

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

**Tuesday, 31<sup>st</sup> October 2023**

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

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

#### PRAYER

DETERMINATION OF QUORUM  
AT COMMENCEMENT OF SITTING

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

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

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

Serjeant-at-Arms, I am informed that we do have Quorum now. Kindly stop the Bell.

Clerk, proceed to call the first Order, please.

#### COMMUNICATIONS FROM THE CHAIR

RESUMPTION OF PART V OF THE SENATE CALENDAR, 2023

**The Speaker** (Hon. Kingi): Hon. Senators, I take this opportunity to welcome you back from the one-week recess. In accordance with the Calendar of the Senate for the regular sittings, Part V begins today, Tuesday, 31<sup>st</sup> October, 2023 and will conclude at the rise of the Senate on 7<sup>th</sup> December, 2023.

Hon. Senators, you will observe that this will be the last segment of the Senate Calendar (Regular Sessions of the Senate in 2023). It will be a short one at that, before the Senate undertakes the December-January recess.

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The resumption of regular sittings in this last part brings with it a certain degree of urgency to conclude the legislative agenda of the Senate. I believe that together we can navigate the intricacies of our legislative procedures and make meaningful contributions for the betterment of our country.

It is in this context, I urge that we redouble our collective efforts in a bid to conclude the business of the Senate by the close of the Session in December, 2023. I also urge the office of the Senate Majority Leader, the Senate Minority Leader and the committee chairpersons to do all that is necessary within the Standing Orders to expedite legislative processing.

Hon. Senators, I wish you fruitful deliberations and wish all of you well.

I have another Communication to make.

APPROVAL BY PARLIAMENT OF DEPLOYMENT OF NATIONAL POLICE  
SERVICE OFFICERS TO MULTINATIONAL SECURITY  
SUPPORT MISSION FOR HAITI

Hon. Senators, vide a letter, Ref. CONF/MINA/CS/VOL.1 dated 19<sup>th</sup> October, 2023, the Cabinet Secretary, Ministry of Interior and National Administration submitted a request to my office seeking the approval of the Senate for the deployment of officers from the National Police Service to the Multinational Security Support (MSS) Mission for Haiti.

The Communication from the Cabinet Secretary indicated that at the meeting held on Friday, 13<sup>th</sup> October, 2023, the National Security Council considered and approved a Memorandum, No. NSC (23) 13 from the Cabinet Secretary for Interior and National Administration and the Attorney General for the proposed deployment of officers from the National Police Service to the Multinational Security Support (MSS) Mission for Haiti, pursuant to Article 240 (8) (a) (i) of the Constitution.

Hon. Senators, Article 239 (1) of the Constitution states as follows -

“The National Security Organs are -

- (a) The Kenya Defence Forces;
- (b) The National Intelligence Service; and
- (c) The National Police Service.”

Further, Article 240 (8) (a) of the Constitution provides as follows -

“The Council may, with the approval of Parliament-

- (a) deploy national forces outside Kenya for -
  - (i) regional or international peace support operations; or
  - (ii) other support operations.”

Hon. Senators, this being a matter of immense national importance, I hereby refer the request of the Cabinet Secretary for Interior and National Administration to the Standing Committee on National Security, Defence, and Foreign Relations. The Standing Committee is required to consider the request, undertake public participation and table a report, thereon on or before 15<sup>th</sup> November, 2023, for consideration by the Senate.

I thank you.

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Hon. Senators, you may walk in.

*(Several Senators walked into the Chamber)*

*(Sen. Maanzo consulted loudly)*

Order! Sen. Maanzo, this is not an opportunity to exchange greetings. We have business to transact.

*(Sen. Olekina stood in his place)*

Sen. Olekina, kindly take your seat. I need to make a Communication.

VISITING DELEGATION OF MEMBERS  
OF STAFF FROM VARIOUS COUNTIES

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting delegation of members of staff from various counties undertaking the County Assembly's Legislation Tracker Training.

The County Assembly Legislation Tracker is a platform where information on legislation passed or being considered by the county assemblies is uploaded. The platform will also provide a centralized online space where members of the public and the relevant stakeholders may access Bills, legislation being processed by specific county assemblies and promote openness, transparency and public involvement in the legislative process as required under Article 196 of the Constitution.

It is envisaged that the Senate will utilize the system in accessing first-hand and synthesized information on Bills and Acts passed by the county assemblies in undertaking its oversight and legislative mandates.

It is for this reason that the Senate, with the support from the Westminster Foundation of Democracy (WFD), engaged a consultant to develop an online legislative database that will bridge the gap on information on the trends in enactment of legislation by county assemblies.

I request each member of staff represented to stand when their county is called out. The counties are-

Meru County, Marsabit County, Tana River County, Taita Taveta County, Lamu County, Kilifi County, Garissa County, Kericho County, Kirinyaga County, Laikipia County, Tharaka-Nithi county, Turkana County, Uasin Gishu County, Nyeri County, West Pokot County, Murang'a County, Baringo County, Nyandarua County, Trans-Nzoia County, Elgeyo-Marakwet County, Bomet County, Nairobi City County and Nandi County.

*(Applause)*

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

I call upon the Senate Majority Leader to welcome them in under one minute.

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I join you on behalf of the Senate of the Republic of Kenya to welcome this visiting delegation from our various county assemblies who are on a study tour of the Senate.

The Senate continues to make its contribution in growing and nurturing our various county assemblies through various avenues such as the one presented today before us.

It is my sincere hope that the delegation will get the full value of their time in the Senate and interact with our very competent, well-trained and able staff, so that as they retreat to their various county assemblies, they may pass on the same knowledge and skill to our various Members of County Assembly (MCAs).

Mr. Speaker, Sir, you know that despite the fact that we are on the third cycle of MCAs, many of them are yet to learn the art of legislative work. It is difficult to think off the top of your mind outstanding legislations that has come by way of Government Bills or privately sponsored in our county assemblies, that has significantly changed the way of life or even improved on the quality of life of the various people that these assemblies represent.

I believe that the training received by these senior staffers of our various county assemblies will go a long way in helping impart and pass on that knowledge. It is a fact and I need not to hide it. Even the Bills considered and passed by this House are done with a very great input and guidance of our members of staff.

I hope the colleagues that are here from the county assemblies get to learn and train our county assemblies as well.

I thank you, Mr. Speaker, Sir.

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

*(Sen. Omogeni and Sen. Oketch Gicheru walked into the Chamber)*

Sen. Omogeni and Sen. Oketch Gicheru, we are waiting for you to take your seats. Kindly, hasten.

*(Sen. Omogeni and Sen. Eddie Oketch walked into the Chamber)*

## MESSAGE FROM MERU COUNTY ASSEMBLY

### APPROVAL OF MOTION IN THE COUNTY ASSEMBLY TO REMOVE FROM OFFICE, BY IMPEACHMENT, THE GOVERNOR OF MERU COUNTY

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.48, I received the following Message from the Speaker of the County Assembly of Meru regarding the passage by the County Assembly of a Motion pursuant to Article 181

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of the Constitution and Section 33 of the County Governments Act, 2012, for the removal from office, by way of impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County.

The Message was transmitted to the Senate via a letter Ref. No. M/CARES/VOL.IV/43 dated Thursday, 26<sup>th</sup> October, 2023, signed by the Speaker of the County Assembly of Meru, and received in my Office on Friday, 27<sup>th</sup> October, 2023.

Pursuant to Standing Order No.48 (5) of the Senate, I shall now report the Message to the Senate.

“This is to inform you that on Wednesday, 25<sup>th</sup> October, 2023, the County Assembly of Meru, vide a resolution of the Assembly, and pursuant to the provisions of Article 181 of the Constitution of Kenya, 2010, Section 33 of the County Governments Act, 2012, as read together with the provisions of Standing Order No.65 of the County Assembly of Meru Standing Orders, approved the Motion to remove from office the Governor of Meru County by way of impeachment.

The purpose of this letter is to, therefore, inform you of the aforementioned resolution, and to forward the same to your esteemed office in line with the provisions of Section 33 (2)(a) of the County Governments Act, 2012 and Standing Order No.65 (6) of the County Assembly of Meru Standing Orders for your further action.

Attached herewith, please, find a schedule containing the bundle of documents, records containing evidence adduced notes and records of proceedings before the County Assembly for your reference and records.”

Sen. Sifuna, just walk in.

