

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Wednesday, 21st February, 2024****Afternoon Sitting**

*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 a quorum?

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

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

(The Quorum Bell was rung)

I am now informed that we do have a quorum, you can stop the Bell.

The Clerk, please, proceed and call out the first Order.

Hon. Senators, at this juncture you may have to switch to the Supplementary Order Paper which has been circulated. I want to believe and trust that we all have a copy of the Supplementary Order Paper.

Clerk, you may proceed to call the Next Order.

PAPERS LAID

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

**REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY
GOVERNMENTS ADDITIONAL ALLOCATION BILL
(NATIONAL ASSEMBLY BILLS NO.23 OF 2023)**

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Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Wednesday, 21st of February, 2024 -

Report of the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bills No. 23 of 2023).

THE REVISION OF THE LAWS ORDER, 2023
(LEGAL NOTICE NO.221 OF 2023)

Sen. (Dr.) Khalwale: Mr. Speaker, Sir I beg to lay the following paper on the Table of the Senate today, Wednesday, 21 February 2024 -

The Revision of the Laws Order, 2023 (Legal Notice No. 221 of 2023).

THE NATIONAL GOVERNMENT BUDGET
IMPLEMENTATION REVIEW REPORT

Sen. (Dr.) Khalwale: Mr. Speaker, Sir I beg to lay the following paper on the Table of the Senate today, Wednesday, 21 February 2024 -

The National Government Budget Implementation Review Report for the First Six Months of the Financial Year 2023/2024.

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS ENTITIES

Sen. (Dr.) Khalwale: Mr. Speaker, Sir I beg to lay the following Papers on the Table of the Senate today, Wednesday, 21 February 2024-

Report of the Auditor-General on Financial Statement of the County Executive of Machakos for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Machakos for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of the County Government of Machakos - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of the County Government of Machakos - Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Machakos County Executive Committee and Chief Officer's Car Loan and Mortgage Scheme for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Kajiado for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Kajiado for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Kajiado County Emergency Fund for the year ended 30th June, 2023.

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Report of the Auditor-General on Financial Statement of the County Government of Kajiado - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Kajiado County Disability Mainstreaming Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Kajiado County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2023.

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

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

NOTICE OF MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, 2023

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion-

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bills No. 23 of 2023) laid on the Table of the Senate on Wednesday, 21st February, 2024.

The Speaker (Hon. Kingi): Next Order, Clerk.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Proceed, Sen. Kavindu Muthama.

STATE OF LIANI KIVAA HEARING IMPAIRMENT PRIMARY SCHOOL

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity. I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Education regarding the lack of funding for Liani H. I. Primary School in Masinga Constituency, Machakos County, which was officially registered on 28th November, 2023. In the Statement, the Committee should-

(1) Explain why the Ministry of Education has not funded Iiani Kivaa H. I. Primary School in Masinga Constituency, Machakos County, since its establishment in 2023;

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(2) Find out why the school has only one classroom accommodating learners from all nine classes and lacks other essential infrastructure such as dormitories, toilets and bathrooms for both girls;

(3) Clarify whether the Teachers Service Commission (TSC) plans to deploy additional teachers to the school, as it is currently understaffed; with only three teachers who are teaching all nine classes, and.

(4) State measures put in place by the State Department for Basic Education to ensure that pupils in the school get to learn in a conducive environment.

Sen. Kavindu Muthama, MP, Senator for Machakos County.

I thank you.

The Speaker (Hon. Kingi): Thank you. We know you, Senator.

(Laughter)

Proceed, Sen. Wambua.

REPAIR OF VANDALIZED RAILS ON THE NAIROBI EXPRESSWAY

Sen. Wambua: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the repair of rails at the Mlolongo Pay Point on the Nairobi Expressway, which were vandalized during the public demonstrations of July, 2023. In the Statement, the Committee should-

(1) Provide a breakdown of the total cost incurred by the Government to repair the rails at the Mlolongo Pay Point on the Nairobi Expressway, which were vandalized during the public demonstrations of July, 2023.

(2) Disclose details on the award of the contract for the repair of the rails as well as the identity of the contractor that won the award.

(3) State how long the repair works took.

I thank you.

The Speaker (Hon. Kingi): Is there any Senator holding brief for Sen. Cherarkey?

POLICE RAID ON BUSINESSES IN EASTLEIGH OVER COUNTERFEIT PRODUCTS

The Statement is dropped.

(Statement Dropped)

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

OPERATIONS OF SUKARI INDUSTRIES IN
HOMA BAY COUNTY

Sen. Ogola: Mr. Speaker, Sir, I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the operations of Sukari Industries Limited in Homa Bay County.

In the Statement, the Committee should -

(1) Provide a copy of the human resource policies and procedures manual of Sukari Industries Limited in Ndhiwa Sub-County in Homa Bay County.

(2) Provide a list of all personnel currently employed by the company, indicating their respective designation as well as their terms of engagement.

(3) Specify the proportion, relative to the total number of personnel, of females and persons from the local community employed by the company.

(4) Lastly, furnish the Senate with the company's Corporate Social Responsibility (CSR) policy, providing details on all CSR programmes undertaken by the company, their geographic coverage and beneficiaries.

I thank you.

The Speaker (Hon. Kingi): Proceed Sen. Sifuna.

ATTACK BY DOGS ON MASTER AUSTIN KARANJA
AT ISINYA SCHOOL FOR THE DEAF

Sen. Sifuna: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the predicament of Master Austin Karanja, a minor with hearing impairment, who was mauled by school dogs on 28th October, 2023 at the Isinya School for the Deaf while heading for his morning preps, and was subsequently forced to sit his Kenya Certificate of Primary Education (KCPE) in heavy bandages. In the Statement, the Committee should-

(1) Explain why neither the school nor the security guards in charge of the dogs have been held accountable to date following the attack on Master Karanja;

(2) State the reasons for the school's subsequent refusal to hand over to the mother, Ms Lenah Nyaboke, the clothes Master Karanja was wearing during the attack to enable further investigations; and,

(3) Establish the complicity of security agencies within the Isinya area in covering up the dog attack on the minor and further establish the safety and security of the remaining pupils within the institution.

I thank you.

The Speaker (Hon. Kingi): Proceed Sen. Wafula.

STATUS OF COOPERATIVE SOCIETIES
IN BUNGOMA COUNTY

Sen. Wafula: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Trade, Industrialization, and Tourism regarding cooperative societies in Bungoma County. In the Statement, the Committee should-

(1) List of all cooperative societies operating within Bungoma County, detailing their specific areas of operation.

(2) List the cooperative societies funded by the Bungoma County Government for the financial years 2022/2023 and 2023/2024, detailing the projects implemented with this support.

(3) State the criteria used by the county government to select cooperatives for funding, furnishing financial and audit reports of the cooperative societies funded by the Bungoma County Government and those not receiving funding from the County Government.

(4) Apprise the Senate on the compliance status of these societies with current regulations and the county's strategies to enhance support for cooperatives financially and technically.

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

PROCESSING OF TITLE DEEDS FOR ESTATES
IN TAITA TAVETA COUNTY

Sen. Mwaruma: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing on Land, Environment and Natural Resources regarding the status of the processing of title deeds of Mwakingali B and Sikujua estates of Voi Sub-County, Taita Taveta County. In the Statement, the Committee should-

(1) State when the Government will issue landowners of Mwakingali B and Sikujua estates title deeds for their parcels of land.

(2) Give reasons for the delay in issuing these title deeds.

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

PROVISION OF NTSA SERVICES AT THE
HUDUMA CENTER IN LAMU COUNTY

(Sen. Githuku was not in the Chamber)

That Statement is dropped.

(Statement dropped)

Next Order.

MOTIONS

EXTENSION OF TIME FOR CONSIDERATION OF PROTECTION AREA ORDERS FOR LAKE OL BOLOSSAT, KARAI WETLAND, MWANGEA HILLS AND LARI SWAMP CATCHMENT

The Speaker (Hon. Kingi): Sen. Gataya Mo Fire, the Chairperson Select Committee on Delegated Legislation.

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, AWARE THAT the Lake Ol Bolossat Catchment Protection Area Order, (Legal Notice No. 116 of 2023); The Karai Wetland Conservation Area Order, (Legal Notice No. 117 of 2023); The Mwangea Hills Catchment Protection Area Order, (Legal Notice No. 118 of 2023); and the Lari Swamp Catchment Protection Area Order, (Legal Notice No. 119 of 2023, were tabled in the Senate on 11th October, 2023 and referred to the Select Committee on Delegated Legislation for consideration.

REALIZING THAT, the 28 sitting days' timeline for consideration of the Regulations lapsed on Wednesday, 21st February, 2024, but owing to the magnitude of the work involved, the Committee has not been able to complete its work within the duration.

AWARE THAT, Section 15(3) of the Statutory Instruments Act, 2013, provides that by a resolution, Parliament may extend the time for consideration of a Statutory Instrument by a period not exceeding twenty-one calendar days.

NOTING THE NEED for more time to scrutinize the submission from the public engagement forums especially the Ministry of Water, Sanitation and Irrigation and the Council of Governors.

NOW, THEREFORE, the Senate resolves to extend the time for consideration of the Lake Ol Bolossat Catchment Protection Area Order, (Legal Notice No. 116 of 2023); The Karai Wetland Conservation Area Order, (Legal Notice No. 117 of 2023); The Mwangea Hills Catchment Protection Area Order, (Legal Notice No. 118 of 2023); and the Lari Swamp Catchment Protection Area Order, (Legal Notice No. 119 of 2023, by a further twenty-one (21) calendar days and table its report on or before 11th March, 2024.

The Speaker (Hon. Kingi): Who is seconding your Motion?

Sen. Gataya Mo Fire: Sen. Montet Betty to second.

Sen. Montet Betty: Thank you, Mr. Speaker, Sir. I second.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, the Floor is open. However, this is a Procedural Motion. With your consensus, you may allow me to proceed to put the question.

Hon. Senators: Put the question!

The Speaker (Hon. Kingi): Thank you, hon. Senators. Before I put the question, I determined that this matter does not affect counties. Therefore, voting shall be by voice.

(Question put and agreed to)

The Speaker (Hon. Kingi): Next Order.
Please proceed, Sen. Thang'wa.

ADOPTION OF REPORT OF THE NATIONAL
DIALOGUE COMMITTEE

THAT, the Senate adopts the Report of the National Dialogue Committee, laid on the Table of the Senate on Wednesday, 14th February, 2024.

(Sen. Cheruiyot on 20.2.2024)

(Resumption of Debate interrupted on 20.2.2024)

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity, to comment on this National Dialogue Committee (NADCO) report.

Mr. Speaker, Sir, having gone through the Report, I have a few questions because the Report by itself is not conclusive. It has left gaps in the sense that some bodies need to do something. We are not out of the woods yet.

If you look at paragraphs 263, at page 73 of the said Report, it is talking about electoral reforms. It says that within 21 days after the adoption of this report, a panel should be appointed to evaluate the 2022 presidential electoral process.

Mr. Speaker, Sir, I ask myself, why only the presidential electoral process? There are many people, probably, who were aggrieved by the process of election in 2022. Myself being one of them. This is in the sense that, there are people who are trying to use means that are unconstitutional, unconventional and immoral, to try and bar some people to run for office.

Mr. Speaker, Sir, if this Report was serious on dealing with matters election, it could have included everybody who was aggrieved by the previous election, to come and table their report.

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

The Speaker (Hon. Kingi): What is the point of order, Sen. Sifuna? Sen. Thang'wa, Sen. Sifuna wishes to inform you. Are you agreeable to that?

Sen. Thang'wa: Mr. Speaker, Sir, he is my counterpart in the highest number of votes garnered in this House, so I allow him.

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

Sen. Sifuna: Thank you my Chair for Roads, Transport and Housing, for being gracious enough to allow me to inform you.

The only reason the discussion is centred about the presidential election is because, the NADCO Report had a history and that was the dispute that was brought to the national table.

If, indeed, there was any dispute in any other matter, it was not part of those negotiations and I can confirm this because I was part of the initial committee. So, that is the reason why the Report makes no reference at all to the seat for Senator for Kiambu which you won by a wide margin and all your opponents accepted.

I thank you.

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

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, the two majoritarian's want to mislead this House. This is in the sense that, when I moved this report yesterday, and I do not know if Sen. Thang'wa was present in the House. Sen. Sifuna, you are right but not fully right.

The Speaker (Hon. Kingi): Majority Leader, let us get it right, here. Are you informing the Senator?

The Senate Majority Leader (Sen. Cheruiyot): No. It is on a point of order against Sen. Sifuna who is giving ---

The Speaker (Hon. Kingi): He has already had his moments.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker Sir, but I sought your attention when he was on his feet.

The Speaker (Hon. Kingi): Senate Majority Leader, I wish you caught my attention when he was still on his feet. Therefore, Senate Majority Leader, unless your point of order is in relation to what Sen. Thang'wa asked.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, let me better phrase it then. Can it be a point of information because what I want to say is useful for debate of the House? You must appreciate I drafted this Report.

The Speaker (Hon. Kingi): Very well. Now, I seek to get permission from Sen. Thang'wa, so that you can inform him.

Sen. Thang'wa, would you graciously allow the Senate Majority Leader to inform you?

Sen. Thang'wa: Anytime Mr. Speaker, Sir, from my Majority Leader.

(Laughter)

The Senate Majority Leader (Sen. Cheruiyot): I am glad he graciously accepted, so that he is not mislead while I am here.

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If you read the Report, it speaks of audit of the electoral process. It is totally different from a presidential election. Therefore, when we speak about the electoral process, it is for all the six positions that were contested. This goes to the issue of registration of voters, tally process and verification exercise.

Sen. Thang'wa, it is about a process and has absolutely nothing to do with the 2022 presidential election. Distinguish the two. I would wish that becomes clear because yesterday I listened to many people refer to it as if it is still a continuation of the Petition that was before the Supreme Court on the Presidential Election.

Mr. Speaker, Sir, they are totally different, and I thought that maybe Sen. Thang'wa would need to know that as well as the Members who maybe did not get that part well. I tried explaining it yesterday.

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

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir. I am well informed and for sure, the Senate Majority Leader is right.

I was misguided by the headline that was talking about the audit of the 2022, Presidential Election. However, when you go to the recommendation, it is for sure talking about 2022 electoral process. Therefore, that means I do have an opportunity whenever that panel is formed, to go before it and find out what happened and who were behind my wars at that particular time.

Consequently, for us to know where we are going, we must understand where we are coming from. We have to look at the back of the side mirror. We have to look back, so that we can have a very democratic country.

I agree with this Report on the issue of the days that the Supreme Court should take to listen or to hear the Presidential Election Petition. The 14 days were not enough. The report proposes 21 days.

Mr. Speaker, Sir, I believe that is a good moment to kill the tension that is always there in this country and of course, give parties enough time to do their investigation, so that we do not go through what we went through in the previous presidential election petition, whereby we were treated with drama of Carmago and all the other issues where people just downloaded images without due diligence.

On paragraph 559, that is page 179 of the report, it is talking about impeachment of governors. If I can read that page 179, their recommendation is a one liner. They say, the Committee recommends that Parliament shall fast track the enactment of a legislation, to give a comprehensive guide to the impeachment process.

Mr. Speaker, Sir, of course, this is the way and that is why I do not understand why other people were agitated yesterday when this Report just gives you direction of what you need to do from here. Be it on gender, it is telling you about the steps that you need to take from here.

