

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

**Tuesday, 20<sup>th</sup> February, 2024**

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

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

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

I am informed we have a quorum. Clerk, please, proceed and call out the first Order.

#### PAPERS LAID

#### THE REFUGEES (GENERAL) REGULATIONS LEGAL NOTICE NO.39 OF 2024

**Sen. (Dr.) Lelegwe Ltumbesi:** Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, the 20<sup>th</sup> of February 2024-

The Refugees (General) Regulations Legal Notice No.39 of 2024.

*(Sen. (Dr.) Lelegwe Ltumbesi laid the document on the Table)*

**The Speaker** (Hon. Kingi): Sen. Methu was to lay a report. If he is ready, he can do so.

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

**Sen. Methu:** Thank you, Mr. Speaker, Sir. I beg to lay the following paper on the Table of the Senate today the 20<sup>th</sup>, of February, 2024-  
Committee Report on the Water (Amendment) Bill (National Assembly Bills No.33 of 2023)

*(Sen. Methu laid the document on the Table)*

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

**NOTICES OF MOTION**

EXTENSION OF TIME FOR CONSIDERATION OF  
THE BUDGET POLICY STATEMENT, 2024

**Sen. (Dr.) Lelegwe Ltumbesi:** Thank you, Mr. Speaker, Sir. I wish to give Notice of the following Motion-

THAT, aware that the 2024 Budget Policy Statement was tabled in the Senate on the 15<sup>th</sup> of February, 2024 for consideration pursuant to the provision of Section 25 of the Public Finance Management (PFM) Act;

REALIZING that the 14-day timeline for the Budget Policy Statement lapses on Thursday 29<sup>th</sup> February, 2024;

CONCERNED that the magnitude of the work involved in the consideration of the Budget Policy Statement is immense as it involves consideration by all Standing Committees, stakeholder engagement, reporting by the Standing Committees to the Standing Committee on Finance and Budget, and consideration and approval of the report of the Standing Committee on Finance and Budget by the Senate.

NOW THEREFORE, notwithstanding the provisions of Section 25 of the PFM Act and Standing Order No.186 of the Senate Standing Orders, the Senate resolves to extend the time for consideration of the 2024 Budget Policy Statement by a further seven days to enable the Senate to make a determination by 7<sup>th</sup> March, 2024.

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

Sen. Faki I am informed you also have a Notice to give. Kindly proceed.

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

**Sen. Faki:** Mr. Speaker, Sir, I wish to give Notice of the following Motion-  
THAT, AWARE THAT the Lake Ol Bolossat Catchment Protection Area Order, (Legal Notice No. 116 of 2023); The Karai Wetland Conservation Area

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Order, (Legal Notice No. 117 of 2023); The Mwangea Hills Catchment Protection Area Order, (Legal Notice No. 118 of 2023) and the Lari Swamp Catchment Protection Area Order, (Legal Notice No. 119 of 2023, were tabled in the Senate on 11<sup>th</sup> October, 2023 and referred to the Select Committee on Delegated Legislation for consideration;

REALIZING THAT that the 28 sitting days timeline for consideration of the Regulations lapses on Wednesday, 21<sup>st</sup> February, 2024, but owing to the magnitude of the work involved, the Committee has not been able to complete its work within the duration;

AWARE THAT Section 15(3) of the Statutory Instruments Act, 2013, provides that by a resolution, Parliament may extend the time for consideration of a Statutory Instrument by a period not exceeding 21 calendar days;

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

NOW THEREFORE, the Senate resolves to extend the time for consideration of the the Lake Ol Bolossat Catchment Protection Area Order, (Legal Notice No. 116 of 2023); The Karai Wetland Conservation Area Order, (Legal Notice No. 117 of 2023); The Mwangea Hills Catchment Protection Area Order, (Legal Notice No. 118 of 2023) and the Lari Swamp Catchment Protection Area Order, (Legal Notice No. 119 of 2023) by a further 21 calendar days and table its report on or before 13<sup>th</sup> March, 2024.

I thank you.

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

## QUESTIONS AND STATEMENTS

### STATEMENTS

#### EXPENDITURE OF FUNDS IN ISIOLO COUNTY

**Sen. Dullo:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding expenditure of funds in Isiolo County. In the Statement, the Committee should-

(1) Table the total budget allocation for the County Government of Isiolo for the financial years 2022/2023 and 2023/2024, including a breakdown of the various expenditure categories, salaries and wages, infrastructure projects, social services, administrative expenses and any other significant expenditures for both the Executive and County Assembly;

(2) Provide details of any budget alterations, including over-expenditure or under-expenditure compared to the budget allocation during the said financial years and outline any supplementary budgets enacted by the County Government since 2022 to date, including the reason for their implementation; and finally,

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(3) Table the County Government of Isiolo expenditure report from the year 2022 to date for both the county executive and the county assembly as well as the County Procurement Plans for Financial Years 2022/2023 and 2023/2024, respectively.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Kibwana proceed.

CIRCUMSTANCES LEADING TO AMPUTATION OF  
BABY MWASI'S HAND

ABSENCE OF A DATA BANK FOR UNCLAIMED BODIES

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

Is there any Senator holding brief for Sen. Kibwana? The two Statements have been deferred.

*(Statements deferred)*

FAILURE TO COMPENSATE FARMERS  
IN EMBU COUNTY

**Sen. Munyi Mundigi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries on failure to compensate farmers in Embu County from losses incurred when desert locusts invaded their farms in the year 2020. In the Statement, the Committee should-

(1) Outline the estimated value of the loss that farmers in Embu incurred when desert locusts invaded their farms in the year 2020.

(2) Explain any measures the Government took to mitigate the historic locust plague, the largest in 70 years and give the total amount of money spent on such mitigation measures.

(3) State how much of this money went directly to farmers in Embu County, detailing who the beneficiaries were and what the Government intends to do about the continued outcry by farmers in Embu that no compensation was given despite repeated promises by senior Government officials in the Ministry of Agriculture.

I thank you.

**The Speaker** (Hon. Kingi): Is Sen. Joe Nyutu not here?

MEDICAL EQUIPMENT SUPPLIED BY  
MEGASCOPE TO LEVEL 5 HOSPITALS

*(Sen. Joe Nyutu was not in the Chamber)*

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This Statement is dropped.

*(Statement dropped)*

BREAKDOWN OF FERRIES AT LIKONI  
CHANNEL IN MOMBASA COUNTY

**Sen. Miraj:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the breakdown of ferries at the Likoni Channel in Mombasa County. In the Statement, the Committee should-

(1) State the number of ferries currently operating on the Likoni Channel, detailing their operational status, specifying the frequency of their breakdowns and provide reasons for these incidents, focusing on the recent breakdown that occurred on Saturday, 10<sup>th</sup> February, 2024.

(2) Explain the maintenance and repair protocols in place by the Kenya Ferry Services (KFS), tabling a report of the latest vessel inspections detailing the intervals at which these inspections and maintenance activities are conducted and by whom.

(3) Clarify why vessels known to have mechanical issues are still cleared to operate, thus jeopardizing the lives of hundreds of passengers who rely on this crossing daily, stating the criteria used for deeming a vessel fit for operations and any oversight mechanisms in place.

(4) State measures in place by the KFS to minimise downtime and enhance the safety and well-being of passengers using the ferry services, stating plans, if any, for upgrading the fleet or implementing new technologies to monitor and improve ferry operations.

I thank you.

INCREASE IN ELECTRIC FIRE INCIDENTS IN LIKONI  
AND CHANGAMWE CONSTITUENCIES

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Energy regarding the recent increase in electric fire incidents in Likoni and Changamwe constituencies, Mombasa County. In the Statement, the Committee should-

(1) Provide an update on the state of investigations into the rise in electric fire incidents within Likoni and Changamwe constituencies, disclosing the preliminary findings and expected timelines for conclusion;

(2) Detail the current regulatory framework governing electrical safety standards, stating plans, if any, by the Ministry of Energy and Petroleum to enhance these standards in response to the rising incidents of electric fires.

(3) State targeted interventions, if any, to support residents financially impacted by these fires, particularly during the investigation phase.

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(4) Explain the reasons for delays by Kenya Power in compensating individuals affected by electric fires, specifically referring to the case of Mr. Kazungu Ngala Kasunji (Court Case No. MCCC 428/2014), who has yet to receive court-awarded damages.

(5) Outline measures in place, if any, to tackle the root causes of these fires, prevent their recurrence and expedite the compensation process for affected individuals.

**The Speaker** (Hon. Kingi): Although I had deferred your Statements, Sen. Kibwana, kindly proceed.

#### CIRCUMSTANCES LEADING TO AMPUTATION OF BABY MWASI'S HAND

**Sen. Kibwana:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health regarding the circumstances that led to the amputation of baby Jennifer Mwasi's hand at Wesu Hospital in Taita Taveta County. In the Statement, the Committee should-

(1) Conduct a thorough investigation into the circumstances surrounding the amputation of baby Jennifer Mwasi's arm, which should entail reviewing medical records, witness testimonies and any other pertinent evidence.

(2) Summon the medical staff and administrators involved in the case to provide testimony and explanations regarding their actions or lack thereof leading up to the tragic incident.

(3) Evaluate the adequacy of existing patient safety protocols, medical procedures and supervision mechanisms in place at healthcare facilities in Taita Taveta County to pinpoint systemic weaknesses and areas for improvement.

(4) Engage with relevant stakeholders, such as the county health department, medical associations, patient advocacy groups, and civil society organizations to gather input and recommendations for strengthening patient safety measures and ensuring accountability in the delivery of healthcare service.

#### ABSENCE OF A DATA BANK FOR UNCLAIMED BODIES

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health concerning the handling of unclaimed bodies in Kenya. In the Statement, the Committee should-

(1) State the number of unclaimed bodies, their locations and the existing procedures for handling and disposing them, stating whether there exists a national data bank for unclaimed bodies.

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(2) Evaluate international best practices and existing models for managing unclaimed bodies with a focus on making policy recommendations, if any, on a centralized data bank for unclaimed bodies.

(3) Engage with relevant stakeholders, including Government agencies, healthcare providers, law enforcement authorities and civil society organizations, to gather input and expertise on addressing identified gaps in the existing system of managing unclaimed bodies.

(4) Recommend legislative proposals or policy recommendations, if any, aimed at establishing a national framework to address the identified gaps and challenges.

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

STATE OF ELECTRICITY CONNECTIVITY IN VARIOUS  
PUBLIC SCHOOLS AND HOSPITALS IN NAROK COUNTY

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Energy regarding electricity connectivity at various hospitals and public schools in Narok County. In the Statement, the Committee should-

(1) State why Emurua Dikirr Level 4 Sub County Hospital has not been installed with three-phase electricity to run the Radiology Department of the hospital.

(2) State why over 27 schools located at Emurua Dikirr Sub County of Ilkerin, Kapsasian and Mogondo wards have not been connected to electricity.

(3) Provide a status report on the replacement of all faulty transformers in Narok County.

(4) Provide an update on the last mile electricity connectivity of all the schools and hospitals in Narok County.

(5) State why Level 3 hospitals in Narok County, including Sakutiek Hospital (Narok North), Loita Hospital (Narok South) have not been connected to electricity to be able to run equipment such as incubators and the Radiology Department.

**The Speaker** (Hon. Kingi): Hon. Senators, I have several Statements that I have approved though not listed in the Order Paper. Any hon. Senator who wishes to request their Statement, I will read out the names and if you are ready you can proceed.

If you are not ready you can make a request tomorrow. I do not see Sen. Cherarkey, Sen. Wambua, Sen. Mwaruma---

*(Sen. Mwaruma stood up in his place)*

If you are not ready, it is okay. You can read the Statement tomorrow. I have Statements from Sen. Ogola, Sen. Sifuna, Sen. Kavindu Muthama.

Sen. Mwaruma, proceed.

WELFARE OF ADULT EDUCATION TEACHERS  
IN TAITA TAVETA COUNTY

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir for this opportunity. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the welfare of adult education teachers in Taita Taveta County. In the Statement, the Committee should-

(1) State whether the Ministry of Education is aware that adult education teachers in Taita Taveta County have not received their salaries for a period of 10 months, giving timelines when the teachers are expected to receive their overdue salaries and explain measures the Ministry is implementing to curb future salary disbursement delays.

(2) Inform the Senate whether the Ministry of Education intends to recruit additional adult education teachers in Taita Taveta County to address the shortage caused by retirement and resignations.

(3) Spell-out plans, if any, to promote the teachers to the next grade and provide details of the adult education scheme of service.

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

WASTE DISPOSAL BY SUKARI INDUSTRIES IN  
NDHIWA SUB-COUNTY, HOMA BAY COUNTY

**Sen. Ogola:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources regarding waste disposal by Sukari Industries in Ndhiwa Sub-County, Homa Bay County. In the Statement, the Committee should-

(1) Provide a comprehensive report regarding the location and methods utilized for the disposal of both liquid and solid waste generated by Sukari Industries in Ndhiwa Sub-County, Homa Bay County.

(2) Describe the treatment process employed for liquid waste, ensuring its alignment with the requisite environmental standards and furnish the Senate with tangible evidence on the effectiveness of the treatment methodologies deployed by the company in the disposal of liquid waste.

(3) Lastly, undertake a site visit to the Sukari Industries Limited to evaluate their waste management strategies and actively engage with the local community to mitigate persistent apprehensions regarding potential environmental risks stemming from pollutants emitted by the industry.

I thank you.

TRAGIC DEATH OF MASTER JOLLYBEN IBOSHE

**Sen. Sifuna:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the tragic incident that led to the death of Master Jollyben Iboshe, a

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nine-year old child who drowned following flash floods in Mashimoni, Kibra Constituency, Nairobi County, on 5<sup>th</sup> January, 2024, and whose body is yet to be retrieved after being swept into the Nairobi Dam. In the Statement, the Committee should-

(1) Detail the actions taken by the disaster response authorities and the national security personnel in the area to facilitate the recovery of Master Iboshe's body and hand it over to his family for a decent burial.

(2) Outline targeted long-term strategies and actions that will be implemented to prevent similar tragedies in the future.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Kavindu Muthama, you deferred your Statement?

**Sen. Kavindu Muthama:** Mr. Speaker, Sir, I deferred my Statement. However, I have a question regarding a Statement that I read in August last year, which was directed to the Committee of Devolution and Intergovernmental Relations, concerning a map for Machakos before it became a county. Up to date, they have not gotten back to me.

Additionally, another Statement was directed to the Committee on Roads, Transportation and Housing concerning roads in Machakos. That was in October last year and they have also not gotten back to me. One was in August and the other one in October.

Mr. Speaker, Sir, I would like the two committees to explain why they have not responded, yet when you direct Statements, you give them 60 days to bring answers to the House.

**The Speaker** (Hon. Kingi): This goes to the Chairpersons of the concerned committees. Under the Standing Orders, you have an opportunity to give out status report.

Not just the two, but all committee chairpersons should take note of this. As you respond to many other issues, kindly make sure that you have given us a comprehensive answer as to why a Statement has taken more than 60 calendar days contrary to our Standing Orders. Kindly be guided, more particularly the two chairpersons of the Committee on Devolution and Intergovernmental Relations and the Committee on Roads, Transportation and Housing.

Let us go to the next Order.

## MOTION

### ADOPTION OF REPORT OF THE NATIONAL DIALOGUE COMMITTEE

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

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

Mr. Speaker, Sir, this is a culmination of an exercise at least outside of this House, that consumed a significant amount of time for those of us that participated in all the hearings. The minutes are attached for Members to confirm how many meetings we held at the Bomas of Kenya and other places within the Republic of Kenya.

We are all aware of the circumstances that led to the establishment of the National Dialogue Committee (NADCO). There were challenging times for us as a Republic. Therefore, in the prevailing wisdom of various stakeholders in this Republic from within and without our nation, they felt it was important that at the very least or bare minimum we should talk to each other. Even though we might not have agreed eventually on items that were put before us, we were asked to at least converse and hear each other out.

Growing up, my mother told me that there are two things, which you could almost be reckless if you choose to pick an argument with any person on. The first one is religion. If you are a Christian, sitting across a table with a Muslim, Hindu or Buddhist and trying to prove to them why you are right and they are wrong, is most of the times an exercise in futility.