*(Sen. Sifuna walked into the Chamber)*

Hon. Senators, as stated in the letter from the Speaker of the County Assembly of Meru, the following documents were forwarded to the Senate, being the record of proceedings of the County Assembly and the evidence adduced in support of the impeachment Motion -

(1) Copy of approved Notice of Motion for the proposed removal from office of the Governor dated 16<sup>th</sup> October, 2023;

(2) Order Papers for the County Assembly sittings held on Tuesday 17<sup>th</sup> October (Morning Sitting) and Wednesday, 25<sup>th</sup> October, 2023 (Morning Sitting);

(3) Certified HANSARD reports of the Assembly sittings held on Tuesday 17<sup>th</sup> October, 2023 (Morning Sitting) and Wednesday, 25<sup>th</sup> October, 2023 (Morning Sitting);

(4) Certified HANSARD Reports of the Assembly sittings held on Wednesday, 18<sup>th</sup> October, 2023 (Afternoon Sitting) and Wednesday, 14<sup>th</sup> June, 2023 (Afternoon Sitting);

(5) Copy of certified signatures of County Assembly Members in support of the impeachment Motion for the removal of the Governor of Meru County, dated 25<sup>th</sup> October, 2023;

(6) Certified copy of Roll Call Vote of Wednesday, 25<sup>th</sup> October, 2023, on the Motion for the impeachment of the Governor of Meru County;

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(7) Copies of the County Assembly Reports referred to during the Debate on the Motion for removal of the Governor of Meru County-

(a) Report of the Select Committee on County Budget and Appropriations on the Budget Estimates of the County Government of Meru for the Financial Year 2023/2024 dated 13<sup>th</sup> June, 2023;

(b) Report of the Sectoral Committee on Justice, Legal Affairs and Cohesion on the Complaint by H.E the Deputy Governor, Meru County, to the County Assembly against his alleged exclusion from County Executive Committee Meetings and Non-Facilitation of his Office, dated 17<sup>th</sup> October, 2023; and

(c) Response to Petition No.4 of 2023 urging the County Assembly of Meru to investigate the alleged illegal employment of Traffic Marshalls by H.E the Governor, Meru County, and alleged illegal traffic charges by the Meru County Enforcement Department.

(8) Copy of a letter Ref. No. DOM/1/2023 dated 24<sup>th</sup> October, 2023 by M/S Dunstan Omari & Associates Advocates, addressed to the Speaker of the County Assembly of Meru;

(9) Copies of newspaper advertisements appearing on the *Standard* and *Daily Nation* of Wednesday, 18<sup>th</sup> October, 2023 and copies of invoices for radio advertisement in *Muuga FM*, calling for submission of memoranda on the Notice of Motion for the proposed removal from office of the Governor of Meru County;

(10) A HP flash disk 2GB containing video Annexures evidencing the particulars alleged in the Motion as well as voice advertisements on the public participation on the Motion run on *Meru FM* and the approved Notice of Motion and exhibits;

(11) Copy of public participation report dated 25<sup>th</sup> October, 2023 laid on the Table of the Assembly on Wednesday 25<sup>th</sup> October, 2023;

(12) Copies of written Memoranda both in support and against the impeachment, from different sub-counties and regions, submitted to the County Assembly during the public participation exercise on the Motion; and

(13) Booklet of the Third Edition of the County Assembly of Meru Standing Orders.

Hon. Senators, in terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act and Standing Order 80(1)(a) of the Senate Standing Orders, the Speaker of the Senate is required to -

“within seven days after receiving notice of a resolution from the Speaker of a County Assembly to convene a meeting of the Senate to hear charges against the Governor.”

Pursuant to Section 33 (3)(b) of the County Governments Act and Standing Order 80 (1)(a) of the Senate Standing Orders, I hereby proceed to read the charges against the Governor of Meru County as contained in the Motion of Impeachment by the County Assembly of Meru—

*(Sen. Osotsi stood at the Bar)*

Senator, kindly, take your seat.

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(Sen. Osotsi took his seat)

**Charge 1: Misappropriation and Misuse of County Resources**

The particulars of this allegation are that the Governor-

- (i) Embezzled County funds through the Governor's relatives;
- (ii) Withdrew county funds through false claims of payment for supplies and services rendered by the Governor's relatives, despite being ineligible to tender for or supply goods to the county Government;
- (iii) Paid "full salaries and benefits" for over a year to four high-ranking county officials, despite their not rendering any services to the county; and,
- (iv) Diverted and (mis)used county resources, including funds and motor vehicles, to support the Governor's private charity dubbed 'Okolea', despite previous promises to keep county operations and 'Okolea' operations separate.

**Charge 2: Nepotism and Related Unethical Practices**

The particulars of this allegation are that the Governor-

- (i) Fraudulently represented unqualified relatives as a "technical team" for medical equipment inspection in China;
- (ii) Employed one, Edwin Mutuma Murangiri, a nephew to her husband, in key county positions;
- (iii) Designated her brother-in-law, Nephath Kinyua, as Director of External Linkages without transparent and competitive recruitment; and,
- (iv) Assigned diplomatic duties with engagements with foreign diplomats and dignitaries to unqualified relatives.

**Charge 3: Bullying, vilification and demeaning other leaders**

The particulars of this allegation are that the Governor-

- (i) Excluded the Deputy Governor from County Executive Committee meetings and other official functions;
- (ii) Engaged in bullying and posted demeaning messages about the Deputy Governor in *WhatsApp* groups known as "3<sup>rd</sup> Government 012" and "County Admin Services" whose membership includes several officers who are subordinate to the Deputy Governor;
- (iii) Encouraged and condoned insubordination and the making of insulting and demeaning public utterances by subordinate staff against the Deputy Governor and other elected leaders;
- (iv) Encouraged and condoned the removal of the Deputy Governor by junior officers from official county *WhatsApp* forums;
- (v) Arbitrarily suspended, dismissed, withdrew and frustrated staff of the office of the Deputy Governor;
- (vi) Illegally, irregularly and fraudulently hounded the Deputy Governor's staff out of office by purporting to accept their non-existent resignations;
- (vii) Arbitrarily reduced, suspended and withdrew budgetary facilitation for legitimate operations of the Deputy Governor's office;

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(viii) Threatened to inflict bodily harm against the Deputy Governor orally and in *WhatsApp* chats;

(ix) Forcefully broke into and ransacked the Deputy Governor's office;

(x) Changed the locks to the said office;

(xi) Arbitrarily relocated the Deputy Governor's office;

(xii) Arbitrarily withdrew security from the Deputy Governor's residences;

(xiii) Persistently made demeaning public utterances against other elected leaders despite the same issue featuring prominently in previous impeachment proceedings;

(xiv) Made inciteful, insulting and demeaning remarks against other leaders, by falsely accusing them of cartelism at a presidential thanksgiving service held in Laare despite the issue arising in previous impeachment proceedings; and,

(xv) Encouraged, connived and condoned her husband's insulting and demeaning public utterances and musical performances against other elected leaders despite the issue arising in previous impeachment proceedings.

#### **Charge 4: Illegal appointments and usurpation of statutory powers**

The particulars of this allegation are that the Governor-

(i) Appointed Kenneth Mwiti Riungu as a Chief Officer without County Assembly approval;

(ii) Sent Dr. Ntoiti, CEO of the County Revenue Board; Paul Mwaki, CEO of Liquor Board; Kenneth Kimathi Mbae, Managing Director of Meru Microfinance Corporation; and Joseph Kithure Mberia, CEO, Meru County Water and Sanitation Services; on indefinite compulsory leave with full salary and benefits, in usurpation of the powers of the appointing authorities;

(iii) Deployed other persons to perform the functions of those sent on compulsory leave in breach of a court order;

(iv) Appointed unqualified persons as Acting Chief Officers without the requisite competitive recruitment and recommendation from the County Public Service Board;

(v) Recruited traffic marshals without involving the County Public Service Board (CPSB), disregarding the criteria for establishing county officers;

(vi) Usurped the powers of the CPSB by creating traffic marshal offices;

(vii) Employed an excessive workforce of over 100 personal staff in the Governor's office;

(viii) Designated and paid various cleaners as senior support staff, despite already having 16 support staff; and,

(ix) Appointed four individuals to hold county offices in an acting capacity for more than six months without proper authorization.

#### **Charge 5: Contempt of Court**

The particulars of this allegation are that the Governor grossly violated-

(i) Articles 10 and 73 of the Constitution;

(ii) Section 7 of the Leadership and Integrity Act; and,

(iii) Section 10 of the Public Officers Ethics Act by engaging in a contumacious stubborn refusal to obey lawful court orders.

