend to ensure that we not only plant trees, but we also protect them against destruction by the animals. He also made sure that we watered them so that they started growing until they reached maturity. Some of the trees we planted in the early 1950s are still there. I will take some of you who are my friends like Sen. Cheruiyot to come and see some of those big trees we planted in the early 1950s.

I live around the lake. My constituency and my county are around Lake Victoria. Lake Victoria is more or less like a rain shadow. It is a rain shadow because there is evaporation which takes place. This evaporation goes to Kericho, Kisii and Nandi Counties. They benefit from the lake, but we do not benefit from the lake because there is little rainfall around the lake. So, we are more or less a semi-arid county or our counties around the lake are more or less semi-arid.

Mr. Speaker, Sir, the best for us would have been to harvest water which comes from all our rivers. In fact, most of the rivers draining into Lake Victoria are from Kenya. They all drain coming from Nandi County, from Kericho County like the Sondu Miriu River, Nyando River, then the Nzoia River coming from those hills around Cherangany and so on. They drain not only the water, but they also go with our topsoil, which is the most fertile.

All of it goes down up to Egypt. Egypt has a big dam which is called Aswan Dam and they use our water to do irrigation, produce electricity and then grow food and export back to us. This is a very serious situation, and we hope that the Government is taking note so that some of these rivers can be dammed like the Koru-Soin Dam. Sen. Cheruiyot, please, let us work together and see that that dam is actualized so that it can produce electricity and it can also control the floods downstream.

Mr. Speaker, Sir, we cannot overemphasise the importance of climate change. Our country is experiencing a very serious drought which we have never had in the last 40 years. Personally, I only experienced this kind of drought in 1952 when I was still a small kid. This kind of drought was called *arongá* in my area.

The Government of the day does not appear to realise that we are going through a very serious situation. This country is in Intensive Care Unit (ICU). The Government of the day is behaving as if it is a normal situation. They are still using the International Monetary Fund (IMF) prescriptions which they know brought a lot of trouble for very many governments in the 1980s and in the 1990s.

Mr. Speaker, Sir, there are governments which collapsed just because of taking the IMF prescriptions which our Government is taking. There is nothing wrong with the economic theories of the IMF and the prescriptions they are giving of austerity, but those austerity measures belong to normal times. It appears that our Government is giving treatment which is for malaria and they do not realise that their patient is actually in ICU. The prescriptions which should be given should be for ICU and not for normal malaria.

I cannot overemphasise the importance of climate change. I know that during colonial times, we used to have a law or a treaty which was signed in 1927. It was abrogated, I believe, by Martha Karua when she was the Minister for Water. That means that we can now use our water and do irrigation, but we also have to continue planting trees so that we can try to mitigate what is happening in Europe.

Mr. Speaker, Sir, it is Europe and the USA which is polluting the air. That pollution which they are creating in the air is actually the one creating serious and adverse climate change which is affecting us even though we do not produce that gas as much as they do. As much as we are affected, they are also ready to compensate us through what they call the carbon trade.

Other countries are taking advantage of the carbon trade. I have not seen Kenyans or even the Government taking this trade in carbon seriously so that we can also benefit from some of the provisions which some of those very big companies emitting so

much and polluting the air heavily, pay to mitigate tree planting and other measures which we take in our developing countries.

Mr. Speaker, Sir, I would want to finish by supporting the appointment of these three Kenyans who are highly qualified. When I saw the name of Prof. Odera Outa, somebody I know very well, who is not only qualified but also committed to this matter of climate change, I tried to mirror all the rest of the appointees through Prof. Odera because, I know then there is seriousness in dealing with this issue of climate change by making this appointment.

I conclude by supporting this Motion. I thank you for the opportunity.

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

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute. I sat through the committee of vetting, and I was very impressed, as Sen. Oburu has said, by the number and the knowledge of people who---

**The Speaker** (Hon. Kingi): Sen. Wamatinga, before you proceed, kindly confirm that you are the Senator who seconded this Motion.

**Sen. Wamatinga:** Yes, I am.

**The Speaker** (Hon. Kingi): Then I am afraid you may have to yield.

Proceed, Sen. Dr. Murango.

**Sen. (Dr.) Murango:** Asante Bw. Spika kwa kunipa nafasi hii ili kuchangia Hoja hii kuhusu upanzi wa miti. Namsihi Sen. (Dr.) Oburu kwamba anapoalika marafiki wake kama Sen. Cheruiyot kuona miti waliopanda, vile vile aalike maadui wake kama mimi ili pia twende kuiona kwa sababu upanzi wa miti ni wa kila mtu.

Kubadilika kwa hali ya anga kunachangiwa pakubwa na kukosa kupanda hasa miti ya kiasili kwenye vyanzo vya maji. Sen. (Dr.) Oburu amesema kwamba maji yanaelekea kwenye Ziwa Viktoria wakati mvua inaponyesha katika nyanda za juu. Ningependa afahamu kuwa mito hiyo pia huelekeza maji yake kwenye Ziwa Viktoria. Kwa hivyo, kuna faida pande zote mbili.

Nina Hoja kuhusu upanzi wa miti. Hata hivyo, kuna aina ya miti ambayo haifai kupandwa katika maeneo ya chemichemi. Naunga mkono Hoja hii.

Mvua imeanza kunyesha. Kwa hivyo tupande miti kwa wingi ili kuhifadhi sehemu ambazo ni chemichemi ili tupate mvua ya kutosha.

Asante sana.

**The Speaker** (Hon. Kingi): Sen. Thang'wa, kindly have your seat because I want to make a communication. Hon. Senators, I will interrupt debate to make this communication then we shall resume.

*(Interruption of debate on the Motion)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM RUKANGA  
SECONDARY SCHOOL, KIRINYAGA COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation from Rukanga

Secondary School in Kirinyaga County. The delegation comprises three teachers and 44 students who are in the Senate for a one-day study tour.

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

*(Applause)*

I will allow the Senator for Kirinyaga County to make short welcoming remarks.

**Sen. (Dr.) Murango:** Mr. Speaker, Sir, I take this opportunity to welcome the visiting delegation from Rukanga Secondary School, which is found in the western part of Kirinyaga. I would like to encourage the students that as long as they see their Senator here, because I have a long story, they can also make it in life.

Gone are the days when we used to tell students that they are the leaders of tomorrow. I am ready and aware that when the time comes, I will need a leader to replace me as the Senator for Kirinyaga and even go further than I have.

Mr. Speaker, Sir, I welcome and wish them all the best. I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Onyonka and resume the debate.

*(Resumption of debate on the Motion)*

**Sen. Onyonka:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. First, I would like to welcome the young trailblazers who have come to this House from Kisii. Many of them happen to be university students who have for a long time been struggling trying to find out what to do. I am happy and I congratulate them for coming here.

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

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

At the same time, Mr. Temporary Speaker, Sir, I would like to welcome the students and teachers who have come to see what is in the Senate. I am happy that they came when we are “normal”. If they had come here two or three days ago, they would have thought that this House, or Parliament for that matter, is a place where we constantly have adversarial relationships and make noise at each other.

Mr. Temporary Speaker, Sir, I would like to contribute to this Motion for the simple reason which everybody has stated. Debate on environment is a current one. The reason for that is that if you look at what is happening, and many of my colleagues have discussed it, it has been abnormally hot for the past one month.

The rains we expected to start last month did not come. Everybody is relieved that it is now raining in Nairobi. I come from Kisii County. Normally the rains start around January to March. However, it is only last week that the rains started falling and it was exciting.

The truth is, even when we have challenges about what our environment has become, to a large extent, we need to look at the options available. What is the Government policy? I wish Sen. Cherarkey and the Senate Majority Leader were here.

As we know, most of the forest cover is found in our county governments, beginning from Kwale and Kilifi up to Taita Taveta, the Rift Valley, Nakuru, Kisii, Trans Nzoia where we have Kitale and the four counties of Nyanza. You will realize that the forest cover in Nyanza has been quite high.

In Kisii County, the forest cover is reasonably high. If you arrive in Kisii, you will be shocked because the whole place looks green. The only problem is that we have planted the wrong trees; the blue gum.

Many technocrats and experts on environmental issues have been advising people to uproot those trees and plant those that do not consume a lot of water because the blue gum has a problem. In fact, several leaders have tried to do that but they started solving this problem from the wrong end.

In Kisii, growing blue gum trees is an economic activity. It is not perceived as a forest maintenance or sustenance activity because people plant trees which take about five years to grow.

If one has about 60 trees and every tree is sold for Kshs10,000, in 10 years, they will have about Kshs600,000. That is why when you tell a Kisii to cut down blue gum trees and plant eucalyptus trees, they will tell you to go to hell.

There is a team that has been selected and I believe the names will be approved so that they are appointed. I hope they will come up with solutions that are locally based, effective and have the communities understand that even when trees provide a source of income, it is also important for them to be given an alternative as to what they can plant other than trees that they make revenue out of.

I can see the Senator for Nakuru County. If you travel to Naivasha, when you are at Kinungi all the way down past Delamere Farm up to Gilgil---

One man who probably no one would remember planted trees in that place. If you look on the left and the right side as you go down from Naivasha, there are some trees there. I do not know whether Kenyans know that the man who planted them was Kariuki Chotara.

When he was planting those trees, everybody was laughing and saying that he had probably gone crazy. They were wondering how he decided to plant the trees there.

Out of the many things that the late President Moi did that were good, he was given credit because he was an environmentalist. He is the one who encouraged Kariuki Chotara, Paul Ngei and all the older generations of politicians to plant trees in their areas. These are examples that we as a leadership can emulate.

Thirdly, my honest observation is that in Kenya, we have not done a proper audit to know which trees we need to plant in certain areas.

We need to know how long some of the trees take to grow and figure out what we are going to do.

The reason is very simple. Our spatial plans which we are supposed to have in every area whether it is every county or sub-county are not available. When we are looking at the policies on how we are going to improve the standards of our environmental development, growth, and management, we must look at the policy issues

so that we can approach our issues on global warming and environmental development in a comprehensive approach.

This approach is to make sure that we look at everything. We take the region and agree on what to do. Certain areas such as Eastern and North Eastern Kenya are very dry. Using River Tana and all the rivers that we have, I do not understand why we never plant trees and use irrigation.

We only talk about growing maize through irrigation. If look in our televisions, we will see this company drilling of water boreholes and everything. In some areas in Laikipia, Kajiado they are encouraging farmers to now grow trees because trees act as wind covers. Sometimes the wind blows off the sand and the soil.

I encourage the team that is coming to engage this House. The Senate is a House that takes care of the counties. It has the interests of counties at heart. Let us have a blueprint that interfaces with the National Assembly so that we can then come up with a strategy on how we can encourage our county governments facilitate them and give them funding because we participate in that exercise. This is so that the national Government does not come from Nairobi where the President will come and plant either 20 or 30 trees for one event which is taking place. After he leaves, nothing happens.

