

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 22nd March, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

Okay, quorum having been established, we shall proceed with the business of the House.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE PARLIAMENT OF NAMIBIA

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation from the Parliament of Namibia. The delegation comprises Members and parliamentary officers of the Standing Committee on Implementation and Co-ordination who are on a benchmarking visit with the counterpart Committee in the Senate.

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

Hon. Victoria M. Kauma, MP	-	Leader of the Delegation
Hon. John Likando, MP	-	Member
Hon. Peter Kazongominja, MP	-	Member
Hon. Melanie Ndjago, MP	-	Member
Hon. Hans Nambodi, MP	-	Member
Hon. Alfeus K. Abraham, MP	-	Member
Hon. Olivia T. Hanghuwo, MP	-	Member
Mr. Barney Karuombe	-	Parliamentary Officer
Ms. Moono Matengu	-	Parliamentary Officer

Mr. Bernard Mwira - Parliamentary Officer
On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

VISITING DELEGATION FROM THE
COUNTY ASSEMBLY OF MAKUENI

The Speaker (Hon. Kingi): Hon. Senators, I have a further Communication to make. I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation from the County Assembly of Makueni. The delegation comprises staff of the County Assembly of Makueni who are in the Senate on a one-week training of Committee Clerks.

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

Mr. Thomas Ndambuki	-	Assistant Director, Legislative and Procedural Services
Mr. Julius Nzau	-	Principal Clerk Assistant
Mr. William Onyango	-	Principal Research Officer
Mr. Peter Wanzia	-	Senior Clerk Assistant

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

I will allow the Majority Leader to welcome the delegation from Namibia. Thereafter, I will allow the Senator who is not in the House now, but when he resumes his seat will make brief remarks to welcome the delegation from Makueni.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I would like to join you together with the rest of my colleagues in welcoming this visiting delegation from the country of Namibia who are here on a study tour. I believe that in the course of their visit they shall be able to interact with Senators, our staffers, the leadership and get a full worth of their travel to us.

I celebrate this delegation because I have said several times that there is a good practice that is emerging, which we, as a parliament, need to emulate other countries from the African continent.

Almost every other week we get a visit delegation from an African country that is either on a study tour or something related in our Parliament. However, you will bear me witness that hardly do you find a request on your desk for approval of Members from the Kenyan Parliament that are visiting other African countries for study.

This obsession with other capitals of the world and leaving our own is the very reason why Africa continues to remain backward. We will be better as a continent if we can trade, learn from each other and sharpen each other skills. Therefore, on that account amongst many other reasons, I celebrate this visiting delegation from Namibia.

I look forward to an invitation from them to the leadership of this House on any particular matter that will be of interest. I believe Namibia is our peer as a republic. There are many things we can learn from this beautiful country.

An invitation to us, or even initiated from our side will be a welcome study opportunity for us as Members of the Senate to appreciate their democracy and the many

things for which Namibia has excelled better than we, as a country. I believe that is one of the ways in which we can promote Pan-Africanism.

Namibia still holds a very special place to the people that I represent in this House. The last two Kenyan ambassadors to the country of Namibia have come from the county that I represent in this House. Amb. Benjamin Lang'at who is now the MP for Ainamoi served there for the last three years. The present ambassador, the immediate former Clerk of the National Assembly, Amb. Michael Sialai also hails from Kericho County.

Mr. Speaker, Sir, this is a very special delegation to us because our own sons have represented this country in their country and both of the two gentlemen are my friends. I have very fond memories of the kind of stories and lessons they share, especially on agriculture. They talk of how Namibia has excelled in agriculture despite it facing challenges that are almost similar to ours in terms of rain availability. Such matter is something worth emulating.

I welcome this delegation to the Senate. I hope to interact with them in the course of their stay and study here with us. I wish them well. May they enjoy to their fill.

I thank you.

Sen. Maanzo: Thank you, Mr. Speaker, Sir, for giving me an opportunity to welcome the team from Makueni County Assembly to the Senate. I also welcome the team from Namibia.

A few years ago, I visited Namibia and we were treated very well. There is a very good example of water recycling. Therefore, we look forward to interact with them and learn more. There is a very good history between Namibia and Kenya in relation to the struggle for independence.

I met part of the team from Makueni County this morning when they attended committee proceedings in the Committee of Delegated Legislation. They are really learning. I believe that when they go back to their county, they will be able to copy and implement what they have seen the practice here in Senate from the different departments. We look forward to more counties coming here to learn so that the Senate become a very good template for county assemblies. I look forward to interacting with them farther and make them learn more so that they can make the County Assembly of Makueni better.

I thank you.

The Speaker (Hon. Kingi): Next Order.

PETITION

UNFAIR TERMS OF SERVICE AND DELAY IN INTERNSHIP POSTING FOR STAFF UNDER THE UHC PROGRAMME

Sen. Cherarkey: I thank you, Mr. Speaker, Sir. The Petition reads as follows-

Mr. Speaker, Sir, we, the duly registered Health Sector Unions, Associations and Societies with constitutional and legal mandate of championing the labour interest and professional welfare of all health workers employed by both levels of Government; that is the national and county governments; being citizens of the Republic of Kenya and authorized representatives/officials together with the UHC staff and interns who have sought our representations, draw the attention of the Senate to the following-

THAT, in April, 2020, a group of health workers were recruited under a one-year UHC internship contract to boost efforts on the achievement of Universal health as well as aid in the fight against COVID-19 pandemic.

They were given personal numbers, but released from service after one year of service leaving a shortage that remains uncovered to date in their previous work stations. They are unable to get any other employment in public service since they have personal numbers under the Ministry of Health.

THAT, in June, 2020, at the height of the COVID-19 pandemic, the Ministry of Health employed about 9,000 on a three-year contract of UHC and deployed them in different county governments across the country. Their contracts are coming to an end in May 2023.

Mr. Speaker, Sir, the UHC staff have been diligently providing critical health services across the country since they were engaged. These contracts have attracted a consolidated salary that has seen them earn half of what their peers working in the same environment earn.

In February 2023, intergovernmental summit sitting in Naivasha resolved that the Ministry of Health extends the contracts of UHC staff for a further period of a three-year term under the same terms and conditions.

These staff are disturbed and demotivated by this development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions, but earning different.

THAT, Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purpose, values and principles, advance the rule of law and human rights and fundamental freedoms in the Bill of Rights, permits the development of law and contributes to good governance.

THAT, under Article 41 of the Constitution of Kenya 2010, we are entitled to a constitutional privilege of fair labour practices, this being a human right.

The Article reads in Part 41 Labor Relations-

(1) Every person has right to fair labour practices.

(2) Every worker has a right to fair remuneration.

Internship contract is recognized under the Employment Act as a contract of service under apprenticeship of endured learnership, and therefore, entitled to enjoy the protection of Article 41 of the Constitution.

Both UHC staff and interns submit that they have suffered unfair remuneration as their remuneration has not followed the principle of equal pay for equal work.

This act is not only unfair, but discriminatory in nature and goes against the doctrine of fair labor practice ordained in Article 41 of Constitution of Kenya, 2010 as well as the Employment Act No. 11 of 2007, Laws of Kenya on fair labour practices and discrimination.

THAT, both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or any other opinion nationality, ethnicity or social origin, disability, pregnancy, marital status or HIV status.

Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place.

Mr. Speaker, Sir, according to the Constitution of Kenya, all human beings are born equal and are equal before the law.

Section 5 of the Employment Act provides that it is illegal to discriminate any facet of employment. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.

The law disallows discrimination in the process of recruitment, training, promotion, terms and condition of employment, termination of employment and other matters related to employment.

Mr. Speaker, Sir, the Public Service Commission, Human Resource Policy and Procedures Manual for Public Service May 2016, recognizes the establishment, initiation and management of internship programmes in Kenya.

The same states, *inter alia*, that internship programmes shall be guided by the relevant provisions of the Constitution and relevant professional bodies and other policy guidelines, and shall not exceed one year.

The internship is a legal requirement and prerequisite for licensure and independent practice. The Ministry of Health is mandated to ensure that all officers are facilitated by posting to internship centres and paying their salary or stipend, whereas some cadres such as pharmaceutical technologists, nutritionists and dieticians are not paid that stipend.

These interns were supposed to be posted in December, 2022, but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.

While other interns are paid using job groups in the health sector, diploma clinical officers are only paid a meagre allowance that can cater for their basic needs during their internship. Delay in internship posting delays licensure and, therefore, creates anxiety, denies the graduates the opportunity to work and contribute to health service delivery as well as interruption of skills, mastery process, which impacts on the quality of health services delivery in the future.

The African Charter on Human and Peoples' Rights to which Kenya became a state party on 23rd January, 1992, and in particular Article 3(2) provides that every person is entitled to equal protection of the law.

Article 5 provides that every individual shall have the right and respect of the dignity inherent in a human being. Article 9 provides that every individual shall have the right to receive information and to express and disseminate his opinions within the law.

THAT the Senate has the powers to find a solution to this discrimination and unfair labour practices against the Universal Health Coverage (UHC) staff and others who are supposed to be on internship programme.

THAT we have made every effort to have the matter addressed by the relevant bodies, including the Ministry of Health, but the response has been unsatisfactory. None of the issues raised in this Petition are pending before any court of law or any other legal body.

Wherefore, your humble Petitioners pray that the Senate-

(i) Investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of health workers, including the ones at UHC and others on internship.

(ii) Makes recommendation on such programmes, including adequacy of resources and better terms of engagement.

(iii) Recommends the appropriate measures for which such programmes, including internship and posting of health workers under UHC.

This Petition is counter-signed by the following practitioners among other officials-

- (i) David Atela – Secretary General, Kenya Medical Practitioners, Pharmacists and Dentists Union (KPMDU).
- (ii) George Kibore – Secretary General, Kenya Union of Clinical Officers (KUCO)
- (iii) Pius Nyakundi – General Secretary, Kenya National Union of Medical Laboratory Officers.
- (iv) Elias Mutuma – General Secretary, Kenya National Union of Pharmaceutical Technologists and Officers.
- (v) Michael Ouma – General Secretary, Kenya Union of Nutritionists and Dieticians.
- (vi) Peter Ayieko – General Secretary, Kenya National Union of Biomedical Engineers of Kenya.
- (vii) Samuel Karanja – Secretary, Society of Radiography in Kenya (SORK).
- (viii) Moses Lore – Secretary General, Kenya Health Professional Society.
- (ix) Mohamed Duba – Secretary General, Association of Public Health Officers Kenya (APHOK).

Mr. Speaker, Sir, with those remarks, I thank you for allowing me to read this Petition.

(Several Senators entered the Chamber)

(Sen. Okiya Omtatah spoke off record)

The Speaker (Hon. Kingi): Sen. Okiya Omtatah, you are out of order and that is my first warning. I may have to ask you to withdraw the second time.

Hon. Senators, pursuant to Standing Order No.237, I shall now allow comments, observations and clarifications in relation to the Petition for not more than 30 minutes.

Looking at the dashboard, I have several Senators wishing to make contributions to this Petition. Therefore, with the limited time of 30 minutes, I will allow a maximum of three minutes per Senator contributing to this Petition.

Proceed, Sen. Osotsi.

Sen. Osotsi: Mr. Speaker, Sir, I do not wish to contribute to this, but the next one.

The Speaker (Hon. Kingi): Hon. Senators, this habit of walking in, keying in and going to the lounge clogs the queue. If you do not wish to contribute, please do not clog the dashboard, so that we have only those wishing to contribute on the dashboard.

Proceed, Sen. Cheruiyot.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, the reason I am laughing is because someone told us yesterday that Sen. Osotsi is a leading Information Technology (IT) expert in the Azimio la Umoja-One Kenya Coalition side. If he is struggling with basic technology such as the gadgets in this House, how can he do the technology work that he is supposed to do in Azimio la Umoja-One Kenya Coalition Party? I now understand the source of the difficulty with technology.

Mr. Speaker, Sir, this is an important Petition that Sen. Cherarkey has brought to this House. It is not the first time we are hearing about the mistreatment of the UHC workers as they are commonly referred to.

If you check in all our counties, you will realize that during the COVID-19 pandemic, the national Government, through its intervention in healthcare management in all our 47 counties, did a universal recruitment of Kenyans who were sent to various county governments.

There were lofty promises. Many young people applied with lots of enthusiasm and believed that finally they had met their destiny to serve their country and be proud while at it. Unfortunately, that has not come to fruition because there seems to be a push and pull between the Council of Governors (CoG) and the national Government.

The CoG on one end, maintains that the wages they were recruited for are, firstly, unsustainable and, secondly, they cannot afford to add them to their books. During the push and pull, these honourable citizens and trained medics who dedicated a lot of their time and money studying on how to ply their trade and serve citizens of the country have continued to suffer.

It is my sincere hope that the Committee on Health will get to the bottom of this matter, so that they can advise the Committee on Finance and Budget because at the heart of this dispute are budgetary issues. Who will eventually carry the blame?

The CoG insists that the only way they can continue to maintain these staff is via conditional grants, yet the national Government says that health is a devolved function and it only hired to shore up numbers during the COVID-19 pandemic and that counties should take responsibility. The Committee on Health should give a lasting solution, so that the young men and women suffering in all our 47 counties can lay their struggles to rest and serve their country with pride.

It is unfortunate that people who have gone to school and taken time to study have to sometimes live on three or six months, or one year's contract in some of the best counties. In fact, in most counties, they get paid as casual labourers, which is unfortunate.

Mr. Speaker, Sir, I expect that the Committee on Health will do justice to this matter and conclude on it quickly.

I thank you.

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir. I had the privilege of sitting in the sessions by the Committee on Health, chaired by Sen. Mandago yesterday when many of these health workers were presenting their issues to the Committee.

Mr. Speaker, Sir, there is simply no justification because our Constitution provides that---

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

(Sen. Methu walked into the Chamber)

Sen. Sifuna: Mr. Speaker, Sir, I hope that my time will be compensated. Nonetheless, the point that I was making is that, under our Constitution it is discriminatory and unfair labour practices for people performing the same work under the same conditions, in the same facilities to earn different salaries.

So, I am in support of this petition by the UHC workers that, in fact, we have no justification. I encourage the Senate Majority Leader that we cannot look anywhere else for the solution because the solution is in this Senate.

I am aware that in the next few days the Division of Revenue Bill is going to land here. We have made the argument that if we do not sort out the question of full financing of county functions, then, we are wasting time.

I am hoping that the Majority side and the Majority side when that Bill comes here, will put their money where their mouth is. That they will send the requisite resources to the counties so that we can fully finance and to ensure that we hire all the people who are medical workers, especially under the UHC.

We were told there are counties that have not hired a single doctor in the past five years. There are 4000 medical professionals who have already qualified, but are unable to find work in the public sector.

As a Senate, we will not run away from this issue by saying it is not clear whose duty it is. It is the responsibility of devolved units to finance health fully. We must find the money to support the hiring of these UHC workers and other health workers within the county setup.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Veronica Maina. These are the Hon. Senators who key in and walk out. It shall be disorderly of Senators to do so. I hope as we are considering the amendments to the Standing Orders we put that as disorderly conduct.

Sen. Mandago, kindly proceed.

Sen. Mandago: Thank you, very much, Mr. Speaker, Sir. My Committee of Health is seized of this very pertinent issue. We had the opportunity yesterday to have a sitting with a number of unions. However, there are things that need to be put into perspective.

Mr. Speaker, Sir, we have heard the Senator for Nairobi City County saying we cannot continue blame games here and there because health is a devolved function.

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

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

Sen. Kinyua: Asante Bw. Spika. Sen. Mandago ndiye Mwenyekiti wa Kamati ya Afya. Kwa hiyo, ingekuwa vizuri awe wa mwisho kuongea baada ya sisi wengine kuchangia ili aweze kusikiliza maoni yetu kuhusu masuala haya. Naomba awe we mwisho na atupe uamuzi huo kulingana na vile anavyosema.

Naomba kwa heshima, Bw. Spika.

The Speaker (Hon. Kingi): Sen. Kinyua, it is not a requirement because the Chairperson is not required to make a response to all the contributions that Senators are making. As you are aware, at the end of it, the Petition will be committed. If the Chair has a contribution to this now, as a Senator, it is within his right to do so.

Secondly, Sen. Kinyua, once you raise on a point of order, the first thing that you need to do is to state the Standing Order that you are relying on.

(Applause)

We would not want a situation where Senators just stand on a point of order and basically quote nothing. It is good practice that you tell us exactly which particular Standing Order you are invoking. That is the practice as given in the Standing Orders.

So, Sen. Mandago, kindly, proceed. It is within your right to contribute.

Sen. Mandago: Thank you very much, Mr. Speaker, Sir. There are a number of other pertinent issues. We agree with this Petition, that other than the UHC staff, we also have internship programmes for the various cadres of health. Some cadres are given stipends during internship while there are others who do not. For those stipends that are being paid, it also varies for the same cadres in the different trainings.

Mr. Speaker, Sir, the reason the Ministry of Health has continued to hire workers to perform devolved function is because the Ministry in itself is inherent in clawing back on the devolution functions. Counties cannot recruit because the money that is meant for devolved function is still sitting in Afya House.

