

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 29<sup>th</sup> March, 2023

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

*[The Deputy Speaker (Sen. Kathuri) in the Chair]*

### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITING

**The Deputy Speaker** (Sen. Kathuri): Serjeant-at-arms, I can see the Clerk has established that there is no quorum. Kindly ring the Quorum Bell for five minutes.

*(The Quorum Bell was rung)*

We now have quorum. Let us transact business.  
Clerk, proceed.

### PETITION

There is a Petition by Sen. Cherarkey.

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

That Petition is deferred.

*(Petition deferred)*

### PAPERS LAID

REPORTS ON THE FINANCIAL STATEMENTS  
OF VARIOUS ENTITIES

Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 29<sup>th</sup> March, 2023:

Report of the Auditor General on the financial statement of the Kajiado County Executive for the year ended 30<sup>th</sup> June, 2022.

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

Report of the Auditor General on the financial statement of the Kajiado County Assembly Car Loan & Mortgage Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the financial statement of the Kajiado County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

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

Mr. Deputy Speaker, Sir, I beg to lay.

*(Sen. Cheruiyot tabled the documents)*

**The Deputy Speaker** (Sen. Kathuri): Okay. Thank you.

### STATEMENTS

We have several Statements. We will start with the one under Standing Order No.53(1), by the Senator for West Pokot County, Sen. Murgor.

#### GRABBING OF LAND BELONGING TO KANYARKWAT GROUP RANCH

The Statement stands deferred.

*(Statement deferred)*

Next is by the Senator for Nandi County, Sen. Cherarkey.

#### ALLEGED MISMANAGEMENT AT THE SPORTS ARTS AND SOCIAL DEVELOPMENT FUND

He is also absent. The Statement is deferred.

*(Statement deferred)*

The other one is by the Senator for Kisumu County, Sen. (Prof.) Tom Ojienda SC.

#### POOR STATE OF DELIVERY OF HEALTH SERVICES IN KISUMU COUNTY

Still deferred.

*(Statement deferred)*

Next is by the nominated Senator, Sen. Crystal Asige.

INACCURATE DATA OF PWDS  
IN THE NATIONAL CENSUS OF 2019

That Statement stands deferred.

*(Statement deferred)*

Next Statement is by Sen. Ogolla.

STATUS OF RUMA AND KODERA FORESTS  
IN HOMA BAY COUNTY

**Sen. Mwaruma:** Thank you, Mr. Deputy Speaker, Sir---

**The Deputy Speaker** (Sen. Kathuri): Are you Sen. Beatrice Ogolla?

*(Sen. Mwaruma spoke off record)*

Okay. Proceed to read on her behalf.

**Sen. Mwaruma:** Thank you, Mr. Deputy Speaker, Sir. I stand to seek this Statement on behalf of the nominated Senator, Sen. Ogolla, from Kisumu County, on the status of Ruma and Kodera forests in Homa Bay County.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of Ruma and Kodera forests in Homa Bay County.

In the Statement the Committee should-

(1) Appraise the Senate on the circumstances that led to the massive cut down of trees in the forests and state who approved the deforestation.

(2) State when reforestation is to commence in the two forests.

That is the end of the Statement. Thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Somebody to work on this screen. Do we have any Member interested in making a comment?

Yes, Sen. Maanzo.

**Sen. Maanzo:** Mr. Deputy Speaker, Sir, for the next one. Not this particular one.

**The Deputy Speaker** (Sen. Kathuri): The next Statement is by Senator for Vihiga County, Sen. Osotsi.

STATUS OF DEGAZETEMENT OF KIBIRI FOREST  
AND SETTLEMENT OF SHIRU/SHAVIRINGA  
SETTLEMENT SCHEME

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, I wish to request for a statement on the status of degazettement of Kibiri Forest and Settlement at Shiru/Shaviringa Settlement Scheme.

Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order 53(1), to seek a statement from the Standing Committee on Land, Environment and Natural Resources, regarding the status of degazettement of Kibiri Forest and Settlement at Shiru/Shaviringa Settlement Scheme.

In the Statement, the Committee should -

(1) Cause an inquiry into the status of the Government's written assurance to Parliament, *vide* a letter dated 1<sup>st</sup> December, 2021, which made an official commitment to resolve the long outstanding issues of settlement of people residing in the Shiru/Shaviringa Settlement Scheme.

(2) Give reasons for the inordinate delay by the Vihiga County Government to petition Parliament on alteration of boundaries of Kakamega Forest, to exclude Shiru and Shaviringa Settlement Schemes in light of the land exchange programme which was initiated by the Government in 1985 during the creation of Vihiga District Headquarters at Mbale.

(3) Apprise the Senate on the status of the boundary survey by Kenya Forest Service and relevant ministries, stating the amount of public funds budgeted for the survey exercise; giving the status of National Environmental Management Authority (NEMA) Environmental Impact Assessment, which was to be done concurrently with the survey exercise.

(4) Give the status of the ongoing exercise to fence Kakamega Forest, stating the Forest cutline indicating whether the aforementioned Scheme is within the cut-line.

(5) Give reasons for the delay in the implementation of the Presidential directive via letter Ref. No. OP/CAB/26/1/3A dated 1<sup>st</sup> April 2014 which directed the degazettement to be fast-tracked.

(6) Give reasons why the specific recommendations on this matter contained in the Report of inquiry into illegal/irregular Allocation of the land have not been implemented.

(7) Cause an inquiry into allegations that certain individuals who benefitted from the excisions of some sections of the forest have been undermining efforts to finalize the issuance of titles to the *bonafide* beneficiaries.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Osotsi, you approached me to make a comment on your Statement. I can see Standing Order No.53(4) allows me to give you or any other Senator some minutes to comment at the dispensation of the Chair. So, you have the Floor.

**Sen. Osotsi:** Thank you, Mr. Deputy Speaker, Sir. This is a very serious matter. It is a situation where in the late 1980s when Vihiga District had been created, the Government resettled people in Kibiri Forest. This was on an understanding that their land was going to be taken over by the Government and they would be compensated by being settled in the Kibiri Forest. Several years later, these people do not have title deeds and that place has not been degazetted as a settlement scheme.

I raised this matter in the National Assembly in the 12<sup>th</sup> Parliament. Some progress was made and the Government committed to start the process of settling these people. However, this process has stalled.

Just about a month ago, these people invaded the office of the Governor where we also have the county referral hospital. They demanded that they were going to take back

their land because though the Government took their land, they did not surrender their titles deeds. Therefore, the Government installations are hosted on private land.

Mr. Deputy Speaker, Sir, this matter has been going on for years. Leaders in this area have made a lot of intervention, but nothing has been done. I wish Hon. Sen. (Dr.) Khalwale was here, the County Government of Kakamega is in the process of fencing Kakamega forest. These people are being fenced inside the forest.

In the Ndung'u Report and even in the TJRC Report, it was indicated very clearly that these people surrendered their lands and the Government had no reason to deny them land in the settlement scheme where the Government took them.

Mr. Deputy Speaker, Sir, I request that using your powers under Standing Order No 1, you direct that the committee responsible takes this matter seriously and gives it a priority because now we are going to have a conflict. The conflict between these people who genuinely gave out their land and the Government, which has not surrendered their land them.

I hope that this Senate will help me as a Senator for Vihiga County, to resolve this problem once and for all.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Osotsi.

Sen. Maanzo, you have the Floor.

**Sen. Maanzo:** Thank you Mr. Deputy Speaker, Sir. This is a very serious and emotive matter. As Hon. Sen. Osotsi has stated, it was already before the National Assembly in the 12<sup>th</sup> Parliament, and it has escalated over a long time.

This case creates an exception because ordinarily now, Kenya and the whole world is protecting forests. The distinction in this case is that the people around that area gave away their land and they did not get in the back. The place is being fenced and they are being fenced inside and that the place should have been gazetted for settlement, removed from the forest and allowed. However, the practice is that no forests should undergo through that procedure because, we need to conserve all the forests in the country. We need to plant more trees. It is a call to the whole world. It is a serious global matter.

I support Sen. Osotsi and say that forests need to be protected, even what remains after excision and even these people are being given this land, they should also plant trees so that we live up to the theme. It is unfair for the Government to have reversed its decision. Those people are going to be removed from a land that is going to be afforested again.

I am pleading with the committee to move the speed so that because it has been a long time promise of the government, that it can be fulfilled.

Mr. Deputy Speaker, Sir, this has also happened in the case of resettling people in other forests. I believe where a government had given a direction, after following all the procedures, then the direction should not be reversed by subsequent governments because governments enjoy perpetual succession.

However, bearing in mind, we must really conserve forests, we must avoid the so-called farming in forests, invading of forest, burning down a forest. In Makueni County, quite several people try to burn charcoal or burn the forest, and that has been very difficult for us. I have witnessed similar cases many other parts of the country, including the latest forest, which was burned on Monday in Kiambu. It is a very sad situation. We should all conserve trees for the future of the nation and for the future of all of us.

I support.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Maanzo.

Sen. Kisang, you have the Floor.

**Sen. Kisang**: Thank you, Mr. Deputy Speaker, Sir. I rise to support the Statement by Hon. Sen. Osotsi. In the 11th Parliament, I presented a similar issue concerning Marakwet West in Elgeyo Marakwet County. In 1994, Marakwet District was carved out of Elgeyo Marakwet County. There is a community that gave out its land just like what has happened in Vihiga County.

For over 20 or 25 years, the people of Vihiga who gave out their pieces of land to create space for the district headquarters are still staying in the forest without title deeds.

I followed up on this matter between 2013 to 2017. I discovered about seven areas in the country that have a similar problem. The issue rests at the Cabinet. The Cabinet has not sat to approve the de-gazettement. I know the issue that Sen. Maanzo is talking about.

According to the 2005 Forest Act, it is very difficult to do the de-gazettement of land. However, people have already given out the land. They do not have the title deeds because they have surrendered to the Government. They are living on the land without title deeds. It is a very difficult situation.

The Committee needs to move with speed, and we resolve this thing once and for all. Some people fear that this might open up a Pandora's Box for others to do illegal de-gazettement of other forest. However, this case is well documented from as early as late 80s. In Elgeyo Marakwet County, people gave up their land to pave way for the construction of Kapsor District headquarters for Marakwet West, they moved to an area called Chibara. Those people are now landless; they do not have anything. Their case is similar to what has happened in Vihiga County.

The Committee needs to look at this matter holistically so that we come up with a solution to help our people once and for all. People are suffering yet they had land that they gave willingly after negotiating with the Government that was there then. We know that Government is in the perpetuity; the Government of the late President Moi who was there then and the current Government or any other are the same. These are our people; we need to help them to acquire relevant documents. The Kenya Forest Service (KFS) should not push them out.

I thank you. I beg to support this Statement.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Senator.

Sen. Onyonka, you have the Floor.

**Sen. Onyonka**: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to support my brother, Sen. Osotsi, for raising such a critical issue. As you know; you, a few Members who are in this House and I have been in this Parliament for many years. We have been constantly discussing the issue of our lands; the land question in Kenya.

This issue of land has come at the right time in the Senate. If you look around on what is happening in our politics, the outstanding issues that are coming up are those relating to land. It is necessary for us to look at the Ndungu Report. It is okay for us to look at the Kiliku Report. It is important for us to look at all the reports that have discussed and raised critical issues about the land question in Kenya.

Mr. Deputy Speaker, Sir, leaving that alone, I have to make my declaration here that I seem to have a matter, which is affecting me personally, but is being handled by a Governor in one of the counties in our Republic. What is happening now is that, when a

governor comes after the governor who was there before has left, that governor changes the rules and sets up adhoc committees, does not regard the law and runs around all over this place trying to tell his people that he is trying to reclaim land that was stolen by the grabbers.

In reality, some of the residents on those lands are very poor squatters who have lived there for more than 25 years. In some cases, land was annexed and allocated fairly while in other cases it was grabbed, as the public is aware.

I believe that our Government has not been very keen on land policy; on land demarcation; on which land we must keep strictly for agricultural purposes, what needs to be kept strictly for development in terms of building infrastructure or building houses or building railways. We should not deal with this matter in a piecemeal manner.

Instead of us looking at the issue that Sen. Osotsi has talked about, there is one issue from Kisii County, where I come from. Sen. Okiya Omtatah will talk about land that has been grabbed from the airport in Busia County.

I am happy that the Senate Majority Leader is here. I would like to make a very special request. Discuss with the President and tell him that we need a special commission to go around the Republic of Kenya and come up with the implementable resolutions which will remove the amount of anger and conflict that exists in our country because of the land question.

I believe that it is necessary for us to seriously look at this issue. That way, we can try and limit or reduce the amount of anger, desperation and frustration that many of our voters have. This will make sure that we have a reasonable land policy. If somebody wants to come to Kenya and be a squatter, they can buy land without having any question about it.

Mr. Deputy Speaker, Sir, finally, if you wanted to buy a piece of land in Rwanda, you can do it online from Nairobi. They have a portal where you access the pictures on your phone. You go to the Attorney-General's office, and he tells you whether you can buy that land or not. I do not understand why we cannot do that in Kenya yet the Kenyan surveyors and engineers set up the systems in Rwanda.

*(Interruption of debate on Statement)*

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I recognize the school visiting the Senate. Later, I will give two more Senators a chance to make comments on the same Statement. I see there is a lot of interest in Statements touching on land issues.

## COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM LENANA SCHOOL,  
NAIROBI CITY COUNTY

Hon. Senators, we have visiting teachers and students from the Lenana School in Nairobi County. In the Public Gallery, we have 86 form four students, accompanied by three teachers from the Lenana School in Nairobi City County who are in the Senate on an education tour.

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

I thank you.

Sen. Omogeni, please proceed.

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, allow me on behalf of the Senator for Nairobi City County, Sen. Sifuna, to welcome students from Lenana School to the Senate.

In our days, when we used to attend O levels and aspire to go to 'A' levels, Lenana High School was one of the schools that used to attract a lot of interest from students. Only the ones who were top used to make it to Lenana.

Today, I am proud to welcome students from Lenana High School. I am happy that they have shown keen interest to visit the Senate so that they can understand the operations of Parliament.

Lenana School is very promising. I have no doubt that perhaps in the midst of these students, in the years ahead, may arise a Senator for Nairobi City County.

I welcome them to the Senate.

Mr. Deputy Speaker, Sir, this issue that has been raised---

**The Deputy Speaker** (Sen. Kathuri): Sen. Omogeni, let me find out whether there are other Senators interested to welcome the students. I will give you the opportunity to make your comments on the Statement.

Sen. Mwaruma, please proceed.

**Sen. Mwaruma:** Thank you, Mr. Deputy Speaker, Sir. On behalf of the delegation of Nairobi City County; Sen. Sifuna, Sen. Tabitha Mutinda and Sen. Nyamu, allow me to join you in welcoming the students of Lenana School to the Senate of Kenya.

As you know, in Kenya we have a bicameral Parliament where we have the Senate, where we are, and the other House is the National Assembly. Basically, we protect devolution. I encourage you to work hard so that one time, you find a way to the Senate of Kenya. Here, we make laws that govern our country.

For you to run a country, you require laws and policies. I know most people would want to come to Lenana School because it is one of the top schools. I had a Standard Eight student who wanted to come to Lenana School. However, he ended up in Maseno School this year, in Form One. So, feel welcome and learn as much as you can.

**The Deputy Speaker** (Sen. Kathuri): Sen. Beth Syengo, please proceed. Lenana School is a school that everybody would like to be associated with. So, I will give two more Senators to welcome the students.

**Sen. Beth Syengo:** Thank you, Mr. Deputy Speaker, Sir. Let me add my voice in welcoming Lenana School to this House on behalf of the women.

I know these boys have mothers at home. I extend a warm welcome to them I also encourage them to set goals that they want to achieve in life and more so, to be very ambitious.

Mr. Deputy Speaker, Sir, in this House, we are people who have excelled in different fields in life. Therefore, these students can also excel and do very well. There is a saying that goes that the young people are the leaders of tomorrow. They can start now and remain leaders throughout their lives.

I welcome them to the Senate.



