

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 18th July, 2023

*The House met at the Senate Chamber,
Parliament Buildings, at 2.32 p.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

The Speaker (Hon. Kingi): Kindly, proceed to call the first Order.

(Sen. Oketch Gicheru walked on the gangways)

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, kindly, take your seat. Does your leg not allow you to take a seat?

(Sen. Oketch Gicheru spoke off record)

The Speaker (Hon. Kingi): Okay. We wish you a quick recovery, Sen. Oketch Gicheru)

COMMUNICATION FROM THE CHAIR

COMMENCEMENT OF PART IV OF THE SENATE CALENDAR, 2023

The Speaker (Hon. Kingi): Hon. Senators, I take this opportunity to welcome you back from the two weeks' recess.

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I hope that you were able to meet with your constituents, friends and families and that you took some time off to rest and recharge.

Part IV of the Senate Calendar commences today and will run until the rise of the Senate on Thursday 10th August 2023. In terms of the legislative business before the Senate, a total of 21 Bills are under consideration in the Senate, with 17 at the Second Reading stage, and four are the Committee of the Whole stage.

Before the Senate proceeded on recess two weeks ago, five Senate Bills were referred to the National Assembly for consideration, out of which two Bills were considered, passed and assented into law. Therefore, three other Senate Bills are pending conclusion in the National Assembly.

Twenty-three Motions are pending conclusion before the Senate, while 14 Petitions have matured for reporting by respective Committee Chairpersons. In addition to these, 170 Statements are pending conclusion by Standing Committees. I urge the responsible committees to expeditiously consider the Petitions and Statements before them and table reports pursuant to our Standing Orders.

From the aforementioned, it is clear that the Senate resumed its sittings with a heavy in-tray. The Speaker will do whatever is necessary within the Standing Orders to expedite consideration of the business scheduled in the Order Paper. However, the Speaker alone cannot move business.

It goes without saying, therefore, that the Movers of Business listed in the Order Paper must be in the Chamber to prosecute the same. Party Whips will be required to ensure that the requisite number of County Delegations is achieved for divisions to be undertaken at the right time if we are to clear the backlog of Bills and Motions.

Hon. Senators, in conclusion, the Senate Business Committee has approved a schedule for Committee Chairpersons to issue Statements pursuant to Standing Order 56(1)(b), starting from the 25th of July, 2023.

In this regard, we look forward to hearing about the work that the committees have been undertaking, impacts that this work is making, their plans for the next few months and a report on the status of the implementation of resolutions of the Senate.

I wish you fruitful deliberations and wish hon. Senators well.

Next Order.

MESSAGES FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

The Speaker (Hon. Kingi): Hon. Senators, I have two Messages to convey.

I wish to report to the Senate, that, pursuant to Standing Order 46(3) and (5), I received the following Message from the Speaker of the National Assembly, regarding the passage by the National Assembly of the Public Finance Management (Amendment) Bill (National Assembly Bills No. 16 of 2023).

The Message, which is dated Thursday, 29th June 2023, was received on the 29th June 2023 while the Senate was on recess, and was transmitted to all Senators pursuant to Standing Order 46(5).

Pursuant to the said Standing orders, I now report the Message.

“Pursuant to the provisions of Standing Order 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS, the Public Finance Management (Amendment) Bill (National Assembly Bills No.16 of 2023) was published via Kenya Gazette Supplement No. 62 of 4th May, 2023 to amend the Public Finance Management Act No. 18 of 2012 to operationalise the Public Debt and Borrowing with regard to a framework for monitoring the level of public debt to align it with the provisions of Article 214(2) of the Constitution, and;

WHEREAS, the National Assembly considered and passed the said Bill on Tuesday, 27th June, 2023, with amendments and in the form attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41(1) and 142(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate”.

Hon. Senators. The Message was received with a request from the Leader of the Majority Party in the National Assembly that, the Senate Majority Leader to co-sponsor, and introduce the Bill in the Senate, pursuant to the provisions of Standing Order 163(3), which states;

“Before a Bill originating from the National Assembly is read a First Time in the Senate, the Speaker shall notify the Senate whenever a message is received from the Speaker of the National Assembly, naming a Senator or Senators who have been nominated by the sponsor of the Bill to co-sponsor the Bill in the Senate.”

Hon. Senators, in this regard, this request has been conveyed to the Senate Majority Leader for his further action.

Thank you.

Hon. Senators, you may walk into the Chamber.

(Several Senators walked into the Chamber)

PASSAGE OF THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL

This is the second Message from the National Assembly. I wish to report to the Senate that pursuant to Standing Order No.46(3) and 46(5), I received the following Message from the Speaker of the National Assembly regarding the passage of the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023).

The Message, which is dated Thursday, 29th June, 2023, was received on 29th June, 2023, while the Senate was on recess and was transmitted to all Senators pursuant Standing Order No.46(5).

Pursuant to the provisions of Standing Order No.41(1) and 142(b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:

“WHEREAS, the County Government's Additional Allocations Bill (National Assembly Bill No.23 of 2023) was published vide Kenya *Gazette* Supplement No.77 of 24th May, 2023, to provide for the additional allocations to county governments for the 2023/2024 financial year, the responsibilities of the national Government and county governments pursuant to such allocation and for connected purposes;

AND WHEREAS, the National Assembly considered and passed the said Bill on Tuesday, 27th June, 2023, with amendments as attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders No.41(1) and 142(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, the Message was received with request from the Leader of the Majority Party in the National Assembly, that the Senate Majority Leader co-sponsors and introduces the Bill in the Senate.

Pursuant to the provisions of Standing Order No.163 (2), which states as follows-
“Before a Bill originating from the National Assembly is read a first time in the Senate, the Speaker shall notify the Senate whenever a Message is received from the Speaker of the National Assembly, naming a Senator or Senators who have been nominated by the sponsor of the Bill to co-sponsor the Bill in the Senate.”

Hon. Senators, in this regard, the request has been conveyed to the Senate Majority Leader for his further action.

Thank you.

(Applause)

Next Order.

PETITION

REPORT ON PETITION: DELAY IN DEVELOPING AND LAUNCHING A VICTIMS RIGHTS CHARTER

The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights or any Member of that Committee, to present the Petitions. If not, that Petition is deferred.

(Report on Petition deferred)

Before we move to the next Order, I have two Communications to make.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM BUSIA COUNTY ASSEMBLY

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I would like to acknowledge the presence in the Speaker's Gallery this afternoon, a delegation from Busia County Assembly, comprising members of the Speaker's Panel and its secretariat.

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

Hon. Ronald Ochalu	-	The Deputy Speaker.
Hon. Gardy Obara Jakaa	-	MCA
Hon. Jostone Makabwa	-	MCA
Ms. Emma Akiru	-	Deputy Director, Plenary Services
Ms. Truphena Okeyo	-	Chief Clerk, Plenary Services
Mr. Moses Opelech	-	Chief Clerk, Plenary Services
Mr. Godfrey Balera	-	Clerk Assistant, Plenary Services

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

(Applause)

VISITING DELEGATION FROM THUMAITHA WEST
SECONDARY SCHOOL, KIRINYAGA COUNTY

Also in the Speaker's Gallery this afternoon, we have 48 students accompanied by three teachers from Thumaitha West Secondary School, Kirinyaga County, who are in the Senate on an educational tour.

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

(Applause)

I do not see Sen. Okiya Omtatah. I will therefore allow his immediate neighbour, Sen. Osotsi, to give brief welcoming remarks under one minute. Thereafter, the Senator for Kirinyaga County will follow to give some welcoming remarks also under one minute.

Proceed in that order.

Sen. Osotsi: Thank you, Mr. Speaker, Sir, for this opportunity to welcome the distinguished delegation from Busia County. Busia is a very critical county in this country, being a county that borders our neighbours Uganda and being a key transit point between the two countries.

I warmly welcome you to the Senate on behalf of my colleague, Sen. Okiya Omtatah, who is not in this afternoon. I am sure he will walk in any time from now. You have a very formidable Senator, an individual or a personality who has fought for the rights of many, not just in Busia County but Kenya in general.

I am sure you will enjoy your visit. Listen to the deliberations in the Senate. You will have something to take back to the great people of Busia County. Welcome and thank you for visiting the Senate this afternoon.

Sen (Dr.) Murango: Asante, Bw. Spika. Ninachukua fursa hii kuwakaribisha wanafunzi kutoka shule ya Thumaitha. Thumaitha ni mojawapo ya shule ambazo zinajikaza kisabuni katika masomo, wakielewa kwamba masomo tu ndio yanaweza kusawazisha mahuluku-taabu, yaani *hustlers*, na matajiri na wakae meza moja.

Kwa hiyo, ninawapa walimu kongole kwa kuhakikisha kwamba hawa wanafunzi wamefika hapa siku ya leo.

Asante.

The Speaker (Hon. Kingi): Next Order.

PETITION

REPORT ON PETITION: HISTORICAL INJUSTICES SUFFERED BY THE TOROBEEK COMMUNITY

We had dispensed with that. The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights is still not around. So, we will defer that particular Order.

(Report on Petition deferred)

Next Order, please.
Proceed, Sen. Methu.

PAPERS LAIDS

Sen. Methu: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today 18th July, 2023.

COUNTY GOVERNMENTS EQUITABLE SHARE CASH DISBURSEMENT SCHEDULE

The County Governments Equitable Share Cash Disbursement Schedule for the Financial Year 2023/2024.

COMMISSION ON ADMINISTRATIVE JUSTICE REPORTS

The Commission on Administrative Justice (CAJ) Annual Report for Financial Year 2021/2022.

The Commission on Administrative Justice Bi-Annual Report for the period July to December, 2022.

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

Report of the Auditor-General on the financial statement of the Municipality of Hola for the year ended 30th June, 2020.

Report of the Auditor-General on the financial statement of the Municipality of Hola for the year ended 30th June, 2021.

Report of the Auditor-General on the financial statement of the Municipality of Hola for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statements of the Nairobi City Water and Sewerage Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Kisumu-Kisumu Urban Project for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kisumu Water and Sanitation Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kisumu Lakefront Development Corporation for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kisumu County Education Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kisumu County Women, Youth and People with Disabilities Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Kiambu Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Kikuyu Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Ruiru Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Limuru Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Karuri Municipality for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the Kericho County Bursary Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Bomet - Longisa County Referral Level 4 Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of the County Government of Turkana-County Revenue Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Lodwar Water and Sanitation Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Amatsi Water Services Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Kakamega County Water and Sanitation Company Limited for the year ended 30th June, 2022.

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Report of the Auditor-General on the financial statement of Kakamega County Microfinance Corporation for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Bungoma County Youth and Women Empowerment Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Rachuonyo County Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Migori County Referral Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Suba Sub-County Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on the financial statement of Homabay County Teaching and Referral Hospital for the year ended 30th June, 2022.

(Sen. Methu laid the documents on the Table)

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.51(1). Proceed, Sen. Mungatana.

JOINT AU - PAP ELECTORAL OBSERVATION MISSION ON THE GENERAL ELECTIONS HELD IN THE REPUBLIC OF SIERRA LEONE

Sen. Mungatana, MGH: Mr. Speaker, Sir, I rise pursuant to Standing Order 52 (1) to make a Statement on a matter of international and general topical concern, namely; the Joint African Union (AU)-Pan-African Parliament (PAP) Electoral Observation Mission to the 24th June, 2023 General Elections in the Republic of Sierra Leone.

Mr. Speaker, Sir, Sierra Leone, a country of approximately 8.7 million people, holds its general elections every five years. The 24th June, 2023, General Elections were the fifth since the end of civil war in the country in the year 2002 and reaffirmed the consolidation of democratic governance in the country. The elections were held against the backdrop of pronounced economic hardships occasioned by massive unemployment, high levels of inflation and a depreciating currency in the import-dependent nation that is still recovering from the COVID-19 Pandemic.

The previous elections, particularly of 2018, were highly competitive with the current President taking the win with 51.8 per cent of the votes cast in the second round of voting that followed a first round in which no candidate secured the requisite 55 per cent. The 2008 elections witnessed divisive political rhetoric that amplified tensions.

Mr. Speaker, Sir, the AU, at the invitation of the Republic of Sierra Leone and in furtherance of its commitment to promote peaceful, credible and democratic elections in its member States, deployed a short-term election observation mission of 50 observers

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drawn from various AU Member States comprising AU organs, notably, the Pan African Parliament, to Sierra Leone.

The short-term observers, led by H.E. Hailemariam Boshe, the former Prime Minister of the People's Democratic Republic of Ethiopia, were mandated to assess and report on the degree to which the conduct of the elections met international standards for democratic elections. I was privileged to have represented the Parliament of Kenya and led the PAP delegation in the mission.

The mission undertook multiple pre-election activities including sensitization workshops for observers; mapping of polling centres and consultations with major stakeholders in the country among them, the National Electoral Commission, the Independent Commission for Peace and National Cohesion, the office of National Security, His Excellency the President, Julius Bio, who was seeking re-election, and Dr. Samura Kamara who was the main opposition contender. Throughout the consultations, the Mission underscored the need for a peaceful and credible electoral process.

Mr. Speaker, Sir, 13 candidates, 12 men and one woman, declared interest in the presidential seat. The incumbent, H.E. Julius Bio of the Sierra Leone People's Party (SLPP) retained the seat having emerged the winner with 56.17 per cent.

In addition to the presidential seat, 135 parliamentary and 493 local council seats were in contention. The elections for Members of Parliament and councillors were conducted by the Proportional Representation (PR) system as opposed to the first-past-the-post system that was used for the presidential and mayoral elections. This meant that the people elected political parties of choice instead of directly voting for individual candidates.

The AU Mission observed voting in 219 polling stations in 13 of the 16 electoral districts in Sierra Leone. The observation mainly focussed on factors that would impact the integrity of the elections and encompassed among others, the accessibility, staffing, security, delivery and adequacy of voting materials in the polling stations. The overall assessment of the Mission was that the elections were relatively peaceful, conducted in accordance with the laws of Sierra Leone and were credible.

Mr. Speaker, Sir, despite the overall peaceful conduct of the general elections, isolated incidents of violence were reported in various areas throughout the electoral process. These acts of violence serve as a reminder of the ongoing work required to strengthen democratic practices and foster a culture of peaceful political engagement not only in Sierra Leone, but also in countries across Africa where such is witnessed in almost every election cycle.

Mr. Speaker, Sir, in the run-up to the elections, there were also heightened tensions fuelled by misinformation, disinformation and hate speech propelled throughout social media. At the initiative of the Sierra Leone Association of Journalists (SLAJ) and the Independent Radio Network (IRN) in the country, iVerify, which is a technology-based fact-checking platform, was launched to proactively identify and respond to misinformation, disinformation and hate speech. This was a remarkable initiative that worked to counter threats that had the potential to disrupt peace and security.

Mr. Speaker, Sir, noteworthy, civil society organizations (CSOs) in Sierra Leone played a very vital role in ensuring the conduct of peaceful and transparent elections.

These organizations, particularly the Inter-Religious Council of Sierra Leone (IRCSL) engaged in among other activities, the facilitation of dialogue between political parties, voter education campaigns and polls observation in a majority of the polling centres in the country.

The IRCSL convened meetings between political parties and facilitated the signing of a peace pledge by presidential candidates. Their presence and active involvement helped uphold accountability by both the Government and electoral authorities and enhance public trust in the process. The patriotism and valour displayed by these CSOs is remarkable. I urge our CSOs to benchmark and emulate them.

I would also like to commend the West Africa Elders Forum (WAEF) for its role in the just concluded elections in Sierra Leone. The Forum consists of esteemed and experienced former leaders and statesmen whose efforts and collaborations are geared towards ensuring transparent and peaceful transition of power. Through their wisdom, experience and impartiality, the forum contributes significantly to creating an environment conducive to credible elections and democratic governance.

As I conclude, it is from the foregoing and my observation of the election process in Sierra Leone that I urge the following:

- (1) The Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to initiate engagements with the Ministry of East African Community, Arid and Semi-Arid Lands and Regional Development towards the establishment of an East African Elders Forum as a credible platform of eminent leaders who will engage in preventive diplomacy as a means of reducing electoral-related tension and violence in East Africa.
- (2) The Standing Committee on Information, Communication and Technology to interrogate the capacity of the Media Council of Kenya (MCK) and the Communications Authority of Kenya (CA) to promote responsible media practices and ensure dissemination of accurate information.
- (3) The Standing Committee on Justice, Legal Affairs and Human Rights to consider a review of the legal framework to provide for-
 - (i) financial support from Government to Civil Society Organisations (CSOs) and the media, more so during the election period, in recognition of the significant contributions they make in enhancing accountability, transparency and citizen participation in elections. This support will enable them to conduct extensive voter education campaigns and monitoring of the electoral process; and,
 - (ii) an office, distinct from the Independent Electoral and Boundaries Commission (IEBC) to provide expertise and guidance in areas of electoral management and good governance and is dedicated to safeguarding the integrity of democratic processes and institutions in the nation.
- (4) The IEBC, in conjunction with the Office of the Attorney-General and the Judiciary, to publish a compendium of election practices to promote consistency and uniformity in the conduct of elections and resolution of electoral disputes.