I want to urge this House that during the Division of Revenue, our position as Senate is to ensure that counties be given a minimum of Kshs425 billion. On the idea of being told there are no funds, I want to tell this House that the balance from for Kshs 425 billion to Kshs385 billion is actually in Ministry of Health.

It is being held in the Ministry, continuing to perform functions that are meant to be done by county governments. So, it is upon this House to make sure that the devolved function of health is performed by counties.

We cannot continue as a Senate that is supposed to protect devolution to allow the growth of the budget of Ministry of Health to rise exponentially from when devolution started and when the health function was devolved.

As I speak, we have more than 10,000 health facilities being managed by county governments. The Ministry of Health, the civil servants and the bureaucrats in that Ministry must be willing to release the funds that they are holding.

We cannot as a Senate continue allowing Ministries to undermine county governments, so that counties look like they are unable to perform their functions.

Secondly, the question of training which has been a thorn in the flesh for health workers. Doctors need to go for training. The national Government is supposed to foot the bill, but they never allow the release of funds for training so that counties seem as if they do not want to support the health sector to grow.

(Applause)

Mr. Speaker, Sir, this Petition is very pertinent. As the Chair of that Committee we shall be well seized of the matter and we shall properly---

(Sen. Mandago's microphone went off)

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

Sen. Wambua: Thank you, Mr. Speaker, Sir. I stand in support of the Petition brought to the Floor of this House by Sen. Cherarkey. Even before I make my comment,

this goes to Sen. Mandago. The Wiper Democratic Movement is ready to give him a direct ticket in 2027 because he is speaking the language of the people.

(Laughter)

Mr. Speaker, Sir, this matter of UHC and the way we have treated our medical personnel in this country is actually a shame. It is a shame because we were told the other day we have more than 4,000 medical doctors who are tarmacking in the streets. It is a shame.

The solution as Sen. Sifuna has said is in this Senate. It is not even in the National Assembly. The solution to the problems that are being faced by the health sector in our counties is to ensure that funds follow functions at the counties.

Since the Division of Revenue Bill is coming very soon, I see pretence by many people. People pretending that they can allocate money to counties. The only House that can allocate money to counties is Parliament. The National Executive has no business in allocating money to counties.

Mr. Speaker, Sir, when that matter comes to the Floor of this House, I want to see the Majority side led by my friend, the Senator of Kericho, put the right foot forward. They should make sure the people of Kericho get proper medical care by ensuring that we send Kshs425 billion to the counties.

I support.

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

Sen. Kinyua: Asante, Bw. Spika. Ninaunga mkono dua ambayo imeletwa na Sen. Cheruiyot kwa sababu wauguzi wamekuwa na shida sana. Hili jambo lilianza kitambo nilipokuwa katita hiyo Kamati ya---

(Laughter)

Bw. Spika, nimechanganywa kidogo na yule kiongozi wa Chama cha Wiper ambaye amesema---

The Speaker (Hon. Kingi): Just proceed, Sen. Kinyua.

Hon. Senators, may the Senator be heard in silence.

Sen. Kinyua: Bw. Spika, ni Sen. Cherarkey ndiye ananichanganya. Mimi ninaunga mkono dua hii kwamba maslahi ya wauguzi yanapaswa kuangaliwa.

Wakati wa homa kali ya COVID-19, wauguzi wengi walijiririwa na kupewa mkataba. Baada ya COVID-19, hakuna jambo lolote ambalo wanaonekana kufanya kulingana na wale waliowaajiri. Wameleta malalamishi yao hapa ili tuyaangalie.

Langu ni kuomba Mwenyekiti wa Kamati ya Afya waangalie haya mambo kwa undani. Tusianze kuyapapasa haya mambo kwa sababu hili ni donda sugu. Ni masuala nyeti ambayo yanapaswa kuangaliwa kwa kina.

Wapo madaktari wengi katika kaunti zetu ambao hawana kazi. Wengine tayari wamepewa nambari ya kuajiriwa na Serikali kwa hiyo hawawezi kutafuta kazi mahali pengine. Ni vizuri Kamati husika ishughulikie mambo haya. Ni wengi ambao wanazidi kujiunga na hii wizara hii ilihali wale walioko, hawalipwi.

(Sen. Orwoba walked around greeting other Senators)

Bw. Spika, hawa wauguzi wanafanya kazi nyingi sana katika hospitali za kaunti lakini hawalipwi. Kwa hivyo, swala la ugavi wa fedha litakapoletwa katika hili Bunge la Seneti, tuwape mgao wa kutosha ili madaktari wetu waongezwe mshahara.

Madaktari wengi katika Kaunti ya Laikipia walikuwa wamefutwa kazi na yule Gavana wa zamani. Ninamshukuru Gavana wetu kwa sababu tulishirikiana na kuwarudisha kazini madaktari hao. Tutaendela kuangalia hilo jambo---

The Speaker (Hon Kingi): Just hold on, Sen. Kinyua. Sen. Orwoba, you cannot roam the length and width of this House for 10 minutes, as if you are inspecting a chicken *banda*.

(Laughter)

I have watched you for the last five minutes pacing up and down. Now, I am going to read this Standing Order for your benefit. It says:

“Except when passing to and from his or her seat or when speaking, every Senator when in the Chamber shall be seated, and shall not at any time stand in any of the passages and gangways.”

Kindly, proceed to take your seat. You are out of order.

(Sen. Orwoba took her seat)

Proceed, Sen. Kinyua.

Sen. Kinyua: Asante, Bw. Spika. Ninatumai muda wangu ulikuwa umesimamishwa.

Katika eneo la Nanyuki, madaktari huko wanaendelea kufanya kazi katika hali duni sana. Mshahara wanaolipwa hautoshi. Pia wauguzi wanaishi maisha ya uchochole. Sio Nanyuki peke yake bali pia Nyahururu, Kinamba na Rumuruti. Kuna madaktari wengi lakini zahanati zetu zilionekana kuwa nzuri wakati wa homa kali ya COVID-19. Baada ya ugonjwa huo kupungua, inaonekana ni kama wameachwa na hawaangaliwi tena.

Ninaiomba Kamati inayoongozwa na Sen. Mandado kuvalia njuga suala hili na kuliangalia kwa kina kirefu. Wewe umekuwa katika hizo kaunti na unajua shida ambazo madaktari wanapitia---

(Sen. Kinyua's microphone was switched off)

The Speaker (Hon Kingi): Your time is up, Sen. Kinyua.

Sen. Oketch Gicheru, please proceed.

(Sen. Oketch Gicheru spoke of record)

Sen. Oketch Gicheru, it is not up to you when called upon to speak to pass it to any other Senator that you wish. That is a prerogative of the Chair. So, if you are not willing to speak at this juncture, please do not nominate somebody to speak on your behalf.

Sen. Kavindu Muthama, you may proceed.

Sen. Kavindu Muthama: Bw. Spika, ninashukuru kwa nafasi hii ili nichangie suala ambalo Sen. Cherarkey amelileta hapa Bungeni.

Madaktari wanafanya kazi ngumu sana. Usiku sisi tukiwa usingizini, wao wanahudumia wagonjwa hospitalini. Ni muhimu kuwa maslahi yao yangaliwe kwa kina.

Kwa hivyo, Wizara ya Afya haistahili kupinga hizi pesa ambazo madaktari wanastahili kupatiwa baada ya uamuzi wa Bunge. Ni lazima watoe hizo pesa ili ziende mashinani kuhudumia madaktari wetu.

Hakuna watu ambao hufanya kazi ngumu kama madaktari. Hata mtu akiwa katika hali mahututi, daktari atamhudumia mpaka atoke hospitalini akiwa mzima na katika hali ya kujisaidia.

Hatutaki madaktari wetu wagome kwa sababu ndio wapate pesa wanazostahili. Hata makaazi yao ni duni kabisa. Ninaomba serikali za kaunti zichunguze nyumba wanamoishi hao madaktari. Madaktari wanastahili kuwa na Amani. Wanastahili kuwa wenye furaha wanapotoka nyumbani kuelekea kazini ili waweze kuhudumia wagonjwa inavyostahili.

Ninaunga mkono Ardhilhali ya Sen. Cherarkey.

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

Sen. Methu: Thank you, Mr. Speaker, Sir. I also rise to support the Petition. I agree with my colleagues on the fact that when you are not well remunerated, you cannot perform properly. People who have been entrusted to take care of our lives must be well remunerated. It is a pity that they have not been well remunerated for long time as it has been elaborated in this Petition. I am also of the same feeling that they are not well remunerated.

They have cited that the Human Resource Policy and Procedure Manual for the Public Service Commission (PSC) is very clear that the internship programme is legal. Secondly, it is run using the relevant provisions of the Constitution, professional bodies and other policy guidelines.

It is unfair that the people we have given such a noble task in the health sector, are the ones leading in terms of complaints.

The Chairperson of the Committee on Health says that one of the biggest funding by Government goes to the Ministry of Health. I agree with him that this money should be sent to county governments so that they take care of this particular sector.

I have never understood why the Ministry of Health takes the lion's share of national Government budget, yet health is a devolved function. The Fourth Schedule is very clear on the duties and functions that have been devolved. Of the money that was allocated, Kshs385 million remained with the MoH.

We want money to be sent to the counties so that we can end this suffering by medics. Even if we continue complaining and we are not sending enough money to the counties, they will not sustain this kind of programme.

Mr. Speaker, Sir, I implore my colleagues that--

(Sen. Methu's microphone was switched off)

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

Sen. Olekina: Mr. Speaker, Sir, thank you for giving me this opportunity to make some brief comments on this. I rise to support the Petition on the health workers by Sen. Cherarkey.

Mr. Speaker, Sir, this is an opportunity. I just want to follow with what Sen. Methu has said. I beseech all the Members in this House that we now have the opportunity to ensure that our counties get adequate money. The Division of Revenue Act (DORA) is soon coming. We know what the National Assembly is doing when it comes to the issue of DORA. We are the ones who divide money between the two Arms of Government.

Many of these universal healthcare workers were being paid a stipend of about Kshs15,000. It is sad. The biggest problem with this issue is that they were already given an Integrated Payroll and Personnel Database (IPPD) number. Therefore, wherever they go, it appears as if they are employed by the Ministry. Therefore, they cannot be employed by anybody else. This is a matter which is live in our Committee on Health.

When I received the Petition from these workers, I submitted it to our committee and we have met them. We are now looking to meet the Salaries and Remuneration Commission (SRC). We have already met with the officials from the Ministry of Health.

When we go to Mombasa County to meet with the Commission of Revenue Allocation (CRA), some of these things are things we need to be able to engage in. We need to send more money to counties. There is no reason why the MoH should be having billions; money equivalent to five counties allocation. That money ought to go to counties and then we clear this issue of IPPD numbers. We remove it from the system and allow these individuals be employed.

Mr. Speaker, Sir, I can see the light is already yellow, but let me finalize. As a Member of the Committee on Health, I became very proactive on this matter. I brought it to my Chairperson who I really have a lot of respect for because he has stood firm to ensure that at least we bring this to a finality. We have to---

(Sen. Olekina's microphone was switched off)

The Speaker (Hon. Kingi): Your time is up, Sen. Olekina.

Sen. Nyamu, please proceed.

Sen. Nyamu: Mr. Speaker, Sir, the importance of the health sector and the health workers cannot be gainsaid. The other day, I was attending the opening of the first Intensive Care Unit (ICU) facility in Nairobi City County by the current County Government. One of the glaring issues that came from the public is the quality of healthcare that we have in our hospitals. The fact of the matter is that the health workers are not motivated. It was claimed that public health workers are not delivering, are idling in hospitals and their attitude is wrong.

On the flipside, I took time with the health workers. The public health workers claimed that their terms of service are not met. They work under deplorable environment, their wages are not as is supposed to be, they are not motivated and their working hours are long. Which happens to be true. It is very important that we look into the welfare of the health workers.

(Sen. M. Kajwang' walked into the Chamber)

The Speaker (Hon. Kingi): Sen. M. Kajwang', once you bow and walk in, you go straight to your seat. I can see you are behaving like the guest of honour in some Harambee greeting everybody, especially the lady Senators.

(Laughter)

Sen. Nyamu, please proceed.

Sen. Nyamu: Mr. Speaker, Sir, the working environment of the health workers impact directly on the health services and on the common *mwananchi*. I support this Petition by Sen. Cherarkey so that the work conditions of our health workers are looked into.

The Speaker (Hon. Kingi): Hon. Members, the 30 minutes meant for contribution to this Petition is now spent.

Pursuant to Standing Order No.238 (1), the Petition should be committed to the relevant Standing Committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Labour and Social Welfare.

In terms of Standing Order No.238 (2), the Committee is required in not more than 60 calendar days from the time of reading the prayer, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

(The Petition was committed to the Committee on Labour and Social Welfare)

While the Standing Committee on Labour and Social Welfare gets down to prosecute this Petition, if need be, let it co-opt the Committee on Health so that we have an in depth look at the matters raised in this Petition.

Hon. Senators, there are two communications that I would like to make.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION OF REPRESENTATIVES FROM UNIONS, ASSOCIATIONS AND SOCIETIES IN THE HEALTH SECTOR

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon a visiting delegation of Representatives from Unions, Associations and Societies in the Health Sector. They are in the Senate as guests of the Senator for Nandi County, Sen. Cherarkey, MP.

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

- | | | |
|--------------------------|---|--------------------------|
| 1. Mr. Kipkorir Kirui | - | Public Health Officer |
| 2. Mr. Samburum Derrick | - | Clinical Officer |
| 3. Mr. Bashir Ali | - | Clinical Officer |
| 4. Ms. Lavender Kibitisu | - | Clinical Officer |
| 5. Mr. Abdifatah Musa | - | Clinical Officer |
| 6. Mr. Desmond Wafula | - | Community Health Officer |
| 7. Mr. Lawrence Kariuki | - | Nurse |

8. Mr. Innocent Situma - Nurse
9. Ms. Lilian Mumina - Nutritionist

(Applause)

Hon. Senators, on behalf of the Senate and on my own behalf, I extend a warm welcome and wish them a fruitful visit.

I thank you.

I will allow the Senator for Nandi County to make very brief remarks after I read the second Communication.

VISITING DELEGATION FROM RIARA GROUP
OF SCHOOLS, NAIROBI COUNTY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon a visiting delegation of Class Eight pupils from Riara Group of Schools in Nairobi County. The delegation comprises six teachers and 83 pupils who are in the Senate for a one day study visit.

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

I thank you.

After the Senator for Nandi County makes his brief welcoming remarks, the Senator for Nairobi City County, Sen. Sifuna, will follow him in that order.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. On your own behalf, I would like to extend a warm welcome to colleagues from the Associations and Unions of the Health sector. It is good that they came in when Senators were expressing themselves in solidarity.

Mr. Speaker, Sir, finally, we shall find a solution to the Universal Health Coverage (UHC) in the health sector, internships and payments.

I see some of my colleagues have drawn their attention to my guests. However, Jesus Christ said that you cannot get to the father without him. I advise Sen. Sifuna and Sen. M. Kajwang' that they shall not see that kingdom without going through me.

(Laughter)

Therefore, they should ensure that I am comfortable, so that I can attend to their needs and ensure they access some of the numbers. Finally, I am also an *alma mater* of the Riara University, which is part of the Riara Group of Schools. I extend a warm welcome to them. I hope we can interact later.

Sen. Sifuna and Sen. M. Kajwang' can see me in-camera.

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

Sen. Sifuna: Thank you, Mr. Speaker, Sir, for giving me this opportunity to speak. I do not understand why Sen. Cherarkey wants to take possession of the leadership of the unions that are here. I assure him that we, as a political movement, have had very close working relationships with the unions from the Kenya Medical Practitioners and

Dentists Union (KMPDU) to the nurses. We can only use such opportunities to deepen and widen the relationships that are already existing.

I assure the health workers that the Minority side is very clear. We will not send you away from this House. We shall find a solution in this House in the coming weeks; forget the 60 days that have been given to the Committee. We shall soon be debating the question of division of revenue. It is the responsibility of all of us in this House to find money for you. I assure Sen. Cherarkey that once I find money for them, I will not have to go through you to access the unions.

Allow me to welcome the students from Riara Group of Schools. The most surprising bit of information is that Sen. Cherarkey is somehow also a product of the school. There is quite a big difference when you look at the faces in the Speaker's Gallery, which speak to the group of schools.

(Laughter)

This is one of the most established education facilities in the whole country. They have built a good brand for themselves. I want to notify the House that one of the students there, Abigail Githara, is the daughter to one of our Senior Clerks; the Deputy Clerk, Ms. Eunice Gichangi, who was also my lecturer in the University of Nairobi.

I spoke to her yesterday. I know that Abigail's parents are out of the country, but she asked me to extend a warm welcome to her and her classmates.

I hope that you enjoy your tour here. When you go back home, thank your parents for voting for me as the Senator for Nairobi City County. I wish them a successful tour of the Senate.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, I have another Communication to make. Senate Minority Leader and Sen. Osotsi, kindly have a sit.

