

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 28<sup>th</sup> March, 2023

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

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

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum? Serjeant-At-Arms, kindly ring the Quorum Bell for five minutes.

*(The Quorum Bell was rung)*

I am informed we do have the requisite quorum now, so stop ringing the Quorum Bell.

First Order.

#### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM TURKANA COUNTY ASSEMBLY

Hon. Senators, I acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from the County Assembly of Turkana comprising Members of the Speaker's Panel and its Secretariat. The delegation is undertaking a benchmarking visit in the Senate.

Hon. Senators, kindly walk in.

*(Several Senators walked into the Chamber)*

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

Hon. Philip Ekuwam Lomuria	-	Deputy Speaker
Hon. Michael Ewoi	-	Member

Hon. Mary Arupe Nakapwan	-	Member
Hon. Samwel Aliwo	-	Member
Mr. Patrick Tioko Eng'ori	-	Director, Legislative Services
Ms. Roseline Aite	-	Deputy Director, Legislative Services
Mr. Jacob Lokwee	-	Principal Clerk Assistant

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

*(Applause)*

I do not see the Senator of Turkana in the House so I will delegate that to the Leader of Majority to do the honours of welcoming the delegation.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for giving me this chance to welcome the visiting Delegation from Turkana County. Turkana is a very important county in the matrix of devolution. It seats at the very apex of our country's map.

On many occasions we have had an opportunity to reflect on the success that has been devolution in this country. Turkana is listed as among the proper testimonials of what devolution has brought to this country. The picture that many have of Turkana before and after devolution is quite impressive.

There is great room for improvement. The fact that the County Assembly leadership is here together with the team that is charged with the responsibility of taking Turkana to the next level, we do celebrate and hail them for the work that they are doing.

I hope that in the course of their study here in Parliament, they will get to interact. I am told they were earlier with Members of certain committees. I hope they will get to have a full learning occasion and enjoy to the fullest of satisfaction. I welcome this team and wish them well.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Oburu, kindly have your seat.

#### AMENDMENTS TO THE STANDING ORDERS FOR CSS TO APPEAR BEFORE THE SENATE

Hon. Senators, as you are aware, on Thursday, 23<sup>rd</sup> March, 2023, the Senate passed a Motion on the Fifth Report of the Procedure and Rules Committee and approved amendments to the Standing Orders, whose effect was to provide a framework for the processing of Questions.

The approval of the 5<sup>th</sup> Report of the Procedure and Rules Committee on the amendments to the Senate Standing Orders paves the way for Cabinet Secretaries (CSSs) to appear before the Senate to respond to Questions.

In approving the amendments to the Standing Orders, the Senate also resolved that the Amendments shall take effect from Tuesday, 11<sup>th</sup> April, 2023, and further varied the hours of meetings to provide for Sittings on Wednesday morning. In this regard, I wish to guide the Senate on the procedure in which Questions shall be considered.

Hon. Senators, as is the standard practice, a Senator who wishes to ask a question will be required to deliver a signed copy of the question to the Clerk of the Senate. The Clerk shall process the question in line with Standing Order No.51B and submit the notification to my office for approval. Upon approval, the Clerk will be required to convey the questions to the relevant CS.

The Clerk will also submit a list of questions to be asked to the Senate Business Committee (SBC), which shall schedule a date and time for appearance of the relevant CS before the Senate to respond to the question.

The Clerk will be required to give a CS at least seven days' notice before the date appointed for the CS to appear before the Senate.

Upon approval of the schedule by the SBC, the Clerk will be required to publish on the Parliamentary Website and circulate to Senators a schedule of all questions not later than the Friday preceding the day upon which the question is to be responded to by the relevant CS.

A Cabinet Secretary will in turn be required to provide a physical and electronic copy of a response to a question at least twenty-four hours before appearing before the Senate.

Hon. Senators, questions shall be dispensed with in the manner approved by the SBC and as scheduled in the Order Paper. A Senator shall only ask his or her question on the day it is scheduled in the Order Paper.

Senators will be required to address questions to the CS pursuant to Standing Order 51C (1), in the manner approved by the Speaker. It shall be out of order to introduce a new question on the floor of the Senate.

Similarly, questions that are not listed in the Order Paper and therefore not approved by the Speaker, and accordingly not scheduled by the SBC, will not be permitted on the Floor of the Senate, and their introduction will be out of order.

Pursuant to Standing Order 51C (2), a Senator may, in writing, nominate another Senator to ask a question on his or her behalf where the Senator shall be absent on the day on which the question is listed.

Senators, kindly walk in.

*(Several Senators walked into the Chamber)*

However, a question will be dropped in the event of the absence of a Senator without written notice to the Speaker. The Speaker may allow withdrawal of a question by a Senator, for reasons stated.

After a CS has responded to a question, the Standing Orders gives the Speaker power to allow the Senator who asked the question to raise a maximum of two supplementary questions that relate to the original question. Any other Senator will be allowed to ask one supplementary question.

Hon. Senators, concerning access to the Chamber by CS, and appreciating the limited sitting capacity of the Chamber, I have designated the place adjacent to the Chair on the right, as the appropriate place where CS will make responses to questions.

This is the usual place where Administration of Oath ordinarily takes place. The CS may be accompanied by a maximum of three officers from the Ministry, who will take seats to the right of the Chair reserved for public officers.

The question framework obviously demands that the management of the time of the Senate is done prudently. In this respect, I direct that each question scheduled shall not take more than twenty minutes. This should account for the original question and the supplementary questions.

Cabinet Secretaries will be required to be succinct in making their responses to questions, but may submit to the Clerk, documents in support of oral responses, which will be deemed to have been tabled upon receipt by the Clerk.

Pursuant to Standing Order No.51C(6)(c), CSs may make statements or provide reports to the Senate on other matters pertaining to their respective dockets with the leave of the Speaker. In this respect, and appreciating the limitation of time, a CS may address the Senate on only one matter for not more than twenty minutes.

Whenever a CS addresses the Senate, the CS shall be heard in silence. Interventions and Points of Order will not be entertained when the CS is making his/her submission. Senators may react to the submission by CSs through supplementary questions. I therefore implore upon hon. Senators to acquaint themselves with Standing Order 98. Unnecessary interruption of a CS in the course of his or her submission to the Senate will not be entertained.

Hon. Senators, in light of the new Standing Orders, there have been concerns as to the power of Committees to cause the attendance of CSs to answer matters for which a CS is responsible.

Concern has been expressed that the new Standing Orders have taken away the requirement for CS to appear before Select Committees. The Standing Orders as a whole are facilitative and procedural in their nature, and they are not the basis for which a substantive right, privilege or requirement is conferred or otherwise taken away. These, are the domain of the Constitution and statute law and not the Standing Orders.

It must be made clear that the amendments to the Standing Orders to provide for CSs to respond to questions in the House does not override or overturn the requirement of Article 153 (3) and (4) (b) of the Constitution. CSs will still have the obligation to adhere to this Article, when required by a committees of the Senate.

Further, Article 125 of the Constitution has similarly not been overturned by the new Standing Orders. In any event, hon. Senators, no statute, regulation or subsidiary regulation for that matter, can override the Constitution. The Constitution is the supreme law of the land. Any other law that is in contradiction of the Constitution, then, to the extent of that contradiction, that law is null and void. We place the Constitution as the supreme and mother law. Therefore, the House or any of its Committees, may invoke its provisions in the discharge of the mandate of the Senate.

Hon. Senators, given that this is a new process, I appeal for utmost cooperation from Senators. I urge Senators to familiarise themselves with the new procedure ahead of its application upon resumption of sittings after the Short Recess, pursuant to the Calendar. It is my sincere hope that, the Question tool, aside from Statements, Petitions, Motions and Bills will enhance our oversight mandate and the Executive's accountability to Parliament and by extension to the people of this Republic. The House is guided accordingly.

Thank you.

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

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

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The Communication you have just made is historical in the sense that, you have now made a pronouncement on what will form, going forward, the most important oversight tool in this Senate. This is especially---

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, just have your seat. I will come back to you.

I have stated on numerous occasions, that there is a place for points of order in these Standing Orders. Kindly look at Standing Order No.98 of our Standing Orders. It is the only Standing Order that talks about points of order. It explains when a Senator can actually rise on a point of order. If your point of order is not within the provisions of Standing Order No.98, then, I am afraid I may not allow you to proceed.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I am well informed of what you are saying. All I wanted is to request that you shed clarity on a matter which is very critical. Most of the questions from the Senate, unlike in the National Assembly, will lean towards issues of devolution.

In the structure of the current Government, there is no Cabinet Secretary (CS) for Devolution and Planning. However, there is a Principal Secretary (PS) in the Office of the Deputy President, responsible for issues of devolution.

Therefore, I want you to clarify whether the Deputy President will respond to questions that lean towards devolution. What is more, clarify whether Chief Administrative Secretaries (CASs) will have a role, lest they end up being sent here when we do not expect them.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, one; that is not a point of order. Secondly, I think when this matter was debated and amendments passed on the Floor of the House, you were not here. I kindly implore upon you to take time and read the amendments. The answers to all your concerns are contained therein.

Next Order, Clerk.

## PETITION

**The Speaker** (Hon. Kingi): Let us have, Sen. Cherarkey or someone holding his brief.

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

Is Sen. Cherarkey not in the Chamber?  
That Petition stands deferred.

*(Petition deferred)*

**The Speaker** (Hon. Kingi): Before the Clerk calls for the next Order, hon. Senators, allow me to make this further Communication.

**COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM THE UNIVERSITY  
STUDENTS ASSOCIATION OF KISUMU COUNTY

**The Speaker** (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, visiting students from the University Students Association in Kisumu County. The delegation comprises 35 students, who are in the Senate for one day academic exposition.

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

I will allow the Senator of Kisumu County---

*(Sen. (Dr.) Khalwale stood in his place  
and consulted the Clerk-at-the-Table)*

Sen. (Dr.) Khalwale, I suppose you have been in this Chamber longer than anyone else. When the Chair is upstanding and speaking, you do not move from your chair. Kindly, resume your seat and take this as your first warning for the afternoon. You are out of order.

Thank you.

*(Sen. (Dr.) Khalwale resumed his seat)*

I will allow the Senator for Kisumu County to make very brief welcoming remarks. Kindly, welcome the delegation.

Is Sen. (Prof.) Ojienda not in the Chamber?

*(Loud consultations)*

Senator for Siaya County, please, go ahead. I am told your other title is the 'youth leader.'

**Sen. (Dr.) Oburu:** Yes, 'youth leader.'

*(Laughter)*

Mr. Speaker, Sir, I did not get it. They are a delegation from which---

**An. hon. Senator:** Kisumu County.

**Sen. (Dr.) Oburu:** Yes, it is from Kisumu County but from which institution?

**The Speaker** (Hon. Kingi): Hon. Senator, it is a University Students Association from Kisumu County.

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir. In our tradition as the Senate, I would like to take this opportunity to welcome the delegation from the great Kisumu County.

Kisumu County is not only great because it is our headquarters but it is also the entry point in to the whole of East Africa. Actually, it should be the commercial centre for the whole of East Africa.

I am happy to welcome this delegation. I hope that during their stay here, they will gain something from the debates. This Senate is very vibrant. I find it very interesting because almost every Senator, if they wish to, has an opportunity to speak, unlike the other House where the numbers are so great that you might be there for five years and not even be heard. Here, you will hear your Senator.

Even though your Senator for Kisumu County is on other side, he is also a very vocal Senator. I wish he was here to speak and welcome you. However, I am also a resident of Kisumu County. That is where I was born and grew up. Therefore, I take this opportunity to welcome you here.

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

Senate Majority Leader, do you have Papers to lay?

### PAPER LAID

#### REPORT OF THE STATUTORY INSTRUMENTS (EXEMPTION FROM EXPIRY) REGULATIONS, 2022

**Sen. Gataya Mo Fire:** Mr. Speaker, Sir, I beg to lay the following paper on the Table of the Senate, today the 28<sup>th</sup> March, 2023.

Report of the Statutory Instruments (Exemption from Expiry) Regulations, 2022.

*(Sen. Gataya Mo Fire laid the document on the Table)*

**The Speaker** (Hon. Kingi): Next order.

The Senate Majority Leader, kindly proceed.

### NOTICES OF MOTIONS

#### AMENDMENT OF THE SENATE CALENDAR FOR THE SECOND SESSION

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to give Notice of the following Motion.

THAT, notwithstanding the Resolution of the Senate on the approval of the Senate Calendar made on 16<sup>th</sup> February, 2023 and noting the Resolution of the Senate made on Thursday, 23<sup>rd</sup> March, 2023, on the Fifth Report of the Procedure and Rules Committee (PRC) on the amendments to the Standing Orders of the Senate; and pursuant to Standing Order No. 32(4), the Senate resolves to amend its Calendar (Regular Sessions) of the Senate for the Second Session, 2023 to provide for morning sittings on Wednesdays pursuant to Standing Order No. 34.

**The Speaker** (Hon. Kingi): Sen. Mumma. You were supposed to give a Notice of Motion.

ACCELERATING THE IMPLEMENTATION OF  
SUSTAINABLE DEVELOPMENT GOALS

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion-

AWARE THAT, the 2030 agenda for Sustainable Development adopted by all the United Nations Member States in 2015, provides a shared global blueprint aimed at ending poverty, protecting the earth's environment and climate and ensuring that people everywhere enjoy peace and prosperity;

APPRECIATING THAT, the implementation of the 2030 agenda for Sustainable Development in Kenya started by the official launch of the Sustainable Development Goals (SDGs) in Kenya in 2016, followed by the development of the Country SDGs roadmap to guide the transition from Millennium Development Goals to SDGs and the mainstreaming of the SDGs at both the National and County Governments;

CONCERNED THAT, the implementation of the 2030 agenda for sustainable Development in Kenya has been affected negatively by various shocks such as continued drought since 2019 in Kenya and around the world, serious invasion by desert locusts, the COVID-19 pandemic and other public health calamities and the current strained state of the Kenyan economy;

NOW THEREFORE, the Senate resolves that the State Department for Economic Planning in consultation with the Council of Governors comes up with reviewed implementation roadmaps for the two levels of Government, taking into account the shocks that have impeded or any other that are likely to impede the implementation of the 2030 agenda for Sustainable Development.

I beg to give Notice.

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

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

**Sen. Gataya Mo Fire:** What is it Sen. Oketch Gicheru?

**The Speaker** (Hon. Kingi): Proceed, Sen. Gataya Mo Fire.

**Sen. Gataya Mo Fire:** Thank you, Mr. Speaker, Sir.

*(Laughter)*

ADOPTION OF THE REPORT ON THE STATUTORY INSTRUMENTS  
EXCEPTION FROM EXPIRY REGULATIONS, 2022

I beg to give Notice of the following Motion-

That the Senate adopts the Report of the Select Committee on Delegated Legislation on the Statutory Instruments (exemption from

expiry) Regulations, 2022 laid on the Table of the Senate, Tuesday 28<sup>th</sup> March, 2022.

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

**NOTICE OF MOTION FOR ADJOURNMENT  
UNDER STANDING ORDER NO.37**

THE DETERIORATING SECURITY SITUATION  
IN THE COUNTRY

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I beg to give Notice of the following Motion, pursuant to Standing Order No. 37.

THAT, the Senate do adjourn to discuss a definite matter of urgent national importance, namely; the deteriorating security situation in the country.

Thank you, Mr. Speaker, Sir.