**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I was to challenge you this afternoon on whether you went to Lenana High School, but luckily, I have got Senator for Homa Bay County, an old boy of Lenana High School.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I join you and the House to welcome the second batch of students from Lenana school, also called 'Changez.'

Once these young men complete school, they will be called laibons. This is because they will have been processed through one of the finest institutions of learning in this Republic.

This House has never had a shortage of laibons. As I mentioned yesterday when I welcomed the batch that was here, the former Deputy Speaker of this House and the current Cabinet Secretary for Interior and National Administration, Prof. Kindiki, is a laibon. He is an old boy of Lenana School. The current Governor of Nairobi City County, who has also been the Senator of Nairobi City County in this house, is a 'Changerian' or a laibon.

Mr. Deputy Speaker, Sir, yours truly is a laibon who was in James house in block five which used to be a bit close to Riruta. So, our hobby in the evenings was to go and grab some *mutura* from Riruta. However, I am not encouraging the boys to do so. This is because if they do those kinds of activities, they will end up becoming politicians like me and they will come to this House.

I want to encourage the laibons that are in the gallery. I hope that amongst them, I will get my future lawyer or doctor. I do not trust the doctors in this House to treat me. Particularly, Sen. (Dr.) Khalwale, the Senate Majority Whip and the Senator for Kakamega County. I cannot trust him with an injection. So, ---.

**The Deputy Speaker** (Sen. Kathuri): Sen. M. Kajwang', you are totally out of order. You cannot discuss the conduct of the Senator for Kakamega County. If he could be here to defend himself, it could be better. Now you want to attack him because he is not around. Please desist from that route.

Withdraw that statement that you cannot trust him. You are on national television.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, with a lot of respect, I withdraw. I have spent the entire morning sitting next to the bullfighter. So, I believe he has infected me in a way.

I hope that the bunch that is here will be our doctors, lawyers, software engineers in future. They shall be the ones providing solutions that this continent and globe faces as far as climate change is concerned. They will be the team that will take us to the metaverse and one that will carry Elon Musks ambition and that of other billionaires that there could be life outside this planet that we can explore and humanity can master the universe.

I encourage the boys from Lenana School. The reason why it is called 'Changes' is because it changes people. They come in as villagers, but after four years they are refined gentlemen. I encourage them to change from villagers and not to think of themselves as Luos, Kikuyus and Kambas because this is a national school that admits boys from all corners of the country; that after four years let them see themselves as Kenyans.

I cannot fail to say this is. Lenana is a school that has produced real men, not those other men who toss up and down. Real men. That is why Lenana was the best school when it came to rugby until the schools from western Kenya came along.

The Students in schools in Western Kenya eat food like cassava, yams and starchy things for breakfast, while students of Lenana eat Yorkshire pudding and such exotic things. That is the reason why rugby moved from Lenana School, St Mary's School and Nairobi School and went to Musingu School where Sen. Sifuna attended. It also went to a few miscellaneous schools in Western Kenya on account of the diet that they take.

I finalise by marveling that in this Parliament, I have met alumni of very great schools; Alliance School, Starehe Boys, Kenya High School and all the choice schools. I have met people from Yale like Sen. Oketch Gicheru. However, I am yet to meet in the corridors of Parliament - even though I meet them in the county assemblies' corridors - someone from Nairobi School who has made it to Parliament.

*(Laughter)*

Mr. Deputy Speaker, Sir, Nairobi School is our perennial rival and on that account, there have been more Senators, Members of Parliament and Cabinet Secretaries from Lenana School as compared to those from Nairobi School. I welcome the boys and wish them success in the upcoming exams.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. M. Kajwang' these miscellaneous schools have also brought Senators to this House. I am one of those who went to these miscellaneous schools. We thank God. Let us hear from Sen. Okenyuri who is closer to them age wise.

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir. I also want to join my colleague Senators in welcoming the students from 'Changes'. Back in my high school days, I was in the Kenya High School *alias* the Bomerians. Those were our brother school for a long time, until I came out here. To the boys in Lenana School, you have a very golden opportunity. Kenya is a land of all possibilities and you been privileged to be in that good school that other people have not had the opportunity to.

Remember you have actually made it to this Senate, so it has gone down in history. When you go out there do not disappoint the rest. I want to differ with my good Senator, Sen. M. Kajwang' from Homa Bay County on discouraging you from being politicians. Politics and political leadership need a test of smart brains with clarity of mind so that we also change how things are done in these platforms.

Before you pursue your other ambitions, I want to also encourage you. I am a young person like you are. I was in one of those privileged schools from a very humble background, but I have transitted all the way to this national platform.

I want to encourage you that you have all the chances to explore your abilities and shine in this country not only in the different careers that you want to take up but also in political leadership. Education is the only other thing that makes us equal.

In this House you can present your ideas so long as you sell your policies well to the people. I want to discourage you from solely listening to what the good Senator from Homa Bay County is saying that Kenya does not need more politicians. We need political

leadership so that we can sort out most of these challenges we are facing as a country. You are welcome.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Proceed Sen. Onyonka

**Sen. Onyonka:** Naibu Spika asanti kwa kunipa hii nafasi ili nichangie hii mada ya kuwakaribisha wanafunzi wa shule ya upili ya Lenana. Nimesikia ndugu yangu Sen. M. Kajwang' amesema kuhusu shule za upili ilhali sikua na bahati ya kusomea katika shule hii lakini nilisoma na ndugu yake Joe Okoto Kajwang' katika shule ya upili ya Kisii. Baadaye tulikuja kupatana katika chuo kikuu cha Nairobi na pale ndipo nikapatana na ndugu Sen. M. Kajwang.

Ingawa tulihudhuria zile shule ambazo hazipatikani katika runinga tulijaribu sana na kufika hadi mahali tupo. Jambo la pili ningetaka kumwambia Sen. M. Kajwang' na wanafunzi ni kuwa nimezungumza katika lugha ya Kiswahili kwa sababu ningependa kuwasihii nyinyi vijana wadogo kuwa lugha ya taifa ni muhimu. Popote ambapo utakapotembea nchini Kenya au ulimwenguni ukiulizwa umetoka wapi na kusema Kenya; jambo la kwanza anauliza ni habari gani.

Ningependa kuwasihii wanafunzi wa shule ya upili ya Lenana kwamba shule yenu inalo jina nzuri, ina heshima na kuna viongozi wengi waliosoma katika shule hii. Tafadhali muwe na heshima, nidhamu na muendeleo kufanya vizuri. Baba zenu hawana utajiri mwingi. Akili unazotoa kwa masomo ndio itakupa nafasi ya kutembea ulimwengu. Nadhani mnanielewa.

Ikiwezekana zingatia yale mawaidha tunayotumia katika hili Bunge ama *Standing Orders*. Angalia Katiba yetu ili muanze kuzoea kujua kazi mtakayofanya, ikiwa itakuwa kazi ya MCA au Mbunge au Seneta. Ukifika hapa utakuwa na ujuzi ni lipi tunalofanya katika hili Bunge. Asante kwa kufika hapa na nimesikia Sen. M. Kajwang' akisema kwamba atawanunulia soda kabla hamjaondoka.

Asante.

(Laughter)

**The Deputy Speaker** (Sen. Kathuri): Sen. Oketch Gicheru are you also saying that you were at Lenana School?

**Sen. Oketch Gicheru:** Thank you, Mr. Speaker, Sir. I did not attend Lenana School, but I did attend a pretty good school. I went to Friends School Kamusinga in Bungoma. I can see the faces of the students there getting excited. Friends School was a very good school; our motto was use common sense. Sen. M. Kajwang' has struggled so much with his own conflicted self of whether he should stay in politics or practice law. I can assure you that is an issue of common sense.

Sen. M. Kajwang' has been very consistent in advising 'Changerians' who have been able to come to this House not to embark in politics. My friends - I think I am close to you age wise- sometimes I do have the privilege to be close to you in terms of experiences. I can hear some whispers behind me but that is fine. Do not forget where you have come from. When you are balkanized into a group of students from Lenana School sometimes you can forget your backgrounds.

What makes you what you are today is the background that you come from. If you look at your own individual background, you have got challenges and opportunities that you have faced in the past. Being in Lenana School, therefore, means that your future is

extremely important. What I encourage you to do is not to arrive because Lenana should not be the last place you want to go. The world should be your stage of play.

With regard to politics, I urge you to pursue all your dreams and be whatever you want to be in this world. Be lawyers, great doctors and great engineers, but always remember that we pursue careers so that we can contribute to the society.

The biggest contribution you can make in the society is to have your seat where decisions about resources are made. Decisions about resources are always made in politics. So, politics is about decisions about allocating resources that will affect you, your children in future, and your families that you have left at home. It is the best science that you can ever have.

Do not be lured by Sen. M. Kajwang' to forget about politics. What is affecting this country is that sometimes politicians have bad manners. I encourage you to groom good values and have a clear vision about your life, so that when you become a politician, you care about the people truly.

As I leave you, Jomo Kenyatta said that the responsibility of nation building, which is what you are going to be participating in the future, is going to be given to reliable custodians with good values. Be that custodian wherever you go and especially when you find yourself in politics.

I thank you and wish you well on your visit. In case Sen. M. Kajwang' forgot his wallet, he can consult with me as a neighbour, and I will ensure that you get your sodas as you go home.

#### VISITING DELEGATION FROM THE BATUK

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from the British Army Training Unit in Kenya, popularly known as BATUK. The delegation is undertaking a study tour 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.

1. Major David Kalawa
2. Warrant Officer (II) Vesi George
3. Sergeant Gurung Sudesh
4. Corporal Vakacegu Una
5. Lance Corporal Purvis Robyn
6. Lance Corporal Llamosa Daniel
7. Mrs. Eunice Kinyua
8. Mrs. Jane Oyugi
9. Mr. Brian Ochieng'

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

I thank you.

*(Applause)*

Let me give the Senate Majority Leader an opportunity to welcome our visitors for two or three minutes.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I join you in welcoming the visiting delegation from the British Army. I am a big fan of the poetry works of Rudyard Kipling. I love the way he refers to them as “‘Tommies and Bootnecks’”. It is good to have them with us this afternoon.

I know that Members of the Standing Committee on National Security, Defence and Foreign Relations have gone on a digging spree many times in this session and previously to ensure that we have a long-standing relationship between Kenya and the United Kingdom (UK), with specific reference to the work that the British Army does around the area of Nanyuki, who are on a specific mission that brings this visiting delegation to this country.

Mr. Deputy Speaker, Sir, I know you cannot be a visitor to Nanyuki because that is your home area. Probably on many occasions for one reason or the other, when you are not at home in Meru, you find your way to Nanyuki. However, the likes of Sen. Oketch Gicheru and the rest of us who come from the western side of the country, whenever we visit, the thriving Nanyuki Town is a testament to the good work that this organisation continues to do.

Many businesses have been built out of either trading or any form of relationship that exists between the local community and the BATUK. Therefore, to have them visit us is a great honour.

I know for a fact that it has not been extremely rosy for the past few years. There have been difficulties and difficult conversations as you would expect in any human relationship. There are times when issues arise. However, the most important thing is how you amicably resolve and ensure that the long-standing relationship that Kenya enjoys with the UK continues.

I know that our colleagues in the National Assembly did tremendous work in ensuring that before renewing--- The co-operation agreement is renewed I think every three or five years. There are certain terms and conditions that were put in place to ensure that we protect both the soldiers and the local community, so that any matters that had previously arisen based on the experience of the previous years are forestalled to ensure that soldiers that come to Kenya enjoy their time.

I like reading. If you read the journals of many soldiers, they give testament of whatever they studied, their experience in Nanyuki and how it impacted later in their careers as soldiers or army men and women. Therefore, this is a relationship that we need to guard jealously and ensure that it is mutually beneficial to both Kenya and the UK.

I hope that in the duration of their stay, they will get to enjoy and learn all that there is to learn about this Parliament. If they have questions, they are always welcome to interact with Members of Parliament (MPs) who are here and those in the National Assembly, so that they can have a fulfillment of what they sought to do when they set on their calendar programmes to visit the Parliament of Kenya this afternoon.

Mr. Deputy Speaker, Sir, on behalf of our colleagues and all the Senators in the House this afternoon, I join you to welcome them and wish them a fruitful stay.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Let us have the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations. Proceed, Sen. (Dr.) Lelegwe Ltumbesi.

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Deputy Speaker, Sir, I join you and the Senate Majority Leader to welcome the BATUK to the Senate. The BATUK also trains in Samburu. I wish to thank them and appreciate their efforts in working with the communities in Samburu, making sure that the marginalized communities get services.

I appreciate the good services that they are giving the people by providing them with water, building schools, and also doing medical camps to offer medical services to the communities. These communities had been forgotten by the governments of Kenya. I thank them because they are doing good work in the communities.

One thing I urge them to consider is that when they do Corporate Social Responsibility (CSR), which they are doing in Samburu and other parts of Kenya, they should make sure that they involve the communities and also the leaderships of those regions.

I appreciate because they have been inviting the leadership of the counties they operate in before making decisions. I encourage them to continue doing so, so that we make sure that communities get services and they also get ample time while training in those regions.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Thank you. I had promised to give one more Senator a chance to make a comment on the Statement by Sen. Osotsi. Let me keep my promise and give it to Sen. Cheptumo.

*(Resumption of debate on Statements)*

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Osotsi on the issue of de-gazettement. If you listened to Members who spoke to this Statement, it seems as if this is a challenge facing almost every county. In fact, all the Members who spoke to this Statement have very specific issues and concerns in their counties. I would like to agree with the Members who said that there is need for the Committee to look into it more holistically.

I heard Sen. Onyonka requesting the Senate Majority Leader to speak to the President about this issue. That is not the way to go. There is normal procedure. These are matters that this House can take up in our counties, they go to the Ministry in-charge, a Cabinet Memorandum is done, the Cabinet approves and then it now comes to the House for adoption or approval. I agree.

Mr. Deputy Speaker, Sir, for example, we have several schools and institutions in Baringo which are actually built in those areas that are gazetted as forests. Practically, those are acres of land with schools, colleges and so on. However, when you go to the Ministry of Environment and Forestry, you discover that they are gazetted as forests.

It is important that we de-gazette these areas and be able to issue title deeds to these institutions. It is a critical issue which we need to do. Some schools, or colleges which occupy those areas, need to get title deeds. This is because all the time, they receive threats from the rangers of the Ministry of Environment and Forestry.

When we are talking about planting 15 billion trees, it is high time we did so even where we have schools, but not as gazetted forests.

As I conclude, there are areas which are not gazetted. They have been de-gazetted, given to institutions and the original owners of those particular lands have not been compensated. The understanding between the Government then, and the occupants of those areas, is that they were to be given land elsewhere.

Those days, it was interesting because you would find a politician from a certain area would be given a list of people to be allocated land, but the then Member of Parliament (MP) or CS takes the whole portion of that land. Those people who had been promised that they will be compensated and allocated land, are now all over the place, suffering in their homes and so on. They are the so called the right holders. In a place such as Saimo Location of Baringo North in Baringo County, many fellows were displaced.

Mr. Deputy Speaker, Sir, I am a Member of this Committee. I agree that there is need for the Committee to do a lot in terms of ensuring that we not only look into Sen. Osotsi's situation, but also what is happening in the country. We can then bring to an end the suffering of people and institutions without title deeds.

I support.

**The Deputy Speaker** (Sen. Kathuri): Let us get the last Statement from Sen. Crystal Asige.

**Sen. Crystal Asige:** Thank you, Mr. Deputy Speaker, Sir. I also join the rest of the House in welcoming the delegation upstairs in the Gallery. Although I was not a student of Lenana School, I did spend a lot of time studying in Bristol, United Kingdom (UK), which is famous for its harbourside, the St. Paul's carnival and its very good bear. I hope that the delegation who are here, as I did find a home away from my home in Kenya.

#### INACCURATE DATA OF PWDS IN THE NATIONAL CENSUS OF 2019

**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order 53 (1) to seek a Statement from the Standing Committee on Labour and Social Welfare on claims of inaccurate data of Persons with Disabilities (PWDs) in official data collection efforts reflected in the National Census of 2019.