- (5) The IEBC adopts a collaborative approach to election management where open and constructive dialogue exists with all political parties aimed at consensus building on key aspects of the election management system.
- (6) The National Treasury and Economic Planning to put in place measures aimed at ensuring timely disbursement of funding to the IEBC to facilitate seamless conduct of pre-election, election and post-election activities as per the IEBC's calendar.
- (7) The IEBC, the Judiciary and the National Police Service (NPS) to make provisions in their budgets for the year preceding general elections, for funding of extensive capacity-building programmes for key players in the election, including election officials, judges and police officers.

Mr. Speaker, Sir, in conclusion, I wish to commend the people of the Republic of Sierra Leone for coming out peacefully in their numbers to cast their votes. The peaceful conduct of the elections and a huge turnout of 83 per cent at the polls is a testament of the maturity and resilience of the people of Sierra Leone and their determination to uphold democratic values and actively participate in shaping their nation's future. These elections have surely set a positive precedent for the consolidation of democracy and the pursuit of a prosperous Sierra Leone.

I thank you.

The Speaker (Hon. Kingi): Before I proceed to call Senators to make Statements pursuant to Standing Order No.53(1), I have a communication to make.

(Sen. Cheruiyot walked into the Chamber)

Senate Majority Leader, kindly take your seat.

(Sen. Cheruiyot took his seat)

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM NYANDARUA COUNTY ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of officers from the Serjeant-at-Arms Department of the County Assembly of Nyandarua. The officers are in the Senate for a benchmarking visit with their counterparts.

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

(Applause)

VISITING DELEGATION FROM KITHAKANARO MIXED SECONDARY SCHOOL, MERU COUNTY

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The Speaker (Hon. Kingi): Again, in the Public Gallery, we have 60 students accompanied by two teachers from Kithakanaro Mixed Secondary School in Meru County who are in the Senate on an educational tour.

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

(Applause)

I will allow Sen. Methu to welcome the delegation from Nyandarua and Sen. Mundigi to welcome the delegation from Meru, both under one minute. Under one minute means exactly that; less than a minute.

Sen. Methu: Mr. Speaker, Sir, I would like to pass my warm welcome to my former colleagues from the County Assembly of Nyandarua in the Serjeant-at-Arms Department. They are known to me because I served with them at the County Assembly.

I wish them all the best as they benchmark with the Directorate of Serjeant-at-Arms of the Senate.

Sen. Munyi Mundigi: Bw. Spika, nakaribisha watoto wa kutoka Meru County

(Sen. Cherarkey stood in his place)

The Speaker (Hon. Kingi): Sen. Cherarkey, kindly take your seat.

(Sen. Cherarkey sat at his place)

Sen. Munyi Mundigi: Bw. Spika, nawakaribisha watoto kutoka Kaunti ya Meru. Seneta wenu hayuko karibu. Yeye ndiye *Deputy Speaker*. Mnafaa mjifunze yale tunayofanya hapa. Jueni kuwa ninyi ndio mtakuwa Maseneta au *Directors* wa kesho kwa sababu miaka yetu inasonga.

Nawasihi mwuepukane na mambo ya pombe, dawa za kulevya na mambo mengine.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.45 (2), I wish to rearrange today's Order Paper. We will move to prosecute Order Nos.9, 10 and 11 before coming back to the Statements pursuant to Standing Order No.53 (1).

Clerk, kindly, proceed to call out the Orders.

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

The Speaker (Hon. Kingi): Sergeant-at-Arms, kindly ring the Division Bell for three minutes.

(The Division Bell was rung)

The Speaker (Hon. Kingi): Order, hon. Senators. Kindly, take your seats. Serjeant-at-Arms, proceed to close the doors and draw the bar.

(Doors closed and the Bar drawn)

Order, hon. Senators. Let us take our seats so that we can proceed with this business. Order, Sen. Cherarkey, the recess is over.

BILL

Second Reading

THE AGRICULTURAL AND LIVESTOCK EXTENSION
SERVICES BILL (SENATE BILLS NO. 12 OF 2022)

(Division)

The Speaker (Hon. Kingi): Hon. Senators, voting is going to be done electronically. At this juncture, kindly, log out. Just pull out your cards from the delegates' unit.

As the hon. Senators are doing that, Serjeant-at-Arms, please, go around and pull out the remaining cards that are still in the delegates' units. Serjeant-at-Arms, if you are done, kindly signal me so that we may proceed.

Hon. Senators, kindly proceed to insert your cards. Kindly, log back and proceed to vote by way of pressing Yes, No, or Abstain.

(Voting in progress)

The Speaker (Hon. Kingi): Sen. Tobiko and Sen. Omar, kindly, approach the dispatch desk so that you can be assisted to vote.

(Sen. Faki spoke off record)

Sen. Faki, I am informed by the Clerk that they hold valid delegated authority to vote.

Okay, Sen. Tobiko, I am informed that the Senator concerned is present. You may proceed to take your seat. You do not vote because your delegation has already voted.

(Sen. Omar proceeded to the dispatch desk to vote)

Hon. Senators, we are going to announce the results after we have voted for the third Bill.

We will now proceed to the second Bill, which is the Start-Up Bill (Senate Bills No. 14 of 2022). I will proceed to put the question.

You may now proceed to vote by pressing 'yes,' 'no', or 'abstain'.

Can we have the screen show the results?

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(Technical hitch)

Senators, we are now back on air. Kindly proceed to vote.

(Voting in progress)

Senators, five of you are not voting. Proceed to vote.

(Voting in progress)

Sen. Mariam Omar, kindly, proceed to the Dispatch Box so that you may be assisted to vote.

(Sen. Mariam Omar approached the Dispatch Box)

Hon. Senators, we are going to announce the results after the third Bill has been voted on. I will proceed to put the question for the third Bill.

You may proceed to vote.

There is one Senator who is struggling somewhere. Kindly proceed to vote.

(Voting in progress)

If you have trouble, you can approach the Dispatch Box.

Sen. Mariam Omar and the Senator who was struggling with his card, proceed to the Dispatch Box for assistance.

Sen. Thang'wa proceed to the Dispatch Box for assistance.

(Sen. Thang'wa approached the Dispatch Box)

Sen. Onyonka, you have not voted on the three Bills. Could there be a problem?

(Sen. Onyonka spoke off record)

Proceed and approach the Dispatch Box.

(Sen. Onyonka approached the Dispatch Box)

(Voting in progress)

(Sen. Cherarkey consulted loudly)

The Speaker (Hon. Kingi): Sen. Cherarkey, we have not suspended the Standing Orders.

(Voting in progress)

Sen. Oketch Gicheru and Sen. Onyonka, you have both not voted for the Start Up Bill. Serjeant-At-Arms, kindly proceed to where Sen. Oketch Gicheru is seated so that he can vote.

*(Sen. Onyonka approached the Dispatch box
and proceeded to vote)*

Hon. Senators, take your seats. The results of the Division are as follows-

BILLS

Second Reading

THE AGRICULTURAL AND LIVESTOCK EXTENSION
SERVICES BILL (SENATE BILLS NO. 12 OF 2022)

(Sen. Tabitha Mutinda on 14.06.2023)

(Resumption of debate interrupted on 20.6.2023)

DIVISION

ELECTRONIC VOTING

*(Question that the Agricultural and Livestock Extension
Services Bill (Senate Bill No. 12 of 2022) be now read a Second
Time, put and the Senate proceeded to vote in county delegations)*

AYES: Sen. Abass, Wajir County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo Marakwet; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County and Sen. Wambua, Kitui County;

NOES: Nil

ABSENTIONS: Nil

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The Speaker (Hon. Kingi): Hon. Members, the results of the Division is as follows -

AYES: 30

NOES: Nil

ABSENTIONS: Nil

(Question carried by 30 votes to 0)

(The Bill was read the Second Time and committed to a Committee of the Whole tomorrow)

Second Reading

THE START-UP BILL (SENATE BILLS NO. 14 OF 2022)

(Sen. Crystal Asige on 17.06.2023)

(Resumption of debate interrupted on 27.6.2023)

DIVISION

ELECTRONIC VOTING

(Question that the Start up Bill (Senate Bill No. 14 of 2022) be now read a Second Time, put and the Senate proceeded to vote in county delegations)

AYES: Sen. Abass, Wajir County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo Marakwet; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Maanzo, Makueni County; Sen. Mandago; Uasin Gishu County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County and Sen. Wambua, Kitui County;

NOES: Nil

ABSENTIONS: Nil

The Speaker (Hon. Kingi): Hon. Members, the results of the Division is as follows -

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AYES: 30
NOES: Nil
ABSENTIONS: Nil

(Question carried by 30 votes to 0)

*(The Bill was read the Second Time and committed
to a Committee of the Whole tomorrow)*

Second Reading

THE MUNG BEANS BILL
(SENATE BILLS NO. 13 OF 2022)

(Sen. Wambua on 20.06.2023)

(Resumption of debate interrupted on 29.6.2023)

DIVISION

ELECTRONIC VOTING

*(Question that the Mung Beans Bill (Senate Bill No. 13 of 2022)
be now read a Second Time, put and the Senate
proceeded to vote in county delegations)*

AYES: Sen. Abass, Wajir County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kavindu Muthama, Machakos County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo Marakwet; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Maanzo, Makueni County; Sen. Mandago, Uasin Gishu County; Sen. Mariam Omar, Mandera County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County and Sen. Wambua, Kitui County;

NOES: Nil

ABSENTIONS: Nil

The Speaker (Hon. Kingi): Hon. Members, the results of the Division is as follows: -

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AYES: 30
NOES: Nil
ABSENTIONS: Nil

(Question carried by 30 votes to 0)

(The Bill was read the Second Time and committed to a Committee of the Whole tomorrow)

The Speaker (Hon. Kingi): Serjeant-at-Arms, kindly proceed to draw the bars and open the doors.

(The bars were drawn and the doors opened)

The Speaker (Hon. Kingi): Hon. Senators, this is our first day upon resumption. We have moved pretty well. I hope we can maintain this momentum. We shall be able to cover a lot of ground if we maintain this momentum. The only thing I can do, as your Speaker, is to congratulate you for the job well done.

We shall proceed with the Statements pursuant to Standing Order No. 53(1). The order had already been called out. Sen. Munyi Mundigi, what is your point of order?

NOTICE OF MOTION OF ADJOURNMENT UNDER STANDING ORDER NO.37

**SYSTEMATIC BREACH OF PEACE, DESTRUCTION OF PUBLIC AND PRIVATE
PROPERTY AND LIVELIHOODS CAUSED BY DEMONSTRATIONS AND PROTESTS**

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise on a point of order pursuant to Standing Order No.37 to seek leave of the Senate to adjourn and discuss definite matter of urgent national importance namely; the systematic breach of peace, destruction of public and private property and livelihoods through repeated incitement of members of the public to civil disobedience and illegal public demonstrations and protest that are displayed with the sense of lawlessness witnessed in several part of the country on 7th and 12th July, 2023.

The Speaker (Hon. Kingi): The Senator shall be heard in silence.

(Several Senators stood up in their places)

(Loud Consultations)

The Speaker (Hon. Kingi): Hon. Senators the Motion has met the requisite number required therefore the Motion shall be debated at 5.00 p.m.

Let us proceed to Statements pursuant to Standing Order No. 53(1). Sen. Okenyuri, proceed.

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STATEMENTS

NEGLECT OF THE ROLE OF THE ABAGUSII COMMUNITY
IN THE FIGHT FOR KENYA'S INDEPENDENCE

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Labor and Social Welfare regarding the neglect of role of the Abagusii Community in the fight for Kenyas independence.

In the Statement, the Committee should –

(1) furnish the Senate with a comprehensive index---

(Several Senators consulted loudly)

The Speaker (Hon. Kingi): Sen. Cheptumo, kindly take your seat.

(Sen. Cheptumo took his seat)

(Sen. Cherarkey spoke off record)

The Speaker (Hon. Kingi): Sen. Cherarkey, you are becoming notorious.

Sen. Okenyuri: In the Statement, the Committee should-

(1) furnish the Senate with a comprehensive index encompassing all references to the Abagusii people and their heroes, which explicitly acknowledges and chronicles the significant contributions made by the Abagusii community to the struggle for Kenya's independence;

(2) provide an analysis of the National Heroes Council (NHC) knowledge pertaining to Morang'iti who was born in the mid 1800 in Gusiiland and with particular emphasis on her opposition against the British rule and her instrumental contribution to the pivotal Abagusii Rebellion of 1905; and,

(3) state plans if any, by the National Heroes Council to ensure recognition and immortalisation of Moraa Ng'Iti and to promote and entrench her name into national literature and school curriculum and place her at par with her contemporaries such as Mekatilili wa Menza.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Munyi Mundigi, please proceed with your Statement. Are you prepared? As he gathers himself, Sen. Mwaruma, please, proceed.

Sen. Mwaruma, Sen. Munyi Mundigi has gathered himself. Allow him to read his Statement.

DISTRIBUTION OF SUBSIDIZED FERTILIZER BY
THE GOVERNMENT

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

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Fisheries regarding the distribution of subsidised fertiliser by the Government. In the Statement, the Committee should-

(1) explain why subsidised fertiliser under the Government fertiliser program is only distributed to the regional National Cereals and Produce Board (NCPB) stores and not to the smallest devolved unit at the county level, thus causing the fertiliser to be inaccessible to farmers at the grassroots;

(2) state whether there are plans by the Government to ensure that the subsidised fertiliser is distributed to the ward level or at the Chiefs' office or any other convenient location close to farmers and;

(3) state measures put in place to ensure subsidised fertiliser is available and accessible to farmers early enough before the onset of the planting season.

Thank you, Mr. Speaker, Sir.

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

STATUS OF ADJUDICATION OF KALOLENI-MAJENGO SETTLEMENT SCHEME IN VOI

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for this opportunity to request for the Statement on the Kaloleni-Majengo Settlement Scheme of Voi Sub county.

I rise pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources regarding the status of adjudication of Kaloleni-Majengo settlement scheme in Voi sub-county, Taita Taveta County.

In the Statement, the Committee should-

(1) update the Senate on the status of the land adjudication process;

(2) state the reasons for the abandonment of the adjudication process;

(3) table a comprehensive list of all the land owners in Kaloleni-Majengo settlement scheme; and,

(4) indicate the estimated timeline for the recommencement of title deed issuance to the land owners in Kaloleni-Majengo settlement scheme.

I thank you, Mr. Speaker, Sir.

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

RELEASE OF RETENTION MONEY ARISING OUT OF CONTRACTS FOR CONSTRUCTION WORKS IN THE NORTHERN FRONTIER COUNTIES

Sen. Chute: Mr. Speaker, Sir, I request a Statement on the release of retention money arising out of contracts for construction works in the northern frontier counties.

I rise pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the release of retention money arising out of contracts for construction works in the northern frontier counties.

In the Statement, the Committee should-

(1) provide details of contractors engaged by the County Governments of Garissa, Wajir, Mandera, Marsabit, Isiolo, Turkana, Samburu and West Pokot to undertake

construction works and their respective amounts paid by them as retention money from the year 2017 to date;

(2) indicate the status of the release of retention money by the County Governments' respective contractor within the same period providing reasons for any releases that have not been effected;

(3) state the total amount currently held by the County Governments as retention money explaining the reason for discrepancies, if any, between the amounts paid and released by the contractors and;

(4) state measures put in place to ensure timely release of retention money to the contractors.

The Speaker (Hon. Kingi): As I run through the last Statement, I will allow two interventions to the Statement sought by Sen. Chute.

Sen. Cherarkey, please, proceed.

Sen. Cherarkey: Mr. Speaker, Sir, I want to comment on the Statements by Sen. Munyi Mundigi and Sen. Chute. I thank the Government for the subsidised programme on fertiliser. We need to ensure that in future, we devolve this to a certain level of either ward or sub-county to ease access to farmers.