There is no Standing Order that tells you to freeze when the Chair is standing. You sit on the next available seat, even if it is not yours. You take it until the Chair is done, then you can resume yours.

(Sen. Madzayo and Sen. Osotsi took their seats)

VISITING DELEGATION OF MEMBERS AND STAFF FROM
HOMABAY COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery, this afternoon, of a delegation from the Homa Bay County Assembly comprising Members of the Committee on Welfare and its secretariat. The delegation is undertaking a five-day benchmarking visit in the Senate.

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

They are -

- | | | |
|--------------------------------|---|------------------|
| 1.Hon. Dorine Oyugi | - | Chairperson |
| 2.Hon. Kasera Sylvance Wanjala | - | Vice-Chairperson |
| 3.Hon. Odhiambo Billy Noah | - | Member |

- | | | |
|----------------------------------|---|-------------------------|
| 4.Hon. Otieno Evalyne | - | Member |
| 5.Hon. Oloo David Odhiambo | - | Member |
| 6.Hon. Molo Reuben Odhiambo | - | Member |
| 7.Hon. Odock Paul Owade | - | Member |
| 8.Hon. Hon. Lentana Adoto Apopo- | | Member |
| 9.Hon. Nancy Anyango | - | Member, Speaker's Panel |
| 10. Mr. Amos Nyandeg | - | Committee Clerk |
| 11. Ms. Damarice Ochele | - | Committee Clerk |
| 12. Ms. Mercy Kaula | - | Hansard Reporter |
| 13. Mr. Calvince Wambalo | - | Serjeant-at-Arms |

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

I will allow the Senator for HomaBay County to make brief welcoming remarks.

Sen. M. Kajwang': Mr. Speaker, Sir, I join you and the House to welcome the delegation from Homa Bay County Assembly. I congratulate the Hon. Members for choosing to come to the Senate for benchmarking. This is a committee that is charged with the member's welfare.

One interesting thing which is going around Parliament today is the façade of the National Assembly putting up a sign that should be its moto. Its states that "for the welfare of society and the just government of the people". It has been wrapped around the façade of the National Assembly.

I know all my friends, from Homa Bay County Assembly, who are in the Gallery, including my area Member of County Assembly (MCA), Hon. Reuben Molo. I encourage them that the Welfare Committee of the County Assembly of Homa Bay should not be seen as the end. It is the means to an end. That end is service to society and the people of HomaBay County.

I encourage them not to be blinded by the pursuit of member's welfare at the expense of that of the fisher folk, farmers, traders and the great people of Homa Bay County. At least now, Sen. Cheruiyot, will have to go through me if he wants to interact with any of the MCAs from Homa Bay County, particularly those of the other gender.

So, if you need connections, Sen. Cherarkey, you have to go through me.

(Laughter)

Mr. Speaker, Sir, I beg your indulgence because my sister, Sen. Ogola, has worked in Homa Bay County Executive as a member of the county executive for 10 years. It will be remiss if she does not get an opportunity to say one word. Therefore, out of my two minutes, I donate one to her.

The Speaker (Hon. Kingi): Hon. M. Kajwang' you are not an advocate of anybody or any Senator for that matter. However, I will allow you to get away with this today.

Sen. Ogola, you have two minutes.

Sen. Ogola: Mr. Speaker, Sir, I am humbled by the opportunity that you have given me and the donation of the one minute by my able Sen. M. Kajwang'.

I join the great House, the Senate, in welcoming the Hon. Members from the Homa Bay County Assembly. HomaBay is a county of potential. You can see the great potential that we have in the composition of members who have come.

In the delegation are also ranking members. I have worked for the county government for the last 10 years as the County Executive Committee Member (CECM) for Lands, Energy and Water. Probably, that speaks to the reference that Sen. M. Kajwang' made of me yesterday. I will have the opportunity to substantiate another day.

Welcome Hon. Members. Learning is a lifelong activity. I hope we shall also have a chance to walk down to Homa Bay County Assembly and learn more.

The Speaker (Hon. Kingi): Next Order!

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

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

NOTICE OF MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37

POLICE BRUTALITY AND ARBITRARY ARRESTS DURING DEMONSTRATIONS HELD ON 20TH MARCH 2023

The Senate Minority Leader (Sen. Madzayo): Mr. Speaker Sir, I beg to give Notice of a Motion on adjournment of the House to discuss a matter of urgent national importance.

I beg to give Notice of the following Motion -

That, pursuant to Standing Order No. 37, the Senate do adjourn to discuss a matter of utmost urgency and national importance, namely, police brutality, arbitrary arrests, and excessive use of force by the police during the demonstration on Monday 20th March, 2023.

I thank you.

(Several Senators stood in their places)

The Speaker (Hon. Kingi): Resume your seats, hon. Senators. The Notice of Adjournment under Standing Order No. 37, having met the required number of Senators supporting the same, I would wish now to direct that the House shall stand adjourned at 5.30 p.m. to discuss that Motion.

I thank you.

Next Order!

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Sen. Mariam Omar: Thank you, Mr. Speaker, Sir. I beg to lay the following Papers on the Table of the Senate, today, Wednesday 22nd March, 2023.

Report of the Auditor-General on the financial statement of the Machakos County Executive Committee and the Chief Officer's Car Loan and Mortgage Scheme for the year ended 30th June, 2022;

Report of the Auditor-General on the financial statement of the Makueni County Youth, Men, Women, Persons with Disabilities and Table Banking Groups Empowerment Fund for the year ended 30th June, 2022;

Report of the Auditor-General on the financial statement of the Kitui County Assembly Service Board Employees' Car and Mortgage Fund for the year ended 30th June 2022; and,

Report of the Auditor-General on the financial statement of the Bomet County Assembly Car Loan and Mortgage Scheme for the year ended 30th June, 2022.

Thank you Mr. Speaker, Sir.

(Sen. Mariam Omar laid the documents on the Table)

The Speaker (Hon. Kingi): Next Order!

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

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

Sen. Wambua: Thank you, Mr. Speaker, Sir. Standing Order No.190 establishes the Senate Business Committee (SBC). One of the most important responsibilities of that Committee is to make decisions and give directions on the Business of the House. I do not wish to question the work of the Senate Business Committee; they are doing a good job. My only concern is when it comes to giving priority to matters that should be discussed on the Floor of this Senate.

I have an interest in the matter listed on Order Paper No.27. It is a matter of serious national concern and all other matters listed there are important. I am a bit concerned that our children in all public schools; not just in Kitui, are suffering under the weight of the current drought.

It is a Motion that I brought almost a month ago. I would say that perhaps I am to blame for this because there are days that I have not been here. However, I have been responsible enough because every time I was not in the House - and this you can confirm - I have written to your office and said that I would not be in and given the reasons.

That matter of school feeding programmes in schools at a time like this is a matter that I thought that the SBC might prioritize, so that we discuss it and see what remedies we can give to our children in all public schools in this country. I know that children in Laikipia, Kitui, Nandi and Kericho are starving. If you can just give priority to this, I will appreciate it.

Thank you, Mr. Speaker Sir.

The Speaker (Hon. Kingi): Sen. Wambua, indeed, what you are raising is very valid and appropriate. However, sometimes I wonder why most Senators stand on points of order where it is an issue that could have been addressed in a different manner. The matter you have raised, though important, can be handled administratively as opposed to it being raised on the Floor of the House. As the Chairperson of SBC, I have taken note of that and it will be handled administratively to make sure that, that Motion is given priority.

Hon. Senators, I think we are abusing this so-called point of order. Our Standing Orders give reference to when a Senator can stand on a point of order. If you read Standing Order No.98, it tells you when, as a Senator, you can stand on a point of order.

However, we have made that one so wide that any time a Senator wishes to say something, then we stand on a point of order, whereas our Standing Orders are very specific at what moment a Senator should stand on a point of order. So, let us stick to what is provided in our Standing Orders to avoid these other numerous Standing Orders that may not strictly be deemed to be points of order.

That does not mean what Sen. Wambua has raised is not important. However, it can be raised not through a point of order. It can be raised administratively. How I wish Sen. Wambua you raised this with either the Clerk or me in my office. Maybe today we would have discussed that exhaustively.

Next Order.

Sen. (Dr.) Oburu, you may proceed. You have a Motion that you ought to give notice today, that is, on Arbitrary Arrests of Kenyan Fishermen by Ugandan Authorities.

Sen. (Dr.) Oburu: Mr. Speaker, Sir, I was not given---

The Speaker (Hon. Kingi): Were you given the Order Paper for the day? Kindly assist the hon. Senator with the Motion

NOTICES OF MOTIONS

ARBITRARY ARRESTS OF KENYAN FISHERMEN BY UGANDAN AUTHORITIES

Sen. (Dr.) Oburu: Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT AWARE THAT the communities around the lake rely on fishing as their main economic activity, their source of food and employment;

CONCERNED THAT the fishermen have reported harassment from the Ugandan security personnel, including arbitrary arrests and imposition of unreasonable fines;

FURTHER CONCERNED THAT in November, 2021 the Kenya International Boundaries office formed a Joint Committee with the Ugandan authorities that did not effectively delineate the boundaries that would have helped avoid conflict between the two Countries;

NOW THEREFORE the Senate resolves that-

a) The Ministry of Foreign and Diaspora Affairs in collaboration with the Ministry of East African Community (EAC), the ASALs and Regional Development engages the counterpart ministries in the Republic of Uganda to;

i) Fast-track the delineation of the Kenya-Uganda boundary;

ii) Develop measures to curb the arrests of Kenyan fishermen by Ugandan authorities;

iii) Institute a protocol for sustainable development of the Lake Victoria Basin on the sharing of resources between partner states; and

b) The Ministry of Interior and National Administration to deploy the Kenya Coast Guard in the territorial waters of Lake Victoria to enforce maritime security and safety.

I thank you.

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

(Sen. Nyamu walked to the Dispatch Box)

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

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

An. hon Senator: She has no shoes!

The Speaker (Hon. Kingi): Kindly take your seat.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, kwa heshima na taadhima, nasimama kwa Hoja ya nidhamu. Je, ni sawa Seneta--- Ninapozungumza, ingekuwa vyema Seneta na kiongozi mwenzangu kuketi chini.

The Speaker (Hon. Kingi): Sen. Nyamu, whenever a Senator is on a point of order, you should resume your seat.

(Sen. Nyamu resumed her seat)

Thank you. Proceed, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, kulingana na Kanuni zetu za Kudumu, je, ni vyema Seneta ambaye anaheshimiwa ndiposa akateuliwa na Chama cha *United Democratic Alliance (UDA)*, kwa sababu waliona kuwa anafaa nafasi hiyo, kusimama mbele yetu na kuongea bila kuvaa viatu ama soksi?

(Sen. Kinyua spoke off record)

The Senate Minority Leader (Sen. Madzayo): Nimemwona.

The Speaker (Hon. Kingi): Sen. Kinyua, may the Senator be heard in silence? Can you conclude on your point of order, Sen. Madzayo?

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, je, ni vyema Sen. Nyamu kuanza kuongea mbele yetu bila kuvaa viatu? Je, anaruhusiwa kuongea akiwa 'miguu chuma' mbele ya Maseneta wanaume na wanawake?

(Laughter)

The Speaker (Hon. Kingi): Order, Senators! The business before us is very important and long. Let us stay focused on that business.

Back to the point of order raised by Sen. Madzayo. The only way to confirm that indeed Sen. Nyamu is barefooted is to allow her to approach the Chair. Sen. Nyamu, kindly approach the Chair.

(Sen. Nyamu approached the Chair)

Sen. Madzayo, I am afraid that Sen. Nyamu is well dressed and she is wearing her shoes. So, I will allow her to proceed and give Notice of her Motion.

(Sen. Nyamu proceeded to the Dispatch Box)

Sen. Nyamu: Mr. Speaker, Sir, Sen. Madzayo normally wears glasses. *Yeye ni 'macho nne.'* I think sometimes he does not see well. Sen. Korir has been looking for you after seeing your photograph *baada ya maandamano*. Kindly see Sen. Korir at your free time.

(Laughter)

The Speaker (Hon. Kingi): Can we have order and make progress? Sen. Nyamu, focus on giving Notice of your Motion.

Sen. Nyamu: I am guided, Mr. Speaker, Sir.

REVIEW OF THE MINIMUM WAGE NECESSITATED
BY HIGH COST OF LIVING

Sen. Nyamu: Mr. Speaker, Sir, I rise pursuant to Standing Order No.60 to give Notice of the following Motion-

THAT, AWARE THAT minimum wages in Kenya are specified as part of a national wage policy and guided by the Regulation of Wages and Conditions of Employment Act (CAP 229) aimed at reducing poverty as well as protecting and promoting the living standards of workers;

CONCERNED THAT, despite the increase in Kenya's minimum wage in May 2022 by 12% to help workers cope with the surge in consumer prices, the current inflation rates have had a knock-on effect on the cost of living and doing business in the country with the prices of goods, household energy bills, and transport remaining stubbornly high;

NOW THEREFORE the Senate resolves that the Cabinet Secretary for Labour and Social Protection engages all stakeholders including the General Wages Advisory Board (GWAB) and the Agricultural Wages Advisory Board (AWAB) with a view of raising the minimum wage by at least 50% as from 1st May, 2023.

I thank you.

The Speaker (Hon. Kingi): Let us go to the next Order.

STATEMENTS

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

DESTRUCTION AND LOSS OF LIVES CAUSED BY
TROPICAL CYCLONE FREDDY IN MALAWI

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 52 (1), to make a Statement on an issue of general topical concern and national

importance, namely: the destruction and loss of lives caused by Tropical Cyclone Freddy in Malawi.

I rise today to address the devastating impact of Cyclone Freddy on our brothers and sisters in the Southern Africa region. Cyclone Freddy is a catastrophic and a long-lasting cyclone that is refusing to dissipate and has torn through the southern part of Africa. It has ravaged Malawi, Mozambique, Zimbabwe, Madagascar and Mauritius.

Mr. Speaker, Sir, Cyclone Freddy is the world's longest-lasting tropical storm. It has twice hit the African coast after crossing the Indian Ocean. Cyclone Freddy, formed in the south-eastern Indian Ocean off the coast of northern Australia in early February.

(Loud consultations)

Mr. Speaker, Sir, can I be heard in silence?

The Speaker (Hon. Kingi): Sen. Kibwana and Sen. Madzayo, kindly proceed to your respective seats.

Sen. Cherarkey: Mr. Speaker, Sir, I do not know what the Senate Minority Leader is looking for from Sen. Korir.

Cyclone Freddy then crossed the entire ocean, passing Mauritius and the French island of La Réunion before landing in Madagascar on 21st February; and sweeping over the island before arriving in Mozambique on 24th February. It is sad that it has claimed over 200 lives and affected nearly 600,000 people. Our condolences, sympathies and empathies to the bereaved.

I also recognize the bravery and unwavering efforts of the first responders, emergency personnel, and volunteers who have been working round the clock to rescue and assist those affected by the cyclone in the region. They are owed an immense amount of gratitude for their selfless service and sacrifice.

These responders are now required more than ever as these natural disasters are increasing in intensity, frequency and impacting our world today. In this, we must also acknowledge the role climate change is having on these extreme weather events like Cyclone Freddy, even as the spouse of our beloved President, Dr. William Samoei Ruto takes charge.

Mr. Speaker, Sir, it is critical that we act to address the underlying causes of climate change and work towards a sustainable future for our planet. I am happy that we are taking a lead as a country, led by our President and the Cabinet, as the House the other day considered, nominees for appointment to the National Climate Change Council.

As we increase the action in our nation, we want to encourage the global community to also work with the Government, Parliament and other stakeholders towards a better future and to protect our country and world.

As a nation, we stand in solidarity with our brothers and sisters in southern Africa – the countries of Malawi, Mozambique, Mauritius among others. We have an incredible opportunity and responsibility to offer our full support to help with the recovery and rebuilding process in those countries.

Providing assistance to one another during natural disasters is not only a moral responsibility, but also a practical requirement for building a more resilient and interconnected global community in Africa and across the world.

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

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

Madam Temporary Speaker, finally, on behalf of the Senate, we send our empathies and sympathies to the bereaved and those who have lost their livelihoods and lives in the Southern part of Africa. Let us continue to keep those affected by Cyclone Freddy in our thoughts and prayers. Let us come together as a nation to support them in their time of need.

Madam Temporary Speaker, I beg your indulgence; if we can give a minute silence to the lives that have been lost and the destruction caused by Cyclone Freddie, in honour of the fallen victims.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Cherarkey. Due to time constraints, I will request that we hold back the comments, so that we also achieve the Order of the day, conduct some business and also reach some Motions.

Next Order.

BILLS

First Readings

THE COUNTY BOUNDARIES BILL
(SENATE BILLS NO. 3 OF 2023)

THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 7 OF 2023)

THE HERITAGE AND MUSEUMS BILL
(SENATE BILLS NO. 8 OF 2023)

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO. 9 OF 2023)

*(Orders for First Readings read – Read the First Time
and ordered to be referred to the relevant Committees)*

Next Order.