Additionally, when it comes to impeachment, it tells the House what we need to do.

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

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

Sen. Orwoba: Mr. Speaker, Sir, I stand on Standing Order No.105 on responsibility for statement of fact. Is it in order for Sen. Thangwa to tell us that this is more of a direction?

On the issue of gender, the report has been clear that it is not going to include legislative agenda because that will be handled by a multi-sectoral committee, and not the amendments that will come with this report.

Thank you.

The Speaker (Hon. Kingi): What is out of order about that?

Sen. Orwoba: Mr. Speaker, Sir, he is misleading the House because he is saying that this Report is just a beginning, and that based on this Report, other things, including gender, will be considered.

The Report is very clear on the matters of gender. The specific recommendations the report has said, is that the issue of the two-thirds gender rule is kicked out and given to a separate multi-sectoral committee that is supposed to come with a separate report, which will be adopted, moved, supported or kicked out as a separate issue. That is what needs to remain clear as we are talking on the matter of gender.

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

Sen. Thang'wa Mr. Speaker, Sir, the good Senator probably did not understand me. What I was trying to say is that in every subject, the Committee was giving a recommendation. One of the recommendations was to form a panel within 21 days. It was not conclusive.

When it comes to the impeachment of governors, it is telling the Parliament to enact laws. It is Parliament to decide whether to enact laws or not. It does not mean that when it tells Parliament to enact laws, then Parliament is going to do so immediately.

The same report says that a multi-agency is to sit down and come up with a framework on matters gender or any other topic. I do not see why anybody would be agitated that gender matters were not included.

To conclude, I am ahead of this Report because the Bill on the impeachment of governors is here with you. I believe it is coming for the First Reading within the next few days. It is not only the impeachment of governors, but also the impeachment of speakers of County Assemblies and County Executive Committee Members (CECM).

That Bill is here. You can see we are ahead of this National Dialogue Committee (NADCO). If we were given an opportunity to work, we could have done better than what they have done here.

I request Members, especially Members from the Kenya Kwanza Coalition, to support this Report as it is because it will give us an opportunity to do what we have always wanted to do; that is to do the right thing. This is because we have numbers going forward.

By passing this as it is, it is not going anywhere until we activate the processes as it is required by this Report. It is our time as Kenya Kwanza Coalition, to show the world and the country. This is the time to give the country the best laws, legislation and the processes that are required.

Thank you very much, Mr. Speaker, Sir for that opportunity.

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I support.

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to speak to this Report. First, I commend the team that they were able to come together from across the divide and discuss key issues that affect this nation.

I hope that in future, we can get to hear, listen, agree or disagree to each other, and see how to move in a manner that respects the laws of this country.

Mr. Speaker, Sir, I will not dwell much, but I will speak to a number of the issues in this Report. The most important one is the cost of living for Kenyans.

I hope that all leaders, particularly in the Legislature and the Executive, will see the need to implement matters relating to the cost of living for Kenyans as the most important issue.

Otherwise, all other things amount to negotiations around personal interests of the leadership of this nation. I did not see serious, tangible issues around cost of living.

I would urge that the Executive makes an effort to demonstrate to Kenyans that this topic in this report is the most important one and is the one that Kenyans would want to see.

Once the cost of living starts coming down, many will be able to see that we care about them as leaders. As it would be, negotiations or any consultations should first be about the interest of the people of Kenya.

The second important thing for me is the issue of the two-thirds gender rule. I am disappointed that NADCO elected to relegate a responsibility that was part of the mandate they had; the issue of the two-thirds gender rule, to give it aside to a multisectoral committee instead of addressing it.

Mr. Speaker, Sir, NADCO Members heard the public. They received views from various Kenyans. Women of Kenya went and gave views around the two-thirds gender rule. For them to have concluded that they will not address this issue and put it aside is an insult to the women of Kenya. It is relegating this issue to make it a footnote on something that is very serious.

They are doing this at a time when for the first time in this country, we have a head of State who has put it in writing that he would want to see the issue of the two-thirds gender being resolved. I understand all we can do about this report is speak about it, but we cannot suggest any amendments.

I would like to call the head of State and the Leader of Opposition to confer, and if necessary, to recall the Committee of NADCO to sit, even if only for one week, in order to relook at one of this agenda item, which they decided to throw out instead of addressing.

Remember, NADCO is a Report of a political consensus. If that political will is there from both sides, they can call these people. They did not come from South Africa and elsewhere. They are within Kenya. They can be told to go back and finish their homework because they did not address one of the Terms of References (TORs).

I call on everybody to take this seriously and ensure that matters of the two-thirds gender are included, particularly in any Amendment Bill that will be drafted as a result of the NADCO Report.

Mr. Speaker, Sir, the issues of delimitation of boundaries is so important. We should collectively be ashamed that we have not triggered implementation of this issue.

In fact, we are in breach because matters delimitation of boundaries for constituencies and wards are provided for with timelines within the Constitution, but we have elected not to implement this. We should look down in shame to the fact that we have not been able to operate in a way that implements this.

I hope that we will successively ensure that the relevant constitutional Bills or any legislation are put in place to ensure we implement these issues.

Mr. Speaker, Sir, there is the issue of parliamentary funds and I would like to speak to the issue of the Oversight Fund. Even as we discuss the National Government Constituencies Development Fund (NG-CDF), National Government Affirmative Action Fund (NGAAF) and the Oversight Funds, I want to urge Parliament to ensure that we structure these funds in a way that will respect the principal of separation of powers so that we do not have constitutional provisions that are going to anchor development or functions of the Executive into the legislature.

We need to properly ensure that these funds retain the oversight role of the legislature. We would want to ensure that the ongoing current violation around the oversight funds in the Senate is redressed. Otherwise, we are going to have a contradiction in a provision that says the Senate is one when it comes to committees in oversight but when it comes to funds, it is separated into elected and nominated Members. When we come to that we need to ensure that we do the right thing.

Mr. Speaker, Sir, we also have the issue of the establishment of the offices of the official opposition and the Prime Cabinet Secretary (CS). My view is that as we establish these offices, if we must, we must also respect the principal of ensuring that we are able to have a strong opposition to be able to effectively check the government of the day. So, we must structure it in such a way that the opposition does not become a puppet of the Executive. We must ensure we guard that issue.

Back to the funds, I hope that as a Senate, we will ensure any restructuring of funds will respect the devolved governance system and will not end up with laws that are going to claw back on devolution. We want to ask that whatever legislative instruments come out of this report must only strengthen rather than claw back on devolution. This happens to be tabled at a time when we are also looking at the Budget Policy Statement.

In my initial read, I have already seen a few instances where the national Government is freely assigning itself functions that belong to the counties. I hope that as we implement the recommendations of this committee, we will ensure that we are respecting the devolved governance system.

Finally, I hope that we can come up with an implementation mechanism on the various issues in order for this to go beyond just a casual political agreement so that we are able to tell Kenyans that it was worth it to come together, put the resources into this report and we are going to implement for the betterment of this country.

I thank you.

Sen. Chimera: Thank you, Mr. Speaker, Sir, for the opportunity to contribute on this very weighty National Dialogue Committee (NADCO) Report. Let me begin by

appreciating and commending the committee Members for a job well done. The industry, effort and endurance that went into coming up with this report is excellent.

The Report has a number of very radical and progressive proposals. The proposed recommendations on the Independent Electoral and Boundaries Commission (IEBC) reconstitution, how and the timelines within which as a country the Supreme Court has been accorded to listen to the presidential petition here and determine the same has been increased from 14 to 21 days is fairly progressive.

Those of us who are advocates and know what it takes and what it means to draft pleadings, file the same and submit arguments in or against their clients, 14 days surely has been a very short time so to speak. I am glad that the committee saw it in their own wisdom to extend that time to 21 days. Perhaps if we had the time, even 21 days in my own view is still very little time. However, this is something better for a start.

The idea of funding the IEBC is also very progressive. For far too long as a country the IEBC has always been blaming lack of funds or inadequate funding to carry out its core mandate. I am happy that this report is proposing proper funding of IEBC so that the IEBC can be financially equipped to be able to carry out its functions.

Mr. Speaker, Sir, the recommendation from the report on staggering the election is also very progressive. As a country, we cannot keep on having six elections in a day. I feel the staggering of our elections is progressive in the sense that the IEBC will have time to prepare for these elections and even political players and participants will also have time to adequately campaign and prepare for elections.

I know much has been said by my colleague Senators. In the interest of time, allow me to just speak to one very crucial recommendation that I feel is positive on the report. The issue on county boundaries.

It is the proposal by the committee that Parliament shall within six months be allowed to enact the County Boundaries Bill, so that at least counties can have a chance to resolve their disputes. As a person, I am in court today on behalf of the people of Kanjaocha in Chengoni Ward, Samburu County, because they have protracted the county boundary dispute for the County Government of Kilifi. Today, the County Government of Taita Taveta is collecting revenue and taxes from residents of Mackinnon Town.

Mackinnon Town has always been a Kwale County Town. We have residents from Kwale who invested and vote there. The County Government of Kwale has invested heavily on the infrastructure in Mackinnon town. To see that the County Government of Taita Taveta today is allowed to collect revenue from a town that is in Kwale County is really an insult to the people of Kwale County.

I am glad that my colleague, Sen. M. Kajwang', saw it fit to bring forth the County Boundaries Bill here that for the first time will allow us as Kenyans and those of us who practice the law in various courts in the country to have a legal framework within which we can address county boundaries.

Mr. Speaker, Sir, with those many remarks, I support this Report.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir, for giving me this chance to speak to this report. Allow me to start by thanking the individuals who were in this committee and did a fantastic job. The issues that are addressed in this report are very

good. In a way, they make our work in this legislative House easier. Indeed, it is encouraging to see that we have a few Kenyans of goodwill who think well of this country. However, I remember that the time when this committee was constituted, it was as a result of some of us going to the streets to demonstrate. Some of us were forced to take a lot of tear gas, whose effects are still in our bodies. Some of us also had to run very far away.

When we came together as a country, it was seen fit for this Committee to be put together to address the issues. Kenyans had and still have expectations.

I believe that the proposal to create the office of the opposition will make---

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

Sen. Cherarkey: Mr. Speaker, Sir, I stand under Standing Order No.105 on statement of fact. Could the Senator tell this House if she is accepting the culpability of the police officers who were injured and the property that was destroyed during *maandamano* when she says, “we went to demonstrate?” Can she substantiate what she means when she says “we”?

Mr. Speaker, Sir, future generations will judge us if we allow that to slide. Is it her, as Sen. Beth Syengo, or her coalition? Is she accepting culpability of the loss of lives, an affront to the Constitution at that time?

The Speaker (Hon. Kingi): Sen. Cherarkey, if you are keen enough, you must have heard the Senator say “some of us had to consume teargas.” There are some things that are of public knowledge. So, let us rest it at that.

Proceed and conclude, Senator.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir, for informing my friend, Sen. Cherarkey, that when I said “some of us”, it is in public knowledge that we went to the streets to demonstrate.

As I was saying, the proposal by this Committee to have an office of Leader of Opposition is good for this country because we have been struggling with democratic space. With the establishment of the office of Leader of Opposition, that democratic space will increase as we check on the governance of the administration of the day.

Mr. Speaker, Sir, I am dismayed that in his Report, there is nothing tangible about the cost of living. As I had mentioned, Kenyans have expectations. As we know, life is unmanageable. It is so disheartening to see that there is nothing tangible about the cost of living. It was also not addressed conclusively to give Kenyans hope. Kenyans need to be given hope. They need to know that, at least, life can be bearable when the cost of living is brought down.

The biggest issue that I must mention on this Report is the dropping of the issue of the two-thirds gender rule. I am the Orange Democratic Movement (ODM) Women League President. Women in this nation look unto me to stand for them, defend their rights and push for their interests. It is very displeasing.

I do not know what wisdom was used by the Members of this Committee to drop the issue of the two-thirds gender rule from the Report. Is it that women of this nation do not matter? Is it that the efforts that have been made by trailblazers who have been there before in fighting for affirmative action does not matter? It is not good.

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When this Committee was sitting at Bomas of Kenya, different groups of women leaders in this nation sat and made recommendations. They did proposals and reports and took them to the NADCO Committee.

I remember I led the Azimio la Umoja-One Kenya Coalition team in taking our proposals of how to actualize the two-thirds gender rule if included in NADCO. Many other groups also did the same. I remember all women movement groups in this country did presentations. Why were women allowed to do the presentations if then they were to be dropped from this Report? It is not good. Women of this nation are not happy.

I remember I had a Bill in this House on the actualization of the two-thirds gender rule. I was approached by the Cabinet Secretary for Gender and Affirmative Action to drop my Bill or put it to hold.

Mr. Speaker, Sir, I also spoke to you about it. This was so that the Cabinet Secretary would put up together a multisectoral working group that will work on this. How does it sound to have the same dropped from the NADCO Report, while the multisectoral working group is being given more time of about six months? Kenya is not at standstill. Things are not stopping to wait for this team to bring up their report.

I understand, we may not do anything about bringing back the issue. However, I would borrow words from one of us; the good Senate Majority Leader and others, who sat in that Committee should be recalled and accept to sit for one week to at least bring back the issue of actualization of the two-thirds gender rule in this country.

The women will then vote for the Senate Majority Leader, the Whip and every man in this country if only we feel that men care for the women of this nation.

The Report is good, but the issue of women should be considered.

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

Sen. Wamatinga: Thank you, very much, Mr. Speaker, Sir. I also rise to support this Report.

Let me start by commending the team that sat together. Indeed, the fact that they were able to sit together and come up with some conclusion, is a great achievement in itself.

In a country where people are used to facing, talking, fighting each other and disagreeing just for the sake of disagreeing, it is a great achievement that they have come with a bit of recommendation that will give us a platform upon which we can build a way forward.

Mr. Speaker, Sir, it is not lost to us that there are quite a number of things that we did when we passed the Constitution of 2010. I belong to those who believed that we could have changed the Constitution and then amalgamated it. I remember, in our desperation to have a new Constitution, there was one camp that said, “*tupitishе, tubadilishе baadaye*” and there are those who said, “*tubadilishе alafu tupitishе*”.

This Report seeks to redress the issues that were omitted. I find it very bold that despite the differences that we have in the political arena, people can come up with suggestions on how we can move this country forward.

I am fully aware that this country belongs to all of us despite our political inclination. It is very important that we start looking at the perennial issues that will come every five years and face this country, like we have never had an election before.

The issue of the Independent Electoral and Boundaries Commission (IEBC) must be decided with a sober mind. The issue of the two-thirds gender rule must also be decided. It is not lost to Kenyans that we need to have our sisters, mothers and daughters equally in power.

At least, we must all appreciate that as it is currently, we have seven women governors who have not been appointed, but they went out there and fought to be elected. Some of them even floored very strong men.

Moving forward, this is the spirit that we must encourage. We must have a fair playground for everybody. It is also not lost to me that we waste a lot of time trying to engage on things that we could have solved several decades ago.

I find this Report a very good stepping stone to enable us handle issues, encourage ourselves, look at facts as they are and moving forward, conclusively solve them.

It will be deceptive for us to say that the Report did not address the cost of living. It is known to everybody in this House that the Dollar, which has been skyrocketing, using its own dynamics, is now coming down.