Secondly, when I met farmers at the Bonjoge area in Kabwareng Ward, they requested that the subsidised fertiliser should come a bit early around November or December.

Thirdly, we should not limit subsidised fertiliser to maize only. They want it included for coffee, sugarcane and tea. I believe we had a robust discussion under the leadership of His Excellency Rigathi Gachagua when we were doing tea reforms in Kericho County.

Mr. Speaker, Sir, I am happy the Government has budgeted for more than Kshs5 billion for subsidised fertiliser in this coming planting season for 2023/2024 Financial Year. We hope the small matter of the Finance Bill that is in court shall be resolved so that we can get enough and sufficient resources.

Finally, on the Statement by Sen. Okenyuri, I have seen her talking about the role of Abagusii Community in the fight for Kenya's independence. We have Koitalel arap Samoei, the Nandi and the Kalenjin warriors who are yet to be compensated. I will be very keen to look at this.

On the issue of retention of money, the law is very clear that retention of money acts to protect the Government or county government from liability. If there is anybody who has taken away retention money from these northern frontier counties, they must face the full force of the law. This is illegal. It is against financial law and the Public Finance Management (PFM) Act. The retention of money is supposed to work as insurance for the projects that we are undertaking in the county governments and in the national Government.

We will be looking forward to this issue not only in the northern frontier counties but even in my county. When you check retention funds, especially for flagship projects, they no longer exist. They are violating the law. What is happening in northern frontier counties---we had another discussion in Committee on Public Accounts on retention money.

So, I would be keen on that. Let us not only restrict it to the northern frontier counties. I would want other counties to be included. I request that this should not go to the committee in charge of Roads and Transportation. It should come to the committee where I am the Vice Chairperson so that we can handle it.

(Laughter)

I know how these people behave. I am the only one who has expertise in clamping them down and ensuring that we look at this issue.

This Committee will not let the House, the leadership and Kenyans down. We will handle them where necessary to ensure they are accountable.

Sen. Thang’wa: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Thang’wa, your point of order has been overtaken. The Senator has already taken his seat. Proceed to contribute.

Sen. Thang’wa: Thank you, Mr. Speaker, Sir. Sen. Chute did what ought to be done in his own right, by bringing his Statement to the Floor of this House. He is a Member of the Committee on Roads, Transportation and Housing. He believes that this Committee will execute their mandate by giving the information back once we get the response.

It is not only on the northern side that retention money for contractors has accumulated. People are not getting their money once they enter into contracts with counties. As we look at the Statement, we will look at how much the national and county governments owe contractors in various parts of the country, so that they can get their monies back.

You realize that people have complained about pending bills in counties. I am saying this in comparison to county governments. For those who ask, I tell them counties have pending bills because they overshoot their own source revenue projections during budgeting. Counties then end up not collecting the own source revenue that they budgeted for, yet they gave contracts or tenders in the budget for development. This results in pending bills. This is why they retain the 10 per cent fee because they are unable to pay since they used that amount on other projects.

We will look into this issue with a binocular and every lens to make sure those that all are given their dues.

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

Sen. Kinyua: Bw. Spika, ninashukuru kwa kunipa fursa hii kuchangia kwenye Kauli iliyoletwa na Sen. Munyi Mundigi. Ni jambo la kuvunja moyo kuona mbolea inayooleanwa na Serikali inapelekwa mijini badala ya mashinani kwa wakulima. Ninaunga mkono mbolea ipelekwe mashinani kwa wakulima.

Katika Kaunti ya Laikipia, mbolea inapelekwa Nanyuki na Nyahururu, ilhali wakulima wanaohitaji hiyo mbolea wako mashinani. Inafaa ipelekwe Rumuruti, Ol Moran, Sipili, Matanya na Weumeririe mahali penye wakulima wanaohitaji mbolea wako. Ninashukuru na ninaunga mkono taarifa ya Sen. Munyi Mundigi.

The Speaker (Hon. Kingi): Sen. Cheruiyot, proceed. Senate Majority Leader, your name is beaming on my dashboard, certainly signifying that you want to speak. Proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, apologies. I did not know you had given me the Floor. I wish to react to the two statements by Sen. Munyi Mundigi and Sen. Chute.

I will start with Sen. Munyi Mundigi Statement. I like the angle that Sen. Munyi Mundigi has pursued. We are asking the Ministry of Agriculture and Livestock Development to furnish this House with details on the plans to ensure flawless distribution of the fertilizer programme.

This is one of the signature success stories of this administration. However, because of the many theories that are being peddled by prophets of doom about what this administration has achieved in the last eight months, we have missed an important celebration.

When this administration came to office, there was a bill of Kshs8 billion at the Ministry to register farmers and map them out for purposes of distribution of fertilizer. This being a prudent administration, we sat down and used administrative officers, Deputy County Commissioners (DCCs), chiefs and sub chiefs to register farmers. They were used by the previous administration to conduct political activities and performed dismally while at it. Your chief knows the size of your land and what you cultivate. Therefore, when it comes to registration of farmers, they are best placed to draw a map of every farmer in this country.

Out of that programme, more than six million farmers have benefited. We spent less than Kshs50 million to carry out this programme; something which the previous administration had budgeted over Kshs8 billion to undertake.

What Sen. Munyi Mundigi is asking of the Ministry of Agriculture and Livestock Development is a valid concern. After the registration of the six million farmers and an increase of more than 200,000 hectares of land under cultivation on this programme, it is now time to upscale this conversation and ensure that farmers do not have to travel long distances.

For example, farmers in Kipkelion West sub county do not have to take a matatu to Kedowa National Cereals and Produce Board (NCPB) stores to pick one or two bags of fertilizer. Government must find a way of ensuring the last mile exercise of this programme is well drawn out. Either by use of the least structure of the devolved units that is the wards, ensuring that in collaboration with our county governments you find a safe storage for the fertilizers that are due for farmers in a particular ward.

Mr. Speaker, Sir, if that becomes difficult because it would be an enormous task. If I think of my own ward of Kabianga where I come from in Kericho County, everybody is a farmer and everyone expects fertilizer. If you say that you place it at any of the centers within that ward, it would mean that you have hundreds of thousands of bags, which would be at risk of theft.

We could use the agrovets, because in every town or small center in this country, at least in places where they practice farming, there is an agrovet. Since this is a promise, we made and was in our manifesto – that it is possible to register them and have them

carry out the last mile exercise so that farmers can just simply walk to their shopping center, they will not need to hire *a boda boda*, they would carry the fertilizer on their backs.

I hope that our colleague, Sen. Linturi, is listening to the conversation in the Senate this afternoon hearing that the concern that Senators have on behalf of farmers they represent. This is how you feed your people.

I am saying this because I saw our colleagues from the Minority side saying that if we want them to stop causing the wanton destruction of property that they are carrying out in the country, we give people food. How else do you give people food? Food does not fall from the sky; it is cultivated in farms. This is why we are giving out this programme. This is why we are seated here and Sen. Munyi Mundigi is asking of the Ministry to execute this programme with military precision and ensure that every farmer receives the due bag of fertilizer to them, so that we can have a prosperous and well fed country. That is how people can work and not have to carry *sufurias* on their head.

Mr. Speaker, Sir, lastly, is the Statement by Sen. Chute. This is an interesting one because I have the list of demands he has placed. It will be interesting to know where he collates this information.

Since it relates to the information on about seven or six counties, on the various contractors that they hired or procured for good and services. However, the Controller of Budget only approves what counties have sent. I do not think we have a centralized place, but this will be interesting. I do not want to pre-empt the work that our colleagues in the Finance and Budget Committee will do.

Nevertheless, it will be interesting to know where you would source or whether each county will individually file their own for comparison purposes. Nonetheless, it is important we get to know because the conversation should not be just about the northern frontier.

Mr. Speaker, Sir, there are very few contractors who when we began the devolution cycle in 2013 did business with county governments, that are still in active business simply by relying on county governments alone. Many have either left that trade or switched on to do other things. In fact, I heard some people saying that working or doing business with county governments should be included in the one of the a thousand ways to die in this country because you can wait for your payment for many years.

Many Kenyans have been auctioned because of doing or plying their trade with county governments. For those that did business in the last financial year before elections, you will be lucky if the next administration moves on to pay you. Therefore, we must have safeguards.

I know Sen. Mariam Omar had proposed to us the Prompt Payment Bill and many of us held different views. I saw the response from the Committee on Finance and Budget about the challenges that we will have with implementation. However, we must still be able to address this particular issue of payment to contractors across the Nation.

The fact that I did work in Kilifi County under the governorship of Amason Jeffa Kingi, does not mean that when the new governor comes into office, that I am denied an opportunity to be paid. This is the problem that is prominent in all our 47 devolved units and many contractors continue to suffer.

I hope when this Committee considers this request by Sen. Chute, they will also find time to listen to the challenges that are faced by all these other contractors; so that as a House, perhaps we can reach a resolution and have a firm solution to this issue in the greater interest of the people who do business with our county governments.

I thank you for the opportunity.

Sen. Abass: Thank you, Mr. Speaker, Sir. I want to support the Statement by Sen. Chute of Marsabit.

As you are aware, they are issuing money for all the contracted works. It is 10 per cent of the initial price. However, this money is supposed to be retained for only one year at most.

Mr. Speaker, Sir, the purpose of this money in any business is actually for cases where work is not well done; either the work is shoddy or it is not completed. However, this money is never paid to any of the contractors. It sits for many years in the books, but it is never given back; they are now forfeiting it.

At times, contractors do their job and complete it but they might not even get a better profit margin. However, the kind of this retention money that we are seeing, half of this money is not actually paid back to them and most of the money is forfeited and at times it sits for some years in the books and it becomes automatically forfeited.

Therefore, I want to support Sen. Chute that this money must be paid on time, at least for the year that it is going to be retained. If work is well done and completed, then it must be paid.

With those few remarks I beg to support.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM SOUTH TETU GIRLS HIGH SCHOOL, NYERI

The Speaker (Hon. Kingi): Before we call the next order, I have the following Communication to make. In the Speakers gallery this afternoon, we have 56 students accompanied by two teachers from South Tetu Girls High School, Nyeri County, who are in the Senate on an education tour.

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

I am not seeing their Senator for Nyeri County. I will therefore ask Sen. Nyamu to say welcoming remarks under one minute.

Sen. Nyamu: Thank you, Mr. Speaker, Sir, for giving me this opportunity to say words of welcome to the visiting students.

We welcome you this afternoon to our session in the Senate to observe how we carry out our business here. We are bound by the rules of the House and I am sure you have had some sessions with your teachers and the guides here in the Senate.

We welcome you to learn as much as possible and to get inspired. Make sure as the proceedings continue, you are getting the gist of how we operate here so that you can have as much learning experience as possible.

I thank you.

The Speaker (Hon. Kingi): I will allow Sen. Methu, to also say brief welcoming remarks.

Sen. Methu: Thank you, very much Mr. Speaker, Sir. I am particularly very excited that you have given me an opportunity to welcome the beautiful girls from South Tetu Girls, a school in Nyeri. Even though it is not my home county, on behalf of their Senator, Sen. Wamatinga, I welcome them to the Senate.

I am particularly excited that amongst the students who are here is my own sister, Anna Njoki, a good girl who was left by our mother when she was a primary school kid and she has beaten all odds. I am very proud as her guardian that she is now a student and she is doing very well. She has made me and indeed our family, very proud. She is proof that you can rise and go all the way up.

I wish them well in their visit to the Senate. When I last visited their school, they told me that they would want to come to the Senate so that they see where the brother of one of their colleagues works and plies his trade. I am very happy that we have made this happen and made it possible.

I want just want to recall the words that I told them, that if they believe in themselves and work very hard, they will become whatever they would want to become. Through Anna and I, they will be able to mirror themselves and see that they can rise and go all the way up.

Most of them are from four students including my own sister who is a candidate. From the Floor of the Senate, I give you my best wishes. Please go and conquer the world and the exams. Go and become great leaders.

Amongst the Senators who are in this Chamber are good Senators who have gone all the way up. I am particularly very excited that Sen. (Prof.) Kamar who became a professor in the year that I was born, is here. She has been afloat through and through, having been a Member of Parliament and a Minister of Higher Education in the year that I joined the university. She is an example that the girls from South Tetu Girls can take after.

I wish them well, including some other very young colleagues who are here like Sen. Lemaletian. You have all the examples - like Sen. Nyamu who just spoke to you - to become whatever you would want to become. I wish you well as you go back to Nyeri.

The Speaker (Hon. Kingi): Next Order.

BILL

First Reading

THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 24 OF 2023)

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(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Senate Committee)

The Speaker (Hon. Kingi): Next Order.

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

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

BILL

Second Reading

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

(Sen. Crystal Asige on 29.6.2023)

(Resumption of debate interrupted on 29.6.2023)

The Temporary Speaker (Sen. Veronica Maina): Sen. Crystal Asige, you have a balance of 59 minutes.

Sen. Crystal Asige: Madam Temporary Speaker, I beg to move that the Persons with Disabilities Bill (Senate Bills No.7 of 2023) be read a Second Time.

History tells us a story of a poor, young and blind Kenyan man from Makueni named John Kimuyu, who in 1959, at 26 years old, defied age, race and disability to court and soon after married Ruth Hallway, a well-off 35-year-old white missionary woman from Nottingham, England, who was his teacher at the school of the disabled at the time that he attended.

Needless to say, the union in 1959 was unfathomable amid segregation and high tensions in the midst of British colonialism. This was the backdrop to which their story progressed, attracting much opposition from the British community because of the race and disdain for Mr. Kimuyu's disability.

In response, this also saw Kenyans with disabilities take to the streets in protest of the discrimination. Although black men, including *Mzee* Jomo Kenyatta and Argwins Kodhek had both freely married white women themselves, protestors demanded that *Mzee* Kenyatta protect the inherent rights of PWDs and their right to marry freely. That is where the journey of disability inclusion began.

It is said that love is blind and perhaps it is. However, I would go further and say that disability is blind because it does not discriminate but people and systems do; blind because it has been repeatedly ignored rendering us invisible; blind because in 1959, the young determined blind man did his part to expose a problem giving me today, a young determined blind woman, an opportunity to do my part and propose solutions.

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The principal object of this Bill is to repeal the Persons with Disabilities Act of 2003 and have in place a law that is consistent with our Constitution. The Bill places emphasis on human rights approach towards the realization of the rights of PWDs.

The Bill also sets out the obligations of both the national and county governments in line with the Constitution of 2010, to ensure that the county obligations are delineated towards the Fourth Schedule of the Constitution. The Bill also incorporates the provisions of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), as well as the Protocol to the African Charter on Human and People's Rights.

Currently, there is no legal framework that sets out the obligations of county governments with regards to PWDs. This Bill, therefore, seeks to impose obligations on each level of government to address the needs of PWDs in line with Article 54 of our Constitution.

Under this Bill, the national Government is mandated to, among other functions, develop policies on the protection of PWDs and promote integration of PWDs in education institutions, healthcare and the justice system. It will also promote the inclusion of PWDs in employment in the public service and implement preferential procurement measures for entities managed by PWDs.

The implementation of the above is vital as it is crucial to avail resources to make it easy for inclusion and integration of PWDs in all services.

Let us take the healthcare system as an example. There are cases where a deaf person goes to hospital and receives a prescription that says, "2 x 3." To you and me, that seems a straightforward instruction. It means take two tablets three times a day. That would be a wrong assumption in this case. That is what we call ableism.

Without a trained sign language interpreter present to communicate the prescription, the deaf patient may calculate simple mathematics; two times three and think they should take six tablets at once. Such mistakes can have serious consequences that we cannot ignore. This is just one example of many layered challenges that person with diverse disabilities face across different sectors on a daily basis.

On the other hand, county governments are mandated to, among other functions; implement the National Policy and Strategy on PWDs, which I understand is being drafted by the National Council of Persons with Disabilities (NCPWD); allocate adequate resources to programmes targeting PWDs and develop mechanisms for identification and registration of PWDs residing in each county.

The 2019 Census estimated the population of PWDs at around 900,000 people. This was a sharp reduction in the number of PWDs, in comparison to 10-years prior census of 2009, which recorded approximately over 1.3 million PWDs. That left a discrepancy of around 400,000 PWDs. Census discrepancy can suppress PWDs inclusion in view of equitable budget allocation towards inclusive development.

It should be noted that these numbers are not actually broken into counties. It is a huge gap that needs legislative interventions. As I like to say, if you do not count it, it does not count. However, this Bill will bridge the gap.