#### **Charge 6: Illegally naming a public road after her husband**

The particulars of this allegation are that the Governor grossly violated -

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(i) Articles 10 and 73 of the Constitution; and,  
(ii) Sections 7 and 11 (1)(c) of the Meru County Honours and Awards Act, 2018, by naming a public road after her husband without following the applicable statutory procedures.

**Charge 7: Contempt of the Assembly**

The particulars of this allegation are that the Governor-

(i) Refused to honour summons from the County Assembly's Sectoral Committee on Justice, Legal Affairs and Cohesion to answer questions related to the impeachment Motion;

(ii) Directed her Chief of Staff to send a contemptuous letter to the Assembly in response to the summons for her to appear before the Sectoral Committee; and,

(iii) Through the CECM Finance and the County Secretary, refused to furnish documents to the Assembly on the grounds that an audit process was underway and that the matters raised by the Assembly were *sub judice*.

Hon. Senators, in terms of the way forward following the reading of the charges against the Governor, Standing Order No.80(1)(b) of the Senate Standing Orders, as read together with Section 33(3)(b) of the County Governments Act, gives the Senate two options on how to proceed with the matter.

The Senate may -

(a) by Resolution, appoint a Special Committee comprising eleven of its Members to investigate the matter; or,

(b) investigate the matter in plenary.

At an appointed time during this sitting, a Notice of Motion for the establishment of a Special Committee shall be given. Should this Motion be carried, the Special Committee will be required, under Section 33(4) of the County Governments Act and Standing Order No. 80(2) of the Senate, to investigate the matter and to report to the Senate on whether it finds the particulars of the allegations against the Governor to have been substantiated.

In the event that the Motion for the establishment of a Special Committee does not pass, the fall-back position is that the Senate shall proceed to investigate and consider the matter in Plenary.

In this event, I will appoint the dates on which the Senate will sit in Plenary to hear and determine the charges against the Governor.

Hon. Senators, it is noteworthy, and I wish to emphasize to all hon. Senators, that when we come to the debate on the Motion for the establishment of the Special Committee, debate on the Motion shall be limited to the substance of the Motion, principally, whether or not to establish the Special Committee.

It will not be a debate on the substance of the impeachment or its merits, propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

In the meantime, and during the pendency of the Impeachment process in the Senate, I wish to caution hon. Senators to desist from publicly commenting on the merits

or demerits of the impeachment Motion before the Senate. Doing so would amount to anticipation of debate which is an infringement of Standing Order No. 99.

Therefore, it shall be out of order, within the meaning of Standing Order No. 122, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, which is outside the confines of the impeachment proceedings as such comments may prejudice the just outcome of the process.

Hon. Senators, this is the third impeachment hearing in the 13<sup>th</sup> Parliament, and the second one involving the Governor in question. In undertaking this mandate, the Senate will be sitting as a *quasi-judicial* body and will conduct investigations into the alleged infractions of the Constitution and the law, and thereafter make its determination on the matter.

As such, this is a reminder that the impeachment hearing is not just a procedural formality; it is a fundamental process that plays a crucial role in upholding the principles of democracy and good governance. This hearing is one of the most crucial oversight tools and singular roles of the Senate.

I conclude by urging all hon. Senators to exercise the highest level of responsibility on this matter.

I thank you.

Next Order.

## PETITIONS

**The Speaker** (Hon. Kingi): Chairperson, Standing Committee on Roads, Transport and Housing, please, proceed.

Sen. Thang'wa, I just called the Chairperson, Standing Committee on Roads, Transport and Housing, to present a report. Is your report ready?

### REPORT ON PETITION: CONSTRUCTION OF A PEDESTRIAN BRIDGE AT CHIROMO AREA

**Sen. Thang'wa:** Mr. Speaker, Sir, I beg to lay the following Report on Petition on the Table of the Senate today, Tuesday, 31<sup>st</sup> October, 2023-

Report of the Standing Committee on Roads, Transportation, and Housing on a Petition to the Senate by Mr. Nickey Muoko Mwanicha regarding the construction of a pedestrian bridge at Chiromo along Waiyaki Way in Nairobi City County.

The Petition regarding the construction of a pedestrian bridge at Chiromo Nairobi was presented on 19<sup>th</sup> April, 2023, and committed to the Senate Standing Committee on Roads, Transportation and Housing for consideration.

This Petition was presented by Mr. Nickey Mwanicha whose prayer was that a pedestrian bridge be constructed in Chiromo Area, Nairobi.

In the consideration of the Petition, the Committee engaged the Ministry of Roads, Transportation and Housing, which committed to construct pedestrian bridges at five points along Wayaki Way.

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Whereas the Ministry of Roads, Transportation and Housing was not committed on the timelines when the construction of the pedestrian bridges would commence, the Committee has proposed the implementation of a milestone that will hasten the process of committal of budget for the construction of the pedestrian bridges.

The Committee---

*(Sen. Orwoba consulted Sen. Okiya Omtatah)*

**The Speaker** (Hon. Kingi): Order, Sen. Orwoba and Sen. Okiya Omtatah. Kindly take your seats. May the Senator be heard in silence.

**Sen. Thang'wa**: Thank you, Mr. Speaker, Sir. The Committee has also made recommendation in this Report for the implementation of short-term speed control measures to ensure pedestrian safety when crossing the highway.

As I conclude, the Committee did not meet the petitioner because it was difficult to reach him. At the time of submitting the Petition, he never left his email, telephone number or any contact. As such, the Committee has proposed an amendment to the Standing Orders of the Senate to provide, as a condition of admitting Petitions, that petitioners should provide their telephone contacts and email addresses so as to enhance communication between the House and the petitioners.

We never called that Petition a ghost Petition despite not reaching the petitioner. We worked diligently and the department has committed to construct five pedestrian crossing bridges along Waiyaki Way.

Mr. Speaker, Sir, I submit.

*(Sen. Thang'wa laid the documents on the Table)*

**The Speaker** (Hon. Kingi): Chairperson Standing Committee on Devolution and Inter-Governmental Relations, please, proceed.

Majority Leader, you are consulting rather loudly.

REPORT ON PETITION: LACK OF ABSORPTION OF CONTRACTED  
INSTRUCTORS UNDER THE ESP BY NYERI COUNTY

**Sen. Abass**: Mr. Speaker, Sir, I beg to lay the following Petition report on the Table of the Senate today, 31<sup>st</sup> October, 2023-

Report of the Standing Committee on Devolution and Inter-Governmental Relations, a Petition to the Senate by Julius Wairiuko Wanjohi concerning the lack of implementation of the absorption of contracted instructors under the Economic Stimulus Programme (ESP) by the County Government of Nyeri.

On 11<sup>th</sup> May, 2023, the Senate received a Petition from Mr. Julius Wairiuko Wanjohi concerning the lack of implementation of a resolution to absorb the contracted instructors under the Economic Stimulus Programme (ESP) by the County Government of Nyeri.

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The Petition was presented in the Senate on Wednesday, 24<sup>th</sup> May, 2023 by the Deputy Speaker, Sen. Kathuri, MP, pursuant to Standing Order No. 232 (1) (a) of the Senate Standing Orders. Consequently, the Petition stood committed to the Committee pursuant to Standing Order No. 238 (1) of the Senate Standing Orders.

Mr. Speaker, Sir, the issues raised in the Petition were that in July 1989, the Petitioner was employed by the then---

*(Se. Munyi Mundigi and Sen. Kathuri consulted loudly)*

**The Speaker** (Hon. Kingi): Order, Hon. Senators! May the Senator be heard in silence, please. Sen. Munyi Mundigi and my Deputy Speaker, please, consult in low tones.

**Sen. Abass:** The petitioner was employed by the Ministry of Education as a Carpentry Instructor II and posted to Kiaguthu Youth Polytechnic in Nyeri County. Following the promulgation of the Constitution of Kenya 2010 and the advent of devolution, the Youth Polytechnic Training function was subsequently transferred to the county governments pursuant to the Fourth Schedule of the Constitution of Kenya 2010. As a result, all the staff who were in the counties and performing devolved functions were deemed seconded to continue providing services.

In addition, on 2<sup>nd</sup> December, 2014, a consultative meeting was held between the Ministry of Devolution and Planning, the Ministry of Education, Science and Technology (MoEST) and the Transition Authority (TA) to address numerous issues that were facing the transition of youth polytechnics.