If you ask me today who the forest officer in Kisii County is, I do not even know. The forest office does not have the profile. Nobody has exposed them to us. I do not even think that the Governor of Kisii or even the Members of the County Assembly (MCAs) know who the forest officer is. These are things where we now need to wake up to. We will then come up with interventions so that we make sure we can change the direction our Country is taking and increase the forest cover as we have been advised to do.

Looking at United Nations Environmental Program (UNEP), we have a world organization stationed in Nairobi. I do not think that in the last three years I have seen any relationship or engagement between the national Government, county Governments, and the officials at the UNEP as to how they can help us.

Everything is usually superficial where the President maybe goes to UNEP when there is a big conference only once and that is it. Yet, this is an international environmental program agency and we hardly have any contact with them. I believe that this team that has been given this responsibility will come up, engage and make sure that we change the direction that we have been managing our forests.

Finally, I know that there has been an issue where everyone is talking about, "Oh! Now we need subjects where university students are going to have skills." The skills are to do a, b, c, d and organize. I just think that our Government needs to encourage university students to get into environmental studies which is a study that has always been despised and disregarded.

For example, the Government needs to give students bursaries and scholarships. That way many of our bright young men and women can engage in environmental studies. That will make sure we now push our country in the direction where we are responsible, know how to deal with our rivers, and where we do not politicize everything.

You notice the wonderful idea about the Mau Forest where everybody has said, "Let us keep our water towers." However, every time we discuss and agree on what we are going to do with our water towers, immediately the politics come. We then have the clan and tribal issues coming where people from Rift Valley begin to scream at each

other about why we are not going to the Mau Forest to grow maize so that we are all to grow crops or to grow all sort of things to make quick money out of it. In fact, those forests are thought to be unnecessary.

People are now beginning to realize that we must begin to look at our environment and how we manage our water towers seriously. We must begin to look at how we manage our lakes and the blue economy. How are we managing all these sectors which contribute directly to the management of our economy but at the same time the environment which is making us survive as individuals?

In conclusion, I would like to say that it is always a pleasure to remember that we had people such as the late hon. Wangari Maathai. She was one of the people in this country who was highly regarded internationally. You can see what she did.

How I wish that many of our young people, students, children, and grandchildren could take it upon themselves to make sure we maintain our environment, get the right forest cover, protect our rivers, take care of our own sustainability in general including the air.

You notice that Nairobi is reasonably not polluted. However, the rate at which we are bringing in cars--- Kenya receives about 30,000 cars every year. In the next 10 years, we will be having three million cars on the highways. What are we going to do with the pollution? How are we going to manage our pollution?

Why are we not encouraging more electrical cars to be used in Kenya? Why are continuing to use fossil fuels? We are now using petrol and diesel as if nothing is happening.

I think these are issues that the Senate and all of us in this House can sit and continue to interrogate so that we can achieve a greater purpose for our being around here.

Mr. Temporary Speaker, Sir, thank you for giving me this opportunity and taking so much time to discuss this.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Abass, you may proceed.

**Sen. Abass:** Thank you, Mr. Temporary Speaker, Sir. I also join my colleagues to support this Motion and congratulate the appointees to the Council.

As you are aware, climate change has now become a big disaster, especially in Africa. The Britons, the people who have industrialised America, Europe, and all those places where there is a much industrialization have caused a lot of havoc.

We must impress on these people that they must pay for the pollution that we are now having. The people who are suffering in Africa must be compensated for the consequences of the industrialized countries.

This country called Kenya was beautiful once upon a time. However, today it has been a land of contrast. The country does not have a beautiful environment. It used to have a lot of forests. Unfortunately, of late is being turned into a desert as a result of ongoing deforestation, and settlements due to the increase in population.

Instead of settling where settlements are, everyone is starting a new settlement, cutting trees, and deforestation is happening. It is high time that we need to control population expansion.

If you go to Europe and other places, you will see the farmlands and you will see where their towns are. There is a difference. There are places where you are not allowed



to settle. However, in Kenya today everyone is settling where he or she wants. That should be discouraged.

The big land for farming and food production is being divided into small units that are mostly unproductive. Therefore, it is high time we need to control and come up with a policy that controls land issues. Where we have a forest, it should be a forest. Where we have grazing land, it should be grazing land. Farm lands should be for farming and people should settle in different places.

Mr. Temporary Speaker, Sir, having said that, it is unfortunate that the people who are most affected are those in arid and semi-arid areas. As I talk here, it has not rained in the last five seasons in the arid areas. Ninety per cent of animals have died and this has destroyed the main source of livelihoods for pastoralists.

Today, about 10 million Kenyans have no source of income and no food security. We thank God that it has now started raining. However, all the animals died, and those people do not know where to get a source of income and food.

It is high time that the Government had a plan and programme of restocking animals because that land can only be used for livestock keeping. It is also a high time we changed our lifestyle. We need to produce food. Seventy per cent of this country is marginal land. Food production can still be done under irrigation.

Today, Saudi Arabia and Egypt are producing food in surplus. Kenya has better land and we have all the resources available. However, our priorities are upside down. We cannot rely on the Rift-Valley and the green parts of the country only to produce food for us.

It is high time we changed our policies. We need to produce food everywhere, so that this country can be food secure. As it is today, 90 per cent of Kenyans are food insecure. We have become a country that consumes. We are importing food, fruits and other commodities from our neighbors in Rwanda, Tanzania and Ethiopia, whereas this country has better environment and land. We do not have serious policies that will enforce food production. We always ask for food repeatedly every year.

Today, in this country, we have Internally Displaced Persons (IDPs). As a result of animals dying, people have been affected. They are being fed by Non-Governmental Organizations (NGOs). It is a shame to this country. We cannot afford to have our people fed by organizations every time there is drought.

It has now rained. The water is draining to seas and ocean. We now need to seriously harvest the rain water. Should the rains fail, we will have enough water in dams and reservoirs to take us through a drought.

Mr. Temporary Speaker, Sir, NCCC is new. Most of our councils and authorities that deal with climate change, are donor driven. They become moribund and useless after a short time when the donors withdraw the money. Therefore, we shall not always rely on donors. The Council should be fully funded so that it can have an impact now and in the future.

Institutions like the National Drought Management Authority (NDMA) are very important. They can help us manage drought. However, it is poorly funded. If the same Council that we are forming today will not get enough funds tomorrow, then we will have useless councils. We do not need those kinds of institutions.

Mr. Temporary Speaker, Sir, I expected the Council to have the faces of the people who are really affected by climate change. The pastoralists who have been

affected should have been part of this Council, to at least help people. They understand the effects of climate change.

The next time when this kind of appointments are being made, I expect H.E the President and whoever is concerned, to at least give consideration. People have specialized in different sectors such as food production. Therefore, forming the Council is one thing but functionality and making a difference is another thing.

The second President of this country, the late H.E. Moi, actually did a wonderful job during his tenure. We used to conserve soil and practice afforestation. As a result, I think our forest cover increased. We need that kind of public engagement. Children should be encouraged, and schools should practice afforestation, so that we can have better forest cover.

This unnecessary settlement is causing us a lot of problems. Everybody is settling wherever they want. That should not be the case. We must have collective places where people can settle and others where we can farm and produce food.

With those few remarks, I beg to support.

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

Proceed, Sen. Crystal Asige.

**Sen. Crystal Asige:** Thank you, Mr. Temporary Speaker, Sir. I am pleased that the NCCC has been constituted. I congratulate the nominees that have been appointed to work in the Council.

Everyone in this House and across the globe has acknowledged the importance of climate change action. Even though Africa emits the lowest globally emissions globally, which is about four per cent, we are the hardest hit and affected by the impacts of climate change. It is not different in Kenya. I am glad to see the Council being put together. I am sure that they are going to do fantastic work.

Mr. Temporary Speaker, Sir, I rise to partly support the Motion. The other part, for me, would be to make further considerations. I am saying this because I am seeing a concern in the country. I have read about the Council but I feel that we are leaving behind the faces that will represent the diversity of Kenya in that Council. This is similar to what Sen. Abass has just said. We are forgetting the faces that represent the diversity that is Kenya and of course the matters in the agenda therein.

In my own studies and where my interest and passion lie, I have not really heard any conversation about inclusive climate change action or justice. When I say inclusive, I mean an all-encompassing, to represent vulnerable or marginalized groups. That would include, of course, Persons with Disabilities (PWDs), children, youth, women, and other marginalized groups.

Again, I call it inclusive climate action or justice. I wish that the title would be Inclusive National Climate Change Council (INCCC), so that it is clear to Kenyans. That is important for us to be addressing.

Mr. Temporary Speaker, Sir, climate change focal points are not at all inclusive of PWDs. Neither are the strategic plans. Not only am I referring to how it will affect different types of PWDs; but also the increased impact expected across varying social categories such as gender, geography, social condition, economic status and so on. The PWDs are not reflected in policies, strategies, or national action plans on combating climate change crisis.

Sustainable settlement inclusive urbanization requires universally designed approach, now more than ever. We must accelerate investment in low carbon development, sustainable and green material. We need to think of universally designed infrastructure and housing, which includes inclusive transport and e-mobility. We should not just focus all our thoughts, energies and conversation on planting trees. That will not be a holistic way of looking at inclusive climate change justice.

Mr. Temporary Speaker, Sir, we need enhanced accessibility across the board. This must be embedded in our country if we hope to be adaptable and resilient to the effects of climate change.

Accessibility is not something we can add on or consider as half-baked option at the end of our approach and programs. We will have been over-run by events by then. Accessibility must be embedded at the conception stage.

I will give some real-life examples so that the Kenyans who are listening can relate. Let me backtrack a bit and start by saying that there is a sharp departure to the effects of climate change on the non-disabled persons and the disabled and other vulnerable groups. When drought and famine affect the non-disabled, it affects us, the disabled much more. When poor air quality affects you, it affects our health and us far more. When erratic weather patterns, deteriorating integrity of our buildings, streets and other infrastructure affect you, they affect persons with disabilities much more.

Mr. Temporary Speaker, Sir, there are reports coming from different western countries that mobility aids are affected by rising temperatures due to climate change. The deaf are reporting that hearing aids are not functioning properly or defaulting and needing repairs quickly because of climate change and high temperatures. Same for the wheelchairs and white canes like what I use here are also being affected.

Different materials cannot handle the effects of climate change and that is affecting us as persons with disabilities. Unfortunately, this is not being discussed. I will echo what Sen. Abbas has said about the Council. I have not heard that the nominees are persons with disabilities or identify with any kind of disability unless I get informed today or later on about that.

Mr. Temporary Speaker, Sir, how are these imperative, urgent issues and concerns to do with climate change going to be discussed and put forward and tabled in a progressive manner in this Council, if persons with disabilities are not at the table?