In the Statement, the Committee should –

(1) State the disability prevalence rate in Kenya recorded in the last four years, disaggregating these figures into gender, age, types of disability and counties.

(2) State steps put in place to ensure that all PWDs, including children under the age of five are properly accounted for in disability statistics and data collection efforts, tabling evidence of capitation released to the NCPWD to cater for this special interest group in the last four years.

(3) Shed light on allegations that 413,620 PWDs counted in the National Census of 2009 were not accounted for in the National Census of 2019, stating measures in place to improve the accuracy and comprehensiveness of disability statistics.

(4) State targeted interventions to improve the current tools in use and training accorded to all enumerators to ensure inclusivity and accounting of physical, sensory, and neuro-diverse disabilities both visible and invisible.

(5) State plans to engage the public to audit census tools for the comprehensiveness of questions, design and categorization of disability status.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. I can see some requests here, but I do not know whether they are in support of this Statement by Sen. Crystal Asige. Maybe those who are not interested in this particular one can withdraw their cards.

Sen. Maanzo, please make very brief comments in just two minutes.

**Sen. Maanzo:** Yes, I will be brief. I rise to support that Statement by a wonderful Senator. The place of PWDs in this country has been left without proper structures. At times, they either fall under national or county Government. It is really hard.

I urge the Senators and Members of Parliament to give them a special place. For instance, I have taken one or two PWDs as part of my employees. It is one way of helping and encouraging them. I have an elderly staffer who works in my office, but looks like a seven-year-old.

We really need to support the course of PWDs. We should make sure that the ones who are hidden in the villages come out and are able to go to school. I believe there is a wonderful Senator who is well learned and was able to become a Senator. All these people have a chance and they are much abled to do whatever a normal person can do.

I support.

Mr. Deputy Speaker, allow me to welcome the delegations in the Gallery. I went to Starehe Boys Centre where we were brought up by a former British soldier. He brought up 15,000 poor boys who are today big time people around the world. I was also privileged to have my fees paid by Princess Anne, the daughter of the Queen of England.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Maanzo. Let us have Sen. Mbugua.

**Sen. Mbugua:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Statement by Sen. Crystal Asige.

Data is everything. The inaccurate statistics for PWDs in this country has led resources allocated to that sector to dwindle over the years. We are unable to get services enshrined in the Constitution for the PWDs because of that inaccurate data.

Mr. Deputy Speaker, Sir, I support so that this sector can get what is rightfully theirs. Thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Abass Sheikh Mohamed.

**Sen. Abass:** Thank you, Mr. Speaker, Sir. I support the Statement from Sen. Crystal Asige. We have many PWDs in this country, but not all services and work given to them is adequate. In many instances, they are neglected.

It is high time the country took PWDs seriously and give them what is enshrined in the Constitution. Disability is not inability. Sen. Crystal Asige is perfectly in this House as a representative of the PWDs. You can see how she contributes every day. She is very active and I congratulate her on that.

We need to give space and support the PWDs. We need to allocate them enough resources so that they can contribute in nation building as required and do what they are required to do. I remember back when I was a Member of Parliament (MP) in the National Assembly, I built a school for the PWDs – the deaf. I am impressed today



because the students in that school do a wonderful job. They have sat for the Kenya Certificate of Secondary Education (KCSE) Examination in the last three years and performed very well. The only thing is that we do not give enough opportunities and resources to the PWDs. We need to be serious on these things. This country needs to be serious on issues of disability.

**The Deputy Speaker** (Sen. Kathuri): Thank you. The last one, Sen. Beth Syengo.

**Sen. Beth Syengo:** Thank you, Mr. Deputy Speaker, Sir. I rise also to support this Statement by Sen. Crystal Asige *aka* Very Important Person (VIP). We need to support people who are differently abled in this country because they also contribute to the building of the nation. We know they are differently abled, talented differently and they can serve the nation in a unique way. We need to support them at the national and county governments. A fund could be set up to support them differently.

Mr. Deputy Speaker, Sir, yesterday, there was an argument about the National-Constituency Development Fund (NG-CDF), the National Government Affirmative Action Fund (NGAAF) for the Women Reps and a kitty for the Senators. Can we also have a kitty for people living with disability in this country because it will support and encourage many to take leadership at different levels.

**The Deputy Speaker** (Sen. Kathuri): Sen. Mandago Jackson.

**Sen. Mandago:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Statement sought by Sen. Crystal Asige on the issue of PWDs. Without proper data, it would be impossible for this country to plan effectively for PWDs.

When you see statistics are not consistent, it means that Government interventions that are supposed to go towards supporting PWDs in this country will be so inconsistent and will not make any meaningful progress. The Kenya National Bureau and Statistics (KNBS) needs to supply proper data of PWDs.

Mr. Deputy Speaker, Sir, we also encourage families in this country who have PWDs or children with various disabilities to make sure that those children are brought to the fore and given opportunity to access education. We know that in this country, there is a tendency to hide children living with disabilities. Perhaps that is what contributes to them not being counted during census.

I urge Kenyans of all walks of life that having a child with disability does not mean that, that child cannot make any meaningful contribution to this country. When I was the Governor of Uasin Gishu County, we recruited over a hundred PWDs who are amongst the best public servants we have.

Mr. Deputy Speaker, Sir, if you visited the Uasin Gishu County Government Executive, you would find all our executive offices being cleaned by deaf people who are very effective and efficient. This nation need to properly plan for the PWDs.

I reiterate that there is need for compliance to the laws that are already provided for. For example, if you go to all Government offices, accessibility to those offices is still a challenge. You do not expect PWDs to seek services like other citizens with ease. The Committee should further probe on other funds that have been set aside for PWDs, particularly funds that go through the Orphans and Vulnerable Children (OVC) Programme. Sometimes, those funds do not end with intended recipients.

**The Deputy Speaker** (Sen. Kathuri): Finally, Sen. Mwaruma, you have the Floor.

**Sen. Mwaruma:** Nakushukuru, Naibu Bw. Spika, kwa kunipa fursa hii ili kuchangia Taarifa iliyoletwa na Seneta Mteule, Sen. Crystal Asige, kuhusu mambo ya watu wanaoishi na ulemavu. Katika Taarifa yake amesema hakuna takwimu za kutosha za watu wanaoishi na ulemavu. Wasemaji waliotangulia wamesema kwamba bila takwimu ama *data* hatuwezi panga mambo ya walemavu. Kenya inashida ya kuangazia mambo yanayohusu watu wanaoishi na ulemavu.

Leo, katika Kamati ya Elimu ya Seneti, tuliangazia sheria ya *Disability Bill*. Tulihusisha wadau kuangazia sheria hii inayohusu walemavu na tuligudua mambo ya kushangaza sana. Kuna wafanyikazi wengi katika shule za wanafunzi wanaoishi na ulemavu ambao hawajalipwa mishahara kwa miezi tisa au zaidi.

Bw. Naibu Spika, shule za wanaoishi na ulemavu zinahitaji walimu. Kando na walimu, wale wanaohitajika ni *caregivers* ama watu watakaoangalia wale watoto. Wengine wanahitaji kuoshwa, kusukumwa kutoka sehemu moja hadi nyingine. Tutaangalia hii Taarifa kwa undani. Naomba Kamati ya *Labour and Social Welfare* iangalie pia.

Katika Bunge la Kumi na Mbili, tulisukuma sana Wizara ya Leba ipate takwimu za kutosha na kuandikisha wale wote wanaishi na ulemavu na pia kuhakikisha wameenda shuleni.

Nashukuru Sen. Crystal Asige na anafanya kazi nzuri ya kupigania wale wanaoishi na ulemavu Kenya. Tutangojea hiyo ripoti itakayokuja kutoka kwa hio Kamati na najua mambo ya walemavu yatazidi. Lakini kwa sasa, tupate takwimu au *data* ya kutosha kutoka kila kaunti ya wale wanaoishi na ulemavu. Zile pesa wanahitaji kupata kama kwa Inua Jamii, wote waweze kupata.

**The Deputy Speaker** (Sen. Kathuri): Sen. Wakili Sigei, two minutes kindly.

**Sen. Wakili Sigei:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I would also like to add my voice to the Statement by Sen. Crystal Asige.

Inaccuracy of data of PWDs in this country is a matter that speaks to the Committee on Labour and Social Welfare.

The latest census that we had in this country has 2.2 per cent of PWDs. That translates to 0.9 million people. Failure to have an accurate data affects the Government of the day and any other Government institution at the county or the national level to mainstream and operationalize the demands by PWDs.

Mr. Deputy Speaker, Sir, in 2018, there was the global summit where the Government of Kenya undertook to implement and mainstream services, rights and entitlements to PWDs. It will be very unfortunate because there is no way we can implement those commitments if we do not have the appropriate and accurate data on PWDs.

I appreciate my colleague, sister, Sen. Crystal Asige, for taking it up and also championing the rights of PWDs. In this case, I want to encourage the Committee on Labour and Social Welfare Committee whose responsibility this Statement has been given to ensure that it goes beyond just getting the data. It should confirm that the data is a representation of the PWDs, from the youngest to the person who is in their sunset years and need the support of the Government of the day.

I support and thank Sen. Crystal Asige for the bold step that she took.

**The Deputy Speaker** (Hon. Kathuri): Hon. Senators, the time allocated for Statement is over. We are eating into the time of other businesses. So, I kindly request the two Senators who have put their requests to take one minute each.

Proceed, Sen. Onyonka.

**Sen. Onyonka:** Thank you, Mr. Deputy Speaker, Sir, for giving me the minute to speak. I am humbled to listen to what my brother counsel and Sen. Crystal Asige have raised about this matter.

I would like to raise this issue with the Committee on Labour and Social Welfare in this Senate to make sure that when they begin to take views and engage, they involve as many of us as possible. This is because many of our counties do not have any data, information and anything to do with PWDs until when the campaigns come. That is when we just then call them and meet them.

We need to be more serious. Let us take these challenges very deeply because they affect our people.

I thank you, Sen. Crystal Asige, for being a good example of somebody who has been nominated to represent that community.

**The Deputy Speaker** (Hon. Kathuri): Thank you. Proceed, Sen. (Prof.) Kamar.

**Sen. (Prof.) Kamar:** Thank you, Mr. Deputy Speaker, Sir, for allowing me one or two minutes to add my voice to the Statement that was raised by Sen. Crystal Asige. I thank her for doing this.

It is true that the data does not seem to be correct. It is not just about the data of PWDs, but even the children with disabilities. There has to be a way in which we can know our children from when they are young.

As the Committee looks into these issues, let them also look at our schools. This is because some schools register children in one term and in the next term, they do not have children to register.

This question is very important because it will open our minds on the solutions we should be dealing with or how we will approach this. We also know that the issue of disability has been associated with witchcraft and so many other things such that people are embarrassed. For example, some children are being locked in rooms. So, looking for data is going to be a very challenging thing. However, we want to look for ways in which we can know who our PWDs are.

Finally, we need to ask ourselves whether this is the responsibility of a mother who gave birth to a disabled child or for the nation that collects tax. We need to see how we can move that burden away from the parents. You realize that you have four children and one of them is disabled. You will spend 50 per cent of your time with the disabled child and 50 per cent for the other three children because that child has many challenges.

**The Deputy Speaker** (Hon. Kathuri): All the Statements stand committed to the relevant Standing Committees of this House.

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MUNUNGA HIGH SCHOOL,  
NAKURU COUNTY

**The Deputy Speaker** (Hon. Kathuri): Hon. Senators, in the Public Gallery, we have 97 students accompanied by six teachers from Mununga High School in Nakuru County who are in the Senate on an education tour.

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

Thank you.

Next order.

## BILLS

### *Second Reading*

THE NATURAL RESOURCES (BENEFIT SHARING) Bill,  
SENATE BILLS NO. 6 OF 2022)

*(Division)*

**The Deputy Speaker** (Hon. Kathuri): The delegations are not enough. We do not have enough numbers to take this vote so we defer that business, then we go the next Order.

*(Division on the Bill deferred)*

### *Second Reading*

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

*(Sen. M. Kajwang' on 21.03.2023)*

*(Resumption of debate interrupted on 23.03. 2023)*

**The Deputy Speaker** (Hon. Kathuri): Hon. Senators, we concluded debate on this Bill. I now call upon the Mover, Sen. M. Kajwang' to reply.

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

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir----

**The Deputy Speaker** (Hon. Kathuri): What is your point of order, Sen. Oketch Gicheru? You should know when to raise a point of order. The Speaker, Rt. Hon. Kingi, has given very clear direction on when to raise a point of order. A point of order is raised when another Member is contributing on anything not just any other time. What is out of order?

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, I respect your guidance. However, a point of order can be raised anytime even on the matter that I want to raise a point of order on.

**The Deputy Speaker** (Hon. Kathuri): Under which Standing Order?

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, yesterday, I was instructed by your Chair.

**The Deputy Speaker** (Hon. Kathuri): By my Chair?

**Sen. Oketch Gicheru:** Yes. By the Chair who is the Speaker that today at the beginning of the business of this House, I was supposed to present evidence on the Motion that I brought in this House with regards to the issue of national security in the country. It is in our Standing Orders that for whichever names that a Member of this House brings in any Motion, they ought to be substantiated.

Mr. Deputy Speaker, Sir, when I did not get any direction from your Chair, I thought for the purposes of this House, as a House of Record, it would be important for me ---

**The Deputy Speaker** (Hon. Kathuri): Let us give Sen. M. Kajwang' time to reply then, I will give you some time to substantiate the issues that I had directed.

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

**The Deputy Speaker** (Hon. Kathuri): Sen. M. Kajwang', let us conclude with this Bill first.

**Sen. M. Kajwang':** Thank you, Mr. Deputy Speaker, Sir. I beg to reply having moved the Motion on the County Vocational Education and Training Bill.

I want to thank all my colleagues who have contributed to debate on this Bill. I want to thank the Senate Majority Leader who employed his institutional memory as a ranking Member of the Senate Standing Committee on Finance and Budget to tell the House the origins of this Bill that we started processing in the last Parliament, but was not successful and so we decided to revive it in this House.

The Senate Majority Leader cited the conditional allocation of Kshs40 million per county that this House has appropriated for a period of three years. However, we had realized that counties were receiving that money and yet we did not have a very good framework that would separate village polytechnics and home craft centres from the purview of the TVET authority.

Several other Members contributed to the debate on the Bill. Sen. Mungatana MGH, brought the attention of the Mover to certain litigation that has been ongoing with regards to employees of these village polytechnics and vocational centres, some of whom are still in the payroll of the national Government.

That was a very good observation because we must ensure that as we devolve this function fully, we must also look at the human resource and we must also look at the financial resources.

Sen. Olekina talked about the recognition of prior learning and that this Bill must attempt to entrench that in law. I am happy that the National Qualifications Authority (NQA) together with the TVET Authority already are in conversation to ensure that prior learning can be recognized so that that Mr. Otieno who is a very talented panel beater somewhere in California, in Nairobi, can be formalized.

I believe those who are talking about hustlers and those who really believed in the agenda of hustlers would be happy if you can bring these people into the formal economy. That can be done through recognition of prior learning so that our experienced and our expert painters, mechanics and masons who do not have any certification can be recognized. That can now allow them to tap into jobs in county governments and jobs in the formal sector.

There were a lot of observations. The Senator for Kiambu advised that we should not over legislate for small businesses. This legislation is meant to guide the establishment of vocational centres by county governments. There is still going to be space for private sector players. When it comes to vocational training, the private sector has played a very important role.

It is not the intention of this Bill to regulate every college or every apprentice operation or every training operation around the corner or every driving school. However, in as much as we want a thriving private sector within the vocational training space, there has to be quality, standards, regulation and we must ensure that there is consumer protection. That consumer protection is protection of the students and pupils from exploitation by the owners of those institutions, especially those that are private.

More than 10 Senators spoke to this Bill. I want to commit to the House that I will look at both the HANSARD and the report of the Senate Standing Committee on Education very carefully.

Once again, I want to thank Members of the Committee on Education. They have done an excellent job. They have already drafted proposed amendments. I agree largely with most of those amendments.

I also agree with many of the submissions that were made by Members on the Floor of this House. We will very quickly ensure that the necessary amendments are processed and that this Bill can leave this House.