The meeting resolved, among others, that the contracts of the instructors under the Economic Stimulus Programme (ESP) be extended up to 30<sup>th</sup> June, 2015 and thereafter, the instructors be absorbed by the county governments on permanent and pensionable terms. The county governments were required to make budgetary provisions to pay the staff following the passage of the County Allocation of Revenue Act.

Further, the TA communicated the resolution to the county governments for implementation and thereby several counties implemented this resolution, except for the County Government of Nyeri.

Mr. Speaker, Sir, the petitioners' prayers were that the Senate looks into the matter with a view of ensuring an amicable solution into the issues raised in the Petition as well as make any other relevant recommendations in its consideration of the Petition. The Committee thereafter proceeded to consider the Petition extensively and the submissions received thereon.

It is noted that the Governor of Nyeri County Government, Hon. Mutahi Kahiga, EGH, being a key respondent to the issues raised in the Petition, was invited and, actually appeared before the Committee together with other officials from the County Government where he made submissions on the issues raised in the Petition. The petitioners were also present at the meeting that was held on Monday, 31<sup>st</sup> July, 2023.

Upon deliberations on the submissions, the Committee resolved that they would give 21 days for the County Government to attempt to resolve the matter at the county level and report back their decision to the Committee.

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The Committee received the written response on 24<sup>th</sup> August, 2023. Upon consideration of the response, the Committee made various observations and recommendations, which are set out in Chapter Four and Five of this Report, respectively.

Mr. Speaker, Sir, in summary, the Committee recommended on the Petition as follows-

(1) The subject matter in the Petition was canvassed in court where the suit was dismissed. The petitioners failed to follow through with the appeal. Further, prior to the hearing of the case- E&LRC Cause 264 of 2017, Joseph Gitonga Wachira & 41 others V CGN & 2 others (2020) eKLR, mediation efforts between the parties who included the petitioners, Nyeri County Government and the Nyeri County Public Service Board had failed. The Committee finds that the petitioners had not exhausted the court process to address their grievances. Therefore, the Committee finds prayers of the petitioners to the Senate not merited. However, the petitioners may consider further engaging with the Nyeri County Government and the Nyeri County Public Service Board through Alternative Dispute Resolutions Mechanisms to conclusively deal with the matter.

(2) The Inter-Governmental Relations Technical Committee (IGRTC) who took over the functions of the TA, Council of Governors (CoG) and the County Public Service Board National Consultative Forum should engage with a view of determining and resolving issues of the status of the grant instructors. A report on the resolutions should be submitted to the Senate within 90 days upon the adoption of this Report by the House.

(3) IGRTC and the COG should submit a report to the Senate on the employment status of other employees seconded to the county governments at the onset of devolution among them Early Childhood Development Education (ECDE) teachers, Technical and Vocational Education and Training teachers, Community Health Volunteers (CHV), among others.

(4) IGRTC should conduct an audit on the status of the transfer of functions under the Fourth Schedule of the Constitution and submit a report to the Committee. This should highlight the status of the youth polytechnic function, which is the main issue in the Petition, hence guiding on the measures to be taken to resolve this and other related issues.

Mr. Speaker Sir, may I take this opportunity to commend the Members of the Committee for their devotion.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support.

It is, therefore, my pleasant duty, pursuant to Standing Order No. 228 (4) (a), to present the report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of a Petition concerning lack of implementation of a resolution to absorb the contracted instructors under the Economic Stimulus Programme (ESP) by the County Government of Nyeri.

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

**The Speaker** (Hon. Kingi): The Chairperson, Standing Committee on National Security, Defence and Foreign Relations.

REPORT ON PETITION: RECOGNITION AND  
REMUNERATION OF VILLAGE ELDERS

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I beg to lay the following Petition Report on the Table of the Senate, today, 31<sup>st</sup> of October, 2023-

Report of the Standing Committee on National Security, Defence and Foreign Relations on a Petition to the Senate by Benson Nyaga Kagete concerning the recognition and Remuneration of Village Elders under the *Nyumba Kumi* Initiative.

Mr. Speaker, Sir, the Petition by Benson Nyaga was presented to the Senate on 21<sup>st</sup> June, 2023 and it was committed to the Standing Committee on National Security, Defence and Foreign Relation for consideration.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Sen. Karungo and team!

**Sen. Cheptumo:** Pursuant to Standing Order No.238(1), the Committee was required to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

The major issues raised in the Petition were as follows-

(1) Village Elders play an integral role in the functioning of the national Government at the village level by helping chiefs and assistant chiefs in the maintenance of law and order, promoting education and promotion of development through the *Nyumba Kumi* Initiative.

(2) These officers discharge these important roles without any remuneration by the Government. Hence, they are not motivated.

(3) There is no law regulating and guiding the observation of employment of the village elders into the existing governance structure. In particular, the National Government Coordination Act No.1 of 2013 does not define a village as the lowest administrative unit after a sub-location.

(4) There is a need to put in place criteria for the establishment of a village considering the population, geographical, and sub-cultural factors.

Mr. Speaker, Sir, in light of the above, the petitioner prays that the Senate-

(a) Amends the National Government Coordination Act No.1 of 2013 to provide for the village as the lowest administrative unit after the sub-location re-establishment of a village council;

(b) Cause the Ministry of Interior and National Administration to develop a comprehensive policy on recruitment and remuneration of the village elders and in particular, a policy to cover the terms of engagement, functions of the village elders, criteria for recruitment and termination of engagement;

(c) Make any other order that deems fit in the circumstances in the Petition.

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Mr. Speaker, Sir, in considering the Petition, the Committee first met with the petitioner to better understand the issues raised in the Petition and the remedies that were sought from the Committee and the Senate.

The Committee subsequently held meetings with the CoG, Mr. Joseph Kaguthi, EBS, former Chairman of the *Nyumba Kumi* initiative task force and the Cabinet Secretary Ministry of Interior and National Administration to deliberate and receive submissions on the Petition.

There are summaries in chapter two of the report, which we have tabled today.

The Committee made the following observations:

(i) That there was a mis-construction of village elders and *Nyumba Kumi* officials by the petitioner. Whereas the village elders have been playing a critical role at the local level, *Nyumba Kumi* officials were introduced with the introduction of the *Nyumba Kumi* initiative as a model for community policing. *Nyumba Kumi* officials are elected from its membership and range from women, youth and elders.

(ii) There exists an adequate legal framework on the establishment of village elders in the decentralised county government. Establishment of the village councils and remuneration of village elders are provided under Sections 48, 52, 53 and 54 of the County Governments Act No.17 of 2012.

(iii) The Committee observed that in a majority of the counties, a ward is divided into two, three and four village units. Further, Section 52 and 53 of the County Governments Act No.17 of 2012 provide for the establishment of the office of the village administrator and village councils comprising not less than three and not more than five village elders for the coordination and management of county administration functions in the villages.

(iv) Section 53(4) provided that the elder shall be paid allowances and shall be determined by the respective county assemblies. Mr. Speaker, Sir, that is a very important point.

(v) Section 41 of the National Police Service Act of 2011, which establishes the county policing authority is yet to be effected by the counties. So far, no county has an existing county policing authority whose function is to provide a platform through which the public participates in all the aspects relating to county policing, ensuring policing accountability to the public, and receiving reports from community policing forums and committees.

(vi) Mr. Speaker, Sir, the Committee further observed that the National Government Coordination (Amendment) Bill (National Assembly Bills No.13 of 2023) sponsored by Hon. Moses Malulu, MP, was read a First Time in the National Assembly on 7<sup>th</sup> June, 2023.

The Bill was developed to amend the National Coordination Act to recognise the village elders who perform the national Government functions. It seeks to take cognisance of existing village units and provide establishment of village councils and appointment of village elders as well as payment of allowances.

Further, it proposes that village units should have village councils headed by a village administrator working with the village elders.

In light of the observations made, the Committee, therefore, recommends as follows:

1) That the National Government Coordination Act No.1 of 2013 and the County Governments Act No.17 of 2012 be reviewed and amended in order to ensure harmonisation in the establishment, structure and functions of the village elders at both the county and the national levels.

2) In order to fully realise the gains of community policing initiatives at the county level, the Ministry of Interior and National Administration should implement the provisions of Section 41 of the National Police Service Act No.11(a) of 2011 through the establishment of the county policing authorities at the county levels and provide a status report to the Senate within six months from the date of this Report.

Thank you, Mr. Speaker, Sir.