Secondly is the sticky topic of politics. That is how we view things, our perception, beliefs and ideologies. It is never easy to agree. Therefore, I went to the committee acutely aware that perhaps there might not be even a single reason or point of convergence that is likely to emerge out of the conversations we had with our colleagues from the Azimio la Umoja-One Kenya Coalition. However, to my surprise and that of many, we virtually agreed on all the topics that were placed before us.

Mr. Speaker, Sir, I have returned to the House a report which we want you to consider. For Members who are yet to interact with the report, it is on our digital platform. It is quite voluminous. I doubt if it will be intelligent for us as a country to lead in the conversation on climate change yet we still print thousands of pages of documents for each parliamentarian.

From a casual look at the House, everybody here is digitally literate. This report is in our gadgets and I believe Members can take time to read, reflect, confirm and countercheck the points that I will raise from the conversations we had.

Mr. Speaker, Sir, I would like to report to the House that we agreed on most of the issues; some of which I had serious doubts that I could be convinced or persuaded otherwise by our colleagues from the Azimio la Umoja-One Kenya Coalition. However, having taken time to listen to them and understand where they were coming from, we met somewhere in the middle as it is typical of us as Kenyan people.

Many people have said many things about the NADCO and the preceding committee. We referred to their work in this document. Remember that earlier on, we had moved a Motion here, setting up a committee made up of purely Members of Parliament (MPs).

They did not make much progress, but they covered serious ground and laid the foundation for the work that we the succeeding committee eventually completed. Therefore, I would wish to celebrate them from the outset.

I believe the team that sat at the Bomas of Kenya as well had distinguished Members of this House and the “Lower” House and laid the foundation for us as a committee. When we later on retreated, we referred to many of the documents that had already been presented. Sen. Omogeni will confirm that the working framework and rules of engagement were actually picked word for word from what they had previously used with minimal amendments.

Mr. Speaker, Sir, we have brought to you, colleague Senators, the findings of the committee, so that we get to hear your thoughts on the same by passing this report. Let me be clear on this so that Members can understand.

There are various ways through which Parliament, to be specific, the Senate, makes its decisions. A resolution of the House is a decision as well, with a full force of law and enforcement because that is a gathering of the Parliament of the Republic of Kenya.

Further down the report, we have attached various statutory instruments which will have to be considered individually. We have the Constitution of Kenya (Amendment) Bill, which we will have to read and consider. I believe later on when we begin that process, both you, Mr. Speaker, Sir, and your counterpart in the “Lower” House will guide both Houses of Parliament on how to carry out this Constitutional Amendment, given that this is a bipartisan process. Therefore, there is a need to carry the views of everybody on board.

There are various legal documents and proposed Bills for consideration by this House. There are various policy positions that we felt we could address by statute alone. Those Bills are further attached in the report. You will find Bills on the Independent Electoral and Boundaries Commission (IEBC) and others that I will be speaking about later on.

Mr. Speaker, Sir, there are further policy propositions that we have made a decision on. As a committee, we have said that some of them do not require Parliament to do anything. They already have sufficient laws to govern them, but perhaps those who are charged with the implementation of those policies have not been keen enough or diligent to ensure that those policies are adhered to. Kenyans are guided by those particular directions and the same has equally been proposed.

Mr. Speaker, Sir, let me go straight to the six issues that we considered when we met. You are aware that there was an election in the year 2022, and that is why we have Members of the Senate here. There were pronouncements made by the IEBC. There is a population that felt hard done by our constitutional organs, that is the IEBC. The Supreme Court gave its verdict of the same as it is provided for in the Constitution, yet there was nothing that you could do to convince some of our colleagues here and other Kenyans that ascribed to their political views that the elections were free and fair.

Mr. Speaker, Sir, like I said earlier on, religion and politics are very difficult subjects. Sometimes to convince people is not the easiest of conversations. Some hold a

particular view. There is nothing you are likely to do to change that particular view. Therefore, it is important that as a country, we keep channels of communication open so that at the very least you get to understand and be persuaded by each other.

In my humble opinion, I have not lived on this earth long like many of my colleagues who are here. Perhaps I am among the youngest, but at least I know one thing. The very reason why Kenya continues to be a Republic is the fact that over the years when we have had moments of difficulties and challenges, we have always found ways within a month or two of closing ranks, reasoning and finding a way of amicably living together.

We have always found internally, a good reason to remain united as a country as opposed to disintegrating as has happened to many of our neighbouring countries. The reason this country perhaps has never gone to war internally is such initiatives. Therefore, I would wish to mention to colleagues that never make light of initiatives such as this; the opportunity to interact, disagree, share whatever thoughts and perspectives you may be having on all these issues, is extremely important.

I will listen to the debate and the things that Members will say. However, I would wish to guide from the very onset that even as we debate this report and contribute, let us be mindful. This is an opportunity to rise above petty politics, which we have sufficient podiums to do out there in our constituencies and other places. Let us be guided by the very spirit that guided this conversation.

If we had gone there and turned it into a conversation of ego-measuring contest, we would not be having this report. I, therefore, plead with my colleagues that as we consider this report, you may not entirely agree with everything or even some of the things that we have said, but at least respect the integrity of the process and the work that has gone in.

Mr. Speaker, Sir, the first issue was on electoral justice and related matters, where it was felt that there is a need to restructure and reconstitute the IEBC. The second and most important under that topic was the issue of boundary delimitation. We are aware that we are now past the statutory period. In the next few weeks, Parliament has to decide because we will be out of the constitutional time limit within which we are supposed to redo our boundaries. Parliament has to guide the country on what to do.

We know how controversial boundaries are. Three times this House has tried to do a County Boundaries Bill, but we have never succeeded because of many other reasons. That item sits prominently on our Order Paper. There is a recommendation in this report on how we propose this exercise to be done.

The last item under that sub-topic was the audit of the 2022 presidential election where there were all these conversations about the server and whatnot. It was interesting hearing the stories about the server and how to open and not open it.

The second topic under consideration was outstanding constitutional matters where under Article 43, there was a strong feeling that there is need to establish ways in which we can all have a prosperous country where no countrymen feel left behind in sharing the national prosperity. Everybody should feel that he has been provided

sufficient opportunity for him to thrive and live out to his full abilities. Cost of living and such related issues featured prominently under that subtopic.

Implementation of the two-thirds gender rule featured in the discussion. This is one of the areas where I am disappointed in the report. Therefore, we will have to make a bipartisan decision. We thought we had cracked it, but at the last minute, there were certain changes in views and perspectives about the topic. I believe this House is not lacking men and women who believe in this gender inclusivity conversation. At the time of the consideration of this report, you may want to guide us on how to go about this particular issue.

I know and have seen many of our colleagues in the time that I have been in this House try to resolve this particular issue with very minimal success. If we fail to resolve the two-thirds gender challenge under this bipartisan spirit, then I doubt if we will ever have any other better opportunity in our time in Parliament.

Colleagues as you debate and think about this particular report, you may want to guide us. I am willing to be convinced of what additional propositions can be brought to the table so that we resolve it because the formulas and the ideas have already been proposed to it. Some of them are very practical and include only the addition of another, maybe between 28 and 36 women to make the House fully compliant, using the model of the Senate. The Senate is short of compliance with the two-thirds gender rule by only two women. That is the same formula that we wanted applied to the National Assembly to make us, as the institution of Parliament, compliant.

Hon. Members, you may want to guide us because unfortunately we did not crack it and passed it over to another subcommittee, something that all of us here know that it is just another way of kicking the can down the road. That will never give us a solution. The decision lies in the four walls of the House of Parliament. I hope that we can converse in a bipartisan manner and agree on which way.

Mr. Speaker, Sir, there were also governance issues, which include the promotion of national unity and inclusivity in public appointments. There is a proposal. These are some of the things that we said, we did not want to do any constitutional amendment on. We did not want to make any amendment to the statute because the laws that are prevailing in the country are sufficient to guarantee that.

We just made policy changes that we feel, the institutions that are charged with the responsibility of monitoring to ensure that there is cohesiveness in the country and inclusivity in public appointments, can do and live up to their mandate. That is covered broadly in the report.

There are adequate checks and balances where there is a proposal on how to go about it and how to counterbalance the institution of Parliament. A Senator earns as much as a Member of the National Assembly, even though geographically alone, we represent a higher population than Members of the National Assembly. There are more responsibilities and mandates that we have that are exclusive to the Senate, which our colleagues in the National Assembly do not have.

If you speak to any Kenyan today, especially in their bipartisan mood where they rise over and above our political divisions, they will tell you that one of the things that

they celebrate is that Kenya has made serious strides and progress over the last couple of decades on the topic of devolution.

The institution and the House that chaperones, guides and ensures that we have successful implementation and rollout of devolution in our country is the Senate. Therefore, how do you provide balance to such a House? There are good proposals that have been made and is part of what has gone to the statutory instruments. There are ways in which you can compensate the Senate

Mr. Speaker, Sir, in other countries, the term of the Senate is longer than that of the “Lower” Houses. There is a proposal to do that in the Republic; make the Senate serve a longer term than the provided five years as a way of compensating for it.

*(A number of Senators spoke off the record)*

No, relax. That is only on the second topic.

**The Speaker** (Hon. Kingi): Order, Hon. Members!

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, the third item that we are considering is fidelity to political parties, coalitions and the law of multiparty democracy. From the history of Parliament, you know that in the penultimate days of this House’s last term, an amendment to the Political Parties Act was brought to this House. It was hurriedly rushed through Parliament in the same way that we normally do some of these laws and we are told not to amend anything.

I remember that afternoon quite well. We were told that there is distinction; an animal called a coalition political party and this and the other. Hardly six months after that, there were serious disagreements over issues of funds, how to share the political party fund, how to define leadership positions and so on and so forth.

I have been in this House though not for too long. I have seen three elections now in this House. The unfortunate thing is that we, as parliamentarians and practicing politicians, sometimes make certain decisions that disadvantage us later on. One of the things that we always do a few months to every election, I saw this in January, 2017 and in 2022 as well, is we make amendments to the Political Parties Act to suit temporary political interests. Then immediately after, when things change, we come back to the House and cry.

There is no better time to have a sober conversation about how to run our political parties than right now. It is my hope that in the statutory instruments that we are provided with, colleague Senators will take time to enrich proposals of how to better manage our political parties. This is because we are the consumers of these policy decisions that we make in our political parties.

The fourth item was the entrenchment of various funds into the Constitution. That is the National Government Constituencies Development Fund (NG-CDF), the National Government Affirmative Action Fund (NGAAF) and the Senate Oversight Fund. There were conversations later on with proposals and petitions being made to us about the Ward Fund, but it was the eventual thinking of the committee that we better handle it at statute, as opposed to elevating it to a constitutional fund like the other three.

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The justifications and the reasons for that is provided further down in the report. These three funds form part of the constitutional amendments that have been proposed in this particular report.

Lastly on the agenda items that we are considering is the establishment and entrenchment of the various state offices. That included the office of the Leader of Opposition and that of the Prime Cabinet Secretary. We considered all that and we understand the politics revolving around all those. We felt this is a particular time of importance to carry on the bipartisan spirit of this conversation to take advantage and ensure that we entrench those offices.

Mr. Speaker, Sir, many times when we discuss about the office of the Leader of Opposition, the mistake we make is that we discuss it with certain politicians in mind. It is not about them; we are making this Constitution and the statutes for posterity. There is just a question that has not been resolved; what happens to the candidate that garners the second highest number of votes in a presidential election?

Perhaps part of the reason we have all these agitations and challenges after elections is because there are no clearly provided channels where that particular individual can exercise the opposition role in a decent way and ensure that they hold Government to account and their proposals to that effect. Since I want to be fair to colleagues and I know this is a matter that colleagues have a lot of interest in, I want to really be brief.

Lastly allow me to raise the proposals and the measures that have been provided for each of those under the recommendations page. On the issue of the restructure of the IEBC, the committee has recommended as an expanded selection; a reconstitution. You are aware that there is a selection panel that is presently trying to reconstitute the IEBC and they are in the final stages. The courts of law have told them that the national dialogue is a process alien to law. Therefore, they are being pushed to conclude.

While that is happening, we feel that the best way to address this particular issue is to reconstitute the selection panel. There were ideas about how to do it. I remember when we passed the IEBC Amendment Act here, I believe Sen. (Dr.) Oburu had filed a certain amendment on the distribution of the nine members of the selection panel. I believe Sen. Mumma also had an amendment. Therefore, we have listened to each and every player and tried to include other stakeholders.

There is a fallacious thinking in this country that elections are just about politicians. In fact, it is more about other Kenyans than us politicians. We form a very small minority. Yet sometimes when you are doing inclusion of IEBC selection panel and who gets to sit in IEBC, we think only about the political class. There is a better proposal on how to form the selection panel and growing the number. Presently, there are seven members of the selection panel, four from Parliament, two from inter-religious bodies and one from Law Society of Kenya (LSK). That makes it seven. We felt that there was a better way of handling it.

Mr. Speaker, Sir, you are aware that one of our colleagues, Sen. Okiya Omtatah, has taken himself to court because he is a parliamentarian. Every time he goes to court, it means he has sued himself and successfully so because the courts have agreed with him

that Parliament, not this particular one, but the previous Parliament. When we considered the IEBC Amendment Act, we allocated ourselves four positions out of seven in the selection panel where the courts felt that was too much from one institution. We have reduced from four to two and distributed it to other interested parties, including professional bodies like LSK and auditors. There was a big fight why LSK was needed in it, but eventually it was agreed that they will have one nominee.

On audit of the 2022 presidential election, the committee recommended that in this House, there will be a process through which the Majority and the Minority sides will agree on the appointment of a team of experts who will evaluate the 2022 electoral process. Mark the difference in word. There is a difference between an election, which is an event and the process that led us to that particular election and evaluate mechanisms that can be used for future elections.

On boundaries delimitation, the committee has recommended that the intervals within which review of boundaries may be done with the resolution of Parliament, investigation of claims of marginalization by the relevant body and made provisions for fast tracking of a legal framework for review of county boundaries as provided under Article 188. There is a Bill already before the Floor of the Senate on this particular issue. Consequently, the two resolutions on that particular matter is, one, a speedy reconstitution of IEBC and, two, setting up of that body as enshrined in Article 188.

On the outstanding constitutional matter, the committee made several recommendations, which centred on providing relief to Kenyans with regard to the cost of living and how to rationalize Government expenditure. It is important for colleagues to know so that later on, when the Clerk of the Senate applies some of the reprieve to taxpayers' provisions that are in this report, you do not hang members of our staff.

Sometimes, even for a one-hour flight, Members insist that they must travel in business class. As part of the cost saving measures, it is the proposal of this Committee that any flight below four hours will be travelled in economy class so as to save Kenyans the thousands. You know how much you spend. This is not to Parliament alone, but to anybody who travels on taxpayers' money. That is the whole conversation about it.

There are many other measures including certain levies on petroleum products. There are about two or three levies that we have recommended removal of. Unfortunately, we have no say on that one because it is purely a tax matter, which will be handled by the "Lower House".

Mr. Speaker, Sir, there is developing of national policies to enhance agricultural productivity, local manufacturing to reduce over dependence on imports. For those that made it to the Budget Policy Statement (BPS) meeting today, we were being informed that for the very first time, food items are now competing with fuel in imports. How can we live like a supermarket and yet, we do not have as much money as those Arabs who have oil? How can we be importing more food than fuel? It speaks to dwindling fortunes of the farmer and irrelevant agricultural practices over the years. There are proposals on how to reverse that and first of all, make us food secure as a country.



The most important thing is; if you cannot feed yourself, then you cannot even speak before men and women. That is the unfortunate situation we find ourselves in as a country as we turn over 60 years. Therefore, there are proposals on how to ensure that.

Mr. Speaker, Sir, farmers must be respected. I one time travelled to the United States of America (USA), I cannot remember the exact state. While we were queuing at the airport, there was a very interesting signage. It said, “If you are a farmer or a military person, please jump the queue.” This is because, the military men secure the country while the farmers feed us. They should not queue, let them be served first. That kind of thinking needs to guide us, as a country.

Remember, we find ourselves in this situation because we have neglected our farmers over the years. Many people have quit farming or agriculture generally, as a means of livelihood because it is not profitable. The money is with the cartels. Therefore, there are proposals and other Bills that were under consideration on the Floor of the Parliament with regard to that. These are Bills dealing with coffee, sugarcane, tea, cotton, pyrethrum and others.