Madam Temporary Speaker, I would like to highlight the utmost significance of inter-agency relations, recognizing that the NCPWD cannot operate effectively in isolation.

The officials of NCPWD have brought to this House the difficulty they encounter in fulfilling their responsibilities due to inadequate staffing. In order to address this concern, it is essential for the county governments and administration officers to play a role in identifying PWDs and facilitating their registration across the country. By working in collaboration, we can alleviate this burden and ensure that support is given to PWDs.

The Bill seeks to review the membership of the NCPWD to ensure that the Council is more efficient and representative. The Bill also requires county governments to only approve plans for the construction of roads and buildings that take into account accessibility and universal design provisions.

The ever prevalence notion that accessibility is just providing a ramp or lift is narrow-minded. Without education in universal design, we run the risk of forever believing that being accommodative to PWDs means only building ramps and lifts because that is all we need to be compliant with. That is wrong.

Madam Temporary Speaker, allow me to take us all to a quick universal design class. The built environment should be meticulously designed, constructed and maintained, to facilitate orientation and ensure safety. In my world of inclusive transport and mobility, orientation specifically means the ability to navigate, identify potential hazards and determine when one has reached the destination.

For example, when designing pathways, it is crucial to ensure that an adequate width, free from obstacles, with a continuous, firm, durable, and slip resistance surface is provided for. Appropriate measures such as universally designed drop-curves, tactile paving and handrails should also be incorporated to avoid accidents and injuries.

To allow for the passage of two wheelchair users, a minimum unobstructed width of 1.8 metres is recommended, so that in case of a fire outbreak, then sufficient space is provided to prevent casualties.

In the case of ramps, they should have a surface width of at least 1.2 meters. further, both the foot and the head of the sloped path, stepped path or ramp should have an “N” landing.

It is also important to include guard rails alongside ramps to ensure safety of wheelchair users and pedestrians who require extra support preventing injuries that may occur during falls.

These intricacies are often overlooked by our architects, urban designers, construction companies and agencies but are vital in creating truly accessible environments for all to use.

Madam Temporary Speaker, I experienced a concerning issue in the City Hall building. An institution entrusted with safety of all of us in Kenya including the People with Disabilities (PWDs).

For a period of time, the building had no functioning lifts resulting in restricted access for PWDs and other individuals with limited mobility such as the elderly, attempting to reach specific offices on various floors. If City Hall, an entity that needs to lead by example fails to uphold these requirements, how can we expect other institutions to comply.

Persons with Disabilities want and need to access City Hall, court houses, police stations Huduma Centers, education institutions, sporting venues, houses of worship, malls and supermarkets, cinemas and museums, restaurants and even bars and night clubs. It may be hard to believe but we do not only visit hospitals and therapy facilities as PWDs. We have a life and we want to live it as fully as we can.

In order to align the functions of the council with the Constitution of Kenya, this Bill proposes to enhance the powers and functions of the National Council for Persons with Disabilities (NCPWD) by including functions that require the Council to liaise and consult with county Governments and other relevant agencies.

The Bill seeks to ensure that county Governments are consulted by the Ministry responsible for sports as well, when developing designs to make sports facilities accessible to PWDs. We call these adaptive sports facilities.

Further, in keeping with the current technological developments of the world, the NCPWD is required to undertake research and recommendations of new technology including assistive devices, mobility aids and rehabilitation therapies.

In accessibility in the built environment affects every part of our experience. The correlation may not be obvious but allow me to explain. As PWDs, inaccessible primary schools mean that we often receive far less adequate early child hood interaction. Inaccessible high schools mean that we miss out on the integral adolescent education that we need. Inaccessible university campuses mean that we miss out on the qualifications that we need to be employable.

If we manage to withstand all these barriers, still we battle, as adults, with inaccessible work places, public transport systems and stations as well as inaccessible essential services including health and wellness, financial recreational, cultural and governmental services,

This Bill also proposes to deal with the realisation of rights and incentives for PWDs. The Bill is specific on the following rights among others - The right to equality and non-discrimination, the right to legal capacity and the right to marry and form a family. Also, the right to human dignity, the right to education, the right to work and the right to health.

The Bill provides for incentives and reliefs including tax exemptions, incentives for local manufactures of assistive devices, access to credit, exemption to taxable income if you are an employer PWD and exemption from postal charges.

The Bill makes provisions against harmful practices, torture and cruel treatments against PWDs, providing for life imprisonment on conviction.

The Bill also amends the Films and Stage Plays Act to compel makers of film to make such films accessible to PWDs, which I personally very much enjoy as a provision.

Madam Temporary Speaker, we have an obligation to ensure that PWDs are at long last recognised, respected and included in our society. Building the environment through inclusive development is far more than just development.

I see it as a common thread that either brings PWDs closer to or further away from the dignity, independence, safety, confidence, equity and inclusion that we work twice as hard to enjoy every day.

To do so, we must pass this Bill. It is in this context that this Bill proposes to impose obligations on each level of government to address socio-economic needs of PWDs in all areas.

To conclude, by repealing the PWD Act of 2003 and introducing these comprehensive provisions, we can break free from the shackles of neglect and forge a path of progress. This Bill demands our collective action and unwavering determination to transform the status quo.

It calls for the national and county Governments to assume their responsibilities ensuring that PWDs are treated with dignity and respect and provided with equal access to education, employment, transportation and other essential services that all other Kenyans enjoy.

Let us challenge ourselves to envision a society where disability is not ignored but a realm of untapped potential for far reaching diversity, equity inclusion in Kenya.

Madam Temporary Speaker, at this point, I beg to move and call upon--- I am not sure if my seconder is behind me because I cannot see him.

Temporary Speaker (Sen. Veronica Maina): Who was your seconder?

Sen. Crystal Asige: The Senator for Nairobi City County.

Temporary Speaker (Sen. Veronica Maina): He is not there.

Sen. Crystal Asige: Thank you. I then call upon Sen. Cherarkey; if you will be so kind to second.

Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Crystal Asige. Sen. Cherarkey, you may second.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. From the onset, I thank Sen. Crystal Asige for this wonderful Bill. It goes a long way to celebrate her commitment.

Kenyans generally and especially PWDs should be proud of what Sen. Crystal Asige is doing to push for their welfare. She has pushed for several Bills. I request her to also diversify because most of her Bills have been biased towards PWDs. However, I think it is rightful because in any case, this section of the population also needs the necessary attention that Sen. Crystal Asige is doing.

I am happy of the commitment she has in the role of Article 96 as a Senator; it is bearing fruits. She has used the same commitment she uses in the creative world.

I assure you that when once in a while you listen to her songs, they are well thought out and enact a lot especially for some of us who did *fasihi* or literature. It sends very good messages across.

According to the 2019 population and housing census, the population of PWDs is two per cent of the population. That means 0.9 million people are PWDs in Kenya.

Sometimes, many people imagine that to be a PWD, you must be born with it. However, sometimes it comes because of the accidents. We all saw what happened at Londiani junction where more than 50 lives were lost.

We still empathize and sympathize with those families. Many people are still recuperating in hospitals. Some of them have become permanently disabled, yet they were able-bodied Kenyans.

Madam Temporary Speaker, it does not mean Persons with Disabilities (PWDs) were born like that but things like accidents, which are rampant in this country, can cause disability. I hope the relevant agencies like the National Transport and Safety Authority (NTSA), the Traffic Police Department and the Ministry of Roads and Transport will seize the matter. This is because we are losing many Kenyans through road accidents while some lose their limbs and sight which becomes a challenge.

When we have a topic about PWDs, we should not imagine they are different from us. They are Kenyans too. There are people who are temporarily disabled. I am happy that Sen. Crystal Asige is taking the lead on the legislation to ensure PWDs are recognized.

In Nandi County, we have several schools. There is Kapsabet School for the Deaf in Kapsabet Town. We have small homes sponsored by the Catholic Church in Tach Asis, Tinderet. There are several religious organizations including the Salvation Army, the Quakers, Anglican Church and the Adventists who play that critical role. I commend them for taking a keen interest in assisting PWDs.

Nandi has been a beneficiary of small homes that are supported by the Catholic Church of Kenya. I specially thank Bishop Dominic Kimingich of Eldoret Diocese, where my jurisdiction falls, for ensuring those small homes continue to run.

I visited one in Ndalat Jobs School for people living with a disability. The name Job comes from a young man who was born without arms and limbs. He attended a regular public school in Ndalat, Mosop Sub County and went ahead to establish a public school specifically for children living with disability.

Madam Temporary Speaker, at the beginning of this year around March, I visited that school. The teachers and the community who support such children do a lot of work. They are heroes we should be giving Head of State commendations. We should recognize them and not people who carry *githeri* while queueing to vote.

These children have different challenges. Their minders take care of them; they change them, teach them to walk and give them physiotherapy. I am impressed with what Job is doing in that school for PWDs. One of these fine days, I will request Sen. Crystal Asige to visit those two schools in my County.

She should encourage and motivate them that being abled differently is being the same like us. Being a PWD, does not mean you have a lesser body. If you are aggressive and work hard, you can become what you want.

Madam Temporary Speaker, I was given the honour to second and I will be brief. Article 54 of the Constitution talks about PWDs. The Disability Act of 2003, credited to the then Vice President, hon. Moody Awori has been overtaken by events. I agree with her that we need to repeal that law and come up with one sponsored by Sen. Crystal Asige.

The Constitution 2010 is clear. What Sen. Crystal Asige has done is the import of Article 54 given it a prescriptive nature in the legislation. For example, they should be treated with dignity, respect and, addressed and referred in a manner that is not demeaning. That is important because no one likes to be demeaned. They must have dignity. When you no longer have dignity, you are no longer a person. They must be respected too.

They should also access educational institutions and facilities which are integrated into society and compatible with their interest. I call upon parents because research has shown that when some parents get children with PWDs, they hide them and do not take them to school. They see it as a curse especially in our African setup.

Madam Temporary Speaker, you do not choose the parents you are born to. You also do not choose the children you get. I ask parents across the country to be proud of their children, whether they are living with disability or normal. It does not make sense to hide that child because they are partially blind, totally blind, crippled or have challenges of walking or coordination. We need to see them just like our friends and students seated in the Public Gallery. If you have such a child, let them be integrated as part of the society so that they do not feel like lesser human beings.

I am happy that in the last Parliament, we had Sen. Isaac Mwaura, who was a PWD in terms of albinism. We now have the champion of PWDs, Sen. Crystal Asige. We, therefore, need that integration. Someone was telling me that speech and coordination of the child's movement should be part of the engagement.

Madam Temporary Speaker, part (c) talks about reasonable access to all places, public transport and information. I still request counties that whenever they are giving out scholarships and bursaries, they should prioritize PWDs, vulnerable children and orphans, so that they get the best they can. Some parents are usually not proud if they have a child who is slow to speak and has such a disability.

Public transport in Kenya is still a challenge. Sen. Crystal Asige will agree with me that accessing public transport in Nairobi is hard. You do not need to go to the gym if you are using public transport. *Makangas* drop you at a speed of 180kmh. You do not need to attend the gym.

Madam Temporary Speaker, we still have a challenge. I have seen people and I am also guilty as charged. On some occasions, designated parking and dropping areas for people living with disability are not respected.

That is why public transport is still a challenge. I do not know what the Government will do to deal with how buses are designed and how they pick and drop passengers. In this country, we are always in a hurry. We are good at bad manners. If the *matatus* are not overlapping, then the private ones are overlapping. They do not care about the PWDs. I am happy a number of *matatu* touts sometimes help them. I saw a story, I cannot recall when, where one *matatu* used to pick and drop a disabled lady. Those are the heroes we need to celebrate

Madam Temporary Speaker, we need to do civic awareness that our 0.9 million Kenyans who live with disability also require these services.

Article 54(d) is on use of sign language, braille and other appropriate means of communication.

I thank Sen. Crystal Asige for this. I have seen media houses, private or public events with sign language interpreters. Kenya has come a long way because this was not there before. There is also a need to access materials and devices to overcome constraints for persons with disability.

Madam Temporary Speaker, the final one is on Article 54(e). I agree with Sen. Crystal Asige that we need to give tax exemptions especially on assistive devices.

I used to be part of a group that was trying to acquire cochlear implants for young children. They are very costly. We were told that those implants cost around Kshs 4 million especially for children who have such challenges. All assistive devices should be zero-rated and tax-exempt.

If we are giving tax exemption to a corporation to start a business, that is good. I see corporations asking for tax reliefs and exemptions so as to set up business in this country. Let us be human and give tax exemptions and reliefs to assistive devices because they are very costly especially for People with Disability (PWD). They are small part of our population. The greatest thing the Government can do is to exempt tax on assistive devices be it for listening or walking.

Madam Temporary Speaker, when I had a political accident in the last session, I remember buying that assistive walking crutch was very expensive. That is why when you go to the village; you will find somebody walking with an ordinary *bakora* because it is expensive to get the crutch. We need to zero rate physiotherapy machine so as to assist our children, especially those who are slow to walk and maybe using physiotherapy in schools that are ranked under PWDs. This is what the Constitution has provided for. I appeal to the Government to give PWDs access to funds.

You will be shocked if you come to Nandi. When there is a PWD world day, the PWD are only given soda, bread and some blankets. That is how these people eat money meant for PWDs because you are demeaning them. That is as if PWDs are worth only soda, bread and blanket. They should instead provide wheelchairs, assistive devices, designing public offices and public transport with ramps for access.

Madam Temporary Speaker, counties must be held accountable. Let them provide assistive devices and necessary support. At least in Nandi County, I am the only one who cannot be taken to the Directorate of Criminal Investigation (DCI) by the governor. Most young men in Nandi County who criticize the governor in social media, funerals and other public functions are taken to DCI. I have seen a young lady and a woman called Vero who was taken to the DCI for only questioning non-availability of drugs in the Kapsabet County Referral Hospital.

Governors are becoming some demigods, especially the governor for Nandi County. Governors are using the power they are given to abuse and frustrate the young people for question the social audit. That is why I am also questioning why the PWDs of Nandi are given just bread and soda, yet they are a unique population who should be given assistive devices like wheelchairs among others.

Madam Temporary Speaker, finally, this Bill states that the state should ensure the progressive implementation of the principal Act, that at least 5 per cent of the members of the public in elective positions. We are still doing badly in that part of elective. We need to tell Kenyans that you can be a PWD but a leader. I can see the Member of Parliament (MP) for Westlands, hon. Tim wanyonyi. He is serving the third term in Parliament. Sen. Osotsi, is that right? I thank the people of Westlands because they have shown the country that you can elect a PWD to represent you. Hon. Tim Wanyonyi has represented the great people of Westlands just like any other able person.

I know of several legislators, but we are doing badly. The Constitution says 5 per cent, so we should base it on 5 per cent of 67 Senators and see how many Senators should

be PWDs. At least we have one Sen. Crystal Asige whom we are proud of. Sen. Asige you should bring a statement on the status of appointments. I do not want you to be biased against just the national Government. You should request the compliance of this Article 54(2) in terms of National Executive. Parliament is failing yet we are the lawmakers. If you look for the PWDs that work in Parliament *ni kama kutafuta sindano kwa nyasi*. Parliament is guilty as charged. Can we meet the 5 per cent of our workforce under Parliamentary Service Commission (PSC)?

Madam Temporary Speaker, you sit in the Speaker's Panel, and you can pass our message. If the Commissioner, Sen. Kinyua was here, I would have asked him the same question. The PSC must show us if they comply with the 5 per cent of the people living with disability. Same applies to the National Executive, the county governments and the parastatals. Sen. Asige, take the bull by the horns and demand to be Tabled in the Senate so that we can be aware whether we meet the 5 per cent.

I know you as a senior legal practitioner in this Republic and former Secretary-General of the ruling party. You can also assist us because you are a lawyer. I expect lawyers to even give *pro bono* services. Sen. Crystal Asige, I do not know where we can include it in the law to also request that we get *pro bono* legal services for PWDs.

Madam Temporary Speaker, can you believe it that where I come from in Nandi Hills, many workers who pluck tea get injured at work. Their hands are cut off, yet they are only paid peanuts. When they are working in those tea estates in Nandi and across other tea estates, they do not imagine that they can be disabled. I know you have handled such matters especially in Employment and Labour Relations court. I am happy that there is currently a symposium on employment Kenyatta International Conference Centre (KICC).