Mr. Speaker, Sir, we all know that the cost of living is a combination of several factors. One of them is the conducive environment where people work and the good outlook people have. Currently, with the intervention of the Government because of good rains and the subsidized fertilizers that we got, the cost of flour which was retailing at about Kshs300 the other day is now retailing at Kshs100 and is still going down. These are some of the things you can show on paper, but they can only be won by a combination of good policy, effective frameworks, accountability and governance.

We should challenge ourselves as we sit in this House because this document gives us the ability to negotiate, address, relook and get a solution to most of the problems that we face in this country. This can happen if we come with utmost good faith. This can only happen if we stop looking at ourselves as them against us, and when we stop talking at each other and talk with each other. This country needs people and leaders who can bring a solution that the future generations will one day say, when the 13th Parliament met and when they had the National Dialogue Committee (NADCO) Report, they provided a platform to build a solid country.

Mr. Speaker, Sir, I commend the team that sat together despite their political differences and temperatures. This is a commendable document but is not a magical document but a platform upon which we can form the basis of future negotiations. Moving forward, everyone has learnt that there is no need to go to the streets, throw stones and get teargassed, and that we can change this country by simply having dialogue, talking to one another and deciding that this is the way we need to move forward.

I support, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Kavindu Muthama.

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Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this document. I commend the team that came together, sat and compiled this Report. The only issue I will raise is about two-thirds gender rule. This is an issue that has been troubling Kenyans for a long time. It is not easy for any woman to go out there and get a seat. It takes a lot of strength for a woman to vie with men and get a seat.

One has to build a very thick skin because of the bullying that we get from men, to stand against the abusive words from men. I am not happy that this two-thirds gender rule was dropped from the Report, remembering that when the President was campaigning, he promised women that it would be 50-50 per cent and not two-thirds. That was not the right thing to drop.

Mr. Speaker, Sir, the issue of the position of the Leader of Opposition is long overdue. I was in the Building Bridges Initiative (BBI) and we recommended in that Report that we should have that position, complete with its shadow cabinet and fully funded by the Government, so that there are checks and balances in the Executive by the Opposition Leader. I am happy about it as well.

Another issue we had recommended in the BBI was on the Members of the County Assemblies (MCAs) receiving Kshs20 million to work without pleading and begging for mercy from governors. Right now, Senators have received their oversight fund, Women Representatives have the National Government Affirmative Action Fund (NGAAF) and Members of Parliament (MPs) have the National Government Constituencies Development Fund (NG-CDF), but the MCAs have been left out. I expected this to be in this Report because, in the BBI Report, we had recommended it.

Mr. Speaker, Sir, like the two of the Senators who spoke before me have stated, this Report should be held a bit for the gender issue, the MCAs Ward Development Fund (WDF) and any other thing that has been left out to be considered. I am not happy about the cost of living because it is very high.

Sen. Orwoba: On point of order, Mr. Speaker, Sir.

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

Sen. Kavindu Muthama, just a minute.

Sen. Orwoba: Mr. Speaker, Sir, under Standing Order No.105, Sen. Kavindu Muthama has said that we have received the Senate Oversight Fund (SOF). Unless she is referencing the elected Senators, the nominated Senators who are still playing oversight have not received SOF.

Thank you.

The Speaker (Hon. Kingi): That is a point of information.

Proceed Sen. Kavindu Muthama.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. Sen. Orwoba should not be wasting a lot of time.

(Laughter)

The Speaker (Hon. Kingi): Just proceed with your contribution.

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Sen. Kavindu Muthama: The cost of living is very high. We were going to the ground to know what the ground was saying and how it was feeling about the cost of living. Wherever we go, we get some people who do not have food. As we are saying that *unga imeteremka*, people are crying and are having it rough.

Mr. Speaker, Sir, on the e-citizen's way of paying school fees, there was a clip running around where a man took goats to a shopkeeper and told him to put those goats in the e-citizen, so that he could pay fees and that he would also bring firewood there. Some of these things are good, but some people cannot do them. We must also check how much such people are going to be catered for in the Government for them to live comfortably. I pray and beg that the taxes be reduced because Kenyans are suffering.

Mr. Speaker, Sir, with those few remarks, I support this Report.

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

Sen. Mbugua: Thank you, Mr. Speaker, Sir, for this opportunity to add my voice to this Report. Allow me to appreciate the Members of this Committee for a job well done in producing this Report.

There are many recommendations in this Report and the important one to me is the recommendation that the Ministry of Labour and Social Protection will expand the scope of the Social Protection Fund (SPF), to include all persons with severe disability and that in consultation with the National Council, the correct data for Persons with Disability (PwDs) in this country shall be collected.

Mr. Speaker, Sir, I also like the recommendation on pending bills because county governments in this country have put many Kenyans in poverty. We pass the budget here and recommend that pending bills be paid and nothing happens. I commend the Committee for this recommendation.

The recommendation of the operationalisation of the Public Benefit Organization Act of 2013 is welcome to the civil society of this country because we appreciate that the Government cannot do everything. This will enable the civil society to mobilize funds to help the vulnerable in this country, especially the PwDs.

Mr. Speaker, Sir, I am also in support of the recommendation by this Committee that county governments should be held to account and that they should ensure that not more than 35 per cent of the ordinary revenue is used to remunerate staff. What is happening in our country is that county governments have become employment bureaus and they are only employing people and very little is happening in terms of development.

With these few remarks, Mr. Speaker, Sir, I support the adoption of this Report.

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

Sen. Mwaruma: Asante Bw. Spika kwa kunipa fursa hii ili nichangie hii Ripoti ya *National Dialogue Committee (NADCO)*.

Kwanza, nawapa shukrani viongozi wetu wa pande zote mbili, Rais na Kiongozi wa Upinzani, Mhe. Raila Amollo Odinga, kwa kukubali ya kwamba ni vyema kuwe na kamati ya kukutana ili mazungumzo yafanywe.

Mheshimiwa Spika, si mara ya kwanza sisi kujipata katika hali ya kuzungumza ili kuhakikisha kwamba Kenya inasonga mbele. Wakati wa kwanza kuwa na mazungumzo kama haya ni mwaka wa 1997 na iliitwa Ufungamano *Initiative*. Ni wakati tulifanya

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mazungumzo na pande zote mbili za kisiasa kukubaliana kwamba tuwe na tume ya uchaguzi ambayo wakenya wote wanaiunga mkono.

Kulikuwa pia na mazungumzo mwaka wa 2008 baada ya Kenya kufanya uchaguzi mwaka wa 2007. Mambo hayakuwa sawa na wakenya wakakubaliana kwamba ni vyema wakutane ili wazungumze. Mwaka wa 2018 wakati wa *handshake*, aliyekuwa Rais, Uhuru Kenyatta, alikutana na Kiongozi wa Upinzani, Raila Amollo Odinga na kukawa na *Building Bridges Initiatives (BBI)*.

Ilionekana kwamba ikiwa Kenya tutaendelea mbele--- Kuna watu wanafinyika bila amani. Ingawa hawakufikia mwisho katika mazungumzo yale ya *BBI* kwa sababu korti ilitoa mwelekeo kwamba Katiba haikufuatwa vilivyo, mambo kadhaa wa kadhaa yalijitokeza iliyosababisha kubadilishwa kwa Katiba.

Bw. Spika, hivi tena mwaka wa 2022, tulifanya uchaguzi na kukawa na kutoelewana katika matokeo ya uchaguzi. Tukafikia kwamba ni vyema pande mbili za kisiasa zikutane ili kufanya mazungumzo. Hii ndio Ripoti tunayojadili inayoitwa *NADCO Report*. Tuko na fursa nzuri ya kupeleka Kenya mbele na kufanya mazungumzo ambayo yatapeleka Kenya mbele katika mfumo huu wa vyama vingi vya kisiasa.

Kwa kizungu sasa hivi tuko katika *Constitutional moment*. Wakati wa kupitisha Katiba ya 2010, tulisema kwamba kuna vipengee ambavyo ni vizuri na vingine ambavyo ni vibaya, ni kama asilimia 20. Kukawa na maelewano kwamba tupitishie Katiba hii ila ifike wakati wa kuiangalia tena.

Kamati hii ilifanya kazi nzuri sana. Wakati wa kufanya kazi yake, kulikuwa na uhusishaji wa wananchi na maswala mengi yaliibuka. Katika mapendekezo ya Kamati ya *NADCO*, walisema kuna mambo yatakayosulihishwa au mapendekezo yatakayotekelezwa kwa kubadilisha Katiba, na mengine yatatekelezwa kwa kuunda sera na sheria za kuhakikisha kwamba mapendekezo ambayo yamejitokeza yatatekelezwa.

Mheshimiwa Spika, la kwanza ni mambo ya upigaji kura, *electoral justice* kwa kizungu. Kulipendekezwa ya kwamba uchunguzi ufanywe ya vile kura ilivyoenda. Nashukuru kwa hilo pendekezo kwa sababu tukishafanya uhasibu wa vile kura ilipigwa, tutajua ukweli wa vile mambo yaliendelea.

La pili ambalo linafanya niunge mkono Ripoti hii ni mambo ya kuweka *National Government Constituencies Development Fund (NG-CDF)*, *The National Government Affirmative Action Fund (NGAAF)* na pesa ya *oversight* ya maseneta. Maendeleo mengi yamefanyika katika magatuzi yetu kupitia hazina ya maeneo Bunge na ile ya *NGAAF*.

Pia naunga mkono kuweka katika Katiba pesa ya *oversight* ya Seneti kwa sababu tayari kama maseneta, tuko mashinani na tunafanya uangalizi ya kutosha kuhakikisha kwamba pesa inayoenda kwa magatuzi inayotumika na magavana imetumika vizuri ili wananchi wetu wapate huduma inayofaa.

Mheshimiwa Spika, kuna mambo ya mipaka. Ripoti inasema kwamba kuundwe kamati au Bunge iunde sheria ya kuangalia kwamba mipaka imeangaziwa. Kuna wasemaji wengi kama vile Sen. Chimera na Seneta wa Makueni waliongea kuhusu mambo ya mipaka. Hili ni swala sugu sana Kenya.

Katika hili Seneti, nimeleta haya maswala ya mipaka kati ya Kwale na Taita Taveta na pia Taita Taveta na Makueni. Tukienda katika sehemu za Isiolo na Meru,

Kericho na Kisumu, maswala haya ni nyeti sana. Nafikiri hii Kamati isaidiane na Bunge au Bunge itekeleze mswada wa *County Boundaries Act* ambao itaangazia mambo ya kusuluhisha mambo ya mipaka ya *counties* kwa sababu ni swala sugu na wakati mwingine swala hili huleta maafa.

Lingine lililojitokeza katika ule mchakato wote wa *NADCO* ni kwamba kuna maeneo Bunge inayoitwa kwa kizungu *saved constituencies* kwa sababu idadi yake haijafikia ile idadi ya watu kwa maeneo Bunge. Kwa mfano Kaunti ya Taita Taveta ina maeneo Bunge kadhaa ambayo haijafikisha ile nambari.

Katika kutekeleza mapendekezo ya ripoti hii, inatakikana zile *constituencies* ndogo ndogo zihifadhiwe na zile *constituencies* ambazo zina watu wengi ipewe *constituencies* zaidi ili kuhakikisha kwamba *constituencies* hazipungui kulingana na Kipengee cha 189 cha Katiba. Ni kweli kwamba kuna *constituencies* ambazo ni kubwa na zingine ndogo ila kwa sababu zile hazina *CDF*, imeleta pesa mingi sana kwa magatuzi, sio vizuri zile *constituencies* kupunguzwa.

Mheshimiwa Spika, mengine yaliyojitokeza ni kwamba kuna rasilmali ambazo ziko kwa *counties* na *county* zingine hazifaidi kutokana na hizo rasilmali. Kwa mfano, kuna mbuga za wanyama Taita Taveta ambayo asilimia 62 ya Taita-Taveta iko katika Tsavo *National Park*. Nashukuru kwa sababu kuna wakati Rais alitembea kule Taita Taveta na akasema ni vyema kuwe na mgao wa hamsini kwa hamsini kwa yale makusanyo ya Tsavo *National Park*. Lakini, hadi sasa hilo halijatekelezwa.

Katika kutekeleza ripoti hii, nafikiri kutakuwa na msukumo fulani ili kaunti zote zifaidi kutokana na rasilmali zao ambazo ziko kaunti zao. Mfano kule Narok kuna Maasai Mara *National Park* ambayo inafaidi Narok *County*, Kajiado kuna Amboseli *National Park* na Rais juzi alisema kwamba Amboseli ifaidi watu wa Kajiado. Saa hii katika huu mchakato, sisi tunasukuma kwamba Tsavo *National Park* ifaidi mtu wa Taita-Taveta moja kwa moja.

Na katika ule mchakato wa kuangalia vigezo vya kugawanya ushuru katika *counties* au *revenue sharing formula* ambayo inakuja mwaka wa 2025, tutasukuma na kuhimiza wenzangu pia watuunge mkono ili kuwe na kigezo ya kuhakikisha kwamba zile rasilmali ambazo ziko katika kaunti, pia zile pesa inayokusanywa kutoka zile *resources* imefaidi au imewekwa kama kigezo cha kugawanya ushuru ambao unaenda kwa kaunti zetu; inaitwa *sharable revenue*.

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

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

Mheshimiwa Spika wa muda, ningependa kusema kwamba mambo ya ugatuzi kwetu ni muhimu sana. Ningefurahia kama hii *NADCO Report* ingependekeza kwamba kuwe na pesa nyingi ---

(Sen. Mwaruma's microphone went off)

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

Sen. Chesang: Thank you, Madam Temporary Speaker, for allowing me to make my contribution to the National Dialogue Committee (NADCO) Report. First, I thank the Committee that sat. I appreciate the good job they did.

This Report also brought peace to this country. I appreciate them for taking their time for dialogue. Secondly, I would like to thank my colleague, Sen. Sifuna, because I heard him yesterday say that he withdrew from this Dialogue Committee.

I was just trying to imagine that if he had been present, this Committee would be continuing up to now. He, however, said that he withdrew for the betterment of a good report.

On matters of food security, I have heard many Senators talk about our cost of living. I believe the Government has tried its best to reduce the cost of living. It has done so by providing subsidized fertilizers to all our farmers.

Being a farmer from Trans Nzoia, I have seen that. I am sure that many farmers in this Country can testify that they have had subsidized fertilizer at a low cost of Kshs3,500. Now, the Government is giving subsidized fertilizer at Kshs2,500, which is already in my county.

I would urge the Government to make sure that we sort this out. The Government has so much land. We have many of our jobless youths outside here. We appreciate the Government on trying to create and put Information Communication Technology (ICT) hubs across the counties, and create jobs in other avenues. However, we still have many of our youths who cannot go to these ICT Hubs. Most of them - as the President said - will not be able to go to Kaptenglei to access ICT Hubs. Maybe, all of them have no interest in matters of ICT. The Government should provide land and train our youths in farming, so that we can assist each other on matters of food security and create jobs for our youths.

Thirdly, I would like to support what Sen. Kavindu Muthama talked on governors who are misusing funds. I support the Senator of Kiambu's Bill on giving the Members of County Assembly (MCAs) their freedom by making sure that they receive their funds.

I also support that we, as Senators from various counties, would be co-chairs of the committees that call our governors. It does not make sense when a Senator from a certain county is called to a Committee as a friend. We want to be part and parcel of following these funds and making sure that we do our oversight well.