On the implementation of the two-thirds gender rule, I do not need to take time and repeat that. I have already explained the challenge that we ran into. However, I look forward to having a bi-partisan conversation. As I said and I repeat, if we miss this opportunity to address the two-thirds gender rule question during the National Dialogue Committee (NADCO) Report consideration phase, the House of Parliament will not be able to raise any other quorum at any given time to address that question. We must find ways of introducing whatever amendments necessary so that we resolve this issue.

Having looked at all the formulas brought before this House and those that came before NADCO, the Senate route still continues to be one of the most practical. For example, if right now you applied it as an affirmative position in the National Assembly with the small modification, then it means, that House will be compliant. It will only include addition of the county women Member of Parliament (MP) position which will actually just be less than 35 women MPs added into the House. We already have the 47 women representatives not forming part of the overall equation. The wording for that was already available to us. It is only that people held a different view to it. We will listen to your conversations about it.

On governance and issues, including promoting national unity and inclusivity, we have said that, legislative interventions should guide the process. Many people from all counties came to us feeling marginalised in their counties.

By the way, it is not just from the counties that have interesting ethnic dynamics such as Migori and Trans Nzoia counties with the Kurias and the Sabaots respectively, but even from counties such as Homa Bay.

Sen. Ogola, it will interest you to know that there is a clan that came and said they had never come close to leadership. I have forgotten the name of the clan.

*(Sen. Ogola spoke off record)*

Yes, the Kanyapur Clan. They wanted their own distinctive way of being addressed. These are issues that we can address legislatively. It is the same assurance that we gave to our colleagues who came from this other place.

Marginalisation is something that my colleague Senators must find ways of addressing. The same competition for raw power that we see at the national level should not permeate into our counties as we watch.

I know Sen. Onyonka likes this because there is a conversation around clans happening in Kisii County. There are feelings that members of a particular clan are being targeted by the particular administration in place.

Therefore, as the Senate, we must be aware of these sensitivities. We must come up with sound legislative policies that will address this matter and ensure that a governor cannot marginalise any one in the appointments, distribution of projects and resources. Resources are at the height of that conversation.

On the adequate checks and balances, I had already addressed myself to it. I had also mentioned about fidelity to political parties.

Mr. Speaker, Sir, on the entrenching of funds, of course, there is Constitution amendment on the three funds. On the Ward Development Fund, it was a feeling that we can enshrine it in the Statute so that we leave it to the agreement of various county assemblies and county executives. This is because, the Council of Governors (CoG) will come and make a presentation during the normal legislative making process on how they wished it to be rolled out.

On the amounts, we can either determine it for them here, at the national level or leave it to be determined by the various county assemblies. I have seen various counties and governors preferring to deal with it differently. We will be more than willing to be listened to. It is because of that sensitivity that we felt that it is better addressed in Statute.

For the other three other funds; that is, the Senate oversight, the National Government Affirmative Action Fund (NGAAF) and the National Government Constituencies Development Fund (NG-CDF), they were proposed to be a constitutional fund. It is part of the items that we have attached as part of the constitutional amendment Bill.

Mr. Speaker, Sir, therefore, that is the long and short of what is entailed in the report. Of course, as they say, the devil is in the details. I would wish that colleagues debate soberly and guide us on how to make amendments.

Remember, this is a report that we are debating. However, there will now be statutes that will follow. They include; a Constitutional amendment Bill for the various amendments to the Constitution and other statutory proposals in the form of Bills that are attached to the Report.

During that time, the guidance and thinking of the Committee is that, should there be a wish to amend anything, then it must be in the concurrence of both sides. Failure to the concurrence of both sides of the House, then the issue remains as is because, this is a bi-partisan and negotiated document. Those statutes are all listed and are part and parcel

of this Report. I do not want to take longer than that because I know colleagues are queuing and waiting to respond.

With those many remarks, if there are items that I have forgotten, I am sure that the lion from Nyamira and my very good neighbor, Sen. Omogeni, Commissioner, will perhaps, do a better justice than I have done to this report.

Mr. Speaker, Sir, therefore, at that point, I humbly request that he seconds the Motion.

I thank you.

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

**Sen. Omogeni:** Thank you, Mr. Speaker, Sir. I feel privileged to stand here and second this momentous Report that was arrived at from the discussions of the NADCO.

I begin by thanking my colleague Senators who graciously approved my nomination to sit in the NADCO and the team that was chosen by the Majority Side during the discussions.

We would not have achieved what we did without the spirit of give and take.

Mr. Speaker, Sir, I must say that it was not easy at the beginning. When we arrived at the Bomas of Kenya, at the beginning there was a very hostile environment. The other side had their room for tea and we had our own. We sized each other up for two or three days, but finally, we decided to put Kenya first and our personal interests at the back.

Therefore, the Report that has been moved by the Senate Majority Leader is the work of many hands, brains and mouths. This process had a wide public engagement with more than 700 Kenyans sending memoranda to the Committee.

We even had Senators appear before the Committee, including my good friend, Sen. (Prof.) Tom Ojienda, SC, and Sen. Wambua. More than 60 Kenyans and interest groups appeared before us. We expected to see Sen. Cherarkey but he never made it to Bomas.

This input has gone through intense public participation and it is not a product of the political class. It is a product that has come from the views that we have received from many Kenyans.

Mr. Speaker, Sir, annexed to the Report is a proposal to amend a few articles of our Constitution. There have been arguments which I want to disapprove this afternoon from a number of Kenyans that our Constitution was promulgated 14 years ago and it is too soon to attempt to amend any article of our Constitution.

An advanced democracy like the USA has had its constitution for more than 200 years and they did the first amendment after five years of the passage of the American Constitution. They were a raft of amendments. The first 12 amendments of the American Constitution were done in a record five years.

You will see most Kenyans saying on television that the American Constitution has never been amended. No, the American Constitution has been amended a record 27 times. There have been 33 initiatives to amend it but only 27 have gone through. So, in any country, when you have a constitution a time comes when you have to review and fix what is not working.

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Mr. Speaker, Sir, advanced democracies like Australia have done eight amendments to their Constitution, but what we need to learn as Senators is that in those eight amendments, seven of them were through a bipartisan approach, like what we are doing here. A bipartisan approach is the best way to amend the Constitution. So, Kenyans should not bash us, the political class, that we are on a mission to water down the Constitution of Kenya 2010. This attempt is to strengthen and fix what is not working in the Constitution.

We have borrowed from many jurisdictions in accepting some of the proposals that have been carried in this Constitution. Sen. Cheruiyot has made reference to the tenure of this House and we have looked at many bicameral jurisdictions, including the USA on the term of the House of Representatives and the Senate. In the USA, the House of Representatives are elected every two years and Senators get elected after every six years. In Australia, their House of Representatives get elected every four years and Senators, every six years. The same thing with Philippines.

Mr. Speaker, Sir, these proposals were brought to the Committee by Kenyans who took cognizance of the fact that the Senate exists to protect devolution. Therefore, the proposal that is in this Constitution proposing an enhanced term of the Senate is borrowed from best international practices. We looked at the best constitutions in the world and from jurisdictions that practice democracy and that have had Senators having a longer time for a number of years.

On the cost of living, which is a matter that closely touches on the interests of Kenyans - the people we represent - we had to have a give-and-take approach. Initially, the position that was taken by the Minority Side at the NADCO discussions proposed a total overhaul of the tax regime; do away with the VAT on fuel from 16 percent down to eight percent and scrap totally the housing levy. However, we arrived at a compromise at the end of the day.

Mr. Speaker, Sir, if you read the Report, since we acknowledge that Kenyans are facing a massive burden on taxation, there is a proposal that the National Treasury should have a comprehensive review on the tax policies so that we reduce the tax burden on Kenyans. There is a minimal proposal that we reduce the Roads Maintenance Levy by Kshs5 so that we can make fuel more affordable to Kenyans. We also reduced the Adulteration Tax on fuel by Kshs3. However, what is contained in the Report is a recommendation and an undertaking by the Kenya Kwanza Government that from February this year, there will be a comprehensive review of the tax regime so that the tax burden on Kenyans can be reduced.

The other matter that is very critical to the people we represent is the cash transfer for the older persons. As you know, currently, older persons or people with disability get a paltry Kshs2,000 from the Government as support. This Committee however has recommended that the cash transfer for older persons be enhanced upwards. Initially, we had arrived at a figure of Kshs5,000 but we agreed to send this proposal to the National Treasury for them to review it upwards.

Mr. Speaker, Sir, the people who have been hit by the cost of living are the older people and Persons with Disabilities (PwDs) in our constituencies like Nandi where Sen.

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Cherarkey comes. This Report has made a recommendation that this amount that is paid to the elderly people be reviewed upwards to a sum of Kshs5,000.

The issue of functions has been a big problem. Those of us who were here in the last term know the problem we have had on transfer of functions to counties. This Report makes recommendation that there should be a comprehensive review of all devolved functions that have not been transferred to counties and that those functions once transferred, should be followed with resources. That is an attempt to strengthen devolution.

Mr. Speaker, Sir, in terms of enforcement of all the Article 43 rights - the right to shelter or the right to food - there is a recommendation that we form a national economic and social council that will address comprehensively all the rights that are captured in Article 43 of the Constitution.

*(Sen. Cheruiyot, Sen. Madzayo, Sen. (Dr.) Khalwale,  
Sen. Olekina and Sen. Sifuna consulted with the Speaker)*

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

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

**Sen. Miraj:** Mr. Speaker, Sir, are you safe? We need to know.

*(Laughter)*

**The Speaker** (Hon. Kingi): You can see that the Speaker is well guarded.

**Sen. Miraj:** We are concerned.

**The Speaker** (Hon. Kingi): The Speaker is well guarded. Proceed, Sen. Omogeni.

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

To enhance farming, we have proposed that the Government should set aside money to ensure that we incorporate water harvesting technologies in our counties. This way, we can store rainwater that can be used in agriculture as it happens in many countries.

The issue of impeachment of governors has been of great concern to us all. We have made recommendations that Section 33 of the County Governments Act should go through a review so that we have a comprehensive law that deals with issues of impeachment of governors.

Senators, I hope we can learn from the experiences we have seen as the Senate on the many impeachments this House has dealt with before. A matter that is also of significant to this House is a proposal to raise money allocated to counties.

Mr. Speaker, Sir, as you know, the current Constitution gives a minimum of 15 per cent but this Committee has recommended that the minimum threshold should be raised upwards to a minimum of 20 per cent.

*(Loud Consultations)*

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On the issue of dispute resolution, as Prof. Tom Odhiambo Ojienda will tell you, we have had---

Mr. Speaker, Sir, can you protect me from loud consultations?

**The Speaker** (Hon. Kingi): Order, hon. Senators. Order, Sen. Orwoba.

*(Laughter)*

Proceed, Sen. Omogeni.

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

On this issue of the Independent Electoral and Boundaries Commission (IEBC, you know that the interview panel has been in place for the last six months, yet they have never completed the work they were meant to do; that is, to advertise for the position of IEBC commissioners, shortlist, interview and send names to the President.

Mr. Speaker, Sir, this Committee has recommended that the time for inviting applicants, shortlisting, interviewing and forwarding names to the President should be reduced to a maximum of 90 days so that panelists do not take long to just select seven commissioners to serve in our IEBC.

This particular recommendation is urgent. A number of constituencies in the country have remained unrepresented. In my own county, I have Nyamaiya and Nyansiongo wards that have not had the Members of County Assembly (MCAs) for the last seven months. Therefore, this recommendation is trying to make the playing field levelled to ensure that the referee is chosen by a team that is impartial and non-partisan.

On the resolution of election disputes, we have recommended amendments to Article 88(4) of the Constitution so that the IEBC is totally removed from the issue of resolving any disputes emanating from nomination. We are proposing that this power be transferred to a new body that we are recommending to replace the dispute mechanism that is in place. So, IEBC will be removed totally from the issue of dealing with any disputes touching on candidates who are seeking elective posts.

In the Supreme Court, we are recommending that the duration for hearing and determining election disputes be extended from 14 days to 21 days.

On party discipline, we are proposing that we should have fidelity to our political parties. There is a proposal to enhance the discipline mechanisms for our political parties so that people can have discipline and allegiance to their political parties once they are elected. Those who are not comfortable with their political party can have the right to seek re-election.

Mr. Speakers, Sir, as a way of also dealing with the cost of running Government, we have proposed that a number of bodies should be merged, especially bodies around human rights. We have the Kenya National Human Rights Commission (KNHRC), the National Gender and Equality Commission (NGEC), and National Cohesion and Integration Commission (NCIC). We have proposed that these three bodies should be merged so that we save costs on running the Government.

In total, the proposals that are contained in this Report are very useful to this country. I echo the words of my colleague, Sen. Cheruiyot, that we should have a bipartisan approach.

We should not fear the initiative to amend the Constitution. If there is anything that requires us to go to a referendum, let us do so. If these amendments can be dealt with by us, as parliamentarians on the Floor of the House, let us come together and deal with the amendments without creating unnecessary heat in the country.

Mr. Speaker, Sir, I urge our colleagues to embrace the spirit that we have shown as a Committee so that we all move together as a country.

Thank you.

I second.

*(Sen. (Dr.) Khalwale's microphone went on)*

**The Speaker** (Hon. Kingi): Yes, Sen. (Dr.) Khalwale, what is your point of order? You are shooting too fast. So, I will now proceed to propose the question.

*(Question proposed)*

Sen. (Dr.) Khalwale, you may proceed with your point of order.

*(Interruption of debate on Motion)*

## PROCEDURAL MOTION

### LIMITATION OF DEBATE ON MOTION

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.3 to move that the debate on the Report of the National Dialogue Committee be limited to not more than 10 minutes per Senator contributing. This will allow an opportunity for all Senators who wish to contribute to speak.

I beg to move and request Sen. Sifuna to second this Motion.

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, before Sen. Sifuna seconds which Standing Order were you quoting? Did I hear correctly?

**Sen. (Dr.) Khalwale:** Standing Order No.111.

**The Speaker** (Hon. Kingi): Very well.

Proceed, Sen. Sifuna.

**Sen. Sifuna:** Mr. Speaker, Sir, I second.

**The Speaker** (Hon. Kingi): Hon. Senators, this is a Procedural Motion. I need not propose the question and therefore---

We may, as we have always done, strike a consensus and move without necessarily spending a lot of time debating this particular Motion. The proposal here is

that the Motion be limited to 10 minutes. However, we can agree through consensus. Do we go for the 10 minutes? Do I need to put this to vote?

*(Loud consultations)*

So, a maximum of 10 minutes. You may speak for one or two minutes.  
Proceed, Sen. Maanzo.

*(Resumption of debate on Motion)*

**Sen. Maanzo:** Mr. Speaker, Sir, thank you for giving me an opportunity to contribute on this very important Report. What put up the convening of the bipartisan talks was a situation in the country that was becoming a little bit tense. The matter of boundary review is very important.

Mr. Speaker, Sir, right now there is an issue which is pending before the court concerning Makueni and Taita-Taveta. There are several other issues where boundaries need to be reviewed. This particular team has a constitutional mandate to deal with all matters related to that.

I am aware of a matter between Makueni and Taita-Taveta that is pending before this House. If the IEBC was to do its job, that would sort out many of the issues between Makueni and Taita-Taveta. We would like to co-exist well with our neighbours.

There is also another place called Mtito Andei and it is not clear which county should collect levies. My friend, Sen. Okiya Omtatah, is here. The matter was taken to court and a court order was issued but Makueni was dissatisfied and has proceeded to the Court of Appeal.

Recently, somebody posted on social media that there is a final court order, but that is not true. The Court of Appeal has not determined all the issues. We would like to tell the people of Makueni that we will seek to settle that matter at the Court of Appeal, or between ourselves as counties as soon as possible.

The issue of boundaries review is important. This will automatically save the courts time and save counties many headaches, which are unnecessary.

The issue of the cost of living is key. Many Kenyans in this country are finding it difficult to send their children to school and feed themselves. We are lucky that there were reasonable rains across the country. The people of Kajiado, who are my neighbours, had already moved their cattle to Makueni County and we had accommodated them.

The resources are beginning to dwindle. Thank God there were rains that have helped the country very much. People worked hard across the country and we have got a bumper harvest. What if we did not have the rains?