Mr. Temporary Speaker, Sir, you have heard of the famous saying which says that “if you are not at the table then you will be on the menu.” We do not want to be on the menu because we are on many menus. We are being left behind in so many other ways. We are struggling far more than any non-disabled people in this House can imagine. They see me walking in and out of this House, on television or wherever else, they get news from and they think this is the face of all persons with disabilities. No, I am one of the few who has been blessed with this opportunity and because of that, I must talk about these kinds of issues that are not being discussed at all.

Mr. Temporary Speaker, Sir, I have not heard of any groups or organizations looking deeply into disability inclusive climate change action or justice. The Paris Agreement talks about it. They spoke about it a few months ago at the Conference of the Parties of the United Nations Framework Convention on Climate Change (COP 27). There were some platforms and forums about this topic. Unfortunately, it is not mainstreamed at all.

I would like this to be considered moving forward by the Council. What are they going to be doing? What are the strategies and plans to do with climate change action that are inclusive of marginalized and disproportionately vulnerable groups in this country?

I thank you.

*(Interruption of debate on Motion)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KAAI GIRLS  
SECONDARY SCHOOL, KITUI COUNTY

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, there is a Communication from the Chair on visiting teachers and students from Kaai Girls Secondary School in Kitui County.

I would like to acknowledge the presence in the Public Gallery this afternoon, of a visiting delegation from Kaai Girls Secondary School in Mwingi West Constituency, Kitui County. The delegation comprises four teachers and 47 students who are in the Senate for a one-day study visit.

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

Thank you.

The Senate Majority Whip, will you be so kind to welcome the guests?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. It is always a pleasure to see our children come to our workplace which is also the seat of power.

As I welcome these children, I reflect on the care that we give to our children. Today, we are happy that the children of Kitui are here but yesterday, we were very sad in Kakamega. On behalf of the children of Kakamega, these children here will carry home this pain.

Two years ago, there was a stampede at the Kakamega Primary School. We lost nine girls and five little boys. We went to court to seek for some degree of compensation. You cannot believe it that after losing 14 children, the court has sat and decided that they be given a collective Kshs17.5 million. The courts, my foot!

We care about our children and we care about you, the children who have come to visit us. We will make sure that you have enough teachers and enough learning materials. We will also make sure that the challenges you are facing because of the new system of education will be addressed. It is not an easy thing and fixing it is not like instant coffee because we inherited this awful change from the 'handshake' Government. We are up to it, and we will make sure that we adjust it.

Mr. Temporary Speaker, Sir, we know your Senator is not here right now. As far as Kitui is concerned, we know how expansive it is and the Senate is doing everything to make sure that shareable revenue that goes to Kitui is expanded to meet your large population, geographical area and your harsh, almost semi-arid conditions.

You are most welcome. I love you, the children of this school, Kitui, and children of Kenya.

*(Resumption of debate on Motion)*

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

We are going to resume the debate. Sen. Thang'wa.

**Sen. Thang'wa:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion on the adoption of the report of the Joint Committee of the National Assembly Department Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the appointment as members of the National Climate Change Council laid on the Table.

As I rise to support this Motion, allow me to welcome the students who are here today, who have come to see this House and how we run this business. I want to distance myself from the comments of the Senator for Kisii County, Sen. Onyonka who welcomed the other students and told them how lucky they are for coming today because at times, we do not act normally.

Mr. Temporary Speaker, Sir, I will not speak on behalf of Sen. Onyonka but I speak on my behalf and say that I am normal and the Majority Side is also normal and we run the business of the House normally and with decorum as well.

It is good to note that for the last six years, this is the first time this Council is being formed, since the Climate Change Act was enacted. This shows that the President, William Samoei Ruto is serious about climate change matters. He has been in office for about eight months now and he has brought to this House the appointees so that they start the business of climate change and its effects.

Mr. Temporary Speaker, Sir, the other day, I saw a grandmother of about 100 years planting a blue-gum tree.

It kept me thinking; these tree takes about 15 years to mature and a granny of 100 years might not live to enjoy the shade of that tree but she planted anyway. I urge this Council to have that story as their mantra. Think of the future not of today. Think about the coming generation, the future of this nation and Africa as a whole.

Once this Council is formed, it will attract funding from different countries or donors. I know there are so many countries that are fighting climate change. We even have the Paris Accords on Climate Change that is supporting nations to fight climate change and its effects.

Mr. Temporary Speaker, Sir, this Council should come up with policies that will mitigate the effects of climate change. When we talk about climate change, the next we should mention is trees. If you remember well, the President has always had a clarion call that we should plant five billion trees within these five years that he is in office and off course, another five billion trees when we vote him in again in 2027.

However, for now, if I was to do quick mathematics, we are 50 million people in this country. That means planting 100 trees per person. If you divide 100 by five because those five billion trees are for five years, you will find out that each person only need to plant two trees per month. Everybody can be able to take care of two trees per month for the next 60 months so that we can achieve the five billion mark of trees in this country. This is as per the clarion of our President.

I have seen many people conduct tree planting exercises. They call hundreds and thousands of people who plant those trees. However, I ask myself a question, after you plant all those trees, who will be watering them? We need to redesign how we do things. Do not plant thousand trees in a day then you live them there and tomorrow they dry up. It is an exercise in futility. However, if we can take the exercise of planting trees

frequently at a minimal number of three to four per Kenyan, we will be able to achieve this.

Research is paramount when it comes to fighting climates change. When we talk about climates change, it is all about food security and off course, securing the future of our generations. We cannot talk about climate change without talking about food security. Therefore, it is good for them to research and know why do we have droughts in some areas of this nation?

They should not only research in this country. Let them go to other countries like China. The worst ever witnessed drought was in China in 1964. That is why they eat almost everything because at that time, there was no food. They could eat anything that they could come across.

There is even a joke that says, ‘the only thing that has four legs that the Chinese do not eat is a table’.

*(Laughter)*

I want them to do research and find out why China has never had drought again since 1964. Is it the variety of food? Do we interest Kenyans to add more to their diets? I am not saying that you should eat dogs, snakes and everything that is eaten over there. However, should we start a campaign to get away from *unga* and maybe go to Cassava, Sorghum or any other kind of food.

As I implore the Council, once we pass them because we are going to do, they should come up with policies that will help this nation move forward in terms of fighting climate change.

Mr. Temporary Speaker, Sir, I am a Chairman of the Committee on Roads, Transportation and Housing. We will be bringing some proposals that those who are given tenders to build our roads and affordable housing should have a segment to plant trees around those areas. If you are building a road that is 1kilometre, you plant trees on both sides of the 1kilometre road. Those are the proposals that we will present so that we can mitigate the issues of climate change.

Mr. Temporary Speaker, Sir, because of this Council, and more so, the President, this country, for the first time will host the Africa Climate Summit, in September, this year.

I urge Kenyans and especially the young people of this nation to take advantage now that we have a Council and a President who understands climate change in and out. Come up with programmes and ideas that will assist this nation to be in the global map as one of the nations that fight climate change and brings the mitigation that are required.

As I wind up, proposals are given for this Council or the nation to listen, understand and pick them from those who give them. Once this Council is formed, we should devolve its operations to the county levels all the way to the ward levels.

When we are charging land rates, if you have trees, you pay less than that person who is not planting trees. If you have a forest maybe you should not even pay because you are contributing to the low carbon rates. This is something that we need to start discussing. We should invite this Council once it is sworn in and give them all these ideas. Of course, I believe they are equal to the task and they will do what they are expected to.

With those few remarks, I support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator. Let us now listen to Sen. Okenyuri.

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir. I support this Motion on the adoption of the Report on the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the approval hearing of the nominees for appointment as Members of the National Climate Change Council.

I congratulate the nominees who made it to this Committee. Unfortunately, to the one who did not make it, I hope they consider a Member from one of those marginalized communities.

Before we go to the climate change discussion, I wish to congratulate the Kisii University Students who visited us this afternoon. I am a young person as they are. I generally think we share similar aspirations. I also wish them the very best as they anticipate to join political leadership.

As young parliamentarians, we will be looking out to mentor some of these students from the various institutions so that they are able to transit to national politics.

Moving on to the climate change discussion, currently in Kenya, the discussion is a welcome move. From the composition of this Council, it is already a sign of goodwill from the President and other Members who will be constituting that Council.

However, I would like to challenge that this discussion trickles down to the bottom level that we largely campaigned on.

Mr Temporary Speaker, Sir, when I talk about the people at the bottom of the pyramid, I am talking about rural women, school-going children, and the youth. Most of these women belong to self-help groups who majorly do table banking. Apart from the table banking, I would like to challenge our hon. Cabinet Secretary - also a woman - to ensure that as this goes down to the counties, these women will also be brought on board.

Let us have women leaders as champions of this discussion so that we can also have local women participating because the effects of climate change affects negatively and positively the women, children and young people who constitute most of the Kenyan population.

Secondly, I see that the Council will also be looking a lot on research. We have university institutions and technical training institutes. I am looking forward to this being largely involved.

Like for research, we have very many young people who are coming with a lot of innovations and information in the different areas, who should be tapped by the respective county governments that are going to adopt this.

For the school going children, I am looking forward to this being incorporated in our national curriculum so that children grow knowing that it is a responsibility to have a clean, secure environment that is safe for everyone so that the discussion is not starting when you are way older, it is starting from school.

I think it is India that has that formula of fighting the effect of climate change. Children in school are given seedlings to even go back with them to their homes and plant. So, they are planting the seedlings in school, they are also planting the seedlings at home and the effect is that parents are also able to embrace this. Once all these people are on board, I am sure then we will achieve the 15billion goal of planting trees in Kenya.

Finally, this is for the young people. Young people have very huge numbers which are able to influence, mobilize and keep those at decision-making levels accountable for their actions. I would like to urge young people that we joined these conversations so that we keep those who will be making some of these decisions on check.

Apart from keeping these people on check, we should also be able to embrace the conversation that our President has begun of participating in the planting of trees so that it is not just a discussion in Nairobi but also in Nyamasaria, Kisii and in every other part of Kenya; thereby contributing to the general goal of fighting climate change and being in a safe and secure environment.

I thank you.

**Sen. Tabitha Keroche:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion. I rise to support this Motion on the approval of the appointees of the National Climate Change Council.

I want to congratulate His Excellency the President, Dr. William Ruto and Kenya Kwanza for taking climate change very seriously. We thought climate change could not happen in an underdeveloped country; we only thought it happened in the developed world but we have experienced it and we have seen it.

I am happy that we have now appointed a committee that will take care of this climate change. However, I do not think they have much time because they should immediately come up with policies that meet international standards to seriously take care of our environment.

I come from Nakuru County where we have six rivers yet Nakuru County has no water. Nakuru County has a freshwater lake that is Lake Naivasha and around that Lake Naivasha we have our flower farms. Seventy-five per cent of the flowers that are exported from this country come from Naivasha, Nakuru County. However, although we pride ourselves as Lake Naivasha being a freshwater lake, our flower farmers have been throwing pesticides into this Lake.