Lastly, I support the women in this House. I do so because I love women.

(Applause)

I support the two-thirds gender rule that should be included. I believe in the saying that what a man can do, a woman can do better. I can see Madam Temporary Speaker, you are smiling.

(Applause)

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So, I appreciate the fact that the other day when we were having our Parliamentary Group Meeting in Naivasha, the President confirmed that all our women in schools are going to receive free sanitary towels, the same way as our men receive free condoms everywhere.

(Loud consultations)

No, it is the truth. When you go to every toilet, you will find free condoms. I know even Sen. Oketch Gicheru has a condom in his pocket. However, I know it is not a necessity. So, I think---

(Laughter)

I support this Report, Madam Temporary Speaker.

Thank you.

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

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

(Laughter)

Sen. Oketch Gicheru: Madam Temporary Speaker, I am standing under Standing No.101(4) on the Content of Speech and Improper Motive. Migori people are watching this debate. They know they have a man.

(Laughter)

This man is not mischievous. In my culture, anybody who uses condoms---

The Temporary Speaker (Sen. Mumma): Senator--

Sen. Oketch Gicheru: Madam Temporary Speaker, I have to pronounce myself on this because my name has been mentioned on a very serious issue.

(Laughter)

It can be misconstrued as someone who is not straight, and who does not do his things in straight ways.

The Temporary Speaker (Sen. Mumma): Sen. Oketch Gicheru, please, just address yourself to the point of order.

Sen. Oketch Gicheru: The point of order here is that Sen. Chesang has called my name in a way that can---

The Temporary Speaker (Sen. Mumma): Did you say that under Standing Order No.104? Please, look at the---

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Sen. Oketch Gicheru: Standing Order No.101. I ask my good friend Sen. Chesang to apologize, withdraw and also tell the House that if I had any act to commit, I would not do so under darkness.

The Temporary Speaker (Sen. Mumma): Sen. Oketch Gicheru, please, sit down. Sen. Chesang, you either withdraw the comment you have made and apologize or confirm to the House that Sen. Oketch Gicheru has a condom in his pocket, please.

(Laughter)

Sen. Chesang: Madam Temporary Speaker, I think Sen---

(Loud consultations)

The Temporary Speaker (Sen. Mumma): Order, Members. Let us---

Sen. Chesang: Sen. Oketch, did not let me finish. You know, Sen. Oketch Gicheru, is my good friend. What I was trying to say---

The Temporary Speaker (Sen. Mumma): Senator, it is not what you were trying to say; it is what you have said. I heard you. You said that he has a condom in his pocket. Please---

Sen. Chesang: I said he might because it is not necessarily that he takes things to go and use them. What I was trying to say is---

(Loud consultations)

The Temporary Speaker (Sen. Mumma): Sen. Chesang, please, either confirm that he has or withdraw.

Sen. Chesang: I said he might. Why I said this---

The Temporary Speaker (Sen. Mumma): Senator, please listen to me. You either confirm or withdraw and apologize.

Sen. Chesang: Madam Temporary Speaker, I cannot withdraw something I did not say. I said Sen. Oketch Gicheru might because ---

Let me explain. I said we have these things for free, and we do not necessarily need them the way our women need sanitary towels.

The Temporary Speaker (Sen. Mumma): That one I heard clearly---

Sen. Chesang: Yes. What I said is that Sen. Oketch Gicheru is my friend and sometimes we go for the short call together and we take these things for fun and we do not need them. So, he might even have them. That was what I said.

(Laughter)

The Temporary Speaker (Sen. Mumma): Senator, that is not what you said. If we go to the HANSARD, you will find that is not what you said.

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Sen. Oketch Gicheru: On a point of order, Madam Temporary Speaker. You know you are taking this matter lightly. I do not know whether there are sanctions for things like defamation and other things, but I want to plead - and I will not let this go - that tomorrow you must confirm with the HANSARD if Sen. Chesang' said "might" or he said I have a condom in my pocket.

I want the HANSARD to confirm. If the HANSARD confirms otherwise, I would want serious damages compensated here. I was expecting that perhaps Sen. Allan Chesang wanted to ask the ladies on the Majority side, who are excited about this matter, to come here and confirm. You know some of these things, you just confirm. However, I think that it is appropriate for the Senator to withdraw and apologize to me for that kind of defamation.

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

The Temporary Speaker (Sen. Mumma): Sen. Oketch Gicheru, can you sit down?

I have just conferred with the Clerk-at-the-Table, who has indicated that Sen. Chesang said that you could be having a condom in your pocket. Now, that is not to say that you have a condom in there.

So, Sen. Chesang, to the extent that, that reference to Sen. Oketch Gicheru is offensive to him, I request that you withdraw.

(Laughter)

Please do so, so that we move on.

Sen. Chesang: Madam Temporary Speaker, I do withdraw and apologize

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

Sen. Crystal Asige, you have the Floor.

Sen. Crystal Asige: Thank you, Madam Temporary Speaker. Sometimes the conversations that happen in this House are mindboggling, when there are pertinent issues that need to be discussed, which include this NADCO Report.

I wish to start my contribution by beseeching the Committee that they go away and consider an addendum to be made to this Report, taking into account all of the issues that have been raised already by colleague Senators, that are missing in the report, as well as those that will come after my own.

I believe that an addendum is not something far-fetched. It is still within the power of this Committee to hopefully decide to move in that direction. So, I beg the mover of this Motion to consider that as we continue.

Madam Temporary Speaker, I will immediately draw attention to chapter three of the Report, particularly Paragraph 522 on page 168, which addresses outstanding constitutional matters regarding governance. This Section emphasizes the need for national unity and inclusivity in public appointments, delving into the values and

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principles in Article 232 of the Constitution. Among these principles is the vital involvement of citizens in policy-making processes.

Furthermore, the Report underscores the constitutional commitment to providing fair and equal opportunities for appointment, training and career advancement across all tiers of public service of men and women, members of all ethnic groups, and Persons with Disabilities (PWDs).

It is important to highlight that we are still far from meeting constitutional values and principles, particularly in the inclusion of PWDs. Case in point of this Committee itself, diversity was met in terms of gender; there were men and women on the Committee.

Diversity was met in terms of different political parties being seen in the Committee. Also, we had diversity in terms of different parts of the country as well as being included and represented in this Committee. Unfortunately, I am not aware of any Committee Member that had disability and this is exactly the reason this is to the Mover of this Motion.

This is exactly why we say diversity is imperative to have when it comes to any decision-making table because there will be voices and perspectives that may be left behind by virtue of not having that seat filled on that table. In my case and my submission, I am unfortunately disappointed that PWDs were not represented in this committee.

Currently, only approximately 1.4 per cent of the Public Service Commission's employees are PwDs, falling short of the constitutional threshold by 3.6 per cent. In the private sector, I believe reports say that Safaricom is at around 1.2 per cent, still below the five per cent threshold.

The objective of my first recommendation to the addendum of this Report is to amend the County Governments Act No.17 of 2012, so as to provide for representation of PWDs in the county assemblies.

Article 177 of the Constitution as read with Section 7 of the County Governments Act, 2012, provides for the membership of a county assembly. Section 7(1) (a) of the Act specifically provides that -

“The county assembly shall comprise of six nominated members contemplated in Article 177 of the Constitution.”

This provision only gives an overall figure of the nominated slots, but does not de-cluster the slots. What exactly does this mean? This means that of the six slots in every county assembly that should represent special interest groups, because the six are not clearly allocated to say, for example, two will belong to PWDs, two will belong to youth, and two will belong to workers.

Since there is no clarification in the Constitution, what has happened for years and years and even in the last election, is that county assemblies continue to run unconstitutionally because they do not have any PWD representatives within them.

In the last election of 2022, there have been at least 21 county assemblies without any representation of disability in them, including this one that we are sitting in today, Nairobi City County, the capital city; where out of approximately 120 MCAs there are

none with disabilities, even though the Constitution says that there should be representation within every county assembly.

Uasin Gishu is also one of them, as well as Narok and several others in the 21 that are listed. The issue is arising because parties submitted these nominations, but placed us as PWDs at the tail-end and, therefore, we are left out in representation.

My recommendation, therefore, seeks to implement the principle of at least 5 per cent of members in elective and appointive bodies to be PWDs. This will ensure adequate representation of PwDs in the county assemblies.

The objective of my second recommendation to the NADCO Report is to amend the Constitution 2010 to provide for additional seats in the National Assembly and the Senate to implement the principle that at least 5 per cent of the members of the public in elective and public appointments should be PwDs.

My recommendation proposes to amend Articles 97 and 98 of the Constitution to ensure that 5 per cent of Members of the National Assembly and the Senate are representatives of PWDs. This is intended to increase the representation of PwDs in Parliament, so as to address the historical exclusion of PwDs from decision-making processes like this one, resulting in laws and policies that do not fully reflect our unique challenges and needs by ensuring the adequate representation of PwDs in Government.

My recommendations aim to ensure that our voices are heard and our interest and needs are taken into account in all decision making processes.

Madam Temporary Speaker, it will interest you to know that right now, out of 67 Senators in this House, we are only two with disabilities, which is not five per cent as it has been enshrined in the Constitution. That means that we are moving and operating unconstitutionally.

In the National Assembly there are about 359 Members of Parliament (MPs) and only approximately 11 are PwDs. That is a mixture of both elected and nominated. This means that we are below five per cent of 359, which is contrary to the Constitution. We are Parliament; the people meant to be the custodians of the law. My recommendation further amends Article 90(1) and 101(1) of the Constitution, which provides for allocation of party list seats and vacancies in such seats respectively, as a consequence of the amendment in Article 97 of the Constitution if passed.

The National Treasury reviews cash transfers for all the persons as outlined in Paragraph 458 (1), on page 144 of the National Dialogue Committee (NADCO) Report. I notice a lack of mention of PwDs. It talks about the elderly cash transfer. I wish the Mover would encourage and beseech the rest of the Committee to be specific and intentional on emphasizing every single word because when one or two words are omitted---

(Sen. Crystal Asige's microphone went off)

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Kinyua.

Sen. Kinyua: Asante Bi Spika wa Muda kwa kunipa fursa hii. Kwanza, ningetaka kuunga mkono Ripoti hii ya NADCO. Nawapongeza viongozi ambao

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walikutana katika Kamati na kuweza kujadili haswa Kiongozi wa Waliowengi, Sen. Cheruiyot, Sen. Omogeni pamoja na wale wengine.

Naunga mkono mapendekezo waliotoa kuhusu *Constituencies Development Fund (CDF)* na *County Assemblies Fund (CAF)* na *Senate Oversight Fund*. Vile, naunga mkono ofisi ya Kiongozi wa Upinzani na mapendekezo walioileta katika tume hii ya uchaguzi. Ni kinaya kwa sababu mambo waliojadili yangejadiliwa katika Bunge hili bila kuupoteza muda.

Msingi tunaouweka katika nchi hii wa kusema ni lazima kuwe na vurugu, fitima na hali isiyo hali katika nchi yetu ili tupatane kujadili mambo haya inavunja moyo sana. Kwa mfano; mapendekezo haya yote yangeweze kutolewa kwa Kamati husika za Bunge.

Waliokuwa wanaongoza Kamati hii ya majadiliano ni watu walio Bunge hili. Waliosema kuwa maoni hayo yote yangejadiliwa katika Bunge hili waligonga ndipo. Tukiweka msingi kama huu eti kila wakati ni mvutano kama ule wa 1997, *Inter-Parties Parliamentary Group (IPPG) reforms*, kulikuwa na mvutano na ndio maana watu waliketi chini kuzungmza.

Ijapokuwa nawapongeza viongozi wale kwa kupata nafasi ya kuketi chini, tumekuwa tunaketi hapa na Kiongozi wa Waliowengi, Sen. Cheruiyot, pamoja na Seneta wa Kaunti ya Nyamira, Sen. Omogeni. Wangeketi na kuongea kuhusu jambo hili.

Mambo haya yakiwekwa katika kumbukumbu itaonekana kuwa tulikuwa hatuelewei mambo tuliyopaswa kufanya. Mapendekezo ambayo wameleta hapa kwenye ripoti, tungeyazindua katika Bunge hili na kuibadilisha Katiba.

Naunga mkono nikijua kuwa hakuna siku hata moja hatujaongea na Sen. Oketch Gicheru, aliye upande wa upinzani na mimi upande wa Serikali. Tulikuwa tukiiiongea kwa utulivu tulipopatana kwenye Kamati tunapokutana. Maneno ambayo yanasemwa kuwa viongozi wanapatana kwa sababu ya kuleta utulivu basi ni kinaya kwa sababu Sen. Cheruiyot anaongea na Kiongozi wa Wachache katika Bunge la Kitaifa Mheshimiwa Opiyo Wandayi.

Ni vizuri tuzichunge rasilimali zetu. Baadala ya sisi tuliochaguliwa kuchukua fursa na majukumu tuliyopewa na kufanya tunayopaswa, wengi wanasema kuwa walienda kujadiliana kuhusu gharama ya maisha. Utaongea aje kuhusu gharama ya maisha ilhali hayo mambo yalikuwa yamezingatiwa vizuri na Serikali. Serikaili ilikuwa imeweka misingi dhabiti. Tayari mbolea ilikuwa imepunguzwa bei pia.

Gunia za mahindi ambazo zimevunwa kwa sababu ya mbolea iliyotolewa ni nyingi. Tunaweza kusema na kufanya mengi ili kupongeza Kamati hii. Lakini, nikiyaangalia mapendekezo hayo katika riporti hii ya kurasa 500, nina uhakika tungefanya mambo haya yote katika Bunge hili.

Tunawakosea Wakenya heshima na shukrani kwa sababu walituchagua kufanya kazi hii. Badala ya ndugu zetu, Sen. Cheruiyot na Sen. Omogeni kuifanya kazi hii hapa, moja kwa moja, kiguu na njia wanaenda kuifanyia Bomas of Kenya. Ni swala linalovunja moyo na sio kwangu tu lakini kwa Wakenya wote.

Nawapongeza kwa kufanya kazi nzuri. Lakini, wangeifanyia katika Bunge ili wachunga mali ya Wakenya. Swala ambalo lingekuwa bora zaidi. Kusonga mbele, msingi tunaouweka si mzuri na unavunja moyo wangu kwa Wakenya wote.

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Wakenya waliouwawa katika maandamano walisaidika vipi na mapendekezo haya tunayoleta hapa? Tutawaambia nini? Mali yao itaregeshwa vipi? Ni vizuri tunene ukweli na sio kuficha ukweli kwa kusema mengi. Walakini ilileta utulivu. Mswahili alisema wengi wape.

Naunga mkono Ripoti hii. Lakini, isiwe naimsingi ambao utakuwa wa madhara kwetu.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Faki

Sen. Faki: Asante, Bi Spika wa Muda kwa kunipa fursa hii kuunga mkono ripoti ya Kamati ya uwiano ambayo iliwasilishwa na Kiongozi wa Wengi katika Bunge hili.

Kwanza, natoa pongezi kwa viongozi wawili wakuu ambao walikubaliana kuwe na Kamati hii. Vile vile, wanakamati wote waliofanya kazi pamoja na watumishi wao kuhakikisha kuwa wameitoa ripoti inayokubalika.