MOTION

ADOPTION OF THE FIFTH REPORT OF THE PRC ON THE
REVIEW OF STANDING ORDERS OF THE SENATE

THAT, pursuant to Standing Orders 267 and 270, the Senate approves the Fifth Report of the Procedure and Rules Committee on periodic amendments to the Standing Orders of the Senate, laid on the Table of the Senate, on Tuesday 21st March, 2023, and pursuant to the

provisions of Article 124 (1) of the Constitution and Standing Orders 270 and 272- (i) Resolves to amend its Standing Orders as contained in Appendix 2 to the Report; and (ii) Orders that the amendments to the Standing Orders as contained in Appendix 2 to the Report come into effect on the 11th April, 2023

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

POINT OF ORDER

THE PROPRIETY OF THE PRC REPORT ON REVIEW OF SENATE STANDING ORDERS

Sen. Olekina: Thank you, Madam Temporary Speaker. I beg to get your attention. Kindly lend me your ear.

I rise under Standing Order No.223, which is Report on Select Committee. It reads as follows -

(i)The report of a Select Committee shall be prepared and kept in the same form as the Votes and Proceedings of a Committee of the Whole or in such other form as may be prescribed.

(ii)The report of a Select Committee having been adopted by a majority of the Senators shall be signed by the Chairperson on behalf of the Committee.

(iii) If the Chairperson or Vice-Chairperson is absent or is not readily available, the Select Committee shall nominate another member of the Committee to sign the report.”

Madam Temporary Speaker, I wish to stop at Standing Order No.223(2), the Order that you have just mentioned. The Report of the Select Committee was tabled in this House yesterday. However, on Page 3 of that Report, it was adopted by only four Members. The total number of Members in a Select Committee is nine.

Therefore, this Report cannot be discussed in this House. It is not properly before the House and it is against our Standing Orders. You had reiterated clearly that anything which is presented in this House cannot be rushed. There is a big problem that we are facing where we rush things.

Traditionally, any amendments to our Standing Orders would not even apply in this House. I would beg you to pay attention to what I am saying because I have the Report here. I stood on a very important Standing Order and I can see the Majority Leader ---

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, I am actually looking at that Report as you are reading to internalize what you are arguing on the Floor of the House.

Sen. Olekina: Thank you, Madam Temporary Speaker. I reiterate that this Report is not properly before this House. It has not been tabled properly, in conformity with our Standing Orders. This is the danger of rushing to amend Standing Orders to accommodate certain interests.

The practice and traditions of this House has been that whenever the Procedure and Rules Committee sits down to amend Standing Orders, they do not apply to this

Session. They apply to the next Parliament, so that we do not change the rules of the game midway.

Madam Temporary Speaker, I would like you to find that this Report is not properly before this House and that it should go back. I do not know what the Standing Orders say, but once you sneak in a report to the House which has not been adopted--- This Report has not been adopted and we will be violating our Standing Orders by discussing a Report, which has been signed by only four Members.

At No.1, it has been signed by the Chairperson, who is the Speaker of this House. The others are Sen. Wakili Sigei, No.2; Sen. Abass, No.7; and Sen. Joe Nyutu, No.8. This Report was not adopted by five other Members. If you do your basic mathematics, nine minus four is five. It is not four.

I beg to submit.

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

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I am looking at the Report that is before us.

First of all, we have gone against very cardinal rules of procedure in this House. You have allowed Sen. Olekina to cast aspersions on distinguished Senators. When you allow him to rise on a point of order and say that this Committee “sneaked in a Report”, that first of all needs to be deleted from the HANSARD and the records of this House.

The Senate Minority Whip was seated here yesterday in the afternoon. There is a procedure through which you table reports. The Order was called and the Chairperson of that Committee, whether you were there or not, is none of our business.

What we are concerned about is the fact that you have allowed a Senator to cast aspersions on colleagues, saying that those colleagues sneaked business into this House. That cannot be left on the record of this House. We know for a fact that this Order was called and a Report was tabled as is the normal procedure.

Before we go on to the point of order that he has raised, I would wish that Sen. Olekina withdraws the offensive part of his comments. It is just for purposes of record because this is a House of records. We cannot allow a culture where if you do not agree with a particular report, you cast aspersions on your colleagues.

Secondly, he has said this Report is serving selfish interest. That is very shameful. I can see that a Committee sat down and there are minutes of their sittings. Do you want to tell me that we are setting a practice and culture where a Committee of this House can sit down to transact selfish business? In this case, this is a Committee that is Chaired by the Speaker and deputised by his Deputy.

I was taken aback and demand that Sen. Olekina withdraws and apologizes to the Members of this Committee. He does not have to agree with it, to cast aspersions on the Members of this Committee. That cannot be left on record.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Before we proceed, it is official and it was recorded yesterday in the proceedings of this House, that the Report was presented before the House. Whether it is properly before this House or not, that will be subject to a certain verification, which will be done by the Speaker.

In the meantime, I invite Sen. Olekina to withdraw the use of the word “sneak” and use different words.

The Senate Majority Leader (Sen. Cheruiyot): No!

(Loud consultations)

Sen. Olekina: Madam Temporary Speaker, ---

The Temporary Speaker (Sen. Veronica Maina): Let us have order in the House. Sen. Olekina, I have given a very simple direction. The Report was formally tabled. I was in this House yesterday.

We request the use of Parliamentary language, so that if business is properly brought before the House, you could use different words to describe the same thing that you saying without using the sneaky language.

So, I invite Sen. Olekina, to withdraw the use of the word “sneak” then we proceed. I can make a finding on the Report.

Sen. Olekina: Madam Temporary Speaker, thank you for giving a directive. I wish to state here that I said – and the HANSARD will bear me witness – that “when a report is sneaked in”.

The Senate Majority Leader is so emotional. All that I am saying is, let us follow the procedures of this House. We have Standing Orders. He cannot come in here and say that I am against the Report. I did not debate on the substantive matters of the Report. All I did was open page one, two and three. When I opened page three, it is quite evident; it is on my right. I could see clearly that it has only been---

Madam Temporary Speaker, I will not be forced to take in words that I did not emit. I would like to request that the HANSARD be provided so that if, indeed, I said that the Committee tabled the Report, I will be more than happy to withdraw that sentence.

I said, “if a report is sneaked in.” We have a secretariat and if I raise an issue, it could be points of debates that I raised. So, are you telling me that we will now be gagged and forced to use the right words that the Senate Majority Leader will be comfortable with?

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina!

Sen. Olekina: Madam Temporary Speaker, our Standing Orders provide that I substantiate. So, can the HANSARD be brought here, so that it can attest to what the Senate Majority Leader is alleging?

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, I am presiding over the House. I have listened to you and heard your objection. Sen. Olekina, I have given you a direction.

(Loud consultations)

Let us have order in the House. We intend to conduct some business today.

Sen. Olekina, can you withdraw the use of the word “sneaky.” I have given a directive.

(Loud Consultations)

(Sen. Olekina stood walked to the Dispatch desk)

Resume your seat, Sen. Olekina.

What is your point of order, Sen. Mungatana?

Sen. Mungatana MGH: On a point of order, Madam Temporary Speaker. The business of this House must be conducted in order.

Standing Order No.99 forbids anticipation of debate. I have sat here, waiting for the Motion to be moved, so that we are seized of the matter. Even before the Senate Leader of Majority has moved something, we do not want filibustering.

Let us be seized of the matter and then if there are issues, Sen. Olekina will be heard, but not before. You cannot gag the Senate Majority Leader; let him be heard! Let him be heard.

The Temporary Speaker (Sen. Veronica Maina): I have given---

(Loud consultations)

(Sen. Madzayo spoke off record)

The Temporary Speaker (Sen. Veronica Maina): I have not given you yet. Resume your seat until I give you the permission to speak.

(Sen. Madzayo stood in his place)

I have given you direction, Sen. Madzayo and I am certain you understand those directions. Resume your position. There are other hon. Members lined up.

Sen. Olekina, back to you. Withdraw the use of the word “sneaky.” I want to give a verdict on the Report.

Sen. Olekina: Madam Temporary Speaker, I have requested for the HANSARD to be produced. Upon the HANSARD being produced, I will be more than happy to withdraw.

I was begging you to listen to me; to pay attention to me. With all due respect, I was asking you to pay attention to what I was saying. I never said that the Committee sneaked in. That is what the Senate Majority Leader alleged.

(Sen. Cheruiyot spoke off record)

That is why, when something is in dispute---

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, does that amount to a withdrawal that you did not say?

Sen Olekina: Madam Temporary Speaker, that does not amount to a withdrawal because I have requested you and the Standing Orders provide that you can request me to substantiate. The Standing Orders are very clear.

You guided this House and indicated clearly that we will be guided by the Standing Orders, nothing else but these Standing Orders. What I have requested is that you produce the HANSARD. If indeed, what the Senate Majority Leader is alleging is true, then I will stand corrected.

The Temporary Speaker (Sen. Veronica Maina): I will give an opportunity for that HANSARD to be produced by tomorrow, and you will be served with it. If you fail

to substantiate using the HANSARD, you will be ruled to be out of order and sanctions will follow.

Before we get any other points of order, I want to make a finding. There are many requests for points of order. I want to make a finding on that Report based on Standing Order No.223(2) ---

(Sen. Madzayo spoke off record)

What is your point of order, Sen. Madzayo?

Senators, you must make it possible for the business of the House to be conducted. The style we are taking is not safe for the business of the House, and it is important that you also respect the Chair when you are given directions.

Sen Madzayo, please, proceed.

The Senate Minority Leader (Sen. Madzayo): Madam Temporary Speaker, with tremendous respect, the Minority side has a right to also request for points of order, but what we are witnessing now is not proper. Members in the Minority Side are not being accorded an opportunity to make points of order. You have only allowed one side---

The Temporary Speaker (Sen. Veronica Maina): Sen. Madzayo, we were dealing with a Point of Order from Sen. Olekina.

The Senate Minority Leader (Sen. Madzayo): Yes, Madam Temporary Speaker, the Senate Deputy Minority Leader, the Deputy Minority Whip, and other Senators from this side would also like to make their points known, but you are refusing. I do not think that this is proper.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Madzayo, are you accusing the Chair? I hope you are not.

I have given opportunities to both sides of the House to speak on the point of order that was raised by Sen. Olekina himself and I have made a finding on it. I request that you now resume your seat because what you are stating is factually incorrect.

(Loud consultations)

Sen. Wambua: On a point of Order, Madam Temporary Speaker.

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

That will be the last point of order before I make a finding with respect to that Report.

Sen. Wambua: Madam Temporary Speaker, I thought we were out of this, but clearly, we are not.

The point of order raised by Sen Olekina and the contribution by my good friend, the Senator for Tana River, on whether or not it is proper to anticipate debate, are two completely different things. We are asking the Chair to make a determination as to whether the Report that is just about to be tabled or moved for debate is properly before this House.

Madam Temporary Speaker, you said that we should be orderly; I am trying to be orderly. Standing Order No.223 is clear. Do you have a copy of it? Sen. Olekina has demonstrated that Standing Order No.223 (2) has been violated. That whereas the requirement is that five out of the nine Senators should approve a report before it is Tabled, in this case, only four have approved that report. The question that the Minority side is asking the Chair is to make a determination on whether that Report, before it is even moved, is properly before this House.

Lastly, this discussion on procedure and rules is critical. You need to give us direction from where you sit whether if a Member of this House tables a report unprocedurally, and the later on, it is discovered that the report was not properly tabled, this House has a duty of care to its own procedures to correct that mess or we live with it.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, I wish that you had paid close attention to the direction that I had given to the House just before I allowed you to rise on that point of order.

We were finishing discussion on the use of unparliamentarily language used; the use of the word 'sneaky'. I said that I will make a finding on the Report, but you were so agitated, and therefore, even not following through what the Speaker is giving as directions to the House.

I had given a direction that, that will be the last point of order and the I will make a finding as expected by the House on the Report.

I have looked at the report and the Clerk can open that report again for me. Clerk, open that report again for me. I have also looked at the Standing Order No.223 (2), which states-

'The report of a Select Committee having been adopted by a majority of the Senators shall be signed by the Chairperson on behalf of the Committee.'

I hope that is expressly clear. That should settle the matter that the Report is properly before this House.

(Loud consultations)

The adoption of that Report is in the Minutes. If you need the Minutes, they will be availed. On that issue, we will make progress.

(Loud consultations)

Sen. Olekina, there are many Senators in this House.

Sen. Cheptumo, what is your point of order?

(Sen. Olekina spoke off record)

I have given the finding.

Sen. Olekina: That finding is wrong.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, you are going overboard. Do not do that. I have made a ruling.

I will give Sen. Cheptumo a chance to make his point of order. Let us have order in the House once again.

Sen. Cheptumo: Madam Temporary Speaker, I plead with my colleagues. You have given directions on the issue of the language used by the Senator for Narok County. The next question for you to determine, which you have, is if this report is properly before the House.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cheptumo, it has been dispensed with.

Sen. Cheptumo: Madam Temporary Speaker, you read the order which is clear.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Allow Sen. Cheptumo to finish his submission on the point of order.

Sen. Cheptumo: I believe there is an intention by the Minority Side to derail the debate of this particular Motion.

(Sen. Sifuna consulted loudly)

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, he is on a point of order. I believe you know the rules.

Sen. Cheptumo: I say so because Standing Order No.223 is so clear. I plead with our Members. Let us make progress. We need to move and deal with this matter.

I believe the Standing Orders are clear. My colleague, Sen. Olekina, is a senior Member of this House. It is only fair that we allow. It is the majority of the Members of the Committee to sign the report and it will become procedural in the House. It is so clear.

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, what is your point of order?

Sen. Sifuna: Madam Temporary Speaker, my point of order is pursuant to that Standing Order No.223 and what my learned senior, Sen. Cheptumo, has just said.

I do not know why some of our colleagues are imputing some negative notions on the Minority Side. We have demonstrated to this House that if indeed we did not want to take part in any business of the House, we know how to do that. However, we are here as the Minority side ready to contribute our thoughts to this particular matters that is on the Order Paper today.

In my view, if the Standing Orders talk about a majority of Members, it is a question of fact that is easy to establish from the document itself. If indeed you want to know whether majority of Members of a Committee attended a certain meeting, it is such a straightforward thing. We do not understand why we have to fight about it. Every person knows the membership of this Committee. It is not difficult to establish a majority which should be apparent from the document itself.

From the documents that we have seen, only four Members of that Committee have signed the document. How is four out of nine a majority? All we are saying---

(Sen. Cheruiyot consulted loudly)

Senate Majority Leader, I am on a point of order. I have not finished.

The Temporary Speaker (Sen. Veronica Maina): Let him finish his point of order.

Sen. Sifuna: Madam Temporary Speaker, I assure you, on behalf of the Minority side, that nobody here is interested in playing any games. We are interested in protecting the integrity of this House including how business that comes to this Floor is processed. We do not have a problem if the Committee goes back to redo their report and sign with a majority that we can all see. It is a question that is very easily ascertainable.

I do not mean to impute any negativity on the part of the Chair, but, we do not understand how it is so difficult. How can something we are looking at from this position be different from something that you as the Chair are looking at from that position? We do not understand how it is possible.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, wind up your point of order.

Sen. Sifuna: Madam Temporary Speaker, we are all capable of establishing whether a document has been signed by the majority of the Members.

When we see such decisions, then we start questioning whether we have fairness in this House. From those documents, it is very clear that only four Members out of the nine have signed. So, it is not a report that should be brought before this House.

Please, let us not force issues. Let us correct where mistakes have been made and we move forward together as a House.

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, Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I had requested you earlier.

This is not the first time we are finding ourselves in such a situation. The Minority of this House are beginning to set a very bad precedent. Unfortunately, they are aided by your office.

Once the Speaker has made a determination on a matter, the practice of Parliament world over is that that matter is seized off and we move on to the next business. There is no way you can challenge the decision of the Chair. It is common sense.

Secondly, if you wanted to allow them a second bite at the cherry, I want Sen. Olekina, and Sen. Wambua to read the plain reading of the Standing Order they are quoting so that they understand the absurdity of the argument they are making.

Madam Temporary Speaker, read Standing Order No. 223. It speaks that:

‘The report of a Select Committee having been adopted by a majority of the Senators shall be signed by the Chairperson on behalf of the Committee.’

The debate they are having is ‘adoption.’ That once the matter has been adopted--

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(Loud consultations)

Madam Temporary Speaker, can I be heard? Protect me.

(Sen. Madzayo stood in his place)

The Temporary Speaker (Sen. Veronica Maina): Can you allow me--- Sen. Madzayo, resume your seat. Allow the Senate Majority Leader to complete his point of order.

(Loud consultations)

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker---

The Temporary Speaker (Sen. Veronica Maina): I am directing from the Chair that you allow the Senate Majority Leader to finish.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, a plain reading, Standing Order No. 223 speaks to the signature of the Chairperson, the Vice Chairperson or a Member of the Committee. This means that even if this report had been brought with only the signature of the Chairperson alone, it would still have passed. That is the plain reading of Standing Order No.223 (2).