This Council has come the right time when everybody needs it and the Nakuru County people need it as much as the other part of the country needs it to ensure that we save our water, lakes and rivers.

I know that when the Late Prof. Wangari Maathai got the Nobel price and she was fighting for environment, I remember some people calling her a mad woman. However, had we followed our full steps then, I am sure by now we could be priding ourselves that we have achieved something, especially with regard to planting the trees as she was advocating for and saving our rivers.

I thank you, Sen. Onyonka for reminding me about Kariuki Chotara. When Chotara was planting those trees, I think I was still in school; he did that many years ago. So, what I am trying to say is that if we start planting the trees now, I think that in the next five years or 10 years we will not be talking of the problems that we are having now.

We will also ensure that those policies that meet international standards will save our lakes. Lake Naivasha is a freshwater lake where we are supposed to get the best fish but now even as we are talking, how sure are we of that water?

We should control those flower farmers, give them those policies and ensure that they follow them so that we can protect the freshwater Lake Naivasha. We should ensure that our rivers taken care of so that they can benefit the people of Nakuru County to



ensure that we get water across the county. I support the Motion and I support the approval of those appointees so that they start doing their work and we join the rest of the world to fight climate change.

The other parts of the world have done this already, so they do not need to reinvent the wheel. They just need to take the policies that we have done and implement them here in our country. I am sure within a short while we will start seeing the changes that we have all been waiting for.

I thank you.

**Sen. Munyi Mundigi:** Ahsante Bw. Spika wa Muda. Ningependa kuunga mkono mjadala wa wale ambao wamepata kazi ya mambo ya kupanda miti na mambo ya mazingira.

Serikali iko na kibarua kikubwa sana kwa sababu tutapanda miti ambayo itatusaidia kutapata mvua na pia tutapata maji ya kukunywa.

Ningependa kushukuru Serikali ya Kenya Kwanza kwa yale wamefanya. Tunajua wale watu ambao wamechaguliwa ni watu ambao wana elimu ya juu na ni watu ambao wanajua shida ambazo tuko nazo katika nchi ya Kenya. Wakifanya kazi nzuri kwa hiki kipindi cha miaka mitano, Serikali ya Kenya Kwanza itapata nguvu ya kusema ile kazi ambayo imefanya.

Kwa sababu hapo mbeleni, kama serikali zile zingine zingekuwa zinafanya kama serikali ya Kenya Kwanza inavyofanya, kama vile kufikiria mambo ya binadamu, sisi hatungekuwa vile tulivyo.

Wiki iliyopita, tulikuwa huko kutathmini kama ndengu inawezakuwa *cash crop*. Endapo kaunti hiyo ama zingine kama Embu hazitazingatiwa, miti tutakayopanda haitakua vizuri. Kwa hivyo, tutakuwa tunafanya kazi ya bure. Tutakuwa tunatumia pesa za Serikali bila kupata mavuno mazuri.

Ningependa kuomba Serikali kwa sababu pesa nyingi zitatumika kwa wafanyikazi wao. Wizara ya Fedha na Mipango ya Maendeleo inafaa kutoa pesa kwa Wizara ya Maji, Usafi wa Mazingira na Unyunyiziaji wa Maji na zingine kama vile Wizara ya Uchimbaji wa Madini, Uchumi wa Bahari na Masuala ya Maji ili kuwezesha uchimbaji wa visima na mabwawa ya maji ambayo yatusaidia watu kutokana na athari za jua kali ili kuiwezesha miti ikue vizuri.

Kwa hivyo, naunga mkono Hoja hii na kuomba Serikali itenga pesa ili kuwezesha uchimbaji wa mabwawa ili tuwe na maji ya kunyunyizia miti na kuifanya inawiri. Hilo likifanyika, ninahakika tutafaidika.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Joe Nyutu, please proceed.

**Sen. Joe Nyutu:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to also say something regarding the appointment of these three Kenyans to the National Climate Change Council.

Mr. Temporary Speaker, Sir, allow me to first laud our President, His Excellency William Samoei Ruto, for finding it fit to ensure that we have a council, so that we can address the issue of climate change that affects every one of us.

Let me also congratulate the nominees on the approval by the National Assembly. I believe that they are going to do the job that they applied for. I also believe that they are going to give it their best. Like I said before, climate change affects each and every one of us.

Most of those who have spoken before me have talked much about planting of trees which is important. As I also join them in encouraging the planting of trees, I would like to advise our fellow Kenyans that as they plant trees, they should also think of trees that have other benefits. We should not just grow trees that only give us timber. We have, for example, macadamia trees that have an impact on our environment and the climate.

Trees also have some other benefits because we can sell products from trees. Orange trees, for example, have other benefits. I would like to encourage our people to grow them, so that we can arrest the negative impact of climate change and as well benefit from them.

Mr. Temporary Speaker, Sir, as we think about climate change, there are also some tendencies and practices by some of our people that are making rivers to dry. We know that most of our people rely on horticulture around or near rivers.

I would like to urge our people to consider leaving some space for the rivers, so that the vegetation cover near a river is not removed in the name of planting some other crops because that is causing drying up of rivers. It is important that we maintain the waterbeds.

Soil erosion is something that the late President Daniel Arap Moi dealt with at length in the 1980s. Most of the things that were being done then have been forgotten, if not abandoned altogether. Those practices should be rejuvenated or we should think about them again.

Those days you could find a lot of cutting terraces on small farms. Agricultural extension officers used to go round seeing what was being done on the farms. That is something we should go back to because it will help arrest soil erosion as it used to.

Cutting benches on our farms is also something that we should go back to. The supervision by agricultural extension officers should be reintroduced. I do not know whether they are still there.

The Chairperson of the Committee on Agriculture, Livestock and Fisheries is here. I do not know whether agricultural extension officers still serve because they are rarely seen. I believe that is something we should go back to, if we have to prevent soil erosion that has an impact on climate change.

Mr. Temporary Speaker, Sir, avoiding pollution may have been mentioned by those who spoke before me. That is also something that we should think of at length. We should address air and water pollution and pollution of any kind.

I am happy that again, His Excellency the President has found it worthwhile to form the Nairobi Rivers Commission. I trust we are heading to some good direction led by His Excellency the President. I am confident that if we plant especially trees that are beneficial, we will arrest soil erosion. There are other measures as well. I believe that those appointees are going to get some of the recommendations by this and the other House. That being the case, I trust that we will enjoy better climate in the coming days.

Mr. Temporary Speaker, Sir, I stand to support the nomination of these three Kenyans and this Motion. Thank you for the opportunity. I rest my case.

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, I have a communication to make regarding visiting teachers from Stone Town Academy in Lamu County.

*(Interruption of debate on the Motion)*

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM STONE  
TOWN ACADEMY, LAMU COUNTY

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation of 38 teachers from Stone Town Academy in Lamu County. The delegation is in the Senate for a one-day study visit.

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

I thank you.

*(Applause)*

Senator for Lamu, please proceed.

**Sen. Githuku:** Mr. Temporary Speaker, Sir, I take this opportunity to welcome the visiting delegation of teachers from Stone Town Academy.

Stone Town Academy is among the best performing private schools in Lamu County. I can confirm that in the last Kenya Certificate of Primary Education (KCPE), Stone Town Academy did well. That is why they were given an opportunity to come and benchmark here in the Senate and visit other parts of the Republic of Kenya. When they go back, I believe they will share the knowledge they would have acquired from all parts of the Republic of Kenya with the people of Lamu.

Mr. Temporary Speaker, Sir, education in Lamu County has been lagging behind for a long time. Now that I am here as the Senator for Lamu, I urge this House to make sure that we join hands so that we uplift the standard of education in Lamu County. I also thank the visiting delegation of teachers from Lamu County. I encourage other teachers from the county to emulate what the teachers of Stone Town Academy have done.

I believe that by so doing, we shall get some knowledge from other people such as the Senator of Kakamega, who is coming from a very advanced county. I believe if this delegation can make a point of visiting Kakamega County, they can learn more things and take it to the people of Lamu County.

I welcome them to the Senate and tell them that no man is limited. Today, I am the Senator and they can also decide to change their careers and come to the Senate. They are welcome. If I am the Senator of Lamu County, they can also be anything else they want to be in this Republic of Kenya.

I thank you.

*(Resumption of debate on Motion)*

**The Temporary Speaker** (Sen. Abdul Haji): Proceed, Sen. Dr. Khalwale and resume the debate.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir, for this chance. Before I commence my contribution, allow me to also acknowledge the visiting team of teachers from Lamu County.

This is indeed a very unique Council. Unlike any other councils, this one will be Chaired by the President. The Vice Chairman of this National Council on Climate Change (NCCC) will be the Deputy President and the Secretary will be the Principal Secretary (PS). That is a star team.

I support this Report, but as I do, allow me for purely personal reasons to register reservation. I have read through and I do not see why Ms. Umra Omar was denied an opportunity to serve in this Council. I know Ms. Umra Omar. She is one of the rare women; a young woman who comes from the marginalized community of the remaining Arabic community in Lamu County.

This woman is a scholar. She has taught at a university in New York in the United States of America (USA). I know her because I am a doctor. She has actually launched a safari link where she brings in doctors from the USA to come and attend to the poor in Lamu County.

If there was no other reason we would have given her a chance to serve us, she should have been allowed because of the respect of the Boni Forest. The Boni Forest contributes in positive climate change.

I appeal to colleagues, Senators and younger brothers in the National Assembly, that when we are vetting we should always think slightly beyond just the name you know. I can see in this vetting Report that she was challenged when she was asked about carbon credit.

Obviously, knowing who she is - she is very honest - she said it was part of the learning curve, which is not a big deal. I dare say that even in this Parliament, we might have a small percentage of people are not too clear about what carbon trading is because this is a new thing.

Having registered my reservation, I support this and inform the country that this issue of negative climate is so dangerous. You will have seen that this year Kenya has been slightly hotter. For the first time in Kakamega County, where we normally enjoy temperatures of almost between three and eight degrees centigrade, the temperatures rose to 34 degrees centigrade. This is the effect of climate change.

If you do not address climate change, be prepared to have a hotter world, floods, storms and loss of species of animals. It goes without saying that during the current drought, where we are forced to feed wildlife and take water to them, a number of other species have also been lost.

As a doctor, I can confirm that with climate change, you expose our people more to health risks and this is why the country should stand behind this Council.

The issue of afforestation is at the core of what we are talking about. I was pleased that the United Nations Development Programme (UNDP) came to Kakamega County and launched an electric perimeter fence for 117 kilometers around the Kakamega Forest. It being the last remaining tropical forest in Kenya, only to be found in the Democratic Republic of Congo (DRC).

I must laud the UNDP and the Government of Japan, which was the lead nation in these fencing projects in Kakamega County. As I thank them, I want to appeal as I mentioned in passing yesterday when I was commenting on a Statement sought by the Senator for Vihiga County, that the Cabinet Secretary (CS) for Environment and Forestry should also encourage and reward communities that live with these forests.