We have another dangerous silent people that are forcing people to be PWDs, especially in our tea estates. *Pangas* have led to people are losing their limbs, fingers, eyes et cetera as they do that job. It is very unfortunate. Therefore, I appeal that we should widen. This thing is not only unique to the people born with, we can also get to it along the way. There is a crisis. I went to labour court and found people who were working in tea farms in many other farms who have lost their limbs, fingers and hands.

Madam Temporary Speaker, another killer causing disability is *boda boda*. I am happy that the President a few months ago gave training for *boda bodas* and that a number of them including the chairman of *Boda Boda Sacco* in Nandi attended. If you go to causality in Moi Teaching and referral in Kapsabet, in all our facilities, even here in Kenyatta National Hospital (KNH), there must be a person injured by motorbike. I am not saying that *boda boda* are bad for the country, but we need to teach them so that they cannot continue to injure and cause grievous bodily harm.

I am the seconder, but my time has been limited. I want to go to the obligation of the counties.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, I will give you half a minute to conclude so that you second.

Sen. Wafula, what is your point of order?

Sen. Cherarkey: Madam Temporary Speaker, can you freeze that half a minute?

The Temporary Speaker (Sen. Veronica Maina): It is frozen.

Sen. Wafula: Madam Temporary Speaker, on a point of order. Pursuant to Standing Order No.105, my good friend alleges of people being taken to DCI by his Excellency the governor.

Is it in order for the good advocate /barrister to allege that bloggers or young people working online will end up being disabled by the current governor? Is it in order to say that *boda boda* are bad people? Are you talking about *boda boda* riders or the motorbike itself?

The Temporary Speaker (Sen. Veronica Maina): Hon. Sen. Cherarkey, you know the firm rules of the Standing Orders and the procedure and practice of this House. You cannot allege facts without proving them especially when you are alleging them against a person who is not before this House. You either substantiate or withdraw that.

Sen. Cherarkey: Madam Temporary Speaker, I do not know because he has mixed me. There was an aspect of *boda boda* riders, *boda boda* and then DCI. I did not get him but what I can put in perspective---

The Temporary Speaker (Sen. Veronica Maina): He was specific on the DCI.

Sen. Cherarkey: Madam Temporary Speaker, I was using an example because it is a debate about young people.

You know we can criticize the Government because it is a position. We can even criticize the Presidency, the Executive and Parliament. That is why as it is, we criticize Parliament and the Judiciary. We are not singling out an individual.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, we know for a fact that the Governor of Nandi County is one person.

Sen. Cherarkey: Correct, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): So, withdraw that statement or substantiate.

Sen. Cherarkey: I will not withdraw but if you give me time, I will bring evidence to substantiate.

The Temporary Speaker (Sen. Veronica Maina): Will you substantiate?

Sen. Cherarkey: Yes, if you give me time.

The Temporary Speaker (Sen. Veronica Maina): Okay. Bring that evidence tomorrow by 2:30 p.m.

Sen. Cherarkey: Correct. Finally, as I conclude, on the obligations of the County Government, I am happy with the free access to primary education, and the inclusion of Persons with Disability (PWDs) in the County Public Service Board. I think they should be included in the affirmative aspect of procurement. If you want these people to work, empower them. The only way to do so, is by empowering them financially.

I want to thank Sen. Crystal Asige for this wonderful Bill. I know People Living with Disabilities (PWDs) in this Republic will be proud of the Senate for being part of midwifing this wonderful Bill and in fulfilment of Article 54 of the Constitution of Kenya 2010.

With those very many remarks, allow me to second this Bill.

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

(Question proposed)

(Interruption of debate on the Bill)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM GATAMAIYU HIGH
SCHOOL, KIAMBU COUNTY

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I have a communication from the Chair on visiting teachers and students from Gatamaiyu High School in Kiambu County.

Hon. Senators, in the Public Gallery, we have 48 students accompanied by three teachers from Gatamaiyu High School in Kiambu County who are in the Senate on an educational tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend my warm welcome to them.

On behalf of the Senate, and on my own behalf, I wish them a fruitful visit.

I thank you.

I call upon Sen. Joe Nyutu from Murang'a County and Senator Osotsi from Vihiga County to welcome them.

Sen. Joe Nyutu: Thank you, Madam Temporary Speaker, for this opportunity to welcome teachers and students of Gatamaiyu Boys High School. We thank the administration of the school for choosing the Senate as a place where the students can come to learn. We welcome them. I would like to tell them to aspire to do what they have seen happening here in future.

We have very sober debates and contributions. This is what the Senate does. I know that they will be taken through the roles of the Senate by the Sergeant at Arms and those who receive them. I want to tell them that we were students like them. We are here because first we believed in God and we carried that belief in our hearts. We obeyed our teachers and our parents and above all, we worked hard.

Our dear boys, and sons from Gatamaiyu, welcome to the Senate.

I thank you.

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

Sen. Osotsi: Thank you, Madam Temporary Speaker. I am Sen. Osotsi, the Senator of the good people of Vihiga County. I also join in welcoming the students from Kiambu County to the Senate this afternoon. Kiambu is a great County. It has historically produced two Presidents of this Country. So, you are welcome to the Senate and I hope that you will learn a lot from what you have seen around.

Coming to the Public Gallery is a very refreshing thing. I got interested in politics and leadership because in the 1990s when I was in the University, I used to frequent the Public Gallery. Those days, they used to allow members of the public to come to the Gallery and I learnt a lot. I saw people like Martin Shikuku, Mwai Kibaki, Raila Odinga, and James Orengo and I learnt quite a lot. By then William Ruto was not there. He came in 1997. So, he is a very recent politician.

I got to know a lot and got interested in politics and worked hard to become a nominated Member of Parliament and later on, the Senator of the great people of Vihiga County. So, I am sure that you will learn one or two things and you will get interested in.

However, for now, concentrate on your studies. Grow in your academics and become professionals. Join politics after you have worked and understood how the environment works, professionals work, get experience and understand leadership from there. So, welcome again any other time.

Madam Temporary Speaker, the Senator of your County Sen. Thang'wa; 'the Miracle Senator,' is my great friend and a very serious Member of my Committee. I call upon you to also emulate him because he was a Member of the County Assembly (MCA), a County Executive Committee (CEC) Member and later on he became the Senator of the great people of Kiambu.

Welcome to the Senate this afternoon.

The Temporary Speaker (Sen. Veronica Maina): We will now resume debate on the Persons with Disabilities Bill (Senate Bills No.7 of 2023). I call upon Sen. Joe Nyutu of Murang'a County to proceed.

(Resumption of Debate on the Bill)

Sen. Joe Nyutu: Thank you, Madam Temporary Speaker. I rise to support this Bill sponsored by Sen. Crystal Asige. This Bill was brought to the Committee of Education that I chair.

We went through most of the provisions in this Bill. As a committee, we organised visits to institutions that teach this group of Kenyans. We went to Uasin Gishu County to visit the school for the deaf. We also visited those with some mental challenges and a school for students with autism.

Madam Temporary Speaker, this is a group of Kenyans that we will need to think very deeply about. This Bill could not have come at a better time. One thing we were told, most of these schools are understaffed. We were told that in schools with learners with mental challenges, there is a need for the teacher to student ratio of 1:1. So, when this Bill proposes the allocation of more resources especially to schools or to learning institutions, we should support it.

Now that the counties are limited in a way on matters of resources, I am happy because, besides county governments, this Bill puts obligations on the national Government.

In addition, there must be minimum standards and guidelines to be adhered to by Public Service Vehicles (PSVs) because we are not only talking about learners. Sometimes when you look at our PSVs, we do not have any provision whatsoever for PWDs. In fact, the way the vehicles are made, and the way the seats are arranged, there is no provision for that. People who are in wheelchairs need to be accompanied by someone else who takes up a lot of space.

Madam Temporary Speaker, as a country, we must ask ourselves what the place of those living with disabilities in our society is. Are we doing enough? Have we made

enough provisions? There are passenger vehicle operators even charge PWDs double fare because sometimes they occupy more than one seat.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, I am sorry I have to interrupt business right now. It is because there was an earlier direction by the Speaker, that at 5:00 p.m., the House will adjourn for Hon. Sen. Munyi Mundigi to move a Motion pursuant to Standing Order No.37.

Hon. Sen. Munyi Mundigi, you may proceed.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 37

SYSTEMATIC BREACH OF PEACE, DESTRUCTION OF PUBLIC AND PRIVATE PROPERTY AND LIVELIHOODS CAUSED BY DEMONSTRATIONS AND PROTESTS

Sen. Mundigi: Thank you, Madam Temporary Speaker. I beg to move the following Motion -

THAT pursuant to Standing Order No.37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely: the systematic breach of peace, destruction of public and private property and livelihoods through repeated incitement of members of the Republic to civil disobedience and illegal public demonstrations and protest that climaxed with the sense of lawlessness witnessed in several parts of the country on 7th and 12th July, 2023.

General elections are held every five years in Kenya. Any election must have winners and losers. For around 30 years, we have been doing elections and after the winners are announced, the losers always bring division, chaos and fighting.

In the elections of 2007 and 2012, President Mwai Kibaki and President Uhuru Kenyatta won the elections respectively and the Rt. Hon. Raila Amolo Odinga was second. However, after the elections, he brought a lot of chaos. Before the country found peace, there were a lot of problems.

In 2017, President Uhuru Kenyatta was elected and the Rt. Hon. Raila Amolo Odinga came second. After the elections, he brought a lot of confusion and chaos after the Supreme Court's verdict. They held discussions and later came together.

In the 2022 general elections, H.E William Samoei Ruto was elected. President Ruto was announced the winner and in the second position was Rt. Hon. Raila Odinga. It is now about a year down the line and there is a lot of confusion.

After losing, the Rt. Hon. Raila Odinga, went to the court of law and he was announced the loser. After that, we are experiencing a lot of division between the two parties.

After a general election in Kenya, we experience a lot of confusion characterized by breaking into houses, fighting and even burning of cars. On 7th and the 12th of this month, there was a lot of confusion. Many people were injured and taken to hospital.

Many businesses were closed. The demonstrators even went to the extent of breaking the Express Way, whose contractor needs to be paid about Kshs700 million.

There is now another rumour of a big *maandamano* tomorrow. My question is whether it is possible for the Azimio Coalition and our Government of Kenya Kwanza to have dialogue and see the way forward.

Secondly, my humble request to the Senate is if they can constitute a team of commissioners; Senators who can help find the way forward. They will also see to it that a number of those who have been mentioned, including the Rt. Hon. Raila Odinga, Hon. Kioni, Hon. Karua and the Former President, Hon. Uhuru Kenyatta see the mistake that they are making and that they can be taken to a court of law or another place.

Finally, I request Sen. Cherarkey to second the Motion.

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

Sen. Cherarkey: Thank you, Madam Temporary Speaker. I rise to second the Adjournment Motion to discuss an issue of national importance as per our Standing Orders.

The upshot of the argument of Sen. Munyi Mundigi is based on Article 37 of our Constitution. Allow me to read this provision because I have seen our colleagues on the Minority side and Azimio One Kenya Alliance quoting it. However, there is no part written that they should go to a demonstration and then when it turns violent, it is right. Article 37 says:

“Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.”

On two occasions, we have lost more than 15 Kenyans, billions worth of properties have been destroyed, many Kenyans have not accessed their places of work and children have not gone to school. The economy has lost billions and billions of shillings in terms of tax and other turnover. This has been perpetuated under the pretext of exercising Article 37 of the Constitution of Kenya. It is very unfortunate that as a country, one person continues to hold the country hostage because of being power-hungry.

In 1997, 2007, 2013 and 2017 the signature, tactics and agenda are similar; go to an election, lose an election, intimidate, emasculate, blackmail and force to get into Government through a handshake, blackmail, cooperation and “*Nusu Mkate* kind of arrangement.

It goes without saying that as a country---

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

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

Sen. Osotsi: Madam Temporary Speaker, this is a House of honour and record and we must protect the Senate at all costs.

The Temporary Speaker (Sen. Veronica Maina): Please, quote the Standing Order

Sen. Osotsi: Madam Temporary, Speaker, I am on Standing Order No.105. When you are allowed to address the Senate, you must be factual. Sen. Cherarkey, my friend

and neighbour, has made some allegations that one person has done this and has fought his way to the Government. He needs to produce the facts and content of speech to support his allegations.

We cannot allow people to use the Floor of the Senate to make allegations that they make on the streets, at funerals or political rallies. This is the Senate of the Republic of Kenya; we want facts to be tabled.

Is he in order, under Standing Order No.105, to make statements that are not factual and cannot be substantiated? I demand that he substantiates by providing tangible evidence to support the allegations that he has made; not statements that he makes in funerals, bars or the streets. This is a House of Parliament, and it must be respected.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, I need you to be very clear on what you need him to clarify; the specific statements.

Sen. Osotsi: Madam Temporary Speaker, you have heard what he has said and he is on record in the HANSARD. He has talked of one individual. He needs to tell us who this one individual is. He has also talked about this one individual after every election, fighting to get into Government through the handshake. We want to know the full facts of what he said and this must be tabled in this House.

We are cheapening this House through statements like these by people who have no regard of the status of the Senate in this Republic.

The Temporary Speaker (Sen. Veronica Maina): Now, I have understood what you have asked for. I will now direct Sen. Cherarkey to proceed with his debate and clarify about the one individual, because the name is not yet stated. Maybe he will clarify. Sen. Osotsi, please do not put the cart before the horse. Allow him to finish his submission then you can hear who the individual is.

Sen. Cherarkey: In fact, I want to assist Sen. Osotsi that there is a court matter already by Speaker Mate of Embu that you cannot challenge a process at the beginning; you wait until I finish my submission.

I want to put the record straight. Sen. Osotsi might be a member of a bar. Personally, I am a teetotaller. I do not take alcohol. So, maybe he is recovering from hangovers of the long weekend. The one person I am talking about is the Azimio leader Raila Odinga and it is a fact. In 2007, he pushed for a grand coalition Government. This is in the public domain. The law talks about judicial notice. The Criminal Procedure Act is very clear---

(Sen. Osotsi stood up in his place)

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, allow Sen. Cherarkey to finish his submission first and then I will give you a chance. Resume your seat, Senator.

Sen. Cherarkey: Madam Temporary Speaker give me my time because he interrupted my train of thought. How can I substantiate the obvious? You cannot! There is judicial notice.

We must stop this culture. The Constitution talks about national values and principles of good governance. One of the tenets of the principles is the rule of law in this country. When we go to an election, I do not know of any Senator, including Sen. Osotsi,

my neighbour, I know his opponent and competitor. I am not aware that the person he defeated has gone for *maandamano* to take away his seat.

Madam Temporary Speaker, I want to tell the country that the illegal demonstrations being perpetuated by Azimio-One Kenya Alliance is no longer about what they are saying about the cost of living or the high cost of food. It is that they are power hungry. They want to take the power because they do not have an alternative. There is nothing they have brought to the table.

In conclusion, just a half a minute, when Kenya Kwanza allowed for bipartisan talks, Azimio are the ones----

The Temporary Speaker (Sen. Veronica Maina): You have half a minute to second.

Sen. Cherarkey: Therefore, I want to ask the police tomorrow to be alert. There are no demonstrations that will take place. There will be no destruction of property of any form.

Madam Temporary Speaker, I therefore beg to second.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): We will now allow for debate on this. Sen. Maanzo you have five minutes.

Sen. Maanzo: Thank you, Madam Temporary Speaker. Article One of the Constitution talks of sovereignty of the people and that under Article Two of the Constitution, this power of the people is donated to Parliament, to the Executive and also the Judiciary in equal measure. Parliament can debate matters relating to people like this one. Article 37, which has just been quoted here, allows peaceful demonstration. In Kenya, we have been having peaceful demonstrations and I will give two examples.

The day Raila Odinga was sworn-in as the people's president, the police did not interfere. No single person was killed and even the person selling sweets at that function did not lose a sweet or money. The other day, when hon. Raila Odinga took a matatu to town, had his tea and his shoes were brushed, he had a very big meeting in the middle of town. The police did not come. Nobody's shop was looted, nothing was destroyed.

The problem has been when the law has not been followed. The law of unlawful assembly, which explains Article 37 is found in the Penal Code 78 and 79 and also the Public Order Act, which has regulations thereunder.

Those regulations provide for peaceful demonstration. Should a person in the rank of Inspector of Police find that a meeting is going differently, they are supposed to issue a proclamation and give people 15 minutes to clear. Unfortunately, the proclamation in this country has been a firing of tear gas as a response and, unfortunately, that has caused a problem.