I know Sen. Mungatana, MGH, has beaten me to the position of having his Bill being the first being possessed by the Senate. It does not matter; his Bill is extremely important; this is extremely important. We should be seen to be sending legislation to the National Assembly; legislation that goes beyond those that are prescribed in the Constitution like DORA and CARA.

I want to encourage my colleagues with private Members' Bills also to follow suit so that we can flood the inbox of the National Assembly with legislation that is meant to make devolution work.

Mr. Deputy Speaker, Sir I beg to reply and pursuant to Standing Order No. 66(3), I beg that the putting of the question be deferred to a later date.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Okay, thank you. Permission granted.

*(Putting of the Question on the Bill deferred)*

Hon. Members, we will go to the next Order. Where is Sen. Oketch Gicheru to prosecute his matter? You have the Floor.

## POINT OF ORDER

### SUBSTANTIATION OF ALLEGATIONS MADE IN THE HOUSE AGAINST NATIONAL LEADERS

**Sen. Oketch Gicheru:** Thank you once again, Mr. Deputy Speaker, Sir. Yesterday, I did bring a Motion under Standing Order No.37 on a matter of national importance, namely the deteriorating security situation in the country.

As I was moving my Motion, the Senator for Kakamega Sen. (Dr.) Khalwale, did question my evidence on a statement that I made in this House that some pronounced leaders of this country did make statements or pronouncements that was tantamount to inciting the public to invade private property of the retired President Uhuru Muigai Kenyatta and to the former Prime Minister Rt. Hon. Raila Amolo Odinga's property called Spectre.

The Chair did direct that I substantiate that statement for which the Chair did ask that today I bring evidence to the same effect.

Mr. Deputy Speaker, Sir, the Evidence Act does require under Section 8 that if I am in a court of law then I provide an affidavit to the same. However, in the spirit also of this House, I want to recognize that social media statements, videos that are journalistic, as well as any publication that is journalistic amounts to evidence.

I am going to table here an Order from Office of the Director----

*(Loud consultations)*

**The Deputy Speaker** (Sen. Kathuri): Let us allow him to table so that we see it has substance on the---

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

**Sen. Oketch Gicheru**: Yes. You respond to what I have tabled. You do not just make noise. I am telling you what I am tabling my friend.

**The Deputy Speaker** (Sen. Kathuri): What is it, Senate Majority Leader?

**Sen Oketch Gicheru**: Mr. Deputy Speaker, Sir, I am on a point of order. I have not tabled anything. What is he going to respond to?

**The Deputy Speaker** (Sen. Kathuri): Just resume your, Sen. Oketch Gicheru.

**Sen. Oketch Gicheru**: Mr. Deputy Speaker, Sir, he is becoming cantankerous.

**The Deputy Speaker** (Sen. Kathuri): Sen. Oketch Gicheru, resume your seat.

**Sen. Oketch Gicheru**: I am lecturing you because you are ignorant.

**The Deputy Speaker** (Sen. Kathuri): Sen. Oketch Gicheru and Sen. (Dr.) Khalwale, both of you should be orderly in this House, Please.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I rose on a point of order to draw your attention to the fact of the requirements of the Standing Order No.105 on Responsibility for a Statement of Facts. That is the starting what upon which Sen. Oketch Gicheru was challenged. So far, Sen. Oketch Gicheru has spent close to 10 minutes explaining absolutely nothing.

If you read the provisions of Standing Order No.105, there is no requirement upon the Senator to give an explanation of anything. All Sen. Oketch Gicheru needs to do - and you need to read Standing Order No.105(2) - is to state: "Mr. Speaker, I hereby Table the evidence." Lack of which, he is supposed to withdraw.

Mr. Deputy Speaker, Sir, I want you to guide this House properly. It is important for the House to remember because yesterday the words of Sen. Oketch Gicheru were that the Deputy President, hon. Rigathi Gachagua together with hon. Kimani Ichung'wa who is a Majority Leader in the National Assembly as well as hon. Moses Kuria who is a Cabinet Secretary; convened and made public pronouncements leading to invasion of private land. However, he was interrupted by points of order.

Mr. Deputy Speaker, Sir, reading Standing Order No.105(2), can you guide Sen. Oketch Gicheru? Without him telling us long stories that are not useful at this point, can he table the evidence before us?

**The Deputy Speaker** (Sen. Kathuri): Senate Majority Leader, that is what I was requesting him to do; to table the evidence then we assess whether it is admissible. If it is not, he should go ahead to withdraw or we give him more time to look for evidence.

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, I have watched Sen. Cheruiyot tabling documents and he normally explains what he tables. I am explaining what I am tabling.

**The Deputy Speaker** (Sen. Kathuri): Can you table your evidence?

**Sen. Oketch Gicheru:** I talked about three issues. You cannot gag me to just table them without telling you what I am tabling.

**The Deputy Speaker** (Sen. Kathuri): Proceed and table the evidence.

**Sen. Oketch Gicheru:** I have to tell you what I am tabling. The first evidence that I am tabling, both in hard copy and in a flash disk of videos, are pronouncements by Hon. Kimani Ichung'wa on 18<sup>th</sup> March, 2023, at Kianyaga in Kirinyaga County.

I am also tabling a number of pronouncements by the Deputy President, Hon. Rigathi Gachagua, on 18<sup>th</sup> February, 2023, in Kericho County. I also have a number of statements by Hon. Moses Kuria on his *Twitter* handle. I do not want to get the Majority Whip worked up because I believe this evidence is actually bothering him.

Since I mentioned a number of leaders, I am also tabling Hon. Didmus Barasa's statement on the same that led to these kinds of attacks. In all these statements, I have accompanying videos which are also here.

Mr. Deputy Speaker, Sir, if it pleases you, I will table the evidence.

**The Deputy Speaker** (Sen. Kathuri): Table the evidence.

**Sen. Oketch Gicheru:** Sen. (Dr.) Khalwale, do not be worked up. I beg to table my evidence.

*(Sen. Oketch Gicheru laid the documents on the Table)*

**The Deputy Speaker** (Sen. Kathuri): As we scrutinise your evidence, let us continue with the business of the day.

*(Sen. Methu spoke off record)*

I will see you next time.

*(Sen. Methu spoke off record)*

Sen. Methu, at this point, you cannot raise a point of order. Let us go to the next Order.

## MOTION

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



**The Deputy Speaker** (Sen. Kathuri): Senate Majority Leader, this is your Motion. It appears your mind was moved by the previous contributor who was on the Floor.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move the following Motion-

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

Mr. Deputy Speaker, Sir, this is not the first time that the Senate will be sitting on Wednesday mornings. You will recall that previously, we have had sessions where on Wednesday morning, the Senate met and transacted business. However, over the course of time, when it became clearly evident that Members were more keen on attending committee meetings in the morning hours of Mondays, Tuesdays, Wednesdays, Thursdays and sometimes Fridays, as a House, we resolved to have our sittings on Tuesdays, Wednesdays and Thursdays from 2.30 p.m. to 6.30 p.m., unless the sittings are otherwise extended.

Since this House has now adopted the provisions of the Standing Orders in agreement to what the Procedure and Rules Committee proposed before the House to provide for CSs to appear before this House, we propose additional time for the Senate to meet, so that we do not interrupt Tuesdays, Wednesdays and Thursdays 2.30 p.m. to 6.30 p.m. that is mostly otherwise filled up, either because we are considering Motions on various issues that are topical in the country, Statements that are being brought by Members or Bills such as the ones we want to consider this afternoon.

Mr. Deputy Speaker, Sir, it is in good order that I requested the Senate Business Committee (SBC) and they agreed with us that we move this Motion to allow that the Senate does meet every Wednesday morning. The question as provided for in the Motion that was moved here was to provide for different CSs to be notified way ahead of time the questions that they shall be asked.

Hon. Members should show up in this House and agree - depending on how the first two or three sessions will go - the length of time we are going to spend. Once we begin the exercise, and depending on the interest of Members, the questions and the issues arising from the constituents that we represent, we shall be determining how many CSs we can have on a single Wednesday afternoon depending on the issues before us.

Mr. Deputy Speaker, Sir, this is a fairly straightforward matter. I do not see why anybody, for whatever reason, would have a problem with it. Of course, I do not want to pre-empt debate.

I will leave it to the wisdom of the House to either agree with us as proposed or together with an amendment, so that we can meet on Wednesday mornings, considering that we have long standing businesses that are still pending.

Part of what we could do, which we will suggest to the SBC, is that if you look at our Order Paper this afternoon, there are almost 10 to 20 Motions that have been

proposed by various colleagues. However, because of the nature of how we transact business in this House, unfortunately we have not been able to consider them.

Some of the Motions have been on the Order Paper for almost three or four months. That is not right. Part of what we could do on Wednesdays morning is that if meet and conclude on the business and Members are satisfied that the business that had been slated earlier, or the CS responded sufficiently or asked for additional time to find better answers to bring before the House, we could as well consider other long standing businesses that have been pending. That will help because Motions are being brought every now and then.

I do not believe it is out of idleness or just wanting to fill up the Order Paper that colleagues bring Motions here. It is unfair that we have kept some of these Motions on the Order Paper for more than a month or two. Giving the Senate additional time to meet means we shall transact more business as a House. I request colleague Senators to agree with this proposal, so that we can conclude some businesses and deal with additional ones.

Mr. Deputy Speaker, Sir, I appreciate your guidance yesterday. This is because there had been an erroneous interpretation that by Cabinet Secretaries (CSs) appearing before this House in a gathering of the Plenary they are not required to appear before the committees as expected by Article 153 of our Constitution.

I appreciate that yesterday you gave clear guidelines that CSs will still appear before our committees to respond to other ordinary business that was pending or that may arise in the course of Members of various committees going about their duties. That lays the matter to rest.

Given that this is a fairly straight forward matter, I do not intend to be long about it because I believe it is something that colleagues can read, understand and appreciate.

With those many remarks, I beg to move and request the Senator of Kakamega County, Sen. (Dr.) Khalwale to second.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. (Dr.) Khalwale

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion as moved. It was the late Vice President of the Republic of Kenya, hon. Michael Kijana Wamalwa, who while speaking from this Dispatch Box said that in politics if it is possible, it is always good to let a good idea yield to a better one.

It is true that our old calendar has served us well. It has been a good idea. However, if we can allow it to yield to the new calendar as proposed by the Senate Leader of Majority, it would be a better idea. Why? Only time will prove us right.

Hon. Members, in the good old days when we were in the National Assembly (NA), we had a session reserved for questions. When we opened Parliament to public transmission of proceedings that became the most watched part of the proceedings of this House.

Mr. Deputy Speaker, Sir, I want to confirm that Wednesday mornings will be the most popular day in the calendar of this House every week. Sen. Onyonka was there. He remembers when he was the Assistant Minister for Foreign Affairs and I was the Assistant Minister in charge of the East African Community (EAC). The Assistant Ministers of the late President Mwai Kibaki were actually deputy Ministers.

I appeal to Members that there is so much value in one raising a question on gold mining in Kakamega County directly to the CS in charge and him not only responding,

but opening an avenue for the Senator of Migori County, for example, to ask a supplementary question on mining in the county. This is the point. We want to ask for more and get more. The saying goes to those whom more is given more is expected of them.

I appeal that the usual headache of quorum when we open sessions should not remove the wind from our sails. We should try and be here. When I look at the median age of the members of this House--- What is the median age? It could be around 40 or 41.

*(An Hon. Member spoke off record)*

**Sen. (Dr.) Khalwale:** Yes. Very young people. Why would you still be in bed at that time? I remember in the other Parliament, the Senator of Meru was arguing his case, he used to say that he starts functioning at his best at around 1.00 o'clock.

**The Deputy Speaker** (Sen. Kathuri): Which Senator is this? We had three Senators. Sen. Muthamia who was in 1963, Sen. Kiraitu Murungi and Sen. Mithika Linturi.

**Sen. (Dr.) Khalwale:** The former Senator of Meru County. The Second Senator, Kiraitu Murungi.

**The Deputy Speaker** (Sen. Kathuri): Which one? For the purpose of record because I do not know the specific one.

**Sen. (Dr.) Khalwale:** I am very specific and factual. It was Sen. Kiraitu Murungi who used to amuse us in this House; that he starts functioning best at around 1.00 o'clock. We do not have that problem anymore. Even myself who has more years than most of you, I am in the element of a bullfighter. Bullfighters start feeding their bulls at 4.00 a.m. After I finish that, I normally support my workers in milking my cows.

I have got my favorite cow called "etambo". She likes it when I milk her myself. We are people who wake up early. Sen. Kibwana, you are killing me with your laughter.

*(Laughter)*

**Sen. (Dr.) Khalwale:** With those many words I second that this Motion sees the light of day. I thank you.

*(Question Proposed)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Kibwana continue amusing the Senate Majority Whip.

**Sen. Kibwana:** Asante, Bw. Naibu Spika. Ningetaka kuunga mkono *Senate Majority Leader* akisema kuwa tunafaa kuendelea kufanya kazi. Kusema kweli sisi wengine ni watu wa mkono, *technical people* siyo watu wa siasa sana. Hoja nyingi zipo. Kuanzia wiki ya kwanza iliyopita niko na Kauli na Hoja lakini hazijafika bado. Nimeona vitu vingi kweli havijakuwa sawa. Kuna Hoja, kwa mfano, ya Sen. Orwoba. Kusema kweli ina maana sana kwa wasichana wetu kuwa na *sanitary towels*.

Nimeona Hoja nyingine ya Sen. Kavindu Muthama kuhusu 1998 *bombing compensation*. Kuna mambo mengi yaliyochelewa na kufanya tusiendeleo na kazi zetu. Ninamuunga Sen. Cheruiyot mkono ili hii kazi iendeleo.

Asante.

**The Deputy Speaker** (Sen. Kathuri): Sasa tumsikize Seneta wa Kaunti ya Baringo, Sen. Cheptumo.

**Sen. Cheptumo:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion. The Motion is fairly straightforward. We have amended our Standing Orders already and what we are doing is to facilitate the implementation of that amendment.

According to Article 97 of the Constitution, this House is for representing the counties and to serve to protect their interests and those of their county governments. I agree that we do so through the Statements. However, Motions and Bills are equally critical for us as a House serving our counties

I have two Motions which I think are before you for approval. One Member has already spoken about another one. Shortly, our Order Paper will be full of so many Motions, which we will be unable to deal with. So, I support this so that we are able to deal with these Motions because we will have more time.

Secondly, Mr. Deputy Speaker, Sir, Cabinet Secretaries (CSs) appearing before this House is something that I cherish. When I was supporting the amendment of our Standing Orders, I gave an example of what used to happen in the 10<sup>th</sup> Parliament when Ministers used to appear before the Plenary. This is important because Members will have a direct conversation with the CSs on behalf of our people.

It used to be one of the very exciting moments. I recall that time Sen. (Dr.) Khalwale was the Assistant Minister for Health, if I am not wrong. I was deputising the Minister for Justice and Constitutional Affairs. Sen. Mungatana, MGH was an Assistant Minister in some Ministry. I just want to tell my colleagues that you will see how exciting that moment will be because it will be a direct conversation with the Ministers.

During that time, I remember helping many of my colleagues in establishing courts in various parts of the country. This includes where you come from, Mr. Deputy Speaker.

Therefore, I really support this. This is a Motion that we need to approve as quickly as possible. After that, we can then move and have more time to deal with matters before the House.

I support.

**The Deputy Speaker** (Sen. Kathuri): Sen. M. Kajwang, proceed.

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, this is a procedural Motion. The best practice for procedural Motions is usually for the Senate Majority Leader to move and get a Member of the other side to second. I believe this matter was discussed in the Senate Business Committee (SBC). Ideally, it should not be a contentious matter.

I know that we have been consulting here on whether Standing Orders No.32 and 34 have been violated by this move. I know that my colleagues will be prosecuting that matter. However, in a Senate where we have spent more time fighting than finding common ground, I encourage the Senate Majority Leader that on such procedural matters, we can have some bipartisanship approach so that you can have both sides speaking to it.