We know that in excess of 2000 youth will be employed as forests reservists. I would be happy if a small percentage of these were reserved for youth from those communities that have preserved the forests. In mind, I have the youth who should be given affirmative action to be given those jobs because they know how to live with those forests as it is. They should give it to the youth in Lamu County for Boni Forest, those from Kakamega County for Kakamega Forest, Vihiga County for Kaimosi Forest, Nandi County for Nandi Forest, Bungoma County for the Mt. Elgon Forest and youth from the Mau area for the Mau Forest.

Speaking of the Mau Forest, I remember when I was serving as the Assistant Minister under the late President Mwai Kibaki, I was working in Arusha. There was a day when we got a breakthrough. The country had been under a lot of tension because of the Mau inversion by local communities. The President announced that we would plant trees in the Mau Forest.

Many people feared to go because of the expected violence from the youth. I am proud that I drove from Arusha at 2.00 a.m., so as to be in Nairobi City County in the morning and onward to Mau Forest to lead the team of courageous Kenyans who refused to fear the youth. We went and replanted the Mau Forest.

Having done this, I reflect on the issue of the conflict between those forests and people living there. I know there are those that believe in plantation forests and those who believe in the so-called *shamba* system.

Mr. Temporary Speaker, I discourage them on both. The *shamba* system is dangerous because you allow people to plant food crops in the forest and take care of seedlings at the same time. Usually, they will plant the seedlings and food. However, Kenyans are Kenyans and when you are poor, you have to devise survival tactics. During harvest, they destroy those seedlings, so that they continue planting food crops in those *shambas* year in, year out.

We should be against plantation forests. I have done my audit and realized that the majority of plantation forests in this country are because of the cypress and eucalyptus trees. Those two trees were never meant for Kenya or Africa in general. They were imported into our Continent. If you come from anywhere you have seen a plantation forest of cyprus, walk in there. It is such a harsh species of plant that does not allow other plant to grow underneath. When you bring it down, it leaves the entire area bare.

On the other hand, eucalyptus is so harsh that it takes all the water. When you plant it, the other plants find it difficult to grow long roots enough to get that water. The third disadvantage of plantation forest is that when you allow harvesting, then the people who harvest take advantage to stray into the natural species.

For example, in Kakamega Forest, there was a misadventure of allowing a small section of the forest to have cypress trees, which are usually up for harvest on a regular basis. When these people come to harvest – because they have been allowed to enter the forest with their power saws – they stray into the natural forest and bring down the age-old Mtukuyu. In English, it is called the Elgon Teak. This is a tree that grows for hundreds of years before it reaches the kind of heights we have.

I want to invite colleagues, Members of Parliament (MPs), for a nature trail in Kakamega Forest. It is the kind of beauty that you have never seen. I know not many of you have seen a single tree that is over a 100 metres. This means that if you cut it, the cut

side will be on one end of a football pitch and the end of a tree top will be on the other end of the football pitch. It is beautiful.

The memorable photo I have on my phone is one such tree, which my father planted for me 25 years ago when I was setting up my home. Today, that tree now sits at 55 meters and towers in my home. Colleagues, you are welcome for a plate of ugali and *murenda* in my home. I challenge you if you have such a tree in your home, I surrender my salary for this month to you. It is beautiful. This is what nature is.

Having said that, I have the length and breadth of this Republic of Kenya. Without belittling any community, I want to tell you the story of my community. I do not know who taught my community, but they believe in forests. An ordinary home is not a home unless there are trees in the homestead.

However, if you go to many parts of this country, homesteads are just bare. There are no trees there. In fact, any little remnants of trees that were there are brought down, so that the home is – I do not know – made clear or what. I have gone to these kinds of homes.

We must teach our people more about agroforestry, since we have shortage of land and we want to improve our forest cover. Part of the reason we have nine months of rain per year in Kakamega County is agroforestry. It is doable in Samburu County. The trees then create a cycle and cause the rain. Therefore, the rain will always be there and drought is a foreign thing. You can imagine that in a year, we have nine months of rain at the very minimum.

I wish to end my contribution by remembering my former colleague in this House, Prof. Wangari Maathai. She was a great woman. When she ran for President in 1997, my brother, colleague and friend, Michael Kijana Wamalwa, was also running for President. If it had not been for the contradiction that a personal friend and mentor was running for President, I would have voted for Prof. Maathai.

She singlehandedly fought Moi. Moi was busy hiving off sections of forest land. I do not know whether you know, but if you go to the Mau, I see some of Moi's children speak and I say: "You cannot address me." Mau is beautiful and if you go to the heart, you find that the father just hived off hundreds of acres and planted tea.

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

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

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

**Sen. (Dr.) Khalwale:** If your point of order is challenging me on that one, I can substantiate many times.

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

*(Laughter)*

**Sen. Mandago:** Mr. Temporary Speaker, Sir, the Senator for Kakamega County knows very well why I am rising on a point of order. Is it in order for the Senator for Kakamega County, to discuss the late President, who cannot be summoned to this House to defend himself?

**The Temporary Speaker** (Sen. Wakili Sigei): Senator for Kakamega County, you are out of order. Just conclude your submission.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, if you were to allow me, I could vary the contribution, so that it sits pretty with my younger brother and Senator for Uasin Gishu County. However, since we want to keep track, you have heard me. I do not know whether it is the DNA in him or the correctness or wrongness of what I have said, that is guiding him.

I was giving that example because in the fullness of time, if we really believe in this Republic, one day, we will have to discuss historical injustices including unjustified wealth. I am not going to mention any names. May all those people in this country who used their high office to unjustifiably enrich themselves and their families, know that one day, that conversation will take place. There is no way, Sen. Okiya Omtatah, you can justify how one family can have land ownership which is equivalent to the entire Nyanza and Western Provinces put together. Not just that, but prime land.

This is the unjustifiable wealth that we are talking about. We have nothing against anybody. I believe in property ownership, in fact, a lot of property so long as you sweat for it.

Mr. Temporary Speaker, Sir, I have been following your history long before you came here. I see how hard you have worked in your legal practice. I know you sweated for the little money that brought you here. You spoke English in the Magistrates' Courts; the High Courts; the Court of Appeal; and even addressed the Supreme Court, up to and including on Presidential petitions. That is the prototype of a leader that we want to teach our children. A prototype of a leader like the 'bull-fighter,' who brought himself to this Parliament using the proceeds of my medical practice. We want our children to know that there is decency in politics, so that they do not think that for you to fund your things, you have to plunder public resources.

Mr. Temporary Speaker, Sir, with those many remarks, I thank you and apologize to the family of former President Moi, if they felt that I made a mistake by mentioning the land that they have. I was making it as an observation on a mega injustice to the water tower of the Mau.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you very much, Sen. (Dr.) Khalwale. From this desk here, yours truly has represented a number of the Mau issues in court.

Proceed, Sen. Okiya Omtatah from Busia.

**Sen. Okiya Omtatah:** Mr. Temporary Speaker, Sir, thank you for this opportunity. I will be very brief. I will speak on enforcement of the law, concerning matters climate and the environment.

We have very many beautiful laws in this country, but hardly are they enforced. For example, the law governing riparian land and rivers states that you are not allowed ploughing up to between a minimum of six to 30 meters from the center of a river.

When we were growing up, that law used to be enforced by agricultural extension officers, whom we hardly see anymore. Today, you will find people are ploughing right in to the waters of the river. People buy pieces of land and settle right into the river.

Mr. Temporary Speaker, Sir, the law on wetlands is just sitting on paper; it is not enforced. Our wetlands have been drained. Wetlands were designed by God to work like a sponge, where, when there is a lot of rain, they suck in the water and then release it

quietly and slowly in to the river or lakes. However, our wetlands have been destroyed by farming habits, which are not scientifically sound. This has resulted into massive erosion and floods. During the dry seasons, we hardly have water in the river. They just trickle. Rivers have become drainage systems and not natural features, which God placed on this planet to manage and control environmental issues.

Mr. Temporary Speaker, Sir, I urge organizations concerned in enforcement of this law, such as Water Resources Management Authority (WRMA), National Environment Management Authority (NEMA) and the likes. If those entities took up their mandate and enforced laws across the country, reforest liberated land with the kind of species that are conducive to wetlands and river banks, then we will increase the tree cover in this country. One of the main problems with environment is failure by institutions like NEMA and others, to enforce the law.

Mr. Temporary Speaker, Sir, we should also think about road reserves. We have very huge lands that are under road reserves. The state should decide to plant forests, so that all our roads and highways become avenues. Can you imagine driving from Mombasa on an avenue that is ringed by forests on both sides? It would really be an ennobling experience. The nebulous in this country would show, but where we are today, our roads are not considered worth being given some type of tree cover that can add to the beauty or scenery and also increase the tree cover in this country.

Mr. Temporary Speaker, Sir, we have hills in this country and some are owned by individuals. Hills that at times cannot make viable agricultural enterprise. They have been invaded and some of them have been stripped off their tree cover. It would be prudent for our Government to come up with a plan to map our hills and also to do compulsory acquisition, where people have got private ownership property rights over it. Then, do a plan to populate them with trees, so that we can increase the tree cover in this country. I do not need to belabour the point. It has been stated that the meltdown in the environment is not sustainable. The solution is in tree cover and other practices. So, let us look at that.

Mr. Temporary Speaker, Sir, when we come to the question of wetlands, I would like to raise the issue of Yala Swamp. It straddles two counties; Busia and Siaya. It is about 17,000 hectares or thereabout; 11,000 hectares are in Busia and only 6,000 are in Siaya. However, if you look at how that swamp has been dealt with, contracts with investors are signed in Siaya, and then they come across and mess up that swamp. Instead of engaging in farming activities that do not interfere with the swamp, they have done a lot of damage to that swamp. It is high time that the Government took action and intervened. The Government should help us get proper boundaries between Busia and Siaya, so that if Siaya wants to mess their side of the swamp, so be it, but let them not mess up the Busia side of the swamp. The people in Bunyala have been disadvantaged by the decisions on Yala Swamp that are made in Siaya.

The big part of the swamp is now under water because the rivers that flow into Lake Victoria have silted. The silting is because of the improper agricultural activities upstream, where swamps have been drained and people are ploughing up the rivers. At the end of the day, there is a lot of erosion and siltation. Rivers have silted. When it rains, the water does not flow into the lake, but spreads into the land, to become the famous Bunyala floods.



The Government needs to intervene because the County Government does not have the wherewithal to do anything about it. It requires the national Government to intervene and give us a scientific solution. If it is drenching to open up waterways; it will help. They have clogged the waterways and since there are no roads, they use those rivers to access island. People in those areas can hardly access the islands. Their lives are really difficult. If the water way would be open, then we would have a lot of land liberated, livelihoods restored and quality of life of the people in Bunyala will be highly improved.