I want to honestly state that if peoples' demonstrations are respected and that is why the United Nations has supported this particular matter and issued a statement under human rights that you cannot disrupt peaceful demonstrations, if the police never bother, even tomorrow if they keep away, not a single person will be harmed, not a single thing will be looted. Unfortunately, we have heard statements from politicians. The Leader of

Majority in the National Assembly and also my very good friend, hon. Moses Kuria, who was in Parliament with me for two terms; they have issued tweets and statements. Unfortunately, these statements amount to preparation of committing genocide in this country.

Already what is happening in Sondu is politically instigated. It is not a border problem. It has been described as a border problem by Hon. (Prof.) Kindiki, but it is not a border problem. It is a political problem and we should treat it as such. I know the Senator for---

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

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

Sen. Cherarkey: Madam Temporary Speaker I rise under Standing Order No.105 on the authenticity of facts. Can the good Senator withdraw or provide evidence that the altercation that was seen in the border town of Sondu between Kericho and Kisumu counties--- He comes from a faraway county. Some of us who are neighbours know that it was about the border issue and the issue of leaflets from some of the political leaders from Nyanza region. Can he provide evidence or withdraw?

Sen. Maanzo: No, Madam Temporary Speaker. I will reply and I can---

(The Temporary Speaker spoke off record)

Sen. Maanzo: My apologies.

The Temporary Speaker (Sen. Veronica Maina): So that we have order in the House, can you respond to the point of order that has been raised.

Sen. Maanzo: Thank you. Hon. (Prof.) Kindiki issued a statement and I have been talking to the Leader of Majority in this House, who has explained to me the whole situation.

In my interpretation of the law, which is very clear, those are tribal clashes and the leaders are doing everything in the two counties to mediate. The two Senators are mediating and they are making sure nothing goes wrong and no other Kenyan is injured. I congratulate them for that, but again that is preparation for committal of genocide. Tomorrow vigilantes have been arranged to come and confront demonstrators.

The Temporary Speaker (Sen. Veronica Maina): Sen. Maanzo, that is a serious national matter, which is live. Therefore, you need to substantiate. Could you bring evidence to that effect?

(Loud consultations)

Sen. Maanzo, will you clarify that?

Sen. Maanzo: Yes.

The Temporary Speaker (Sen. Veronica Maina): Can you provide evidence by tomorrow at 2.30 p.m.?

Sen. Maanzo: Yes.

The Temporary Speaker (Sen. Veronica Maina): Kindly do. Let us proceed.

Sen. Maanzo: I would like to say that the plans to---

Sen. M. Kajwang’: Madam Temporary Speaker---

The Temporary Speaker (Sen. Veronica Maina): Let him finish. I will give you a chance.

Sen. Maanzo: Madam Temporary Speaker, there are statements that tactics have changed on the planned demonstrations tomorrow. In his tweet, the Cabinet Secretary for Trade, Investment and Industry, Hon. Kuria, said that the Leader of the Majority in the National Assembly has organised vigilantes to confront peaceful demonstrators. That is preparation to commit a felony, namely genocide. The Majority side is preparing to commit genocide in this country.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): There were points of order from Sen. M. Kajwang’ and Sen. Thang’wa.

Sen. M. Kajwang’: Madam Temporary Speaker, we are dealing with sensitive national issues. The assertions by Sen. Cherarkey should not be allowed to go on the record of this House that the clashes in Sondu are instigated by Nyanza leaders who are circulating leaflets. Could he, under the Standing Orders, substantiate or otherwise apologize and withdraw?

Madam Temporary Speaker, as you have directed, it is unprecedented for the Chair to demand for evidence from a Member when they are debating because the Chair is a referee. You must also use the same yardstick to declare that Sen. Cherarkey brings evidence to that assertion if he fails to withdraw and apologize.

I come from Homabay County that borders Sondu and Nandi County. No leader from Luo land or Nyanza has ever conspired to get arrows and spears and do oaths. Oaths are not done in the Luo Community. They are done in the neighbouring community. My community does not use bows and arrows.

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

Sen. M. Kajwang’: Sen. Cherarkey must be compelled to withdraw and apologize or else substantiate his assertion that Nyanza leaders are killing people in Sondu. Those are the kinds of utterances that should automatically lead to a Member being thrown out of this House because they can inflame a nation, which is already at pains.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang’, I have directed that Sen. Maanzo brings evidence to support what he alleged. Equally---

(Loud consultations)

Sen. M. Kajwang’, kindly settle down so that I can give direction. Let us have order in the House.

I equally direct Sen. Cherarkey to respond to the issue before I give direction.

Sen. Cherarkey: Madam Temporary Speaker, I do not know why you have allowed my Chair, Sen. M. Kajwang’, to profile a certain community. That is wrong.

I am aware and I have evidence that certain political leaders from the neighbouring Kisumu County were issuing leaflets. I will table the evidence tomorrow from 2.30 p.m.

We have evidence. We do not just make statements for the sake of it. I do not know why Sen. M. Kajwang' is getting emotional yet I have stated that I will table the evidence.

The issue of Sondu is sensitive. While we appeal for peace, we cannot allow certain political leaders to do that. We are aware that they wanted to use Sondu to instigate lawlessness. I am going to table the evidence.

(Loud consultations)

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

Sen. Cherarkey and Sen. Maanzo, you will table the evidence tomorrow at 2.30 p.m. because these are serious matters. We must not issue any reckless statements regarding that conflict from either side of the House.

Proceed, Sen. Thang'wa.

Sen. Thang'wa: Madam Temporary Speaker, I do not like the direction we are taking as a House. My point of order was for Sen. Maanzo for quoting things he has seen in the media.

Madam Temporary Speaker, you have numerously ruled that we cannot quote what we see in the media because nobody can substantiate. He is mentioning names of Cabinet Secretaries. We do not know what he read and whether his computer or android phone was faulty. Maybe he did not read it well.

I request you, Madam Temporary Speaker, to request that Sen. Maanzo stops quoting what he reads in social media. Otherwise he will be misleading this House because he cannot substantiate.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, regarding matters being aired on media, we know the cardinal principles and rules of this House. I urge Senators to refrain from breaching the Standing Orders and stick to the rules, especially when discussing a matter of this nature.

Let us proceed. Sen. Wafula, you have the Floor.

Sen. Wafula: Asante, Bi Spika wa Muda, kwa kunipa nafasi hii ili nichangie yale ambayo Sen. Maanzao ametaja. Katiba inatupa ruhusa ya kumiliki mali na rasilimali hapa Kenya. Yale yanayojiri ni kinaya na kinyume na matarajio ya wanademokrasia hapa Kenya.

Sisi Wakristo tunajua kuwa maandamano ni kubeba matawi na mabango kwa amani. Tumekuwa tukishuhudia maandamano ya madaktari, walimu na wakulima. Wakati wa maandamano, hatujawahi kuwa na bughdha au purukushani yeyote, uharibifu wa mali na watu kuumia.

Sijui wanademokrasia hao wanaandamana kushinikiza nini. Sijui wanataka tupoteze maisha ya watu wangapi ili wajue kuwa ni maandamano. Sijui wanataka watu wangapi wajeruhiwe ili waseme kuwa ni maandamano.

Wakenya walipokuwa wanalima mashamba, walikuwa wanabeba sufuria wakitembea. Wakenya walipoenda kuchukua mbolea katika maghala ya halmashauri ya nafaka, watu hao walikuwa wanabwata na kutembea. Wakenya walipokuwa wanapuliza

dawa kwa mahindi, ndungu zangu walikuwa katika vyombo vya habari wakibwata. Sasa karibu watu wanavuna.

Badala ya kuandaa sufuria kukaribisha mavuno ya kipekee, ndugu zetu wametoa vijana wenye misuli na uwezo wa kujenga nchi. Wanaenda kwenye baraste za nchi hii wakipiga mayowe na kubeba sufuria kwenye vichwa.

Sijui ni dini gani, tamaduni au itikadi zipi zinazowaruhusu wasomi wa tajriba kama hawa katika Seneti kubeba sufuria kwenye vichwa kadamnasi ya vyombo vya habari dunia nzima. Ukiweka sufuria kwenye kichwa, sijui kama bei ya bidhaa na chakula itashuka. Sijui ni maombi gani wanayotarajia.

Katiba inatupa nafasi ya kutembea na kuhusiana na watu mbalimbali. Sasa tunashuhudia kufungwa kwa barabara na magari kuteketezwa. Sijui Wakenya watakuwa wageni wa nani. Wakenya watapata huduma za usafiri, matibabu na usalama vipi iwapo maandamano ya kidemokrasia yanaweza kusababisha kuteketezwa kwa bidhaa katika miji ya Kenya. Sijui wanataka tuteketeze mali kiasi kipi ili wajue kwamba ni maandamano.

Hii ni Seneti ya taifa la Kenya. Watu wawe huru kuja kujieleza na kujitetea. Kuna Bunge la kitaifa; watu waje wajitetea. Hivi sasa, tumekuwa tunatunga sheria mbali mbali za kilimo na ufugaji.

(Applause)

Hawasemi chochote. Bei ya unga imekuwa juu, hakuna mtu anapinga. Ukienda Tanzania, Uganda na nchi za Ughaibuni, hali ya maisha imepanda. Sijaona waingereza ama ndugu zetu Watanzania wakibeba sufuria vichwana. Falsafa ya sufuria kichwani imetoka wapi?

Bi. Spika wa Muda, kwa mara ya kwanza katika Kenya hii, yale ambayo viongozi wanatamka mbele ya uma na kupiga vifua kwamba lazima nchi isimame, biashara zivunjwe, hiyo si demokrasia wala haki ya Wakenya.

Ninaomba kama viongozi tumakinike, tuwe jasiri na tusimame wima. Tujadili na tubainishe mbichi na mbivu kikatiba; tusuluhishe mambo haya lakini sio yale ambayo naona kwenye barasi za nchi ya Kenya.

Mwisho kabisa, kuna tabia mbovu ambayo nimeona. Ndugu zetu wanatumia vyombo vya habari kusambaza---

(Sen. Wafula's microphone was switched off)

The Temporary Speaker (Sen. Veronica Maina): Sen. Wafula, your time is up. Sen. M. Kajwang', please proceed.

Sen. M. Kajwang': Madam Temporary Speaker, I rise to contribute to this Motion that has been brought by Sen. Munyi Mundigi. Five minutes after Sen. Munyi Mundigi giving notice of this adjournment Motion, he was again on the Floor of the Senate asking for a Statement on the subsidised fertiliser scheme. He was alleging that the subsidised fertiliser is unavailable, it has been brought too late and it is not serving the ends that it is supposed to serve. What a contradiction.

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I tell Sen. Munyi Mundigi, the mover of this Motion, that tomorrow, we shall be on the streets to ask questions about that subsidised fertiliser.

(Applause)

Madam Temporary Speaker, I assure Sen. Cherarkey, who also spoke to that Statement, that I was not in the Chamber but I was following. He made a very eloquent rider on that statement saying that when he was in Nandi County, the farmers said it should extend beyond maize farmers to sugarcane and other farmers. Tomorrow we shall be on the streets demanding that the fertiliser goes to sugarcane farmers.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', I want you to heed when I rise to speak on something.

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

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

Sen. Methu: Madam Temporary Speaker, I would not want to have interrupted my Chairperson. I am actually surprised that he is saying tomorrow he will not be in the House yet we will be having two Sessions in the morning and afternoon.

My point of order is that on Standing Order No.105, Responsibility for Statement of Fact, Sen. M. Kajwang' is alleging that Sen. Munyi Mundigi rose and brought a Statement to this House to say that there is no fertiliser or it is not being distributed.

If he had read the Statement, he would know that the question that Sen. Munyi Mundigi asked was the distribution to the smallest devolved units, not availability of the fertiliser.

Sen. M. Kajwang': That is debate. You are debating. Wait for your turn, my brother.

(Sen. M. Kajwang' spoke off record)

We cannot be disrupted. The Government of Kenya---

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', be orderly. Please resume your seat. I gave him a chance to speak. Let us have order. Sen. Methu has the Floor.

Sen. M. Kajwang': That is not a point of order.

Sen. Methu: The person to define what amounts to a point of order is the Speaker. So, hold your horses.

The Government has intimated that we have distributed five million bags of fertiliser. The question that Sen. Munyi Mundigi asked is---

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Can we have order on the Minority side? You are not the one guiding the House. Can we have order? Sen. Methu, finish your point of order.

Sen. Methu: I feel that Sen. M. Kajwang' is out of order for misleading the House that the Statement that was sought by Sen. Munyi Mundigi was about availability of fertiliser.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', resume your debate and respond to the issues of correctness of what you have stated in your debate as raised as a point of order.

Sen. M. Kajwang': Sen. Methu can decide to believe what he wants to believe, but this is the intellectual amnesia that this House has been accused of.

(Applause)

If he wants me to withdraw; I withdraw. If that is going to make him happy, then allow me to proceed. I stand with the many men and women who have been felled by police bullets while they were only exercising their rights that are enshrined in the Constitution.

Madam Temporary Speaker, there are people in this country who wish to rule like Moi did. Unfortunately, they cannot rule like Moi because they do not have the Constitution that Moi had.

(Applause)

There are people who believe that they can rule like Kibaki. Unfortunately, they do not have the intellectual infrastructure and capacity to rule the way Kibaki did.

We shall be on the streets tomorrow in pursuit of our economic, political and social rights that are in the Constitution. Those rights are not granted by the Constitution or the State. The State and the Constitution are mere custodians of those rights on behalf of the people of Kenya.

So, when you see people out there with *sufurias* on their heads--- I have also not seen people walking around with wheelbarrows as a transformational economic model. So, just allow us to walk with *sufurias* the way you also bamboozled the nation with wheelbarrows.

Today, that wheelbarrow is not moving because instead of greasing it, they have poured sand on the wheels by making sure that petroleum is inaccessible.

Just this week, a parent called me and told me that the school has imposed an additional Kshs10,000 fee on parents. This is because the cost of basic food and commodities has gone up and school principals have to make sure that their children eat.

I know the children that are sitting in the Speakers Gallery today - the parents and teachers whose children are here in the Senate - understand me when I say that even schools are unable to make ends meet.

Law and order is the responsibility of the police to maintain. That is a duty that has been granted to the police by the Constitution of Kenya. What our duty as the opposition and as majority of Kenyans is---

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

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

Sen. Cherarkey: Madam Temporary Speaker, I rise under Standing Order Nos.98 and 105 on Responsibility for Statement of Fact. Sen. M. Kajwang', who is my Chair, is stating that the cost of living and the price of food has gone up yet one year ago, when his party leaders Raila Odinga and Uhuru Kenyatta were in power, the cost of unga was Kshs230.

(Loud consultations)

(Applause)

The price of unga has come down to Kshs170. Why did they not demonstrate? He has said that some people want to rule like Moi or Kibaki but we do not want to lose like Raila Odinga, perpetually.

Sen. M. Kajwang': That is not a point or order.

(Loud consultations)

Sen. Cherarkey: My point of order is on Responsible for Statement of Fact under Standing Order No. 105. You do not need to shout; this is not a market place. You just need to listen. The Minority side always walks out. They can walk out. We do not care.

(Loud Consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, when the Chair is speaking, you must heed.

Sen. Cherarkey: On a point of order, Madam Temporary Speaker. They can walk out. Who are they?

Sen. M. Kajwang': *Zima hiyo mic.*

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Cherarkey? I am talking, Sen. Cherarkey.

Sen. Cherarkey: Madam Temporary Speaker, you also need to be protected because they are shouting and you cannot hear. Under Standing Order No.105 on Responsibility for Statement of Fact, the Senator of Homa Bay County, my very good friend, has alleged that the cost of living is high now yet eight or nine months ago, when his party leader and Uhuru Kenyatta were in power, the cost of living was higher. Is it in order? The price of unga was Kshs230. Now it is Kshs170. In fact--

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, resume your seat because that point was already spoken.

Sen. Oketch Gicheru: That was not a point---

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang' has the Floor.

Sen. M. Kajwang': Madam Temporary Speaker, allow me in response to educate Sen. Cherarkey on something called fiscal policy---

(Sen. Oketch Gicheru consulted loudly)

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, I have given you directions. Heed the direction of the Chair.

Sen. M. Kajwang’: There are two critical elements when you are considering fiscal policy. One is the rate of inflation, two, is interest rates and three, is the forex rates. All these numbers have gone up. Sen. Cherarkey, should perhaps---

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang’, do you want to be informed by Sen. Oketch Gicheru?