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

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

### PAPERS LAID

**The Speaker** (Hon. Kingi): Proceed, Senate Majority Leader.

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, I beg to lay the following papers on the Table of the Senate, today, 31<sup>st</sup> October, 2023 on behalf of the Senate Majority Leader-

#### REPORT ON THE STATUS OF ALCOHOL AND DRUG ABUSE CONTROL IN KENYA

The 17<sup>th</sup> Edition of the Bi-Annual Report on the Status of Alcohol and Drug Abuse Control in Kenya.

#### REPORT ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY ENTITIES

Report of the Auditor General on the financial statements of the Iten County Referral Hospital, County Government of Elgeyo Marakwet for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the financial statements of the Kapsabet County Referral Hospital, County Government of Nandi for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the financial statements of the Karatu Level 4 Hospital, County Government of Kiambu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the financial statements of the Kinango Sub-County Hospital, County Government of Kwale for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the financial statements of the Karatina Sub-County Hospital, County Government of Nyeri for the year ended 30<sup>th</sup> June, 2022.

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

**The Speaker** (Hon. Kingi): The Chairperson, Standing Committee on Finance and Budget. The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights?

REPORT ON CONSTITUTION OF KENYA (AMENDMENT)  
BILL (SENATE BILLS NO.15 OF 2023)

**Sen. Wakili Sigei:** Thank you, Mr. Speaker, Sir. I beg to lay the following paper on the Table of the Senate, today 31<sup>st</sup> October, 2023-

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya (Amendment) Bill (Senate Bills No. 15 of 2023).

Briefly, Mr. Speaker, Sir, the Constitution of Kenya Amendment Bill (Senate Bills No.15 of 2023) ---

**The Speaker** (Hon. Kingi): Sen. Wakili Sigei, just table and leave it at that.

**Sen. Wakili Sigei:** Mr. Speaker, Sir, I beg to lay. Thank you.

*(Sen. Wakili Sigei laid the document on the Table)*

**The Speaker** (Hon. Kingi): Next Order. Senate Minority Whip, hon. Sen. Olekina.

### NOTICE OF MOTION

ESTABLISHMENT OF A SPECIAL COMMITTEE TO INVESTIGATE THE  
PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF  
THE GOVERNOR OF MERU COUNTY

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

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Wednesday, 25<sup>th</sup> October, 2023, the Meru County Assembly approved a Motion to remove from office, by impeachment, Hon. Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. M/CARES/VOL.IV/43, dated 26<sup>th</sup> October, 2023, and received in the Office of the Speaker of the Senate on Friday, 27<sup>th</sup> October, 2023, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

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AND WHEREAS, pursuant to Section 33(3)(b) of the County Governments Act, and Standing Order No. 80(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

NOW, THEREFORE, pursuant to Section 33(3)(b) of the County Governments Act, and Standing Order No. 80(1)(b), the Senate resolves to establish a Special Committee comprising of the following Senators-

1. Sen. (Dr.) Boni Khalwale, CBS, MP
2. Sen. Jackson Mandago, EGH, MP
3. Sen. Karungo Than'gwa, MP
4. Sen. Esther Okenyuri, MP
5. Sen. Ali Roba, EGH, MP
6. Sen. Peris Tobiko, CBS, MP
7. Sen. Enock Wambua, CBS, MP
8. Sen. Abdul Haji, MP
9. Sen. Okoiti Okiya Omtatah, MP
10. Sen. Crystal Asige, MP
11. Sen. Shakila Abdalla, MP

to investigate the proposed removal from office of the Governor of Meru County and pursuant to Standing Order No. 80(2), to report to the Senate, within 10 days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

**The Speaker** (Hon. Kingi): Hon. Senators, at this juncture, you will allow me, and this is for the convenience of the House, to rearrange the sequence of today's Order Paper and straightaway, we move to prosecute Order No. 9 in the Order Paper.

Clerk, proceed to call that Order.

Proceed, Senate Minority Whip.

### MOTION

#### ESTABLISHMENT OF A SPECIAL COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF MERU COUNTY

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion- THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Wednesday, 25<sup>th</sup> October, 2023, the Meru County Assembly approved a Motion to remove from office, by impeachment, Hon. Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. M/CARES/VOL.IV/43, dated 26<sup>th</sup> October, 2023, and received in the Office of the Speaker of the Senate on Friday, 27<sup>th</sup> October, 2023, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

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6. Sen. Peris Tobiko, CBS, MP
7. Sen. Enock Wambua, CBS, MP
8. Sen. Abdul Haji, MP
9. Sen. Okoiti Okiya Omtatah, MP
10. Sen. Crystal Asige, MP
11. Sen. Shakila Abdalla, MP

to investigate the proposed removal from office of the Governor of Meru County and pursuant to Standing Order No. 80(2), to report to the Senate, within 10 days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

Mr. Speaker, Sir, while moving this Motion, I want to make it evident that impeachment---

*(Several Senators consulted loudly)*

**The Speaker** (Hon. Kingi): Order, hon. Senators! May the Senate Minority Whip be heard in silence.

Proceed, Senator.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. While moving this Motion, I am cognizant of the fact that an impeachment process determines the future of an individual.

Mr. Speaker, Sir, I have sat here through various impeachment processes. Some of them were carried out through Plenary and others through committees. I strongly feel that this House needs to consider adopting a committee to investigate the allegations. I listened to you read the charges and they were so detailed that they require proper investigation.

I heard you note a charge on misappropriation of funds. Having in mind Article 179 of the Constitution of Kenya and in line with the various duties assigned to various officers. The framers of the Constitution envisioned a situation where the executive authority of the county will be vested and exercised by the executive committee. The executive committee comprises of the governor, deputy governor and the County Executive Committee Members (CECMs).

*(Loud consultations)*

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

**Sen. Olekina:** Mr. Speaker, Sir, the only way to give both the people and the Governor of Meru County – who is now on trial at this Chamber – an opportunity to get justice is by allowing a Special Committee to go through all those documents. A Committee will also get an opportunity to invite the Controller of Budget and look at the substance of the allegations of misappropriation of funds.

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

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I refer to your earlier ruling and direction that in the debate and moving of the Motion of such nature, the form or substance should not be referred to at any given point.

Can you rule the Mover of the Motion, Sen. Olekina, to be totally out of order for trying to engage on the form, substance and process? He has even invoked that the Controller of Budget will be invited and has mentioned documentation. I thought that you guided “Solomonically” through the Wisdom of Solomon by saying that it is only the procedure and the process. Could he be called out of order?

**The Speaker** (Hon. Kingi): Senate Minority Whip, as you move this Motion, just confine your moving speech to the merits of having a Special Committee as opposed to the Plenary. Just convince your colleagues why you feel a Special Committee is more effective compared to the Plenary.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. The HANSARD will bear me witness. I will not stand here and assume to know the merits and demerits of the charges of the impeachment. What I referred to is solely what you read as the charges.

I am only trying to persuade my colleagues to think critically about the position that they will be given in this House, to analyse the evidence, which shall be adduced in this House by the Assembly as well as the County Governor who is now being accused here.

I have demonstrated clearly and I plead with particularly the Senator for Nandi County because we have sat in this Chamber together. We have looked at bundles of documents and played some videos here. Sometimes they did not play very well when we were impeaching other governors.

If you compare apples to apples, you will find that the only time you can give justice to an impeachment is when 11 distinguished men and women we are proposing today will go through the evidence in a Committee sitting. Even though this is a political process, you clearly indicated as per Article 125 of the Constitution, that whenever we sit, we have the same powers as the High Court.

I persuade both sides of the divide in this House to consider giving these 11 distinguished Senators an opportunity to go through the evidence. I note clearly---

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

**Sen. Olekina:** What is the point of order now?

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

**Sen. Olekina:** Mr. Speaker, Sir, I note clearly that the Majority side proposed the Members who sat in the previous Committee. There is logic there because they got an

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opportunity to go through the evidence that was adduced by the Assembly when they were impeaching the Governor. I see wisdom there.

I know that during the impeachment of Governor Wambora, the Senate had a Committee of 11 Members. When the Governor was brought back here---

*(Loud consultations)*

Order, hon. Senators!  
Proceed, Sen. Olekina.  
**Sen. Olekina:** When---

*(Loud consultations)*

Mr. Speaker, Sir, please, protect me from---

**The Speaker** (Hon. Kingi): Senator, you are fully protected. Kindly proceed.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I wish that my brother could read the HANSARD of this House. What I am saying is factual.