The solution does not only lie in putting up dykes. The solution lies in taking a sober look at the challenges in the ground. I have just given that as an example of what we face when the climate goes the wrong way.

However, it is not too late; it is doable.

It is available. I have also found that the Kenya Forestry Service (KFS) is willing to partner with those who would like to help it get on the ground.

I was warmly received when I visited their offices recently. There will be a tour to Busia County by KFS to try and map out the forest cover in that county and see the kinds of interventions are required. The situation is dire because the national average is a paltry 10 per cent the forest cover. However, in Busia County, the figures I am seeing are very disheartening. We are supposed to have a 0.04 per cent forest cover, not anywhere near the small national average we are required to have.

Mr. Temporary Speaker, Sir, I pray that the Council we are considering and whose names we intend to approve, will come in and help us fix the environment. A Council that has the President, Vice President and many senior people including experts, will be up to the task and will go to war against the environmental change.

Unlike in other wars, this war cannot be left to the soldiers. Any war demands input from the citizenry and the population. Let us mobilize our people to appreciate these things, so that when the National Environment Management Authority (NEMA) and the Water Resources Management (WARMA) come in and say that they are ploughing up the river and that they should move back six metres; there will be no resistance on the ground. They will understand that it is required for their own good.

Mr. Temporary Speaker, Sir, with those few remarks, I support the Motion that is on the Floor; the Report of the Joint Committees of these Houses on nominees for the appointment as members of the National Climate Change Council.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mandago from Uasin Gishu.

**Sen. Mandago:** Mr. Temporary Speaker, Sir, I rise in support of this Motion on the appointment of Members of the Council for Climate Change.

From the outset, climate change mitigation is no longer a matter that will be left to be discussed by the Non-Governmental Organizations (NGOs), the Ministry of Environment, Climate Change and Forestry or institutions that deal with climate change matters. This is a matter that must be canvassed in all State departments. This is because it affects, not only the future of our generations to come, but the lifespan of human beings.

If push comes to shove in the environment realm, the first living organisms to leave this earth will be the human beings. Therefore, it is imperative that matters of climate change are properly mainstreamed in Government.

Mr. Temporary Speaker, Sir, I hope and believe that this Council will take issues of gas emissions and industrial pollution seriously, particularly in the developed industrialized countries, on their stake and portion of pollution.

Most industries have been developed in Third World countries to manufacture goods and products for the West. Asia and Africa are now being blamed. We are carrying 70 to 80 per cent of the blame on the pollution of the environment. This is because we became two continents; one providing material and the other one providing an industrial hub for the West.

I hope that African countries will wake up during Conference of the Parties (COP) meetings and demand a commensurate action and funding from the countries who have industrialized and polluted the earth more than the rest of the continents.

Mr. Temporary Speaker, Sir, as we mainstream the climate change policy, both in national and county governments, the aspect of enforcement has been lacking. The Government has been reluctant, for a long time, to implement laws that are in place.

It is saddening to see wetlands being destroyed and the Government is watching. Rivers are drying, sources of water are becoming scarce and yet, there are laws that enable us to deal with this problem.

We need men and women of courage like the late Hon. Michuki, who in a short span of less than three years, was almost able to restore the river banks and the wetlands by making sure there are no eucalyptus being planted along the rivers and in the wetlands. However, after Hon. Michuki left the docket, we went back to the same problem of planting eucalyptus on wetlands and along riverbanks.

I urge the Ministry of Environment, Climate Change and Forestry to be decisive in the actions of conservation. If they are not decisive, we will face challenges. We would like the national Government agencies to work closely with county governments.

In my County, we have Kaptagat Forest, which is shared between Uasin Gishu and Elgeyo-Marakwet County. We pursued the Ministry of Environment and Forestry and the KFS to change and declare Kaptagat a water tower. This Forest is extremely important for the growth of Eldoret Town, which will soon become a city. It will not become a city without sufficient water for both domestic and industrial use. We cannot get that water if Kaptagat Forest is not conserved.

We have asked that it be declared a water tower, so that we can continuously begin to plant indigenous trees like the bamboo, in order to conserve the wetlands, sources of the rivers and avail water. Besides water, this Forest acts as a training ground for athletes. A forest is a purifier of oxygen. So, it gives a very conducive environment for training.

We urge the national Government to closely work with county governments in ensuring that we re-afforest the forests within our counties and sharing in the burden of providing resources for that afforestation.

Mr. Temporary Speaker, Sir, the role of this Council also includes education, approve a national gender and inter-generational responsive public education awareness strategy and implementation programme. They say you cannot teach an old dog new tricks. If we want to become efficient in the management of our environment, we must integrate this into our education system.

We have students' organizations that can help both national and county governments advance the agenda of climate change. I have in mind the Kenya Scouts and

the Kenya Girl Guides Associations. If we integrate in our schools and involve scouts, provide funds for the Scouts and Girl Guides Association to drive this agenda, all school-going children in this country will be aware and will begin from the onset, at the early stages of their lives understand the need to conserve our environment.

Mr. Temporary Speaker, Sir, I urge the national and county governments to include the Scouts and Girl Guides Associations in schools, so that they can help us with matters of environmental management.

Mr. Temporary Speaker, Sir, the biggest threat to our rivers is urbanization and management of solid waste. A number of towns in this country lack proper sewerage system and you find all the raw sewer being discharged into our rivers. If we do not mitigate this matter by ensuring that all major urban areas, towns and cities are provided with proper sewer lines, our rivers are going to be continuously polluted.

I propose that even in towns and cities where we have rivers that run across, there is need for change of policy under urban planning to ensure that all rivers become the frontage of the homes and all the commercial centres, so that there is no waste being dropped in the rivers when it becomes a frontage.

There is always a tendency in most of the towns in Kenya to make the rivers the back end of the compounds. Therefore, it is easier to dispose your waste through the back end of your compound because the rivers have been made to be at the back end.

We should not encourage the cycle of cleaning Nairobi River after five years, then it is left like that until the next five years and in the meantime we have waste and garbage being dumped into the river.

Mr. Temporary Speaker, Sir, for sustainability, I want to propose to the County Government of Nairobi to convert all properties that touch Nairobi River to make the river the frontage of those properties. That way, we shall minimize the waste that is being thrown into the rivers. That will save the Government and generations the funds that are being used after every short period of time in creating institutions that are going to clean and maintain Nairobi River.

Finally, as I conclude, counties are meant to mainstream the issue of climate change in the County Integrated Development plan (CIDPs). Even as counties do that, it is imperative through the coordination of the National Climate Council, that funds are also availed to counties to support this function.

Mr. Temporary Speaker, Sir, you will be surprised that for the last five years, counties were being given Kshs11 million under funds for climate change. What is Kshs11million for a county like Turkana that is 66,000 square kilometres, is an ASAL area and needs a serious intervention to make sure we change the climate situation there? We want to ask the National Treasury and development partners to make sure that at least 60 per cent of the activities of climate change should be domiciled in counties because that is where the action is.

I want to acknowledge what the Senator of Nandi said about my county, Moiben Sub-County, that it is actually the Sub-County that is letting us down in terms of forest cover. However, I want to assure this House that we have a robust plan as Uasin Gishu County to make sure that we increase our forest cover to more than 15 per cent within the next five years.

We also want the Kenya Forest Service and the Ministry of Environment to enforce the 10 per cent forest cover requirement whether on public or private land. That

way, even farmers endowed with more resources should convert part of their farmlands into forests, which can be commercial forests or indigenous forests for purposes of climate change.

I beg to support this Motion and concur with my colleagues that those who have been nominated be appointed to serve in that Council, so that we are able to work on this matter of climate change. However, I emphasize that as we attend core conferences, African Nations must wake up and we must look the West into the eyes and squarely put the blame where it lies.

There is no way America will be doing their manufacturing in China and claim that China is a leading polluter. There is no way the West will say Africa is not doing enough while they are the ones who destroyed our natural resources, went away with all the resources and now they want to tell us that we are responsible. Everybody must be given their fair share of the blame and in so doing, they must give their fair share of resources for fighting climate change.

Mr. Temporary Speaker, Sir, I beg to support this Motion.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mandago.

Hon. Members I must appreciate the Membership for the interest and the rich contributions that you have made to this particular Motion. Since there are no more requests, I know call upon the Mover of this Motion to reply.

Proceed, Sen. (Dr.) Lelegwe.

**Sen. (Dr.) Lelegwe Ltumbesi**: Thank you, Mr. Temporary Speaker, Sir, for giving me this time to reply to this very important Motion that will change how issues of climate change are handled in this country.

We have heard about the effects of climate change, its impact to our environment, livelihoods and to the general society. I take time to appreciate and thank every Member for supporting this Motion. I thank all Members because throughout the contributions, it is not on record that any Member has opposed the Motion.

Mr. Temporary Speaker, Sir, I also thank the Members of the Joint Committee of the Senate and the National Assembly for taking time to vet the nominees by the President and make the recommendations as contained in our reports in Page 36 and stood by those recommendations.

I appreciate the Members because as a Joint Committee of Parliament, we came up with one report. I am aware that sometimes committees do not agree and they come up with different reports or reports of a dissenting opinion. However, in this case, we have one report and we thank the Members of this Joint Committee.

Mr. Temporary Speaker, Sir, I also thank the President for nominating qualified Kenyans; Kenyans who all of us will look upon to tackle these issues of climate change. We look forward to them acting to make sure that this matter of climate change is prioritized and made important in our lives and in every way that we live as Kenyans.

I wish the nominees the very best of luck as they embark on their duties to tackle the issue of climate change.

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

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, pursuant to Standing Order No. 84 (1), the Motion does not affect the counties, and I now proceed to put the question.

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, you will recall that earlier on, we rearranged the Order Paper for purposes of this particular Motion. For purposes of order, I would like us to defer the Statements and Motions that are before us, so that we deal with the Motion by Sen. Kavindu Muthama,  
Let us go to the next Order.

### STATEMENTS

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

#### STATE OF FOREIGN DIRECT INVESTMENT IN KENYA

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, I am not ready. I request that it be deferred to Tuesday, so that we can move to other Orders.

*(Statement deferred)*

**The Temporary Speaker** (Sen. Wakili Sigei): The next Statement is by the Senator for Murang'a County, Sen. Joe Nyutu, but I do not see him. Therefore, the Statement is deferred.

#### STATUS OF THE LAST MILE PROJECT IN MURANG'A COUNTY

*(Statement deferred)*

**The Temporary Speaker** (Sen. Wakili Sigei): The next Statement is by the Senator for Taita-Taveta County, Sen. Mwaruma, who is equally not in the House. So, that Statement is deferred.

#### TERMS AND CONDITIONS OF SERVICE FOR COMMUNITY SCOUTS ENGAGED BY KWS

*(Statement deferred)*

**The Temporary Speaker** (Sen. Wakili Sigei): The Senator for Kajiado County, Sen. Seki, is also not in the House. That Statement is deferred.