Sen. M. Kajwang’: Yes, Madam Temporary Speaker, I would like to be informed.

The Temporary Speaker (Sen. Veronica Maina): Resume your seat and donate your time to Sen. Oketch Gicheru.

Sen. Oketch Gicheru: I wish to inform my friend Sen. M. Kajwang’ that Standing Order No.101 protects you from responding to Sen. Cherarkey who stood on a point of order and explicitly mentioned the names of hon. Raila Amollo Odinga and His Excellency President Uhuru Muigai Kenyatta.

Hon. Senators: Former! Former!

Sen. Oketch Gicheru: He is a President, whether you like it or not he is a President. You will never be a President. Respect the former President. Sen. Cherarkey, he is a former President, but you will never be. Respect the President.

(Loud consultations)

Madam Temporary Speaker, can I be heard in silence? I can make more noise in this House than Sen. Cherarkey.

The Temporary Speaker (Sen. Veronica Maina): Order, hon. Senators! You are now out of order. Sen. Oketh Gicheru, you are bordering on being out of order.

Sen. Cherarkey and Sen. Oketch Gicheru, I give you the first warning. If you continue being out of order, you will have to exit from this sitting. That is the direction of the Chair. Sen. Oketch Gicheru, maintain order as you give your submissions.

Sen. Oketch Gicheru: Madam Temporary Speaker, I was informing my colleague, Sen. M. Kajwang’ that he does not need to respond to the lack of intellectual engagement by Sen. Cherarkey.

Standing Order No.101(1) states that –

“ Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the Senate shall be referred to adversely, except upon a specific substantive Motion of which at least three days’ notice has been given.”

The Temporary Speaker (Sen. Veronica Maina): He is duly informed.
Sen. M. Kajwang’ proceed.

(Sen. Cherarkey consulted loudly)

Sen. Cherarkey, hold your peace.

Sen. M. Kajwang': Madam Temporary Speaker, speaking on behalf of the people of Homa Bay, I would like to assure this House that we shall continue with our peaceful protests on behalf of the 50 million Kenyans who cannot afford a meal, the Uber drivers, the matatu drivers and long distance truck drivers who went to the streets last week - the children of this country who cannot get as many meals as the children of Sen. Cherarkey, the police who are being misused, abused---

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, be orderly.

Sen. M. Kajwang': Madam Temporary Speaker, please protect me.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang' finish in half a minute.

Sen. M. Kajwang': Madam Temporary Speaker, we shall continue with our peaceful protests. We shall do it on behalf of the many martyrs that have been killed by the police using illegal and unlawful orders from a Presidency and an Executive that has stopped caring about its people.

(Sen. M. Kagwang's microphone was switched off)

Hon. Senators: *Bado mapambano, mapambano, mapambano!*

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, let us have---

(Sen. Cherarkey spoke off record)

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, you are pushing the Chair to a corner. I will definitely throw someone out of this session. I will throw the hon. Members who are out of order from participating in this sitting. Let us resume the debate, but maintain order.

Sen. Joe Nyutu, proceed.

Sen. Joe Nyutu: Thank you, Madam Temporary Speaker. I stand to support the Motion moved by the Senator for Embu County, Sen. Munyi Mundigi. It is all over the media and everywhere that there will be demonstrations tomorrow in many parts of Kenya. However, like those who have spoken before me have said, there are various avenues for people expressing their grievances. I do not believe that you can only go to the street to express yourself or make your grievances.

I say this knowing well that we had the bipartisan talks that had been initiated. If the opposition or the Minority side were interested in peace, they would have maximized the use of this forum to bring on board all the issues that take them to the street tomorrow, Thursday and Friday.

I am not a lawyer, nonetheless, I have listened keenly to Sen. Cherarkey take us through the provisions of Article 37 of the Constitution. The Article explicitly states that people have the right to picket, demonstrate and present a Petition.

Looking at the demonstrations that happened last week, somebody is left wondering which public office were the ones demonstrating on the Expressway while damaging it, presenting the petition to. Clearly, there is malice in these demonstrations, and this must be called out.

If Kenya belongs to all of us and we want a safe country, we cannot afford to read some parts of the Constitution. Let people demonstrate and take the petitions they have to the right Government offices.

There have been instances of the Minority side talking about the demos. We have seen where it started. First of all, it was that the elections servers must be opened. Then it mutated and now it is about the cost of living.

Everybody knows why the cost of living is high. The Ukraine war is something that everybody knows about. We know the seasons. I come from a county where agriculture is the backbone of its economy. We know that we have heard about---

The Temporary Speaker (Sen. Veronica Maina): Sen. Wafula, do you have a point of order?

Sen. Wafula: Madam Temporary Speaker, it is a point of information.

The Temporary Speaker (Sen. Veronica Maina): Sen. Joe Nyutu, do you want to be informed by Sen. Wafula?

Sen. Joe Nyutu: Madam Temporary Speaker, as long as he will use his own time and you will freeze my time.

The Temporary Speaker (Sen. Veronica Maina): That is okay. Sen. Joe Nyutu, take your seat. He will give you the information he wants to help you with.

Sen. Wafula: Asante, Bi. Spika wa Muda. Arifa ambayo ningependa kuongezea ni kwamba, kulikuwa na Waziri wa Ukulima Kenya hii na alipewa Kshs14 billion kuhakikisha mahindi na nafaka imepandwa katika Galana Kulalu. Lakini alipongatuka ofisini, hata magunia ishirini pekee yake hangeweza pata. Bilioni kumi na nne na sasa wameungana kubeba sufuria kwenye vichwa, ni kinaya na kejeli kwa demokrasia ya nchi hii.

Asante, Bi. Spika wa Muda.

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

Sen. Faki: Bi. Spika wa Muda, nimemusikiza mweshimiwa Wafula kwa makini. Lakini Kenya hii inajulikana watu ambao walikula pesa ya mahindi na anayejulikana ni mmoja pekee yake hapa na hatuna haja ya kumtaja na kuna ushahidi.

Asante.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Joe Nyutu. Let us have order, Senators. Sen. Joe Nyutu, resume the debate.

Sen. Joe Nyutu: Thank you very much Madam Temporary Speaker and thank you, Sen. Wafula, for informing me.

Madam Temporary Speaker, like I had said, this is our country. I do not know why the Azimio side still wants to carry on with the demonstrations tomorrow knowing very well that these demonstrations are costing the lives of Kenyans. They may want to say that the police are shooting these people---

(Sen. Osotsi consulted loudly)

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, you will wait for your turn to debate. Do not shout at the Senator. Respect the Senator who is on the Floor.

Sen. Joe Nyutu: Thank you very much Madam Temporary Speaker. There is no one who does not know that we have watched on the television images of a police officer scampering for his safety. We have seen police officers being attacked by the so-called demonstrators.

We have seen them pelt the police with stones. So, sometimes when these shootings happen---

Sen. Cherarkey: I have a point of information.

Sen. Joe Nyutu: Thank you, you can inform me, Sen. Cherarkey. Please freeze my time.

(Sen. Cherarkey stood in his place)

The Temporary Speaker (Sen. Veronica Maina): Sen. Joe Nyutu do you wish to be informed by Sen. Cherarkey?

Sen. Joe Nyutu: Yes, I do.

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

Sen. Cherarkey: Madam Temporary Speaker, I would like to inform Sen. Joe Nyutu that one of the people who has been chasing the police to safety is the Senator for Nairobi City County, Sen. Sifuna. I saw him chasing police officers at the Kenyatta International Convention Centre (KICC).

Madam Temporary Speaker, when we say they are chasing including their leaders led by Sen. Sifuna was chasing an Officer Commanding Station (OCS) not an ordinary sergeant. What Sen. Joe Nyutu is saying is correct. It is their demonstrators who are attacking the police. It is not the police attacking the demonstrators, led by Sen. Sifuna who has been chasing the OCS around. Let them chase me; they will know who I am.

The Temporary Speaker (Sen. Veronica Maina): Sen. Joe Nyutu proceed.

Sen. Joe Nyutu: Thank you Madam Temporary Speaker and Senator Cherarkey. I did not know that Sen. Sifuna was a chief goon in this particular attack.

The Temporary Speaker (Sen. Veronica Maina): Your time is up Sen. Joe Nyutu, resume your sit.

Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Asante, Bi. Spika wa Muda. Nasimama kuchangia mjadala ulioletwa na Senata wa Embu, Sen. Munyi Mundigi.

Bi. Spika wa Muda, kikatiba ni halali kwa watu kuandamana na kuleta malalamishi yao kwa viongozi na kulalamikia mambo kama haiendi sawa kwa maisha yao. Ninasikitika kwamba maandamano imechukuliwa kuwa ya viongozi na kwamba

imepangwa na Party Leader wangu, Sen. Sifuna na viongozi wa Azimio. Maandamano inayoendelea ni ya wananchi wenyewe ambao wanaumia na maisha jinsi ilivyo.

Maisha imepanda na wananchi wameshindwa kupata chakula, kulipa karo ya watoto na kujimudu. Kwa hivyo, ni wananchi wenyewe ambao wanadai haki yao.

(Sen. Cherarkey approach the Temporary Speaker)

Sasa Bi. Spika Wa Muda, ninashangaa kwamba Sen. Cherarkey ameenda kuchukua muda wako na bado niko hapa kwa Floor.

The Temporary Speaker (Sen. Veronica Maina): Sen. Syengo, just hold on.

Sen. Sifuna, approach the Chair.

Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Mambo haya yananiuma sana.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Please proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Asante, Bi. Spika wa Muda. Maandamano ambayo inaendelea inaongozwa na wananchi wa Kenya ambao wanajitetea na kudai haki yao. Si kwamba maandamano imepangwa na viongozi wa Azimio kwa sababu, Wakenya wenyewe ndio wanaumia.

Bi. Spika wa Muda, kutokana na yale mambo yanayoendelea, kusema kwamba Wakenya wanasukumwa kuenda kuuliwa ni uongo. Tunajua vizuri sana kwamba Katiba yetu ya Kenya inapea mwananchi nguvu na uwezo na na haki ya kuunga kutetea haki yao. Kwa hivyo, ile haki mwananchi ako nayo na ameipitisha kwa viongozi, anaweza dai hayo mamlaka na airudishe ndiposa adai haki yake.

Hii ni Bunge ya heshima. Kwa hakika wanananchi wanatutegemea kama Seneti. Itakuwa ni vibaya sana kama kutasimama kiongozi hapa aseme uongo kwamba wale wanaenda maandamano ndio wanasabisha uharibifu wa mali na vifo.

Tunajua vizuri sana kwamba sisi wana Azimio tungewachwa tuende kwa barabara kudai haki yetu bila kuingiliwa na polisi au wahuni ambao wanapangwa na maseneta kama Sen. Cherarkey, basi hakungekuwa na vurugu yoyote.

(Applause)

Sen. Methu: On a point of information.

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

Sen. Methu: I would not want to keep interrupting our colleagues, but I find it imputing very improper motive for a Senator to impute that Sen. Cherarkey is organizing goons to counter the protestors.

Madam Temporary Speaker, that is against the rules of debate unless Sen. Beth Syengo can substantiate that Sen. Cherarkey organizes goons to counter protestors, I find it grossly out of order.

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

Sen. Beth Syengo, can you substantiate that statement, that is a weighty statement.

Sen. Beth Syengo: Asante Bi. Spika wa Muda. Kwa kweli naweza elezea. Kwa sababu tukiwa hapa sisi wote ni shahidi. Sen. Cherarkey ameita Sen. Sifuna goon, hiyo ni kumaanisha nini? Kwa hivyo, hao ndio wanapanga na kuchochea wananchi.

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo!

Sen. Beth Syengo: Sen. Cherarkey na Sen. Methu wanachochea wananchi ndiposa waonyeshe kwamba sisi ndio tuko na shida.

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo, the Chair is speaking now. I have asked you to substantiate that there is an organization of goons by Sen. Cherarkey, if you have the evidence or you withdraw that or substantiate.

(Loud consultations)

Let us have order, Senators. I am with Sen. Beth Syengo and Sen. Cherarkey.

(Sen. Methu consulted loudly)

Sen. Methu let us have order.

Sen. Beth Syengo, withdraw that statement or substantiate including support.

Sen. Beth Syengo: Kuna ushahidi, Bi. Spika wa Muda.

The Temporary Speaker (Sen. Veronica Maina): Where is the evidence?

Sen. Beth Syengo: Nitaleta ushahidi kwa sababu Sen. Cherarkey alichapisha kwenye *Twitter* na imesambaa mitandaoni. Kwa hivyo, hakuna kitu cha kuficha. Ni ukweli na niko na ushahidi.

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo, I direct that you substantiate and table the evidence tomorrow at 2.30 p.m.

Sen. Beth Syengo: Sawa.

Sen. M. Kajwang': On a point of information, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of information, Sen. M. Kajwang'.

Sen. Beth Syengo: Bi. Spika wa Muda, nakubali kujulishwa.

Sen. M. Kajwang': Madam Temporary Speaker, I want to inform Sen. Beth Syengo because she said, 'if the police did not interfere with peaceful protestors when the demonstration started.'

I want to inform Sen. Beth Syengo that on the first day that the people of Kenya decided to come out and protest, the people of South Africa also did the same, led by Economic Freedom Fighters (EFF). The difference is that in South Africa, the EFF were accompanied by police, given security, law and order was maintained whereas in Kenya, the peaceful protestors were bastardized, teargassed and water cannons were unleashed

on them. The last bit of that information is that Israel has had daily protests for more than six months. France has had protests. The people of United States of America (USA) occupied the Capitol Hill when Mr. Barrack Obama and Mr. Donald Trump were presidents.

The information I wish to give Sen. Beth Syengo is that Kenyans, if left alone to exercise their democratic rights, are the most sensible people. Kenyans believe in a state

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

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

Sen. M. Kajwang': I am still giving out information to Sen. Beth Syengo! Surely?

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): He has a point of order.

Sen. M. Kajwang': I am on a point of order.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', resume your seat; we heard your point of order.

Sen M. Kajwang': Can I conclude? I am still informing Sen. Beth Syengo. I am still on a point of order.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', resume your seat.

Sen. Methu, you have 30 seconds to state your point of order.

Sen. Methu: Madam Temporary Speaker, if we do not respect the position of the Chair, then we cannot have a debate. My point of order is on the content of speech. A Senator is not supposed to impute improper motives.

The Temporary Speaker (Sen. Veronica Maina): Is it the same point of order?

Sen. Methu: No. It is different. Besides mentioning Sen. Cherarkey, Sen. Beth Syengo has also mentioned Sen. Methu while on the Floor of this House. It is in the HANSARD. She has said that she will substantiate the allegations against Sen. Cherakey. Can she also substantiate that I am one of the people who are organising whatever it is she said that we are organising?

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo, please substantiate the allegations leveled against Sen. Methu when you resume.

Sen. M. Kajwang', kindly conclude with your point of information.

Sen. M. Kajwang': Madam Temporary Speaker, the information I want to give Sen. Beth Syengo and this Republic is that Kenyans are reasonable people. Put food in their stomachs, they will go back to their duties. Take away punitive taxes and they will go back to their duties. Kill corruption and stop this outlandish display of wealth, watches, helicopters, shoes and new mansions---

(Applause)

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Madam Temporary Speaker, I am informing Sen. Beth Syengo that these protests shall continue as long as they continue vomiting on our shoes.

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', I have cautioned you before to heed when the Chair calls you out. It is not considerate to sneak in a debate under the guise of a point of information. It is not correct. What you have done is to debate and that is not correct.

(Applause)

I have cautioned you that a point of information should be a point of information. It should be precise and brief. It should not be an opportunity to debate.

Sen. Beth Syengo, please resume.

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

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

Sen. Beth Syengo: Asante, Bi. Spika wa Muda. Nashukuru Seneta wa Homa Bay, Sen. M. Kajwang', kwa kunijulisha mambo ambayo kwa hakika ni ya muhimu sana.

The Temporary Speaker (Sen. Veronica Maina): Please respond to Sen. Methu's issue.

Sen. Beth Syengo: Bi. Spika wa Muda, nimesema kwamba nina ushahidi kuwa Sen. Methu alichapisha kwa *WhatsApp*. Hata waliitwa Ikulu kupanga vile watatuchinja kesho. Kwa hivyo, mjue kwamba tunajua.

Bi. Spika wa Muda, ningetaka kujulisha wenzangu hapa kwamba sufuria ni ishara ya chakula.