The debate that prompted this amendment to the Senate Calendar was rancorous and contentious. We had our say but the Majority side had their way. What we said about the intent of getting the CSs to this House has gone on record and it is in the HANSARD. I do not think this is a Motion for us to speak to the issues that we already prosecuted while debating the Report of the Rules and Procedure Committee.

This is quite unavoidable since last week that resolution was carried. However, it will impact on some of the busy Committees, especially those that have scheduled their activities and meetings into the next quarter. Some of those are the Public Accounts Committee (PAC) that I chair and the Public Investments and Special Funds Committee which has a fairly busy schedule. From time to time, we might be seeking the leave of the Speaker to have meetings even when the grilling of the CSs is going on.

Mr. Deputy Speaker, Sir, last week, I saw something very interesting. The Former Prime Minister (PM) of the United Kingdom (UK), Boris Johnson, was called before the Rules Committee of the House of Commons. In a session that lasted for three hours and 45 minutes, the Former PM – a man who was extremely powerful and pompous – was reduced to the level of a witness before a Committee.

The interesting thing is that being a Parliamentary System, the Former PM was appearing before a Committee of his peers in the Conservative Party and also the Labour Party.

We should know and institutionalise that being in the Executive does not make you a special animal in this country. We should encourage those people who have had the good favour and privilege of serving this country in the Executive; yes, they have access to resources and decisions that enrich, impoverish or change people's lives. They must remember that those functions that they exercise, they do so on behalf of the people of Kenya.

Every time we talk about the people of Kenya, we refer to Article one of the Constitution. Many a time, I have heard people say that that right has been given to them by the Constitution. There are countries without constitutions. The right is not given by the Constitution but by God. The Constitution is a mere record of that right and the social contract between the leaders and the led.

Last week, I said when the CSs come to this House, perhaps they will regret coming here. I have sat with many Members across the divide when interrogating financial accounts from governors. When the Senate is on one side and the executive on the other side, what I have seen is excellent bipartisanship. I want to encourage everyone in this House that when a CS comes here, do not look at him as Kenya Kwanza, a man from your tribe or as a friend of yours. Let the Senate be the Senate.

If you saw the editorial cartoon in yesterday's newspaper, parliamentary oversight was depicted as a corpse lying on a slab with many daggers on its back. That tells you the mood of the public as far as the role of this Parliament is concerned.

Mr. Deputy Speaker, Sir, let us use this opportunity to rise above parochial and partisan interests. Let us use this opportunity to convince the nation that legislative oversight that was depicted as lying comatose on a slab has been revived and that this Senate will be that House, where because we are fewer, we are able to make more meaningful questions, guide conversations and put the Executive to the task.

There have been many ways and avenues for policy positions to come to this House. Just last week, we approved the Budget Policy Statement. Every year, the President is required to come to Parliament to make an Exposition of Public Policy. The Motion that follows a Presidential Address is that the Senate registers its thanks to the President for the Exposition of Public Policy, contained in the Presidential Address. There has been no shortage of opportunities for public policy to be brought here.

Assuming no one goes to Court and invalidates what we did last week – I am not trying to threaten anybody – this is going to be a torture Chamber for those who have the habit of misusing the instruments of power that they wield. It will be an accountability Chamber for those who think that they can hide in the ivory towers and run away from the public. It will be an accountability Chamber for those who think that a Senator must make an appointment three or four days before and when they go there, they are kept waiting for six hours.

We will meet here. We will ensure that we squeeze out of them the accountability that Kenyans expect. We will ensure that we are not going to have a rogue Government that will be running this country from ivory towers and the Executive.

Mr. Deputy Speaker, Sir, as you know, some of them are people we competed against in the last elections. You work very hard to become a Member of the Senate. The person you vanquished becomes a CS and then they are the ones who are loading it over you.

*(Loud consultations)*

You work very hard to become the Senator for Meru County and then the person you vanquished becomes a Cabinet Administrative Secretary (CAS). When it comes to the order of precedence, the CAS is now more powerful than the Senator who defeated him in the last elections. These are things that we must fix.

I wish to encourage Sen. (Dr.) Khalwale, in the 11<sup>th</sup> Parliament, he came up with an Order of Precedence Bill. We must revive that order of precedence so that those people who are political losers out there – they are still Kenyans and they can get other opportunities – cannot load it over the people who have been elected by the public to represent them here.

Mr. Deputy Speaker, Sir, my final concern is that this House must and can only admit a CS who is appointed as per the Constitution; and who has been vetted by the National Assembly as required by the Constitution.

Let nobody bend the rules, to bring in Chief Administrative Secretaries (CASs) and all sorts of characters to this House.

Mr. Deputy Speaker, Sir, I am supporting this Motion on the assumption that the Senate Business Committee (SBC) has discussed and there has been unanimity on the matter. On that basis, I support.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. M. Kajwang’.

Proceed, Sen. Wakili Sigei.

**Sen. Wakili Sigei:** Thank you, Mr. Deputy Speaker, Sir. I support the Motion moved by the Senate Majority Leader, in the context of the amendment of this House’s Calendar, so that we facilitate the appearance of Cabinet Secretaries (CSs), on Wednesday morning Sittings to answer Questions which hon. Members would have put forward regarding their respective ministries.

I have listened to the comments and contributions by Sen. M. Kajwang’. I confirm that the SBC sat, debated on the issues, pros, cons and the reasons which were put forward as to why we need this Cabinet Secretaries to appear before this House. I am alive to the fact that this House also debated the Motion to amend the Standing Orders, which was acrimonious.

However, at the end of the day, this House is mandated to make sure that the people, who have been given mandate as Cabinet Secretaries, are responsible for what happens in their ministries. That responsibility can only be achieved when the said Cabinet Secretaries are called upon by the House to respond substantively to the Questions which hon. Senators have asked. I am aware that there are Questions regarding the performance by those Cabinet Secretaries in the ministries on the roles, which Kenyans expect them to do.

I am equally aware that there is an issue that was raised with regard to the appearance of Cabinet Secretaries in the House, while being non-Members of the House. I want to convince Members that the conversation was in context of a misunderstanding of the persons who will be expected to appear before this House. The order has been put very clearly by Sen. M. Kajwang’.

The people who will appear before this House are Cabinet Secretaries who were constitutionally appointed, vetted by the National Assembly and sworn into office. Those are the only ones who will appear here. We do not expect any other character or person to appear in this House, other than a Cabinet Secretary. This House has got its membership established by the Constitution. That appearance cannot be construed as the person coming as a Member of this House. It is a member who has been summoned to appear, to answer to questions relevant to their delivery of service to the people of Kenya.

Mr. Deputy Speaker, Sir, I support this Motion. I encourage Members of this House to heed the provisions of those Standing Orders. We should ensure that we put forward Questions that will support the performance of the House in its roles of legislation, oversight and in ensuring that the people of Kenya are served by people whom we have elevated and enjoy their offices courtesy of taxpayers’ money.

The Question time, kind of Questions and how they are supposed to be put forward has been specifically provided for. The opportunity to grant Members additional time for Supplementary Questions gives us an opportunity beyond the written Questions. This will ensure that Members have an opportunity incase the said Cabinet Secretary is not sufficiently responding to the Questions.

I encourage Members to seize the opportunity. They should make sure that the debate and performance of Cabinet Secretaries in the House is an opportunity for the people of Kenya to feel that this House is indeed working as an ‘Upper’ House and that service to the people is appropriately delivered.

Mr. Deputy Speaker, Sir, I support.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I will study the evidence, which was tabled by Sen. Oketch Gicheru. I will look at it keenly and Communicate at an appropriate time, whether it satisfies the requirements of our Standing Orders.

Therefore, that matter will not be revisited this afternoon. I will take time to go through it. I am now well versed with the issues that he had raised yesterday. I will take time, go through it and bring a Report to this House.

Let us proceed, Sen. Oketch Gicheru.

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to contribute to this Motion. The ‘bull fighter’, Sen. (Dr.) Khalwale, started by saying that if something is good and you can make it better, then, make it better. However, if something is really good but it can stay good, make it just stay good.

Mr. Deputy Speaker, Sir, some of these Motions that we seek to introduce in the House are forgetting the fundamental reasoning behind some of these Standing Orders. If you read Standing Order No. 34 (4) (a) and (5), on the hours of meetings, it states –

“(4) Notwithstanding paragraphs (1) and (2), the Senate may resolve to-

(a) Extend its sitting time;

(5) A Motion under paragraph (4) (a) shall be moved at least thirty minutes before the time appointed for adjournment.”

It means that if there is indeed a substantive issue ---

**The Deputy Speaker** (Sen. Kathuri): I gave you time to contribute to the debate.

**Sen. Oketch Gicheru**: Yes, I am contributing to the debate.

**The Deputy Speaker** (Sen. Kathuri): I thought you are on another matter. Can you be relevant?

**Sen. Oketch Gicheru**: I am not supporting the Motion.

**An. hon. Senator**: Which Motion?

**Sen Oketch Gicheru**: The Motion moved by the Senate Majority Leader. That is what we are discussing.

**The Deputy Speaker** (Sen. Kathuri): Yes. I gave you time to contribute and not to talk about Sen. (Dr.) Khalwale and others. Let us be specific.

**Sen. Oketch Gicheru**: Mr. Deputy Speaker, Sir, maybe you are still examining my evidence and therefore, you did not get my point---

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): I have not looked at the evidence yet. I will take my time to go through your evidence.

**Sen. Oketch Gicheru**: I think you did not get my opening statement. This Motion attempts to change some of the provisions of Standing Order No.34, which are already good. I do not think that this House needs to add meeting hours to such days as Wednesday.

If there is a very serious issue that needs to be considered with an extra hour or sittings, our Standing Orders already provides for that. Standing Order No. 34 is well laid out to the extent that the fears that the Senate Majority Leader brings through this Motion are already taken care off by this Standing Order.

We have seen this even in instances where we have got Adjournment Motions or any other Motion. Using this Standing Order, you can extend the time of a sitting or you can seek for a different sitting.

This is already good and there is no need of interfering with it. The purpose for this is because the functionality of any House of Parliament is best done in Committees. In the design of Committees, examination and interrogation of issues is well catered for.

Mr. Deputy Speaker, Sir, some of the Committees that we have in this House are doing a better oversight and any other role.

Today, my sister, Sen. Tabitha Mutinda who is the Vice Chair of the Committee on Finance and Budget, spent almost four hours dealing with matters of the Equalization Fund. This is a serious Fund under Article 204 of the Constitution and it has not gone to the counties.



At the same time, Sen. Tabitha Mutinda and I are also Members of the County Public Investments Committee (CPIC). At CPIC today, we examined important issues on the investment of the water company in Kisii County.

The Governor of Kisii County travelled all the way from Kisii and came to the Committee hearing. However, we could not get enough time to serve in both Committees. If we attempt to take time out of Committees and put it on this plenary, we will be losing the functionality of this House.

Mr. Deputy Speaker, Sir, this is one of those issues that I urge fellow Senators to not just follow the sides of the House; that, this is a Majority or a Minority issue.

This is one of the issues that Sen. M. Kajwang' said is a procedural issue. From the time we have spent in this House, procedural issues become experiential issues. When we are making determination of this particular Motion, let us make it based on the experiences we have had because that experience speaks to what Senators see in order to get an effective and efficient formulae that will contribute to our function in this House.

I do not support this. I hope we do not support this Motion so that we do not take time out of Committees. In as much as we have important Motions that we care about like Sen. Orwoba or any other Senator who is not getting attention, let us explore Standing Order No. 34(4) (5) and (6). This will enable us seek for a sitting that will allow that particular Motion to be dealt with.

Mr. Deputy Speaker, Sir, this will make this House more effective. With that, I oppose this Motion and encourage my fellow Senators to be experiential in making this particular determination while supporting or not supporting this Motion.

**The Deputy Speaker** (Sen. Kathuri): Sen. Mungatana Buya.

**Sen. Mungatana, MGH:** Mr. Deputy Speaker, Sir, I stand to support the Motion by the Senate Majority Leader. I will state two points that my colleagues have maybe forgotten.

I associate myself with all those colleagues, hon. Members, who have spoken before me in support of this Motion.

We forget that Cabinet Secretaries (CSs) are State officers and are covered under Chapter Six of the Constitution on integrity. The problem with most of us is that when we speak about Chapter Six, we call it the Integrity Chapter yet we have never read it.

I encourage our colleagues who are in doubt as to the utility of this particular Motion, that it is an expression of Chapter Six, at its best, on integrity and leadership.

Mr. Deputy Speaker, Sir, Article 73 of the Constitution requires that every State officer who has taken an oath such as a CS, are supposed to exercise the responsibility they have been given as a service to the people and not to rule over people.

When those CSs come here, it will be a good reminder to them that they are not supposed to rule over the people but to serve them. We have had CSs who forgot that appointing authorities including the Deputy President (DP), was senior to them.

The CSs in the immediate past administration carried themselves in a manner that suggested that they were more superior than, not only ordinary citizens, Members of Parliament (MPs) but also senior members of the Executive.

Mr. Deputy Speaker, Sir, these are the people you cannot handle in those Committees. This is because they write letters, come when they want, do what they like and ignore summons and nothing happened to them. It will not be the same here when we meet with them face-to-face in the plenary, in the glare of the eyes of Kenyan people.

It will remind the CSs that they took an oath to serve the people of this country. The CSs of the past administration will be watching and seeing what a CS is supposed to do.

We will have CSs who know facts of their Ministries and not those people who just depend on support staff to answer even trivial questions.

We will have people who study the mandate of their Ministries and are able to answer follow-up questions because they have studied their mandate and are familiar with the outputs and requirements of the departments they head.

Another reason to support this Motion is that it is actualizing the constitutional requirement under Article 35 that access to information held by the State must be granted to every citizen.

Access to Information Act is there but this will be the real access to information. When those State officers come here, they will not plead about secret information. They will be required to give proper and satisfactory answers to all the questions that will be put before them.

Mr. Deputy Speaker, Sir, Kenyans will be watching to see the CSs who deserve to hold these offices. This will be the area where the appointing authority, His Excellency the President, will also see the CS who is ready to work as a servant to the people.

This will be the place, where all Kenyans, including the appointing authority and fellow CSs will be watching to see who is sleeping on the job, always travelling abroad, not able to know what is happening in their offices and always in meetings that are otherwise other than the authority they have been given to serve.

*[The Deputy Speaker (Sen. Kathuri) left the Chair]*

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

In the past, we had CSs who were extremely busy doing personal businesses. They forgot the Constitution specifically forbids that. If I can find that one quickly.

Article 77(1) of the Constitution reads-

“A full-time State officer shall not participate in any other gainful employment”

Madam Temporary Speaker, what we have had in the past is that Cabinet Secretaries have not spent time mastering the things that have given them that position and the facts about their Ministries.

The Cabinet Secretaries have been totally dependent on the Principal Secretaries (PS). You go to their offices and all you hear is, have you asked the PS about this? Does the PS know about this? Why? This is because they are directors of personal businesses. They are owners and partners of personal businesses. They have a lot of time to spend doing their own things other than the reason why they were given those positions.

Madam Temporary Speaker, I remember personally serving as an Assistant Minister in the Office of the President. There used to be a Cabinet Secretary who would be saying there is this and this meeting, I will be going to State House, so you chair those meetings and I will come at around 5.00 p.m. to the office.

That particular Cabinet Secretary - and he was later on fired - would not be in State House. He would go to attend to his own meetings and businesses. Of course, he became a very wealthy man at the end of the term. These are the people we want to make sure they are not in public service.

If people like those were being grilled as it should be, because in those days, we used to cover for them. It was us, the Assistant Ministers, who used to come and take the fire. However, in this particular case, we have said that Cabinet Secretaries are the ones who must come in person.

I want to urge all of us to take this opportunity to attend and it will be bipartisan. There is no way that we shall support people here even if we are in Kenya Kwanza and United Democratic Alliance (UDA). The people who come here and they show incompetence, unpreparedness or are sleeping on the job, we shall crucify them on the Floor of this Senate.

We are not going to joke with people who have been given responsibilities and some of them we competed with them and they lost but went to sit in the Cabinet. We shall not give them time here to relax. They must be prepared and know the duties that are involved in those jobs that they have been appointed to serve.