*(Several Senators stood in their places)*

**The Speaker** (Hon. Kingi): I do confirm that there are more than five Senators as required by Standing Orders and therefore I do nominate 5.30 p.m. to be time we will adjourn this particular Motion.

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Next Order.

**STATEMENTS**

WATER CRISIS IN NORTHERN PARTS OF KENYA

**The Speaker** (Hon. Kingi): Sen. Lemalian is out on Parliamentary duties. Unless someone has been nominated to act on her behalf, otherwise that Statement stands deferred.

*(Statement deferred)*

We move to the statement by Sen. Osotsi.

DISBURSEMENT OF FUNDS TO COUNTY  
GOVERNMENTS

**Sen. Osotsi:** Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 53(1), to seek a statement from the Standing Committee on Finance and Budget regarding the disbursement of funds to County Governments.

In the Statement, the Committee should -

(i) provide an update on the current status of respective counties with regard to disbursement of funds for development and recurrent expenditure for financial year 2022/2023;

(ii) state the reasons for delay in disbursement of funds to counties from November 2022 to date, despite Senate having passed the disbursement schedule in January, 2023;

(iii) inform the Senate on the status of execution of the conditional grant that was passed but has not been adhered to, at the time of writing this Statement;

(iv) apprise the Senate on the effect of delayed funds disbursement on the counties' absorption rate, considering the current financial year ends in June, 2023; and,

(v) state measures in place, if any, the National Treasury and Economic Planning has taken to ensure timely disbursement of funds to counties, for the smooth operation of business and clearance of pending bills.

Mr. Speaker, Sir, this is a very serious matter. The county that I represent has not been paying salaries. This is as a result of late disbursement of funds. It is only last week when we heard---

**The Speaker** (Hon. Kingi): Sen. Osotsi, you have read the Statement.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Hon. Senators, the Statements hour started at 3.06 p.m. We have nine Statements to be sought. So, we will attach, at most, seven minutes per Statement so that we can squeeze everything within one hour that is given to us by the Standing Orders.

Proceed, Sen. Maanzo.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. I rise to support this Statement. There has been a serious problem in the counties. There has been delay of monies which has not been properly explained at the Council of Governors (CoGs). Nevertheless, there have been good promises that the monies would be sent to counties.

Mr. Speaker, Sir, when the salaries of counties are not paid on time, we run the risk of not motivating workers to do their job of devolution well. Remember, devolution is why we are here. It is a very serious matter.

I am keen to represent the people of Makueni and make sure that monies reach the county earliest and that the services of the county proceed as early as possible.

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

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I beg to support the Statement. What is happening in the counties is an unfortunate situation. Most of the staffs do not receive their salaries in time. The governors are forced to get money from banks on loan and at times, the money is not released within four to five months.

For instance, in my county, for the last five months, no money has been released and workers have not been paid. The governor has gotten money from the banks. While the national Government is paying its own staff on time, the counties staffs are not paid on time. These are employees of the Government of Kenya, whether they are in the national or county governments. Therefore, they must get their money in time.

I support the Statement from Sen. Osotsi.

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

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir. I also rise to give strength to the Statement by Sen. Osotsi.

As you know, I am a Member of the Public Accounts Committee (PAC). In the past few weeks, two counties appeared before us. One of the most interesting things is that because of the delays in the disbursement of exchequer to the counties, many are unable to remit their Pay as you Earn (PAYE) obligations.

Mr. Speaker, Sir, it is interesting. I will give the example of the County Assembly of Trans Nzoia which appeared before us last week.

In the 2019/2020 Financial Year, they failed to submit Kshs7.9 million, PAYE to the Kenya Revenue Authority (KRA). They were hit with a Kshs16 million penalty and Kshs2 million interest by KRA, the same organization that is supposed to collect and also give them the money.

We are in a big problem at the counties. I wish that we, as a Senate, can at least, find a way to ensure that the resources that are due to the counties are sent there on time.

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

**Sen. Wafula:** Asante sana, Bw. Spika. Ningependa kuunga mkono Hoja iliyotolewa na Sen. Osotsi.

Baadhi ya wanafunzi katika shule za upili, vyo vikiu na vyo anuwai, wako nyumbani kwa sababu hawana karo. Serikali za kaunti zimeweka wanafunzi hawa katika mfumo wa kuimarisha masomo yao kwa wale ambao ni wachochole kifedha. Hivi kwamba, serikali ya Kitaifa imekosa kuwachilia pesa kuenda mashinani huku tukizingatia kwamba sisi kama Seneti na Bunge la Kitaifa tulitia sahihi na kupitisha kwamba pesa ziteremuke.

Hivi kwamba, ninaunga mkono mapendekezo ya Seneta Osotsi kwamba tuelezwe ni kwa nini kunakucheleweshwa kwa fedha za kuenda kwenye kaunti ilhali tunaona Mawaziri humu Kenya wakizuru nchi mbali wakipiga picha na video. Ilhali wananchi wanapiga miaya na kusaga meno.

*(Applause)*

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

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. I stand to support this Statement by Sen. Osotsi. The Senate exists to support county governments. County public servants are human beings. They are fathers, mothers and people with aspirations like anyone of us.

Mr. Speaker, Sir, if our salaries came late even by a day, that will really hurt us. As a Senate, our voice is not strong enough around advocating for the rights of the public servants in the county governments. I call upon the Members of the Senate to do what it takes for the national Government and the relevant institutions to see the point that salaries and wages are basic human rights. They cannot be delayed.

I support.

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

**Sen. Kisang:** Thank you, Mr. Speaker, Sir. I also rise to add my voice. It is unfortunate for employees of the county to go three months without salaries. This is because there are those who have loans in the bank and they accrue interest and penalties. There are those who feel sick and maybe they want to go to hospital but the National Hospital Insurance Fund (NHIF) cannot pay for the bed because NHIF deductions would not have been paid same to the National Social Security Fund (NSSF) and PAYE.

Mr. Speaker, Sir, I believe KRA should be the last entity to penalize the counties. This is because they are the ones who are supposed to be raising the funds to be sent to the counties. If they penalize the counties and they are the ones who have not given all the money, then it is unfortunate. They need to negotiate with counties.

However, this issue of delay in payment should not arise at all. This is because, if the national Government employees in the Ministries do not get late salaries, how comes salaries of county employees is getting delayed salaries? This is unfortunate.

I support the Statement by Sen. Osotsi.

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

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. As I rise to support this Statement, I just want to correct that this Senate did not pass the disbursement schedule in January. We passed it last year because it runs between 1<sup>st</sup> July, 2022 to 30<sup>th</sup> June, 2023. So, we may need to correct that issue.

Secondly, it is about time that this Senate moves a Motion. I do not know whether the Committee on Finance and Budget can consider it when they are considering this report, to compel KRA to only penalize counties and any other entity that the exchequer has released money on time. We have issues that when the exchequer fails to release money, these statutory deductions end up accruing a lot of interests and penalties.

Mr. Speaker, Sir, so that is an issue that I request the Committee to also look into. Thirdly, I believe we passed the Additional Revenue Disbursement Schedule when we passed the new Additional Revenue Act to counties. If the regular sharable revenue and the additional revenue has not been disbursed, we will have a serious problem. This financial year is slowly coming to an end. So, we do not want to carry the debt or the exchequer releases forward when this year's money has not been released. This will continue to increase the pending bills.

Mr. Speaker, Sir, finally, I request you to find it within yourself to expedite or direct that this matter be dealt with immediately even in circumstances where we can convert this House to a Committee of the Whole. I am still not convinced about the changes in the Standing Orders but I will go with it.

Mr. Speaker, Sir, we can convert this house into a Committee of the Whole and have the Cabinet Secretary in charge of National Treasury respond as to the delays in the Exchequer releasing funds to the counties.

I thank you.

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir. I also want to join my colleague Senators in supporting the Statement by Sen. Osotsi.

Currently, as it is, all development projects have stalled. When development projects, it is like we are now fighting or clawing back on devolution. Whatever is happening is now clawing back on devolution several years after devolution was effected.

As the Senate, I think we are not biting enough. It is time to bite and clearly show we are here speaking on behalf of ordinary citizens out there who are relying on these services to go down to the smallest level at the grassroots.

Late disbursement means that the issue of tenders being awarded will come late and people will then be paid late on when there is no money or money has already been allocated to other functions.

So, Sen. Osotsi, this is timely. It is also an opportunity for the Senate to get answers from some of these Cabinet Secretaries because we amended the Standing

Orders to allow them to show up here so that we have prompt responses and services get closer to the people who brought us to this Senate.

I thank you.

**The Speaker** (Hon. Kingi): We will move to the next Statement.

Sen. Sifuna, you have the Floor.

MISALLOCATION OF PUBLIC COMMUNITY  
LAND IN BURUBURU PHASE FIVE

**Sen. Sifuna:** Thank you, Mr. Speaker. Mr. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources from the issue of illegal and irregular misallocation of public community land in Buruburu Phase Five Estate on Katulo Road, Nairobi Block 79/789.

In the Statement, the committee should -

(1) Explain the circumstances under which the said parcel of land, which was meant for public utility and open spaces was allocated to individuals and state the identities of the beneficiaries;

(2) They should cause the Ethics and Anti-Corruption Commission (EACC) to conduct an investigation into the allegations of illegal allocation of public utility plots and open spaces in Buruburu Estate;

(3) State, the measures, if any, being implemented by the Ministry of Lands Housing and Urban Development to ensure that if public utility land is to be allocated to private developers, a valuation is undertaken to ascertain that the value of the private development outweighs the value of the public development; and finally,

(4) Outline the steps taken by the Nairobi City County Government to reverse the illegal acquisition and to safeguard public utility land from grabbing in the future.

**The Speaker** (Hon. Kingi): Sen. Sifuna, you had another Statement. Kindly proceed.

ILLEGAL ALLOCATION OF PUBLIC UTILITY PLOTS  
AND OPEN SPACES IN WOODLEY ESTATE

**Sen. Sifuna:** Mr. Speaker, Sir, pursuant to Standing Order No.53(1), I seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding claims of illegal allocation of public utility plots and open spaces within Woodley Estate, Nairobi City County.

In the Statement, the committee should -

(1) Explain the current status of public utility plots and empty spaces within Woodley Estate and provide records of how the same are currently being managed by the Nairobi City County Government;

(2) Give a status report on the revocation of titles that had been issued following illegal allocation of the same land, stating what the county government is doing to ensure that land is reverted back to the county; and finally,

(3) Outline the measures that have been put in place by the Nairobi City County Government, if any, to ensure that these public utility plots and open spaces are not illegally allocated and/or obtained.

I thank you.

**The Speaker** (Hon. Kingi): Senator Tabitha Mutinda, you have the Floor.

**Sen. Tabitha Mutinda:** Thank you Mr. Speaker, Sir. I rise to support, the Statement by Sen. Sifuna, the Senator of Nairobi City County.

As a delegation on Nairobi I support because one, Buruburu is an area and an estate that for long has been a very good estate region. It really saddens that at this particular time we still have pending issues as far as double locations of land and land grabbing is concerned in this city.

Public land is usually used to put up social amenities like social halls, police stations, even schools that our children and also the community is able to utilize and use according to their different needs.

I support and add that the Senate Standing Committee on Land, Environment and Natural Resources takes up this matter very urgently and that the public land that belongs to the community and the government should be reverted back.

It is high time that public land that has been grabbed by private investors especially in Nairobi, is reverted back and utilized in the intended manner.

I support.

**Sen. (Dr) Oburu:** Thank you, Mr. Speaker, Sir. I also stand to support; the Statement being sought by Sen. Sifuna.

This disease called “grabiosis” is such a serious disease in our country that you find greedy leaders seizing any empty land. I was told by a pilot when I was flying in a chopper that there are some leaders when they are carried in the chopper and they see an open land, they tell the pilot: “Can you take the coordinates of this area?” They want to know who the owner is so that they can come and grab that land. This is a disease which we must find a way of dealing with. The appetite is growing. I think in this system here, the appetite has increased even more that before.

I support this Statement being sought by Sen. Sufuna. Let us see how we can tame this disease called “grabiosis”.

I thank you.

**The Speaker** (Hon. Kingi): We shall move to the next Statement.

Is Sen. Murgor not here?

The Statement is deferred.

GRABBING OF LAND BELONGING TO  
KANYARKWAT GROUP RANCH

*(Statement deferred)*

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

**Sen. Okenyuri:** Mr. Speaker, Sir, I rise to request for a Statement on the status of---

**The Speaker** (Hon. Kingi): Sen. Okenyuri. I know your name. Certainly, you are not Sen. Mundigi.

**Sen. Okenyuri:** Mr. Speaker, Sir, he requested that I read on his---

**The Speaker** (Hon. Kingi): Then start by placing yourself properly on record.

STATE OF MACADAMIA NUT PRODUCTION  
AND MARKETING IN KENYA

**Sen. Okenyuri:** Mr. Speaker, Sir, I am reading this Statement on behalf of Sen. Mundigi the Senator for Embu County.

I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the state of Macadamia nuts production and marketing in Kenya.

In the Statement the committee should -

(1) State the justification for the blanket ban on export of raw macadamia nuts issued by the government in the year 2009 and indicate whether there are any plans to lift the ban;

(2) State measures that have been put in place by the Government, if any, to avoid price fluctuations of raw Macadamia Nuts, which at times yield as little as Kshs30 per kilogram.

(3) Outline the steps the Government is taking to support the Macadamia sector in terms of research, funding and marketing initiatives to ensure Kenya's competitiveness in the global Macadamia market;

(4) Provide information on whether local Macadamia nuts companies have the capacity to process and market the nuts for the small-scale farmers; and finally,

(5) Inform the Senate of the steps being taken to boost income from exports in a free market, considering that the Agriculture and Food Authority has lowered the per kilogram price of the nut from Kshs200 to Kshs30.

STATE OF AFFAIRS AT THE HCD

**Sen. Okenyuri:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on the status of the Horticultural Crops Directorate (HCD) under the Agriculture and Food Authority (AFA). In the Statement, the Committee should-

(1) State the measures, if any, put in place by the Government to sustain growth and allow stakeholders in the horticultural subsector identify and establish a direct link with their regulator.

(2) Inform the Senate whether the AFA has adequate resources to manage and oversee the horticultural subsector considering that it oversees several other directorates.

(3) Give reasons for the abolishment of the Horticultural Research Fund and the weekend staff capacity of the HCD by the AFA.

(4) Explain how the AFA manages perishable horticultural value chains requiring timely decisions and the losses they incur detailing the constitutional process of the AFA Board to protect the interest of the horticultural stakeholders.

This is a Statement by Sen. Munyi Mundigi, Senator for Embu County.

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

**Sen. Maanzo:** Mr. Speaker, Sir, I am a Member of the Committee on Agriculture, Livestock and Fisheries. There is a law proposed by the Chairman touching on macadamia and other nuts which came to our committee today. The Bill will be taken for publication and eventually public participation.

We realised that unless you have the permission of the Cabinet Secretary (CS), you cannot market nuts outside the country. This has caused cartels because getting permission is a serious problem.

Today I requested our secretariat to do a little bit of research on the wisdom behind Section 43 of the Agriculture, Fisheries and Food Authority Act before we amend it, so that nuts can be sold directly by the farmers. We grow macadamia nuts in Mbooni and Kilingu areas of Makueni County.

The whole of coastal region seems to have gotten into the problem of marketing their nuts because of this particular provision. Consequently, brokers have diverted all the nuts which are now being processed somewhere around Thika before they are marketed to the world as they please. We would like farmers to market directly.