#### DECENTRALIZATION OF SERVICES IN URBAN AREAS

*(Statement deferred)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Mundigi, do you have a Statement?

**Sen. Munyi Mundigi:** Yes, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Go ahead.

EMPLOYMENT OF AN ASSISTANT COUNTY COMMISSIONER  
TO KIAMBERE DIVISION, EMBU COUNTY

**Sen. Munyi Mundigi:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on employment of an assistant county commissioner to Kiambere Division, Embu County.

In the Statement the Committee should-

(1) Explain why an assistant county commissioner has to date not been posted to Kiambere following its gazettelement as a division vide Kenya Gazette Notice No.1042 of January 2022.

(2) State when the Government will post an assistant county commissioner to the division.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mundigi. That Statement is committed to the relevant committee.

Sen. Thang'wa, you have the Floor.

COLLAPSE OF THE ENA RIVER BRIDGE  
IN EMBU COUNTY

**Sen. Thang'wa:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.56 (1) (a), which provides that a Chairperson of a committee may make a Statement relating to a legislative business before the committee.

Mr. Temporary Speaker, Sir, pursuant to Standing Order No.53(1), at the sitting of the Senate held on Thursday, 27<sup>th</sup> October, 2022, Sen. Alexander Mundigi, Senator for Embu, requested for a statement from the Standing Committee on Roads, Transportation and Housing, regarding the adverse effect of the collapse of the Ena River Bridge in Embu County. In the Statement, the Committee was requested among others to-

(1) Inquire and state why the relevant Government Department took long to assess the safety of the Ena Bridge for used by both motor vehicles and members of the public ahead of its collapse.

(2) Explain whether the Government had availed resources as a matter of urgency to construct a bridge along the Ena River to serve the people of Evurore and Muminji Wards.

(3) State any measures the Government has put in place to facilitate access to public schools such as Kigwambiti Secondary School, St. Monica Secondary School, and Kirie Secondary School, as well as hospitals like Ishiara Sub County Hospital that have been rendered inaccessible by the collapse of Ena Bridge.

(4) Outline the measures the Government has put in place, if any, to cushion the people of Evurore and Muminji Wards, who depend on Ena River for their livelihood, especially on sand harvesting and access to one of the biggest livestock markets in Ishiara.

Mr. Temporary Speaker, Sir, in response to the request by Sen. Mundigi, MP, the Committee sought and received a response to the Statement from the Cabinet Secretary, Ministry of Roads, Transport and Public Works. In accordance with Standing Order No.53 (3) (b), the committee invited Sen. Mundigi to appear before the Committee during

the deliberations on the response to the Statement on 28<sup>th</sup> February, 2023. The Senator attended.

The Ministry of Roads, Transport and Public Works informed the committee that Ena Bridge collapsed on 18<sup>th</sup> October, 2022, and a technical team from Kenya Rural Roads Authority (KeRRA) was sent on the following day on 19<sup>th</sup> October, 2022, which conducted a preliminary assessment on the cause of the collapse of the bridge and made provisions for temporary crossing.

The cause of the collapse of the bridge was a result of impact after an overloaded lorry carrying sand hit the bridge. I wish to report that a replacement bridge with modular steel was constructed across Ena River and was completed on 30<sup>th</sup> November, 2022.

Mr. Temporary Speaker, Sir, Sen. Mundigi confirmed that the bridge was indeed rehabilitated and was in operation. The committee resolved that the response was satisfactorily and thus concluded.

I thank you.

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

**Sen. (Dr.) Khalwale:** Mr Temporary Speaker, Sir, I just wanted to appeal to you. Even if the Statement is conclusive, we have some little supplementary issues on the same. If you could indulge us, please.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, we have a long list of items under the Standing Order, which had been suspended and I am afraid. If I were to use my discretion to grant Members time to comment, then a maximum of a minute on a supplementary bit. I believe that was also the concern by Sen. Mundigi.

*(Sen. Munyi Mundigi spoke off record)*

Well, I will give you strictly one minute to comment on that Statement. Clerk, kindly set the timer for one minute.

**Sen. Munyi Mundigi:** Bw. Spika wa Muda, nilileta *Statement* wakati daraja hilo lilianguka ingawa hapo mbeleni, Mheshimiwa wa Eneo bunge la Siakago alikuwa amezungumza kuhusu hilo. Maafisa wa KeRRA walienda wakaangalia na kukarabati.

Kulingana na maafisa wa KeRRA, kuna mambo tunayoweza kusema sisi kama Maseneta ambayo yanaweza kutuaibisha. Niliulikwa na kamati ya Seneti na tukaenda kuongea nao. Niliwaambia kuwa hakuna haja ya kufuatilia barua za KeRRA kwa sababu wakati mwingine maafisa wa KeRRA hufanya kazi vile wanavyotaka.

Niliwaambia kuwa ili iwe funzo kwa maafisa wa KeRRA, waende pale na kuangalia jinsi daraja lilijengwa, kwa sababu miaka mingi ilikuwa imepita tangu lijengwe. Hata hivyo, mbeleni hatukuwa na magari mazito ya kupita pale na sasa yameongezeka.

Niliwaomba waende waangalie ili kuona kama walifanya kazi jinsi ilivyofaa kwa sababu magari yanayopita pale si mazito kama ilivyokuwa awali. Niliwauliza kama walitaka niandike barua tena ili daraja hilo litengenezwe kulingana na uzito wa magari ya sasa.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, proceed.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I just wanted to use the opportunity to appreciate the new Government. Can you imagine it is done!

I laud the Chair for this very rapid response; more importantly, the Cabinet Secretary (CS), Sen. Murkomen. This is the way we want to lead this country.

I understand that this was a project for Kshs15 million. I ask the Senator of Embu County to take it easy. Talk to the county engineer. From what I hear, they are talking about a bridge called Baileys Bridge.

Bailey's Bridge to the naked eye, you can think that it cannot take the weight. So, talk to the engineer. You might find that you have a Bailey's Bridge. I have two Bailey's Bridges in Ikolomani and they have been there since 1970. They are very reliable.

**The Temporary Speaker** (Sen. Wakili Sigei): The Senate Majority Whip to issue a Statement on the Business of the Senate for the week commencing Tuesday, 21<sup>st</sup> March, 2023.

Sen. (Dr.) Khalwale, you may proceed.

**Sen. Thang'wa:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): What is your point of order, Chairperson of Committee on Roads and Transportation?

**Sen. Thang'wa:** Mr. Temporary Speaker, Sir, I seek indulgence on the Standing Order No.56 (1). I know it has been a tradition where a Statement is requested by a certain Member and they read the Statement as it is written without adding any other input or even the background behind that Statement. The person who requests, noting that he cannot add anything, other Members are granted an opportunity to comment on that Statement.

It is my request and your indulgence, if you ever grant somebody to comment on a particular Statement that has been raised by anyone, give that person who requested to at least reply so they can comment and say whether they---

Yesterday, we had almost the same Statement. It was discussed over here when I raised an issue of Homabay County and people commented. I was not given an opportunity to reply on what was raised.

When I bring an issue in this House, there is always a reason. It is our Standing Orders that say the Chairman must report back to the Senate on their Committee's activities.

Mr. Temporary Speaker, Sir, when we report to the House, we report matters of the Committee, which are public. If you bring something to my committee or to the committee that I chair and it is public, just know it is going to end up in this Senate, so that we tell the people what you are doing and we will not allow anybody---

I am on a point of order, Sen. (Dr.) Murango.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Thang'wa, conclude on your point of order.

**Sen. Thang'wa:** Mr. Temporary Speaker, Sir, I conclude.

*(Laughter)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Thang'wa, you note that Standing Order No.56 (3) (1) permits the Chair to allow comments for not more than 20 minutes. I believe that your concern is taken care of.

Senate Majority Whip, please, read the Statement.



BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 21<sup>ST</sup> MARCH, 2023

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, pursuant to Standing Order No.57 (1), I hereby present the business of the Senate for the week commencing Tuesday, 21st, March 2023.

Mr. Temporary Speaker, Sir, the status of the legislative business as of today is that there are 15 Bills, which are at the Second Reading stage. Five of these Bills are scheduled in today's Order Paper at Order Nos.9, 10, 11, 12 and 13, with one of the Bills at Division stage.

Seven of these Bills will be scheduled in the Order Paper for Tuesday, 21<sup>st</sup> March, 2023, while the remaining three, which were read for the First Time last week, have been committed to the respective Standing Committees pursuant to Standing Order No. 145(1).

Mr. Temporary Speaker, Sir, four other Bills are at the concurrence stage, pursuant to Standing Order to Article number 110 (3) of the Constitution and will be scheduled for First Reading upon completion of this process. One other Bill is scheduled for the Committee of the Whole stage on Tuesday, 21<sup>st</sup> March, 2023.

With respect to Petitions, the Senate has received nine of them so far that have been committed to their respective Standing Committees, pursuant to Standing Order No. 238 (1).

I urge the committees to consider these Petitions expeditiously and to Table reports within the required 60-day period. In the event that this is a challenge, a framework to amend the Standing Orders to increase the timelines is available. However, until this is done, Standing Committees must adhere to the to the 60-day period.

Mr. Temporary Speaker, Sir, our in-tray is ever getting larger as evidence given above clearly shows as well as the numerous Statements sought pursuant to Standing Order No.53 and the ones issued pursuant to Standing Order No.52. Allow me, therefore, at this juncture, to express concern at the slow pace with which we are transacting business. I find this situation unsustainable.

I continue to emphasize the need for respective Movers to be available in the Chamber whenever there are Bills or Motions scheduled in the Order Paper. This will ensure that the legislative agenda is dispensed with in a timely and seamless manner. Further, it is important that after contributing to Bills or Motions, hon. Senators remain in the Chamber for the Divisions thereon.

Mr. Temporary Speaker, Sir, in conclusion, on Tuesday 21<sup>st</sup> March, 2023, the Senate Business Committee will consider and approve the business for the day. This will contain business that will not be concluded from today's Order Paper and may include any other business scheduled by the Senate Business Committee.

In order for the Order Paper of 22nd March, 2023 and for Thursday 23<sup>rd</sup> will be contained business that will not be concluded on Tuesday 21<sup>st</sup> and on Wednesday 22<sup>nd</sup> respectively.

The Senate Business Committee will also schedule any other business as well as Petitions and Statements pursuant to these Standing Orders.

I, therefore, thank you and hereby lay the Statement on the Table of the Senate, today, Thursday, 16<sup>th</sup> March, 2022.

Mr. Temporary Speaker, Sir, I thank you.

*(Sen. (Dr.) Khalwale laid the document on the Table)*

**The Temporary Speaker** (Sen. Wakili Sigei): Next Order.

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

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

**Sen. Mandago:** The Majority Whip laid a Paper on Thursday, 2022. He needs to correct that in the HANSARD. It is 2023.

**The Temporary Speaker** (Sen. Wakili Sigei): Majority Whip, please take note.

**Sen. (Dr.) Khalwale:** Thank you, for that correction. I request that the Clerk treats it as a typo and makes the necessary correction. It is 2023.