Najiunga na katibu wa chama chetu cha Orange Democratic Movement (ODM). Hata kama Ripoti hii ina mambo mengi ambayo yamezungumziwa, kuna mambo msingi ambayo hayakutajwa na kuzungumziwa kwa ufasaha. Moja wapo ikiwa ni kuongezeka kwa bei ya bidhaa muhimu katika nchi yetu.

Yani gharama ya maisha imeongezeka maradufu kiasi ambacho wengi katika nchi ya Kenya hawawezi kuandaa mkate wala ugali katika meza zao kila siku. Hilo ni jambo muhimu sana. Kuongezeka kwa gharama ya miasha kuna sababisha watu kukosa namna ya kujikimu kimaisha. Wanafunzi wanakosa kwenda shule na wagonjwa wanakosa matibabu na hayo yote yanasababishwa na kuongezeka kwa bei za bidhaa muhimu na maisha kwa jumla.

Kwa mfano, kuongezeka kwa gharama ya *Value Added Tax (VAT)* ya mafuta. Swala hili lilikua hapo awali, 2018 na 2019. Serikali iliyokuwa wakati ule ili leta mswada katika Bunge la Kitaifa na ika punguzwa kutoka asilimia 16 hadi Asilimia 8. Hivyo ilisababisha kupunguka pakubwa kwa bei za bidhaa muhimu kama mafuta na zinginezo.

Bi. Spika wa Muda, tukiangalia katika magazeti yetu kila siku kuna ripoti kadha wa kadha ambazo zinaonyesha ubadhirifu wa pesa za umma katika nchi yetu. Leo utasikia kuna milioni 600 za kurekebisha nyumba ya Naibu wa Rais. Hizi ni pesa za umma ambazo zinavujwa na kutumika kwa hali ambayo isiyo ya kisawasawa.

Upande mwingine, wale walala hoi wanaendelea kupata shida ya kusomesha watoto wao. Watoto wengi wanakosa kusoma na baadaye wanakuwa majambazi na hali yao ya maisha inabadilika.

Wenzetu wa upande ule mwingine wamesema kuwa kulikuwa na vurugu kabla ya Kamati hii na wale ambao mali yao iliharibiwa walipwe fidia. Watu wengi walipoteza maisha yao. Wengine walipigwa risasi na kuuliwa na vikosi vya usalama.

Kiongozi wa Walio Wachache alishikwa akitoka hapa Bunge akienda nyumbani kwake. Kushikwa kwake kuliwapa furaha wanadada wengi. Baadhi ya Maseneta katika Bunge hili waliona raha walipomuona Sen. Madzayo ametiwa mbaroni na hali ambayo ilionyesha ni mtu wa kisawasawa.

Mojawapo wa vipengee muhimu vya hii ripoti ni suala la Bunge kuangalia gharama ya maisha. Kwenye mchakato wa kutengeneza bajeti ya mwaka 2024/2025, gharama ya maisha lazima ipunguzwe.

Suala la pili ambalo ningependa kuliguzia ni kuongezeka kwa akina mama kwenye uongozi wa nchi. Hili ni suala ambalo limekuwa donda sugu. Bunge lililopita, lilijaribu mara tatu kupitisha Mswada huu lakini haukupita. Nakubaliana na Kamati kwamba lazima watu wakae chini kama Bunge kuhakikisha kwamba suala hili linatekelezwa ili watoto wetu wa kike; dada zetu wapate fursa ya kuingia katika uongozi.

Tunapoelekea itakuwa ni ngumu zaidi kwa kina dada kuingia katika uongozi wa kuchaguliwa. Kila siku wale ambao wanahusika kama viongozi wa vyama ama wale ambao wanasimamia vikundi hivi wanatumia mbinu ambazo hazifai kikatiba kuzuia wasichana kupata uongozi.

Jambo la mwisho ambalo ningependa kuligusia ni kuhusu hazina ambazo ziko. Kwa mfano, hazina ya *National Government Constituencies Development Fund (NG-CDF)*, ambayo imesaidia pakubwa kupeleka maendeleo mashinani. Tumekubali hapa kwamba hazina ya Seneti ya *oversight* imefanya kazi kubwa muda mchache tangu ipitishwe.

Tungependa *Ward Fund (WF)* iwepo ili kila wardi iweze kupata maendeleo kutoka kwa serikali za kaunti zetu. Baadhi ya wadi hazipati maendeleo kwa sababu magavana hawaelewani na wabunge wa Bunge za kaunti. Kila wadi iwe na pesa zake kuhakikisha kwamba maendeleo yanafika pembe zote za wadi zetu.

Tunakubaliana kwamba ipo haja kuangalia kwa haraka masuala ya mipaka ya maeneo Bunge na vilevile wadi. Hili ni swala la kikatiba na lingekuwa limeshughulikiwa kabla ya mwaka 2022, lakini halikufanyika kwa sababu za kiserikali na kifedha. Ni lazima hili jambo lifanyike ili maeneo ambayo yanastahili kupata maeneo zaidi ya ubunge yaweze kuyapata ili wananchi waweze kupata uwakilishi wa uhakika katika mabunge ya kaunti na vilevile Bunge la Kitaifa.

Asante, Bi. Spika wa Muda, kwa kunipa fursa hii.

The Temporary Speaker (Sen. Mumma): Sen. Chute, proceed.

Sen. Chute: Thank you, Madam Temporary Speaker, for this opportunity. The election period of 1992 and 1997 was chaotic and resulted in issues like property destruction in the country. At that time, we formed the Inter-Parties Parliamentary Group (IPPG), chaired by Hon. Jillo Jarso Falana, MP for Saku, my MP. I am proud of him.

I thank the Committee of 1997. Their report created democratisation in this country. This is why we have to add a few things to what was done in the 1997. The IPPG package made the playing field considerably more level. I thank the members of the National Dialogue Committee (NADCO), its Co-chairpersons, the opposition leader, Hon. Raila Amollo Odinga and His Excellency the President, for initiating this process.

This is a job well done. It will remain in history as one of the second IPPGs. It is an IPPG, although called NADCO. This committee has brought an excellent report. Looking at the IEBC panel, the report proposes restructuring it from seven to nine. The reason behind this is important. Adding two more is advisable and I support it.

On the IEBC, we have issues with our boundaries in several counties. This issue should be resolved and is one of the reasons I support this report.

On the issue of the audit of the 2022 Presidential election, I would like to say since 2007, there have been issues. If you want to audit the 2022 Presidential election issue now, I think we will be wasting time. I am still determining what we will gain by auditing the election. This needs to be better thought out. This audit report can only bring out something that has been seen before.

On the cost of living, I agree that it is high. We need concerted efforts by those leaders in Government and the opposition. It is not the duty of the President to look at the cost of living alone. It is the responsibility of all Kenyans to look at how to reduce the cost of living to be affordable.

The Value Added Tax (VAT) on fuel is double what it used to be before this regime. It has raised the cost of other commodities. We should relook it to reduce it so that we can bring down the cost of production.

In Moyale, for example, on the Ethiopian side, a litre of diesel costs Kshs75 to Kshs80. On the Kenyan side, it is at Kshs220. Ethiopia is a landlocked country. Why should we have fuel cost almost three times the price in Ethiopia? We need to look at the reasons why the cost of fuel is higher in Kenya than in Ethiopia.

On the issue of implementation of the two-thirds gender rule, I support the report. As you know, I am the Chairperson of the Committee on National Cohesion, Equal Opportunity and Regional Integration. I have come across many groups coming before my Committee. Many of them have not gotten the two-third gender rule in terms of employment.

Madam Temporary Speaker, if you look at the two-thirds gender rule and also come back to the Persons with Disabilities (PwDs), it is supposed to be at five per cent. Many of the organisations that came before us are either at 1.5 to two per cent. They have not gotten the 5 per cent level. The question is if they do not attain the five per cent margin, what will happen to them? There is no law that says these people should be penalised. I think this issue of saying, we want five per cent and then there is no penalty, is a problem because nobody cares.

On the issue of fidelity to political parties, I support this report. For instance, what is the reason for people like from the Jubilee Party running back to the ruling party after the elections? You need to remain in your party. Additionally, if you are from the United Democratic Movement (UDM) Party, why are you coming back to United Democratic Alliance (UDA)? We have been fighting in Marsabit with UDM. They are coming back and pretending that they belong to UDA. That is wrong.

On the issue of funds, I support the Senate Oversight Fund. What we are getting now is too little for us. We need more money for a place like Marsabit which is the largest county in this Republic.

I will travel to Loiyangalani tomorrow and Ileret. I have to go by helicopter whereas somebody from Kiambu County just drives to it in a short period of time; maybe about 10 to 15 minutes. Therefore, we needed those funds.

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On the issue of the Office of the Prime Minister, this is just a waste of resources and money. There is no point of having them there.

On the replacement of the IEBC commissioners, that is a good idea because we want new IEBC commissioners. We do not want the ones that are nominated by the President, so that everybody would be happy.

Finally, the problem we have is not the cost of living. The biggest problem we have is corruption. I have seen today that the Government wants to propose a budget of Kshs4 trillion. If we reduce corruption by only 15 per cent, we will save Kshs600 billion. Nonetheless, if we reduce it to zero, we will save Kshs1.2 billion.

Moreover, look at the counties. Who manages counties? Corruption is at almost 50 per cent. This is in public domain and everybody knows. Does it mean that these monies going to the counties not Kenyan money? It is the public's money.

Madam Temporary Speaker, on the restoration of privileges enjoyed by the coalition leaders; I do not know why security was removed from our friends on the other side. What is the reason? Why are you removing the security and what will happen the next time we are going to be in the opposition? Therefore, that means we will not get security also.

I thank you.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Kibwana.

Sen. Kibwana: Thank you, Madam Temporary Speaker, for giving me this opportunity.

First, I would like to commend the job well done by the NADCO team. Yesterday, the Senate Majority Leader, Sen. Cheruiyot, was very eloquent and quite sober in his brief. I commend them for the job well done. I know it was not an easy job and they were dedicated to this course.

Madam Temporary Speaker, when I saw the technical team with Professor Adams and Zein, I knew their report was going to be a good report. Yes, I believe it is a good report.

Madam Temporary Speaker, much has been said. I want also to commend you on your contribution. I really do not want to water down what you said because it was quite heavy. You contributed quite well and spoke for all of us.

I only have one or two issues on electoral justice. I feel strongly that having an effective electoral dispute mechanism protect the fundamental political rights. Therefore, it is long overdue for us to have the electoral justice that is in place, the integrity of elections and the rule of law.

The other issue is the restructuring and reconstitution of the IEBC. Justice delayed is justice denied. It has taken a while. You can imagine a body that does not have commissioners or drivers, so nothing can be done.

Madam Temporary Speaker, so far, we have had issues of deaths of Members of County Assemblies (MCAs) and the rest. Nonetheless, they cannot be replaced since there are no commissioners and the electoral body is non-functional.

The presence of an official opposition party in Parliament strengthen the legislative oversight. I commend them for having recognized the opposition party and to ensure that at least there would be accountability and transparency in the governance.

The last and not least is the bottleneck on the two-thirds gender rule. Azimio la Umoja-One Kenya Coalition as a party support the two-third majority 101 per cent.

The issue here was the taskforce that was formed by the Ministry of Public Service, Youth and Gender Affairs, which was in force. Therefore, we should direct our guns to the taskforce.

We need to ask the Cabinet Secretary to submit the report as soon as possible. This report should have come together with the NADCO report. I feel very sad that the Ministry of Public Service, Youth and Gender Affairs, has let us down.

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

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

Sen. Orwoba: Under Standing Order No.105, is it in order for Sen. Kibwana to mislead this House that the taskforce did not give a report? If you check on this NADCO report that has been signed by both parties of Azimio la Umoja-One Kenya Coalition Party and Kenya Kwanza, it is indicated that all stakeholders submitted their reports, including the multisectoral committee that was there.

The issue that we have is actually the wording that is in this report, which specifically says that all the submissions have been heard and considered. However, the NADCO has chosen to put the issue of the two-third gender rule aside and delegated it to the multisectoral committee.

The Temporary Speaker (Sen. Mumma): Sen. Orwoba, what are you saying? Has the Ministry Multisectoral Committee submitted its report?

Sen. Orwoba: Madam Temporary Speaker, the reports have been submitted. If you read the NADCO report, they have even given two options.

The Temporary Speaker (Sen. Mumma): Please, indicate the paragraph.

Sen. Orwoba: Madam Temporary Speaker, if you go to the recommendations of the two-third gender.

The Temporary Speaker (Sen. Mumma): Not the recommendation. The report is submitted at which paragraph, please? Indicate.

Sen. Orwoba: Madam Temporary Speaker, that is in the NADCO and that is what I want us to refer to.

The Temporary Speaker (Sen. Mumma): Okay, which paragraph?

Sen. Orwoba: Give me a moment, but there are two options; option 'A' and 'B.' I do not have it with me, but it is in the NADCO report that the two options have been submitted.

The Temporary Speaker (Sen. Mumma): Please cite it or withdraw.

Sen. Orwoba: Kindly, I will cite it Madam Temporary Speaker. It is online and I have to get it from online.

The Temporary Speaker (Sen. Mumma): When you stand, you need to be clear. Please, cite the report.

Sen. Kibwana: Sen. Orwoba, please have facts.

The Temporary Speaker (Sen. Mumma): No please, Sen. Kibwana.

Sen. Orwoba, please cite it. The report is online, can you get it? You must be speaking from a point of fact.

Proceed, Sen. Kibwana.

Sen. Kibwana: Madam Temporary Speaker, I would be glad for Sen. Orwoba to substantiate and give us that report. I will withdraw if that is the truth. However, what I know for sure is that the taskforce has not submitted their report. I have asked the Senate Majority Leader, Sen. Cheruiyot, and he confirmed that the taskforce has not yet submitted their report.

Sen. Orwoba, I am not just saying it for the sake of it. I am not shouting for the sake of shouting.

The Temporary Speaker (Sen. Mumma): Sen. Kibwana, please proceed with your contribution. Do not exchange with anybody. Just proceed to make your contribution.

Sen. Kibwana: Madam Temporary Speaker, let us not kill the “Baba” spirit because he has always supported the two-thirds gender rule. I commend our party leader, the Rt. Hon. Raila Odinga, for supporting the NADCO report.

I support.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I rise to support this national report. I am a scientist. Like all scientific minds, we believe in gradual progression. The fact that we have missed on some areas, but gained on others, is in keeping with the spirit of progression. I believe to an extent, if we adopt this report, we will move the frontier of democracy.

When the NADCO process commenced, expectations of Kenyans, especially for women, were very high. It is sobering to note that this report is going to be defined by only four things. One, creating the office of the leader of the Opposition, the office of the Prime Minister and fixing the problem of IEBC.

Lastly, but not least, it will be remembered for its failure. It failed because Kenyans paid by limb, sweat, blood and life. Kenyans were promised that due to this particular dialogue, the cost of living would come down. They hoped that this would fix it. It has not.

The issue of having approached Kenyans in rallies and mobilized them, urging them to believe that the cost of living would be fixed through dialogue, was a big hoax. It is, therefore, sad that nowhere in this report have we fixed the cost of living.

The second failure is the two-thirds gender rule. It is a huge failure. I never knew that people were lying about two-third gender rule. I do not know what people fear about women.