Mr. Speaker, Sir, I am aware there are standards required under different legislation. Therefore, we would like to know what informed that legislation, so that this House can amend that law and open the market to the world in order for our farmers to benefit. We hope that the Senate is going to help farmers of all types of nuts including macadamia nuts.

I thank you.

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

**Sen. Cheptumo:** Mr. Speaker, Sir, I also rise to support the Statement. When it comes to macadamia specifically, there is need for the Ministry in charge to see how best they can facilitate farmers to strengthen and enhance production and marketing of that farm produce.

This is an agricultural country because our economy is supported by agriculture. In areas like Kerio Valley, we have cotton being grown. As we focus on macadamia, it is equally important for the committee to look at specific areas in this country where specialised crops like cotton, which used to bring us a lot of money in Kerio Valley, are grown. Today, it's production is minimum.

If the Ministry in charge of agriculture zones specific areas and enhances production of crops grown in those areas, the country will go a long way. We are doing well to ensure that we improve productivity by giving subsidies to farmers of maize.

We are also trying to reform coffee and tea sectors. Little focus is given to some crops which are not spread in our country. I believe it is important for the committee responsible to also look at some of the areas like Kerio Valley and focus on cotton which is equally an important product in our sector.

Mr. Speaker, Sir, it is a good Statement and I support.

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

**Sen. Olekina:** Mr. Speaker, Sir, a couple of days ago, a small video clip was being translated to me, where the distinguished Senator for Kirinyaga was crying because of the way his farmers have been terrorised by brokers.

As soon as I saw that, I went ahead and started doing some research on why the distinguished Senator was really perturbed. I realised that sometimes we make legislation that kills this economy and promote brokers, cartels or a cabal.

As I speak, about 90 per cent of the macadamia crop which is produced in Kenya is for export. When I heard my good friend, the Senator for Makueni, Sen. Maanzo, saying that Kenyans cannot produce and sell directly to the export market, I wondered what exactly we are doing.

Mr. Speaker, Sir, I hope that when you commit that to the Committee on Agriculture, Livestock and Fisheries, the first thing they will do is to propose amendments to the Agriculture, Livestock and Fisheries Act which I believe was passed by a few cartels.

Currently, Kenya is the second largest producer of macadamia in Africa and the third largest producer in the world. There is no reason why the people of Kirinyaga should not be dancing all the way to the bank with billions of shillings. Currently, the price is between Kshs90 and Kshs120 per kilogramme.

My colleague here was lamenting that farmers are being given up to Kshs20 per kilogramme. Some of these issues are killing our economy. So, I would like the committee to explore and carry out a serious survey of how many farmers in all the 47 counties, particularly counties in the central region, grow macadamia.

We are talking about doing value addition. I know my colleague was lamenting because one company in Naivasha sells a small packet of macadamia for about Kshs1,000. We need to find a way such that even the Ministry of Agriculture and Livestock Development can bring farmers together.

The current CS for Agriculture and Livestock Development is a former colleague. He should bring farmers together and ensure that they are allowed to export the nuts directly to other countries. Currently, some of us are exporting products without having to seek authority from the CS. Why should we then set aside a particular crop just to benefit a cabal?

Mr. Speaker, Sir, this is a fantastic Statement which I fully support. I hope we will help our farmers resolve the problem.

I thank you.

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

**Sen. (Dr.) Murango:** Asante Bw. Spika kwa kunipa nafasi hii. Kwanza, ningependa unipe mwelekeo kwa sababu aliyelea Taarifa hii ni Naibu wangu katika Kamati ya *Agriculture, Livestock and Fisheries*.

Bw. Spika, nieleze iwapo mtu anafaa kujiuliza swali. Swali lililoulizwa na Sen. Munyi Mundigi kama Naibu Mwenyekiti, litakuja kwake ama kwetu pia.

Pili, jambo lililoulizwa ni la maana sana kwa kuwa juzi tu, nililalamikia jambo hilo kama alivyosema Sen. Olekina. Nilipokuwa nafanya uchunguzi wangu, nilienda dukani kwenye makadamia. Swala hili linahusu makadamia, korosho na bixa.

Nilizungumza na Sen. Wafula, naye akanieleza pia huko Tongaren, wako na shida iyo hiyo ambapo makadamia yananunuliwa kwa Kshs20. Gramu 150 ya makadamia inauzwa kwa Kshs505. Ukihesabu vizuri unapata kuwa wanafinya wakulima. Wananunua kwa Kshs20 au Kshs30 na kuiuza kwa Kshs3,600.

Sheria ambazo zimetungwa zina ubaguzi fulani. Katika ile mimea yote ambayo inafaa kufuata hizo sheria ni makadamia, *pyrethrum*, *cashew nut* na bixa. Katika mimea hio mingine yote, hakuna hata moja ambayo unahitajika kuomba ruhusa ili uize. Sheria ya 43 iliyoletwa mwaka wa 2016, ilifungia wakulima wa makadamia, korosho, bixa na *pyrethrum*. Ni vibaya sana mkulima kupanda miti na ikifika miakia 10, makadamia yananunuliwa kwa Kshs20.

Zamani kidodo palikuwa na Wachina ambao walikuwa wanakuja kununua makadamia kwa Kshs180. Miaka minne imepita tangu wakati huo. Sasa tunashangaa

kwani hakuna mahali pa kuziuzwa kwa sababu kampuni tano zimeungana, wameketi chini na kufinya bei ya makadamia, korosho na bixa hadi Kshs20 na Kshs30.

Bw. Spika nimechangia. Hata kama nitajiuliza hilo swali mwenyewe, nitalijibu kisawasawa.

**The Speaker** (Hon. Kingi): Thank you, Sen. (Dr.) Murango.

Indeed, it is in order for Sen. Munyi Mundigi to seek a Statement from that Committee, although he is a Member. There is a difference between Mundigi, the Senator for Embu County and the Standing Committee on Agriculture, Livestock and Fisheries.

We shall move to the next Statement by Sen. Cherarkey.

ALLEGED MISMANAGEMENT AT THE SPORTS ARTS  
AND SOCIAL DEVELOPMENT FUND

*(Sen. Cherarkey was not in the Chamber)*

**The Speaker** (Hon. Kingi): That Statement is deferred because Sen. Cherarkey is not present.

*(Statement deferred)*

We shall move to Sen. (Dr.) Murango.

MARKETING OF KENYAN PRODUCE IN  
FOREIGN MARKETS

**Sen. (Dr.) Murango:** 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 the marketing of Kenyan produce in foreign markets.

In the statement, the Committee should -

(1) State the measures, if any, that the Government has put in place, to ensure marketing of Kenyan produce by Kenyan Missions.

(2) Explain the measures, if any, that the Government has put in place to control imports of goods produced locally and to increase demand for local produce.

(3) State the measures, if any, put in place by the Government to market Kenyan goods like tea, coffee, and horticultural produce to increase the volume of exports.

Thank you.

Mr. Speaker, Sir, I have another Statement under Standing Order No.53(1).

STATE OF LABOUR EXPORT FROM KENYA

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 on the state of labour export from Kenya.

In the Statement the Committee should -

(1) Explain the measures the government has taken, if any, to reduce unemployment among the youths.

(2) Explain the steps taken by the Ministry of Labour and Social Protection, to facilitate Kenyans applying for job opportunities abroad.

(3) Apprise the Senate on whether there are any bilateral agreements in place with any foreign country or organisation for the export of both skilled and unskilled labor.

(4) Provide data on the current state of labor export to foreign countries, including the number of Kenyans working abroad and the amount of remittances received annually.

Thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, before I give Senators opportunity to comment on that request for Statements, allow me to make a Communication.

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM LENANA SCHOOL, NAIROBI CITY COUNTY

In the Public Gallery, we have 90 students, accompanied by three teachers from the Lenana School in Nairobi City County, who are in the Senate on an education tour.

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

*(Applause)*

#### VISITING DELEGATION FROM KIAMUGUMO GIRLS HIGH SCHOOL, KIRINYAGA COUNTY

In the public gallery again, we have 31 students, accompanied by two teachers from Kiamugumo Girls' High School in Kirinyaga County who are in the Senate on an education tour.

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

*(Applause)*

I will allow the Senators for Nairobi City and Homa Bay counties to briefly welcome the students from Lenana School. I will also allow the Senator for Kirinyaga County, Sen. Murango, to welcome the delegation from Kiamugumo Girls' High School. In that order.

**Sen. Sifuna:** Mr. Speaker, Sir, thank you for the opportunity to welcome the students from Lenana School. I can see a few of them are remaining because I know they wear maroon, grey and white. The colors were a bit confusing for me.

This is one of the earliest high schools in Kenya, having been founded in 1949. When I was told they were here, I tried to do a cursory research of some of the prominent

Members who are alumni of the School. I did not come across the name of the Senator for Homa Bay County but he assures me that he went to Lenana School. He will tell us.

I have also been informed that in this House, there is also a dropout from Lenana School.

*(Laughter)*

Mr. Speaker, Sir, he will introduce himself. He is the one who confessed to me that he dropped out of Lenana School.

It is good to hear that the Senator for Homa Bay County is one of them because the names which were coming up were a bit scary. A few examples are Mr. Wafula Chebukati, Hon. Prof. Kindiki, Hon. Joe Mucheru, Hon. Johnson Sakaja – the current Governor for Nairobi City County. At least, the Senator for Homa Bay County will have nice things to say.

I welcome them to the Senate and assure them that I have had a conversation with the current Governor for Nairobi City County, who is an alumnus of the school. The school is located in Dagoretti South and you have to make a U-turn on Ngong' Road before you get to the School. There is a very bad section of the road between Ngong' Road and the School gate. However, the Governor has assured me he will resolve the question of the road once and for all before his term ends.

Mr. Speaker, Sir, I wish them all the best during their tour. Just like their motto says, 'Nothing but the Best', I have chosen the English version because the Latin one might give me problems owing to the fact that I am a member of the *Mulembe* nation. You must always insist on nothing but the best and I hope that they have a fruitful tour.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, I join you and the House in welcoming the boys from Lenana School. We are called *Oloibons* and also *Changerians* because "Changes" changes you.

As Sen. Sifuna has alluded, in this House, there is a gentleman who spent only one term in 'Changes'. He could not withstand the English pies and the loaves of bread that we used to eat. He went to a school in Western Kenya at Chavakali where he could get sweet potatoes, yams, and arrow roots because those could not be found at Lenana School.

This House has had the privilege of hosting a few "Changerians". Yours truly is a 'Changerian' Block Five, James House. Hon. (Prof.) Kindiki, who in his lucid moments is a very good man. We have also had hon. Hassan Omar. We have also had in this House---

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

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

**Sen. (Dr.) Khalwale**: Mr. Speaker, Sir, did you hear the Senator for Homa Bay refer to the Cabinet Secretary (CS) using derogatory language? He used unparliamentarily language to the extent that he suggested that there are times when hon. (Prof.) Kindiki is lucid. Is that Parliamentary? Even if you are saying hi, you have said hi.

**The Speaker** (Hon. Kingi): Sen. M. Kajwang, that was uncalled for. Kindly proceed to lift it out of your pronunciation today and conclude your welcoming remarks.

**Sen. M. Kajwang**: Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Let them be wonderful welcoming remarks.

**Sen. M. Kajwang:** Mr. Speaker, Sir, Hon. (Prof.) Kindiki is generally a wonderful guy; generally.

I want to encourage the boys from the “Changes--”

**The Speaker** (Hon. Kingi): Kindly withdraw the words ‘lucid moments’.

**Sen. M. Kajwang:** Mr. Speaker, Sir, I will withdraw it. Perhaps his lucidity is 99.9 per cent.

**The Speaker** (Hon. Kingi): Proceed to conclude your remarks.

**Sen. M. Kajwang:** Mr. Speaker, Sir, I encourage the boys from “Changes”, to let ‘Changes’ change them from boys to men and real men at that. Let ‘Changes’ change you from villager to nationalist.

If you look at the political landscape, there is quite a number of “Changerians” as well as “Busherians”. To the boys in the Gallery, the Chairperson of this House is a “Busherian”. I think a very polished one. Earlier on, I was complaining that perhaps the Clerk of the House who is an old Boy of Starehe possibly did not want the “Changerians” to be acknowledged. I withdraw those earlier allegations.

How I wish many Members in this House would have had the privilege of going to “Changes”. This is because sometimes you hear some ‘villageness’ and some things that good schooling would have squeezed out. The boys from “Changes”, please keep it up. This is a wonderful school. Keep up the White Rose of York Emblem and go for nothing but the best.

As we say, ‘*Nihil Praeter Optimum*’. I hope that some of you will find your way here. As I always say, I do not think we need more politicians in this country. A lot of “Changerians” are doing excellent work in the private sector and in the government. I want to encourage you. Do not just think of Kenya. The world is your village.

If you have gone to a school called the “Duke of York”, if you have gone to a school with the kind of finesse and a school that produces gentlemen like Lenana School, then Kenya should not be your playground. Let the world be your playground. Remember that Elon Musk who is the current richest man in the world was educated in South Africa. Remember that people like Mark Shuttleworth who builds crafts that take us to space and who was responsible for building very innovative; Linux operating systems came from Africa. Remember that this country produced hon. (Prof) Wangari Mathai. Please do not aspire just to be in Kenya.

My observation is that this House has never had someone from Nairobi School. That is quite interesting. You know Nairobi School and Lenana School are traditional rivalries. However, if you go to County Assemblies, there are many MCAs from Nairobi School.

(Applause)

That tells you the kind of outcome and output you get from “Changes”. ‘*Nihil Praeter Optimum*’.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. (Dr) Murango, kindly proceed.

**Sen. (Dr.) Murango:** Asante Bw. Spika kwa kunipa nafasi kuwakaribisha wanafunzi wa kutoka Kimugumo Girls. Shule hii iko Gichugu. Hiyo shule iko mahali

ambapo Gavana wa Kirinyaga Mheshimiwa Ann Waiguru ametoka. Ningesema ya kwamba mnapotia bidii na fora katika masomo yenu, mko na watu walioko mbele yenu wanawowanyesha kuwa masomo ni muhimu. Mkiweka bidii, mtaenda mbali sana.

Mimi shule niliyosomea, mimi ndiye nilikuwa mwanafunzi pekee. Sikuwa na nafasi ya kwenda shule kama Lenana School au shule iliyo na wanafunzi wengi. Shule yetu ilikuwa na mwalimu mmoja. Hivyo basi, hiyo ni historia ambayo nitapeana siku nyingine. Kuwa mwalimu mmoja, ukiwa mwanafunzi mmoja na unaanzia huko peke yako, ilinibidi nitunge sheria pamoja na mwalimu. Hiyo pia inasaidia mahali yake.

Nawakaribisha wanafunzi. Najua tukimaliza hapa tutaonana pale nje. Tuna desturi yetu ya watu wa Kirinyaga. Nawashukuru na kuwakaribisha siku ya leo. Mtasoma mengi. Asanteni sana.

**The Speaker** (Hon. Kingi): Back to the Statement by Sen. (Dr) Murango. Sen. Mungatana, you may proceed.

*(Resumption of debate on Statements)*

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I wanted to make a contribution to the Statement by Sen. (Dr) Murango that is directed at the Standing Committee on Tourism, Trade and Industrialization. As the Committee explores answering the Statement in terms of placing our products in foreign markets, I want the Committee to also recall that in November 2022, President Cyril Ramaphosa was in Kenya for Bilateral Talks with the Head of State here.