We have not done enough irrigation to safeguard the country or make it food secure. Projects like Thwake Dam should be giving hope to Kenyans in four counties to do irrigation. These are those in Lower Eastern and Kajiado. We also have High Grand Falls Dam which we have not yet invested in.

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Looking at food security and the cost of living, parents are unable to take their children to school. The middle class feels overtaxed. It is the middle class that takes care of the hustlers. It is the middle class that creates employment to the lower class for them to earn a living.

The moment the middle class is overtaxed, opportunities become difficult for the lower class to earn a living and therefore life becomes difficult for them. That means many Kenyans may not have an opportunity to take their children to school or enjoy their daily living at a reasonable cost.

I have heard several proposals on how to lower the cost of living. Sen. Okiya Omtatah and I proceeded to the constitutional court and we did not come out empty-handed. There are quite a number of issues, including amendment of the Statutory Instruments Act. This Senate had annulled some instruments.

The National Assembly went on to process the Finance Bill, including that particular amendment. The High Court and the Court of Appeal said that Cabinet Secretaries whose instruments have expired and annulled by the Senate should be brought to this Senate.

The mischievous amendment did not go through. The authority of the Senate has been respected. The authority of the courts has to be respected. We all must follow the rule of law because it makes life easy for everybody. Therefore, bipartisan talks are important.

There is also the issue of the elderly. The feedback on the monies sent to them is that some of these monies never get to them because the system is not clear enough. They are supposed to get Kshs2,000 but at times, they end up with Kshs1,000.

I like the proposal that they should be reasonably taken care of, so that people can enjoy their old age in this country. We have got several senior citizens who are no longer working. Some have no children to support them and land to farm. They may also not have the energy to farm. This particular issue came up during the bipartisan talks. It is important to take care of all the elderly.

We have a system that works. Probably we need a law or policy. Most of them are proposing that their telephone numbers should be used so that the money is wired there. That will save a lot of expenses for the country because the cost of running the Government is expensive.

On that particular one, sometimes, you get surprised by a single Cabinet Secretary who is not threatened by anybody at all. You will find 10 people moving around in three cars. No one is threatening your life. I am sure if Sen. Cheruiyot was a Cabinet Secretary, he would be moving around in one car greeting people on the way and serving the nation.

There is no need for a Cabinet Secretary to move around in three cars. Sometimes---

**The Speaker** (Hon. Kingi): Sen. Maanzo, there is a point of information. Would you wish to be informed?

**Sen. Maanzo:** I do not wish to be informed. I am quite aware.

**The Speaker** (Hon. Kingi): Proceed.

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

We must look in totality the cost of---

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

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

**Sen. Cherarkey:** Mr. Speaker, Sir, under Standing Order No.105, is it in order for Sen. Maanzo to mislead the country? At the moment, all *wazees* under the programme are paid through Mpesa. Is it in order for him to mislead the House and the Republic, or should he not be informed of the same?

**Sen. Maanzo:** Mr. Speaker, Sir. I said the information I have. This is feedback. M-pesa is not yet available to everybody. Other people have to use their relatives in order access the money.

The point I am making is that we have to make older people comfortable. If we can come up with a better system, that will be good.

There are quite several issues. The IEBC is key. Having an IEBC that is constituted with the interest of everybody at heart is important.

I believe political parties are important tools when it comes to elections and politics. They must have their place and share. Most importantly, the whole nation should agree on a team where everybody feels comfortable when taking part in an election.

There are quite several issues, which can be improved through the IEBC. Some of these require a referendum or a constitutional change which cannot be done by Parliament alone. It has to go back to the people, so that they determine how they want to be ruled and how some issues should be handled.

Let me now move to fidelity to political parties. When you are elected on a certain political party, if you are not interested in serving under it, then you should resign so that we have a by-election. Unfortunately, we do not have a fully constituted IEBC.

We lost a Member of the National Assembly. You can imagine what is happening there. There is the National Government Constituencies Development Fund (NG-CDF), oversight and many other duties. The MP for that particular constituency and several MCAs have not been replaced because there is no IEBC.

When it comes to people's representation, we should be responsible enough so that we have an IEBC in place in order for the nation to have fair representation throughout.

Mr. Speaker, Sir, I beg to support what has been moved herein. I look forward to a healthy debate so that we give more ideas to enable this process be concluded to the benefit of the nation.

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Munyi Mundigi?

**An hon. Senator:** He is not here.

**The Speaker** (Hon. Kingi): Let us listen to Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I stand to support the NADCO Report. I will start by appreciating all the Committee Members led by our leaders, the Majority Leaders from both Houses of Parliament who were able to embark on a very intensive journey on the matters that the Senate Majority leader shared before this House. I applaud them.

I would also like to thank all the citizens for their patience. Thank our brothers and sisters from the opposition for feeling that it is more impactful to put minds together for the benefit of the people of this country whom we represent.

Issues that have been deliberated from the establishment of the Independent Electoral and Boundaries Commission (IEBC) include the need to have different stakeholders from the church leaders and leaders from different political parties. With the composition, this will ensure that we allow the people of Banisa Constituency whose Member of Parliament died and up to date have not been represented in Parliament.

The discussion of the funds ranges from the National Government-Constituency Development Fund (NG-CDF), and of course, to the Senate Oversight Fund. These are very key factors because it is through these funds that then we can establish and execute our mandate as required. So, this is positive.

What has come out and which has surprised us as women leaders is the issue of the two-thirds gender rule. To our surprise, yesterday when we had our Parliamentary Group meeting with the President, Dr. William Ruto, we realised that then the two-thirds gender rule is no longer within the NADCO Report.

The President, Dr. William Ruto, has been very much at the forefront in ensuring that he supports the women's agenda very much. So, this is a subject that we also do not want to be left out within the NADCO Report because we had representatives led by the Governor of Embu, Hon. Cecily Mbarire, and other members.

It is a great concern as women when we do not see the two-thirds gender rule in the NADCO Report because where does that leave the women leaders? So, it is very important that as you look at the amendments and inputs, the issue of the two-third gender rule should be highly considered in this particular Report.

The discussion of the Office of the Opposition is very important because, as we have said clearly, the opposition leader plays a very key role. I am happy that we are all looking forward to proceeding to the next level, which is fine because that is a representation of our country. That is a representation of Kenya, and it is a plus because, then we will elevate to the next international level. So, creating an office for the opposition leader is a plus. Also, the creation of the Office of the Prime Cabinet Secretary is still a plus because anybody can be in this position. So, it should not be looked at as if it is for specific persons.

These are offices that are open to anybody in this country and anybody qualifies to be in it the same way we all qualify to be in this Senate. It is not superglued to any individual. Anybody can be. So, when we talk about these positions, we should not look at them as if they are just benefiting an individual. In future, you can also qualify to be in that particular space. In Nairobi City County, the county that I represent, led by the Senator of Nairobi, Sen. Sifuna, we had not agreed to have a sit-down. After sitting down to have this discussion, we have had a very peaceful capital city. We have interacted with our constituents within Nairobi because the NADCO and the Bipartisan talks have given business people an opportunity to do their businesses. Institutions will be able to carry their mandate as required.

So, I applaud both sides, both the Government side and the Opposition. This has been a good journey. The only thing that has been left out, as I have said earlier, is the two-thirds gender rule, and we want to see it being part of this.

*(Sen. Kavindu Muthama consulted Sen. Cheruiyot)*

Senate Majority Leader, I would want to emphasise that Sen. Kavindu Muthama stops distracting you so that you understand that the two-third gender rule is very key for us as women. It has been left out and we are not happy about it but, we are very optimistic because we know that the leadership will consider and ensure that the two-third gender rule is part of the NADCO Report.

With those many remarks, I support the Report.

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

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir. Allow me, just like the rest of my colleagues have done to begin by congratulating members of the NADCO Committee for a job well done.

As you know, I was part of the initial committee that attempted to resolve some of the issues that have been raised by Members of the Azimio Coalition. I am on public record having stated that I requested my principals to excuse me from that particular duty because, at the moment that I was making that decision, I did not feel that we were making any headway, and because, we are different people, some of us have what they call shorter fuses. Others, because of their advanced age, are a bit more tolerant and a bit more patient.

I am happy that within the Azimio Coalition. We have a broad range of persons, and we were able to find wiser and calmer heads in the likes of Sen. Omogeni and the Wiper Leader, His Excellency, Hon. Kalonzo Musyoka, who are a bit more patient with our colleagues from the Kenya Kwanza side during these discussions, and this is the result.

I agonised during that period on what the role of a messenger is because, the messages that we were required to transmit to the negotiation table were not our messages. Sometimes, people make fun of me, saying, ooh, we have seen Sen. Sifuna wearing a *sufuria* on his head yet that is not how issues are resolved. They do not understand that as a representative of the people of Nairobi City County, I do not go to the table to present my issues.

As the Speaker, you can confirm here that I am paid enough to be able to afford a packet of unga, even if it was sold at Kshs1000 but the people that I represent in Nairobi City County require that you get their message to that table. We were very clear, as the Azimio Coalition, from the beginning of this process, on what those issues were. Those issues were never about us.

Mr. Speaker, Sir, this matter kicked off by a public engagement at Jeevanji Gardens, which I attended in the company of the Principals of the Azimio Coalition. On that day, we identified four main issues that we believed needed to be discussed in a bipartisan manner. Number one was the cost of living; number two was a review of the

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2022 election; number three was the reconstitution of the IEBC; and number four was fidelity to political parties and respect for political parties.

As a Member of the Azimio Coalition, I must disclose to this House that the coalition had its Parliamentary Group Meeting and deliberated on this Report, and the words that were used by my Leader of the Coalition were that the Report of the National Dialogue Committee was imperfect and unfinished, but a good start. That same description is what was endorsed by the Central Committee of the Orange Democratic (ODM) Party, for which I am the Secretary-General (SG) and we adopted that term and said, yes, this Report is imperfect and unfinished, but it is a good start.

As the Secretary General of ODM, I have to disclose here that we were extremely proud of the work that was done by the negotiation team because, out of the 31 proposals that ODM and Azimio Coalition made to NADCO, 18 of them were taken on board. I can see them in the Report representing at least 58 percent of our issues and that is why we say it was imperfect and unfinished, but a good start.

Mr. Speaker, Sir, on the issue of cost of living, we, in the opposition, have always thought that it was easier on the *mwananchi* for us to look at reducing the government expenditure as opposed to increasing taxes on the already overburdened *mwananchi*. Some of those proposals that we made were spoken to by the Senate Majority Leader when he was moving this Motion, and, I will refer to them.

First, it was a proposal from the Azimio Coalition to reduce the travel budget of the Government by 30 percent and you will find that recommendation in Paragraph 830(A)(3) of the Report.

Mr. Speaker, Sir, we proposed to reduce hospitality, office and general supplies of Government by 25 percent. In fact, our friends joined us halfway and increased it to reduce hospitality and general supplies budget by 50 percent.

Mr. Speaker, Sir, you can find this at Paragraph 830. The Senate Majority Leader has also spoken to the proposal in the Report, that all state and public officers who travel anywhere requiring a flight of not more than four hours should travel in Economy Class. That came from the Azimio La Umoja One Kenya Coalition (OKA) and you can see it again on Paragraph 830.

Mr. Speaker, Sir, we made certain proposals on the cost of living and reduction of taxes. Unfortunately, and we have said it publicly, we were not able to persuade our colleagues from the other side. I want to give a few specific examples. Our position has always been that if we reduced Value Added Tax (VAT) on petroleum products from the current 16 percent to the 8 percent it was prior to the last election, we would have some reprieve. Unfortunately, we were not able to convince our colleagues on this.

We also proposed to reduce the Road Maintenance Levy from Kshs18 per litre to Kshs13 per litre. We achieved concurrence on this and we thank our brothers from the other side for seeing the point. This is also at Paragraph 830 of the Report. We also proposed to reduce the Petroleum Development Levy by 50 percent from the current Kshs5.40 to Kshs2.70 per litre but we were unable to convince our brothers and sisters.

We also proposed to reduce the anti-adulteration fuel levy from Kshs18 to Kshs7 per litre. All these proposals were being made by Azimio La Umoja, One Kenya

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Coalition (OKA), with the knowledge that a reduction in the cost of fuel has a bumper effect in reducing the cost of living. We convinced them on this and you can see it on the said paragraph of the Report.

On behalf of *wananchi*, we also tried to push zero rating of taxes on basic food, reverting turn over tax to rates in the Finance Act of 2022 and scraping the Housing levy. However, we were unable to do so. We also wanted to reinstate the 16 percent VAT on transfer of business as a growing concern. We were unable to achieve much on that too.

This is why we continue to state that we shall try to persuade our colleagues that the current state of our economy requires us to take positive steps to reduce the burden and suffering of the *mwanachi*.

Secondly, on the reconstitution of the Independent Electoral and Boundaries Commission (IEBC), I am happy that the National Dialogue Committee (NADCO) report has captured sentiments that were made on the Floor of this House by members of Azimio la Umoja, One Kenya Coalition (OKA) and myself personally as the Senator for Nairobi City County; that, in fact when you are reconstituting an electoral body you need concurrence of all political players. This has been reflected in the Report.

Mr. Speaker, Sir, for the first time - and this is something we argued for during debate on the IEBC Act - when you say two representatives of the Parliamentary Service Commission (PSC), please make it clear that the Minority side will nominate one and the Majority side will do the same. I can see that has been captured and I am happy.

Mr. Speaker, Sir, we also said that when you give opportunity to the Political Parties Liaison Committee (PPLC) to nominate representatives, make sure that you are able to get representation for all the parties in the PPLC. I am happy now that the non-parliamentary political parties in the PPLC are getting one slot; that the Minority-the government forming party-is getting one slot and the Majority-the non-government forming party-is also getting one slot.

We have also agonized on the question of the time period of determining a Presidential election petition. I am happy we were able to convince our colleagues to extend it from the current 14 days to 21 days to provide sufficient time for parties to put together their cases and courts to look through the particular case in detail.

Mr. Speaker, Sir, there are also some amendments that have been proposed to the Political Parties Act. As a leader of a political party; the Secretary General of Orange Democratic Movement (ODM); we have suffered a lot because of a few things that we thought needed tightening especially on this issue of fidelity to political parties. In fact, I do not think there is any other political party that has faced the sort of onslaught that ODM has when it comes to poaching of Members and indiscipline within the party.

I am happy that political parties have been given the power to deregister people who want to eat from both sides. Immediately you are deregistered, you cease to become a Member of Parliament (MP). I urge Members to support these amendments so that we can instill discipline amongst our members and in our political parties.

*(Applause)*

*(The red light was switched on)*

*(Several Senators spoke off record)*

In conclusion, -- I have lost my train of thought because I have heard people talking. In general ---

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

**The Speaker** (Hon. Kingi): Sen. Sifuna your time is up.

**Sen. Sifuna:** Thank you, Mr. Speaker, Sir. I support the report.

*(The Clerk-At-The-Table Approached the Chair)*

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

**Sen. Mungatana, MGH:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to also say a few things. First of all, I acknowledge the industry of our colleagues who sat on this Report and were able to come up with this document. There are many good things in it and I stand to support it.

I would like to start by looking at the summary of recommendations that were made and agree that when we do an election, there is a loser and a winner. Those who win and form government are given the mandate to govern the country. From where I stand, it is totally incorrect and uncalled for the opposition to come inside government to try and legislate tax measures.

Mr. Speaker, Sir, we can agree on many things, but if you do not like the way the government of the day is running the tax regime; it is your responsibility to educate your people, supporters and the Kenyan people so that you are given that opportunity. It is incorrect to try and run government---

How do you say that fuel levy should be at this level? How do we say that the taxation of fuel should be at this level yet you are not in government? It is equivalent to telling a governor to raise some taxation measures and not others. You run for the race and lost the seat. Let us distinguish clearly what is bipartisan and what is not. Let us be very clear that you cannot legislate the cost of living in a document like this.

You cannot set up an economic council with members of opposition in a meeting like this---

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

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I request my time be protected.

**Sen. (Dr.) Oburu:** On a point of Order, Mr. Speaker, Sir. Is it in order for the hon. Member, who is my friend and respect a lot; Sen. Mungatana, MGH to mislead the House---

**The Speaker** (Hon. Kingi): Under which Standing Order are you relying upon?

**Sen. (Dr.) Oburu:** Mr. Speaker, Sir, he is misleading the House.

**The Speaker** (Hon. Kingi): Under what Standing Order?

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*(Several Senators spoke off record)*

Standing Order No.105.