The cost of running the office of the Leader of Opposition and the entire retinue around the office of the Prime Minister is far more than the cost of fixing the two-thirds gender rule. For example, in this House, we need only two more women and in the National Assembly.

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It was deceit that we have not fixed the problem of two-thirds gender rule. The fact that it was downgraded to be taken to taskforce was a confirmation that nobody wanted it. Outside this negotiated process, which is political, you can never fix the two-thirds gender rule. It is a shame. I urge ourselves to reflect.

Madam Temporary Speaker, I heard you when you were contributing saying that they should be given one week. They do not need a week. We just give them one hour to go and pray. After praying, they fix an addendum that the two-thirds gender rule has been agreed upon. End of the story.

If you do not like the two-thirds gender rule, why are you using the current Constitution which provides for the same? This is my problem. We will move our country whether some people like it or not.

I remember when I was a little boy at the University of Nairobi (UoN), we used to go to the great court and we would stand on a table and we would talk to nobody. We would talk just to the air that we would change this country and bring in multiparty democracy. We did.

I, therefore, want to speak here and say whether some people in this country like it or not, two-third gender rule will be effected one day. It is a shame that we wasted hundreds of millions on a report that is disappointing.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. (Prof.) Tom Odhiambo Ojienda, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker. Allow me to contribute to today's debate. Let me start by thanking the NADCO committee.

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

The Temporary Speaker (Sen. Mumma): Sen. Tobiko, what is the point of order?

Sen. Tobiko: It is about the Air Conditioner (AC) levels in this House. I have had to walk out twice because it is a little too cold. To make it possible for all of us to be in the House, can it be reduced?

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

Sen. (Prof.) Tom Odhiambo Ojienda, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to the NADCO report. Let me start by procedurally, thanking the team that sat together to deliberate over the many issues that bedevilled this country, which led to the NADCO report.

I have a number of issues that I will raise in this report because I do not want it to meet the same fate as the Building Bridges Initiative (BBI) report. I say so, because there are several constitutional hurdles, which if not dealt with early enough even before the Bills are done, then this report may meet the same fate as the BBI report.

Madam Temporary Speaker, the question of the cost of living that was at the core of this report was not agreed upon. It is of note that when there were several

demonstrations organised countrywide by one faction of the Opposition, the main clamour then, was for the reduction of the cost of living. That is one sticky issue.

Madam Temporary Speaker, the cost of living, I believe is work in progress. I am sure both sides, the opposition and Government, will work towards realising an affordable cost of living for the residents of this country.

Sen. Omogeni: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Do you want to be informed?

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, I am well informed. However, my learned friend wants to inform me.

Sen. Omogeni: I am sure you will not refuse if I am to inform you. Madam Temporary Speaker, I have listened to two contributions, one from the Majority Whip, Sen. (Dr.) Khalwale---

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, you are informing Sen. (Prof.) Tom Odhiambo Ojienda, please. It is not an opportunity for you to respond to them.

Sen. Omogeni: Madam Temporary Speaker, under Standing Order No.105, we should not make statements that may be misleading to the public. We have heard it being said repeatedly by my good friend, Senior Counsel, that this report does not address the issue of the cost of living. However, if you go to page 133 all the way to 144, the report has comprehensively addressed issues dealing with the cost of living. We have even given a basis on what has led to the high cost of living. We have made a proposal in the report on page 144 that the Cabinet Secretary (CS) for National Treasury and Economic Planning should enhance the cash transfer to older persons and Persons with Disabilities (PWDs).

Madam Temporary Speaker, we have made a proposal that from February of this year the National Treasury should sit to review the tax policy with a view of reducing the tax burden on Kenyans, which we diagnosed as the main cause of the high rise of the cost of living. We have even made proposals on how farmers should be supported. We have made proposals that there should be a food programme to schools so that we address the issue of the cost of living on Kenyans.

Is the Senator for Kisumu in order to mislead the public that this committee has not addressed the issue of the cost of living whereas as I have pointed out that it addressed it comprehensively? The people in Nyamira are waiting for money for the old people to be enhanced to Kshs10,000.

The Temporary Speaker (Sen. Mumma): Sen. (Prof.) Ojienda, please take note of those comments in the report.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, I thank the Senator for Nyamira for informing me. However, my contribution was that the measures that are required to reduce fuel tax and other taxes were not agreed upon.

When Sen. Sifuna contributed to this report, he pointed out that the cost of living and other issues of *unga* and carrying *sufurias* was not about those who were demonstrating or the leaders because they can afford *unga*. The person who expected a reduction was the common person and not the Senators, including Sen. Omogeni and

Sen. Oketch Gicheru here who were in the streets demonstrating and running around with *sufurias* on their heads.

I will leave that point. I hope that next time when leaders go out there demonstrating, let them have solutions for the people they represent. Let them not mislead people that in a jiffy, life will change. We must work hard to improve the status of the people we represent. That is why it is important at times to honestly discuss and engage. Both sides of the House have that obligation.

When the *maandamano* took place, I said I would not take part in it because I felt that the solution to the problems that bedevil this country lie in a discussion; not in the streets.

Secondly, the NADCO report, in pointing to the need to audit the 2022 electoral results, takes us back to the old history and the question that this country would want to forget. This country would want to move forward.

In 2010, we adopted a new Constitution. It serves the people of this country better to progressively deal with the issues that we have and not to go back and fault results of elections, every electoral cycle. I do not believe that the audit of those election results will serve this country beyond what has been done. I believe Sen. Oketch Gicheru has done an audit of these elections.

On the reconstitution and restructuring of the IEBC, the recommendations that require that we appoint nine Members to the panel---

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

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Sen. Oketch Gicheru, you are interfering with my line of thought.

The Temporary Speaker (Sen. Mumma): Let us listen to him.

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

Sen. Oketch Gicheru: Madam Temporary Speaker, I rise on Standing Order No.101(4), the idea that the Senator for Kisumu County is seeking to somehow impute an improper motive on me. When you say on national television that you believe that Sen. Oketch Gicheru has done an audit of the elections and knowing very well that I am not IEBC; I have never worked for IEBC. He is a senior counsel---

The Temporary Speaker (Sen. Mumma): Sen. Oketch Gicheru---

Sen. Oketch Gicheru: Madam Temporary Speaker, I must pronounce myself on this matter because he has thrown a number of jabs at me a number of times, but I have just been keeping quiet.

He is a senior counsel who by law knows all the institutions that can deal with the issue of elections. Is he in order to put my name on something like this? He should withdraw and apologize to me.

The Temporary Speaker (Sen. Mumma): Sen. (Prof.) Ojienda, do you have any evidence that Sen. Oketch Gicheru has audited the elections?

Sen. (Prof) Tom Odhiambo Ojienda, SC: Yes, I have evidence. I am aware the Sen. Oketch Gicheru did an audit of the elections. I am also aware that he was an advisor.

The Temporary Speaker (Sen. Mumma): I will give you until tomorrow to provide that evidence.

Sen. (Prof) Tom Odhiambo Ojienda, SC: He showed me. So, I can look for him to give me the copy that was---

(Laughter)

The Temporary Speaker (Sen. Mumma): No, Sen. (Prof.) Ojienda, this is serious. Let us take it seriously. Please submit that evidence tomorrow.

Sen. (Prof) Tom Odhiambo Ojienda, SC: I will submit. I will get it.

The Temporary Speaker (Sen. Mumma): Please proceed.

Sen. (Prof) Tom Odhiambo Ojienda, SC: Madam Temporary Speaker, I will supply the evidence by tomorrow.

Let me move to the reconstitution of the IEBC. The proposal to reconstitute the appointing panel from seven to nine has ramifications on the IEBC Act. The IEBC Act, at the First Schedule, provides that the President appoints a seven-member panel to advertise and to appoint members of IEBC.

The proposal by NADCO, the Sen. Omogeni team, is to the effect that this House and the country has to wait for amendments to the IEBC Act to be able to continue with the process of appointing commissioners. That is a long process. I believe that that panel will be representative and serve the interest of this nation.

If I may move to the other recommendation by the NADCO report on the question of political parties and on the choice of promotion of political democracy, this fact is well covered by Article 38 of the Constitution and the Political Parties Act. I see no need of forming a commission or making bureaucratic measures that will make it more difficult to deal with members who have a choice as to what policies to support.

I believe that if that proposal finds its way to a Bill, it has to be carefully considered, so that we do not infringe the rights of choice under Article 38 of the Constitution of Kenya.

On the other questions, I believe the Senate---

(Sen. (Prof.) Ojienda's microphone was switched off)

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

Sen. Miraj: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii adhimu ili nami nitoe mchango wangu. Kwanza, ningependa kutoa heko kwa viongozi wetu Sen. Omogeni na Kiongozi wa Wengi, Sen. Cheruiyot, kwa kuweka kando tofauti zao za vyama vya kisiasa na kuweka taifa letu mbele.

Kauli yangu ya kwanza ni kusema kwamba ripoti hii iko na kinaya kikubwa. Ni sawa na kusema kwamba ashakum si matusi lakini ripoti hii inaashiria tufunike kombe ile mwanaharamu apite. Nimetoa kauli hii kwa sababu wakati wowote tunapopiga kura za kitaifa, kuna mshindi na kuna anayeshindwa. Imetokea kwamba yule anayeshindwa kila wakati huregelea kukataa matokeo ya ushindi ule, basi tunajikuta katika hali hii.

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Mimi ni kiongozi wa kizazi kipya; kiongozi mchanga katika taifa hili la Kenya. Ikiwa ripoti hii ya NADCO haitaleti suluhu kwa matukio ya kila muda, basi tutakuwa katika hali ya athari kama jamii.

Niweze kuzungumzia maswala ya mapendekezo ya kikatiba ambayo yatafanyiwa marekebisho. Swala la kwanza ni lile linaanganzia mipaka na uhakiki wake. Kipengele 189 cha Katiba yetu, kinazungumzia *review of boundaries*.

Kwa vile natoka katika Gatuzi la Mombasa, mara kwa mara, tumesikia kwamba kuna gatuzi zinaweza kuondolewa ili magatuzi mengine yaongezwe. Mimi kama wakilishi wa eneo la Mombasa, nigependekeza ya kwamba, maeneo Bunge ya Kisauni na Likoni yagawanywe mara mbili. Hii ni kwa sababu kuna sehemu ambazo hazifikiwa na mfuko wa *National Government Constituencies Development Fund (NG-CDF)* kwa sababu ya wingi wa watu wanao patikana katika maeneo bunge hayo.

Bi. Spika wa Muda, pili, niwaregeshe Wakenya nyuma ili waweze kujua ni kwa nini Kamati hii ilibuniwa. Kulikuwa na hali ya sitofahamu kubwa. Kulikwa na maandamano na masufuria yaliwekwa kwenye vichwa. Ilisemekana ya kwamba ni kwa ajili ya hali ngumu ya uchumi ndiposa watu waweze kukaa chini na kuja na mwafaka wa kupeleka taifa letu mbele.

Lakini, kitu kinachonishangaza ni kwamba, Dola imeweza kushukishwa, kustawishwa na kuimarishwa bila ya kuwa miongoni mwa *agenda* zilizokuwa katika ripoti hii ya NADCO.

Kisengera nyuma chingine ambacho nimekiona katika ripoti hii ni kwamba lile zungumzo ambalo linatushika sisi kama akina mama katika taifa hili la Kenya, liliwekwa pembeni. Ngumzo la jinsia ya thuluthi zisizo zidi mbili kuwa katika taasisi zote za Serikali.

Bi. Spika wa Muda, panapo tokea sitofahamu katika taifa la Kenya, pande zote mbili za uongozi husema kwamba waliomo hatarini zaidi ni watoto na akina mama. Nadhani unakubaliana na mimi. Lakini, iweje leo Kamati imekaa na wale wahusika wakuu ambao ndio wengi katika taifa la Kenya, vijana na akina mama, hoja zao kuwekwa kando. Nakashifu na na kulaani vikali, yule aliyependekeza pendekezo kama hilo na kusema kwamba, sisi kama akina mama, tunaweza kuwezesha mjadala huo tena.

Hili jambo linafanyika wakati ambao kinara wa upinzani na Rais wa Taifa la Kenya wamekubaliana kuwa na gumzo kuhusu waswala mengi. Tatizo la theluthi mbili za jinsia ni tatizo la kisiasa. Hawa vinara wawili wamekubaliana kwamba lizungumziwe. Halafu mtu anakaa na fikra zake na bila hata kuhusisha viongozi wa kike katika hili taifa kuanzisha swala hili. Hapo, wametudhulumu sisi akina mama, haswa viongozi ambao tuko hapa kwa sababu ya jinsia yetu ya kutetea maswala ya jinsia ya mtoto wa kike katika taifa hili.

Bi. Spika wa Muda, naomba huyo mtu ajitokeze, pamoja na wale waliokwenda katika Kamati hiyo na wawaombe msamaha wanawake na viongozi katika taifa la Kenya. Hii ni kwa sababu wameturessha tena kuanzia alifu moja kwa ujiti.

Naipongeza Kamati hii kwa kuweza kusajili rasmi ofisi ya mpinzani katika taifa la Kenya. Hiyo itaashiria kuwezesha, kudhibitishwa na kuimarishwa kwa upinzani ili demokrasia iweze kunawiri katika taifa letu la Kenya.

Hivyo basi, Serikali sio tu ya Kenya kwanza ama ya Rais William Samoei Ruto kwa sababu yupo, hata serikalli zitakazo kuja zitakuwa---

Sen. Orwoba: On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Would you like to be informed?

Sen. Miraj: Yes.

The Temporary Speaker (Sen. Mumma): Proceed.

Sen. Orwoba: Thank you, Madam Temporary Speaker. I am glad that Sen. Miraj has raised the issue that has been recurring on this two-thirds gender rule. I would like to inform her that the problem that we are having right now is not that proposals were not given.

On page 165, 166 and 167 of this NADCO report, you will see the various groups of the committees that sat and submitted proposals on how to actualize the two-thirds gender rule. On page 166(b) of that report, you will see---

The Temporary Speaker (Sen. Mumma): Just hold on, Sen. Orwoba. Did Sen. Miraj say that proposals were not given?

Sen. Orwoba: Sen. Miraj said that she would like for those who were involved to come forward and apologize because, their input or lack thereof of their work is what has caused us to get here, in many words in Kiswahili. That is why I would like to inform her that the input was put by several sector working groups.

On page 166(b) of this NADCO Report, it is stated that-

“A multisectoral working group was established on 15th August, 2023 *vide* a gazette notice by the Cabinet Secretary for Public Service, Gender and Affirmative Action to develop and recommend a framework of implementation of two-third gender principle.”

If you go to page 167 of the same NADCO Report, it says there are committee recommendations. After the input of all these various committees, including the Kenya Women Parliamentary Association (KEWOPA) and all the public participation, the NADCO Committee then says that the Committee recommendations are that--- I am reading page 518 on page 167;

“The Committee recommends that-

(a) the multisectoral working group on the realisation of the two-third gender principle, under the Ministry of Public Service Gender and Affirmative Action to finalize its work and recommend a framework of implementation”.

If you go to part (b), it further states that there are two options that the multisectoral Committee has put forward. So, it is the NADCO Committee that is recommending that the multisectoral committee goes to sit further and deliberate.

The Temporary Speaker (Sen. Mumma): So, what is your point?

Sen. Orwoba: That is my point of information to Sen. Miraj. That, all the different committees and segments of people who brought their proposals did their input and it is not their fault.