It emerged clearly that the trade imbalance between South Africa is great because we are doing USD39 million while South Africa is doing USD615 million. However, the indication was that there was space for Kenya to export meat and meat products to South Africa because they are in deficit on that side. As they look at the production of Kenyan goods in the foreign market, can the Committee also look at where we are? That was a clear offer. What have we done to take advantage of that space that was granted to us?

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, you may proceed.

**Sen. Joe Nyutu:** Thank you Mr. Speaker, Sir. I rise to support the Statement by Sen. (Dr) Murango of Kirinyaga County who is seeking information from the Standing Committee on Labour and Social Welfare. I need to add my voice to that.

It is true that we are exporting labour, especially to the Middle East. This can be an important job market for us. We need foreign exchange which is in short supply. If our Government makes government-to-government arrangements and agreements with the countries, where we export labor including but not limited to domestic servants. In this Country, we also have medical doctors that do not have jobs. I know that their services are in high demand in other countries.

In supporting Sen. (Dr.) Murango's Statement, we should look at these issues seriously so that we reduce unemployment in our Country. I hope that when our people go out there to offer their services, their rights will be protected and they will be paid in a way and manner that is not exploitative. I urge the Government to see to it that they make bilateral arrangements and agreements with the concerned countries.

I support.

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

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. I stand to support Sen. (Dr.) Murango's Statement to the Committee on Trade, Industrialization and Tourism which has come in other versions in previous Senates.

It is my view that this country does not value farmers. The farmer who elects to plant avocado, will find a broker who wants to take an avocado for as little as Kshs8 or 10 to sell it for a lot of money. That is what is happening to macadamia, maize and sugarcane farmers.

For some of us who are here for the first time, this narrative has always been in this House. Is there something that the Senate or the Government can do to support farmers? When farmers make losses, they can decide to cut down coffee and tea trees because a few people exploit them.

Mr. Speaker, Sir, beyond what has been asked, I request that the Committee looks at radical solutions, including the possibility of setting up teams that can give farmers minimum price on the different products within the agricultural sector.

I support.

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

**Sen. Veronica Maina:** Mr. Speaker, Sir, thank you for the opportunity. I rise to support the Statement sought by Sen. (Dr.) Murango, from the Standing Committee on Labour and Social Welfare. I note that labour export is a strategy that has been utilized by many developing countries, to tackle the issue of unemployment and underemployment.

For example, Philippines is one of the best labour exporting nations. It has a model that has enabled it to export labour to over 200 nations across the globe. They earn close to USD17 billion in foreign exchange because of exporting expert labour to different nations.

Mr. Speaker, Sir, therefore, the Government must be called to account to indicate how first the passports are being issued to young people who are seeking for employment outside the nation of Kenya, how quick it is to certify their academic credentials or qualifications and enhance any processes that stands between the young people and exportation of labour to the region.

We must also note that Kenya has actively supported many nations across the region which have been unstable in yester years, to enhance service delivery in their nations. They include countries such as Somalia, Democratic Republic of Congo (DRC), Sudan and many other nations. Time has now come for that area to be closed out, so that we can have more youths employed out there and earn income.

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

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by the Senator of Kirinyaga, Sen. (Dr.) Murango, on the issue that is supposed to be tabled at the Committee on Labour and Social Welfare.

One, the issue of job opportunities in this country is very important. We have seen that our youth have tried really hard to acquire certifications and credentials. Like everybody, they have dreams to pursue their careers in different parts of this world.

I support this Statement and urge ambassadors in different countries, especially those in the United Arab Emirates (UAE), to get data of Kenyans in foreign countries, the jobs they do, the database that the Ministry of Foreign and Diaspora Affairs and ambassadors in foreign countries have and the certifications that are being offered?

I am happy that last week, my colleagues were able to support my Statement. I had enquired about the courses and technology that institutions are offering that will enable students to get jobs abroad; especially the household jobs among many other technical jobs. That does not limit Kenyans with other levels of education to go abroad to get jobs.

It is very important to understand. Through this understandability, we will gauge what we can add or improve on so that we open more doors to our youth and Kenyans who want to work out there. We also need to know the impact of people who have worked abroad and what have they have invested. In a nutshell, we need to open more doors for Kenyans in the diaspora.

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

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. I add my voice to the issue of labour, as sought by Sen. (Dr.) Murango.

Mr. Speaker, Sir, we have artificial constructs by having borders among our countries, to the extent that economic mobility of labour is need based. If anybody does not have a job in a country like ours, they will look for that job from wherever they can. However, some complexity emerges and make it impossible for them. One is the issue of data that my sister, Sen. Tabitha Mutinda, has talked about but I want to make it better. When it comes to the issue of labour in this country, the issue of data for decision making very difficult.

I want to strengthen the idea of having a robust data that can highlight; one, those people who do not have jobs in the country but are seeking jobs abroad, those who have mismatch in terms of the jobs that we have in the country and are seeking jobs abroad vis-à-vis those who are able to get them and where to get them.

In fact, I urge this Committee to consider encouraging the relevant Ministries to make data availability a public thing that can be brought to the media. If we have data on labour that is seeking to work abroad, then, this can be broadcasted broadly, so that people see what is going on in other places.

More close this and to my heart, is the idea of complexities around people who work abroad and want their remittances to come to their local households and families, to transform their lives. When people go to work abroad, they do so to change their lives but also more importantly, to solve the needs of their communities down here.

One of the reasons why it becomes difficult for labour to be mobile, is when remittance come, they are very expensive to the extent that they cannot do some of the development that they would want to do back at home or help their families. Therefore, the Committee should consider some of the most adventurous ways to innovate and make some our local companies like Safaricom to become global brands. This is because Safaricom has become a serious financial giant in the global financial systems.

As a country, we should have a purpose. Countries such as South Korea purposed to make their companies like Samsung global brands. If Safaricom was a global brand, all the remittances that we are getting in terms of billions from families that work outside, will be able to make them in a cheaper way that makes labour have powerful sales to local communities.

Mr. Speaker, Sir, lastly, Kenya should start thinking seriously around our immigration laws. When you look at the mobility of labour, one of the problems is the issuance of visa and getting passports. We should be able to make it easier for people

who are looking for jobs abroad to get their passports in an easier way. We should consider having free visas for countries that have many opportunities for our people, so that these kinds of bilateral agreements on issues of visas can make it possible for us to invite good talent in the country and to also be able to export any kind of talent to other countries.

Mr. Speaker, Sir, with that, I support Sen. (Dr.) Murango and I hope that the Committee will consider some of his ideas and incorporate them in his Statement.

Thank you, Mr. Speaker, Sir.

**Sen. Seki:** Thank you, Mr. Speaker, Sir. I also rise to support the Motion from Sen. (Dr.) Murango on the issue of marketing of Kenya's produce in foreign markets.

This Statement has come at the right time when we are deliberating on the issue of foreign markets, particularly on agricultural trade. This afternoon, I attended the Global Gap Tour Forum where the agriculture sector, producers in Kenya, the Ministry of Agriculture and the Ministry of Trade were discussing how to bring up more certification of Kenyan producers and Kenyan products to the foreign markets.

It has come at the right time because what matters a lot in issues of foreign markets is the issue of standards of our products and certification in the foreign markets. Kenya leads in the issue of certification in Africa on issues that concern horticultural products.

Mr. Speaker, Sir, Kenya has 323 certificate holders on foreign markets and that means that we are behind South Africa, *Côte d'Ivoire*, *Morocco* and *Egypt*. *We have a lot and the Ministry has a lot in order to certify our producers and our farmers in order to get the certification that is required for us to sell more products in foreign markets.*

The products that lead in Kenya are avocado, mangoes, tomatoes and sweet potatoes. The product that has been discussed today, that is Macadamia nuts is not listed in the list of products that are being exported to foreign markets.

I want to assure this Senate that as we deliberate on this matter, we will look at it and engage different stakeholders in order to make sure that the Statement has achieved its objectives.

I support the Motion and say that we will look at it as a committee.

**The Speaker** (Hon. Kingi): Before I call upon the Senate Majority Leader to make a Statement, allow me to make this Communication.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM LORNA LABOSO  
MEMORIAL GIRLS SECONDARY  
SCHOOL, BOMET COUNTY

In the Public Gallery, we have 64 students accompanied by seven teachers from the Lorna Laboso Memorial Girls Secondary School in Bomet County, who are in the Senate on an education tour.

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

I will allow Sen. Wakili Sigei to make brief welcoming remarks.

**Sen. Wakili Sigei:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to welcome the students from Bomet County. Lorna Laboso Girls is a memorial school that was established courtesy of the first female Member of Parliament for Sotik Constituency.

In 2012, the late Hon. Joyce Laboso actualized the institution which is represented by the beautiful girls in the gallery today. I welcome them and encourage them to carry high the flag which was carried by the first female MP whose name has been inscribed in the institution that they represent today. Similarly, I want to encourage them to carry high the flag of the first female Governor of Bomet County, the late Hon. (Dr.) Joyce Laboso who actualized the institution.

This is the House where rules are made. Hon. Joyce Laboso was a Deputy Speaker in the National Assembly. I am sure that the spirit she had and the investment that she made in the institution that you are in now, will be carried higher by you.

I want to encourage them to work hard and to celebrate the two beautiful names they carry in that school and show the world and Bomet County that indeed the two ladies were great ladies that should be emulated in future.

I welcome them to the Senate and ask them to enjoy every moment of it. They should also learn so that they carry back home new and important lessons they have picked from this House.

Mr. Speaker, Sir, I thank you. I also encourage them to learn more than just being here.

## STATEMENT

### TEN-YEAR ANNIVERSARY OF THE SENATE

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 57(2) to make a Statement on the occasion of the ten-year anniversary of the Senate.

Mr. Speaker, Sir, I expected Senators to be concentrating because they would have applauded that this House has lived to see its 10<sup>th</sup> birthday, the Second Session of the Senate.

Given the kind of challenges that we have had over the years, both from within and without, it is not by chance or guarantee that this House would live to see this day.

On March 28<sup>th</sup>, 2013, the Senate of Kenya held an inaugural Sitting, technically marking the Second Senate - after the 1<sup>st</sup> Senate under the Independence Constitution was disbanded in 1967 - and the First Senate under the 2010 Constitution.

The Second Senate under the leadership of Speaker, Rt. Hon. Ekwee Ethuro, EGH, MP, marked one of the most significant milestones in the country's constitutional history. The coming into being of the Senate heralded a new dawn for our legislature, hitherto unicameral, and was now comprising the National Assembly and the Senate. The term of the Second Senate ran from 28<sup>th</sup> March, 2013 to 15<sup>th</sup> June, 2017.

Needless to say, the Senate was sailing in uncharted waters. None of the political leadership and Senators had a clear idea of what their tasks entailed. They had to “learn how to swim by swimming”. It was trial and error at first. However, the Speaker and his Leadership team, guided by unity of purpose and the will to actualize devolution,

initiated work systems and spearheaded a series of retreats, workshops and seminars that rapidly crafted the framework of transacting and administering the Senate.

Mr. Speaker, Sir, to entrench its place, the Senate began its mandate by fighting for its space, and its place in the new organization of Government, including its relationship with the National Assembly in executing its mandate as contained in Article 96 of the Constitution.

To name but a few of those memorable times, in the 11<sup>th</sup> Parliament, was an entrenching the mandate of the Senate in the consideration of the annual Division of Revenue Bill; a matter that was eventually determined by the Supreme Court in favour of the Senate; the infamous Advisory Opinion No. 1 of 2013.

The Second Senate, amongst other milestones, set in place the procedure to be followed upon receipt of a resolution from a County Assembly on the impeachment, by the Assembly, of a Governor or a Deputy Governor. This marked the stage for the first impeachment hearing of a county governor which happened in 2014.

Mr. Speaker, Sir, the term of the Third Senate in the Twelfth Parliament commenced on 31<sup>st</sup> August, 2017, with 67 elected Senators taking the oath of office and electing the Rt. Hon. Ken Lusaka, MP, as the Speaker. The Third Senate represents the consolidation stage of the Senate.

Some fundamental achievements of the Third Senate include the determination of matters such as the admissibility and constitutionality of the powers of a deputy governor in running county government business, where the governor is charged in court or is away for extended periods due to other reasons.

Other fundamental achievements include measures to resolve the stalemate on delayed enactment of the Division of Revenue Bill and its impact on county finances and the implication of the High Court judgment on Constitutional Petition No.284 of 2019 that challenged the laws that were enacted unprocedurally. That remains one of memorable days of this House in the last Parliament when we all walked hand in hand from right here in the Senate Chamber all the way to Milimani Law Courts.

I can see many colleagues in the House who made the infamous march that secured our place in history. Had we not pushed back on an Executive fully backed by the National Assembly that was keen on extinguishing this House, I am not sure whether we would be gathered here this afternoon. I celebrate all the Senators that joined us on that graceful march that morning.

Mr. Speaker, Sir, in the Third Senate, we initiated the inaugural sittings of the Senate outside Nairobi commonly dubbed ‘Senate *Mashinani*’. These sittings showcased and entrenched the place of the Senate as the institution mandated to represent and protect the interests of counties and their governments as highlighted in Article 96 of the Constitution. So far, Uasin Gishu and Kitui have hosted and we shall continue as a Senate with this practice into the future.

Mr. Speaker, Sir, you are aware that, I think two weeks ago, I did move a Motion in this House and my colleague Senators were gracious enough to agree with me that we carry on with this programme. There is already in place a technical committee that is scouting for the ideal venue of the Third Edition of Senate *Mashinani*. We look forward to that edition later on this year.

As you may recall, Article 96(6) of the Constitution provides that the Senate determines the allocation of national revenue among counties. Article 176 of the

Constitution establishes county governments which are mandated to perform functions stipulated under Part Two of the Fourth Schedule to the Constitution.

Under the principles of devolved government, county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively. One of the major achievements of the Third Senate was the fight for increased resources for the counties. Consequently, we have observed a consistent increase in shareable revenue from Kshs190 billion for FY 2013/2014 to Kshs370 billion for FY 2022/2023, representing a consistent annual average growth of 35 per cent.

Mr. Speaker, Sir, that was an important fight that we fought together as a House. There is the famous revenue sharing formula debacle that lasted a good ten weeks. With all the intrigues and challenges that came with it, Senators stood firm in this House.

Thanks to the Senate for fighting together as a House. We had a steep jump in resources allocated to counties. In fact, the previous FY 2020/2021 had been Kshs316 billion. Thanks to that fight, we grew it to Kshs370 billion in the subsequent financial year, courtesy of the good work that Senators did.

Another hallmark of the Third Senate was the consideration and passage of the Third Basis for Revenue Allocation among county governments. Through robust debates, the Senate emerged stronger than ever before and demonstrated its commitment.

Mr. Speaker, Sir, those 10 years have not been without challenges, but the Senate rose to the task and committed to upholding the principles of democracy, transparency, and accountability. This milestone marks a decade of dedicated service to the people of Kenya, as the Senate has played a vital role in shaping the country's legislative and governance agenda. Through its oversight role, the Senate has ensured that public resources are used for the benefit of Kenyans, and has held public officials accountable for their actions.

As we commemorate this milestone, we recognize the hard work and dedication of the current and former Senators, who have worked tirelessly to ensure that the Senate remains a strong and effective institution. We acknowledge the support of the Kenyan people, who have placed their trust in the Senate to represent their interests.

Mr. Speaker, Sir, just reflecting upon, I thought about what many might consider to be among the highs, just as I have listed quite a number. Where there is a high, there has to be a low. The world and life generally is sinusoidal because it rises and falls.