**The Temporary Speaker** (Sen. Wakili Sigei): Clerk, please, take note. Call the next Order.

## BILLS

### *Second Reading*

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

Sen. Mungatana is not in the House. I also note that we have no quorum for Division. This is deferred to the next Sitting.

*(Bill deferred)*

Next Order.

### *Second Reading*

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

Similarly, the Sen. M. Kajwang' who is the Mover is not in the House. This Bill is also deferred to the next Sitting.

*(Bill deferred)*

Next Order.

### *Second Reading*

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

Similarly, the Sen. Tabitha Mutinda is not in the House. This is also deferred to the next Sitting.

*(Bill deferred)*

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

**The Temporary Speaker** (Sen. Wakili Sigei): This is also a Bill by Sen. Wambua, who is not in the House. It is deferred to the next Sitting.

*(Bill deferred)*

Next Order.

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

**The Temporary Speaker** (Sen. Wakili Sigei): This is a Bill sponsored by Sen. Crystal Asige, who is not in the House. It is deferred to the next Sitting.

*(Bill deferred)*

Next Order.

**MOTIONS**

## MEASURES TO CURB DOPING MENACE IN KENYA

THAT, AWARE THAT in 2018 Kenya was placed under Category A by the world Anti-Doping Agency and since then forty Kenyan athletes have been banned by either the Athletics Integrity Unit (AIU) or the Anti – Doping Agency of Kenya (ADAK) and has led to a situation whereby the Kenyan athletes have to undergo intense testing before participating in major events and has immensely affected the reputation of the Kenyan athletes and the standing of Kenya in the international Sports arena where it currently ranks at number five;

CONCERNED THAT, despite the high number of alleged doping cases Kenya has only one World Anti- Doping Agency (WADA) approved blood testing laboratory forcing it to send urine tests to Qatar and South Africa for analysis and that the Anti- Doping Agency of Kenya (ADAK) is taking too long to address the doping menace which is likely to affect the state of preparedness for the athletes in the upcoming 2024 Olympic games in Paris;

NOW THEREFORE, the Senate resolves that the Ministry of Youth, Sports and Arts: -

a. Come up with modalities that can help achieve increased testing, intelligence gathering on athletes and doping awareness programmes;

b. In collaboration with Athletics Kenya (AK) and National Olympic Committee of Kenya (NOCK) to vet all training camps, coaches, trainers and other athlete handlers;

c. Initiate investigations at Anti – Doping Agency Kenya (ADAK) to identify and sanction all responsible officers liable for the menace of doping;

d. In collaboration with the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission finalize pending investigations and recommend prosecution of individuals involved in giving this banned substance to athletes; and

e. In collaboration with the Ministry of Health to identify and revoke licenses for medics, pharmacies and hospitals responsible for the prescription of the commonly abused drugs by the athletes.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Cherarkey, this is your Motion that ought to resume Debate.

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, I request that you defer till next week when the Cabinet Secretary (CS) for Youth Affairs, Sports and the Arts is briefed.

**The Temporary Speaker** (Sen. Wakili Sigei): That is noted. The Motion is deferred to the next Sitting.

*(Motion deferred)*

Next Order.

PROVISION OF FREE SANITARY TOWELS TO  
END PERIOD POVERTY

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

FURTHER AWARE THAT in rural Kenya, 2 out of 3 pad users receive pads from sexual partners and 65 percent of women and girls can't afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which lack adequate absorbent qualities resulting in frequent leakage and hygiene issues;

CONCERNED THAT period poverty also referred to as the "shadow pandemic" contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic health need with 10 percent of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every

school term, translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing sanitary towels for Kshs3.7 million girls in public primary schools, special primary and secondary schools in the country at a cost of Kshs470 million during the 2017/2018 Financial year, which amount needs to be increased in order to fully address and mitigate the problem;

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

1. facilitate provision of feminine hygiene products in all public schools;
2. ensure that all schools that don't have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped;
3. create awareness and take advocacy measures on reproductive health issues related to period poverty;
4. include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene; and
5. ensure that sanitary products will be obtainable timely, consistently, and in a way that respects the dignity of concerned persons

**The Temporary Speaker** (Sen. Wakili Sigei): This is a Motion that ought to have come for resumption. Sen. Orwoba, the Mover, is not in the House. It is deferred to the next Sitting.

*(Motion deferred)*

Next Order!

#### MEASURES TO CURB INCESSANT HIGH ELECTRICITY COST IN KENYA

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

FURTHER AWARE THAT there has been a significant growth in the demand for electricity in Kenya driven by economic growth and increased efforts towards rural electrification while the supply has been constrained due to, among other factors, the overreliance on hydro-electric power generating plants that have been negatively impacted by perennial drought experienced in the country;

NOTING THAT the imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company

(KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity;

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one (1) Gigawatt (GW) of power;

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

NOW THEREFORE the Senate resolves that the:

a) Standing Committee on Energy to undertake an inquiry

into: -

- i. Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country;
- ii. Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs; and
- iii. The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, bypassing the inadequately supplied northern frontier counties of Marsabit and Samburu.

b) Ministry of Energy to come up with a policy framework

aimed at: -

- i. Lowering the cost of electricity as a way of addressing the high cost of living; and
- ii. Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon footprint.

**The Temporary Speaker** (Sen. Wakili Sigei): This Motion sponsored by Sen. Chute, who is not in the House. It is deferred to the next Sitting.

*(Motion deferred)*

Next Order.

#### ENHANCING HIGHWAY SAFETY AND CONVENIENCE

THAT, AWARE THAT 67 percent of road crash fatalities and injuries in the country comprise of the economically productive age groups of 15 - 64 years, and that the importance of good post-crash care reduces deaths and disability and the suffering for road crash survivors creates the urgent need for effective emergency medical care system elements and processes on our highways;

FURTHER AWARE THAT lives and properties are lost or irreparably damaged daily on major highways in the country due to

accidents and explosion of fuel tankers, and the lack of accessible roadside amenities such as medical clinics, rescue centers, fire engines and ambulances hamper efforts to mitigate the carnage caused by the accidents, rescue lives and put out fires;

COGNIZANT THAT setting up safe stopping points for road users at regular intervals with the necessary road-side amenities such as fuel stations, parking spaces, restaurants, telephone booths, minor repair shops, medical facilities, and toilets enhances total travel experience and the lack of these points make it impractical for drivers to stop as often as they would wish to resulting into driving-related fatigue, a significant contributor to accidents on the highways;

FURTHER COGNIZANT THAT provision of amenities such as ambulances, firetrucks and satellite medical clinics to provide emergency services to road accident victims would save lives lost daily on major roads;

ACKNOWLEDGING THAT governments across the world have taken on the task of setting up such amenities through incorporation of the basic provisions in their road transport infrastructure through different models of Public Private Partnership (PPP), lease, or ownership;

NOW THEREFORE the Senate resolves that: -

- i) The Kenya National Highway Authority, in collaboration with the Council of Governors to come up with a policy framework on the incorporation of road reserves for road-side amenities in all highway designs;
- ii) The Ministries of Health, Roads, Transport and Public Works in conjunction with the Council of Governors to undertake a survey to ascertain the specific amenities required but not available on the existing highways such as satellite medical clinics, firetrucks and ambulances, and identify the most convenient locations to develop them; and
- iii) The Ministry of Roads and Transport in conjunction with the Council of Governors to develop Public Private Partnership guideline on leasing of the road reserves to developers, financing the construction of the amenities, and the packaging of incentives to attract investors.

**The Temporary Speaker** (Sen. Wakili Sigei): This Motion is sponsored by Sen. Wamatinga, who is not in the House. It is deferred to the next Sitting.

*(Motion deferred)*

Next Order

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

**The Temporary Speaker** (Sen. Wakili Sigei): What is your point of order, Senate Majority Whip?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I have seen and heard you postpone quite a number of items on the Order Paper. As your loyal Whip, I can confirm that these Members were around this afternoon. Therefore, they are aware that their business was on the Order Paper.

I request that the Chair now puts on the HANSARD a warning to these Members.

**The Temporary Speaker** (Sen. Wakili Sigei): Senate Majority Whip, remember this issue came before the Senate Business Committee (SBC). We discussed in extenso, the consequences of Members allowing their Motions and Statements to be put in the Order Paper, when they know they will not be present.

As a matter of fact, a position was taken, that where you have your Motion on the Order Paper, it is expected of you to be present. In the event you are not, then consequences befall. I take note of your concern and the Chair equally takes note of the deferment.

Sen. Kavindu Muthama, you may now move your Motion.

COMPENSATION TO KENYAN VICTIMS OF THE 1998  
BOMBING OF USA EMBASSY IN NAIROBI

**Sen. Kavindu Muthama:** Thank you, Mr. Temporary Speaker, Sir. I beg to move the Motion in a changed version. I shall change the figures 213 to 223 and 12 to 44.

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of function for a community or individual that often exceeds their capacity to cope using existing resources;

FURTHER AWARE THAT, such was the case with the 1998 US Embassy Bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within a two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 5000 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves that the Ministry of Foreign Affairs:

(i) Advances friendship and co-operation between the United States and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act; and

(ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

Mr. Temporary Speaker, Sir, noting that Americans have a Fund; the US Victim Compensation Fund and given that Kenyans and even Tanzanians suffered a battle that was not theirs because the *Al Qaeda* Group had targeted the American Embassy and not Kenya. Kenyans suffered in a battle that was not theirs.



Over 5,000 people were injured, 223 Kenyans and 44 Americans died. At least 300 were either permanently blinded or suffered severe vision loss. Over 1,000 suffered eye injuries. Some were totally blinded. Allow me to name a few; Catherine Bwire, Douglas Asiolo, Stanley Mutuma among others.

Currently, Mr. Meshack Nyakundi, has Throat Cancer. He is looking for funds to replace his voice box because it has been removed. He is struggling and has no funds. He has nobody to help him. That is why we are fighting and requesting the Americans to involve Kenyans in this fund. They suffered a battle that did not belong to them. On humanitarian grounds, they should remember the people who are still suffering.

The 7<sup>th</sup> of August this year will mark 25 years of the suffering of these Kenyans while waiting for justice, which they are yet to receive. Many divorces and family disputes were caused by this bombing. People are still going through treatment, which they cannot afford and some have since died.

Mr. Temporary Speaker, Sir, I beg to move and ask Sen. (Dr.) Khalwale to second.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Kavindu Muthama and hon. Members, it is now 6.30 p.m. Senator, for your comfort, you still have 13 minutes in the next Sitting, to continue to move your Motion. You have only utilized seven minutes and you still have 13 minutes.

#### ADJOURNMENT

Hon. Members, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until, Tuesday, 21<sup>st</sup> March, 2023 at 2.30 p.m.

The Senate rose at 6.30 p.m.