I am happy to see Sen. (Dr) Khalwale being proposed to sit in this Committee. Trust me, this House will decide. The beauty of going through a Committee is that the Senate will be given a second chance to have a bite on the cherry. The moment it goes to the Committee, it will also be---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, hon. Senators! You will make those points when debating this Motion

**Sen. Olekina:** I am solely moving. I want to convince---

**The Speaker** (Hon. Kingi): Reserve your comments to the contribution.

**Sen. Olekina:** Mr. Speaker, Sir, the beauty of me moving is that you have the liberty of saying 'yes' or 'no.' You can say that you do not support it, which will be proper.

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

**Sen. Olekina:** Mr. Speaker, Sir, for me to make my case, I persuade Senators because we represent 47 counties and serve in committees--- When we sit in committees, most of the time we go through volumes of documents to be able to interrogate governors. If you do not take the time to look into the evidence properly, you will be doing this House a disservice.

I sat on this same chair when we were removing Governor Mike Mbuvi Sonko. On that particular day, Senators did not have a chance to interrogate the Governor who was being removed. The two lawyers made their case there. After that, we went on camera and then we came back in and voted.

I beseech Hon. Senators that I am not discussing the merits or demerits of the case. I would like to persuade you to consider giving these 11 Members an opportunity to interrogate this matter through the Committee.

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*(Sen. Cherarkey consulted loudly)*

Mr. Speaker, Sir, can you, please, protect me from the back and forth shouting of Sen. Cherarkey?

**The Speaker** (Hon. Kingi): Sen. Cherarkey, you only speak through the Chair. Do not engage your colleague directly.

**Sen. Olekina**: Mr. Speaker, Sir, we are all grown-ups.

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

**Sen. Olekina**: Mr. Speaker, Sir, I plead with you because ultimately, the 47 delegations will make their choice. They will decide whether to confirm the impeachment of the Governor or give the Governor another second chance to continue.

The only thing I want to persuade you today is that for the history and also the importance of this House, whenever you point a finger, remember there is a finger that is pointing right back at you.

An impeachment process is a very painful process to go through. It is important to know the consequences and also the unintended consequences. I do not care how anyone votes. I think all of us will vote based on our own conscience. I care about the process of coming up to that vote. That is why I want to persuade my colleagues because a Committee will give us an opportunity to read a report from 11 distinguished Members of this House after they have carried out an investigation on those allegations. They will be able to tell us whether those charges were substantiated or not.

Anything we do in this House goes on record. I am very happy to propose the Committee way because of two reasons, so that I request Sen. Crystal Asige to second this Motion.

When we go through the Committee, it will not be sitting here and listening to two lawyers. It will be our colleagues telling us that “we went through the documentation and found ‘a’, ‘b’, ‘c’ and ‘d’ based on this. These are our observations and recommendations.”

It will also give us an opportunity to be able to show Kenyans and the world who are watching that the Senate - even though it is not a court of law - can carry out the functions---

*(Sen. Cherarkey stood in his place)*

Please, let me finish and then you can call your point of order.

**The Speaker** (Hon. Kingi): Sen. Cherarkey, what is your point of order? The very last point of order on this matter.

**Sen. Cherarkey**: Mr. Speaker, Sir, I hope it is not the last for the day because I have several.

Mr. Speaker, Sir, I am standing under Standing Order Nos.80 and 105. Is it in order for Sen. Olekina, the Mover of the Motion, to mislead us and the public that when it goes to the Special Committee, it is the only time the feedback will only be through our Members? Yet he knows very well as a senior ranking Member that when a governor

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appears through Plenary, he or she has an option of either representing herself or himself or through the legal representatives. Is it in order to mislead the country that is the only option as per Standing Order No.105---

*(Sen. Sifuna spoke off record)*

**Sen. Cherarkey:** Stop pointing at me. We are not somewhere in a *Maandamano* my friend.

**The Speaker** (Hon. Kingi): Sen. Sifuna, it is only the Chair who determines whether a point of order stands or is overruled.

Sen. Cherarkey, you have made your point of order, kindly take your seat.

Sen. Olekina, kindly, proceed as that does not warrant being called a point of order. Just proceed and conclude.

**Sen. Olekina:** Mr. Speaker, Sir, those are points of annoyance because I am not discussing the merits or demerits of the case. I am only trying to demonstrate to my colleagues why I am proposing the committee way.

I want to plead with my colleagues to listen to me and me an ear because, ultimately, they will make the decision. Today, considering myself as a ranking Member of this House, I have sat through maybe four or five impeachment processes.

The reason I am suggesting to my colleagues that we should consider passing this resolution is because I have experience. It will be upon the 47 Delegations to make a decision on whichever way they want to deal with this matter. I have told you the advantages of a committee and the disadvantages of a Plenary.

The reason I believe and this is the point that I was trying to prosecute earlier, that a committee is what would be able to give the people of Meru and the Governor justice is because, as we sit here, as per Article 125 of the Constitution, we have quasi-judicial powers. We have the same powers as the High Court.

Mr. Speaker, Sir, when we decide, it is imperative and important that we become future-centric. Whatever decision we make today when we stand here to defend in whichever way - either to send the Governor home or to save the Governor, it is something which will go on record. Our children and future generation will be able to look back and say that House gave justice to the Governor and the people of Meru County.

Mr. Speaker, Sir, I consider this House as the House of union and reason. This is the only House where a Senator from Lamu who has 90,000 people, will sit with the Senator of Nairobi, who has about 5 million people. Each one of them will have one vote. That is why I say it is a House of union.

We are called upon to oversight our counties and that is the reason we are the court that would be able to file. One thing I want to remind my colleagues is that we do not impeach a governor. The Senate does not impeach a governor. A governor is impeached at the county assembly. The only thing we do here is to confirm the charges. We are sitting as judges.

That is why I am pleading with colleagues that for us to be able to understand this process very well, we need to go the committee way. We should trust the distinguished

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men and women who represent counties and the Senate of the Republic of Kenya to go through the documentation. They will come back and tell us, “colleagues, distinguished Senators, this is what we have found.” We do it very well.

I am one of those people who believe - and you will go through the experience - that if you chose to go the Plenary way, you will get bored here, walk out and the two lawyers will rant and say whatever they want to say.

*(Sen. Cherarkey and Sen. Orwoba consulted loudly)*

Sen. Cherarkey, you will have an opportunity to make your case---

**The Speaker** (Hon. Kingi): Order! Sen. Cherarkey and Sen. Orwoba, we are not in a soccer match where you can boo if you do not like the player.

*(Laughter)*

This is the Plenary.

Proceed, Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, as I conclude, I now understand why a former colleague said that if--- Let me quit it there.

It is important for us to reason. I want to plead with you, as I call my colleague, Sen. Crystal Asige, to be able to second this Motion, to consider the committee way because, today, you are sitting there and tomorrow you will be a governor. When you are a governor, you will want to be given an opportunity to be heard, asked questions and be represented.

Finally, as I move, I hope that wisdom will prevail and that the Senator who was told that if the President was thinking like him will not have a country. I am actually see sense in all these that I am trying to persuade my colleagues that we go committee way.

Mr. Speaker, Sir, I beg to move and request none other than Sen. Crystal Asige to second.

*(Sen. M. Kajwang' stood in his place)*

**The Speaker** (Hon. Kingi): Sen. M. Kajwang' you know you cannot stand on a point of order when there is no Senator on the floor.

*(Sen. M. Kajwang' spoke off record)*

He is done and he would not be able to come back.

*(Sen. M. Kajwang' stood in his place)*

Is it a point of order? He has moved a Motion and called upon Sen. Crystal Asige to second. Alright, what is your point of order?

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**Sen. M. Kajwang’:** Mr. Speaker, Sir, the tradition of this House is that when a Member is nominated to be in a committee or a sub-committee and their names are on the Order Paper, they do not move or second the Motion.

Mr. Speaker, Sir, when I look at this list, I see Sen. Crystal Asige as being Member No.10 on this Committee. Is it in order looking at the precedence and the traditions of the House to have Sen. Crystal Asige be the Secunder?

I think there could be 60 other Senators who are perfectly qualified to second. I have no problem with Sen. Crystal Asige doing it, but it has been our tradition that we do not do it that way.

**The Speaker** (Hon. Kingi): That point of order is sustained and, certainly, Sen. Crystal Asige cannot be the one to second this Motion.

**Sen. Olekina:** Mr. Speaker, Sir, I appreciate the wisdom of my colleague, Sen. M. Kajwang’, and love the fact that he is a stickler to the procedures. That is all we are talking about here.