**Sen. Wakili Sigei:** On a point of Order, Madam Temporary Speaker.

**Sen. Mungatana, MGH:** What is not in order?

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

**Sen. Wakili Sigei:** Madam Temporary Speaker, is Sen. Mungatana MGH in order to make reference to crucification of Cabinet Secretaries who will come and appear before this House? The language used to “crucify” is not in order.

*(Laughter)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mungatana, MGH, would you reconsider the use of language and words and their ordinary meaning in English parlance?

**Sen. Mungatana, MGH:** Yes, Madam Temporary Speaker. In the good old school at Alliance High School, we used to have something called similes. So, maybe some of us never benefited. I will excuse my colleague.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wakili Sigei, it appears you did not attend Alliance High School.

**Sen. Mungatana, MGH:** No, he did not. I do not want us to lose this point; we want really serious people to come to this House. I have had the fortune of interacting with the Head of State. This is a very serious man. He knows his facts. When you question him about issues, even concerning your own county, he would be talking about facts and issues.

I pray that the people who will be coming before us will be prepared because we are not going to joke around in these sessions. We want serious people and I hope wherever they are, they are listening, that we want them to be responsible for everything they are doing in the Ministry. They will be responsible for the policy directions of the Ministries and achieving the goals so that this country can go ahead.

With those many remarks, I pray that we support this Motion. Even Sen. Oketch Gicheru and he is still here--- No, do not oppose. You cannot be the only person in Jerusalem who has not heard that everyone is supporting this Motion.

Madam Temporary Speaker, I beg that we support.

I thank you.

*(Interruption of debate on the Motion)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM GITWE  
GIRLS' HIGH SCHOOL. KIAMBU COUNTY

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, I have a Communication to make, on visiting teachers and students from Gitwe Girls' High School in Kiambu County.

In the public gallery, we have 127 students accompanied by six teachers from Gitwe Girls High School in Kiambu County who are in the Senate on an educational tour.

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

I thank you.

I will request Sen. Wamatinga to welcome the students and the teachers from Gitwe Girls High School,

**Sen. Wamatinga:** Thank you very much, Madam Temporary Speaker. On behalf of the Senators and in particular the Senator of Kiambu, Sen. Thang'wa, I take this opportunity to welcome the students from Gitwe Girls High School to the Senate.

Indeed, the Senate is a House of all possibilities and I am sure that you will learn a lot of things here. I would want to encourage you to focus on anything that you want to be. If you see some of us like your Sen. Thang'wa and myself sitting in the Senate, this is a country of possibilities. I would tell you, you must dare dream big so that one day you cannot only sit in this House but maybe even hold the greatest office in this country.

As you are aware, we are drawing a lot of motivation from the fact that the current President of this Republic was a chicken seller who did believe in himself and today, he is the President. The Deputy President of this country was a son of Mau Mau who dared to dream big and today, he is the Deputy President.

You have all it takes to become what you want. Therefore, I encourage you to work tirelessly and know that this world is yours to conquer. Welcome.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mumma, can you welcome the students?

**Sen. Mumma:** Thank you, Madam Temporary Speaker. I rise to welcome our students who have come from Kiambu County and to tell them that this is the place where we make the laws and guide policies in this nation.

The role of Parliament as you may have learnt in history or civics, is a very important role. The role politicians play in your lives is a very important role. So, I am glad that your school saw it fit to bring you to come and witness what we are doing at the

Senate. I sincerely hope some of you will grow and take an interest to come to this House and contribute to shaping the policies that will guide this nation.

As students, you might have been told that politics is a preserve for a few people. I want to disabuse you of that notion and to ask that each and every one of you whether you plan to be in the private sector or you want to work in the public service in the Executive, you must take a keen interest in politics and what happens in Parliament. This is because what happens in Parliament shapes even what happens in your schools and this country. This is the reason why we might take seriously things like the right to health and the right to water.

I am glad you took an interest and you are also attentive. Even as we debate, I would like you to know that sometimes we debate emotionally. Sometimes it appears that we are exchanging but we are a united Senate working for this nation.

*Karibuni sana.*

**The Temporary Speaker** (Sen. Veronica Maina): Let us have the final welcoming remarks by Sen. Methu.

**Sen. Methu:** Thank you very much, Madam Temporary Speaker for giving me an opportunity to welcome students from Giiitwe Girls High School. I would like to convey the message from the Senator of Kiambu, Sen. Thang'wa, who has asked me to welcome you to the Senate. Sen. Thang'wa is out on official duty of the Senate.

I hope that the girls will have an opportunity to learn. My only word of encouragement, which I normally say all the time, is that education is a major gate to success and prosperity for all of us.

The reason some of us have had an opportunity to serve in this august House is because we were given an opportunity to go to school and put a lot of effort when in school. We excelled when we were in school, beginning from primary to high school and university.

Finally, I note that these students are coming from a prestigious institution of learning. Some of us never even got an opportunity to attend prestigious institutions of learning. We have had many Senators here who take a lot of pride having attended national schools. Even those of us who attended schools that have been used as polling stations for a long time also made it and we came this far.

So, I challenge the girls from Giiitwe Girls High School. Please make your parents, your school, and our country proud. We are looking forward to having some of you---

It should be a great encouragement to them that the person sitting on the Chair is a woman. That means that even our girls and women can go all the way up.

We have great women of substance. The lady who spoke just before me, that is Sen. Mumma, has been serving as the Chairperson of the Orange Democratic Movement (ODM) Party Elections Board. So, women and ladies can go all the way up. We celebrate and love them.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Methu. I will now invite Sen. Olekina.

*(Resumption of debate on the Motion)*

**Sen. Olekina:** Madam Temporary Speaker. I rise to oppose this Motion for the following reasons. Firstly, I would like us to note that we are guided by the rule of law and the Constitution.

I have no problem with the Senate amending its Calendar. The biggest problem I have is that we want to amend our Calendar to introduce strangers to sit on the Floor of the House for us to interrogate and ask them questions.

I oppose the passing of the Motion to amend our Standing Orders to allow CSs to come on the Floor of the House because Article 153(3) of the Constitution is quite clear. It states as follows-

“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.”

If you look at Article 153(4), each and every CS is required by the law to provide regular updates to Parliament on matters within their docket.

One of my biggest pet peeves is; should I be a legislator that comes here to defend the rule of law, or should I be a legislator who comes here to rubberstamp issues which cannot stand any form of litigation? That is the biggest challenge that I have. I was waiting for the secretariat to demystify what it means by a CS sitting here on this side.

Yesterday I listened to the Speaker giving his communication. In fact, he even assigned a seat where CSs will be sitting.

I went round the entire Narok County and spent millions of shillings asking for votes and I was tasked with the duty to represent the people. I was given the privilege by the people to come and represent them here, yet somebody who is appointed can come and sit here when the Speaker is presiding over the House to answer questions.

It is time we defined our system of governance in this country. Are we a parliamentary or presidential system? Do we have our own system which we call the Kenyan system? If so, we should amend the Constitution taking into consideration what is required when it comes to amending the basic structure of the Constitution?

If I support this Motion, I will be committing an offence because I will be violating the Constitution. If the Chair can tell me that on a specific day when a CS comes here, the House will be converted to a committee, I will have no beef. However, as it is, this is a matter I will be giving fodder for the people who will go to court and say that Sen. Olekina also sat there and supported an illegality.

Madam Temporary Speaker, I want to be considered as having been different when it came to following the due process of the law. I want to be remembered as a person who stood firm and said no.

The day we convert this House to a Committee of the Whole--- By all means, any witness can appear before any Committee of Parliament because the law is quite clear. We have Article 125 of the Constitution and the Parliamentary Powers and Privileges Act. Sections 18 and 19 gives us the power to summon or invite witnesses to interrogate or ask them to give us information that we need, so that we can perform our tasks.

Madam Temporary Speaker, without belabouring the point, I oppose this Motion because first, it goes against the basic structure of our Constitution. Secondly, this Motion violates Article 153 of the Constitution of Kenya. If we sit here but the Speaker is not

there and we turn this into a Committee of the Whole, and there is no Mace here, I cannot entertain having a stranger.

When the Senator for Bungoma was elected following a by-election and he came to this House, since he had not taken the Oath, he sat at the Speaker's Gallery as a guest.

The only person who is allowed by law to sit on the Floor of this House is an elected Senator, and of course, members of the secretariat who support us here. That includes the Serjeant-at-Arms and the Speaker whom we elect to be our referee. Any other person who sits here during plenary, it is a violation of the Constitution of Kenya and I do not want to be the first one, or among the people who violated the Constitution of Kenya.

I thank you and oppose.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okenyuri, you have the Floor.

**Sen. Okenyuri:** Madam Temporary Speaker, I rise to support this Motion which, in fact, is timely. As a young legislator, I will be having time to take to account the respective CSs on what they have budgeted for young people and women in this country because they have budget lines which they have to state here.

We will also have real time answers. As it is now, Chairs of Committees can only report what the CSs have written to them. As we all know, they generally view the Senate as any other ordinary body they will appear to.

So, at times, they opt to just write very short responses, which you might have limited time to query. However, in appearing before this House where every other Senator is, there will be more transparency and there is time to even question on real time. They will be going on HANSARD so they will not just be mere pronouncements to suit the interest of a few people.

Madam Temporary Speaker, this is also a good opportunity. I commend the President who among the campaign promises he made, was to have CSs appear in this House. That is quite progressive in promoting open governance.

Young people from various parts of this country, women and any other ordinary citizens will have an opportunity to see if whoever is holding a particular docket is actually capturing their interest and whether they are competent.

Just like Sen. Mungatana, MGH said, you are not going to rely on shorthand notes given by technical persons. You should be having knowledge on your area of interest.

Senators such as myself, who took quite some time learning the ropes in this House having been a late entrant, will have more time to also push my issues that are concerning young people, women and generally disadvantaged persons in this country.

I alert the CSs who will be responding here. Most of them have not been taking phone calls. I do not understand why because at times, you are not calling them to ask for any favours. Nevertheless, in this House, there will be no chance of giving excuses that you are out of the country. Once you appear here, we exhaust all our questions. You give your responses, state what you have captured for the young people, the women and for any other special interest groups we have in this country.

I support this Motion and urge my colleague, Sen. Oketch Gicheru - You are a young person like me - You need to support this because it will give--- Sen. Oketch Gicheru, you are a young person like I am and I know the young people from Migori County will be looking forward to seeing how you take to account the CSs---

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Oketch Gicheru? Sen. Okenyuri, just pause there. Please cite the Standing Order you are denying on.

**Sen. Oketch Gicheru:** Standing Order No. 121, 122 and 123 applies. Is it in order for Sen. Okenyuri to address Sen. Oketch Gicheru in this House and not the Chair? This is because the Standing Orders are very clear that if you are going to address the House, you address through the Chair.

Madam Temporary Speaker, the reason I am raising this is very important--- We are going to have strangers in the House. Let us say a stranger addresses me the way Sen. Okenyuri is doing or the stranger is out of order. The stranger that is called a CS, may abuse me or does anything that is out of order.

Which Standing Order will you use to take a stranger out of this House or to command the Serjeant-At-Arms to take action on any stranger? This is why we are saying that this is a very big problem that we are entertaining.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Okenyuri.

**Sen. Okenyuri:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Address Sen. Oketch Gicheru through the Chair.

**Sen. Okenyuri:** Sen. Oketch Gicheru should also be very welcoming that I can actually recognize him as one of the few young Senators we have in this House making meaningful contributions. So, Sen. Oketch Gicheru, I implore you to support this move because the good people of Migori County---

**The Temporary Speaker** (Sen. Veronica Maina): Address Sen. Oketch Gicheru through the Chair.

**Sen. Okenyuri:** Yes, Madam Temporary Speaker, I implore Sen. Oketch Gicheru to embrace this move because the young people of Migori County are going to have an opportunity to also see how their good Senator is getting real time responses on their issues.

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

**Sen. Mwaruma:** Thank you, Madam Temporary Speaker, for giving me this opportunity to oppose this Motion that calls for changing of Standing Orders to include Wednesdays as part of our calendar, and inviting CSs to come and contribute or be part of this House.

Madam Temporary Speaker, for starters, I recognize the fact that from my experience in the last Parliament, it has been extremely difficult to get some of the CSs to come and answer to Statements and Petitions from Members. However, because of that difficulty, we tried to amend this Constitution through Building Bridges Initiative (BBI), but it went the way it went. What we are trying to do now is to amend the Constitution through the back door by amending the Standing Orders.

Madam Temporary Speaker, being the lawyer you are, we are a presidential system and not a parliamentary system or a mongrel. In a presidential system, we are supposed to have parliamentarians and the Executive would serve as CSs and the President.



When we invite CSs, and that has been handled by the rest of the Members who have contributed, Sen. Olekina and Sen. Oketch Gicheru, how would we be admitting them into this House with the mace there? How would it look like? So, I want to go on record that I would not be one of the people to support this because it is unconstitutional.

Thirdly, we have tried before to have sittings in the morning on Wednesdays. We have had quorum hitches until we resolved to have only three days in the week for our Sittings.

Four, we have only three days for Committees to meet. In the Committees, we process our Bills, Petitions and Statements. We have had problems of quorum in the Committees because of the Members belonging to two, three, four committees.

In the permutations and the combinations, we have had difficulties having quorum if the Committees are sitting at the same time. What will happen now if you are having only two days instead of the three Committee days, that is Monday, Tuesday and Thursday mornings?

Madam Temporary Speaker, when we have done our Committees, we have had good sessions with CSs, who appear, and we have gone into the depth of the issues. Now, by reducing the time to two days, do you want to bite it shallow and wide or you want to continue biting narrow and deep when we have just few Members asking questions to CSs?

So, I oppose this move. I know because of the membership of the other side and the few Members from this side, they might support this unconstitutional move. However, I want to go on record that this amendment to the Standing Orders is tantamount to trying to change the Constitution through the back door.

I know the President wants the CSs to come here, but then why can he not follow the Constitution and change it through the provisions that are there that allow us to change our Constitution?

Madam Temporary Speaker, I oppose and thank you for the opportunity.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Tabitha Mutinda, please, proceed.

**Sen. Tabitha Mutinda:** Thank you, Madam Temporary Speaker. I rise to support the Motion by the Senate Majority leader, Sen. Cheruiyot. I look at this issue of inviting CSs to the House from a wider perspective. As Sen. Oketch Gicheru, a Member of the Standing Committee on Finance and Budget mentioned today, we were to have the CS for the National Treasury and Planning. Apparently, he was not in a position to appear.

Most of the issues before the Committee are ones that we normally address to the CSs in the different offices that they hold. In bringing the House together and letting the CS appear, we will cover a wide range of issues that we raise in the House. As the representatives of the people, it becomes easier to get direct answers. The people will also have a chance to listen to feedback from different offices.

It has been indicated earlier that the CSs had a character of not wanting to appear. However, I am happy because in our manifesto, this was one of the key issues that we promised to do. It is not a war being set. It is an opportunity to address much more fundamental issues that affect different parts of this country. Today, *maandamano* is taking place in our country. It would be good to have Hon. (Prof.) Kindiki giving us the status of the security because of what is happening.

Article 77 of the Constitution states that state officers have a mandate to showcase their leadership and integrity in terms of what they are doing in the offices. This should be as per what we have promised Kenyans as a Government. It is a high time we had an open mind and look at it broadly.

At the same time, there is a concern on the number of days given to Committees. We have been conducting Committees on Tuesdays, Wednesdays and Thursdays. You realise that the common factor in all these Committees is a point where we summon different CSs.

I urge colleagues to look at it in a perspective where we shall minimise some of the issues in the same Committees. Yes, we shall limit the Wednesday time during the morning session, but these are issues we can rearrange because without planning, we fail. I find it possible to adjust our committee timings and squeeze them to Tuesday and Thursday. We shall be able to address most of the pending issues.

In those Committees, we have statements that need to be tackled and those that CSs come to respond to. If we put it in this Plenary, then we will cover many issues. I remember during the issue of Her Excellency Governor Kawira of Meru County. Colleagues had actually proposed that she appears before the Plenary. However, because of the time factor, she appeared before a Select Committee.