**Sen. (Dr.) Oburu:** Standing Order No.105.

*(Laughter)*

**The Speaker** (Hon. Kingi): Are you sure it is Standing Order No. 105 Senator?

**Sen. (Dr.) Oburu:** Yes Mr. Speaker, Sir. He is misleading the House that the Government is the one that introduces the taxes and sets tax levels, and that those in opposition should wait until they are in government to set tax levels? It is known that it is Parliament which passes these laws and not the government.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I highly respect the---

**The Speaker** (Hon. Kingi): Sen. Mungatana, proceed to conclude your remarks kindly.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I need to inform the Hon. Senator from Siaya County that---

**The Speaker** (Hon. Kingi): In so doing, you are eating into your time. That is why I told you to go straight to your remarks.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, it needs to be understood. The previous speaker has tried to make it look like we are the ones who are fighting the cost of living. It is not their business.

*(Sen. Onyonka commented loudly)*

**The Speaker** (Hon. Kingi): Order, hon. Senators. Order. Sen. Onyonka. Certainly, we are not in some *matanga* somewhere. There is order. Kindly speak through the Chair.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, allow me to proceed. I would like to raise the issue of the Independent Electoral and Boundaries Commission (IEBC). Tana River County has lost a Member of the County Assembly, Hamisi Idd Ndoeni, and we have wanted for the longest time to have a reconstitution of the IEBC. Therefore, I highly support it.

On the question of extending the time for determining Presidential results disputes after the election, I was in Sierra Leone as an observer for the African Union (AU). There are two types of regimes. There are those as in most West African countries where, immediately after the President wins, they announce him, and after that, any petitions and court processes follow.

However, there are those regimes like in Kenya where, when the President wins, he does not assume office until litigation and issues raised are determined. I agree with the report that we need to have at least 21 days so that we can complete the court processes.

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There is a proposal in the report to separate the elections in the counties from the national polls. I was in Tanzania two weeks ago. They are expecting their county elections this year. All the electioneering processes within the counties, what they call municipalities in their place, are happening this year. Next year, they will have the National Assembly and Presidential elections.

This is a good proposal so that we can be clear that there are two levels of government. There could be a clear distinction between which elections are taking place and the people on the ballot. I support that recommendation.

There is a recommendation for the impeachment process of governors. In this report, only a little has been said on this issue. A lot has been said on other matters, but a lot has been left out regarding what we must do when governors misbehave. The Committee recommends that Parliament fast-tracks legislation to give a comprehensive guide to the impeachment process.

I wish the Report had gone further. The Senate County Public Accounts Committee and administrative and security agencies must be given power. Even when we find governors who have misappropriated funds guilty, it takes a lot of time for action to be taken against them.

We should have given powers to the committees to order on the spot that the governor should write a statement about missing billions. Governors come before committees and explain and then we allow them time to respond and return to their counties without satisfactory explanations.

Nevertheless, investigative authorities should pay more attention to high profiles in cases. You will see the small fish being punished when issues happen in the counties. The rest are left. The governors who instigate all these misbehaviors are left to walk free.

We have billionaires who are current or former governors. You cannot explain their wealth. We should have given a lot of thought to this issue. This little mention of what governors do means that some of our colleagues in the committee did not push on what needed to be done.

We have seen governors come up in arms when we start to oversee their work in our counties. When Sen. Mungatana is here, passing legislation for Tana River County, they are clapping, enjoying, and telling us that we are doing a good job. When I indicate that they are stealing the money, they arrange demonstrations, state that we are imperfect, not supporting the governor, and even raise tribal issues.

We want to state on the Floor of this House that we will not stop. The Oversight Fund that has been entrenched ---

**The Speaker** (Hon. Kingi): Your time is up. Once your microphone goes off, it signifies that.

*(Sen. Mungatana spoke off record)*

No, that is not the mode we are using. When the light turns red it means your time is up.

Sen. Madzayo, proceed.

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**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika. Kwanza ni kutoa kongole kwa Kamati hii ya Kitaifa kwa sababu ya mazungumzo yaliyofanyika baina ya pande zote mbili; Upinzani na wale wa Serikali.

Ripoti hii inaashiria maoni kutoka kwa Wakenya kwani wengi waliichangia. Si kazi rahisi baada ya uchaguzi, watu kuketi kutoka pande zote mbili na kukubaliana jinsi ya kuendeleza nchi yao.

Jambo ambalo liliwekwa kipaumbele ni uhamiaji wa wanasiasa kutoka kwenye vyama vyao na kuenda katika vyama vingine. Hili jambo limekuwa likitendeka sana kwenye siasa. Wanasiasa wanakimbilia vyama fulani, alafu baadaye wanaondoka na kuenda vyama vingine.

Makubaliano haya ni ya muhimu sana. Wakenya walikubaliana kwamba hili jambo liwekwe kwenye sheria, ambapo ukihama chama kilichokuchagua, utapoteza kiti chako cha wale wananchi waliokuchagulia na kukuleta Bungeni. Pendekezo hili ni muhimu sana, na inafaa liingie kwenye Katiba kuzuia wale wazembe wa siasa.

Kutokana na mazungumzo yale, pendekezo kwenye Ripoti hii ni sheria iangaliwe ili iweke Bunge la Seneti kama nyumba ya juu. Maseneta wanaweza kukaa kwa muda wa miaka saba hapa Seneti. Hili ni jambo ambalo litaleta mwamko mpya.

Seneta ambaye ana *constituencies* mingi katika kaunti yake utapata kwamba kazi yake huwa nyingi zaidi. Kwa hivyo, ukipewa kama miaka saba, nafikiria ndio sawa kwa sababu ukiwa na kaunti kubwa unaweza kuzunguka na hatimaye ukaweza kufika kila mahali.

Mimi ninasema hivyo kwa sababu niko na *experience*. Kwa ile miaka mitano ya kwanza, utakuwa unajidanganya ukisema ya kwamba utaenda kila mahali wewe kama Seneta ili uweze kupatikana kule.

Kawaida huwa unaweza kwenda, ukafika mahali na ukaona kwingine unapeleka pengine zile picha zako za *campaign* pekee yake, ukisema kwamba kule huwezi kufika kwa sababu kaunti zinakuwa ni kubwa zaidi. Kwa hivyo, nafikiria wakipewa hii miaka saba alafu pengine tena ukaruhusiwa kurudi usimame tena, nafikiria itakuwa ni jambo nzuri kwa sababu, zile kazi wanazofanya ziko tofauti ikilinganishwa na wale ambao wanachaguliwa kama wawakilishi wa Bunge la Kitaifa.

Mimi ninaona ni jambo nzuri kuona ya kwamba, hivi sasa Maseneta wanaweza kupewa nafasi ya kuweza kufanya kazi yao ndani ya Bunge kwa miaka saba.

Bw. Spika, tunaona ya kwamba pia vile vile katika mazungumzo haya yaliweza kutoa siku 14 zile ambazo watu wanaweza kuenda mahakamani; hususan tukiona ya kwamba mara nyingi ni sisi watu wa upinzani ndio tumekuwa tukienda mahakamani tukitaka haki zetu kwa sababu tumeibiwa kura.

Bw. Spika, naona siku 14 zile ambazo mawakili wanapewa nafasi ya kuweza kutayarisha makaratasi yao, baadhi kuyapeleka mahakamani na pia kesi kusikizwa, katika hiyo muda uliopewa, mimi kwa maoni yangu nikiwa kama mmoja wa wale watu walikuwa wanaketi kusikiza kesi za watu, naona ya kwamba siku 14 ni ukweli kabisa kwamba ni kidogo.

Kwa hivyo, zile siku 21 ambazo zimepeanwa ili mawakili na korti ziweze kutafakari ama kuangalia ile kesi na hatimaye kuamua kesi ambayo itakuwa ni ile ya Raisi, tunaona kwamba hii itakuwa ni vyema zaidi.

Bw. Spika, nataka pia kuwapatia kongole zaidi kwa ule muda na wakati ambao wale ambao tulikuwa tumewapatia nafasi hii, ilikuwa si kazi rahisi. Waliweza kusaidia hii nchi. Waliweza kutuokoa sisi katika vile vita ambavyo vilikuwa vinaweza kutokea ama vilitokea na baada ya hapo tukapata amani.

Kwa hivyo, kuja na taarifa kama hii, katika kamati hii iliyoketi katika mazungumzo, nataka kuwapa kongole zaidi sana. Mwenyezi Mungu tunajua anaweza kupeleka hii nchi yetu mbele kisawasawa na amani.

Asante.

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

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. I would like to rise to support this Report. However, how can I support a Report that does not recognize me as a woman?

The National Dialogue Committee (NADCO) was there to facilitate dialogue between Kenyans; two different parties of Kenyans. Are we trying to say that each and every single matter that touches on representation and empowerment of women, which is in this Report, we are being told go back, sit, drink tea, and then come back?

Mr. Speaker, Sir, we have been joking around with this issue of the two-thirds gender rule. I hear my colleagues talking about the cost of living. Is it only men who are affected by the cost of living?

When we had demonstrations in the streets, when the ODM went to the streets and said we are going to demonstrate until we have a national dialogue between whoever needs to talk, was ODM telling us that that dialogue was only for men?

On the issues that touch on women, they have Committee Members who might have worked very hard. I do not know because for me I cannot read anything else when the first thing that is highlighted is that on the issue of the two-thirds gender rule, we are not going to discuss it. They should go and then come back.

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

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

**Sen. Sifuna:** Mr. Speaker, Sir, pursuant to Standing Order No.105 on responsibility for statement of fact, it is not a fact that it is ODM that went to the streets. Kenyans went to the streets to demand this dialogue.

Secondly, we are debating a Report of a bipartisan process. I do not know how I can say bipartisan in the Gusii language. "Bipartisan" means the team that sat to discuss and come up with the Report was not only composed of Members of ODM. In fact, other than Sen. Omogeni, there was no other Member of ODM in that Committee.

It was a bipartisan Committee that had Members of Azimio and Members of Kenya Kwanza; most importantly, your colleague seated on your side. When you speak to this Report, please understand that it is a product of bipartisanship.

We have mentioned things we proposed, the things we got and what we did not get. What you should be telling us is: What did your representatives in the Committee submit in respect of the women issues that you wanted but did not get? Please, spare us.

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*(Applause)*

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

**Sen. Orwoba:** Mr. Speaker, Sir, Sen. Sifuna is trying to teach me English and he does not know that I scored very highly.

*(Sen. Sifuna spoke off record)*

Mr. Speaker, Sir, I am here representing women and I am trying to tell my fellow colleagues that this Report does not reflect on the inclusion of women in each and every conversation. Therefore, if he is talking about political bipartisan---

*(Sen. Sifuna spoke off record)*

**The Speaker** (Hon. Kingi): Sen. Sifuna, you are out of order, please.

**Sen. Orwoba:** Mr. Speaker, Sir, protect me and my time. If he wants to talk about political bipartisan things, we are standing here representing women. How can I endorse a report that clearly outlines whether by both ODM or Kenya Kwanza, ---

We are debating on the Report and I am giving my views on the Report and whether I would like to support it or not. I am saying that I do not support this Report because I cannot ignore the fact that on all the matters that women of Kenya who went out to the streets, and said they want to be represented were not catered for.

Mr. Speaker, Sir, we are being told in this Report that, go and sit for an extra six months and then you will come back and maybe at that point we will include the legislative proposals. Since I have read the Report, they already have the answers on how to implement the two-thirds gender rule. As a matter of fact, in this Report, they have pointed out that there is option (A) where we can do A, B, C, D and option (B) where we can do A, B, C, D. However, we are sending you women to go and sit for another six months, so that you can discuss and then come with a separate report to bring to Parliament.

Why, when we have an opportunity? Women have been put on the table on this NADCO. Why would you remove us and our issues and tell us to go back and come back with a separate report because that is what the recommendations of the NADCO Report are stating.

Therefore, I would love to support all the things that have been put in there. However, I recognize the fact that I am in this Senate and in this Parliament because I have been nominated to represent women and this Report does not reflect on the same.

Sen. Sifuna, unless you are trying to tell us that women are not part of the cost of living. Unless you are trying to tell us fellow colleagues that women are not affected by all these other issues, including the political party issues and the Independent Electoral and Boundaries Commission (IEBC), I cannot support or endorse a Report that actually

sets us aside and tells us, go and drink tea then come back with your report on how we are going to implement the two-third gender rule.

I would like to say that for this Report to make sense to us bipartisan women, both from the Kenya Kwanza and ODM, this Report must state that these two options are the options that should be considered and should be put in the legislative agenda, so that we can move forward. However, do not send us out there to drink tea and tell us to come with a separate report. No.

I do not and I will never agree with this Report until you allow us to sit on the table. We will bring our table or say “No” to whatever it is that you want us to implement.

Therefore, I do not support.

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

Sen. Madzayo, remove your name from the dashboard. You have already had a chance to speak.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. Sen. Sifuna is whispering things behind me. I will try to do what he is telling me to do.

From the onset, I support this Report. I appreciate the passion with which Sen. Orwoba is opposing the Report because that is what she believes in.

I have just arrived from the great county of Nakuru. While in Naivasha town, I had an opportunity to meet traders. They told me when I get to the Senate, one of the things that I have to do is to make sure that I firmly deal with the issue of cost of living, because it is still a challenge. This is not specific to the people of Naivasha. It is a situation that applies in every corner of this country.

Mr. Speaker, Sir, I appreciate that this Report scratches the surface on the matter of discussions around the issue of the cost of living. It shall be remembered that the cost of living was top on our agenda as Azimio Coalition in pushing this Government to the table. In fact, all discussions to us were secondary to the initial discussion around the cost of living.

I take note that in this report, there is near consensus that the deal on cash transfers be enhanced so that those who qualify for this allocation get more than Kshs2,000 that they are getting.

I stand on the Floor in support of this Report, but challenge the administration to walk the talk. Looking at the cost of living in this country and the value of our shilling, what can a poor person in the villages and in the cities do with Kshs2,000 a month?

I challenge this administration because there is consensus that this amount needs to be enhanced. Why can we not begin with transferring Kshs10,000 to the people that need it the most?

As I support the deal on that that cash transfer issue, I also want to remind this administration that, the Kshs2,000 that gets transferred to deserving communities and age groups, takes too long to reach the people that need it. The cash transfers should be done timely, so that our people can begin to appropriate the benefits of that arrangement. It should also be enhanced from Kshs2,000 to at least Kshs10,000.

With regard to taking care of our people, it will be remembered that I brought a matter on the Floor of the Senate, on the issue of stipend or one-off payment to former councillors. We passed a resolution that at least former councillors that we have, at that time totaling to around 12,000 across the country, be paid at least Kshs 200,000 as a one-off.

We passed that resolution. The National Treasury, the Ministry of Labour and Social Protection and the Ministry of Devolution and Planning were part of that resolution, but to date, former councillors are dying one after another without that transfer.

I am happy that commissioner Sen. Kinyua as just walked in when I was talking about that matter of former councillors. This is because he was part of that conversation. He was one of the Senators that initiated that debate. We challenged the Government in which Sen. Kinyua serves to transfer that Kshs200,000 to the former councilors, because they need that money.

Secondly, concerning tax, I am happy that this report recommends that we should review our tax regime downwards. As long as we are operating under a regime that imposes so much tax on people and on businesses, we will not be able to continue to attract direct investment by individuals and our development partners. We should be serious about reviewing the tax policy downwards.

I say this fully aware that Sen. Kinyua and Sen. Cherarkey, have perhaps just arrived from Naivasha, where they have been given instructions on a very controversial and infamous tax called the Housing Levy.

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

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

**Sen. Kinyua:** Mr. Speaker, Sir, have you heard what the Senator for Kitui County has said about being given instructions? We do not take instructions from--- We only take instructions from the people who have elected us. I do not know why he is saying so. In fact, I have not come from Naivasha. Can he substantiate what he means by his orders?

**The Speaker** (Hon. Kingi): Sen. Wambua, are you in a position to substantiate? That borders on imputing improper motive.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I wish Sen. Kinyua had stood on a point of information to inform me. The HANSARD will bear me witness. I said, “perhaps”, which means I do not know.