The Temporary Speaker (Sen. Veronica Maina): Resume your seat. He is on his feet.

(Loud consultations)

Sen. Wambua, do not push the Chair any further. Can you allow---

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, we shall not be intimidated.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): The Senate Majority Leader, please, resume your seat. Minority side, let us have order. I have given a ruling on that issue.

(Sen. Madzayo spoke off record)

Sen. Madzayo, this is the third time I have asked you to resume your seat. I will now take action against you. Resume your seat.

Minority and Majority sides, I have rendered ruling on this matter. We proceed with the next Order.

Senate Majority Leader, proceed with the Motion.

I have given a direction. We are moving on with the Motion.

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

The Temporary Speaker (Sen. Veronica Maina): It will pend the direction I have given, Sen. Olekina. It will come after what I have given as direction to proceed with the House.

Proceed, Senate Majority Leader.

MOTION**ADOPTION OF THE FIFTH REPORT OF THE PRC ON THE
REVIEW OF STANDING ORDERS OF THE SENATE**

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I beg to move that pursuant Standing Order No. 267 and 270, the Senate approves the Fifth Report of the Procedure and Rules Committee on periodic amendments to the Standing Orders of the Senate, laid on the Table of the Senate, on Tuesday, 21st March, 2023, and pursuant to the provisions of Article 124 (1) of the Constitution and Standing Orders 270 and 272-

- (i) Resolves to amend its Standing Orders as contained in Appendix 2 to the Report; and
- (ii) Orders that the amendments to the Standing Orders as contained in Appendix 2 to the Report come into effect on the 11th April, 2023.

This Motion is after very good work that was done by our Committee on Procedures and Rules chaired by the Speaker and the Deputy Speaker. They sat down and considered various amendments that had been proposed to the Standing Orders including amendments that had been proposed by some Members of the Minority side.

The Committee deliberated on the matters that were brought before it, listened to the wisdom of those who had proposed the amendments and proceeded to make a conclusion. I am hereby requesting the House that we do agree with the proposal that is being made by the Committee to allow the amendments as have been proposed.

This is a beautiful amendment and I know for a fact that our colleagues in the National Assembly have considered similar amendments. As we speak, they have made it possible that beginning next week, Cabinet Secretaries (CSs) will be allowed into the plenary of the National Assembly to respond to topical issues and matters affecting citizens directly as opposed to the only available platform where Members sometimes have got to wait to make Statement, request a committee which then goes to deliberate on that matter. Sometimes the Senator who has made that request on behalf of his constituents is not even allowed to appear before the committee.

This is an additional mechanism for Senators to avail themselves to this House every Wednesday from 10.00 a.m. to 12.00 p.m. and invite Cabinet Secretaries who have questions to answer before this House to sit at the designated place where it will be determined as per the rules of the Speaker and respond to questions and supplementary questions that are being raised by Members of the Senate.

I do not see how that infringes on the rights of the Members of this Senate who feel for one reason or the other that they do not want Cabinet Secretaries to come to this House to respond to questions. In fact, to the best of my knowledge, this is enhancing the practice of democracy. This is accountability at a very high level.

I would wish to challenge my colleagues on the Minority side who have a problem with this to perhaps consult with their colleagues on the Minority side of the National Assembly who chose to agree with this report such that if we do not agree today with what the Committee is telling us---Can you imagine a situation where you would find---

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, the point of order will come after he finishes moving the Motion.

Some hon. Senators: No!

The Temporary Speaker (Sen. Veronica Maina): Let him finish moving the Motion. You will respond. I shall give you a chance.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I do not know why the Minority side feels fidgety about this particular issue. How this House resolves matters is---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Let us have order.

The Senate Majority Leader (Sen. Cheruiyot): You will have the opportunity to speak. They will choose otherwise and if they do not agree, I am sure they will speak through their vote. Therefore, the second amendment---. You remember for three weeks this House could not move because of the squabbles and fights regarding leadership of the Minority side.

Sen. Sifuna: Because of you!

(Loud consultations)

The Senate Majority Leader (Sen. Cheruiyot): I will ignore the hecklers and proceed with my speech. For three good weeks, squabbles in the minority side---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Senate Majority Leader, use parliamentary language.

(Loud consultations)

(Sen. Wambua stood up in his place)

The Senate Majority Leader (Sen. Cheruiyot): If you heckle, I will---

The Temporary Speaker (Sen. Veronica Maina): Minority side, let us have order once again. Sen. Wambua, resume your seat.

The Senate Majority Leader (Sen. Cheruiyot): I will use parliamentary language on people who behave in a parliamentary way. If you heckle, I will refer to you as a heckler because that is what you are!

The Temporary Speaker (Sen. Veronica Maina): Order, hon. Senators!

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, this is the point. Three weeks ago, we could not make progress in this House because of squabbles in leadership of the Minority side. We have---

Sen. Sifuna: It was caused by you!

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I will ignore somebody heckling in the House and continue. For three good weeks, we

could not make progress. Part of what the Committee on Rules and Procedure has recommended is that once your good office is furnished with a letter either from the Majority Leader, Minority Leader, Majority Whip or Minority Whip regarding leadership for their side on any matter, you are supposed to make a communication within three days of sitting.

I do not understand why anybody could be opposed to such good proposals because we are reacting to live matters. We have seen the culture that is being set in this House where, when you do not agree with a decision of the Speaker, you try to paralyze the business of the House by making allegations, noise and interrupting other speakers as they make their contributions.

Therefore, this is a very good proposal. I support it and wish to request Members of the Senate; those who believe in accountability and diligent oversight to support this Report so that we can make progress together.

I beg to move and request Sen. Wakili Sigei, a Member of this Committee, to second.

I thank you.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker. As I rise to support this Motion, I must, first of all, speak to the issue that led to where we are today. In the history of this House, I am aware that in the 12th Parliament, the Standing Orders of this House were amended not once or twice but more than that. In December, 2018, the Standing Orders were amended in order to change the structure of the committees of this House. This House formerly went through the procedure that we are currently undertaking.

In July, 2020, an amendment to the Standing Orders was also conducted where virtual sittings were accommodated by the House in the course of the COVID-19 Pandemic.

In December, 2021, similar amendments were done to the Standing Orders of this House. Speaking to the Motion that has just been moved by Senate Majority Leader, it is informed by the need to have the House progress in transacting its business.

One of the reasons why this Motion has been moved is to ensure that there is some level of accountability in the Executive by ensuring the Cabinet Secretaries have an opportunity to appear before the Senate to answer questions from Members of this House and also from their representation responsibility conferred to them by the members of the public. They ask questions so that the Executive can answer not only to this House but also to the general public because this is a House that has got roles and responsibilities to deliver to the public.

The proposed amendments to the Standing Orders are on that particular line. I do not see the reason why my colleagues from the Minority Side are saying this is wrong. I moved the notice on the Floor of the House yesterday and nobody objected to it. It was passed and that is the basis upon which today the Motion has been properly moved by the Senate Majority Leader.

Allow me to speak to the issue of numbers. If they were to spare a moment to look at the document placed before them, annexure No. 3 has got the list of names of the Members of the Procedure and Rules Committee that sat and approved the Report. That number is not four as alleged; it is five. I want to ask my colleagues to spare some time

and deal with the document that has been presented before them before they raise matters on procedure and numbers which are glaring.

Madam Temporary Speaker, this amendment makes specific proposals. The first one is about the timeliness within which communication from the Chair is to be made. I am aware that the Senate Majority Leader has alluded to that fact. Three weeks ago, we had that challenge in the House.

The proposals by the Committee is to provide the Speaker with time and opportunity to look at the documentation before their desk so that appropriate communication is made. This is in reference to Standing Order No.23.

Whenever there are changes in the Office of the Senate Majority Leader or the Majority Party, or changes in the Office of the Senate Minority Leader or the Minority Party, the Speaker should have an opportunity to look at the kind of communication placed before him before making a communication to the House.

In this particular case, if it is about considering the authenticity of any document, including a court order, the Speaker will have an opportunity to authenticate the documents filed in court, asking the court about the same and closing the issue, so that we communicate after authenticating the information.

The second proposed amendment on the appearance of the Cabinet Secretaries (CSs) has given this House the opportunity to set a date. In this case, we are proposing Wednesday as a day when questions will be asked. The nature of the question is also provided for. I do not see the reason somebody is opposing it, yet on the other hand, they are asking for accountability from those vested with authority as CSs to run the affairs of this country.

Madam Temporary Speaker, as I second this Motion, I request my colleagues to appreciate the need for CSs, Principal Secretaries (PSs) or the nominees to appear before the House in good time to respond to questions. I request this House to adopt the Motion as presented.

I thank you.

Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I now propose the question.

(Question proposed)

Sen. Mwaruma: On a point of order!

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

Sen. Mwaruma: Madam Temporary Speaker, I rise on a point of order under Standing Order No.102 on Retraction and Apologies. It states as follows-

“A Senator who has used exceptionable words and declines to explain or retract the words or to offer apologies for the use of the words to the satisfaction of the Speaker, shall be deemed to be disorderly and shall be dealt with in accordance with the rules pertaining to disorderly conduct.”

Madam Temporary Speaker, with all due respect, the Senate Majority Leader referred to hon. Senators as “hecklers”. For purposes of record, will I be in order to request that he withdraws the word “hecklers”? I can imagine my son or grandson reading the HANSARD and seeing the Senate Majority Leader referring to hon. Senators as “hecklers”. How will he take it?

Madam Temporary Speaker, I beg that you request the Senate Majority Leader to retract the word “hecklers” that he used to refer to hon. Senators.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mwaruma, this is a spent issue. You should have raised it at the point when the Senate Majority Leader used it. We will proceed because we will not debate that issue.

(Loud consultations)

We are proceeding because there is a clear attempt to derail the business of the House. So---

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

Temporary Speaker (Sen. Veronica Maina): The Motion has been moved and seconded. We are now---

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

Temporary Speaker (Sen. Veronica Maina): What is your point of order? It should not be on that issue because I have ruled on it.

Sen. Sifuna: Madam Temporary Speaker, with the greatest respect, I stood up on a point of order when he made that comment. Your direction – the HANSARD will bear me witness – was that we wait for him to finish moving that Motion before we raise points of order. We have proceeded to do just that. Instead of you giving proper directions on him withdrawing that, you are telling us that the matter is spent. We would like to be given specific directions from your Chair on how exactly that matter is spent.

The HANSARD will bear me witness that you are the one who directed that we wait until he finishes moving the Motion, then raise points of order like Sen. Mwaruma did. So, how is it spent when you have not made a direction on him to withdraw calling us names?

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, while I listen to your point of order, I hesitate to imagine that you want me to revisit that. This is because I will seek---

(Sen. Sifuna stood in his place)

Please, resume your seat Senator.

(Sen. Sifuna sat at his place)

I will seek your description of what was happening a few minutes ago in this House. That is why I do not want to revisit it.

(Sen. Sifuna spoke off record)

I have given instructions. The way we are running---

(Loud consultations)

Hon. Senators, with profound respect to both sides of the House, I will request this House to avoid conducting its business in a manner that appears to be “heckling”. When a Senator is on their feet, I would like us to respect their time and space and allow them to speak. If you disagree, you will find a chance to tell us why you disagree.

For now, let us proceed with the debate. I will ask those who intend to contribute on the Motion to proceed. Going forward, we must do our business in a better manner.

We are creating a bad precedent on the running of business in this House. Profound respect to both sides, but what we have done today does not look good at all.

Hon. Senators, let us proceed with debate and give Kenyans what they are looking for by discussing substantive Motions.

(Loud consultations)

I am done with that issue. I will now call upon a Senator to make their contribution.

(Loud consultations)

Hon. Senators, once again, I have closed that issue as the Chair. We will proceed to debate the Motion. Let us listen to Sen. Cheptumo.

An hon. Senator: Point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Not on that issue.

Sen. Cheptumo: Madam Temporary Speaker, I rise to support the Motion. I served as the Member of Parliament (MP) for Baringo North during the Tenth Parliament. That was before promulgation of the Constitution of Kenya 2010. At that time, we had occasions to raise questions before Ministers.

In the amendments that have been proposed by the Committee, the Motion is trying to allow these elected and nominated Senators serving the interest of the people of Kenya, to face the men and women who have been given the chance by the Government to deal with their matters so that they are able to ask the questions on matters affecting their constituencies and counties.

I stand here as a person who has been able to witness the situation as it is now, and as it was before the 11th Parliament. When we have a CS appearing before this House, so that they can be able to answer questions; this House will have a direct conversation with the people that the Government has given a chance to serve them.

Madam Temporary Speaker, I have chaired the Committee on National Security, Defense and Foreign Relations. We have a problem in this country today. Issues raised by these Members cannot be adequately answered by response to Statements from CSs. There is not even a moment to seek for supplementary questions on those issues.

In my Committee, I now have answers for four Statements whose responses Members of this House are not even able to understand.

This is the moment. I thank the President of the Republic of Kenya, H.E. William Samoei Ruto, because he has confirmed to the nation that he wants a government that is accountable to the people of Kenya, through elected leaders. This is the only moment that these Members can indeed be able to raise issues directly to the Government.

It is indeed the moment. I am proud because I will have similar time like I had in the 10th Parliament, to seek ask questions from Cabinet Secretaries, directly from here.

Madam Temporary Speaker, because of time limitation, this is the direct direction. I therefore, support.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Hon. Senators, I have about 16 requests of Senators who want to contribute to this Motion. I humbly request that we confine ourselves to three minutes per person---

(Loud consultations)

How many minutes? What is the proposal?

(Loud consultations)

How many? Is it five? We also have proposals for three and ten minutes. Okay, let us do five minutes.

Proceed, Sen. Olekina.

Sen. Olekina: Madam Temporary Speaker, I rise to oppose this Motion purely on constitutional and legal standings. We all know that the Constitution is superior to any other piece of legislation. Whether or not this Motion gets the nod from this House, I want to go on record as having opposed it...

(Sen. Olekina's microphone went off)

The Temporary Speaker (Sen. Veronica Maina): Allow him to finish.

Sen. Olekina: It is not to finish. My microphone was off.

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

Sen. Olekina: Madam Temporary Speaker, let me just request and beseech the Chair that this House should only be guided by Standing Orders. Even limiting debate is expressly provided for in the Standing Orders. In the event that we want to limit the debate, we should do so before commencement of any debate.

The truth of the matter is that Standing Order No.1 provides for matters that are not expressly provided for in the Standing Orders. I really want to beseech us to respect our own rules.

I oppose this Motion, first, because Standing Orders are permanent rules and procedures of this House. We have looked at the Constitution. Article 153 is very clear on this matter of inviting CSs to come to Parliament. It is expressly provided for in this Constitution. I will read it. Article 153(3) states that -

“A Cabinet Secretary shall attend before a committee of the National Assembly, or the Senate, when required by the committee, and answer any question concerning a matter for which the Cabinet Secretary is responsible.”

Article 153(4) (a) says -

“4) Cabinet Secretaries shall -

(a) Act in accordance with this Constitution.”

Madam Temporary Speaker, I will stop there. If this House wants to amend the Constitution using its own Standing Orders, then we will be judged by history as people who were greedy, self-seeking and not interested in fighting for the future of this country.

I beseech my colleagues that we do not violate the Constitution. If the framers of the Constitution saw it fit not to allow any stranger to sit in this House, who are we then to change the Constitution through the back door? If we so wish to change the Constitution, why not go and have a referendum?

I beseech the Chair. It is not about time. I know very well that the Majority side is gung-ho on this matter. They want to bring in whatever way they want; we move it without any questions, comma or full stop. Let me be on record by saying that if you push this matter without considering what the Constitution says, then we shall defend this Constitution.

(Applause)

(Amber light was switched on)

Even if this Parliament is now acting as an extension of the Executive, we shall go to the other arm of Government and challenge our own rules. This is going to be very unprecedented.

I end by saying this; lest we forget that power is transient, we should never. When you are sitting there, think about the future generation and the people, we will come up with rules and regulations to defend. Whatever we are doing may be cantankerous or self-seeking, we should do so rethinking about the future generation.

I oppose.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Mandago. Is he there? He is not there.

Next is Sen. Cherarkey.

Sen. Cherarkey: Thank you, Madam Temporary Speaker.

(Sen. Mandago walked into the Chamber)

The Temporary Speaker (Sen. Veronica Maina): Take your seat, Sen. Mandago.

(Laughter)

Sen. Cherarkey: Madam Temporary Speaker, I rise to support this Motion on amendment to the Standing Orders. As provided for by the Constitution, the President did indicate that he wants to work with Parliament. The former President used to see Parliament as enemies, adversaries and nuisance. That is why he used to arrest a number of us.

Madam Temporary Speaker, Article 153 states that a Cabinet Secretary shall attend before a Committee. People should read this Constitution. If you want to know pickpockets in town, see how they read newspapers. They read it upside down.

You need to read this Constitution properly. The Constitution says, “provide Parliament with full and regular reports concerning matters under their control.” It says “provide Parliament”.