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo, the use of the word 'watatuchinja' is not parliamentary and, therefore, out of order. It cannot sail without substantiation. Sen. Beth Syengo, please withdraw that or I will proceed to read you the sanctions.

Sen. Beth Syengo: Bi. Spika wa Muda, kwa heshima, naomba usikuwe na upendeleo. Hao wametuita *goons* na wakora na umenyamza. Mbona nikisema wamepanga kutuchinja---

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth Syengo, you are out of order. You either retract or I order you out of today's Session now.

I order you out of the Session now. Serjeant-at-Arms, please escort her out of this Session. Sen. Beth Syengo, please get out of the House. I have ordered you out of this Session.

(Loud consultations)

(Sen. Beth Syengo withdrew from the Chamber following the Order by the Temporary Speaker)

Hon. Senators, we must have respect for the proceedings of this House. We cannot allow a language that sends a wrong message to Kenyans. Please keep to the parliamentary language and if you cannot, then you will exit the sitting until when you can do the right thing.

Proceed, Sen. Wamatinga.

Sen. Wamatinga: Thank you very much, Madam Temporary Speaker. I rise to support this Motion.

Madam Temporary Speaker, all of us seated in this House went for elections on 9th August, 2022. Some of us had several competitors and others had few competitors. We defeated some with big and others with smaller margins. Life moved on.

Madam Temporary Speaker, we know that in the true spirit of democracy, there must be a winner and a loser in an election. It is very unfortunate that indeed, after every cycle of election, we have to go through this round of circus.

We have a nation to take care of. We have a responsibility as leaders to ensure that generations to come will look upon us and say, yes, we elected people who are responsible and can take care of democracy. That calls on us to move on whenever we lose because we have elections every five years.

It is very unfortunate, deceptive, and a mockery of democracy that we can stand and call for demonstrations by Kenyans because we want to bring the cost of living down. The cost of living can only be brought down through hard work, and people planting and harvesting. Since there is a God who lives, we are going to have a bumper harvest and enough food. However, there are those who are convinced that unless they are in power, then this country can never be in peace.

It is so unfortunate that we, as a House, can stand here and debate how we will actually destroy Kenyan property in the name of bringing the cost of food down. It does not take a genius to know that you cannot bring the cost of living down by destroying property or maiming people.

As it has been said before, we have seen teachers demonstrate and doctors go on strike. We have never seen a life being lost. We are asking, how many people must die for Kenyans to know that this country is bigger than them? How many? That one person has every five years successfully fought the government.

It is very unfortunate that we are standing here losing precious time when we could be discussing Bills about lowering the cost of living and the cost of power. I wish to say that the Bills that we have in this House ---

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Wamatinga, do you wish to be informed by Sen. Oketch Gicheru?

Sen. Wamatinga: No. I do not want to be informed. I want to finish

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Sen. Wamatinga: Madam Temporary Speaker, there are several agricultural Bills here in the Standing Committee on Agriculture, Livestock and Fisheries that are geared towards bringing the cost of living down. Some of the Members sitting on that side, who are in my Committee, we started a good journey of bringing down the cost of energy, but when I need them, they desert me because they have to go and fight.

I appeal to this House, to stand up and talk in a voice of reason and bring the cost of living down by having a candid discussion about the things that we have to do as legislators. It is through legislation and candid discussions. When the Cabinet Secretaries come into this House, we see the Minority side walk out. An opportunity that they have to ask questions that they really feel are important.

Madam Temporary Speaker, let us not lie to Kenyans any more. Let us say it is all about ourselves and power. Even if we are to have negotiations or any discussions, it must be from everybody. From the Member of County Assembly (MCA) who lost all the way to the President who lost. This is because it cannot be that; in an election where we have six candidates, the only problem we have is with one single candidate. It is so unfortunate that this country has been held hostage by one single person who believes it is either his way or the highway. He does not care how many Kenyans are going to die for him to get to power.

Madam Temporary Speaker, we must stand to be counted. It is time that we stood for Kenyans and say that this country is bigger than one person. As I sit down, I urge the Minority side; let us close ranks and say what is it that disturbs you, we see it as leaders. We do not have to go and kill Kenyans.

I see a Senator, a young man who has a potential, but he is painting his hands with blood. It is so unfortunate that 30 years down the line when we are long gone, people will remember that this is the person who used to lead the death of young people.

Madam Temporary Speaker, I support.

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, you may have the Floor.

Sen. Faki: Asante, Bi. Spika wa Muda kwa kunipa fursa hii kuchangia hoja ambayo imeletwa Bungeni na Seneta wa Embu, Sen. Munyi Mundigi.

Kwanza kabisa, ninampongeza Seneta wa Kaunti ya Embu kwa kuleta Hoja hii alasiri ya leo. Mapema, alikuwa ameomba taarifa hapa kwa nini watu wake wamekosa mbolea ili waweze kupanda miti na wazalishe chakula kwa uzuri zaidi kwao.

Pia, nilisikia kwa masikitiko mchango ulioletwa na Sen. Wafula, Seneta wa gatuzi la Bungoma, ambaye anawakilisha chama cha Ford Kenya katika Bunge hili. Chama ambacho ndio baba na mama wa upinzani katika nchi yetu ya Kenya. Hayati Masinde Muliro, hayati Kijana Wamalwa, na wengineo ambao walipigania demokrasia katika nchi hii yetu leo wanageuka katika makaburi yao kwa sababu ya matamshi ambayo ametoa Mheshimiwa Wafula.

Bi Spika, wa Muda, katiba ya Kenya inatupa fursa kuandamana. Inatupa fursa ya kugoma na kulalamika kwa mambo ambayo hayastahili kufanyiwa Wakenya. Mswada wa fedha uliopitishwa na Bunge mwezi uliopita ni Mswada ambao asilimia 90 ya Wakenya waliupinga. Lakini, Wabunge wachache katika Bunge lile 170, walipitisha ni sawa iwe sheria katika nchi yetu ya Kenya. Wale wengi ambao hawakupata fursa ya kuzungumza katika Bunge lile, wale wengi ambao maoni yao yalikataliwa katika vikao vya ushauri wa umma yaani; public participation ndio wale wananchi ambao sasa wako tayari kuandamana kupinga sheria hii.

Imeelezwa hapa kwamba mkurupuko wa bei ni kwa sababu ya mambo ya Ukraine. Hiyo sio shida. Mukrupuko wa bei ni kwa sababu ya siasa duni na policy duni

za uchumi ambazo serikali hii ya Kenya kwisha inaendeleza katika nchi hii yetu ya Kenya.

(Sen. Wamatinga spoke off record)

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

(Loud consultations)

Sen. Faki: Bi Spika wa Muda, naomba unilinde.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, do you have a point of order, Sen. Wamatinga? Under which standing order?

Sen. Wamatinga: Madam Temporary Speaker, I am standing under the order that; is the Senator in order to misinform the House that there is a Kenya Kwisha Government in this country?

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, could you respond on what you mean?

Sen. Faki: Bi Spika wa Muda, sikusema kwamba ni Serikali ya Kenya Kwisha. Nimesema Kenya Kwisha. Kuna tofauti ya Serikali ya Kenya Kwisha na neno Kenya kwisha. Mungenisikiza kwa makini kwa sababu mnataka kulifanya Bunge la Seneti kuwa kama yale mabaraza ya mitaa kule mnakotoka.

Madam Temporary Speaker, polisi ndio chanzo kikubwa cha kutawanya na kukurupuka kwa maandamano katika nchi yetu ya Kenya. Kulingana na takwimu na vile vile mambo ambayo yalinipata mimi mwenyewe binafsi kama Seneta wa Mombasa. Tarehe kumi na mbili, jumatano iliyopita, tulikuwa tumetoa arifa ya kuandamana katika Kaunti ya Mombasa. Taarifa ilipelekwa mapema kwa polisi lakini polisi walikaa hadi saa mbili asubuhi wakati tuko tayari kuandamana na wakaleta barua kusema kwamba maandamano ni marufuku kwa sababu ya utalii.

Bi Spika wa Muda, ninachangia Hoja ya Sen. Munyi Mundigi na yeye ndiye wa kwanza kupiga kelele. Lazima wakati ujao tukija hapa Bunge, watu wapimwe wamekula miraa ama mogoka kiasi gani.

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

Sen. Cherarkey: Madam Temporary Speaker, under Standing Order No.105, is it in order for the Senator for Mombasa County, who does not know the value of miraa and miraa farmers, to allege that miraa is something that you take like a drug yet it is not? Is it in order to cast aspersions on the use of miraa?

We do not have a Government called Kenya Kwisha, we have a Government called Kenya Kwanza. He should be informed. Is it in order to cast aspersions on the use of miraa and insult miraa farmers who are hardworking yet they purport that they are fighting for farmers?

The Temporary Speaker (Sen. Veronica Maina): Sen. Faki, could you respond to that?

Sen. Faki: Bi Spika wa Muda, wajua Sen. Cherarkey tulimlea sisi hapa. Hata mimi ndiye nilimsaidia mpaka akaapishwa kama wakili. Heshima ni kitu muhimu. Yeye amekuwa nje ya Bunge, ameingia tu na kuanza kuruka na kusema kwamba mambo ya miraa hivi na vile. Zingine huwa sio hoja za nidhamu; ni mtu apate tu fursa ya kupiga kelele. Hakuna chochote kilichokosa nidhamu hapo. Nimesema kwamba, kuwekwe mashine ya kupima watu kama wamekula miraa ama mogoka. Hiyo haimaanishi tumetusi mtu yeyote.

Kwa kumalizia, ni kwamba polisi ndio watu wa kwanza kuvuruga maandamano.

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

Sen. Wafula: Asante, Bi Spika wa Muda. Kanuni za Kudumu No. 105, sielewi mbona Mheshimiwa anahashiria kwamba wanao ingia kwenye Bunge hili kama Maseneta huwa wanaashiria kutumia vileo ama mihadarati wanapo fanya kazi zao. Naomba adhibitishwe ama aombe msamaha.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang' maintain order.

Sen. Faki, you have half a minute to respond to that allegation.

Sen. Faki: Bi Spika wa Muda, tukiingia hapa kupitia huo mlango kila 2.30 alasiri, tunakaguliwa iwapo tuko na silaha. Hakuna anayebeba silaha hapa lakini tunaangaliwa silaha. Kwa hivyo, itakuwa sio makosa kwa wale ambao wanatoka sehemu zile ambazo wana vitu kama hivyo, waweze kupimwa kama wametumia ama hawajatumia.

Kwa kumalizia ni kwamba polisi---

The Temporary Speaker (Sen. Veronica Maina): Senator, your time is up. It was up actually. I was letting you respond.

Sen. Faki: Bi Spika wa Muda, bado dakika moja.

The Temporary Speaker (Sen. Veronica Maina): Resume your seat, Senator. Your time is up.

Sen. Mungatana, you may have the Floor.

Sen. Mungatana MGH: Madam Temporary Speaker, I would like to start by congratulating Sen. Munyi Mundigi for bringing this matter so that we have an opportunity to have an intellectual discussion in this House. I will only make two points quickly because the time is short.

The first one is that the alleged waiving of Article 37 to justify *maandamano* is wrong.

(Several Senators walked to the Dispatch Box)

Madam Temporary Speaker, can I be protected from this walking around because I am not able to focus.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, please let us have order. Resume your seats.

Sen. Mungatana MGH: We want to have an intellectual discussion. I want to make this point: They have waived Article 37, but they do not read that there is Article 39

which prescribes the freedom of movement. They do not read that there is Article 40, which prescribes protection of property. There is also Article 26 which gives the right to life.

Madam Temporary Speaker, if we are going to talk about the Constitution, then let us talk about the whole of that Constitution. Article 37 is not superior to the other Articles. That is my first point.

My second point is that it is calling this nation to anarchy if we operate outside the State and the Constitution. That is actually calling upon the destruction of the State. Those of us who have gone to school and learnt law were taught jurisprudence in year one and that there was an English philosopher called Thomas Hobbes.

Thomas Hobbes in his book *Leviathan* stated that in the state of nature, it was brute force that ruled society. Might was right. Then society developed and it created states. With the state, we as a society agree to surrender some of our powers to the executive and national parliament - and in this case the Senate and National Assembly - to the judges, so that there is social order.

We agreed as a State that this is where we will rule and this is where we will make laws and this is where, if issues arise, we will seek interpretation of these laws. Any attempt to operate outside the constitutional order creates anarchy.

Madam Temporary Speaker, I want to tell our leaders who are in the opposition that when you move out of the agreed state structure which we have put in the Constitution; if we have a problem, we shall go to the judges, when we want to create law, we shall go to the house of laws and when you want to execute, we shall go to the power that is the executive. When you move outside that you are going to create anarchy and we will have no State to talk about.

I am urging the Leader of Opposition, hon. Raila Odinga, together with Martha Karua, Eugene Wamalwa and Kalonzo Musyoka to operate within the law. This is the way forward for this nation. We will never reduce the cost of living and bring change by throwing stones.

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

The Temporary Speaker (Sen. Veronica Maina): Would you wish to be informed by Sen. Kinyua?

Sen. Mungatana MGH: Yes, Madam Temporary Speaker.

Sen. Kinyua: Bi. Spika wa Muda, Sen. Mungatana anawajua hawa watu kwa mienendo yao, mavazi yao na huka zao. Unakumbuka “Mla mamba” kama vile alivyokua akijiita nyakati zile, alipambana na huyu mtu.

Huyu mtu, na unamjua huyu mtu, alisumbua Rais Moi, akapewa uwaziri, kukatulia. Akasumbua Rais Kibaki na akaleta michafuko mpaka akapewa cheo cha waziri mkuu. Kutoka hapo, akasumbua Rais Uhuru kwa maandamano haya haya---

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang’ what is your point of order?

Sen. M. Kajwang’: Madam Temporary Speaker, you warned me and gave me directions that I should not use a point of information to debate. I complied and respectfully accepted your decision. Sen. Kinyua, who should know better because he has

been a Speaker in this House, is using a point of information to debate and talk about crocodiles, things that are not before the House. Please rule him out of order.

The Temporary Speaker (Sen. Veronica Maina): Sen. M. Kajwang', resume your seat now. Sen. Kinyua, give your information without bringing in a debate.

Sen. Kinyua: Bi. Spika wa Muda, ninakubali. Ni vizuri wajue ya kwamba ninampatia taarifa ambayo hakua anakumbuka. Kwa sababu amesema maneno mengi lakini ukweli wa mambo ni kwamba, mtu moja akinufaika, Kenya inakua nzuri. Tutakataa leo, kesho, kesho kutwa hata mtondogoo. Nashukuru, Bi. Spika wa Muda.

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

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, would you wish to be informed by Sen. Wafula?

Sen. Mungatana, MGH: No, Madam Temporary Speaker.

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

Sen. Mungatana, MGH: Madam Temporary Speaker, let me conclude by saying that it is serious and we need to agree that everything that will make this State stand must be done within the constitutional order that we agreed as a State. We cannot have people--

(Sen. Mungatana's microphone went off)

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi.

Sen. Osotsi: Madam Temporary Speaker, picketing and demonstrations are part of our democracy. It is not a surprise that those in Kenya Kwanza are against the demonstrations. History tells us that the top leadership of Kenya Kwanza were part of the system that derailed democracy in this country. So, they are doing what they were used to doing. Out there, Kenyans are hungry and angry because of the insensitive regime called Kenya Kwanza.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, what is your point of order? Sen. Osotsi, resume your seat.

Sen. Cherarkey: Madam Temporary Speaker, I rise under Standing Order No. 98---

Sen. Oketch Gicheru: *(Inaudible)*

The Temporary Speaker (Sen. Veronica Maina): Sen. Oketch Gicheru, you border on being out of order. Let us have order.

Sen. Cherarkey: Madam Temporary Speaker, I can forgive Sen. Oketch Gicheru because of the situation he is in. Standing Order No.98, 101 and 105 on contents of speech. Sen. Osotsi, who is my neighbour has alleged that the top leadership in the Kenya Kwanza administration have been against demonstrations.

We have not been against peaceful demonstrations. We have been against demonstrations that are violent where people are robbed, women are raped and prevents children from going to school; which are sponsored by the Azimio One Kenya Alliance of which he is a member.

Is he in order? If he has evidence to table before the House to prove and show that the top leadership of the Kenya Kwanza Government have been against those

demonstrations, let him bring it. We are only against demonstrations that are violent and are sponsored by the Azimio One Kenya Alliance.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.30 p.m. time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 19th July, 2023 at 9.30 a.m.

The Senate rose at 6.30 p.m.