*(Applause)*

If that is the correct position, then I am fully informed.

**The Speaker** (Hon. Kingi): You may proceed.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I wish Sen. Orwoba was here. Concerning affirmative action, the burden of achieving the two-thirds gender rule is a burden that this administration took. When one President Dr. William Samoei Ruto went around the country seeking support from women, he promised them a 50-50 arrangement in the Cabinet.

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*(Applause)*

When you rise up to challenge things that maybe you are not very sure, use the word that I am using, “perhaps”. Do not sound as though you are speaking on authority, yet the fact remains that it is a promise that was made by this administration.

That time, Sen. Veronica Maina was the Secretary-General of United Democratic Alliance (UDA) party, and she signed the charter with women. They should be here telling us why they have not implemented the charter. It is not our business. It is their business.

*(Applause)*

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

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

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this important debate.

I am very tempted to respond to Sen. Wambua. This is because on what the President promised the women of Kenya, he has worked very hard, in a dedicated fashion, to deliver those promises to the women of Kenya, including sanitary pads and diapers, which are now being given at Kenyatta National Hospital (KNH) as the plan is being rolled out.

*(Loud Consultations)*

**The Speaker** (Hon. Kingi): Order, hon. Senators. Sen. Sifuna, I am watching you keenly.

*(Laughter)*

Sen. Veronica Maina, proceed.

**Sen. Veronica Maina:** Mr. Speaker, Sir, I hope Sen. Sifuna and Sen. Nyamu will allow me to contribute to this debate without interruptions.

The establishment of the NADCO was a step in the right direction. The process will go in history as one of the greatest steps taken by the President together with the leader of the Azimio la Umoja-One Kenya Coalition in setting a structure for resolving electoral disputes that apparently seemed to have been spilling towards the wrong direction.

I commend both leaders for that step that they took. It has positioned Kenya as a nation that can conduct elections, resolve disputes and deal with issues that arise from any electoral process.

The conversation that was begun by the NADCO should not end. It should be a continuous conversation in so far as citizens have to deal with one another and

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governance issues. Any healthy society or community that works well must have a mechanism of resolving disputes on a daily basis. That includes the marriage institution.

I join my colleagues in congratulating the teams that burnt the midnight oil to ensure that we have a report of the dialogue team that was set. One of the issues they dealt with was the cost of living; an issue that has been thorny and used to incite people to go for *maandamano* and walking on the streets.

Happily, as soon as the dialogue team was convened, the *maandamano* were paused, the *sufurias* story eased off and farmers had an opportunity to go to the farms. Using the fertiliser programme that was being supported by the Government, they generated more food. That is how a country should move.

One of the things I have noted is that there are recommendations that were made on the Judiciary. One of them is that the Judicial Service Commission (JSC) should make legislative proposals on how judges should be disciplined.

As we look at the implementation of this report, I believe one of the proposals that have been put is that the principals should consider setting another committee - I do not know whether it will be called the NADCO or NADCO Phase two - to ensure that recommendations that are set in this report are implemented to the fullest, so that when public resources are utilized in a process, the public gets the benefit of the process.

Obviously, to join my colleagues who have put a reservation on the issue of women having been left out, it was shocking to see that. The issue of two-thirds gender rule should have been dealt with outside that process.

I urge the leadership of this House, having understood how important it is to take care of over 50 per cent of the population in Kenya, to find an avenue to reintroduce that important issue when amendments are proposed.

If we strictly look at the way Parliament is constituted today, I am sure if there was another finding from the court, we will be in the same position where Justice Maraga left us. He made a determination that without the two-thirds gender principle being observed, Parliament was not properly constituted.

I know in their wisdom, the leadership of this House and that of the National Assembly will find a way of bringing back that important issue that cannot be delegated to the periphery because we are now staring at an opportunity of having a bipartisan approach to amend the Constitution. It will be less acrimonious, more fruitful and objective using this platform to deal with certain gaps that are in our Constitution which have been difficult to address because of the contestations that arise every time a constitutional amendment is mentioned.

As I support this Report, I commend the team that dealt with it. I urge Members of the Committee to bring back the issue of women. We have many of our daughters and sisters in school right now. We have women who are going through all manner of training who are equally qualified to serve in many offices both in the public and private sector.

We would be sending a wrong message to women that we have excluded them from the conversation that is so important for our nation and show them that we have not adequately catered for their needs to be included and mainstreamed within the main processes of our nation.

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Mr. Speaker, Sir, I thank you for the opportunity. I support this Report with the reservation on the gender equity and gender equality needing to be more entrenched within this system. Any constitutional amendment that comes to the Floor of this House must include women.

Finally, on accountability matters, I have noted that in Paragraph 852, a recommendation on a system that should be used by---

**Sen. Mandago:** On a point of order, Mr. Speaker, Sir. I do not know whether Sen. Veronica Maina is in order to mislead this House and the public that the NADCO decided to exclude women. It is women who decided to remove the process from the NADCO and started something else under the Ministry of Public Service and Gender Affairs.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Sen. Orwoba.

**Sen. Mandago:** Mr. Speaker, Sir, they should tell us if---

**The Speaker** (Hon. Kingi): Order, Sen. Mandago. If you have any information, kindly rise on a point of information, but not on a point of order.

Sen. Veronica Maina, please proceed.

**Sen. Veronica Maina:** Mr. Speaker, Sir, I can assure you he has not offered any information.

What we are saying is that the recommendation by the NADCO has fallen short of the expectation of women in this country. Therefore, it needs to be beefed up. Our reservation should be addressed when constitutional amendments are presented to this House.

In Paragraph 852, there is a proposal for better utilization of the county resources by digitization of requisitions and approvals of withdrawals from county treasuries. Such simple recommendations should be effected without any delay knowing how much resources are being wasted in the counties.

If counties were more prudent in management of their resources, Kenyans would not be screaming every day about cost of living. We would be having better services and agriculture would be supported better.

Mr. Speaker, Sir, it is important that the recommendation in Paragraph 852 is employed so that we have better utilization of resources.

I thank you.

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

**Sen. (Dr.) Oburu:** Thank you, Mr. Speaker, Sir, for the opportunity. I also stand to add my voice to the ones of colleagues who have spoken before me.

I stand in support of this Report, which came about as a result of long and stretched negotiations because of a situation which was serious and dangerous in our country. People were going to the streets to protest the high cost of living and some of the measures being taken by the Government particularly on the issues of taxation and so on and so forth.

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It was thought wise that our country needed a discussion or dialogue. We needed to talk with each other and not at each other. It was because of that that it was decided that both sides of the divide sit down, discuss and come to some agreement even if it was not 100 per cent.

Mr. Speaker, Sir, when dialogue starts, first you isolate the issues that you can easily agree on, then, you put down the issues that are more difficult to agree on. However, as you agree on some issues, the others that you do not agree on do not disappear. They are still kept.

I informed my colleagues who were not satisfied with the Report that it is an ongoing process. They were not satisfied because of the main issue, which was the cost of living. Perhaps, it was just given a scratch on the back and not addressed in detail. I hope that the regime has heard the concerns of the Kenyans and those who are not satisfied with this Report. The burden of the cost of living continues to be very heavy on the people of Kenya and this discussion should not be the end of it.

There are some recommendations which I support. Particularly, the issue of cash transfers to the elderly increased from Kshs2,000 to about Kshs10,000. I belong to that lot of the elderly.

*(Laughter)*

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

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

I hope when I retire from this Senate, I will also be a beneficiary of that Fund. That is on a light note.

Madam Temporary Speaker, this is a big Report. I am not able to read the whole of it. It was just tabled the other day and it is more than 500 pages. I do not think even the fastest reader would have been able to go through each and every paragraph. However, the issues being touched on are very weighty.

When you look at the issues of electoral justice, some of the people who have not participated in an electrical injustice will not know how weighty it is to address the issues of electoral justice.

In 2007, when I was together with the current President, we could see ourselves winning. The TV was showing that our candidate was winning. He was ahead with 1 million votes with only two stations remaining. We started celebrating that we had already won and that the election was over. Little did we know that there were just two stations catching up and within five minutes, all the results had been turned.

Therefore, issues of electoral justice are issues that must not be taken lightly because the result of injustice is violence. There can be no peace without justice. So, we must have justice so that we can have peace.

The issues of auditing the results and making the electoral body more representative have been discussed and agreed on. I support the recommendations as they

are. I hope they will continue to be discussed so that we improve them and have elections that will be beyond the purity of Caesar's wife.

I also saw the issues of political parties discussed, particularly, when it comes to political party hopping. There are principles of democracy. In advanced democracies, such as our mother Parliament in Britain, when there is a whip and you are de-whipped, you cannot vote on the side that is not from the party in which you were elected on. It is a very serious issue. You can even lose your seat. Here, we take this lightly and let people jump from one party to another very easily. The issue of jumping from one party to another and voting at will is addressed here. I hope that discipline in political parties will be improved by these recommendations.

Madam Temporary Speaker, I also express my satisfaction with the address of creating positions. Positions of the Leader of Opposition and also the Chief Cabinet Secretary. You know sometimes, you need to improve on the management of Government. However, we also need to improve on the checks and balances in terms of the opposition. I support the creation of that position.

I also support the issue of improvement in political parties funding. On the management of the political parties funding, apart from the improvement on the management, there should also be improved disbursement of funds to political parties.

*(Applause)*

This is something which is not taken seriously by the Executive, although the political parties have some entitlement and commitments. However, they are unable to meet those commitments because funds are not disbursed to them on time. This is an issue which I hope the recommendations in this Report will improve and something will be done to it.

On the issue of gender, I have heard women very bitter about the issue of gender. The issue of gender is very sensitive. However, it is something that has been with us since I joined Parliament in 1994. There was a time in 1994 when if you mentioned gender, people would just scorn you. However, we have come a long way. There is just a small thing remaining to achieve this thing of two-thirds gender. I hope that we will do something.

I am very frustrated that we have not been able to achieve this two-thirds gender rule. When I was in the National Assembly, sometimes, we would get so frustrated. When it came to voting on this two-thirds gender rule, you would see men walking out one by one until you just found a few of us remaining to vote with the ladies.

**The Temporary Speaker** (Sen. Veronica Maina): Your time is over, Senator. Sen. Cherarkey, you may have the Floor.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker.

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

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order Sen. Kinyua? He has not even submitted anything.

**Sen. Kinyua:** Madam Temporary Speaker, it is the practice of this House that we have ranking Members. How would Sen. Orwoba speak before Sen. Onyonka and Sen. Cherarkey? There is a practice.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Kinyua, resume your seat because it was not raised at the right time. I think the point of order is also out of order.

Proceed Sen. Cherarkey

**Sen. Cherarkey:** Thank you, Madam Speaker, I beg to continue submitting.

You remember I was supposed to appear before the NADCO, but because of their lack of wisdom, they did not find it appropriate for me to appear. I thought they had the wisdom because they have fallen short of many reservations, one of them being the gender issue. Unfortunately, the gender issue has not been addressed. I hope we are not playing public relations exercise with the women of this country.

Madam Temporary Speaker, we must take the gender issue with the seriousness it deserves. We cannot relegate women to kitchens or outside boardrooms. They must be on the table negotiating the future of this country. Maybe, if women became part of governance and part of the conversation, we would reduce corruption. We might reduce the mal-administration we usually see both at the counties and national Governments level. The National Dialogue Committee (NADCO) Members have fallen short of the glory of God as the Bible says. We expected something better and not something that falls this short.

Secondly, I will state categorically that the issue of the cost of living is a moving target. We however thank the Government for distributing subsidized fertilizer at Kshs2,500 to ensure that we continue producing more. Another aspect is on the guaranteed minimum returns. We need to protect our farmers and given them necessary subsidies on farm inputs.

Madam Temporary Speaker, I have a group of tea farmers who opened a factory near Kamariny. They paid millions of shillings on Value Added Tax (VAT) to develop and establish their tea factory. We have seen a tea glut in Mombasa. I know the county where Sen. Onyonka comes from has tea glut. There is a lot of tea, but when you go to Mombasa because of direct sales and auction, it becomes a challenge.

My proposal which I expected NADCO to capture is to do value addition on our products and produce. When we have gluts or excess farm produce like for *ndengu*, tea or potatoes from Nyandarua - you have heard the song that says *waru* is the commercial product of Nyandarua - we then need to do value addition. The only way to stop more imports into this country is to do value addition.

Madam Temporary Speaker, on the issue of agriculture, farmers face many challenges. We have faced many challenges in the sugar sector because the nucleus of Tinderet and Mosop have a lot of sugar but we do not have the necessary support and we need that to be fixed. On the tea sector, reforms are ongoing but I wanted NADCO to provide a way out. We need to make farming attractive. According to statistics, the average farmer is around 60 years. Where is the future of farming and we need food security in this country? This means that we must make farming attractive by providing the necessary support.

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Thirdly, NADCO became selfish because it only addressed the agenda of the Senate and the National Assembly. What happened to the Ward Development Fund (WDF) and what shall we do with Members of the County Assemblies (MCAs)? We devolved billions of shillings to Vihiga County, but do MCAs have the capacity to oversight the Governor of Vihiga or even Nandi? Where did the WDF go to?

I know the President has signed the financial autonomy of county assemblies, but what about their welfare? In the principle of the Salaries Remuneration Commission (SRC), governors earn over Kshs1million, but MCAs earn Kshs80,000. How can they oversight when they do not have that capacity? Therefore, we must give MCAs the necessary capacity, look at their welfare and the WDF. We should not be selfish. It is important that we give them support as well.

Madam Temporary Speaker, the fourth issue is on party hopping. I know Article 91 of the Constitution, but we should be careful so that we do not eat into the political freedom of association. This issue is a serious one, but it should not be misinterpreted to curtail and prevent the growth of democracy in this country. You have been a Secretary-General of a ruling party and if we say that Sen. Cherarkey should not be seen sitting with Sen. Onyonka because someone somewhere will say that they have ditched their coalitions, then we are threatening the growth, expansion and nourishment of democracy in our country. Therefore, we must be careful with the issue of party hopping so that we do not prescriptively give a democracy that is guided.

I agree that on the issue of elections, 21 days are enough to allow parties to submit. I do not know why these people want to audit the 2022 presidential elections. President (Dr.) Ruto won fairly and squarely. Hon. Raila Odinga lost and we are looking for a job for him in the African Union (AU). Therefore, everything is going on as planned.

Madam Temporary Speaker, I saw Sen. Wambua in a meeting somewhere on Sunday, but let us push to ensure that Hon. Raila Odinga becomes the AU Chairperson and then *mtajipanga* na Hon. Kalonzo Musyoka. I did not see anything yet we talked about corruption, especially in counties.

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

**Sen. Wambua:** Madam Temporary Speaker, you have heard Sen. Cherarkey more than once making referencing to the Azimio Coalition Leader, the Right Hon. Raila Amolo Odinga. He even went ahead to mention the name of His Excellency, Hon. Stephen Kalonzo Musyoka, pretending that he is making reference to a “we”, that we are looking for a job for him.

We are a House of records, who is he referring to as “we” when he mentions “we” and where are they looking for this job? This Senator should not be allowed to get away with murder.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey, can you substantiate who the “we” are?

**Sen. Cherarkey:** Madam Temporary Speaker, it means that “we” people of goodwill except Hon. Uhuru Kenyatta. To conclude on the issue of corruption---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey, you need to be more careful on how you respond to these questions. Give answers that respond to the request for clarification. Do not introduce new names that will need a further substantiation.

**Sen. Cherarkey:** I am well guided, Madam Temporary Speaker. Finally, and on corruption, our counties are choking with it. We must agree that the issue of governance--

*(Loud consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Senators, let us have order.

**Sen. Cherarkey:** Madam Temporary Speaker, I do not know whether Senators support corruption or what is going on.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey and Senators, let us have order.

**Sen. Cherarkey:** Madam Temporary Speaker, my time is up and I thank you for this opportunity.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cherarkey, can you substantiate the who “we” are?

**Sen. Cherarkey:** Madam Temporary Speaker, my time is up.

**The Temporary Speaker** (Sen. Veronica Maina): As the Chair, I am the one who has directed now that you give that substantiation before you resume your seat.

**Sen. Cherarkey:** Can I be allowed to substantiate tomorrow in the afternoon? Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): I have not allowed you. I am one on the Chair. Can you try and substantiate now? You do not need tomorrow.