These people, including my brother, Sen. Olekina, are like people who read newspapers upside down.

(Laughter)

Articles 153 and 154 of the Constitution are very clear.

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

Sen. Cherarkey: Sen. Olekina should be called out of order. He does not need to shout. He should key in.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, the procedure for seeking a point of order is well delineated under the rules. You have not pressed on your system.

Sen. Olekina: I have pressed. Look at it.

The Temporary Speaker (Sen. Veronica Maina): It is not showing here.

(Loud consultations)

Proceed. I have seen it. It has now come.

Let him raise his point of order. Take a minute, Sen. Olekina.

(Loud consultations)

I do not want you to speak to one another. Speak through the Chair.

Sen. Olekina: Madam Temporary Speaker, is the distinguished Senator from Nandi County in order to state that a distinguished Senator, who represents the people of Narok County reads the newspaper upside down?

I have just read the Constitution. We may be over-zealous in the points that we want to put across. I beseech that you find him completely out of order for his cantankerous behaviour in insulting me. He should not.

I have a lot of respect for Sen. Cherarkey. The HANSARD will bear me witness and I will be happy to produce it. These two were the ones who opposed that provision of attempting to bring in CSs here, quoting the same Article in the Constitution.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, maintain your cool. Let him finish in half a minute.

Sen. Olekina, finish your point of order.

(Loud consultations)

Sen. Olekina: Madam Temporary Speaker, I wish to end by saying---

The Senate Majority Leader (Sen. Cheruiyot): What is your point of order?

Sen. Olekina: Madam Temporary Speaker, the Senate Majority Leader is becoming cantankerous and completely out of order.

The Temporary Speaker (Sen. Veronica Maina): Hon. Members, allow Sen. Olekina to finish his point of order.

(Loud consultations)

Sen. Olekina: Madam Temporary Speaker, it is really disturbing to see the Senate Majority Leader acting like a heckler. It is wrong. He is the Majority Leader and this House belongs to him. He should be leading by example. We have guests in this House who are listening and watching. They are learning and seeing the way he is behaving.

(Loud consultations)

Madam Temporary Speaker, if you allow me to finish---

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, resume your seat now.

Sen. Olekina: Madam Temporary Speaker, how do I resume my seat without prosecuting my point of order?

The Temporary Speaker (Sen. Veronica Maina): I gave you a chance and you should have used it immediately.

(Loud consultations)

Sen. Cherarkey, can you confirm by what you meant by reading the newspaper upside down? Clarify that.

Sen. Cherarkey: Madam Temporary Speaker, I hope my time has been frozen.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, you are not the Speaker for today. You are not the one giving the verdict in the House. Sen. Cherarkey, verify and confirm what you meant by newspaper being read upside down.

Sen. Cherarkey: Madam Temporary Speaker, some of us went to the great school of sons of African gentlemen, Kapsabet Boys. This school has produced two Presidents; the late Daniel Moi and H.E. William Ruto. Now, there is something called euphemism in literature.

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, repeat yourself for the benefit of Members who cannot understand that heavy language.

Sen. Cherarkey: Madam Temporary Speaker, in literature, there is symbolic language. I said "reading newspapers like". I used it figuratively. I did not mean that Sen. Olekina reads the newspaper upside down.

Madam Temporary Speaker, can I proceed to prosecute my three issues?

The Temporary Speaker (Sen. Veronica Maina): The explanation is acceptable. Proceed. It is use of literature.

(Loud consultations)

Sen. Cherarkey: The Minority Side have the habit of walking out but there is no problem. I sympathize and empathize with them. If their leadership of whips are hecklers, then it is very unfortunate.

(Loud consultations)

Standing Order No.34 talks about 9.30 – 1.00 p.m. It is unfortunate that when you pose a question, a number of my colleagues who are Chairpersons have to go literally looking for a CS. This is an opportunity to have a CS on the dock and ask him about the Nairobi Expressway. Let us have the CS for Roads and Transportation here.

Let us ask the CS for the Ministry of East African Community, Arid and Semi-Arid Lands and Regional Development about drought. Let us have CSs here so that we can hold them – not by the balls – but by accountability.

(Laughter)

Madam Temporary Speaker, this is a House of representation and oversight. I do not know why Senators, especially those from the Minority Side, have been going to the public demanding questions in demonstrations. We want to make a structured engagement where we will have proper engagement with the CSs.

Therefore, Standing Order No.34 should be amended within five minutes. We should not even be wasting time. The President has given us the greenlight.

(Loud consultations)

Madam Temporary Speaker, can you chase out---

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I will give each of you a chance to respond to whatever contribution Sen. Cherarkey is giving. Be patient for him to finish.

Sen. Cherarkey, wind up.

Sen. Cherarkey: Madam Temporary Speaker, the Azimio One Kenya Alliance have said they will be demonstrating on Mondays and Thursdays. They should go and demonstrate there and not inside the House.

(Loud consultations)

I am not the Officer Commanding Station (OCS) that you were chasing. I am beyond that. You cannot chase me. He ran away.

(Loud consultations)

Madam Temporary Speaker, protect me.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators!

Sen. Cherarkey: How can someone dare me when they left a T-shirt with the police? I have never run away from the police. I have slept on the floor of a police cell for six days.

(Laughter)

Madam Temporary Speaker, let me finish because these are serious issues. Mama mbogas and Wanjikus want to see CSs here. Please, give me one minute because of that distraction.

The Temporary Speaker (Sen. Veronica Maina): Time is up. Resume your seat, Sen. Cherarkey.

Sen. Osotsi, you may proceed.

Hon. Senators, when you get an opportunity, use the five minutes in a wise manner.

Sen. Osotsi: Madam Temporary Speaker, from the onset, I oppose this Motion from constitutionality.

(Loud consultations)

Madam Temporary Speaker, I require your protection.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, on the Majority Side, allow Sen. Osotsi to contribute.

Sen. Osotsi: Madam Temporary Speaker, an issue was raised through a point of order on the adoption of the Report. You said that you will retire and give a ruling on the same. One of the Members who signed the Report is the Speaker of the Senate.

When you retire to make your ruling, we would like you to also make a ruling on whether the Speaker has a vote in the Committee.

Madam Temporary Speaker, I take you to Article 122 of the Constitution of Kenya, particularly on Article 122(4) that says –

“In reckoning the number of members of a House of Parliament for any purpose of voting in that House, the Speaker of that House shall not be counted as a member.”

Madam Temporary Speaker, the Speaker has adopted the report. Meaning, he has voted for the report. That means that we only have three Members who adopted the report. When you talk about the majority of the Members, passing a report out of the nine Members ---

The Temporary Speaker (Sen. Veronica Maina): Do you wish to be informed? There is a point of information.

(Loud consultations)

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, you are being informed.

(Loud consultations)

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

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Is it a point of order or point of information?

(Several Senators stood in their places)

Resume your seats.

Sen. Osotsi: Madam Temporary Speaker, I need your protection.

The Temporary Speaker (Sen. Veronica Maina): Can the Senators who are standing resume their seats except Sen. Osotsi?

Sen. Cherarkey, be careful now. Resume your seat.

Sen. Osotsi: Madam Temporary Speaker, Article 122(4) is very clear on the voting rights of a Speaker even in committees. When you retire to make a decision, you have to consider Article 122.

The matter that is contained in the report is very substantive. It alters the affairs of this House in a big way. Our own Standing Orders No. 271 is very clear on a matter that is very substantive and affecting the two Houses on how it is being handled and I will read.

Standing Orders No. 271 states-

‘Whenever the Speaker of a House of Parliament is of the opinion that an amendment to the Standing Orders of one House is likely to substantially alter the orderly conduct of the business or affairs between the Houses of Parliament, the Speaker shall, jointly with the Speaker of the other House, cause the respective committees dealing with the matters related to Standing Orders to jointly consider the amendments and to propose a version of the amendments that is agreeable to both Houses and report to the respective Houses.’

Madam Temporary Speaker, looking at this Report, it was not done by a Joint Committee of Parliament but was done singly by the Senate. We have a violation of Article 98 of the Constitution because the amendments contained in this Report is fundamentally going to alter the composition of the Senate.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, your time is up.

Kindly, resume your seat.

Sen. Osotsi: This is like amending---

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, your time is up, resume your seat.

(Sen. Osotsi, spoke off record)

Sen. Osotsi, did you notice that the Speaker asked Sen. Cherarkey to resume his seat when his time was up? Resume your seat.

Sen. Osotsi, for clarification, I rendered a decision on the admissibility of the report. The report was admitted and we proceeded with the Motion which is being debated now. All Senators should confine their contribution to the Motion that is before the House.

Proceed, Sen. Orwoba.

(Loud consultations)

Sen. Orwoba: Thank you, Madam Temporary Speaker, I ask that you protect me so that I can deliver my contribution.

(Laughter)

I support this Motion and not because of anything but because we are an oversight House. This is the ‘upper’ House. We play the oversight role. If you look at the mandate

of the Senate, the oversight that we are playing is to ensure that the Executive delivers on its duties. Why would any sane Senator on the Floor of the House actually oppose this Motion?

I presented about three Statements four months ago and they were sent to different Committees. In those Committees as they tried to deal with those Statements, part of it is summoning Cabinet Secretaries (CSs). It is becoming very difficult for CSs to appear before different Committees because, today, they are being summoned by one committee; the next day, they have to go to another committee.

Madam Temporary Speaker, for purposes of logistics, when we have plenary sessions on Wednesdays and have different CSs coming to answer to all matters, I do not see why our Senators from Opposition would oppose that just for the sake of playing opposition. This is a Motion that is going to help and aide us in playing oversight. I do not see the issue.

Let me speak on two things in my four minutes, we had the issue of the sex for work in Kericho. Our Committee was sent to Kericho to go and carry out investigations and talk to stakeholders. The processes that we have currently when summoning a CS are tedious. I see this as an opportunity for us to deliver many matters in terms of oversight.

By now, we would have summoned the CS in the Ministry of Labour and Social Protection to find out what they have done in terms of that issue of Kericho.

The Temporary Speaker (Sen. Veronica Maina): Sen. Chimera, do you have a point of order? What is your point of order? Resume your seat, Sen. Orwoba.

Sen. Chimera: Madam Temporary Speaker, I rise under Standing Order No.109. Allow me to read the Standing Order in verbatim. Standing Order 109 states-

‘After the question on a Motion the Mover of which has a right of reply has been proposed, a Senator rising in his or her place may claim to move “That, the Mover be now called upon to reply”, and, unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the Senate, or an infringement of the rights of Senators, the question “That, the Mover be now called upon to reply”, shall be put forthwith, and decided without amendment or debate and if that question is agreed to, the Mover may immediately reply to the debate, and as soon as the Mover has concluded or, if the Mover does not wish to reply, the Speaker shall put the question, subject to Standing Order 66 (3) (Manner of debating Motions).

(Loud consultations)

Madam Temporary Speaker, please, protect me. I am on a point of order.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): I will render a judgement on it. The Speaker is in charge; let me hear the point of order. I will respond to it.

(Sen. M. Kajwang’ stood in his place)

Resume your seat Sen. M. Kajwang’.

(Sen. M. Kajwang' spoke off record)

Sen. M. Kajwang', resume your seat.

The Temporary Speaker (Sen. Veronica Maina): Sen. Chimera, finish your point of order.

Sen. Chimera: Madam Temporary Speaker, having read Standing Order No. 109, I humbly wish to move that the Mover of this Motion be called to reply.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Chimera, resume your seat, I want to make a decision.

This is a Motion which is of serious national importance and we shall allow the same to be debated. We have a number of Senators who have shown interest in the Motion.

(Loud consultations)

Order. Order. Resume your seats, Sen. Chimera and Sen. Cherarkey.

Proceed with your point of order, Sen. Kathuri.

Sen. Kathuri: Thank you, Madam Temporary Speaker. Sen. Chimera is in order. Any decision is made by this House,

(Loud consultations)

If Sen. Chimera has put that Standing Order, what we should do, is just to get a Secunder and put the matter to vote on whether we agree the Mover to reply. That is the procedure.

With a lot of humility, I have been in Parliament for 11 years. That has always been the procedure. Sen. M. Kajwang', agrees that Sen. Chimera is quite in order.

The Temporary Speaker (Sen. Veronica Maina): Senators, resume your Seats. I will give direction on how we will proceed.

(Loud consultations)

I have given direction. So, can you resume your seats? Senators, let us have order now. This is a House of rules and procedures. I had given direction that we will resume this debate tomorrow.

(Applause)

An hon. Senator: Right now!

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, resume you seat.

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

The Temporary Speaker (Sen. Veronica Maina): Resume your Seats; Sen. Madzayo and Sen. Kamau.

(Sen. Cherarkey spoke off record)

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, earlier, the Speaker directed that the Senate Minority Leader moves a Motion under Standing Order No.37 at 5:30 p.m.

I have been informed that it is now 5:32 p.m. We will resume and finalize this other debate tomorrow. So, I call upon the Senate Minority Leader to move the Motion.

(Applause)

(Sen. Orwoba spoke off record)

Sen. Orwoba, you will have your four minutes tomorrow.

(Loud consultations)

Minority side, I call you to order.

Hon. Senators, something is evidently not correct today in the way we are conducting our business. That decision does not favour a certain side. It is a neutral decision by the Speaker.

I call upon the Senate Minority Leader. I now bar any further comment on the earlier debate in this House. We proceed with what I have placed before the House.

(Loud consultations)

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 37

POLICE BRUTALITY AND ARBITRARY ARRESTS DURING
DEMONSTRATIONS HELD ON 20TH MARCH 2023

The Senate Minority Leader (Sen. Madzayo): Bi Spika wa Muda, ninakushukuru kwa kunipa nafasi hii.

(Sen. Sifuna consulted loudly)

Tafadhali ndugu yangu, nikiwa hapa ninaongea, tuheshimiane---

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, stop making noise in the House.

(Laughter)

(Sen. Sifuna spoke off record)

The Senate Minority Leader (Sen. Madzayo): Ahsante, Bi. Spika wa Muda. Mimi nilikuwa hapa tokea mwaka 2013. Damu ya Maseneta walioko hapa, wengi wao ni vijana. Kwa hivyo, mimi ninaelewa wakiwa na harakati hizi ya kushindana.

Ndugu zangu shupavu, Sen. Chimera, Maseneta wa Nandi, Kericho na wengine ni washupavu na damu zao ni moto.

(Laughter)

The Senate Minority Leader (Sen. Madzayo): Bi. Spika wa Muda, cha kwanza ninaomba---

(Sen. Chute spoke-off record)

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

The Senate Minority Leader (Sen. Madzayo): Niruhusu niweze kuweka Mjadala huu kwanza katika Bunge la Seneti hivi sasa.

The Temporary Speaker (Sen. Veronica Maina): Sen Madzayo, let me hear the point of order by Sen. Chute.

(A hon. Sen. Spoke off record)

He is not moving; I have not given him a right to move a Motion before this House. He is on a point of order. Please, settle down.

Sen. Chute: Asante sana Bi. Spika wa Muda. Hii Nyumba imerudi kuwa kama ya watoto wadogo wanaopiga kilele. Pande zote mbili ni kama hawakuheshimu. Sen. Cherarkey, upande huu na upande ule mwingine, ni Seneta wa Nairobi. Tafadhali tupa hawa watu nje ili wajue hicho kiti umekikalia vizuri. Kama hautafanya hivyo, hawa watu watakusumbua mpaka kesho.

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

(Loud consultations)

Hon. Senators, you have heard the invitation to the Chair. Restrain yourselves. Otherwise, I might be tempted to go that direction.

The Senate Minority Leader (Sen. Madzayo): Bi. Spika wa Muda, sijui kama hiyo uliyomruhusu Sen. Chute aseme ni hoja ya nidhamu. Lakini, wacha niendele. Ni maono mazuri kwa sababu vijana kama ndugu yangu Sen. Cheruiyot hawezi kupata.

Bi. Spika wa Muda ungeniruhusu kuweka huu mjadala mbele ya Bunge la Seneti hivi sasa ile tuweze kuhairisha kikao hiki na kujadiliana mjadala huu ambao ni wa kitaifa na hususan unahusikana na ukatili wa polisi wa kufungia Waheshimiwa na wananchi katika vituo vya polisi kote nchini pamoja na viongozi wao.

(Loud consultations)

Ngoja ninakuja. Usifanye haraka, *mosmos*.

Chama cha Muungano wa Azimio la Umoja kilipeana taarifa kwa mkuu wa polisi wa kituo cha Nairobi, kuarifu kuhusu maandamano ya amani yaliyokuwa yafanyike katika Wilaya ya Jiji la Nairobi, tarehe 20.03.2023. Walitumia haki yao kulingana na Kipengele 37 cha Katiba kuandamana kwa amani bila kubeba silaha zozote.

Siku ya maandamano ilikuwa siku ya amani sana. Mimi mwenyewe nikiwa mmoja wa wale watu, tuliweza kutoka hapa kama waheshimiwa na tukaenda tukisema ya kwamba ni haki yetu kulingana na kipengele cha 87 ya kwamba tunaweza kuandamana. Ni jambo la kushangaza. Na mimi naomba, isije ikatokea upande wowote kwa sababu, umeamka usiku wa leo ukiwa upande huu, kesho, unaweza amka ukiwa upande ule mwingine. Hio ndio hali ya maisha na hali ya vile watu wanaishi.