It is now a good opportunity and also for us, the new Members, to learn widely on different matters because we shall invite different CSs. Some of us serve in Committees specific to line Ministries, but now, there will be wider coverage.

I support.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Okiya Omtatah.

**Sen. Okiya Omtatah:** Thank you, Madam Temporary Speaker for the opportunity to contribute. I rise to oppose the Motion on the Floor.

First and foremost, I would like to correct the Senator who just spoke before me. When the Act of Parliament that cuts and pastes Article 154 into the County Governments Act allows for people to come here during impeachment, it is the Constitution itself that allows. The same Constitution allows the President to address this House once a year. The appearance before Plenary of a governor who is being impeached is allowed by the Constitution itself.

We are a creature of the Constitution not a law unto ourselves. There is no provision for amending the Constitution through the Kenya Kwanza manifesto.

*(Applause)*

The manifesto of Kenya Kwanza had promised people something that is unconstitutional. It is upon us to ensure that the Constitution prevails.

We chose a Presidential system, where we elect two centers of power. We elect the House and the Constitution. People directly elect two centers of power. In a Parliamentary system, the people elect one center of power called Parliament. Parliament then elects the executive – who are the CSs – coming from the House. They are Members of the House and can also appear in the House. We do not have that kind of structure.

It is my submission that we cannot introduce a mixture of the Parliamentary and Presidential system through the backdoor. We borrowed the Presidential system from the American system. The only other Presidential system is in Nigeria. Only three countries

have pure Presidential system; Kenya, Nigeria and the United States of America (USA). I am yet to see where CSs appear in the House.

Madam Temporary Speaker, I support the proposal that has been made here. If people want the luxury or pleasure of seeing CSs appearing before the House as a whole, then we remove the Mace and the Speaker and have a *kamukunji*. Let the CSs appear before a *kamukunji* of the Senate, but not the Senate.

Secondly, the conditionalities that have been imposed on the appearance of CSs have deliberately created a shuttle for protecting CSs from parliamentary inquiry. At the Committees, we do not have limitation on what you can ask a CS. The CS who does not turn up can face sanctions. I am yet to be told that any Committee has imposed a sanction on a CS and there were no consequences to it. Why are we handling CSs with kids' gloves? Why are we mollycoddling them?

I do not see the essence of breaching the Constitution for expedient reasons. There is absolutely no reason we should not follow the Constitution. The power donated to us to make Standing Orders is highly limited. It cannot give us the right to override the Constitution. A river does not flow higher than its source. We cannot purport to be flowing higher than the Constitution. I am sure the bullfighter understands that saying from where we come from.

As I conclude, I am endorsing the point that the Senator for Taita-Taveta County has made here. We have very limited time for Committees.

If we take away time from Committees to sit through the Plenary, we shall not be doing justice to them.

We have a backlog of work. The County Public Accounts Committee (CPAC) now has sittings even on Mondays to cover the backlog. I, therefore, oppose this Motion, I pray that we will be sober and look at the Constitution. If we want the Cabinet Secretaries (CSs) to appear before this House, let us do the honourable thing; let us amend the Constitution. We have the power to do so. Let us invoke it and amend the Constitution. However, before we amend it, we must apply the law as it is. There is no room for applying the law as you would like it to be.

The law as it is, is the law of the land. The law as you would like it to be is not a law. I stand to oppose the Motion.

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

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

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, I rise on Standing Order No.122 (1) (c) which states that-

“A Senator commits an act of gross disorderly conduct if the Senator fails to declare a personal interest in a matter before the Senate or a Committee in accordance with Standing Order 104 (Declaration of Interest).”

Madam Temporary Speaker, could the Senator of Busia declare whether after eloquently contributing to this Motion and after the Motion will have sailed through, he will still go to court and sue this institution?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. (Dr.) Khalwale, respectfully, we cannot contemplate before it actually happens. The Senate is not served with any proceedings as yet. As a Senator, he will be free to debate before any proceedings are done.

*(Applause)*

**Sen. Okiya Omtatah:** Madam Temporary Speaker, in reply, I will quote Article 3(1) which says that –

“Every person has an obligation to respect, uphold and defend this Constitution.”

If you violate this Constitution in this House, I will go to court to challenge it. I have an obligation to uphold, respect, and defend the Constitution which I do with pride, honour, distinction, which I applaud myself for if you do not applaud me.

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

My brother, ‘bullfighter’, I have run out of adjectives.

*(Applause)*

I do not know how you say it, because we say, ‘Mr. Speaker, Sir.’ How do we crown ‘Madam Speaker?’

*(Applause)*

How do we do it? I request to be informed by Sen. (Dr) Khalwale.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. (Dr) Khalwale, you may proceed.

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I would love to inform the hon. Senator for Busia. However, assuming that he is the lawyer he has claimed to be, the medium of learning and teaching law is English. This law he is talking about, is it from River Road or the ‘University of Karamojong?’

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wamatinga, do you want to respond to that?

**Sen. Okiya Omtatah:** He failed to inform me and asked me to inform him instead. We leave it at that. I wind up by opposing the Motion and pray that it fails.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wamatinga, kindly proceed and contribute to the Motion.

**Sen. Wamatinga:** Thank you, Madam Temporary Speaker. I arise to support this Motion. In global governance, transparency or a perception that there is a lack of transparency and accountability has made many donors shy away from investing in many countries. The spirit of having CSs come to the House is informed by the readiness of the Presidency to show the outside world that we are prepared to be not only accountable and transparent, but most importantly, to showcase what they want to do for the country.

I have listened to my fellow colleagues contribute and quote the Constitution. We promulgated the Constitution to better the lives of Kenyans. It takes time to change the Constitution. It takes a step to cover a journey of thousand miles. It is the beginning of governance that is open and has nothing to hide.

Madam Temporary Speaker, the President, Dr. William Samoei Ruto, has pronounced himself to the fact that he will be prepared to place his CSs at the hands of

Parliamentarians, so that they can be interrogated and explain the policy and direction his Government is taking. From a pessimistic approach, we may assume that they are coming here to answer questions. There could be no questions to answer because we still have Committees that are sector-specific, that have time to explore specific sector questions. As such, we may not have time in the House. However, explaining the policy direction of the Government is important. We, Senators, are leaders who have been elected to come to this House to represent our constituents. We need to get the policy direction of the Government, so that we can explain it to our constituencies.

Therefore, there is no better opportunity than to have CSs come to the Floor of the House and what they intend to do on some of the issues that they are implementing. For the last 60 years, we have been running in the wrong track and direction. It is in the wisdom of the President that he said that we must have an accountable, transparent Government that is prepared to explain to it what they are doing. In his effort to make CSs responsible for their acts, he saw it wise to make them and request us as Parliament to amend the Standing Orders to have them come in the House to explain what the Government is doing.

This is what we are talking about. People are demonstrating on the claims that they have no platform to place their Petition. That platform is being brought to their doorstep in the House, where people will and come and explain. It is where Members can give their Petitions, so that we will never have other demonstrations in the pretense that we do not have a forum to present our Petitions.

Madam Temporary Speaker, I thought that this would be a welcome move especially for the Members of the Minority Side because they are the ones saying that they do not have an opportunity. Just the other week I sat in this House with one of the organizations charged with generating power for this country. I could get a quorum to proceed with the Session because some people who claim that the cost of living is highly preferred to go and throw stones as if stones can bring the cost of living down. We can get the CSs here. It is a golden opportunity for us who do not sit in the Cabinet to give the wonderful ideas we have to bring the cost of living down without running on the streets, burning police cars and destroying people's properties. We have a golden opportunity like leaders to address those issues.

Everybody who is patriotic and nationalistic enough must support this move. This is because it is the beginning of democracy that is people driven, answerable to people, and leadership that has got nothing to hide, accountable and transparent.

Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Osotsi, you may proceed.

**Sen. Osotsi:** Madam Temporary Speaker, I thank you for this opportunity. I join colleagues who are opposed to this Motion. I oppose this Motion because you remember that we all took an oath here. We said that we would uphold and protect the Constitution.

Madam Temporary Speaker, as a Senate or Parliament, we are treading on very dangerous grounds. The moment we push through unconstitutional amendments to the Standing Orders then, we are setting a very wrong precedence for this Parliament. This is a House of records and rules. Therefore, it should take a lead in protecting constitutionalism in this country.

I have listened very carefully to contributions. I have had the benefit of being in the other House. I have seen scenarios where one side of the House forcefully pushes

through legislations, but later on, that piece of legislation comes back to hurt them the most. This House has to debate and pass laws or Standing Orders for posterity and not for political expediency.

I have heard my young sister, Sen. Okenyuri, talk about election pledges. We all gave election pledges. Even if we want to implement them, let it be done in line with our Constitution. We cannot just push through issues because you promised Kenyans what you want to do. They must be done lawfully and in a manner that aligns with our Constitution.

I have also listened to Members say that by Cabinet Secretaries (CSs) coming to this House, it will make them more effective and useful. I tend to disagree with that notion.

Article 153(4) of the Constitution of Kenya is very clear on the issues of decisions, responsibility and accountability of CSs. I emphasize Article 153 (4) (b), which states that –

“(4) Cabinet Secretaries shall -

(b) Provide Parliament with full and regular reports concerning matters under their control.”

Madam Temporary Speaker, we have Committees in this House. Are we telling the whole world that our Committees are not functional?

We need to insist on CSs providing reports to our Committees and make them work. What is processed by Committees is brought here. However, when we say that when CSs appear before us, we will be more effective is not being truthful. That clearly shows that we are not working in the Committees.

Secondly, Standing Orders form part of parliamentary law. It is our law in this House. Being a parliamentary law that we use to process other laws, then, it is important for this law to go through public participation.

Article 118 is very clear. Article 118 (1) (b) states that -

“(1) Parliament shall-

(b) Facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

We cannot be passing Standing Orders here without going to the public. Maybe, if we took these Standing Orders to the public, they will have their input. They will tell us that this is unconstitutional. They may even give us some useful input. Now, you subject these Standing Orders to the Committee, then, it writes a report and that is all. Then, you bring it here?

This same House is going to pass other legislations, which are supposed to go through public participation. Is this not contravening Article 118 of the Constitution? This must be looked at very clearly, with a sober mind and without political persuasion.

I am very sure that those who are supporting are not doing so because their conscience is telling them so. It is because of the political situation of the moment. Senate cannot descend that low. We want to pass laws that are going to be respected in a long time to come.

As I said, in future, these laws will come to haunt you.

I have gone through that in the other House where I was. I remember they vigorously passed the Security Laws. The same people who passed it, came later on to cry about it. I am very certain that it will again happen to this House. Let us be objective.

In future, we are going to remind ourselves of what we did by forcefully passing these amendments.

I have read the Constitution. Nowhere does it say that CSs shall appear before the Plenary. The only place where you get appearance of the CSs is in Article 153(3). It says

—

“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.”

Madam Temporary Speaker, even if we wanted CSs to appear, then, we would have gone the Sen. Okiya Omtatah way. Let us have a Committee of the Whole, so that a CS appears before a Committee of the Whole House. Then, we can ask questions in that Committee of the Whole.

That will not be breaking the Constitution. Nonetheless, by amending the Standing Orders in the manner in which we have done, it offends Article 153 of the Constitution.

Additionally, as some Members have said, we need to ask ourselves, what system of Government we are looking for. Are we looking for a parliamentary system of Government? If so, then let us not do things in piecemeal. Let us even have a Prime Minister, who will even be appearing here for Prime Minister’s hour, to answer questions from us.

I know we have a position that is close to a Prime Minister. Why do we want to pass these amendments before we put that position in law? I am talking about the Prime Cabinet Secretary, who happens to be my constituent.

It is very clear in the coalition agreement, that his position was supposed to be entrenched in law, 30 days on assumption of power. That has not been done. Therefore, let us have either a parliamentary or presidential system of Government. Let us not have something strange that is in between, which is not clear.

Madam Temporary Speaker, this agitation of wanting to change things to look different is going to hurt this country. We have had cases where laws and operations in Government have been changed.

The other day, we heard that you do not have to go through the Ministry of Foreign and Diaspora Affairs on a diplomatic issue. You can go directly to a line Ministry. That violates the Vienna Convention. We want to do things differently in this country and it is going to hurt us.

To end, as Sen. M. Kajwang’ has said, Wednesdays are days when some of our Committees, especially County Public Accounts Committee (CPAC) and County Public Investment Committee, engage counties. We have a backlog of work.

I am worried that if we take away Wednesday, we will not be able to clear the backlog we have. In that case, we will permanently request for leave in order to handle the numerous reports we have in the County Public Accounts Committee (CPAC) and County Public Investments Committee (CPIC). I want to urge Members to be objective and wise in this matter.

We may do things in a hurry to impress our political bosses, but I can guarantee you that in future this will come to haunt us. This is a matter where if one went to court, he would easily get orders against it. Do we want to be a Parliament that will be enjoined by the courts on its own Standing Orders? We need to ask ourselves this one question.

Madam Temporary Speaker, I am totally opposed to these amendments to the Standing Orders and I will vote against the Standing Orders. I can see my friend, Sen. Cheruiyot, is smiling, but I want to inform him that there is need to have Cabinet Secretaries appearing before the House, but let us do it in the right manner. If we want to amend the Constitution, this side of the House is ready. We support the idea of Cabinet Secretaries coming to answer questions, but let us follow the right procedure and do it constitutionally.

Madam Temporary Speaker, I oppose these amendments.

**Sen. Nyamu:** Madam Temporary Speaker, I wonder how any Member of this Senate would have an issue with Cabinet Secretaries coming to answer people's concerns on the Floor of this House. I have heard other Members saying that if we adopt this arrangement, it will be unique from other countries that either subscribe to a parliamentary or a presidential system.

What is wrong with us having our unique way or in us getting innovative to deal with our own unique challenges? Many Statements have been brought to this House addressed to Committees. I happen to sit in the Committee on National Security and Foreign Relations, where I am the Vice Chair and this Committee has the highest number of Statements. They are 33.

It takes ages to get these answers to the Floor of the House. There is also the aspect of distortion in communication. It is best that the Cabinet Secretaries themselves come here and answer these concerns, so that we do not have any distortion of information.

I applaud our Senate Majority Leader for bringing this very timely Motion because we have wonderful Motions and Bills tabled on the Floor of this House that will benefit from this Motion.

Personally, I have brought before this House a proposal to increase the minimum wage from Kshs15,000 to Kshs22,000. If we get to pass this Motion, such Motions will be passed in good time, so that we can serve the country.

With that, I support this Motion.

I thank you.

**Sen. Sifuna:** Madam Temporary Speaker, I rise to join my colleagues in the Minority Side who have opposed this particular Motion. I stand here in the full understanding of the futility of our efforts, but we will still do what we think is right in accordance with the Constitution. As the Senator for Busia has said, all of us have taken an oath to defend the Constitution and that is what we exactly do.

I have just come from Kiambu Police Station, where I had been arrested purportedly on charges of unlawful assembly in my own office at the KICC. It absolutely breaks my heart to hear some of the comments that have come from the Chair of the Committee on Energy, knowing that I am a strong Member of that Committee and we are working together to make sure that we reduce the cost of living for Kenyans.

Even as we do that, it is important for those of us who believe that the constitutional rights that we gained through blood and sweat, are protected. I hold the position that every single appendage that God gave you, if you do not use it, it will fall off. This is how we, human beings lost our tails. We used to have tails, but because we were not using those tails, we no longer have them.

Madam Temporary Speaker, in my view, constitutional rights are the same.



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

Sen. (Dr.) Khalwale, I am a student of evolution. The exercise of these rights is what gives them life. We have given our position as the Minority Side on these amendments. I want to confirm here that we, as the leadership of the Minority side, will be proceeding to court to challenge these particular amendments and we know that that is the forum to ventilate some of the issues raised by my colleagues.

Madam Temporary Speaker, allow me to disabuse the notion of some of my colleagues that this is something other than what it is. In our view, this is not an opportunity for us to put Members of the Cabinet to task. It is a cosmetic change. We could have been done way better by going through the long constitutional route to give this Senate powers over these Cabinet Secretaries and I am going to demonstrate how.