**Sen. Cherarkey:** Madam Temporary Speaker, I can be given time under Standing Orders to look at the answer, review it and substantiate.

**The Temporary Speaker** (Sen. Veronica Maina): Then withdraw that comment.

**Sen. Cherarkey:** Madam Temporary Speaker, with your guidance. I said “we” and this meant many people. Even I and the people of Nandi wish Hon. Raila Odinga well. I did not know---

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

**Sen. Cherarkey:** It was a joke.

**The Temporary Speaker** (Sen. Veronica Maina): Resume your seat, Senator. I have asked him to resume his seat. He has given “we” as him and the people of Nandi.

*(Laughter)*

That matter is closed. We will go to Sen. Onyonka.

**Sen. Onyonka:** Thank you, Madam Temporary Speaker.

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

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**The Senate Minority Leader** (Sen. Madzayo): Bi. Spika wa Muda, Bunge la Seneti ni Bunge linalo heshimiwa sana na hivi sasa kwa Taifa nzima, macho yote yame elekezwa hapa. Itakuwa si heshima, mtu kuwataja viongozi, Maseneta waseme atangulishe vile anavyo ongea kisha wewe useme, hiyo ni sawa na anaweza kwenda kuketi na kwenda zake nyumbani.

Bi Spika wa Muda, hayo ni makosa kabisa kwa sababu hairuhusiwi katika Kanuni za Kudumu za Seneti mtu kutajwa hapa asiyekuwa ndani ya Bunge, asiyeweza kujitetea.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Madzayo, resume your seat. You are out of order.

**The Senate Minority Leader** (Sen. Madzayo): Bi Spika, ni lazima ufafanue sheria kisawasawa. Kanuni za Bunge ziko wazi kabisa.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Madzayo, you are out of order. I said resume your seat.

*(Sen. Madzayo's microphone went off)*

Sen. Madzayo, I rule you to be out of order. You are now to exit from the rest of the session today. You must be able to listen to the Speaker and be guided by instructions given by the Chair.

Serjeants-at-arms---

*(Sen. Madzayo walked out of the Chamber)*

I will not take any more points of order on that issue.

Proceed, Sen. Onyonka.

**Sen. Onyonka:** Madam Speaker, I would like to pick on this amazing matter that has come to this House. It is important that we listen to each other. Why do I say so? I have been in this House for over to 20 years. I have played my politics for the last about 31 years. There are certain obvious things.

This Report has nothing to do with us coming here and getting annoyed with each other. It is a bipartisan Report which has painstakingly been discussed by men of dignity and decency. This country needs many men and women who are like that. Why? Because our country consistently faces challenges and we need people of goodwill to make sure that we continue figuring out how to manage it and accommodate each other, so that we can have a state that is functional and workable; where we work as a team if necessary.

The issues that I would like to handle are very few because we do not have time. I will go to those ones that have been about spoken before. In my other life, you notice that I participate in discussing and contributing politically on Television (TV). There are many of these issues that Kenyans are always talking about, including myself. There are times when we must come together as a country and times when we can go our separate ways. For me, this is the time when we must discuss that.

One Senator brought the issue of the two-thirds gender rule. I would like to tell everybody in this House who cares to listen that it is not that people did not want to pass

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the two-thirds gender rule. Is it because of the vested interests and some people were not ready because they felt that it was going to disadvantage the men?

Many of us have voted for this two-thirds gender rule for the last 15 years. Therefore, it is not going to be easy for us to start pointing fingers at each other and who failed by not making sure that we can get to the two-thirds gender rule.

I wish the Majority Leader was here. He said very clearly that there are options that will be looked at. Let us engage them, so that we do not throw the baby with the water. There are many issues about Persons with Disabilities (PwDs). You know how we handle them in our country and how we have behaved. Even right now, the way we nominate, select or even employ people in the county Governments; nobody cares about what you want to do about PwDs.

That has not stopped many PwDs and those who are not to come out and keep raising this issue. We must continuously engage ourselves and make sure that we do what is good for Kenyans.

I really get disappointed sometimes when I see the sideshows that happen in this House. This is a serious House that has responsibility because we are all mature. We have been through it. Many of us here have been elected three or four times. Many of us have been Members of Parliament (MPs) and are now Senators. So, the experience will help.

Madam Temporary Speaker, I agree that the Constituencies Development Fund (CDF) should actually be in the Constitution. I know this matter has been discussed over and over again, where people are saying that MPs should not handle money because their job is to legislate.

I have said this more than 20 times publicly or otherwise. In Africa, leaders have got two responsibilities, which is to legislate and then to go talk. People will not listen to you when you talk without telling them what you are going to do for them. Just make sense and forget about the constitutionality and separation of powers. That is how I have looked at it since I became an MP here.

The National Government Affirmative Action Fund (NGAAF) is excellent, and so is the Senate Oversight Fund. Is there a gap that we have not brought in the Ward Fund? I believe in the amendments and we must interrogate and discuss the relevance of creating the ward Fund. We need to make sure that the MCAs have this capacity where they are overlooking their own resources that have come from the national Government to the county government.

I also suggest that one of the things we must figure out is on how we can accommodate MCAs either through subsequent legislation or whatever mechanism, so that they can also have the Oversight Fund. We can be working at the national level as they work at the county level.

Madam Temporary Speaker, we are busy here talking about how we are looking at the two-thirds gender rule. We are going to have many women nominated into this House. Can we also discuss what their job responsibilities are going to be in terms of them being given funds? How do we get those funds?

Sen. Crystal Asige here is representing PwDs. Are we expecting that as she goes to Mombasa where she comes, she will just keep talking about how she can do this and



that but have to go to Nairobi to look for the national Government to be given the Funds? No, let us be sincere and deal with these other issues.

I do not have time to discuss the transfer of functions. I wish I could have run through all this. However, I encourage Members in this House that many issues have not been brought at the table. Can we take what is on the table and make sure we push it?

Remember, the Constitution had a challenge because 20 per cent was incorrect. If it means that the National Dialogue Committee (NADCO) is giving us 10 per cent, so be it. Then we can now proceed with the other issues that we are going to deal with.

Finally, I want to thank Sen. Cherarkey, who is my leader; Sen. Omogeni, Sen. Sifuna and the rest of the team who have constantly brought out these issues that we need to discuss under this NADCO bipartisan discussions and arrangements that are taking place.

Kenyans want us to discuss and solve the problems that they have. They do not want us to fight anymore. If you check out here, my colleagues, people are suffering from political fatigue. Kenyans want results and to hear positive things. They want to know that we are a House that is going to behave; to look at the interest of the country and that we are the country's last line of defence.

I thank the team that participated in this. I give Mzee Kalonzo Musyoka all the accolades because Kenya has been through this before and it is going to happen again. When we have secured anything small, let us ring-fence it and make sure we bring out good laws. Let us make sure that our people are happy and that this House has a role to play.

I am so happy and hope that this country will be---

**The Temporary Speaker** (Sen. Veronica Maina): Would you like to be informed by Sen. Wambua?

**Sen. Onyonka:** Yes, I have no problem.

**Sen. Wambua:** Thank you, Madam Temporary Speaker. I want to inform my big brother, Sen. Onyonka, that he has taken the best line any legislator in this country and anywhere can take. However, I must add without fear of contradiction that is only going to happen if the Speakers of both Houses are not part of the debate; they are just referees of the debate.

You cannot have a situation where you want us to push an agenda of clear discussions, including pushing the agenda of the common mwananchi forward and yet, you have a Speaker seated on the Chair who even anticipates what your point of order will be. That way, you will not get anywhere.

I thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wambua, is that a point of order or a point of information?

**Sen. Onyonka:** I was wondering---

**The Temporary Speaker** (Sen. Veronica Maina): There was no information offered. It is a direct attack on the Speaker's seat; it is wrongly done.

Proceed and finish, Sen. Onyonka.

**Sen. Onyonka:** Madam Temporary Speaker, I would like to finish by telling my colleagues that, please, let us be in the mindset and the general feeling that we can sit and discuss this matter as children of the first same mother and that mother is a country called Kenya.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, we ought to have integrity in the debate and in the manner in which we debate in this House. It is not correct that you ask for a point of information, you are given an opportunity and what you bring is a totally different thing. It is not correct.

Hon. Senators, I would urge you to be guided by the Standing Orders. If the Speaker gives a direction to close on small issues, so that we can proceed on with the debate, you should respect the process and abide by it. So, I will go to Senator---

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

**The Temporary Speaker** (Sen. Veronica Maina): I hope it is not another one like that. Let me not anticipate it.

**Sen. Sifuna:** Madam Temporary Speaker that is exactly the point he was making.

**The Temporary Speaker** (Sen. Veronica Maina): I do not want us to argue on the same.

**Sen. Sifuna:** You do not know why I have asked for clarification.

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

**Sen. Sifuna:** Madam Temporary Speaker, in my understanding of Standing Order No.98, when a Member rises and these are the words of the Standing Orders in 98(3)-

“When a Member rises on a point of order, the Chair must make a decision. The Speaker shall either give a decision on the point of order forthwith or announce that the decision is deferred for consideration.”

All I am saying is that I am not clear on whether a decision was taken by the Chair on the point of order that precipitated the kicking out of the Senate Minority Leader. So, the point that I am seeking clarification on is this: What was the decision of the Chair on the point of order that was raised by Sen. Wambua following the things that Sen. Cherarkey said?

Please, be patient with us. Yes, we want to know what that ruling was. What was the ruling on the point of order because it was not clear from where I was sitting observing the proceedings, what the point of order decision was? Was the point made or the point that Sen. Cherarkey was making, was it substantiated or not? That is the decision that we want to know about.

There are consequences for failure to substantiate and I have suffered those consequences myself. If the rules of the debate are adhered to, you will not find people trying to find other ways to inject themselves into a debate for as long as the rules are followed.

**The Temporary Speaker** (Sen. Veronica Maina): So, you want to know whether ruling was rendered on Sen. Cherarkey?

**Sen. Sifuna:** Yes. What was the decision on the point of order?

**The Temporary Speaker** (Sen. Veronica Maina): For purposes of clarity, I will communicate on the process that was followed.

**Sen. Sifuna:** Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): A point of clarification was sought. I requested Sen. Cherarkey to proceed and clarify. He did not clarify properly. I gave him a second chance; he gave an answer. The answer does not have to meet the exact expectation of the one who is requesting. As long as he has offered the answer, I discharged it because he had offered the answer.

*(There was a technical hitch)*

I closed out on that matter.

On the point of clarification that Sen. Wambua has also sought for, it was clearly not a point of clarification. That is why I also clarified as a Speaker that you cannot use the wrong Standing Order. You say that you want to give a point of information and what you are doing is to look for an opportunity to bash the Speaker's seat.

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

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

**Sen. Faki:** Madam Temporary Speaker, from your ruling or clarification, I invite you to look at Standing Order No.105 (1).

“A Senator shall be responsible for the accuracy of the facts that the Senator alleges to be true and may be required to substantiate any facts instantly.”

Now, in this case, Sen. Cherarkey alluded to the fact that he has been sent by so many people, except the retired President Uhuru Kenyatta. Now, is that a statement of fact and can he substantiate that fact?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Faki, I closed that matter and I cautioned Sen. Cherarkey not to throw in names of people who should not be thrown into that conversation.

*(Sen. Sifuna spoke off record)*

I will now proceed on.

*(Sen. Wambua spoke off record)*

I have closed that matter now.

Proceed Sen. Cheptumo.

*(Sen. Wambua spoke off record)*

Sen. Wambua, I have closed that matter.

Sen. Cheptumo, proceed.

**Sen. Cheptumo:** Thank you, Madam Temporary Speaker. Our country Kenya is a great country. It is great because in 2007, we had a situation that almost brought our country to collapse. However, because of a situation where dialogue was given a chance, our country came back and we continued.

After the elections of 2022, we had a similar situation. Our leaders led by the President gave a chance to dialogue and consensus building together with the leader of Azimio. We have been able to save our country on many occasions by the actions of our leaders. I, therefore, want to take this moment to thank the President for his desire to unite the country and ensure that Kenya is peaceful, and equally the leader of Azimio, for agreeing that they have this Dialogue Committee.

That move is important because we have no other country. This is our country. This is the heritage of our children. It is important that each one of us plays a role in ensuring that this country remains united and peaceful. I am happy that this Dialogue Committee was able to go through the process and table the Report before us.

I have gone through the Report and I want to submit that the contents of this Report, the recommendations therein, are a product of Kenyans; their opinions and what they think is good for us. So, it is not just a Report of the few Members of this Dialogue Committee because we are told that several stakeholders with various political, economic interests submitted to the Dialogue Committee.

I was in the Tenth Parliament during the year 2007/2008; during that time of Koffi Anan. I was serving as the Assistant Minister for Justice. We saw the capacity of our country to hold together again even when we have issues. So, it is a great thing for us that now it is before this House.

It is before the House of the national leaders given to us under the Constitution; the sovereign will of the people, so that we add value to this discussion on what has just been done. Because of time, allow me just to refer to a few recommendations by the Committee.

Devolution is a very critical principle that has brought our country far in terms of development. The recommendation in Paragraph 852 talks about allowing county assemblies to invite the County Executive Committee Members (CECMs) to appear before them and answer questions.

We enjoyed that privilege today. We amended our Standing Orders and we have Cabinet Secretaries appear before us as part of oversight and ensuring that the Government is answerable to the Kenyan people through the elected leaders. I support that recommendation to allow county assemblies to invite the CECMs, equivalent to the Cabinet Secretaries in the national Government, so then the oversight is enhanced.

Madam Temporary Speaker, you and the House will agree with me that oversight is not well strengthened in our country, especially in the county assemblies and the county governments. So, this will be one of---

I have seen my time is almost ending.

Madam Temporary Speaker, Paragraph 836 is on impeachment of governors. I agree with the recommendation that we need a comprehensive law that outlines the steps to be taken. One of the Members here was talking about what we should have done to

keep that provision in this particular Report. However, all is not lost. We have the power to comprehensively develop a law that will set the standards for impeachment.

Recommendation 842 is about resolving electoral disputes. I want to agree that we take that away from the IEBC and allow the parties to manage their resolutions or their disputes.

Paragraph 843 is on entrenchment of the Senate Oversight Fund, the NG-CDF, and also the Ward Fund, which is very important. If we are to undertake our work as the Senate and oversight the county governments, that fund is critical. I am happy it has been taken into account.

Paragraph 843 is on the establishment of the Office of the Opposition. That proposal is important. This is because if we resolve and put it in the Constitution there will be an Office of the Opposition, then that particular Office will be able to oversee and play the role that is anticipated in the Constitution.

Finally, recommendation on Paragraph 863 is very interesting. It recommends that there will be a discussion as to whether the former commissioners can be reinstated by withdrawing the court case and so on. This is very interesting and I do not know how it will be implemented. It is upon this House to discuss that.

Some of those commissioners resigned. I do not know how this Committee envisages how we are going to implement that particular recommendation. Anyway, it is part of the recommendations. It will be interesting to know how we are going to implement that particular recommendation.

As I conclude, regarding the two-thirds gender rule; if you read recommendation on paragraph 834, it appears to me that the Committee did not want to deal with this issue because of the existence of the multi-sectoral working groups.

I want to oppose this particular proposal. This is because the multi-sectoral working groups did not have the power to deny NADCO to deal with this issue, noting that this is a constitutional requirement.

This particular Report is not cast in stone. I want to recommend that this House can still amend that particular proposal, so that we can then include the issue of the two-thirds gender rule in this debate. It is important for our women. For us in the Kenya Kwanza team, we have a whole charter for mainstreaming women in our governance. We have done it before and it is possible.

We were together with my colleague, Sen. Onyonka, in the other House. This is an issue we have been discussing for many years. When I was the Chairperson of Justice and Legal Affairs Committee (JLAC) in the National Assembly, this issue came up and we discussed it. However, it never went far.

Madam Temporary Speaker, even as you sit there as the Chair, this is an issue you have spoken about strongly. I join Members who are opposing this particular proposal, but we can amend it.

I support this Motion---

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

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator. Proceed, Sen. Ogola.