Bi. Spika wa Muda, sisi tulikuwa tunadai haki zetu. Cha kustaaajabisha ni kwamba askari waliweza kupiga *teargas* bila ilani yoyote na bila kukasirishwa.

Tafadhali ndugu yangu Sen. Cherarkey, jambo hili nilalozungumzia linahusika na kitu cha kitaifa kilichotendeka upande wa upinzani. Kama hakina maana kwako, tafadhali wacha Bi. Spika wa Muda aniskize na wananchi wote katika Kenya saa hizi wananiskiza. Kwa heshima, tafadhali.

Bi. Spika wa Muda, tuko na kijana aliyeuaua huko Kisumu. Tuko na kijana ambaye alikuwa anasoma katika Chuo Kikuu cha Maseno. Hawa wawili walipigwa risasi na kufa. Sio kupigwa risasi kuumia tu, ama kuwa wagonjwa; walipigwa risasi na polisi. Kawaida katika kitengo hiki cha 87 cha Katiba---

Sasa hivi, nimesema ya kwamba Sen. Cherarkey aondoke, hivi sasa, kumekuja mwingine tena, anakuongelea na huniskizi.

Kitendo hicho cha kupiga risasi ni kinyume cha sheria. Askari hawaruhusiwi kupiga watu risasi. Askari hawaruhusiwi kurusha hata hiyo *teargas* ambayo inarushwa wakati kuna fujo. Lakini haya yalikuwa maandamano ambayo yalikuwa yanafanywa katika nchi nzima kulingana na ile barua pepe tuliyopeleka kwa mkuu hapa Nairobi ili watu waweze kufanya maandamano ya amani.

Lakini polisi wenyewe walikuwa wa kwanza kutupa *teargas* mimi nikiwa hapo. Tukawafuata na tukawaambia hata wakaomba msamaha-- Alimwambia yule polisi asitupe *teargas* kwa watu ambao hawana silaha, hawapigi kelele wala hawafanyi fujo, na tukaingia.

Bi. Spika wa Muda, tuliweza kuingia pale KICC ambapo kuna ofisi za Maseneta. Tuliweza kusimama pale na kuongea kidogo na watu waliokuwa pale. Hakukuwa na fujo hata kidogo. Kitu cha kushangaza ni kwamba ndani ya KICC Wabunge hawatembe wakiwa wamebeba bunduki.

Mimi mwenyewe nilikuwa mmoja wa wale watu, na nilikuwa sina silaha wala sijui kutumia hata hiyo silaha wala sina haja nayo. Tulipigwa *teargas*, watu waka---

An hon. Senator: Mulirusha mawe!

The Senate Minority Leader (Sen. Madzayo): Niheshimu kama nilivyokuheshimu. *I also have a way of insulting you. This is a serious matter and it involves people who have lost their lives. Their families are right now crying.* Familia saa hizi, popote walipo, kutoka Kisumu na Maseno, watu wanalia. Familia zimepoteza wapendwa wao. Kama hawa wako na wapendwa wao, sawa sawa. Lakini, wale waliouaua ni wa upande huu mwingine ambao hawakuwa katika hizo harakati.

Bi. Spika wa Muda, cha mwisho, ilikuwa ni makosa makubwa sana kwa askari kuchukua hatama ya kuongoza hilo jeshi lao na kuanza kutupa kwa wananchi ambao walikuwa wanaenda hivi hivi. Kitu cha kwanza, walipiga risasi gari la Baba Raila Amolo Odinga. Waliweza kupiga risasi gari ya Kalonzo Musyoka na waliweza pia kutupa *teargas*. Tulizona, sio siri. Zilionekana katika Kenya nzima.

Mimi nikiwa Kiongozi wa Walio Wachache ndani ya Bunge la Seneti, inafaa nipewe heshima kwa sababu kesho kutakuwa na kiongozi kutoka upande huu. Nakuombea Mungu. Itakuwa ni aibu kuweza kuchukuliwa wewe na polisi, kushikwa na kurushwa ndani namna ile. Vile vile, ni makosa makubwa sana kuweza kuamrisha kiongozi wa chama cha Azimio kuweza kupigwa risasi gari lake. Hiyo ilikuwa inamaanisha nini? Askari lazima wazingatie mambo ya sheria.

Cha muhimu ni kwamba, Kiongozi wa Walio Wachache ndani ya Bunge la Kitaifa na Kiongozi wa Walio Wachache ndani ya Bunge la Seneti, Mbunge wa Kilifi South, Ken Chonga, pamoja na Mbunge wangu wa Malindi, mama wa Kiisalmu, wakati huu ambapo watu wanazingatia *Al Hayat*, kuenda kuomba Mungu na kuweza kuheshimu dini ya Kiislamu, alikuwa amevaa buibui na hijab alishikwa bila heshima; akavuliwa hijab na buibui.

Wewe unajua *hijab* ina maana gani kwa sababu wewe ni wakili mkubwa huko Mombasa. Ni mavazi ya heshima kwa sababu huwezi kuona msichana ama mwanamke wa kiislamu akiwa bila mtandio ama *hijab* ya kufunga nywele zake.

Hon. Senators: Shame!

The Senate Leader of Minority (Sen. Madzayo): Huu ni wakati mgumu sana kwa waislamu. Ni wakati ambao wamejiweka mbele ya Mwenyezi Mungu. Mhe. Amina Munyazi alionyeshwa madharau ambayo haiyajaonekana ndani ya hii nchi kwa mwanamke wa Kiislamu.

Bi. Spika wa Muda, hili si jambo la kuchezea namna hiyo. Hata kama wewe ni askari na hauheshimi dini ya Kiislamu, sisi tunakwambia kitu kimoja, wewe askari uliyemvua nguo, na wewe ulikuwa mama, heshimu dini ya kiislamu.

(Applause)

Kumalizia, ninasema ya kwamba, heshima sio utumwa. Leo tuko pande hii, kesho tunaweza kuwa upande ule. Viongozi wa upinzani, Baba Raila Odinga, Martha Karua, Kalonzo Musyoka, Eugene Wamalwa, Jeremiah Kioni na Wajakoyah, lazima wapewe heshima ndani ya hii nchi. Ni lazima wapewe heshima---

(The red light went on)

Unaweza kunipatia dakika moja nimalize? Mimi ni kiongozi.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Finish. You have one minute.

The Minority Leader (Sen. Madzayo): Nikimalizia, hao ni viongozi wetu ndani ya chama chetu. Kwa hivyo, tunahitaji heshima. Kitu chochote kikitendeka kwa Baba Raila Odinga, tutajua ni polisi ama ni wale wengine ambao wameweza kujipanga na

kuweza kufanya vile wanavyotaka kufanya. Nataka kutoa tahadhari ya kwamba jambo lolote lisitendeke juu ya Baba Raila Amolo Odinga.

Namuita ndugu yangu Sen. Sifuna aje aweze kusecond.

Sen. Sifuna: Madam Temporary Speaker, we on the Minority side have come to accept that in this House we are going to have to contend for the next four years with the prevalence of acute short man syndrome on the majority side. This is because, there are two Senators who are now becoming---

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, did you stand to second the Motion?

Sen. Sifuna: Yes. I stand to second the Motion.

The Temporary Speaker (Sen. Veronica Maina): Can you stick to the content of the Motion.

Sen. Sifuna: Yes, allow me to lay a background.

The Temporary Speaker (Sen. Veronica Maina): Do not describe physical characteristics.

Sen. Sifuna: No, I have not described anyone, Madam Temporary Speaker. I want to request you, please do not engage in our brawls. Please. Just sit and be a neutral referee. I have not named anyone.

I have just said that we have come to accept that in this House, we will have to be content with a serious acute short man syndrome by some people on the Majority side. This is why every time we stand here, we are hardly given an opportunity to express our opinions in the manner we are supposed to.

We have raised objections and we shall not tire to put it on record. In fact, our interest here is to debate soberly. However, if the environment does not allow us to debate soberly, we will act the way these short men want us to act. We will be short like them.

(Loud consultations)

You are not a short man. Why are you heckling? Stop heckling.

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

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Mandago? Resume your seat, Sen. Sifuna.

Sen. Sifuna: Please pause my time because I am not done. *Leo niko na nyinyi.*

Sen. Mandago: Madam Temporary Speaker, you have given guidance to this House regarding the debate. Is it in order for the Senator of Nairobi to keep talking about the short man syndrome by Members of the majority side? He should utilize his time to debate. We are patient but we do not take it kindly when Senators seem to threaten the Chair all the time. Can we have good debate in this House?

Sen. Sifuna, you have been given time to prosecute--- I am addressing the Chair. The Senator for Nairobi City County should simply second the Motion and sit down, instead of saying that we have a short man syndrome. You should not threaten us. For the first time, I have spoken about threatening people, and you know that I rarely speak about issues of discipline.

The Temporary Speaker (Sen. Veronica Maina): Senator, I hope you will take the wisdom of that objection by Sen. Mandago.

Sen. Sifuna: Madam Temporary Speaker, I am not obliged to be lectured or listen to anyone. We have children. If you feel the need to lecture anyone, go home and lecture your children. I was not elected to be lectured by anyone. That is a fact. Let me proceed to second the Motion.

(Loud consultations)

Madam Temporary Speaker, I am happy this afternoon that the person on the Chair is a lawyer and I will be speaking to you, a colleague in the profession. Under Article 37, we are all allowed to peacefully participate in demonstrations, picket, and present petitions to public authorities.

We in the Opposition are the primary exercisers of these rights. We have gone a step further to have this matter litigated so that the bounds to these rights are delineated. We have prosecuted this matter before the High Court which has clearly spelt out, under the exercise of these rights, the responsibilities of the conveners of the *maandamano* and the police.

Having complied with the requirements of the law--- In fact, under the Public Order Act, all that is required is a notification to the police that you will hold peaceful processions. Indeed, the coalition known as Azimio la Umoja did notify the Nairobi City County Commander via a written letter that we would be undertaking *maandamano*.

It was shocking to hear the police in Nairobi declaring that the planned procession by Azimio la Umoja-One Kenya Coalition Party was unlawful. Since we understand that under the Constitution, we do not need anybody's permission, we decided to proceed and that is exactly what we did.

I was in the company of my colleagues here when we set out from these premises to Kenyatta International Convention Centre (KICC) which, by the way, is an extension of Parliament because that is where our offices as Senators in this Republic are.

We were surprised to meet the Officer Commanding Station (OCS) at KICC. Without any reason or excuse, they hurled teargas at MPs. You could see me following him to ask if there was a grave mistake we had committed to warrant being teargassed. We have decided that there will be individual responsibility on police officers.

Not every police officer misbehaved on that day. Kudos to all police officers who observed Article 37 of the Constitution. However, there are a few elements who still do not understand the breadth of this right. We have identified the OCS at KICC and a Directorate of Criminal Investigations (DCI) officer who was targeting Members, including myself, with live rounds of ammunition at Wabera Street.

I want to tell the people who laugh and joke about these matters. Luckily you are my colleagues. In the event that I meet my demise on the streets, my family has assured that they shall set aside a tent for Senators. You might laugh and joke about these things, but you are the ones who will come to bury me and I am sure you will do it gladly.

I wish I had time to print an image of a child called Master Lewis Musera, who was hit on the head by a tear gas canister in Makadara. People laugh and say it is just a tear gas canister. If that projectile is fired directly at you from the distance at which I am speaking, be assured there will be funeral in your home area. What are we doing as Azimio la Umoja-One Kenya coalition party leaders?

In the past, we have had people who have confessed to infiltrating Opposition *maandamano* and committing nefarious crimes, including people who bring old cars and

burn them and accuse supporters of the Orange Democratic Movement (ODM). We are going to be vigilant. In fact, we will not tolerate anyone calling themselves police officers in civilian clothing on Monday and Thursday next week, because that is how thugs are coming to harm people.

Madam Temporary Speaker, we want to exercise our rights.

The Temporary Speaker (Sen. Veronica Maina): Sen Sifuna, your time is up.

Sen. Sifuna: My microphone is still on---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen Sifuna, I will give you half a minute to finish your sentence.

Sen. Sifuna: Madam Temporary Speaker, we have heard dangerous pronouncements from some of the colleagues in the political circles talking about final solutions to certain people who they consider to be the problem. I am a student of history just like you. You will remember the question of the final solution of Jews in Europe.

We should not use such language. By the time you resort to violence, it means you have lost the argument. Engage us in robust debate the way we are doing here. If you are unable to engage us, please remove the police, so that we can deal with you straight, *mundu khu mundu*.

I thank you.

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

Sen. Sifuna: Madam Temporary Speaker, with all my body parts, I second the Motion.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Thang'wa.

Sen. Thang'wa: Madam Temporary Speaker, as I rise to comment on the Motion, I rarely shout or heckle but I want to interest you with the term "Stockholm syndrome". That is where one falls in love with their tormentors.

Madam Temporary Speaker, I have been rising on points of order with my cool but you have not been seeing me. I am not insinuating anything but when Members of the minority side raise points of order even on a small issue, they are given opportunity. Kindly check on that.

(An hon. Senator spoke off record)

I am just giving information. It is going to happen as we watch. Just wait and see.

Madam Temporary Speaker, I have one thing to say. First, I do not support police brutality. I do not support people being beaten up, injured or shot by the police. However, we should remember that Members of the minority side are on record saying that; "*ndio baba awe, lazima watu kadhaa wafe.*"

Every time there are demonstrations, they hide their goons within the police so that they can kill a few people and then come and set the agenda on this House.

Madam Temporary Speaker, they sit down after the demonstration and say, “how many people did we kill? How many people died?” How many people--- so that---

(Loud consultations)

I need to be heard.

Temporary Speaker (Sen. Veronica Maina): Let me give directions. Let him finish. I allowed the Motion to be moved and seconded. This is the first response to the debate. Let him finish.

Sen. Thangw’a: I can equally be a heckler. It is only that I restrain myself. It should be known by Members on the Minority side. We had something that looked like a demonstration in Nairobi on Monday. It was not a demonstration.

When people demonstrate on top of cars, that is not a demonstration but a caravan. In a demonstration you walk with your people. When they are harmed, you do not sneak yourself into your car and then pretend that you are demonstrating on behalf of your people.

We did not have that. What was there, was for them to look for an opportunity to harm the people of Nairobi, Kisumu, and some people of Migori. We have to say enough is enough. This is why we are asking on this Floor whether one Rt. hon. Raila Amollo Odinga is above the law

(Applause)

I urge the police and the President. Arrest the man. Let us see what will happen. What will happen? People will go to bed. People will go to sleep. People will go on with whatever they are doing.

I want to remind this House that we cannot every day talk about this side of the Minority. When we talk about heckling--- Yes, they brought about the Motion.

(Loud consultations)

We want them to be investigated. They are even cowards. They are doing a demonstration inside KICC where there is a protected area. Get out of the streets if you are real and you want to do these demonstrations. They had to wait for *Baba*. Nobody could walk without *Baba*. That is why I am saying he is the reason some people died on that day. He is the reason our people lost their properties. He is the reason people did not go on with their businesses.

We want that man arrested and you know, the sun will come from that side and will go to the other side and nothing will happen. Today because of what has been happening, I urge these Members of this side of the divide the Majority, now lose your cool.

Let us not sit here because when they are heckling, we can equally do so. We can equally hold shirts and do what they can do, even better. It is time we lose our cool and meet them as they said *mundu khu mundu*.

(Loud consultations)

Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I gave a direction today that this House will conduct business through proper Motions and debates. Shouting down one another is not going to achieve the business of the day. It is not going to be the style when the Speaker is in the Chair. I will now call ---

(Sen. Sifuna spoke off record)

No. I am following some certain order. So, Sen. Oketch Gicheru, you are next on the order list. You have your few minutes.

(Sen. Oketch Gicheru spoke off record)

Debate, you have the Floor.

Sen. Oketch Gicheru: Madam Temporary Speaker, this House is becoming ungovernable. I think it is very important that---

(Sen. Cherarkey spoke off record)

Boss, you cannot tell me what to do. You are not--- I will shout at you. You are not going to tell me what to do in this House. I did not come here with your permission.

(Sen. Orwoba spoke off record)

Yes. Then you are not the Chairperson. Do not shout here. You do not become a hooligan.

Temporary Speaker (Sen. Veronica Maina): Hon. Senators---

Sen. Oketch Gicheru: Protect me, Madam Temporary Speaker. These hooligans are shouting in the House all the time.

Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I have pleaded several times that we maintain order in the House. The Speaker will now take action against any Senator found to be out of order. So, maintain the cool. Let us do the debate.

Sen. Oketch Gicheru: I agree with you, Madam Temporary Speaker. Before I prosecute my thoughts on this matter, I think that the frustration that is coming in this House over and over is because of the simple issue of not implementing the rules of this House.