I like what Sen. Okenyuri was saying, but I hope that she also listens to us. If you look at the rules that were passed by the Majority Side because the record of the Senate indicates, that although it is now a decision of the Senate, the Minority Side in fact did not participate in that decision and that is why we are taking the matter up.

Madam Temporary Speaker, the rules that we have bound ourselves to in this process allow, first of all, for very serious censorship from the Speaker; that the questions you want to put to a Cabinet Secretary can be denied by the Speaker. Those are the rules that we passed here.

Secondly, if we have complained about the speed of the responses that come from the committees and yet we go again and bind ourselves in a period of time under those rules that were passed here, that the responses of Cabinet Secretaries can only come after seven days; then we are defeating the point.

As politicians, we know that the news cycle is incessant and it does not stop. Stories develop every day. Kenya is always on the move. By the time you are asking a Cabinet Secretary a question from seven days ago, that matter has long moved on to something else. If the real intention of this House was to try and have quick responses to relevant and current matters, then these rules that have been passed have tied the hands of the Senate on the speed with which you can get answers for your residents.

Madam Temporary Speaker, my good Senator, Sen. (Dr.) Lelegwe, is here. If there are security issues in his county - there has been an attack on a school - even if you get the CS here - by the time they get here, that issue will have moved on and we will have fresh questions. Those questions cannot be asked because already, other questions had been submitted seven days earlier.

We also have this position that these rules have been framed to stifle debate further. For instance, they say that you cannot ask a CS about something you heard in the media. I will give you a classic example, and I wish the Senator for Uasin Gishu, the chairperson of the Committee on Health, was here. A few weeks back, I read in the newspaper that there was a secret policy in the Ministry of Health that was going to restrict labour migration in health services to other countries.

The Media are partners in the democratic process. Many things have been unearthed. Individual citizens do not have the sort of investigative tools that are available to the media to always know what is going on in the country. If you have read today's papers, there are a lot of revelations about some of the things that are going on in the country.

If I had not read that report in the newspaper about that health policy, I would not have used the platform of this House to get clarification from the Ministry of Health.

I attended sessions of the Committee on Health, where the stakeholders came. The Ministry of Labour and Social Protection confirmed that they are not aware of such a policy because it is a policy by the Ministry of Health.

The stakeholders confirmed to us that it is a secret policy in the Ministry of Health. They were given some circular, but they had not participated in the formulation of that policy. Therefore, you cannot ban or outlaw asking question by Members on matters that they have seen from the media, yet the media is a critical partner in democratization.

I want my colleagues to know that you cannot ask a CS a quotation from their own speech. In the context of what is happening in the country right now, if, for instance, we had the CS for Interior and National Administration before us next week---

For instance, I have seen a quotation of him saying that he needs to bring amendments to the House to review the Public Order Act. As a Senator, I will have gagged myself by the rules that I pass by myself. I believe that our colleagues need to understand and appreciate that, in fact, this thing is not what is being made to look like.

Another issue is the restriction to the nature of the question. That is why I urge my colleagues that they will not achieve what they think they are going to achieve with these rules.

There are 11 restrictions to the questions you can ask a CS. Some of them are interesting. First of all, your question cannot convey a point of view. I cannot say, for example, that 'Bw. CS, from the way I see things, the deployment of Kenya Defence Force (KDF) together with the police creates command problems because of the relationship of the two entities.' I cannot do that.

I like to speak with linguistic tools, but you have gagged me. You have said I cannot use irony, imputations, inference or opinion. How am I going to debate? Maybe other people have the capacity to speak devoid of these linguistic devices. However, I depend on them and that is how I became a lawyer and an MP.

I cannot seek an expression of opinion from a CS. I cannot ask the CS for Defence or the one for Interior and National Administration, for example, that 'in your view, Bw. CS, have the measures that you put in place to protect the people of Baringo been successful?' I cannot do that because we have tied our hands in such a way that, in fact, this is something totally useless to us as a House. I think we have unnecessarily tied our own hands.

Lastly, there is something that the Senator for Busia alluded to. Under Article 125 of the Constitution, the committees have been given power to enforce attendance of witnesses. In fact, if a CS fails to honour the invitation of a committee, we have the power to summon them, tell them to bring documents or compel production of documents and examine them under oath.

I have not seen a provision here that will allow us to examine a CS under oath. If they come and refuse to take oath---

That has happened in the County Public Accounts Committee (CPAC). There are governors who came and insisted to be shown the provision that requires them to take oath. Luckily for us, we have the Constitution to hide under. Article 125 of the

Constitution will tell someone that they have to take oath, so that they ensure what they tell us true.

The reason people take oath is because there are consequences on what they say. If we have not provided that CSs should take oath, we cannot summon them. If we cannot ask them to bring documents or compel their attendance, you have provided in these Standing Orders that all we can do is to start Motions of censure. Why would we, as a House, take away constitutional powers that have already been granted to committees of the House, yet the entire House is not availed those same tools?

Having said that, we need to respect the structures in our Constitution because we have separation of powers. Other institutions are defending their turf. We are the only institution among the three Arms of Government that is giving away its role in the democratic space in this country.

The other day, the court strongly pushed back against an attempt by some people to bring in the courts in terms of enforcement of Article 37 rights. They said that everybody has their role. Why are we, as a Senate, ceding grounds? You know that every single ground you cede, it is taken up by another arm or body.

Luckily for us because we still have an opportunity to ventilate these matters before the courts, we are hoping that we will succeed before any of these people step here and soil this hallowed House.

I thank you.

*(Applause)*

**The Temporary Speaker** (Sen. Veronica Maina): Lastly, we will have Sen. Wafula.

**Sen. Wafula:** Asante sana, Bi. Spika wa Muda. Nimekuwa nikisikiliza maoni kutoka pande zote na ninaona muda unasonga. Watu kule nyumbani husema, nitaomba nizungumze kwa lugha asilia kisha nitafsiri. Fisi aliambia jiwe; ‘japo utanyamaza umesikia. *Wakhasila waulile.*’

*(Laughter)*

Ngugu zangu Sen. Sifuna na wenzake wame---

**Sen. Sifuna:** On a point of order, Madam Temporary Speaker. The Standing Orders provide that you must complete your submissions in the language in which you began. I think my brother is out of order because under the Standing Orders, you are only allowed to read a quotation. You cannot go into these---

He has to tell us where he is reading from. Can he continue because he had already said what he wanted to say in Kiswahili, though he needs to continue in that language?

**Sen. Wafula:** Bi. Spika wa Muda, nadhani nchi nzima inasikiliza mjadala huu na pande zote zina haki kutoa hoja ambazo Wakenya wanaskiliza kwa makini.

Ninaelewa fika yale mambo ambayo yanashinikiza ndugu zetu walio kwenye upande wa wachache kwenye Bunge. Ni sawa kwa sababu sheria inawapa uwezo wa kusema yale wanasema. La muhimu ni kuwa kule tunakotoka, watu wanataka kuona Mawaziri wakiwajibika.

Sen. Sifuna umetaja vipengele ambavyo kwako ama kwa wale walio kwenye upande wa wachache, sheria hizi zinawangandamiza ama kuwafinya Maseneta wasijieleze fika mbele ya umma. Ni sawa na tuna nafasi ya kubadilisha.

Kile tunasema kama walio upande wa Serikali ni kwamba Mawaziri ambao wamechaguliwa na Mhe. Rais wanapofanya kazi yao hapa Kenya ni lazima wawajibike. Ni vyema wajieleze na kudhihirisha kwamba Kenya ni yetu sisi sote.

Bi. Spika wa Muda, kwa mfano, juzi tumeona Baraza la Mawaziri. Kwenye vyombo vya habari, kulikuwa na taarifa kwamba kutakuwa na ubinafsishaji wa mashirika ya Serikali zikiwemo hoteli. Hiyo ni sawa lakini kuna Mawaziri ambao tanangoja hapa. Waziri husika anafaa kuja na kutueleza aliuliza nani ruhusa ya kubinafsisha mali ya Serikali kwa sababu sisi ni viongozi ambao tunawaakilisha Wakenya.

Mimi kama Seneta wa Bungoma, hatutakubali kubinafsisha Kiwanda cha Sukari cha Nzoia pasipo kuhusisha wapigakura wa Kaunti ya Bungoma na watu wengine ambao wanatoka pembe mbali mbali za Kenya. Ni lazima Mawaziri waje hapa ili tuwaweke kwa msasa na ikiwezekana tuwatundike juu ya msalaba jinsi Sen. Mungatana alivyosema. Wakenya wana haki ya kupata majibu kutoka kwa Mawaziri.

Kuna masuala ya mipaka hapa Kenya. Kumekuwa na shida ya barabara kule Malaba na Busia. Jinsi nilivyosema jana, kazi ya Mawaziri si kupiga picha. Wanafaa kuja kutueleza kwa sababu tunawapa bajeti. Tunafaa kujua kama tunapata haki kama Wakenya ama kazi yao ni kujinufaisha na kufurahia matunda ya Serikali.

Naunga mkono Kiongozi wa Wengi kwamba Mawaziri wawe wakija. Hata hivyo, jinsi Sen. Sifuna alivyosema, tunafaa kufungua milango na kuzungumza Wakenya wakisikia. Kama ni lugha tuseme na kama ni mifano tutoe kwa sababu wanaporudi kwa Baraza la Mawaziri, wanafaa kwenda kumwambia Mhe. Rais kwamba tumewauliza maswali na wameshindwa kujibu ili awape nafasi ya kwenda kufanya masomo ya ziada nyumbani ili tukiwaita tena watupe majibu tunayotaka.

Watu wa Mombasa, tunasikia Bandari iko kwa shida. Ni lazima Waziri aje atueleze ni mikataba gani, ni nani wanahusika na kama tuna haki ama hoja za kuthibisha ya kwamba kuna watu wanaotaka kupora nchi ya Kenya, tuwanase.

Sisi ndio wengi katika Seneti. Sioni kitakachotutisha lakini ni lazima tufuate sheria, Mawaziri waje watueleze. Wakenya kule nyumbani wasikilize kwamba tuliuliza kile walichotutuma na majibu tumeypata.

*Okay, asante Bi. Spika wa Muda, ninashukuru kwa furusa hii na naomba tuendelee na yale tunayopaswa kuendelea nayo.*

**The Temporary Speaker** (Sen. Veronica Maina): Unaunga mkono ama unapinga?

**Sen. Wafula:** Bi. Spika wa Muda, ninaunga mkono.

**The Temporary Speaker** (Sen. Veronica Maina): I now call upon the Mover to reply. I hope you will be brief because I have a Communication from the Chair.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I took time to listen to our colleagues who have taken time to contribute to this very important Motion; colleagues from Majority side and the Minority side; those in support and those who are opposing.

The reason I keenly listened to each of them is that I wanted to understand, if for whatever reason there is anything that we have missed in the form and manner in which

we have proposed this Motion, such that our colleagues from the Minority side will be opposed to it.

Indeed, when we began this Motion, many of our colleagues on the Minority side were in support. I do not know what happened along the way, as is becoming the custom nowadays.

Our colleagues are in a bad mood, they imagine that there is an animal called “server”, which until they see, nothing should work in country. However, some of us see the world differently. We believe that once upon the election is over, it is our duty now to serve the people of Kenya. Part of the constitutional mandate that I have is to ensure that I hold CSs to account and the Constitution has provided for that.

I have listened to our colleagues as each of them danced around. I was hoping that any of them would cite any Constitutional provision that bars CSs from appearing in Senate as a House. There is none they could quote.

In fact, to the contrary, I was hoping for something when they finish reading Article 153, which they have quoted so many times out of context. They cite Article 153(3), which speaks about CSs appearing before committees, but forget to read on. This is a common practice that I see with our colleagues.

The other day I challenged and told them to stop reading the Constitution the way drunkards sometimes read the Bible, where they only refer to 1 Timothy 5:23, that it has permitted them to take wine. They close the Bible and run away.

There are other dictates of a Constitution. If you read down Article 153(4), they will have understood what you are trying to do. Article 153(4), speaks that:-

“Cabinet Secretaries shall –

(a) act in accordance with this Constitution; and

Madam Temporary Speaker, paragraph (b) is extremely important to this matter that is before us. For the comfort of my colleagues who may be thinking that maybe what you are doing is not Constitutional, is that Cabinet Secretaries shall: -

“provide parliament with full and regular reports concerning matters under their control.”

The Constitution does not do is provide for the how. We do not expect our Constitution to guide us on every little detail. It is us to create the law, and that is what we are doing. We are creating the enabling environment for CSs to appear before us.

In fact, that there is nothing other than sulk, which is what our colleagues are doing. You will see them next week on Wednesday when we resume. They will be more than us in this House, willing and ready to ask.

If, indeed, they strongly believe that CSs should not come to this House, I challenge the Minority side. Then do not show up when CSs are here.

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

Therefore, we must grow a good culture of democracy. That is where, if my colleague who, for political reasons I do not agree with, choose a particular path, that makes sense and is good for the country, then I should be able to support them. Otherwise, what they are setting is a very dangerous precedent

The colleagues who keep on walking out every time they do not agree have Bills and Motions on the Order Paper. Very soon, Sen. (Dr.) Khalwale, the Senate Majority Whip, will start applying the same games to them, so that we see how they will transact.

They will bring legislation that will require 24 delegations. Let us see where they will get the numbers from, if they want us to play this kind of game.

Madam Temporary Speaker, I appreciate colleagues who have contributed to this Motion. I have said, and I repeat for emphasis sake, that CSs will appear before us in Plenary to answer to specific questions of national importance and policy related matters. The CSs will also still appear before Committees to respond to specific matters under the jurisdiction of that particular Committee. That is a plain and simple matter.

With those many remarks, I beg to move.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Pursuant to Standing Order No.84(1), I hereby make a determination that the matter does not affect counties.

*(Question put and agreed to)*

*(Applause)*

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM BOMET COUNTY ASSEMBLY

Hon. Senators, I wish to acknowledge the presence, in the Speaker's Gallery this evening, of a delegation from Bomet County Assembly. The delegation comprises of Members of the County Assembly (MCAs) who are undertaking a study tour in the Senate.

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

- 1.Hon. Paul Kirui - Majority Leader and MCA, Ndanai-Abosi Ward
- 2.Hon. Philip Korir - MCA, Kiprerer Ward
- 3.Hon. Wesley Kiprotich - MCA, Chepchabas Ward
- 4.Hon. Leonard Rotich - MCA, Cheseon Ward

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 on my own behalf, I wish them a fruitful visit.

*(Applause)*

I request the Senator for Bomet County to welcome this delegation.

**Sen. Wakili Sigei:** Thank you, Madam Temporary Speaker. I join you in welcoming the delegation of the MCAs from Bomet County Assembly.

The team is led by the Majority Leader. Back in the village, he is commonly known as "Clear *boiyot*". The delegation is a Committee under the County Assembly

Service Board. This Committee also deals with planning and strategy as a sub-committee. Their responsibility is very important in terms of performance of the House.

As I welcome them, I encourage them that the tradition of this House and of the County Assembly where they come from, gives them responsibility. I believe they have experience as they tour the Senate and the National Assembly. I believe they also have the ability to ensure that they pivot their role as Members of the Committee, so that the Assembly is efficient and responsible in its functioning to serve the people of Bomet County.

Part of the role of the Assembly is similar to the role of this House in terms of oversight. Oversight is meant to ensure that service to the people of the Assembly is equally service to the people of the Bomet County. I encourage them to go back having attained several opportunities that they will experience.

Madam Temporary Speaker, I am aware that time is running out, but if you allow me, the team comprises very experienced MCAs. Hon. Korir is a three-timer in the Assembly from Kiprerer Ward. Hon. Kiprotich is the former Deputy Speaker of the Assembly and second-timer in the House. The Hon. Deputy Speaker is my former teacher in school.

I am happy to see them taking the lead in Bomet County Assembly. I encourage them to go back a better team.

#### **ADJOURNMENT**

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 30<sup>th</sup> March, 2023, at 2.30 p.m.

The Senate rose at 6.30 p.m.