I can remember quite a number. During the passage of the Security Laws (Amendment) Bill of 2014, that was quite a difficult and challenging time for us in Parliament. We also had the passage of the Revenue Sharing Formula. We have had three of them and that has been quite a challenge.

I have been lucky to witness all the three. Each has been unique with its own difficulties and nuisances associated with dividing money. However, I am glad that on all the three occasions, the Senate emerged the winner.

Of course, the First and Second Senate *Mashinani* sittings in Eldoret and Kitui goes down as a high. The suspension of the Senate sittings in solidarity with Senators arrested over the Second Generation Revenue Sharing Formula was quite a high.

We came together and pulled together in close ranks across political party divides and ensured that our colleagues who had been arrested in the course of their duty were brought back to this House before debate on anything could commence. That was quite a high. It is not every day that colleagues close ranks and fight for each other.

Oversight of county governments and assemblies by Senate committees is quite an important exercise that we undertake through our various committees. We had well-coordinated impeachment processes bringing order to county governments. We have saved governors on this Floor and we have hanged some. Both difficult experiences because there are days where we have acquitted some and that has not been easy.

Most of the times, we have had to sit until late at night. There are sometimes that we sat up to almost 2.00 a.m. or 3.00 a.m. in the morning because of statutory deadlines. Nonetheless, we guided the specific county assemblies in the right way complete with exit reports from the committee or the plenary guiding them on what to do to handle a particular situation.

What are some of our lows as a House in the past ten years as I reflect and thing through? Quickly off my mind, I remember the stalemate with the National Assembly and the national Government over the Division of Revenue Bill.

Quite famous in the Eleventh Parliament where the National Assembly was grappling with appreciating that the Senate had arrived, we were the new kid on the block and we were ready and willing to defend the place of devolution in our Constitution. On many afternoons, the National Assembly spent useful public time discussing individual Senators as opposed to our position and what we stood for in the family of devolution. It has not been an easy time.

Secondly, arrest of Sen. Malalah, Sen. Langát and Sen. (Dr.) Lelegwe, over a standoff related to the passage of Second-Generation Formula was very unfortunate. That was quite a difficult time for us as a House, but I appreciate what all of us did together.

Those that were in support of the formula proposed and those that were against it, all stood firm and said the state had taken their game too far. Until we were given a credible explanation of where our colleagues were; they were unconditionally released is when debate resumed.

There was the Council of Governors (CoG) and Senate stand standoff over oversight funds, especially conditional grants and the High Court judgment limiting oversight mandate of the Senate. That was quite a low. I must speak of it.

On that afternoon we retreated back to reflect on the judgment of the High Court. The judge, in his finding, tried to limit the role of a Senate in oversighting funds to the specific counties which funds we could go through.

That was a difficult moment. On one hand, you have the public charging at you and demanding of you that, “you are the Senator of Siaya, Senator of Nyamira, Senator for Nyandarua, and so on.” What are you doing as Governor x, y and z is misappropriating public funds? The courts on the other side are telling us that you cannot do that on certain specific things that ordinary citizens do not understand. All they want is to see public money spent prudently. That was quite a low time for us.

There was delay in constituting of committees and changes in leadership position for Majority and Minority side. We have had this fight in this Session on the Senate Minority side. For a greater part of last term, we had this challenge on the Senate Majority side. It was not a very easy time when people have to let go of leadership positions. It has not been an easy time.

These questions the Senate needs to resolve going into the future. This is because much as it is difficult here in the Senate, it is even more difficult in the county assemblies and they draw from the experience in the Senate. I know for a fact that they are county

assemblies that up to now are yet to resolve leadership wrangles. My own County Assembly of Kericho, spent almost four months of this Session trying to resolve who is the Majority leader.

Mr. Speaker, Sir, it is a challenge to us as a House because we are the protectors and the custodians of devolution. We need to think about this either by legislation or provide a clear guidance on how to achieve on the positions of leadership here in the Senate as well as in our county Assembly.

There was failure by governors in the 11<sup>th</sup> Parliament to honour summons and a quite number of them were fined. Unfortunately, in the Powers and Privilege Act we do not have the mechanism. We cannot send our Serjeant-At-Arms to go and arrest governors who have refused to show up or have jumped bail and those who have not paid their fines. We need to think through and consider that.

Mr. Speaker, Sir, removal of Senators from office was quite a difficult time for us. Remember the case of Sen. (Dr.) Mwaura, Sen. (Prof.) Kindiki, Sen. Wetangula and Sen. (Dr.) Kang'ata was quite a difficult time for us.

There were also delays of processing of Senate Bills during the 11<sup>th</sup> and 12<sup>th</sup> Parliament; we have not faced this challenge yet. I have to be optimistically cautious, so that I do not get ahead of myself.

I have been around fairly long enough to know that it is all rosy when you are beginning terms of Parliament. However, as you get deep into the term and there are disagreements between both Houses, then the urge to withdraw or to ignore the Senate clicks in. On those occasions, you find that the Senate ends up suffering.

Finally, as way of concluding and this I have picked randomly. I am just reflecting on colleague Senators that we have had the privilege of serving with over the last 10 years and moments and things that they did that will remain forever etched in the memory or the history of Senate. Those acts have defined us who we are today and what we shall be in the future.

Number one is the former Senate Speaker hon. Ekwe Ethuro. I know for a fact and I speak like this because I belong to his side of the political divide then and even up to now. I do not think this is something that you need to be hearing. Part of the reason he lost his job as Speaker of the Senate is that on many occasions in the 11<sup>th</sup> Parliament, he was called to defend the position of the Senate against what you would call, "the appointing authority" some of them extremely powerful.

However, because he stood from in defence of this House, unfortunately, he never made it as he would have wished to return as a Speaker of this House. I know that that is a huge prize he paid, but we continue to celebrate him. I celebrate him each day.

He is one of the gentlemen who went for one reason or the other. Whenever I bump into him, I bow in honour because of what he did for this institution during very difficult times. These included days when police officers were sent to cordon off the House of Parliament. He stopped debate for close to 30 minutes until police officers moved away from Parliament. You know who had sent the police officers then. It was not an easy decision. Mr. Speaker, Sir, that seat you are sitting on, sometimes calls on you to make very difficult decisions in defence of this House. For that reason, I celebrate Sen. Ekwe Ethuro.

Secondly, the Cabinet Secretary, Sen. (Prof. Kindiki) served as our first Senate Majority Leader on this side of the House where I lead. I had the privilege of serving

under him as a new Senator. He guided many of us that were new to Parliament then. Even though it was his first term of Parliament, he had quickly learned the ropes and guided us. He afforded us the opportunity to lay a firm foundation. I believe that is what has guided many of us to secure and set up a firm foundation.

He led in the institutionalizing of bipartisan approach on matters concerning the role and the place of Senate and devolution. That is something which unfortunately, this House still continues to grapple with.

Over time, I hope as Senate Majority Leader together with my counterpart, the Senate Minority Leader, we shall indoctrinate the current crop of colleague Senators, to appreciate that while we may disagree on the politics of the day, when it comes to matters in defence of devolution and the institution of the Senate, we fight together like brothers and sisters. We stand our ground together and we ensure that we stand and achieve that. That is one of the leading ethics and teachings of Sen. (Prof) Kindiki in this House when he spoke many afternoons.

The Rt. Hon. Speaker of the National Assembly, Speaker Wetangula then as the Senate Minority Leader had very interesting debates on many afternoons. I wish I said this when many of our colleague Senators were here in the afternoon because I continue to see in this House an unfortunate emerging trend where debate is losing its space.

I enjoyed those afternoons as a newcomer into this House. Even though people were saying extremely difficult and sometimes harsh things to each other, those that were being spoken to kept quiet and allowed colleagues to make their point first before rising to counter whatever was being argued. That is a culture of debate; that is what Parliament is about. That is a culture which Sen. Wetangula deeply espouses. Many afternoons he kept this House entertained with his quotes from various books.

Sen. Orengo, Second Senate Minority Leader, now Governor of Siaya County stood steadfast in his defence of the Senate, together with other senior counsel from this House. They defended the Senate when we went to the High Court and the Court of Appeal. Unfortunately, because of his many engagements now in Siaya County, he has not been able to do that at the Supreme Court. However, he is being ably helped by our colleague, the Senator of Nyamira County, Senior Counsel Sen. Omogeni, whose work is celebrated in the Senate.

Sen. Kiraitu Murungi led in the quest for strengthening of oversight role of the Senate and the place of the Senate in the Parliamentary Service Commission (PSC). I wish I said this when our colleagues in PSC were there. This is because when it became untenable, and we felt that we are being short-changed by our colleagues in the National Assembly, Sen. Kiraitu Murungi one afternoon moved a Motion in this House to have PSC split between two. To have a PSC for the National Assembly; one for the Senate.

When that agitation begun, at least though for nuisance value and very little legal value of it because it will never have passed in the National Assembly, at least, it got that third, or fourth Commissioner of PSC, Sen. Omogeni to take the Senate Seriously.

After that, there was a change in attitude in how PSC treated the Senate as an institution. Of course, that danger always lurks and you must remain vigilant.

Mr. Speaker, Sir, Sen. Dullo led in the quest for strengthening the oversight role of the Senate. We continue to celebrate her as she serves her second term as a woman Senator. Not many women have been elected to represent counties in this House. She leads a distinguishing role having been elected twice to this House. Previously having

served as a nominated Senator. This is a challenge to colleague Senators who are nominated, that you can start and build a stellar career from your nomination. That is what Sen. Dullo has done.

Sen. Murkomen served as the Deputy Majority Leader, then later on, as the Senate Majority Leader. He stood steadfast in defence of the Senate and devolution. I recall enjoying the very first Committee on Devolution and Inter-Governmental Relations sittings as a new Member of this House.

I do not know if Sen. Abass is in the House, but I wish that the present Committee on Devolution and Inter-Governmental Relations takes time to study the work that was done by the same Committee of the second Senate.

Remember that was the time that we were just turning the curve and getting into the cycle of devolution as a country. There were many laws that needed to be passed and many challenges in county governments. I recall the amount of work that they did, traveling most of the afternoon. They missed Plenary sittings while resolving disputes between governors and their deputies as well as county assemblies and so on. I wish that be the guiding spirit of the present Committee on Devolution and Inter-Governmental Relations Chaired by the very able Sen. Abass.

Sen. Billow Kerow, my first Chairperson in the Committee on Budget and Finance. That is a Committee whose job and duty I took with utmost zeal and enjoyed serving. Perhaps, my best Committee. This is the Committee where I enjoyed serving in the most and gave me an understanding of the place of the institution of Senate under the Chairmanship of Sen. Billow Kerow.

Sen. Billow Kerow ensured that our reports, especially on Budget Policy Statements (BPS) though ignored by the National Treasury, would always find a way of speaking and closing ranks with our colleagues from the National Assembly, despite the fact that those times there existed very frosty relationships between both Houses.

He also generally guided us in pushing for the place of devolution, when we began about conditional grants and so many amendments to the Public Finance Management (PFM) Act.

Sen. (Dr.) Khalwale, our Chief Whip, chaired the first Committee of the County Public Accounts and Investments (CPAIC). He led the Committee in establishing institutionalisation of oversight on county governments as contemplated in Article 96 of the Constitution.

Mr. Speaker, Sir, this was the first CPAIC that dealt with county governments. Remember when we were unicameral, CPAIC only dealt with oversight in the national Government. Sen. (Dr.) Khalwale led this Committee with great honour and distinction. I remember the many reports that he tabled before this House. Courtesy of the work that his Committee did, many county governments reformed and ensured that there was prudent use of public resources, a culture that is quickly waning away. It is not something to be celebrated.

I challenge our colleague Senators to take keen advantage of the reports of CPAC. Second and most importantly, even the audit reports. When I first came to this House when reports of Auditor-General were tabled here by the then Senate Majority Leader, you would see Senators scamper for copies to see how their counties were doing. Nowadays, they lie idle almost falling over on the Clerks table until they are carted away

by the Sergeant-at-Arms. That is an area that as a House, we need to improve and pay keen attention.

Mr. Speaker, Sir, I have spoken about this. It is something that I continue to engage my colleagues on the Minority side about the need to rethink the place of oversight to not only be reactionary to the audit reports brought by Auditor-General, but also on issues that individual Senators know about their counties. I am sure there can be a better process.

I have proposed the same, but unfortunately, it is something that we have not been able to resolve. That very sacred role of this institution can better be carried out as a complimentary mechanism to what the Auditor-General does.

Unfortunately, much as we think the Auditor-General knows everything about your county, I do not think the Auditor-General – despite the fact that they have all the reports – would know more about Busia County and the challenges that hails them, more than their Senator who is here. Therefore, we need to decide on and move a Motion. I promise the House that by the time we return after this short recess, we will have reached a common position with the Senate Minority Leader and propose something to the House.

Sen. (Prof.) Anyang' -Nyong'o, the then Senator for Kisumu County chaired the Committee on County Public Accounts and Investment. He led the Committee in establishing county oversight mechanisms. He also took the lead in strengthening oversight function by ensuring CSs and other State public officers appeared before the Committees when summoned. One of the best reports that you will read about Parliament on Kenya Airways was courtesy of work that was done by a special Committee led by Sen. (Prof.) Anyang' -Nyong'o with this House.

Sen. Martha Wangari, now Member of Parliament (MP) for Gilgil Constituency, began her career in this House as a nominated Senator. She has moved on to serve her second term as MP for Gilgil Constituency. She introduced and navigated amendment to the Employment Act providing for the provision of pre-adoptive leave for parents seeking to adopt a child.

The Bill was assented to and is now part of our employment law. The same way when you are expecting the birth of a child, many people take leave. She introduced a very interesting proposal, which Senators and the National Assembly agreed to. It was on what she called pre-adoptive leave; people going on leave as they prepare to adopt a child.

Sen. Mutula Kilonzo Jnr. remained steadfast in his quest for the protection of devolution. He introduced legislation on the county boundaries to resolve long outstanding and delicate boundary disputes between various counties. Unfortunately, the County Boundaries Bill has never been concluded. It is presently before the House.

Mr. Speaker, Sir, I hope that the Senate will take time to have a rigorous debate about that particular Bill this term. This is especially in light of the fact that we know that the Independent Electoral and Boundaries Commission (IEBC), once properly constituted, has to do delineation of boundaries this year. It is the Senate that can guide dispute resolution between various counties. This is a challenge that exists. In fact, I struggle to imagine that there are very few counties that do not have boundary disputes with their neighbouring counties. It is something that Senate can guide on how to conclude on this process.

Sen. (Dr.) Zani was instrumental in introducing legislation for the protection and enhancement of devolution. This includes the very famous national resources Bill, which has been introduced in this term of Parliament by Sen. Mungatana, MGH. I hope he works and concludes that Bill as soon as now. That Bill is extremely important to all of us. Each county has a resource that they share or that they give to the country yet on many occasions, counties do not benefit.

Lastly, is to remember that across this journey, we have lost many of our colleagues. We wish to just mention them because those were extremely sad times for us as the Senate. First was Sen. Mutula Kilonzo, Sen. Gerald Otieno-Kajwang' and Sen. GG Kariuki of Laikipia County in the 11<sup>th</sup> Parliament. In the 12<sup>th</sup> Parliament, the last Senate, unfortunately, we lost Sen. Ben. Okello of Migori County. After that loss, Sen. Oketch Gicheru tried to replace him, but was unsuccessful in that quest. Thank God this time he succeeded. We also lost Sen. Haji of Garissa County, who was replaced by his son, Sen. Abdul Haji. Others include Sen. Kabaka of Machakos County, Sen. Prengei and Sen. Machage of Migori County.