Mr. Speaker, Sir, I beg to move and request Sen. Sifuna to second.

**Sen. Sifuna:** Mr. Speaker, Sir, I rise to second the Motion by the Senate Minority Whip, Sen. Olekina. Allow me to begin with the words that you used in your Communication this afternoon; that, in fact, this is a fundamental process in good governance and upholding of democracy.

I remember you calling us to order and to treat this particular process with the highest level of responsibility. I do not take my duties as a Senator of Nairobi City County lightly, especially not when it comes to the process of impeachment of a governor. I consider myself more a debating machine than a voting machine. I do not want to allude anything on any other Senator. However, as for me, the reason I am in this House is first to debate before questions are put to the vote. The colleagues who insist on straight up going to the vote are doing themselves a disservice.

There is a song that I like by Emeli Sande. In her song, she says, ‘if you can never sing your song, how are we supposed to learn it?’

**A hon. Senator:** Sing it!

**Sen. Sifuna:** I would want to hear my colleagues debating and convincing me why of the two options that are available to the House, the Plenary is the best for me.

I am here to do one thing and one thing only. First, I thank the Senate Business Committee (SBC) because in the morning, we were asking ourselves whether we should recommend or whether we should make available both choices for the House. In fact, in the wisdom of the Chair, you ruled that this is a choice for this House; that both of those choices must be put before the Members.

Let the debate ensue and people convince each other as to why one is better than the other. I also have the benefit of having been a Member in the last impeachment process of Governor Kawira. My colleague from Kakamega County, Sen. (Dr.) Khalwale, very ably led that Committee.

Mr. Speaker, Sir, I am convinced that the committee way is the best when it comes to impeachment of a governor. I will give the reasons as to my position. Firstly, this is a serious matter, not just for the Governor herself, but also for the people of Meru County.

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As a firm believer in devolution, I want counties to work. We fight every day here to get extra resources for these counties, for them to be able to work. Nobody is happy when we have dysfunctional county governments. However, the threshold for removal of a Governor has been set in the law. It is the responsibility of this House to find out whether on the facts and the evidence that the threshold has been met.

In my submission, it is close to impossible in an interrogation such as the one that happens in Plenary, to establish the facts and the law of the allegations and whether that threshold has been met.

Secondly, I believe the responsibility of oversight of counties, especially of impeachment of governors is placed on the entire House; all 67 of us. I do not see why, for instance, anyone would want to strip themselves of a role in this process by refusing the committee way. One unique thing about the committee way is that our nominated colleagues get an opportunity to have a say in a matter as important as the impeachment of a governor. If you do not go the committee way, as you know, when it comes to voting---

*(Sen. Orwoba spoke off record)*

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

**Sen. Sifuna:** Mr. Speaker, Sir, when it comes to voting only the heads of delegations at the Plenary will get to vote. This matter should be common knowledge to anybody sitting in this House, unless you do not know where you are. If we want to interrogate the evidence, to sift the noise, because there has been a lot of noise in social media and on the mainstream media about what is happening in Meru County---

I beg this House not to join the cacophony of noise just for the sake of it. We should do a proper analysis of the evidence and facts and reach a determination that will be in the best interest of the people of Meru County.

I have never experienced a Plenary, but those of us - our colleagues -who have been there, have advised that some of the privileges, for instance, when we were sitting in the last Committee---

*(Sen. Cherarkey spoke off record)*

Mr. Speaker, Sir, I honestly wish that you bring Sen. Cherarkey to order because he is in the habit of shouting at people when they are talking here. If he has a point of order, let him raise it in the manner that---

**The Speaker** (Hon. Kingi): Sen. Cherarkey, I am giving you the final warning for the day. If you have anything to say, speak through the Chair. Do not engage your colleagues directly.

Sen. Kathuri, what is your point of order?

**Sen. Kathuri:** Thank you, Mr. Speaker, Sir. The Mover and the Seconder of this Motion have mentioned Meru County severally and stated that they know what is best for the county. If there is anyone who knows what is best for my county is none other than

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Sen. Kathuri Murungi. I wish that he consulted me because they are advocating Meru County issues in a very different manner.

When you are either Moving or Seconding, give your reasons without mentioning the great Meru County *tafadhali*. I beg.

*(Applause)*

**The Speaker** (Hon. Kingi): Sen. Kathuri, that point of order is overruled. The role of the Senate is to offer oversight to all counties, including Meru. The subject matter of the Motion that we are moving is Meru County. You cannot contribute without mentioning Meru County.

Sen. Sifuna, kindly proceed.

*(Loud consultations)*

**Sen. Sifuna:** Mr. Speaker, Sir, I thank you for that protection. By the time the matter is brought to us, it is an indication of a failure of leadership in Meru County. We are here to deal with the problems you should have sorted out at home.

*(Loud consultations)*

Let me conclude by saying that, that is the work of the Senate. It is the constitutional mandate of Senate.

**A hon. Senator:** He is out of order.

**The Speaker** (Hon. Kingi): Sen. Sifuna, I will not allow you to start throwing jabs. Proceed to conclude.

*(Applause)*

**Sen. Sifuna:** Mr. Speaker, Sir, the jab has already landed. I can see it is working. I withdraw the jab.

I beg the House that we go the route of a Committee that will enable us to interrogate the facts and interview witnesses.

Sen. (Dr.) Khalwale will bear me witness that the last time we were in this similar committee, the witnesses would take oath there and you would subject them to cross-examination. The people who have experience with Plenary, such as Sen. Olekina - unless he was misleading me - has told me of a different story when it comes to Plenary. We will not be able to do the sort of cross-examination that we get opportunity to do in committee. If we are going to follow your words of exercising the highest level of responsibility in this particular matter, knowing what is at stake---

By the way, we never pretend to know what is best for the people of Meru County. We must undertake our constitutional function, in a manner that is in the best interest of the people of Meru County. That is not to pretend that we know better or more than those who come from there.

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Mr. Speaker, Sir, with those many remarks, I second this Motion and hope that our colleagues will adopt the same and proceed in that particular fashion.

I thank you.

*(Several Senators stood in their places)*

**The Speaker** (Hon. Kingi): Hon. Senators, kindly take your seats. Sen. Okiya Omtatah, *unaleta matata. Tafadhali keti.*

Sen. Nyamu and Sen. Abdalla, kindly take your seat.

*(The Senators resumed their seats)*

Hon. Senators, I will now proceed to propose the question.

*(Sen. Nyamu and Sen. Cherarkey spoke off record)*

Order, Sen. Nyamu and Sen. Cherarkey.

**Sen. Sifuna:** Throw him out.

**The Speaker** (Hon. Kingi): Sen. Sifuna, if I am to throw out Sen. Cherarkey, you may have to follow behind.

*(Laughter)*

Hon. Senators, allow me to propose the question.

*(Question proposed)*

Hon. Senators, we will proceed to call any interested Senator to make their contribution to this Motion.

What is your point of order, Senate Majority Leader?

## PROCEDURAL MOTION

### LIMITATION OF DEBATING TIME

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I rise pursuant to Standing Order No.111(1) on Limitation of Debate. This is a simple Procedural Motion. We need to agree on whether to proceed by way of Committee or Plenary.

I propose that each Senator gets three minutes to convince the House to either agree or disagree with the Motion. If this finds favour with my colleagues, we can limit time so that Senators can speak on this matter.

I invite Sen. Nyamu to second.

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

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**The Speaker** (Hon. Kingi): Hon. Senators, we do not need to debate this Motion. We can strike a consensus that each Senator speaks for three minutes.

*(Applause)*

If this is the consensus, we should proceed.

Sen. (Dr.) Murango, proceed.

**Sen. (Dr.) Murango:** Asante, Bw. Spika, kwa kunipa nafasi hii. Nimesimama hapa kimasomaso, mchana peupe, kupinga Hoja hii iliyoletwa na Mratibu wa walio Wachache katika Seneti.

Sisi si jongoo, tunavichwa vyetu na tunaweza kufikiria kibinafsi. Hapa Seneti, Hoja inayofaa kuungwa mkono na pande zote mbili, huletwa na Kiongozi wa Walio Wengi. Hoja hii huungwa mkono na Kiongozi wa Walio Wachache.

Leo Hoja imefadhiliwa na Mratibu wa walio Wachache na kuungwa mkono na mdogo wake. Hii inaashiria kuna azimio fiche kwenye tendo hili.