If a hon. Senator in this House can decide to call the name of anybody without a substantive Motion to be discussed in this House the way we have seen the Senator of Kiambu County discussing Rt. hon. Raila Odinga, what are we doing? In every single bit of discussion of this House, help us enforce the laws of this House. There is no way you can allow Sen. Thangw'a to talk about an individual who is not here at all.

If this happens---

(Sen. Cherarkey spoke off record)

Do you want to pour water on me?

(Laughter)

If this keeps on happening, we will have a problem. However, that said, we are seeing this country going back to the dark days of the Kenya African National Union (KANU). This is because of the use of unwarranted force by the police in this Country that we saw in the demonstration. This does not stop with anybody but the President of this Country.

(Sen. Cherarkey spoke off record)

Do not shout. Do not be a heckler *bwana!* It is very critical that we note the following. You know, there are people in Government today whose cases were withdrawn by International Criminal Court (ICC). Those withdrawn cases were not an acquittal.

If we start using the police against people who are simply demonstrating--- We have seen in countries such as the United States (US) where people even demonstrate outside the White House and Parliament.

Sen. Thangw'a was talking about some of us waiting for Raila Odinga to come and demonstrate. I personally left this place on the said day and started walking to KICC. Raila Odinga was not there. I was tear gassed. A tear gas canister was thrown into my car. If we do not stop the police brutality that is meted out by the Ruto regime in this country, this country will go back to the KANU days

(Sen. Mandago spoke off record)

Wacha ku-shout Mandago. Wewe pia utanza kupigwa na tear gas. Do not shout here.

Temporary Speaker (Sen. Veronica Maina): Hon. Senators, once again---

Sen. Oketch Gicheru: Madam Temporary Speaker, this is what I was saying. People keep on shouting here against your own rules.

Temporary Speaker (Sen. Veronica Maina): Hon. Senators---

Sen. Oketch Gicheru: I am a Senator and I am supposed to be heard in silence. Sen. Orwoba is shouting. This hooligan here is shouting. Another hooligan there is shouting.

Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, when I am addressing the House, you ought to listen, not to continue shouting. Resume your seat. Resume your seat Sen. Oketch Gicheru.

Sen. Oketch Gicheru, if I have to warn you again, I will rule you out of order and you might have to exit.

Sen. Okenyuri, you may proceed.

Sen. Oketch Gicheru: Madam Temporary Speaker, my time was not over.

Temporary Speaker (Sen. Veronica Maina): Sen. Okenyuri, proceed.

(Loud consultations)

Sen. Okenyuri: Thank you, Madam Temporary Speaker. I also want to be heard in total silence.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Order, Senators. Resume your seats.

Sen. Oketch Gicheru, while on your feet, I heard you use the word hooligan.

(Sen. Madzayo stood in his place)

The Temporary Speaker (Sen. Veronica Maina): Resume your seat, Sen. Madzayo.

The Chair is intelligent enough to understand the meaning of some of these English words you are throwing around in this House. I request Senators not to use insults against any Senator within the precincts of this building. That is a firm directive, until we finish today's debate.

Sen. Methu, Sen. Okenyuri and all other Senators, please resume to your seats.

(Loud consultations)

Senators, this is your House to make or break. The trend we are taking right now does not look good at all. It looks bad.

(Sen. Madzayo spoke off record)

An. Hon. Senator: Na si mnyamaze!

The Temporary Speaker (Sen. Veronica Maina): It could actually be looking worse to those who are shouting while I am addressing the House. We ought to have respect for the Chair and the House.

When I call Sen. Okenyuri to address the House, I will request silence and no shouting or trading of words across. When a Senator is on her feet and you do that, it means you do not respect the House or the person who is debating.

I am once again giving directives before I finally take action against Senators who will defy.

Proceed, Sen. Okenyuri.

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

Sen. Okenyuri: Thank you, Madam Temporary Speaker. I want to be heard in silence.

(Sen. Oketch Gicheru stood in his place)

The Temporary Speaker (Sen. Veronica Maina): Resume your seat, Sen. Oketch Gicheru.

Sen. Okenyuri: You cannot keep reminding us that you want to be heard in silence but when other people rise to speak, you do not want to engage. Thank you.

It is greatest height of hypocrisy when Members of Opposition go out there demonstrating and then come here demanding that they are given an opportunity for dialogue. It is in this same House, where we have complained about Statements taking forever. They have now been given an opportunity to engage Cabinet Secretaries (CSs),

but they end up terming it as unconstitutional. They then want to resolve to *maandamano*.

(Loud consultation)

Madam Temporary Speaker, I am afraid that I will not be able to prosecute my issue.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Senators, resume your seats.

(Sen. Cherarkey and Sen. Oketch Gicheru spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Sen. Wambua, you are out of order. Sen. Cherarkey and Sen. Oketch Gicheru, resume your seats.

(Loud consultations)

Resume your seats, Senators. I will rule you out of order, if you do not obey what the Chair is saying. Sen. Oketch Gicheru, that is out of order. That serves as the final warning.

Sen. Okenyuri, address the House. You will be accorded the respect that every Senator deserves. Please, address the House.

(Loud consultations)

Sen. Okenyuri: Thank you, Madam Temporary Speaker. At least I have an opportunity to be heard in silence. I rarely speak on such occasions when there is noise all over. Nonetheless, today, I had to speak.

It is the height of hypocrisy when the Opposition keeps demonstrating out there asking for dialogue. This afternoon, we had an opportunity for them to support the Motion that is approving CSs---

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

The Temporary Speaker (Sen. Veronica Maina): I gave a direction. Sen. Okenyuri is first addressing the House.

Sen. Okenyuri: Thank you, Madam Temporary Speaker. I repeat, it is the height of hypocrisy when the Opposition keeps demonstrating out there asking for dialogue. As we saw this afternoon, when an opportunity arose in this House, they were very adamant to support the Motion that is going to admit CSs to be answerable to Members of this House. In return, they will then say that their issues are not being handled. What hypocrisy is this?

I saw my respected Senate Minority Leader was arrested. He is out because he is a man of means. The other Azimio la Umoja protestors are not yet out. 'Slay queens' kept admiring how endowed you are and kept scavenging. Senate Minority Leader, we do

not want you to keep demanding for dialogue and then keep on paralyzing business in this House.

(Loud consultations)

The President had an agenda, which we, as Government, will push and ensure the Kenya Kwanza manifesto is achieved. We cannot allow *maandamano* whereby people's property is affected and businesses paralyzed, all in the name of dialogue and wanting to sneak in a 'handshake.'

Sen. Olekina: On a point of order.

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

(Sen. Olekina stood in his place)

The Temporary Speaker (Sen. Veronica Maina): Resume your seat.

Sen. Okenyuri: We are not going to have a 'handshake' in this country. That was a bad governance experiment for this country.

Thank you.

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, what is your point of order?

(Sen. Olekina spoke off record)

The Temporary Speaker (Sen. Veronica Maina): I will give each side one point of order.

Sen. Orwoba: Madam Temporary Speaker, I rise on a point of order. You have spoken about parliamentary language. As a woman who is sometimes mistaken and abused, I ask that Sen. Okenyuri withdraws the 'slay queens' remark. You cannot call people 'slay queens'. Please let her withdraw it.

The Temporary Speaker (Sen. Veronica Maina): Yes, Sen. Okenyuri.

Sen. Okenyuri: Madam Temporary Speaker, I was making reference to 'slay queens' out there, who were admiring assets of the Senate Minority Leader. Why should I withdraw that?

(Applause)

The Temporary Speaker (Sen. Veronica Maina): I will give one point of order to Sen. Olekina. I will give him only one minute.

Sen. Olekina: Madam Temporary Speaker, with all due respect, I stand on a point of order under Standing Order No.98. I beseech our colleagues; we are all respected and distinguished Members, who represent our counties. The way we are carrying ourselves this afternoon, is not distinguished.

I have a reason as to why I stand under Standing Order No.98(1), which states as follows –

“Any Senator may raise a point of order at any time during the speech of another Senator, stating that the Senator raises a point of order and that Senator shall be required to indicate the Standing Order upon which the point of order is based.”

Madam Temporary Speaker, there are two issues here. While you were on your feet, two of our colleagues here, were insulting each other. It is not right. We are here discussing a very important matter. Can I just request that we act as hon. Members? Today, we are not being honourable.

On our side here, we noticed that when the distinguished Senator for Migori County was speaking, he was interrupted. Maybe because of the noise back and forth, he had not finished prosecuting his issues.

Madam Temporary Speaker, I request that as you sit on that Chair, look at both sides and do not to hesitate---

(An. hon. Senator spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Wind up, Sen. Olekina.

Sen. Olekina: Madam Temporary Speaker, I wish that the Majority side would just lend me an ear. I want to remind you – this is the last word that I am going to give you today – power has gotten into your head and power is transient.

(Loud consultations)

Madam Temporary Speaker, I know you are a Member of the other side. However, when you sit there, you must be impartial.

The Temporary Speaker (Sen. Veronica Maina): Order, Members.

Sen. Olekina: Madam Temporary Speaker, we cannot carry ourselves as if we are not distinguished Members.

(Loud consultations)

We are reducing this House to a very noisy club, where our own views cannot be heard. I will restrict myself to calling them honourable although their actions are not honourable this afternoon.

(Loud consultations)

Madam Temporary Speaker, I beseech your Chair to be impartial and fair when it comes to allowing us to speak. If a Member from the Minority side was the one that was heckling or talking right now, you would be saying that we are out of order.

However, you are quiet when the Senate Majority Leader is leading his entire troop to violate these Standing Orders and that leaves a lot to be desired.

The Temporary Speaker (Sen. Veronica Maina): Sen. Olekina, I gave you one minute to raise that point of order. We are seeking for order in the House. Let us continually by example. If the Chair gives you one minute, stick to it and make your point.

Hon. Senators, you could have done better this afternoon.

Sen. Oketch Gicheru, your time was up, the system kept time and it timed you out as you were making side issues as part of your debate.

We proceed on to Sen. Cherarkey.

Sen. Cherarkey: Madam Temporary Speaker, I rise to oppose the Motion by the Senate Minority Leader in the strongest terms possible. What we saw on Monday was an

abuse of Article 37 where the beginning of the right of another person is the start of the right of the next person.

(Loud Consultations)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, on the Majority side, maintain order.

Sen. Cherarkey: Madam Temporary Speaker, I have seen that the Azimio-One Kenya Alliance have sympathy addiction. The allegation that the police shot at their leaders while it was their bodyguards who were shooting at them in order to get sympathy from the public---

(Loud consultations)

Madam Temporary Speaker, are you aware that 24 police officers were injured, 10 police vehicles were damaged and seven officers were injured in Nyanza? The demonstrations we saw on Monday were only in three places; Migori, Kisumu and Kibra. The demonstrations were nowhere else. These people are economic saboteurs. Over Kshs2 billion was lost. My lawyer colleagues in Kenya Kwanza are collecting and doing quantum, quantifying the losses that were done by demonstrators of the Azimio One Kenya Alliance.

Madam Temporary Speaker, we are moving to Court to sue hon. Raila Odinga, hon. Kalonzo Musyoka, hon. Wajackoyah among others to ensure they compensate farmers. We shall also include Sen. Madzayo. We shall sue them.

(Loud consultations)

I want to speak on the issue of elections because I am still within time. Sen. Madzayo comes from the Coast region. The holy month of Ramadhan is beginning tomorrow or next week. Can they respect Muslims as they start their Holy Month? They are supposed to be praying, to be generous and peace loving.

Madam Temporary Speaker, the fourth issue is to assure the Minority Side that there will be no handshake, co-operation or *nusu mkate* whether they demonstrate on Mondays and Thursdays or not. I commend the police officers; they must deal ruthlessly with these hooligans.

I thank the police of the City of Nairobi. The property and lives of Kenyans must be protected. If there is an issue of one person who died in Maseno, there is the Independent Policing Oversight Authority (IPOA). We also sympathize and empathize with the family. There is also the Directorate of Criminal Investigations (DCIO). If they want to accuse the police, there are agencies and entities that are in place.

Madam Temporary Speaker, the sponsors, including the former President who are sponsoring the demonstrations are doing so because there is investigations into corruption and extra-judicial killings, where innocent sons in Kilifi and Mombasa were being killed and thrown into River Yala or thrown in the Tsavo National Park.

(Loud consultations)

The people in Kilifi were affected by the extrajudicial killings. I went to Kilifi when I was the Chairperson of the Committee on Justice, Legal Affairs and Human Rights. There were many extra-judicial killings in Kilifi.

(Loud consultations)

(Sen. Madzayo stood in his place)

When the President is talking about finishing the issue of extra-judicial killings---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Resume your seat, Sen. Madzayo.

Sen. Cherarkey: Madam Temporary Speaker, I must be heard in silence. We shall not be intimidated or blackmailed.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Wind up, Sen. Cherarkey. Can you resume your seat, you will get a chance.

Sen. Cherarkey: During the “handshake” Government ---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Madzayo, you are out of order. I will now ask you ---

(Sen. Madzayo spoke off record)

Sen. Madzayo resume your seat. You are out of order.

(Sen. Madzayo stood in his place)

I will now ask the Serjeant-at-Arms, to ask ----

I asked you to resume your seat. It is that simple. I will give you your time to respond.

(Loud consultations)

Sen. Cherarkey, say your final remarks then you sit.

Sen. Cherarkey: Correct, Madam Temporary Speaker. I will not be intimidated or blackmailed. I will speak. I will not be silenced. I am not a coward.

(Sen. Sifuna spoke off record)

What can you do to me? No. Do not threaten me, my friend. You cannot threaten me. *Wewe ni kitu kidogo sana.*

Madam Temporary Speaker, in conclusion---

The Temporary Speaker (Sen. Veronica Maina): Please, conclude.

Sen. Cherarkey: The sponsors of *maandamano* or *Azimio* are the people who want to prevent investigations on extra judicial killings and corruption. That is Uhuru Kenyatta. He must stop sponsoring *maandamano*.

I thank you.

(Loud consultations)

(Sen. Oketch Gicheru, spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, I want to give you an opportunity to raise your point of order. However, before I do that, let me issue this caution. Increasingly, there is a lot of disrespect in the manner in which you are handling business in this House. I give you this opportunity to rise with a warning. You cannot be shouting at a debater on the Floor when you will still get a chance to speak your point.

So, I give you a chance but with caution.

Sen. Oketch Gicheru: Madam Temporary Speaker, once again, protect me from the Senate Majority Leader. I want to execute this in a very humble manner. We are pleading with you that let the rules of this House be adhered to.

Sen. Cherarkey has several times spoken and called individuals, that are senior Members of this society, names on this Floor.

Our Standing Orders do not allow us to bring anybody's name in this House without a substantive Motion. The reason as to why you might see us as chaotic and shouting is because there is no way these people keep on calling other people names and you allow it.

Madam Temporary Speaker, Sen. Cherarkey has just called the Senate Minority Leader, a killer and you did not mention anything about it. So, we are pleading with you to please execute the rule of this House.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Kinyua.

(Loud consultations)

Sen. Kinyua: Bi. Spika wa Muda, ninashukuru kwa kunipa fursa. Ni vizuri Hoja hii imeletwa leo ndio watu waeze kuongea. Kulingana na Katiba ya Kenya, Kipengele 37, kinasema vizuri sana, maandamano yanapaswa yafanywe lakini kwa amani. Kwa hivyo, watu kubeba mawe ni jambo ambalo linaudhi sana. Kuwashambulia Wakenya wengine na kuwaibia ni jambo ambalo halikubaliki. Mimi niliona maandamano hayo watu walikuwa wanatembea hapa mjini na wakafanya maduka ya watu yafungwe.

Bi. Spika wa Muda, watu wliashambuliwa na hata wengine wako *mortuary*. Ukweli ujulikane, kile kilichoniudhi zaidi, nikuona Kiongozi wa Waliowachache na wengine wameshikwa.

The Temporary Speaker (Sen. Veronica Maina): Wind up, Sen. Kinyua. I want to take one more person from this side.

Sen. Kinyua: Kwa hivyo, Bi. Spika wa Muda, ni vizuri historia ya anayeongoza maandamano ijulikane.

Tunajua ya kwamba alifanya maandamano akasumbua Rais Moi hadi akamfanya kuwa waziri, alafu akafurahi. Kutoka hapo, akafanya maandano tena wakati wa Rais Mwai Kibaki, akafanywa kuwa Waziri Mkuu.

Akafanya maandamano wakati wa Rais Uhuru Kenyatta, akasalimiwa. Ukiona jina Orange Democratic Movement (ODM), inamaanisha *One Dangerous Man* na anajulikana ni nani. Anajulikana.

Kwa hivyo, inapaswa ijulikane vizuri ya kwamba hata sasa---

(Sen. Kinyua's microphone was switched off)

The Temporary Speaker (Sen. Veronica Maina): Your time is up, Sen. Kinyua. Let us have Sen. Wambua, the last one.

Sen. Wambua, unfortunately, it is 6.30 p.m.

ADJOURNMENT

Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday 23rd March, 2023 at 2.30 p.m.

The Senate rose at 6.31 p.m.