Mr. Speaker, Sir, it would be amiss of me if I conclude the speech without celebrating the Secretariat. I have celebrated every other Senator that has made contribution. I could not mention many who are still serving in this House. I am sure the right time to celebrate them will come. I celebrate equally the staff of the Senate led by the very able Clerk, Jeremiah Makokha Nyegenye, who for three terms now, has served as the Clerk of the Senate, leading the first team that put together the Senate institution.

Colleagues, you know for a fact that the work of the Secretariat is to make us look good. The very competent staff of the Senate present many of the citations and presentations that we make out there. I know that for a fact. I served as a Chairperson of the Parliamentary Service Commission Committee on Staff Welfare for five years. I know you will struggle out there to find staff as competent as staffers in Parliament, especially those in the Senate. I have no offence to the staffers who serve in the National Assembly. I would never have said that in the last Parliament. However, I now have the luxury of saying the truth. Staff of the Senate are extremely competent. They understand and know their duties and roles and, on many occasions, prepare the Senate.

I celebrate the work that has been done also by Mr. Nyegenye as he leads the team together with his two able deputies; Mr. Mohammed Ali and Ms. Eunice Gichangi, who have led the Senate in the last 10 years quite remarkably, amid a lot of difficulty, especially when you have battles with the National Assembly. It is not easy to target Senators. Whenever my colleague and counterpart in the National Assembly, Hon. Kimani Ichung'wah, says about me, I can answer back because I am elected just like him. However, I shudder to imagine what staffers of Parliament, especially those in the Senate go through when cited in the National Assembly in reports and mentioned on the Floor at times because of inter-House battles.

I do not think that it has been easy for the Senate staffers. On many occasions, they have been on the receiving end, wrongfully most of the time if not all, from our colleagues and leadership in the National Assembly. However, because of the stance that the Senate has taken, it is easy to find bogeymen in the leadership of Senate staff mostly in the place of Mr. Nyegenye.

I celebrate and urge colleagues to focus onto the next 10 years. I know that we have started with difficulty. However, I give my assurance to the Senate and the country

that we shall find our bearing, space and close the ranks. I believe that the current Senate will serve as the best Senate that has ever been; better than the other two.

I know that with great difficulty as they say there is always a silver lining in every cloud. At the moment, with all the difficulty that we are facing in the country and as an institution; people might begin to imagine or think that perhaps not much shall be achieved. I urge them to watch this space. This Senate will achieve great things both for the country and various counties.

Mr. Speaker, Sir, with those many remarks, I thank you for indulging me. I also celebrate you for the work you have done in the last few months. It has not been easy, but there shall be a time to celebrate you even more once you steer us to greater success.

Mr. Speaker, Sir, I thank you and my colleagues for indulging me.

**The Speaker** (Hon. Kingi): I will allow a few of us to make certain interventions. However, you shall not speak for more than five minutes so that we have time for the other Business in the Order Paper.

Sen. Mungatana, MGH proceed.

**Sen. Mungatana, MGH:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to make my comments. As we celebrate 10 years of existence as a Senate. I listened very carefully to what my Senate Majority Leader was speaking. I thank him because he gave us a very good summary of what we have achieved as a Senate; the difficulties and the triumphs that we have seen in the last 10 years.

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

*[The Temporary Speaker (Sen. Veronica Maina)  
in the Chair]*

Madam Temporary Speaker, the problems that this Senate has endured have something to do with a history in the formation. I was one of the members of the select committee that went to Naivasha. It is good to recall that the main target and thrust of our negotiations in Naivasha for the Constitution of 2010 was for the decision on whether we are going to go with the Presidential or Parliamentary system of Government.

Many of the other issues were not really in focus. I remember working round many hours trying to find a compromise; meeting so many people back left and left and right. However, when the deal was struck that we were going to go with the Presidential System of Government; many things including the section that dealt with Parliament were not given the real attention they deserved. I remember well that the Members of Parliament (MPs) did not want to cede power to a new House; Senate.

The solution was to propose a House that would be sitting just for four times in a year and to create a House similar to the one in the kingdom of Eswatini; where the MPs are elected and then from the various regions they sit down to elect members of the Senate. In other words, it is a secondary vote. We wanted to create a Senate similar to what existed then in Canada; where the MPs are the people who sit and do a secondary vote after the universal suffrage then the Senators would come in.

Mr. Speaker, Sir, what we had in mind was to maintain all power within the National Assembly. We were very clear at that time that we needed to just honour some legislators who had served terms and were willing to serve in the Senate. The committee

of experts decided that they were going to give the Senators universal suffrage through a direct vote. The Committee of Experts did not give the Senate correct powers. That is why we have historical issues in terms of the execution of our mandate.

My prayer is that going forward, this House will be a one that makes laws and have a second bite at the cherry. Today, during the Statement Hour, we were told of a law that was passed specifically at the National Assembly just to benefit those who wanted to make maximum profit from cashew nuts, bixa and macadamia business.

If that law had come to a second Chamber, a senior chamber such as ours, it would not have passed and the people would have been saved. Sen. (Dr.) Murango would not have had to cry because of the way the farmers in these areas are being mistreated due to a law that was passed in haste at the 'lower' House. It would help us to think about making approval sittings to just be the Senate's preview so that only Senators like the United States of America (USA) where we borrow this system should be sitting to approve potential nominees from---

*(Sen. Mungatana, MGH microphone  
was switched off)*

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up Sen. Mungatana, MGH.

Proceed, Sen. Mumma.

**Sen. Mumma:** Thank you, Madam Temporary Speaker, for the opportunity to contribute to this. I would like to celebrate the second birthday of the Senate under the new Constitution.

I happen to have served in the Commission for the Implementation of the Constitution (CIC). I endorse what the Senate Majority Leader has said. Those who were before us; the first Senate, the second and third Senate after Independence, did a great job. They did a great job of modeling to the country what the rule of the law looks like.

I would like to single out and recognize, Senators Orengo, Anyang-Nyong'o, Otieno Kajwang', Billow Kerrow, Dr. Khalwale, Moses Wetangula, Prof. Kindiki, Mutula Kilonzo, Mutahi Kagwe and, Murkomen. Later we had 'Super' Senator Sen. Sakaja and Sen. Mutula Kilonzo Jnr.

As we move on, for the lady Senators, I also wish to celebrate our leading Sen. Dullo who has been here three times. I also celebrate our first elected Senators Sen. Dullo, (Prof.) Kamar, Susan Kihika and Kavindu Muthama. In this particular Senate, Sen. Dullo, Kavindu Muthama, and Tabitha Keroche.

The first Senate, in particular, fought for devolution. The truth is that the Government of the day was hell-bent on clawing back on devolution. The Senators in this House stood firm across the aisle and fought for devolution. I hope that the Senate that I am currently serving will not be on record as the one that will claw back on the rule of law and devolution.

I hope that we can move further and recognize that we have a lot of work to do. We can, for instance, strengthen intergovernmental relations between the Senate and the county assemblies. We can also be the Senate that will get the collective responsibility of all arms of Government to review the over 150 laws that pre-existed in the Constitution of Kenya, 2010. They are on county or devolved functions, but have not been aligned.

As we continue taking into account the current political situation, I urge all Senators across the aisle to do what we swore to be done. To be the Senators that will help to move devolution a notch higher. The one that will truly help this country to enjoy what the Constitution of Kenya, 2010, envisages.

Lastly, I request that in considering inter-governmental relations, we will also be the House that will recognize the inter-governmental bodies that have worked, including County Assemblies' Forum (CAF), the Council of Governors (CoGs), and the regional blocs that have been helpful in implementing devolution.

Madam Temporary Speaker, I support.

**Temporary Speaker** (Sen. Veronica Maina): Sen. Cheptumo, kindly proceed.

**Sen. Cheptumo:** Thank you, Madam Temporary Speaker. Allow me to thank the Senate Majority Leader for that comprehensive update to the House regarding the achievements and the challenges that this House has faced in the ten years. I served in the National Assembly for 15 years. In the last, ten years, that was the time when this House was established under the new Constitution.

At that time, I used to understand this House differently. In the sense that even when there was the need to facilitate and provide funds for this House for Senators to perform their functions, I was one of the Members of the National Assembly who opposed it. I have said this before. I remember when the regulations came before the House, I was the Chairperson of the Committee on Delegated Legislation at that time.

We never saw the need, including myself as the Chairperson, of that Committee, at that time. Now being in this House, as it has already been said by the Senate Majority Leader one of the challenges we face is the lack of resources. Hon. Senators are not facilitated to perform the functions. There will be a *kamukunji* after this sitting to discuss, as a House, how best we can deal with that situation. Unless and until this House is enabled to perform its functions---

You will allow me to refer to when I was a Member of Parliament (MP). I want to draw a comparison between what happened in that situation and now. The amount available for an MP to manage a constituency is the same amount availed to a Senator to manage, for example, Nairobi City County with 17 constituencies. In Baringo, I manage six constituencies using the same resources I used to manage one constituency. That is a challenge.

As we appreciate the challenges which this House has gone through and the successes it has been able to achieve, that is an area we need to look into. Ten years have gone and devolution as envisaged initially was so that we take more resources down to the people. Today, we are at Kshs395 billion, if I am not wrong, in this coming budget from what we know.

I still believe, for example, Baringo County with its challenges of 65 per cent arid and semi-arid lands receives only about Kshs6.5 billion is unable to achieve, perform and deal with matters facing our people.

So, this House, as we listen and appreciate the successes the Senate has had over the years, it is time for us, as a House, to stand firm, claim our space and continue to use the existing current understanding between the two Houses. I believe that there is some element of understanding so that we reduce the tension that has existed before between the two Houses.

*(The red timer went on)*

I am happy today that I participate in this House.  
As we move forward, Kenyans and Kenya will be---

*(Sen. Cheptumo's microphone was switched off)*

**Temporary Speaker** (Sen. Veronica Maina): Time is up.

Sen. Omogeni, kindly proceed.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. I also want to join my colleagues' Senators and the Senate Majority Leader, Sen. Cheruiyot in celebrating the ten years that the Senate has been in place.

I will not repeat the salutations of Senators who have left a mark in this House.

I think the Senate Majority Leader has done very well in giving a very good summary. However, a challenge has been thrown our way this afternoon by the Senate Majority Leader, that we must also leave a mark.

Listening to the contributions and confessions this afternoon, including what I have heard from Sen. Mungatana, it is evident that the people who gathered in Naivasha had one agenda, to mutilate and weaken this House. As we celebrate our brothers who have moved from the other House, including Sen. Cheptumo, Sen. Khalwale, Sen. Mungatana, Sen. Onyonka and Sen. (Dr.) Oburu, we must wake up to the realization that this is not the House that Kenyans intended when they created a second Chamber after Naivasha.

Madam Temporary Speaker, what do we want to be remembered for? Our brothers who served in the first and second Senate made their contributions. My take is that a time has come when this House must make a resolution, the way we made a resolution and moved to the High Court, together in filing Petition No. 284. We must pass a resolution to revisit the legislative powers of the Senate. What was put in Article 96 was a deliberate effort to make us operate as a 'Lower' House.

The tragedy is unlike the reference of the Senate of Eswatini that Sen. Mungatana has referred to, this Senate enjoys direct mandate from the people. Look at the votes that brought Sen. (Dr.) Khalwale, Sen. (Dr.) Oburu, my friend the Senator for Busia and even myself the Senator for Nyamira here. We cannot be sitting here every day, re-writing the Book of Lamentations. A time has come that we must bite the bullet and go to the annals of history as the Senate that put in place a bold move of getting back our correct legislative authority as the 'Upper' House.

Listen to the contribution by Sen. Mungatana, we sit here representing counties yet we do not even vet Cabinet Secretaries, the Attorney General of this Republic and Principal Secretaries. That should not continue. Let us pull together. This is for posterity, in public interest, for the good of our country Kenya and in defense of devolution.

I urge my colleagues, as we celebrate ten years, let us also leave a mark. Let us ask the question; what will we be celebrated for as the Fourth Senate? We cannot continue as if it is business as usual. No, things are not right.

As we speak, your counterparts in the National Assembly are controlling Kshs60 million for repair of roads in each constituency and you have no say as a Senator. We tried to amend the Roads Act on the Floor of this House, but our friends and brothers

from the National Assembly said that they will never allow us to have any say on the usage of that money. Yet, as a Senator, you need to know where has your Governor or Member of Parliament put money for roads, so that there is no duplication.

We cannot allow a situation where there is wastage of resources. A road is done by a Governor today, then a Member of National Assembly will come the following day and do the same thing. Look at bursaries. You have the Members of Parliament, Women Representatives and governors disbursing bursaries. Which household receives what?

Madam Temporary Speaker, I pray that this Senate will lead the way in amending the Constitution so that we truly become an Upper House. This is not about United Democratic Alliance (UDA) or Azimio. This is about having a---

*(Sen. Omogeni microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Omogeni. I cannot see Sen. Wakili Sigei. Proceed Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. It is indeed a privilege for me to stand here and thank God that when I cast my eyes across the House, I see only two people who were there on day one of the Second Senate which is the First Senate in this generation. It was the Clerk, Mr. Nyegenye and I, who were in this House. We are the only ones surviving from that generation. So, we thank God.

Having thanked God, I want to thank the Senate Majority Leader and ask the Clerk, as the CEO of the PSC: Did you really put thought into this process? Are we not the real problem? How can you say that this is a great day when we have demeaned ourselves?

We are reducing celebrations of a national institution that changed the trajectory of development in this country; that brought tarmacs for the first time in this country. Built level four and five hospitals, teaching and referrals hospitals for the first time in this country. Yet we are celebrating it through a Motion late in the evening. Today, life should have come to a standstill in the entire Senate, so that we celebrate this day in a proper manner. We are demeaning ourselves.

I challenge the CEO, who is none other than the Clerk, that they have failed us. I challenge the Speaker and the Senate Majority Leader. The resources are there. I know for a fact there is nobody in the current Government who would not have supported a proper celebration of this Senate.

Having said that, I want to tell Senators that we should temper this agitation for more funds to the county governments. Temper it with questions like: When we send the money, what do you do with it?

Ten years ago, Sen. (Dr.) Oburu, we gave devolved units Kshs210 billion. This year, we are going to give them Kshs385 billion. If you had gone to each and every one of those counties, tens ears ago, the governors came out of their starting blocks like bullets. You would find something innovative here and there, but with the years, it has gone down. Now, our county governments are employment bureaus that employ friends and relatives of governors. Let us insist that the money that is going to county governments should be for development and it should meet the mandatory 30 per cent provision in the County Governments Act.

Madam Temporary Speaker, I do not want to speak for long. I am so proud of you. I know for sure that this little resistance that you are getting from here and there will end with time because in these ten years Senators have become MCAs; MCAs have become Senators; Women Representatives have become Governors and Governors have become Senators. People like Sen. (Dr.) Khalwale who resigned as Senator have since come back to the Senate. Therefore, the wheel is evolving and I know that the common sense of the entire country will one day in our lifetime realize that you need to give Senate its position.

I conclude by speaking to the issue of devolution in Belgium. In Belgium, the devolved governments are more resourced than the Federal Government. The Wales State gives financial support to the Federal Government. That is where I want us to take Nairobi. People should not take Nairobi---

*(The amber light at the timer was switched on)*

Thank you, Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Proceed, Sen. (Dr.) Oburu Odinga.

**Sen. (Dr.) Oburu:** Thank you, Madam Temporary Speaker, for the opportunity. This is a great day for the Senate.

The Senate Majority Leader has left. I would have liked to congratulate him because he is eloquent. He is a young man who I think will go far. He narrated exactly what happened in an eloquent manner.