The Temporary Speaker (Sen. Mumma): That is true.

Sen. Orwoba: We are faulting the wording of the recommendations. The wording is that NADCO has then decided that these recommendations are not enough and a

multisectoral committee should then further sit. That is how we are being excluded from this implementation of the NADCO report.

The Temporary Speaker (Sen. Mumma): Sen. Miraj, proceed.

Sen. Miraj: Bi Spika wa Muda, nikiendelea ningependa wawakilishi wetu wa wadi wapewe mfuko ambao utawawezesha kufanya *oversight role* zao kama ambavyo ripoti ya NADCO imeweza kutupa sisi kama Maseneta.

Kwa sababu Kiongozi wa Wengi yuko hapa, hata sisi kama wawakilishi wa jinsia katika Bunge hili, tuweze kuwezeshwa kufanya *oversight* ya maswala ya kijinsia kule nje. Hii ni kwa sababu hatuko hapa kusindikiza Maseneta waliochaguliwa. Tuko hapa kwa sababu sisi pia tumetwikwa majukumu na Katiba ya Kenya ili kuwakilisha na kutunga sheria na kusimamia rasilimali na fedha zote za Wakenya wote.

The Temporary Speaker (Sen. Mumma): Sen. (Prof.) Kamar, you may have the Floor.

Sen. (Prof) Kamar: Thank you, Madam Temporary Speaker, for giving me the opportunity to join my colleagues in, first, congratulating the NADCO for very nice negotiations. I congratulate them because we are reminded of the IPPG days. The return of something similar to IPPG reminds us that Kenyans know how to negotiate and that they love peace.

I congratulate the Hon. President and the former Prime Minister for choosing the route of peace. This is important to the country because we refuse to be completely divided during elections. That is why the margin between the two candidates has never increased. Not only that, you will find that since the new Constitution came in, there was one formation in 2013 and a different one in 2017. This started way back in 2007. This means that Kenyans are very close to one another and it is difficult to divide them into a majority and a minority. We need to notice that the way of peace and negotiations is the way we should always go. We laud His Excellency the President and the former Prime Minister for choosing that route.

Madam Temporary Speaker, I join colleagues who have talked about the gender issue because apart from recognising gender as one of the outstanding constitutional matters, the report did not give us what we expected – a legislative proposal. For the other issues, legislative proposals were given to move their agenda further, but in the area of gender, nothing moved. This is very sad because entrenching the gender issue should have been one of the key outputs of this report.

As Sen. (Dr.) Khalwale said earlier, I ask myself, what the fear of women is in this country when it comes to leadership. It is like everyone is running away from them and fears them. You ask yourself, why is this? We need to start interrogating and maybe we need some researchers to do this, so that we understand where the fear is coming from.

Madam Temporary Speaker, the real reason the gender issue was raised in the Constitution of Kenya, 2010, was the fact that there are areas where the male gender will interrogate better than the females. There are areas where the female gender will do better than the male gender when it comes to development. This is recognised worldwide wide. However, it is sad that in the region, Kenya has continued to lag behind.

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We lag behind Rwanda, Uganda and Tanzania. It is a sad situation and we need to ask ourselves how we can deal with this issue. I would have accepted that an amendment be brought to this report so that the issue of gender is rectified. We need to rectify that and we do not need to do more research. Multisectoral discussion is not the issue. The thing is we have all the facts and we had them during the promulgation of the new Constitution. It is just a matter of operationalising the clauses of gender and making sure that it is done.

Madam Temporary Speaker, although we are saying that all elective, nominative and appointive positions should have gender-balance, the appointive ones have not been addressed. This is because of the same attitude towards gender. Therefore, it needs to be dealt with.

The other issue is to congratulate the committee for coming up with the establishment of these two offices. Some people think it is negative to have those offices, but it is positive to have the Office of the Leader of the Official Opposition and the office of the Prime Cabinet Secretary. During the Bomas process when the Constitution was being drafted, of which I was a Member, it was clear that Kenyans wanted five positions at the top leadership of this country.

They wanted a President, a Deputy President, a Prime Minister and two Deputy Prime Ministers. What were Kenyans looking for at that time? They were looking for inclusivity because the negativity and tribalism that we have had has had to do with people not being included. Inclusivity is a very important thing.

Even the inclusion of the Leader of the Opposition is very important because that person is not an enemy of the country. Being a leader of the opposition means that you are the one championing the checks and balances of the Government. It is simply that. We should not run away from that fact. To me, those two positions are good.

Finally, Madam Temporary Speaker, the three recommendations on entrenching funds in the Constitution are good. Entrenching the Senate Oversight Fund (SOF) makes it attractive. However, in this House, you should ask yourself why is it that we are talking about 47 and not 67 Senators. We must interrogate and ask ourselves. When we were earlier discussing this Fund, I chose not to talk about it because I wanted it to pass. I wanted money to come in first, so that there is no excuse that they fought over it and did not pass it.

Now that we have the money, we need to ask ourselves if we are going to have nominated Members not getting involved in oversight. That will be a lie to Kenyans. The reason we have nominations is to have the areas uncovered covered. Gender is one of the areas as well as the disabled and the youth. We cannot ignore that constituency when it comes to oversight because there are issues that need to be addressed.

Madam Temporary Speaker, oversight is not just interrogating the expenditure of the governor. Oversight means looking at the budgeting by the governor and the County Integrated Development Plan (CIDP) to see whether they cover every sector. There are sectors that have not been looked into. It would have been useful that as we entrench the SOF, we resolve the issue of having everyone, 67 Members in this Senate included.

We also need to have a structure and a committee that will spearhead the spending and focus on the reports that come out of oversight activities. Unless that is done, it will just be money coming in and money going out. We cannot afford to lose time when it comes to oversight. We must properly oversight the funds that go to counties, starting from the budgeting, the establishment of CIDPs, all the way to make sure that everyone is included and that everyone is enjoying the funding that goes to devolved units.

Madam Temporary Speaker, I know Members would like to contribute. So, I will stop there. I support this Report and I thank you.

The Temporary Speaker (Hon. Mumma): Sen. Murgor.

Sen. Murgor: Thank you, Madam Temporary Speaker, for allowing me to also air my views to those of my colleagues. Firstly, I congratulate the principals; His Excellency the President and the former Prime Minister, Hon. Raila Odinga for their initiating the dialogue that brought the country together. It calmed down the noise that was there and pointed the country in the right direction.

I will comment on the formation of the IEBC and I thank the appointment of the Committee that will look into the Members. Parties are interested in pulling the IEBC in one way or the other. You will find that political parties would like to be favoured in one way or the other. Therefore, neutrality and standing in a position that will not favour either party will be the way to go in the country because if it favours a political party, it will be twisted to the wrong direction. Also, some politicians would like to pull to their side. Therefore, the neutrality of the Independent Electoral Boundaries Commission (IEBC) is paramount in taking the country into the next exercise that is ahead of us.

On economic stability and improvement, the Government has taken the right direction by looking into the production of food because if there is food stability, anything else can come later. Even if we talk of school fees and all that, as long as people have food to eat, any other urgency will be looked into tomorrow or the other day. Therefore, enhancing the production of food by giving affordable fertiliser to the farmers is a very ideal thing that our government has done.

The noises we made and all that could not produce food, but for the Government to have gone to the farmer and to whoever is producing food is was an ideal approach that has availed food and the prices are going down. However, I would like to point out here that the person who is feeling it and having difficulty is the consumer.

When you talk to farmers, they are very happy about the prices of their food commodities. I was talking to farmers of Irish potatoes and they said for the first time a bag of the commodity has now hit Kshs2,000 per bag and they are very happy. However, the consumer who is not producing it is feeling the pinch of that price.

There is give and take between the consumer and the farmer. So, the President announced at a meeting in Naivasha that a litre of milk is going to cost Kshs50. So, the producer of milk will be very happy while the person consuming will feel the pinch of that price.

As my colleagues have said about putting the National Government Constituencies Development Fund (NG-CDF) and all the other funds in the Constitution, it is very right. I would like to say here that for the Members of County Assemblies

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(MCAs) to have funds of their own for development is a very good idea. Right now, most of the MCAs are just like flower girls to the governors because governors have all the money and MCAs have none. Therefore, they make them either loyal to them personally or have nothing. To have independence on that item will be very helpful to the MCAs.

I support. Thank you.

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

Sen. Oketch Gicheru: Thank you, Madam Temporary Speaker.

I will start by submitting the fact that it is indeed important as a nation that we thank President Ruto as well as the right Hon. former Prime Minister Raila Amolo Odinga for taking the chance of dialogue.

The price of peace is very expensive. If you have never experienced the art of war in your country, sometimes it can be elusive to think about what your country become if such things as what we saw happening in this country where two factions could not agree on who is right or wrong. We have seen such countries go down.

Madam Temporary Speaker, sometimes politics is like religion. It is very difficult to convince one another on who is right or wrong. To the extent that sometimes people prefer sitting in their own quarters and sitting in their own corner saying that I am right or wrong. These two gentlemen deserve respect for the confidence that they did for our country.

Honestly, the President, as the head of State, deserves respect for accepting that a country could sit together and talk. It reached a point whereby even if you say you did not care about the Orange Democratic Movement (ODM) and you could shoot a few people here and there with the police, what happens if you could have reached a place where it is purely ODM in a region like Migori County where I come from where the border is so significant in the economic performance of this country, to the extent that it is the number three places where goods and services are passing through?

As a country, we have prime cities and prime borders that affect the entire region in terms of business. The country was getting to a place where we were going to get our standstill, that even the possibility for civil strife was not a farfetched idea.

I start by telling the country that the juice of NADCO is the fact that it redeemed peace. Therefore, we thank the President, and with a lot of respect thank the Right Hon. Raila Amolo Odinga for giving the country a chance to have dialogue that resuscitated peace as well as ensure that national cohesion can still be a virtue that we live for as a nation.

Madam Temporary Speaker, that said, I thank the team for sitting for many hours. Sometimes as colleagues, when we see people doing these special committees, we do not know how much work it entails. We were in the Shakahola Committee and I saw how much time we used to spend. We would sometimes burn the midnight oil trying to discern what was happening in Kilifi and the entire country. I can only imagine how much these gentlemen and ladies sat and worked so hard for our country to be able to come up with such a report that I think is very rich and goes to some of the core issues that made us differ as a country.

I especially thank the Members of the House and the Members of the “Lower House” who were there, of course, led by Sen. Cheruiyot and Senior Counsel, Sen. Omogeni, for their work. They did the best they could with the much time that they had and with the people they could be able to interact with.

Madam Temporary Speaker, one of the major issues that caused the problem we saw in our country was the cost of living. I think that this Report has attempted very well to deal with some of these things. If you look at page 144 of the Report, it proposes that the Social Protection Fund should be expanded to include some of the people who are downtrodden by issues of high cost of living to the extent the Persons with Disabilities (PwDs) as well as old people. In the older persons cash transfer, how do we make it effective?

How do we expand the support for these kinds of people? In fact, as a young person, I wish they even had the courage to classify youths coming from schools, whether it is Technical and Vocational Education and Trainings (TVETs), universities or colleges. You know, I see many of them in Migori County. When they finish school, they spend even two years and cannot find jobs and ways of living. I wish that the Social Protection Fund was expanded and put them as a risk group.

If you were to give those youths Kshs10,000 every month for at least a year, when they are still looking for a job, they will have a better outcome of succeeding when they eventually get a job. The idea that the Social Protection Fund can be expanded is a good one. However, I wish they could see youths in this country as vulnerable, especially those who are living in tertiary institutions and cannot get support.

I also support the idea that older persons cash transfer should be increased from Kshs.2,000 to Kshs.10, 000. We have not figured out how to support them even when they are sick or if their sons, daughters and grandchildren have left home. They do not have a support structure that they can depend on. So, it is not just about the subsistence but also increasing this money in such a way that they can even use it to procure some simple medical services that they need.

Lastly, I congratulate the Committee for its input on the IEBC as well as political parties to bring sanity to our entire politics. The idea of electoral justice as well as oversight on the Executive are ideals that we must continue championing and fighting for.

You can just imagine right now, if you were to come to this House and then one entire side of the House moves to the other side. You will not have a debate. We will not have a conversation. It is something that we must embrace and build.

The only missing link or point was in the area of devolution. I think that this Report should have recognized very well that if we are going to build this country ultimately, money must go to counties. Money must follow functions. We must empower counties to have more money so that both power and money can be felt by the people.

I know that there is an attempt to give the Members of the County Assemblies (MCAs) money and I support it 100 per cent. However, there is no risk of increasing some more counties. If we have more counties, then it means that more money will go to the county.

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It does not take away from the national Government. It just gives more to the people. For example, the Kuria people where I come from are minorities whose population has grown so big. There is nothing wrong with giving them a county. The same applies to Teso and Suba.

Once we give them a county, when we expand that allocation, more money will go to the grassroots. It does not mean that if Kuria gets a county, it is going to take away money from other counties.

I wanted to see rigor and engagement on devolution in this Report. Ultimately it is the one thing that if we all rally ourselves behind, then this country can develop in a manner that we cannot be able to recognize.

I know that the recommendation was that it should be adopted in its entirety, which I do support 100 per cent. However, there are going to be opportunities where we can review, for example, IEBC being put in place to review boundaries and administrative elements we have in this Country.

If there is ever an opportunity to review the districts that were done in 1990 to give us the counties, I hope we will not miss an opportunity to work so hard that some of these counties can be added and come to be a dream not only for those people like the Kuria people where I come from in Migori, Teso or the Suba people. It will become a reality in the context of the more we devolve the funds to the people, the better for the whole country. It means that services and support needed from the Government are brought closer to them.

Congratulations to the people who did this Report. I pass my sincerest respect and gratitude to our two leaders in this country. President Ruto and the former Prime Minister, Rt. Hon. Raila Odinga for giving me a chance to make this NADCO Report a reality.

I support.

The Temporary Speaker (Sen. Mumma): Sen. Tobiko?

Sen. Tobiko: Madam Temporary Speaker, I rise to support the NADCO Report. Let me take this opportunity like my colleagues to thank the President and the Former Prime Minister, hon. Raila Odinga, for agreeing to engage and save Kenya from civil strife.

I think this is where we were heading. So, let me also congratulate Kenyans for being a very peaceful and resilient community; people who are always optimistic and pray and hope for the best. Our prayer continues to be that a lot will come out of these engagements for the benefit of Kenyans.

One thing that was across the board in the country by the time of the establishment of this Committee was the high cost of living. It is our sincere hope that it will go beyond the Report. We will aspire, as leaders both in the Parliament, Executive and Judiciary, to bring the cost of living down subsequently until Kenyans can feel they can live their lives normally and respectably.

I was in Dubai just the other day. I came back the day before yesterday. Someone there told me that they do not have oil like most of the other Emirates. However, you

know the living standards of those people. You know that they have managed to have the US Dollar (USD) at a certain level. I think three USD to the Dirham for the last 40 years.

I was asking them, what their secret is. They told me that they have only two things in this country. One is tourism because they receive around 25 million tourists in a year. The other one is investments.

I kept asking myself, why Dubai is receiving 25 million tourists in a year and not we as a country, blessed with so many good parks, beaches, very wonderful and rich diverse cultures of the people of Kenya? We receive a paltry 2.5 million tourists.