**Sen. Ogola:** Thank you, Madam Temporary Speaker, for the opportunity to contribute to the NADCO Report.

I would like to start by saying that the fear of Hon. Raila Amolo Odinga lives with Kenyans. His fear is real, to the extent that when Hon. Raila, as a Kenyan statesman shows interest in a post in the African Union (AU), a number of us think they are looking for a job for him. I only want to share with the people who have such fears that Hon. Raila Odinga will be here for a long time, maybe even longer than a few who have such fears.

Madam Temporary Speaker, I support the dialogue process and the Report that we are discussing here. Alternative dispute resolution methods are also catered for in the Constitution. It is only statesmen who agree to dialogue. One such statesman is Hon. Raila Odinga, who was part of the initiation of the national dialogue process. He has done it before and he is doing it and we appreciate him for that.

As I support this NADCO Report, I would like to make reference to the issue of entrenching funds that were extensively discussed in the Report. The Senate Oversight Fund was discussed and approved together with others. Since we are a Senate that primarily looks after and protects the interests of the counties, the issue of the Ward Development Fund must be addressed.

Members of County Assemblies (MCAs) who are in charge of the wards must also have a fund they are responsible for, which is specified and not lumped together as County Funds. I emphasize that the issue of Ward Development Fund must be looked into.

The issue of the two-thirds gender rule is critical. The Supreme Court had pronounced itself on this. Therefore, it is important that we put it into practice. The issue of two-thirds gender rule is not about women. When women sit on the decision-making table, they bring in ideas that are important for everybody. Even as nominees here, we are not only talking for women, but for Kenyans in general. Therefore, the issue of two-thirds gender rule must be practiced.

There is also a proposal to have offices of the Leader of Opposition and Prime Minister. This addresses the winner-takes-it-all issue that has perturbed Kenyans all along. Kenya is for all of us. We have a role in leadership, decision-making, and taking Kenya forward.

There is no justice without justice done to the people who lost their lives. We struggled through the famous *maandamano*, as referred to by the other side. The issue of demonstrations is in the Constitution. Demonstrating is a right for Kenyans.

In the process of *the maandamano*s, lives were lost. What are we doing about the lives lost? There must be justice and compensation for the loss of lives and property.

As I support this National Dialogue Committee (NADCO) Report, we should reflect on the dialogue issue as leaders. This must be looked at in terms of something other than the national picture. We must initiate dialogue wherever we are. Also, people

with diverse opinions try to communicate a point and pass information that must be listened to.

I support this Report. However, the two-thirds gender issue and the Ward Fund must be addressed.

I want to allay our colleagues' fears. Hon. Raila Odinga is a statesman; you do not need to fear. He has a right to go for any post. He will be here with us for a long time with the post at the African Union or not. Raila will be in this country and participate in our ongoing activities there.

Madam Temporary Speaker, I support the Motion.

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

Sen. Korir, proceed.

**Sen. Korir:** Thank you, Madam Temporary Speaker, for allowing me to speak to this Report. I congratulate the team for the work they have done in terms of researching and collecting information for the Report.

I echo the sentiments of my colleagues on several issues they have touched. Specifically, I would like to highlight the problems of our economy. The formation of the bipartisan team enabled the Government to work for the citizens.

I thank the Government for moving forward to give farmers subsidized fertilizer. The Government also has improved the infrastructure and created job opportunities for our youth nationwide. This can only be achieved when we have a peaceful nation.

Secondly, the two-thirds gender rule has been an emotive issue. I thank Sen. Ogola for bringing it out loud and clear that gender does not represent women alone.

Madam Temporary Speaker, this is an issue that is in other countries. I want to thank specifically the countries that have closed the gap in the gender space, for example, Finland, Sweden and Rwanda. Therefore, we should remove the notion that when we speak of gender, we speak about the women. It is within the Report. It is only that it has given a loophole to the relevant Ministry, to make sure that they come out with a formula of addressing this issue.

Therefore, being one of the leaders in this House, I say that it is the mandate of the relevant Ministry to make sure that they push this issue of gender, so that it can be implemented together with this Report.

Otherwise, there are a number of issues that have been raised. They have talked about creation of the Prime Minister's Office, political office and a number of issues pertaining to the formation of the Independent Electoral and Boundaries Commission (IEBC), and we support all that.

Since I know a number of us are still waiting and the time is far much gone, I support the Report with amendments.

I thank you.

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

**Sen. Olekina:** Madam Temporary Speaker, I rise to support this Report. As I rise to support this Report, I remind us, because we are all getting very emotional and sometimes very sensational, the debate serves as a platform for intellectual exchange,

constructive dialogue, and the exploration of diverse perspectives on complex issues such as this.

The reason we are discussing this National Dialogue Committee (NADCO) Report is because of complexity in our thinking. As men and Members of the opposition and Members who form the Government, that is what is leading us into debating this Report.

As we talk to Kenyans, many people would be asking, what exactly are we debating? The debate now gives us a structure and an engagement way to explore and analyze different viewpoints leading to a deeper understanding of the topic at hand.

The topic at hand is a NADCO Report and what is this NADCO Report? I would want to disabuse this belief that the NADCO Report is something bad or so good. It is just part of our day-to-day thinking. We fought, we had a context, some of us felt cheated, others felt like they won and we drove this country into misery. This is a country that we so love and hope that we will keep it for future generationn.

Madam Temporary Speaker, people died, we rose the cost of living, people lost faith and stopped being patriotic. So, what do we do? At first, as any sane leader would think is, let us go and try to find out what ails us.

As I make my contribution on this NADCO Report, because I have read it, and I will limit my contribution to only six parts. The first part is to define what exactly we are doing.

We are passing a motion, or we are discussing a motion, to be able to amend the Constitution. It is to amend this Constitution to create an Office of the Leader of Opposition. It is not to create an office for Raila Amolo Odinga or Kalonzo Musyoka.

Madam Temporary Speaker, it is to create a leader of the opposition, so whoever wins or whoever loses, becomes opposition and he leads. This is so that he can give an alternative.

Madam Temporary Speaker, as I support the Committee that went and sat there, what is it that I feel that they fail to really understand? The first issue is the two-thirds gender rule. I reiterate that gender parity still seems to be unnatural in most people. I want to be honest by saying that the framers of the Constitution, when drafting or promulgating the Constitution of Kenya, were thinking very clearly when it comes to the issue of gender parity with the county sssemblies.

That is why in Article 177(1)(b) of the Constitution of Kenya 2010, we do not have this beef when it comes to county assemblies. The Constitution clearly stipulates how we avoid this issue. It says that-

“A county assembly consists of-

(b) the number of special seats members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender.”

The only way to resolve this issue of gender parity is not by recognizing that there is another body out there, which is discussing the issue of gender parity. It is to bring in a constitutional amendment, and ensure that there is no one gender that will be superior to the others. Let it be put in the Constitution.



Why is it that the framers of the Constitution, when the Kenyan Constitution was being promulgated, saw it fit to ensure that we control this issue at the county assemblies and put sanity there? That is one thing that I feel that this Report lacked.

Secondly, I want to keep on reminding us that we have been on this issue of the two-thirds gender rule for quite some time. We have invited the Supreme Court, and it has pronounced itself. Now that we have an opportunity to dialogue and agree, why not agree to entrench it into the Constitution?

This Report, which I support, talks about entrenching the National Government Affirmative Action Fund (NGAAF), the National Government Constituencies Development Fund (NG-CDF) into the Constitution and the Senate Oversight Fund. Why leave out the the Ward Development Fund? Put it in the Constitution so that we stop all this back and forth about Ward Development Fund. Let us put it there. We have an opportunity to do that.

Madam Temporary Speaker, the second issue is governance. There is a recommendation in this Report on the process of impeaching a governor. We already have a law. We have the County Governments Act, 2012, which stipulates that in Section 33. Why not amend it and put in a process?

The Constitution foresaw an avenue where the President has not been impeached. It is true he has not, but who says that in the history of this country, a President will never be impeached? Since we are borrowing from the presidency the impeachment process with the County Governments Act, 2012, of the county government, why not entrench it there?

Thirdly, because of time, I want to talk about this issue of creating of an Office of the Leader of Opposition. We have to be very clear. We also need to ensure that the Senate Leadership Office is entrenched in the Constitution.

Currently, the Constitution only has the National Assembly leadership. Why not put the Senate leadership office? This Report failed in discussing the legislative role of the Senate, which is something that has always been a beef.

I want us, when amending the Constitution and these legislative proposals, because there are about ten of them, to be very clear that every single Bill comes to the Senate except the Finance Act.

The Finance Act must be very clear because it is a Money Bill. We need to relook at the entire Article 110, and especially elaborate further on Article 110 (3).

It is wrong for us to be in this Senate, yet we are talking about having 28 pieces of legislation, which have been denied concurrence by the National Assembly. Then what exactly are we doing? We had Members. I believe that is what we failed.

Madam Temporary Speaker, as I wrap up because of time, on the issue of IEBC, this Report talks about the process of reconstituting the selection panel. It is imperative that we are very clear. There is no single sitting President who would ever want commissioners to be appointed way before an election. Every President would want the commissioners to be appointed just about when we are doing an election. Let us be clear. Let us remember that we as politicians and governments will come and go, but Kenya will remain as a country.

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So, whatever institution we set up, we did so for posterity, but not for our own selfish gains. The appointment process has to be very clear in terms of ensuring that we protect the IEBC Commissioners.

As I wind up, I still want to reiterate on this issue of the gender rule.

*(Sen. Olekina's microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): Your time is up. Sen. Gataya Mo Fire, please proceed.

**Sen. Gataya Mo Fire:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I would like to echo the sentiments that have been expressed by my fellow Senators in support of this very important document that has just come before us.

This document is a culmination of the desire to have peace in this country. I want to sincerely thank the team from both sides; the ruling party and the opposition, which took their precious time to come up with a document that has captured a number of pertinent issues that are supposed to bring peace in this country as intended.

I have just looked at this document. It has provided some clarity, is comprehensive and captive because it has captured quite a number of issues that have been bothering many Kenyans. The desire as a country was to make sure that we live peacefully despite the fact that we had just concluded elections. People lost and others won. Of course, as a country, we had to go about our business as normal. That is why the two entities agreed to have a National Dialogue that has brought on board this important document.

Madam Temporary Speaker, I have captured some few issues, especially on the issue of the boundary. I happen to come from a troubled zone in Tharaka Nithi County, where we have long outstanding historical issues with our neighbouring sister, Meru County. We have seen people lose lives, property and get evacuated from their homes and land. I hope the National Dialogue is going to address this issue comprehensively, so that people can live in peace and coexist just like brothers and sisters.

The Report has also captured the issue of IEBC. I remember in 2007 when this country almost went up in flames because we had very weak IEBC Commissioners. It is important that whenever we have elections, we have an IEBC, which is not partisan and which is going to make sure that they address issues without necessarily having to look at either side of the row. It is important that this dialogue has captured pertinent issues in terms of how we manage our elections, laws and processes.

It has also addressed the issue of the cost of living. We all agree that we are going through some economic hard times. I am happy that quite a number of issues have been addressed in this document.

Now that the Shilling is gaining some strength, I hope in the next few weeks or months, if we implement these recommendations that are brought in this document, I believe Kenyans are going to find themselves living comfortably because right now, people are having trouble paying for services; loans, school fees and so forth.

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In the interest of time, I wish to support this document. I hope that we are going to live in this country as sisters and brothers.

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

**Sen. Osotsi:** Thank you, Madam Temporary Speaker, for this opportunity to also make my comments on the NADCO Report.

From the onset, I support this NADCO Report. This is because, as it was said by the Senate Majority Leader, this is a product of bi-partisanship between the two groups, that is, the Azimio la Umoja and Kenya Kwanza Coalitions. It has dealt extensively with the matters that the two sides brought on the table.

I have gone through this Report. I have a concern because this Report does not have an implementation framework. There are no timelines and there is nowhere it suggests that someone somewhere or some institution is going to trigger this process. So, even as we debate this Report and support it, I encourage that we bring amendments to it, so that we can have an implementation framework. We can also amend this Motion and maybe give direction to the two leaders; the Senate Majority Leader and the Senate Minority Leader, to initiate the process of implementing the recommendations in this Report. Otherwise, we risk to pass a report which will not have legs because it cannot be implemented. No one will have the responsibility of implementing it. That is my concern.

However, that does not mean that I am not supporting the recommendations of this Report. I support the recommendations, but let us be very clear that we have a proper implementation framework in place.

Madam Temporary Speaker, there are urgent issues that this Report is addressing. We have a challenge with the reconstitution of the IEBC. This Report is recommending that we change the selection panel of IEBC.

The other day, the courts ruled and the panel has been working. In the spirit of this bi-partisanship, that selection panel should wait for this Report to be passed. This is so that the reconstitution of IEBC is done within the framework of NADCO.

You are also aware that we have a problem with the boundary delimitation. We have run out of time. This Report is recommending that we amend Article 89 of the Constitution, so that whenever we run out of time, the way we have, Parliament can give an extension. This is a very important recommendation. That is why I am saying that this Report is good, but let us have an implementation framework, so that some of these very urgent things can be picked up and done quickly.

Madam Temporary Speaker, on the issue of the audit of presidential elections, the Report acknowledges that there is need to audit the election. This process is to be coordinated by a panel of six experts.

I fully support this, but again, the Report is short on implementation. Who is going to trigger what or do the appointment of this panel of experts. Those are grey areas we need to look at.

On the issue of checks and balances, the Report talks about the issue of court orders. Lately, we have seen court orders not being obeyed. In the spirit of this bi-partisanship contained in this report, it is important for both sides of the political divide

and most importantly, those in power, to ensure that court orders are obeyed, as clearly stated in this NADCO Report.

Madam Temporary Speaker, there are issues in our bicameral relationship. We have had problems between the Senate and the National Assembly. This Report proposes how that can be solved. We must acknowledge that to implement some provisions of this report, we will have to amend our Constitution.

For us to entrench the offices suggested here; these are the Office of the Prime Minister and the Office of the Leader of the Opposition and two deputies, we will need constitutional amendments. That also has to be given an implementation framework.

The position of Azimio la Umoja-One Kenya Coalition is clear when it comes to the issue of the cost of living. Unfortunately, the Kenya Kwanza Government requested that assignment be left to them. Therefore, Kenyans are waiting to see whether the cost of living will be reduced.

Madam Temporary Speaker, proposals on the counties are good. They are talking of increasing shareable revenue to 20 per cent, finalising transfer of functions to the counties and ensuring that regional development authorities have representation of the counties. That is progressive for us as a Senate and it is good to support.

There are issues to do with retirement of the Auditor-General. This is a serious issue because the Auditor-General is not included in the Retirement Benefits Act, yet this is an important office in this country.

I also support the proposal to increase the terms of Senators to seven years. This is something we need to think about because in other jurisdictions, that is what happens. Kenya is not an island. We can also have that arrangement.

Madam Temporary Speaker, we should also stagger elections so that we do not hold six elections in one day. Elections should be staggered for several days.

There is the issue of cash transfer to older persons. There is a recommendation to enhance it from Kshs2,000 to even Kshs10,000, so that the elderly do not continue to suffer the way they are suffering. The money should also be paid promptly.

There are many exciting recommendations in this report, including that election laws should be enacted at least 18 months before elections. That is progressive. The issue of increasing the period for lodging and determination of election petitions at the Supreme Court from 14 days to 21 days is progressive as well.

However, as I said earlier, the biggest challenge we have even as we debate this report, is to find out how Parliament is going to implement. It will be a waste of taxpayers' money for such a wonderful report meant to unite this country to be passed by this House, but we are not sure of who will do what or which committee will do that.

Madam Temporary Speaker, my request is to the Senate Majority and Minority Leaders of the two Houses to incorporate amendments that are going to define the implementation framework for this report. I am sure that if this report is implemented, we will be on the right track as a country.

We want a country where we respect each other and the opposition and those in power move together. We want a country where the spirit of the NADCO will be seen in

our actions. As someone said, right now, political parties are suffering because they are not getting their allocations.

When we talk about strengthening political parties in this report and presently doing the opposite, that is not a good spirit. We talk about ensuring that court orders are obeyed, but we do the opposite because we openly defy them.

Madam Temporary Speaker, I support this Report.

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

### ADJOURNMENT

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 21<sup>st</sup> February, 2024, at 9.30 a.m. The debate on this Report will resume then.

The Senate rose at 6.30 p.m.