Devolution was inherited from Independence. At Independence, we had two parties; the Kenya African Democratic Union (KADU) and the Kenya African National Union (KANU). KADU advocated for what was then called *majimbo* system, which in its application was actually devolution. At Independence, we had a *majimbo* Constitution which provided for regional assemblies and governments. At that time, there was passion for unity. People would talk about *uhuru na umoja*. Over the years, it was proved that *uhuru na moja* was not devolving resources to the grassroots.

It became a skewed way of allocating resources to *mashinani*. That is why in Parliament, when Hon. (Eng.) Karue introduced a Bill to create the Constituencies Development Funds (CDF), it became the only thing for Members of Parliament (MPs) to do in their constituencies. It became popular that most MPs were judged by how they used CDF, yet it was small amounts of money.

That is why when delegates from all over the country converged at the Bomas of Kenya, they came out with proposals to have a new Constitution which created counties. At that time, they proposed only 14. When people went to Naivasha, they mutilated proposals from the Bomas of Kenya and created 47 counties.

Madam Temporary Speaker, unless and until we create counties which are economically viable and big enough, we will not have effective counties. I have heard Sen. (Dr.) Khalwale say that counties are like employment bureaus because they employ their relatives. That is true.

Counties should be units which deliver services to the people. Employment should be one of them, but the main reason of devolved units should be service to the people and enhancing development.

This Senate has a long way to go. We need to put it back to where it was in the Bomas Draft Constitution. Let us make the Senate the 'Upper' House.

Madam Temporary Speaker, your Office is powerful. That Office should defend devolution the way Sen. Cheruiyot was explaining here. Your Office can make a big difference. Make a target to ensure that there are changes, so that the Senate takes its place which the National Assembly cannot do by becoming the 'Upper' House. This should be a place moderation for Bills.

We should do away with majoritarian dictatorship. The Senate represents ---

*(Sen. (Dr.) Oburu's microphone was switched off)*

**The Temporary Speaker** (Sen. Veronica Maina): Unfortunately, Sen. (Dr.) Oburu, your time is up. Let us listen to Sen. Okenyuri.

**Sen. Okenyuri:** Madam Temporary Speaker, first, I support the Statement by Sen. Cheruiyot. As we commemorate 10 years since inception of the Senate, we note that initially we had it, but it was abolished in 1966.

Today, in a special way, I recognize Sen. (Dr.) Khalwale, proverbially the one-legged dancer, who welcomed me to this Senate even before I was sworn because of his soft spot for young people with ambitions in leadership.

Secondly, we have made a milestone. Today, Madam Temporary Speaker, you are seated there as a testimony for supporting women, including Sen. Mumma. That is a positive thing as we celebrate the Senate today.

I also share a lot of similarities with Hon. Martha Wangari, who in her youthful days was a student leader of the Student Organization of Nairobi University (SONU). She then led Waremo na Kibaki Campaign.

Just like her, I was a student leader at Maasai Mara University, serving as the first female vice president of the student union. I then ran the Women for Ruto Campaign which was about mobilizing young people in support of election of President William Ruto. I am now a nominated Senator. The reason I am saying this is because the Senate is a good breeding ground for young people who are pursuing leadership and generally for women in this country.

Madam Temporary Speaker, the Constitution architecture needs to be reviewed. Currently, the Senate serves more as a token other than its rightful place as the 'Upper' House in this country. Reviewing will give back the Senate its space in this country, so that we clearly provide oversight that people have yearned for, as well as in entrenching devolution.

I look forward to this Senate giving guidelines on civic education. Article 100 of the County Governments Act, 2012, states that county governments should have civic education programmes in their counties. However, several years down the line, none of the counties have complied because they claim not to have a national framework on civic education.

I hope the Fourth Senate will bring that to actualization, so that we do not see governors issuing roadside declarations on bursaries being issued to needy children and where citizens do not have information on what to expect from their leadership. Civic education should not only be in the county governments, but also in institutions in those counties in order to bring up an informed citizenry.

As I wind up, I look forward to this Senate clearly stating the extent to which the 14 functions taken to counties have been implemented. Currently, we have many wrangles which this Senate would have addressed. When devolution came in, the Constitution was already in place in 2010. So, most of the challenges we are experiencing currently were not imagined then.

Before I sit, I am proud to be a Member of the Fourth Senate. I look forward to being part of the success of this House which is a breeding House for young people and women like me to transit to elective politics, so that we serve Kenyans better and fulfil whatever mandate they have given us.

**The Temporary Speaker** (Sen. Veronica Maina): We will have some comments from Sen. Okiya Omtatah. That should be the last one because we are approaching 5.30p.m.

**Sen. Okiya Omtatah:** Thank you, Madam Temporary Speaker, for the opportunity to stand here on this important day when we celebrate 10 years, to save the restoration of the Senate Chamber to the Parliament of the Republic of Kenya.

The Senate Chamber is a very important institution. One, it has got fewer Members than the National Assembly, so it is easy to be deliberative because people know each other and it is easy to agree and pass a Motion. I support what Sen. Mungatana said that this Senate should be the House approving appointments. However, the House was basically emasculated in Naivasha.

The Senate was also mixed up. If you look at Senates around the World that have a presidential system, and in presidential systems, I am talking of the United States (US)-  
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**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okiya Omtatah, I do not like to stop you, mid-way. Unfortunately, there was an earlier direction from the Hon. Speaker, that at 5.30p.m., this House does adjourn.

Hon. Senators, earlier on the Speaker directed that Sen. Oketch Gicheru moves a Motion of Adjournment under Standing Order No. 37. I will now invite Sen. Oketch Gicheru to proceed.

### **MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37**

#### **THE DETERIORATING SECURITY SITUATION IN THE COUNTRY**

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker. I beg to move the Motion –

THAT pursuant to Standing Order No. 37, the Senate do now adjourn to discuss a definite matter of national importance, namely – the deteriorating security situation in the country.

For the avoidance of any doubt, or to be able to help us in this deliberation, I wish, first of all, to start by defining what deterioration is with regards to this Motion. Oxford Dictionary defines “deterioration” as progressively or rapidly becoming worse. Security in context is defined by the Oxford Dictionary as a state of being free from danger or any threat.

If you look further in the same definition, it goes further and says that security is basically being able to offer protection to a country, building, property or a person from danger or threat.

Madam Temporary Speaker, knowing that we are a country that is established under the Constitution of Kenya, Article 2 of the Constitution defines what this Republic is, which basically makes as a country that has got some social contract that defines how we as a people must live. The framers of our Constitution therefore chose to dedicate an entire Chapter 14 on what national security should be.

Article 238 of the Constitution, the Principles of National Security for which we all signed when we endorsed this Constitution, is clear that national security is the protection against internal and external threats to Kenyans, territorial integrity and to sovereignty and its people, their rights, freedoms, property, peace, stability, prosperity and other national interests.

On 20<sup>th</sup> March of this year, we saw protestors in this country facing the danger and the threat of arrest that sometimes led to police killing some of the protestors. To be factual, on 20<sup>th</sup> March, one man in Kisumu was killed. This has been documented by Independent Policing Oversight Authority (IPOA) in carrying out their function under their own Act, the IPOA Act, Section 6.

On 27<sup>th</sup> March, we saw this indiscriminate killing by the police continuing in this country. More so, we saw serious attacks that seemingly were planned and were unceasing and very brutal to the same people called protestors within the boundaries of Kenya

Madam Temporary Speaker, IPOA in a letter written on 27<sup>th</sup>, a press conference they gave, indicated that in Migori County, there was a protestor who was killed and two in Kisumu County. Independent Policing Oversight Authority (IPOA) also complained very seriously so on a number of incidences where we saw a serious indiscriminate arrest and illegal detention of some of these supporters of Azimio.

Worse enough is that, we also saw serious thuggery and destruction of property in the Kenyatta's Farm called Northlands Farm as well as the Odinga Family business called the East African Spectra Limited. People were conducting these serious heinous crimes against these two businesses in the country without the police taking action.

Under Article 244 of the Constitution and supplemented by the National Police Service Act, Section 24, the police have got a total responsibility to protect property and life. What we saw happening to these two-family businesses which are individual businesses was completely unacceptable.

We saw young people going to the farm and cut trees. They even had time to slaughter sheep and carry some of the animals. They even had time to come back and burn down the same farm. All this happened within six hours that the police were watching.

As a young person in this country, I am wondering if the State can sanction and even watch the destruction of property of somebody of high level as the former President of State of Kenya without him being protected or his property being protected, then what happens to a "Wanjiku" in this country who does not enjoy such kind of privileges? What happens to a mere Senator like Sen. Methu here or Sen. Tabitha there, if the property of somebody who has been the head of State cannot be protected?

Madam Temporary Speaker, it is extremely sad that this coordinated and State sponsored crime went further to the land of the poorest and the most downtrodden people of Kibera, to the extent that thugs sponsored by State - and are I say sponsored - because it is in the public domain.

The Deputy President, Mr. Rigathi Gachagua, together with Mr. Kimani Ichung'wa, who is the Manority Leader in the National Assembly as well as Mr. Moses Kuria, who is a Cabinet Secretary (CS) convened and made public pronouncements leading to these problems. They made public pronouncements to the extent ---

**Sen. (Dr.) Khalwale:** On a point of Order!

**Sen. Oketch Gicheru:** I am moving a Motion. You know the rules of the House. They made public statements that ---

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. (Dr.) Khalwale.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I am moving a Motion. This is a problem because when you are moving a Motion, I am not supposed to be interrupted and people know the rule of this House. That is double standards, but it is okay.

*(Loud consultations)*

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, because this can very well degenerate into a very emotive and emotional debate. I appeal to the Mover of the Motion to stick to the principle that if you must discuss the Deputy President or our colleague the National Assembly Majority Leader, hon. Kimani Ichung'wa, it should be through a substantive Motion where you will support your argument with facts and figures.

Madam Temporary Speaker, is he in order to allege that the above-mentioned people planned mayhem without bringing here a substantive Motion?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Oketch Gicheru, I would like that you stick to the Motion that you are bringing to the House without using names.

If you have to state names of certain individuals or personalities, it is important that you substantiate or bring the evidence that links them to whatever you are alleging. Those are very serious allegations.

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point order?

**Sen. Sifuna:** Madam Temporary Speaker, this House is also guided by traditions and customs. Last week when Sen. Cheruiyot was moving a Motion, there was a directive by the Speaker that when somebody is moving a Motion, no points of order would be allowed.

In fact, you asked me personally to hold whatever point of order I had until he had finished and then I would raise it at the appropriate time. These interruptions when somebody is moving a Motion derail somebody's thought process.

I am sure that we mean to have a sober debate this afternoon. I just want to urge that as we have agreed and discussed in previous meetings, let the rules apply fairly. If it has already been established as a custom, that when the Senate Majority Leader is moving, no objections or points of order are allowed, what is good for the goose must be good for the gander.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Sifuna.

Sen. Oketch Gicheru, take the Floor and as guided by the Chair, withdraw the names and proceed. We will then proceed as per the Standing Orders

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker. I respect senior Sen. (Dr.) Khalwale. However, it will be naive if we do not say things that are even in journalistic conversations that we see.

That said, I wish to advise my brother, Sen. (Dr.) Khalwale and anybody who takes these things without a bipartisan approach, that in the morning of 6<sup>th</sup> April, 1994, kids in Rwanda were playing; children were going to school; and men and women were going to their work as if it was normal. On 7<sup>th</sup> April, 1994, the country woke up to a killing of 80,000 people. It ended up that 800,000 died within that month in that country.

When we talk about things that Sen. (Dr.) Khalwale has watched on television and social media; of leaders in a country like these, making reckless statements that lead to this kind of gangs forming; that leads to people mobilising on tribal basis; that lead to people mobilising on religious basis; we can lose this country within a second.

Madam Temporary Speaker, I am here to bring a Motion that is not about a political statement on my own political faction. I am here to bring a Motion---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Oketch Gicheru, I have directed you, for purposes of your moving the Motion, to withdraw the names first. You will have a chance to debate, move your Motion and call the Secunder.

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker. I respect the time that you have given me. Regarding attack of private property, I wish to indicate that in Zimbabwe, when national leaders started this kind of castigation of mobs---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Oketch Gicheru, if you are interested in proceeding with the Motion---

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I have not talked about any other name.

**The Temporary Speaker** (Sen. Veronica Maina): The names you mentioned earlier, for purposes of the HANSARD.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I am unable to withdraw those names because they are on public record and journalistic conversations. If needed, I will table them in this House. I want to be on record that if I am needed to bring evidence and substantiate according to our own Standing Orders, I am willing. We are not in this House to lie to anybody in matters that are going to bring serious conflict in this country and end up making us lose the country.

I wish to be on record that if that is a requirement, then I will be able to bring that evidence to substantiate the names that I have mentioned.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Oketch Gicheru, I then direct you to table that evidence by tomorrow.

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker. I will do that.

**The Temporary Speaker** (Sen. Veronica Maina): When the House business resumes tomorrow, you will table that evidence.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I will table the evidence of my utterances that led to the kind of violence that we saw yesterday.

**The Temporary Speaker** (Sen. Veronica Maina): I now give you one minute because your time is up.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I have been interrupted the entire Motion. I beg for two minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed on then.

**Sen. Oketch Gicheru:** Thank you, Madam Temporary Speaker. We have seen this kind of attack on private property and businesses in some counties in the excuse that some nationalistic leaders were giving them back to freedom fighters. In Zimbabwe, the Government of President Robert Mugabe tried to give back land to what they call freedom fighters. This escalated to the issue of even taking property from established businesses and firms of other nations to the extent that that country was brought down.

To the extent that as a House established to protect the people and in the spirit of Article 14 of the Constitution, I urge this House that we must be able to put our police to task. We must be able to discuss the incessant and continued misuse of police as well as misdirection by leaders that is leading to serious insecurity in this country.

With those remarks, I beg to move this Motion and request the Senator of Narok County, Sen. Olekina, to second.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I rise to Second this Motion on insecurity in the Republic of Kenya,

In 1992, this country because of tribal clashes, the Parliament then saw the need to go around the country through a Commission led by Hon. Kennedy Kiliku, former MP. I invite all distinguished Senators to go and read the Report. In their report, there were details of what happened when we allow the rule of law to be misguided and when we allow insecurity of a country to be the order of the day.

In the year, 2007, there was a subsequent report by Justice Akiwumi after the Post-Election Violence (PEV).

I was perturbed yesterday when I saw the way the Police Service behaved, when hooligans orchestrated by a group of known politicians, were ferried all the way to Ruiru from different parts of this country to go and attack private property.

Those acts of hooliganism are something that led the framers of the Constitution to establish what they called an independent institution called the Police Service. However, yesterday, knowing very well that that area has three police stations, I was shocked to see that the police from Ruai, Gatunguru and Ruiru, were all asked not to attend to or interfere with what those hooligans were doing.

We have heard fellow MPs making utterances. What shocked me is that the National Cohesion and Integration Commission (NCIC) were quiet and numb until today.

I wish to plead with Kenyans and tell them to wake up.

We have fought so hard for our freedom and for what we have today for us to allow selfish individuals to drive this country into the dogs.