You wonder what it is that does not make it right for us. Is it our infrastructure or corruption levels in this country? Is it that we have not got our systems right that visitors do not feel comfortable and can have their lives well managed? What is it that makes it not work for us? We need to ask ourselves this question because we must continue to bring the cost of living down.

The cost of farm inputs and taxation have been high in this country, therefore, making it difficult for those who want to engage in agricultural production. At the Airport, I was talking to some taxi guys. I hope that they are listening to me because they challenged me to come and speak about it on the Floor of this House. The Uber taxi has taken business from our local taxi people, and it is good that this is also addressed, so that Kenyans are not run out of business.

Madam Temporary Speaker, there are Kenyans who eke their living out of this transportation business and as long as the cost of fuel continues to go up and taxation on vehicles is up, many Kenyans who are feeding their families from this economic engagement will not be able to handle their lives. These are things that we need to address. Leaders in this country must aspire to bring down the cost of living.

The Committee tried to address a number of issues. The reconstitution of the Selection Panel for IEBC is welcome so that all groups will feel comfortable and represented and also so that when IEBC goes into business, everybody feels comfortable that they can be an impartial referee of the electoral process.

Also the establishment of the office of the Leader of Opposition is welcome because as we have seen the very close competition in this country leaves a majority of Kenyans out there who need structures and systems which they can continue voicing their opinions through the Office of the Leader of Opposition.

The establishment of the Office of the Prime Minister is also welcome as long as all these offices will help in trying to bring the cost of living for Kenyans down, not increasing the burden for them because this is where the rubber meets the road.

Majority of the Kenyans who went to the streets were not leaders. The majority of the people who were out there were common Kenyans and the establishment of many offices might be looked at as a way of adding a burden on them. So, there must be a way for us to convince Kenyans that these offices are going to contribute to a better living for them and effectiveness in service delivery so that Kenyans then view this process as having paid off for them.

Madam Temporary Speaker, I support the entrenchment of NG-CDF in the Constitution. I held a constituency for two terms and I know what NG-CDF funds have

been able to do for the common mwananchi. The bursaries, scholarships, educational infrastructure is something that Kenyans have learned to appreciate from NG-CDF funds, including the National Government Affirmative Action Fund that our County Women Representatives now oversee.

It is good that also the Senate Oversight Fund has been ring-fenced. However, as other leaders have spoken here, you and I know that the implementation of this Senate Oversight Fund has been rolled out to the exclusion of the nominated Members, you included. I keep asking myself whether the oversight role of the Senate according to the Constitution was only meant for the 47 elected Members. If not, then the rollout of this Fund has started on a wrong footing.

Also, when you define what the Senate is, you cannot have the Senate complete minus the 20 Nominated Members especially those nominated to represent the PWDs, the youth and the women of this country. I agree with Members who have spoken earlier that the MCAs should also be considered for an Oversight Fund.

Madam Temporary Speaker, both Houses and the county assemblies, our major role is oversight. This is the role we should be emphasizing. It is shocking that this Committee trivialized the issue of the two-thirds gender rule yet it is in the Constitution. I do not know why we continue to sweep it under the carpet when the Constitution is very clear that it should be implemented.

(The Red light was switched on)

When it comes to the role of the Independent Electoral and Boundaries Commission (IEBC)---

Madam Temporary Speaker, I am asking for extra two minutes because the light has gone red. I believe I am one of the last speakers. I want to connect the role of IEBC to the two-thirds gender rule. I have seen in detail what IEBC will do and continue doing.

However, from the experience I have had in the political space, one of the roles of IEBC should undertake is party nominations. I say that because during party nominations, many women in this country are lost out of the competitive electoral process. Parties are individually owned. They belong to the owners and when they do not want to give you the ticket, they will not.

This is where the women of this country lose. I am saying this and will continue to do so because I know that if I had a ticket to the ballot, Kajiado County would be represented by a woman governor. That is how we lost it in the party primaries. If IEBC does not come to referee the party nominations, women of this country will never be able to get even 50 per cent of the elective slots. However, if IEBC is involved, I have faith in them, I know women of this country will not ask for anybody to nominate them to any slot. We shall compete for space.

I thank you.

The Temporary Speaker (Sen. Mumma): Hon. Senators, pursuant to Standing Order No.84(1), I wish to make a determination that the matter does not affect counties.

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(Question put and agreed to)

The Temporary Speaker (Sen. Mumma): Can we repeat the vote?

(Sen. Cheruiyot and Sen. Cherarkey walked into the Chamber)

Hon. Members: Yes.

Sen. Tobiko: Yes. Repeat the vote.

Sen. Cherarkey: No, I was seated here.

The Temporary Speaker (Sen. Mumma): No. You were not there.

(Loud Consultations)

Sen. Okiya Omtatah: Why would we repeat the vote?

The Senate Majority Leader (Sen. Cheruiyot): It is a tie.

The Temporary Speaker (Sen. Mumma): It is a tie because you were only two and one went for---

(Question put and agreed to)

BILLS

Second Reading

THE WATER (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.33 OF 2023)

(Sen. Cheruiyot on 30.11.2023)

(Resumption of debate interrupted on 15.02.2024)

The Temporary Speaker (Sen. Mumma): Sen. Okiya Omtatah, do you wish to speak? I cannot see---

(Sen. Okiya Omtatah spoke off record)

Sen. Okiya Omtatah: The Report has been taken on---

The Temporary Speaker (Sen. Mumma): No. We are now on the Water Bill. My apologies. I did not realize you wanted to speak because it was not reflected here.

Hon. Senators, any Member can debate on the Water (Amendment) Bill (National Assembly Bills No.33 of 2023). Last time, we concluded with Sen. M. Kajwang' who concluded his contribution.

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Sen. Cheruiyot, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I wish to make my contribution to the Water (Amendment) Bill (National Assembly Bills No.33 of 2023). This is a Bill to provide for the Public Private Partnership (PPP) arrangement for---

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

The Temporary Speaker (Sen. Mumma): Sen. Cheruiyot, are you replying to the Motion?

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I am making my contribution.

The Temporary Speaker (Sen. Mumma): Sen. Cheruiyot, you moved this Bill in the last sitting.

(Sen. Cheruiyot spoke off the record)

Do you want to reply? Is there anybody else who wants to speak? Sen. Okiya Omtatah, do you wish to speak?

Proceed.

Sen. Okiya Omtatah: Madam Temporary Speaker, I rise to address significant concerns in the proposed amendments to how water as a commodity will be handled, especially concerning the proposals put in place in terms of privatising the sector. They are allowing private players to come in and play a significant role.

Water is a basic requirement of life. It must be availed to the population in a manner that is not exploitative. It must be availed in a manner that people do not make a profit out of it.

There is a Petition from Runda Estate residents in the Nairobi City County Assembly. There is a private company supplying water to the estate. They are complaining that the company charges them about five or six times what the Nairobi Water and Sewerage Company charges. A private player will come in to make a profit on a basic commodity.

Water should remain with the municipalities to ensure efficiency so that water can be availed in proper quantities. Otherwise, private actors will assume that the informal settlement may not afford the water they supply, hence not providing water to the residents.

We should look at the issue of privatising the sector. We could allow private actors to play a significant role at the base level. It would be okay for companies to purify water and sell it in bottles. However, selling and distributing water in pipes should be restricted.

How will you allow competition when you allow a company to sell water in an area? Will the area be bound by the person who laid the pipes? This would mean they could only get water from this vendor and not any other.

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I think that it will be most inappropriate and it will go against the rights of Article 43 of the Constitution, where the State has an obligation to provide clean water in quantities that are required.

If we put in private players to supply a basic commodity like that, the market is driven by profits and that drive is going to distort water, and water is going to be owned by the elite. The poor people will have no access to water.

What must happen is that piped water must remain a service provided by the municipalities or the counties. If private actors want to come in, they can come in and brand water and have whatever. However, the pipelines must remain open to everybody.

Otherwise, we will end up in a situation whereby the provision of water will be a problem. There are case studies around the world whereby this kind of action that has is being proposed has been taken and we have ended up in situations whereby people have been overcharged.

Look at the price of bottled water. At one point it was expensive to buy water than to buy petrol in this country. Therefore, that should be an indicator that the profit motive and the fact that water is such a basic requirement of life and that without water, you basically have no life. We should not allow private actors there.

Water is like air and it must be availed at a minimum cost just the way we avail roads at a minimum cost to everybody irrespective of class but to ensure that those who do not have as much as others, still have access to water.

Therefore, the proposal to allow private actors to play a prominent role at the foundational level of water provision is something we should be reluctant to embrace. I would urge that that particular part of the Bill be amended.

We those few remarks, Madam Temporary Speaker, I rest my case.

The Temporary Speaker (Sen. Mumma): I now invite the Mover to reply.

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

I wish to thank the colleagues who have taken time to debate on this Water (Amendment) Bill that is before this House. I have listened to colleagues speak on this, many in support and some with concerns.

Unfortunately, many of those concerns like the ones by my colleague, Sen. Okiya Omtatah, arising either from a point of not completely understanding the proposal and the Private Public Partnership (PPP) architecture in the Republic or there might be other reasons beyond which I can understand.

Why do I say so? In the PPP law that we passed in 2021, and I would wish to invite my good friend, Sen. Okiya Omtatah, to read it and appreciate it, at the contracting phase of any service or goods that a private player has been allowed to provide to the public under a PPP agreement, the Government still retains the control of pricing and you enter into a contract way in advance. Therefore, it is not that you are giving it to a private player to run a public road and say, you will charge the amount of money that you want. If that was the case with the kind of huge demand that we have, for example, on the Express Way, they would be charging Kshs1000, so that they discourage people from using it.

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The contractual agreement that the Government of Kenya enters with any private player under the PPP agreement details how you arrive at the price. Taking care of the concerns of many Kenyans such as what Sen. Okiya Omtatah has carefully brought out; that this is a commodity that many Kenyans cannot even, first of all, find it, forget about purchasing.

Subsequently, it is on that premise, my good friend, Sen. Okiya Omtatah, that the thinking has been that we wait for a time that we believe Government, using our own taxes, living in a country with such a crowded fiscal space, will provide water for all citizens, then there are fellow compatriots who will have to wait until Jesus comes back before they drink piped water and have access to clean water as expected under Article 43 of the Constitution.

It is under that premise and the realization that we do not have sufficient resources to pipe water to every home in this Republic, that there is now a thinking that we can amend the Water Act, 2016, and make it possible through certain private players and entities.

They can enter into a chaperoned and well guided contractual framework with the water works agencies and the various State corporations to provide water at a price that is affordable, in the right quantity and health standards as expected by our health bodies, unlike the prevailing situation today in this country, where anybody walks around with water bowsers without even any certification to show where they have got that water from.

There are people who are siphoning water out of public water agencies and coming to sell within informal settlements and various parts of the city. We want to make that a thing of the past.

How do you make it? You bring in the efficiencies of the private sector and ensure that you agree with them before their rolling out of the particular project, and tell them the determined price for the particular area so that they can go out and agree.

I know there have been very serious concerns, and on that, I agree on how some of the provisions on this Bill roll back the gains of devolution. That much, I concede.

I am happy I have seen the report of our Standing Committee on Lands and Natural Resources that has proposed amendments that will ensure that our county governments play a key and instrumental role in this Public Private Partnership (PPP) arrangements so that it is not just by the determination of the national Government alone.

The county governments also have a place in this agreement because constitutionally, they are mandated to reticulate water and ensure that it gets to all the citizens of the Republic.

I am happy and pleased with the amendments that have been provided by the Standing Committee on Lands and Natural Resources because they have appreciated the concerns that many Senators had. That is the essence of debate, dear colleagues.

When a Bill is proposed before the Parliament, it is our duty---

(Sen. Oketch Gicheru and Sen. Chesang consulted loudly)

The Temporary Speaker (Sen. Mumma): Sen. Oketch Gicheru and Sen. Chesang, please.

The Senate Majority Leader (Sen. Cheruiyot): The two gentlemen earlier on had informed us the kind of things they do in public washrooms. When you see them excited together, I am tempted to think other things.

Madam Temporary Speaker, the point I was making is that when a Bill is proposed before the Parliament, I see a lazy argument being peddled on the Floor of the Senate many times when colleagues say that they oppose a certain Bill because it rolls back the gains of devolution. I wonder what their job is.

Under Article 95 of the Constitution, no other body has the power to make statute which has the force of law other than Parliament, where we sit. I wish to encourage colleagues that any time you see any Bill and you feel that a particular clause is offensive, because many times, hardly do you find that somebody is opposed to a Bill in its entirety. It is usually a particular clause or line within the Bill that they feel should have been framed differently.

I therefore urge colleagues that when you disagree with certain provisions, the best thing to do immediately after you have made your arguments on the Floor, is to file an amendment.

Perhaps when you read it way in advance during the stakeholder engagement with our Committees, go and convince the Committee so that it comes together with the amendments that come with our various committees, because that is our duty. That is what we are paid for. We are paid to legislate. There is no other legislature in this Republic other than this House.

The way we shall protect devolution is not by rejecting Bills and saying you do not agree with this because of this or the other. I wish to encourage colleague Senators that every time there are such Bills that speak to importance, first of all, appreciate the concept. We have said the concept is very noble that we want to make it possible for every citizen of this country to access water. The challenge is that, realistically speaking, in the fiscal space Kenya is in, it is not possible for the Government to provide the resources needed to roll out water to every Kenyan.

Therefore, the proposition in the Bill is to partner with the private sector and agree with them because this is not a standalone law. It is read alongside the Public Private Partnerships (PPP) law that we have already passed. On any matter that involves the public in a big way such as water, the Government still retains the final decision on issues of cost because it is of a great concern to the people.

Madam Temporary Speaker, as I reply, all the colleagues who spoke and said that they disagree with this Bill because of a number of provisions, I hope that I will see them filing amendments so that they align it with devolution the way they are proposing.

I am glad that speaking to the Chairperson of the Committee on Land, Environment and Natural Resources, he said that many of the concerns which Senators had have been carried on board in the amendments that they have proposed to this Bill.

With those many remarks, I beg to reply and thank all our colleagues who have contributed to this Bill.

In accordance to Standing Order No. 66 (3), I beg to request that we defer the putting of the question on the Water (Amendment) Bill (National Assembly Bills No.33 of 2023) until a later date.

I thank you.

The Temporary Speaker (Sen. Mumma): It is so deferred.

(Putting of the question on the Bill deferred)

Next Order.

BILL

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO.37 OF 2023)

(Sen. Osotsi on 14.02.2024)

*(Resumption of debate interrupted on
14.02.2024 – Afternoon Sitting)*

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

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

QUORUM

Sen. Oketch Gicheru: Madam Temporary Speaker, I rise under Standing Order No. 41. I want to appreciate the weight of the Order that has just been read. The Parliamentary Powers and Privileges Bill is so important that I would want to see some vigour and commitment by fellow Senators when discussing it.

I am just wondering whether we have the quorum necessary to prosecute that particular Bill. Perhaps you could advise.

The Temporary Speaker (Sen. Mumma): Clerks, do we have quorum? Serjeant-at-Arms, can we ring the bell for 10 minutes.

(The Quorum Bell was rung)

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ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the Senate stands adjourned, pursuant to Standing Order No.41(2)(a), until tomorrow, Thursday, 22nd February, 2024 at 2.30 p.m.

The Senate rose at 6.28 p.m.