Madam Temporary Speaker, this country is treading on dangerous zones. We are affecting international trade. Very soon, nobody will want to come and invest in this country. There is a famous phrase which states that; 'When they went for the communists, I did not speak because I was not a communist. Further, when they went for the Jews, I did not speak because I was not a Jew. When they came for me, there was no one to speak for me.' I remind Kenyans that what happened yesterday to the former President of this Republic means no one is safe. The next people who will be attacked

are investors. The British who are living in Laikipia County will also be attacked because no one is safe with this kind of hooliganisms. I condemn this.

I also remind the police that they are being used yet they are paid peanuts. They are being used to line other people's pockets, to solve other people's issues yet they are left to wallow in poverty. They do not have good health insurance cover or a good place to call a home. I call upon the police in this country to please think twice. The fact that yesterday, it took 24 hours before the Inspector General (IG) of Police went to see what was happening in Northlands Farm, led me to conclude that there is no longer independence in this country. There is no institution which is independent; which is against the Constitution.

In fact, I am calling on the resignation of the IG of Police because he has failed. Even as legislators, we know the consequences and would invite the military to take over security matters in this country because the police service is no longer a service. It is a force that has failed to perform its task. We heard the IG of Police sending out warnings. If he really cared about Kenyans, why did he not go to rescue the former President's property when it was being attacked by hooligans?

**The Temporary Speaker** (Sen. Veronica Maina): Please, wind up and second.

**Sen. Olekina:** Madam Temporary Speaker, the tradition is until the light goes off.

As I wind up and as I second this, I remind those who orchestrated or perpetrated those acts of hooliganism that in law, there is no escape. You cannot run away from what happened yesterday. I can see the International Criminal Court (ICC) calling. If I, Sen. Olekina, can be called by The National Cohesion and Integration Commission (NCIC) because of simply making utterances---

*(Sen. Olekina's microphone was switched off)*

**The Temporary Speaker** (Sen. Veronica Maina): Have you seconded the Motion?

**Sen. Olekina:** It went off before I could second. I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, I propose that since there are many Senators who want to contribute, each Senator to take three minutes. It is now 5.52 p.m. We have 38 minutes.

*(Loud Consultations)*

If you want five minutes, then it means we will have less Senators speaking. We can proceed with the five minutes.

Sen. Kisang, please proceed.

If he is not in, Sen. (Dr.) Khalwale, please proceed.

**Sen (Dr.) Khalwale:** Madam Temporary Speaker, I want to use this opportunity to congratulate the Senator for Migori County for this very important Motion on a matter of gross national importance.

I send my condolences to family and friends of the children who lost their lives. Similarly, I extend my sympathy to business people whose businesses have been destroyed. I agree with the Senator that everybody must exercise restraint so that---

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Olekina?

Pause Sen. (Dr.) Khalwale's time.

**Sen. Olekina:** Madam Temporary Speaker, I rise on Standing Order No. 34 (5) to request that this House extends its hours of sitting until all Senators wishing to contribute to the adjournment Motion have contributed. I would like to ask Sen. Maanzo to second.

**Sen. Maanzo:** I second.

*(Question put and negatived)*

*(Loud Consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): We will now call a Division.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): We will get a Division on the matter. I have given the direction. Please, ring the bell for two minutes.

*(The Division Bell was rung)*

**The Temporary Speaker** (Sen. Veronica Maina): Serjeant-at-Arms, please, proceed to close the door.

*(The Bars were drawn and Doors closed)*

*(Loud consultations)*

Allow the Senator who are standing by the door to come in.

*(Loud Consultations)*

**The Temporary Speaker** (Sen. Veronica Mania): Can we have tellers?

*(Voting in Progress)*

**The Temporary Speaker** (Sen. Veronica Maina): Is the tally complete? Clerk, can we have the tally if it is ready? I want to announce the results of the vote.

*(Sen. (Dr.) Murango stood up in his place)*

Resume your seat.

*(Sen. (Dr.) Murango spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. (Dr.) Murango, when the Speaker is on her feet, you first resume your seat.

**Sen. (Dr.) Murango:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your issue, Sen. (Dr.) Murango?

**Sen. (Dr.) Murango:** Madam Temporary Speaker, if you look at those papers, one was grabbed by Sen. Oketch Gicheru and he filled both papers. However, we are 11-11.

*(Sen. Olekina spoke off record)*

No! Let me talk. That is why I was here.

*(Sen. Sifuna spoke off record)*

No! No, we are not allowing results which have been cooked!

**Sen. Sifuna:** Did you sign?

**Sen. (Dr.) Murango:** No.

**The Temporary Speaker** (Sen. Veronica Maina): Have you signed?

**Sen. (Dr.) Murango:** Madam Temporary Speaker, I have not signed mine.

*(Sen. Olekina spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Clerk!

*(Sen. Sifuna spoke off record)*

**Sen. (Dr.) Murango:** No. *Tulia*, Sen. Sifuna. *Mos mos*.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Clerk, can you confirm that tally? Reconfirm that tally. Two agents come here.

*(Sen. (Dr.) Murango and Sen. Oketch Gicheru approached the Temporary Speaker)*

Let me give direction. I did vote. Clerk, reconfirm the votes and guide me.

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order under Standing Order No.98, the point at which you raise a point of order?

After the results verification, it looks like it is a tie on 11-11.

*(Sen. Sifuna spoke off record)*

They have verified.

**Sen. Omogeni:** Madam Temporary Speaker, before you announce the tally--

I want to begin by saying that the Senate Majority Leader did very well this afternoon. You did very well and you set the tone. Following on that tone, we wanted to have a debate in this House this afternoon. First of all, before we even look at our Standing Orders, we must acknowledge--- You are a distinguished lawyer.

The Constitution in Article 122(2) says-

On a question proposed for decision in either House—

(a) The Speaker has no vote.

If you go to Article 260 which has the definitions of who is a Speaker or not, a Speaker is anybody on the Chair. So, while you are occupying that seat and acknowledging that the Constitution is our supreme law, you should not cast a vote. You are sitting on that Chair as Speaker

*(Applause)*

Forget about any other Standing Order that is contrary to the Constitution, any other Standing Order that is contrary to the provisions of the Constitution is null and void.

*(Applause)*

It is null and void. You cannot create a Standing Order that is contrary to the clear provisions of the Constitution.

**Sen. (Dr.) Khalwale:** On a point of order, Madam Temporary Speaker.

**Sen. Omogeni:** No, before you make your point of order, I am on a point of order. I always say that the decisions we make today will bite us tomorrow.

Madam Temporary Speaker, I beseech you, to respect the supremacy of the Constitution. If you read High Court Decision 284; the one we filed before the High Court - I can table that decision on the Floor - the Court said that any Standing Order that is in contravention of the Constitution is null and void.

**Sen. (Dr.) Khalwale:** On a point of order Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, then I will make a finding.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, the Senator for Nyamira has made a point but the same Constitution defines who the Speaker is. Under the Constitution, there is only one Speaker. However, under the Standing Orders---

*(Sen. Olekina consulted loudly)*

You know enough. Please, relax. When you shout---

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Please, allow him to finish, the same way Sen. Omogeni finished his submission, in silence.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, I am glad you are listening to me. The same Constitution that he is quoting knows only one Speaker. All the other people who sit on that Chair are creatures of the Standing Orders. So, if you are there by the dint of the Standing Orders, then the Standing Order that provides that you should vote must be observed.

I thank you.

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order? Please, make it short.

**The Senate Majority Leader** (Sen. Cheruiyot): Madam Temporary Speaker, I will be brief.

I do not know why we are fighting over a matter that was long settled in this House. This is not the first time that this point of order is being raised in this House. It is for that reason that if you read the first Standing Order of the Senate, which I referred to it this afternoon during my Statement, you will find that this situation had not been envisioned.

Previously, when somebody else rose on a point of order like Sen. Omogeni, then we have Standing Order No.86(6), which I invite Sen. Omogeni to read. There was need to further define who is a Speaker and what happens when one of the Senators who has an original vote is on a seat as you are this afternoon.

Sen. Omogeni, Standing Order No.86(6) was meant for the kind of situation that we have right now. When the Speaker or presiding officer is a Senator who has an original vote, the Standing Order permits them to vote. That is the purpose of this Standing Order.

**The Temporary Speaker** (Sen. Veronica Maina): I will now rule on the matter, so that we proceed with the debate. Under Standing Order No.84 (3), each Senator has a vote. Standing Order No.86(6) states –

“Where the Presiding Officer has an original vote, the presiding officer shall cast his or her vote from the Chair.”

I will now proceed to rule on the vote. I cast my vote as per the Standing Orders. I will now proceed to announce the tally.

## DIVISION

### ROLL CALL VOTING

*(Question, that the Senate do now adjourn to discuss a definite matter of urgent national importance namely the state of insecurity in the country and that the House do allow adjournment after all the Senators have contributed to this Motion, put and the Senate proceeded to vote)*

**AYES:** Sen. Asige; Sen. Beth Syengo; Sen. Maanzo; Sen. Montet Betty; Sen. Mumma; Sen. Oketch Gicheru; Sen. Okiya Omtatah; Sen. Olekina; Sen. Omogeni; Sen. Osotsi; and, Sen. Sifuna.

**Teller of the Ayes:** Sen. Oketch Gicheru.

**NOES:** Sen. Cheruiyot; Sen. Cheptumo; Sen. (Dr.) Khalwale; Sen. Mungatana, MGH; Sen. (Dr.) Murango; Sen. Tabitha Mutinda; Sen. Okenyuri; Sen. Seki; Sen. Veronica Maina; Sen. Wafula; and, Sen. Wakili Sigei.

**Teller of the Noes:** Sen. (Dr.) Murango.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, the results of the Division are as follows-

**AYES:** 11

**NOES:** 11

**ABSTENTIONS:** Nil

It is a tie. So, the Motion is lost.

*(Question was lost due to a tie of 11 votes)*

**The Temporary Speaker** (Sen. Veronica Maina): Serjeant-at-Arms, please, withdraw the Bar.

*(The Bar was withdrawn)*

Sen. (Dr.) Khalwale, please, proceed.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker.

**Sen. Okiya Omtatah:** On a point of order, Madam Temporary Speaker. I would like to go back to the Constitution. I would like to bring to your attention Article 259(3) - --

**Sen. (Dr.) Khalwale:** The matter has been ruled on. Sit down.

**Sen. Okiya Omtatah:** No, it cannot overrule the Constitution. Your ignorance of the Constitution does not mean it does not apply. A ruling made out of ignorance of the law is a ruling *per incuriam* and it carries no weight. A ruling made in ignorance of the law is no ruling.

*(Sen. Cheruiyot spoke off record)*

**Sen. Okiya Omtatah:** Yes, I agree and that is why I want to be guided. Let us look at Article 259(3)(b). It states –

“Any reference in this Constitution to a State or other public office or officer, or a person holding such an office, includes a reference to the person acting in or otherwise performing the functions of the office at any particular time;”

We cannot disregard the Constitution. We are disregarding the Constitution by allowing the presiding Senator to vote.

*(Loud consultations)*

The Constitution overrules the Standing Orders. She is acting as the Speaker. Article 259(3) b) is clear. You cannot overrule the Constitution.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Members, let us have order in the House. Can you speak through the Chair?

**Sen. Okiya Omtatah:** Anything made contrary to the Constitution is null and void. Let us respect the Constitution or we have no business here.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okiya Omtatah, resume your seat please.

*(Sen. Okiya Omtatah resumed his seat)*

**Sen. (Dr.) Khalwale:** This is not activism in law.

*(Sen. Okiya Omtatah stood in his place)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okiya Omtatah, resume your seat, please.

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

Sen. Okiya Omtatah, you are now out of order. This is your first warning. Resume your seat.

Sen. (Dr.) Khalwale, take the Floor.

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

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order?

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. They have given you?

*(Loud consultations)*

**Sen. Oketch Gicheru:** Senate Majority Leader, you are sleeping in the House.

*[The Temporary Speaker (Sen. Veronica Maina) left the Chair]*

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

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, once you have the Floor, you speak through the Chair.

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. Is it in order for Sen. (Dr.) Khalwale to refer to a Senator of this House with a name that is not his and shouting at Sen. Okiya Omtatah as a mere activist?

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

You have shouted and called Sen. Okiya Omtatah an activist. You have called him an activist. Is that in Order?

**The Speaker** (Hon. Kingi): Hon. Senators, Order. Sen. (Dr.) Khalwale and Sen. (Dr.) Murango, Sen. Oketch Gicheru has the Floor at the moment. He must be heard in silence.

*(Applause)*

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. Look at the Senate Majority Leader---

*(Sen. Oketch Gicheru laughed)*

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, can you focus unless you are not interested in contributing.

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, protect me from the Senate Majority Leader.

**The Speaker** (Hon. Kingi): How can I protect you from laughter?

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, it is not laughter. He is pointing at me. I feel threatened.

**The Speaker** (Hon. Kingi): Proceed, Senator. You are protected.

**Sen. Oketch Gicheru:** I feel threatened, Mr. Speaker, Sir. We had brought a serious issue of debate and there were Senators who wished to contribute to this issue.

I am glad the substantive Speaker is back. This is a very serious issue of national importance.

Sen. Okiya Omtatah got up to give some clarity. He was educating some Members of this House such as one of the senior Senators here who has refused to understand the Constitution. I do not think it is appropriate for him to be referred to by the names that are not his.

Our Standing Orders are very clear that when a Senator is in this House, they must be referred to by their names and as Senators of this House. It is not in order for Sen. (Dr.) Khalwale to refer to a senior member of this House, Sen. Okiya Omtatah as a mere activist.

Mr. Speaker, Sir, I request that Sen. (Dr.) Khalwale withdraws from referring to Sen. Okiya Omtatah as a mere activist. In any case, Sen. Okiya Omtatah qualified so well. Due to the work he has done for this country, he got voted because of serious work than probably the Senator who got voted for reasons such as standing closely to individuals in power. He has to respect Sen. Okiya Omtatah.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, whenever a Senator rises and wishes to refer to another Senator, the Standing Orders are very clear. You refer to your colleagues as hon. Senator so-and-so.

Sen. (Dr.) Khalwale, kindly, proceed to withdraw that remark calling the honourable Senator of Busia, Sen. Okiya Omtatah, a mere activist.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The record of this House will show that while I had the microphone, I did not speak anything near or close to that. Considering we want to make progress, the things I said when I was off the microphone as we waited for division---

**The Speaker** (Hon. Kingi): Let me confirm exactly what your statement was.

*(The Speaker (Hon. Kingi), consulted with  
the Clerk- at-the –Table)*

*(Loud consultations)*

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

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, just have your seat. I am informed that when you are making those derogatory remarks – indeed, they are – you are off the microphone and had not been given the Floor. Still, it amounts to a disorderly conduct.

*(Loud consultations)*

Just proceed. It is not on record. If it is, it need not be expunged. However, from the Chair's point of view, it amounts to disorderly conduct and that then attracts a caution. Should you proceed in that line again, the Chair will ask you to withdraw from the Chamber.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. Indeed, I am glad that you have been guided correctly. I said that this is not a case of activism. However, be that as it may, I withdraw and wish to continue.

Mr. Speaker, Sir, hypocrisy is a very bad thing.

*(Loud consultations)*

The people of Narok County are waiting for the same Sen. Olekina, to attack with gusto--

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale!

*(Loud consultations)*

*(Laughter)*

### ADJOURNMENT

**The Speaker** (Hon. Kingi): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. Therefore, the Senate stands adjourned until Wednesday, 29<sup>th</sup> March, 2023 at 2.30 p.m.

Hon. Senators, as I exit, I will be coming back in the next three minutes, so that we can prosecute the business of the *kamukunji*.

Thank you.

The Senate rose at 6.30 p.m.