*(Applause)*

Maseneta vijana katika Seneti wanafaa kupewa nafasi ya kusikiza, ‘kunusa,’ ‘kuonja’ na kusoma Hoja inayoletwa katika Seneti. Ukiangalia orodha ya Maseneta ambao inapendekezwa waunde Kamati, katika upande wa walio wengi, ni wale ambao walikuwa wakati Gavana wa Meru aliletwa hapa Seneti mara ya kwanza. Hii inanyima nafasi Maseneta wengi vijana walio katika upande wa walio wengi. Hoja iletwe kwenye kikao cha Seneti.

Sitakubaliana na maoni kuwa wakati Gavana ataletwa kwenye kikao cha Seneti, hatasikizwa. Kwenye Bunge la Kaunti la Meru, Wawakilishi Wadi 59 walisikiza na wakapitisha Hoja.

Naomba Maseneta wa upande wa walio wengi tusifuate mkondo kama samaki aliyekufa. Hoja iletwe kwenye kikao cha Seneti ili sisi sote tusikize, tuchangie na kufanya maamuzi mbele ya Wakenya wote.

Asante sana, Bw. Spika. Napinga Hoja hii.

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

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir for this opportunity to add my voice on this matter. This is not the first time this House is debating this Motion. We had a similar Motion on the matter involving the impeachment of the Meru Governor. We also had a similar Motion on the matter involving the Deputy Governor of Siaya County.

Nearly 90 per cent of the Members in this House supported the idea of the committee. Everyone who stood up gave good and valid reasons why we needed to constitute a Special Committee. Sitting in this Chamber and listening to the Senator for Kirinyaga, I wonder what has changed. The HANSARD is there to offer evidence. Senators agreed that for us to do a neat job, we will proceed to committee and not sit in Plenary.

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I support the Mover of the Motion, Sen. Olekina. Let us proceed to support the establishment of the Special Committee, so that we do a clean job and give the people of Meru County the justice they are looking for.

We need to continue with the image we have acquired as a Senate, that we are a responsible House that looks at issues critically before deciding. We do not want to have a situation where we will come here and convert this House into a lynching arena without looking at the issues critically.

I have listened to your Communication and in the last paragraph, you have stated that the principles and ideals of the Constitution must be adhered to in the impeachment process. I fear that when we go the Plenary way, we may not adhere to the principles of the Constitution, particularly on the issue of fair administrative action. The Governor would require all the rights that are provided for in the Constitution.

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

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

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. From the onset, I would like to be clear that I rise to oppose this Motion. I oppose it for three simple reasons.

First, as a leader in this House, I must learn to keep and honour my word. When I moved the Motion in December last year to set up the committee, I was clear and still hold the same position, that there is no method that is better than the other. Anybody trying to peddle this argument is misleading the House. I say this as a ranking Member. I have participated in Plenary and Committee impeachment hearings. I can tell you that both processes are fair and sound, have a good legal basis, and deliver the best result for the specific county that is before the House.

When I moved that Motion that afternoon, I promised the House that the next time we get such an opportunity, I will propose that we go the Plenary way. I propose that the House proceeds to prosecute the Motion in Plenary. We will listen to the charges in Plenary and understand the issue with Meru County.

Secondly, we need a clean-up of our laws. Hon. Members are wondering how we found ourselves in this situation. We are moving this Motion because, unfortunately, there is no procedure of directly going to Plenary. You must first reject a committee and then you find yourself in the Plenary way.

It is my proposal and submission before this House that, at the end of this process, we must move a clean-up of our Standing Orders and that law. This is so that we can provide it in a fair and cleaner way, so that the House decides.

Mr. Speaker, Sir, just like the decision of the Committee, unfortunately, if they chose to absolve the governors of the blame, that is the end of that particular process. That is something that we must review eventually when we are done with this process. This is so that the House can have a footing and a final say on such matters, from start to finish, so that eventually, all the 47 Delegations of this House gather and decide.

Finally, I plead with our colleagues that even if you are pursuing a particular interest, do not be unfair to the House. Do not cast aspersions on the House and believe

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that for whatever reason, Members will certainly not reason. That the only way you can concentrate is if you are reduced from being 67 to only 11 of you. I do not think that is fair to the House. The same way I will sit at---

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

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

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa ya kuchangia Hoja hii. Kubanduliwa mamlakani kwa gavana kwa kupitia njia ya *impeachment* ni jambo muhimu sana ambalo linatoa matatizo makubwa kwa yule ambaye anabanduliwa. Hii ni kwa sababu ukibanduliwa mamlakani, ina maana kwamba, huwezi kukaa katika ofisi ya umma kwa kazi yoyote ile ambayo una nia ya kuifanya. Kwa hivyo, ni lazima tumpe yule mhusika nafasi nzuri ya kuweza kujitetea kutokana na mashtaka ambayo yanamkabili.

Njia ya kamati ni mwafaka kabisa ambayo inampa mhusika nafasi nzuri ya kujitetea na kusikiza yale mashtaka ambayo yataletwa mbele yake. Ijapokuwa kikao cha Seneti nzima kina nafasi sawa na kamati, tumeona katika historia ya *impeachment* ya waheshimiwa Sonko na Waititu, hawakupata fursa nzuri ya kujieleza. Hii ni kwa sababu kazi yenyewe ni nyingi na inatakiwa ifanyike kwa muda wa siku mbili.

Wiki iliyopita, Mawaziri wawili walirudi kwa vile hatukuwa na *quorum* katika Bunge hili. Tukikaa hapa siku ambayo itatajikana tukae, tunajua mara nyingi, Maseneta huchelewa kufika katika Bunge hili asubuhi.

Kwa hivyo, itakuwa ni aibu kwamba wale ambao wataamua kesi hawako mahakamani lakini kesi inaendelea kusikizwa bila wao. Naona njia mwafaka ni kuwa na Kamati. Wale ambao watachaguliwa katika Kamati ni Maseneta kama Maseneta wengine.

Hii kadhia ya kubandikia Kamati masuala ambayo hayako, kwa mfano, tuhuma za kupokea hongo ama kufanya kazi kimapendeleo, haifai. Hii ni kwa sababu Seneta yeyote ambaye anahudumu katika Kamati ni Seneta kama Seneta mwingine. Kamati zote zinapokaa, ni kamati za Seneti. Kwa hivyo, kawaida zote za kuhakikisha kwamba haki na usawa zinafanyika.

Bw. Spika, nafasi ya kamati itakuwa ndio njia bora kabisa ya kuweza kusikiza madai ambayo yamependekezwa na Bunge la Kaunti ya Meru. Itawapa fursa na nafasi sawa watu wote; Wabunge wa Kaunti ya Meru na Gavana Kawira Mwangaza, kuweza kusikiza kesi ile na kutoa uamuzi ambao utasaidia kuleta haki na usawa.

Hatuwezi kuwa kama Seneti hapa ---

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

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

**Sen. Munyi Mundigi:** Bw. Spika, nakataa kuchaguliwa kwa Maseneta kumi ma mmoja "kuzungusa" mambo ya Meru na Gavana Kawira Mwangaza. Hii ni kwa sababu, mnakumbuka ule wakati mwingine, tulichagua Maseneta kumi na mmoja. Wakati waliangalia hayo mambo, tulimrudisha na pia tukampa onyo kali sana.

Wabunge 59---

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

Sen. Faki, Hoja yako ya nidhamu ni gani?

**Sen. Faki:** Seneta wa Embu amesema “zungusa.” Sijui ni kuzungumza ama ni kuzungusha?

**The Speaker** (Hon. Kingi): That point of order is overruled.

Proceed Sen. Munyi Mundigi.

**Sen. Munyi Mundigi:** Seneta wa Mombasa, masikio yako hayasikii vizuri. *Maybe* umekula miraa na dawa za kulevya. Nyamaza ili niweze kuzungumza mambo ya kusaidia watu wa Meru.

Wabunge 59 walikubaliana kumtimua gavana kwa sababu alishindwa na kazi yake. Gavana ni mama au ni mwanaume, lazima tuangalie vile---

**The Speaker** (Hon. Kingi): Sen. Munyi Mundigi, kadri unavyochangia Hoja hii, nakusihi utie maanani ile tahadhari ambayo nimetoa kabla hatujaanza mdahalo huu.

Hatuzungumzii ukweli, uzito, usawa ama uchache wa ile kesi. Hoja iliyo mbele yetu kwa sasa ni aidha, tuchague Kamati ifanye uchunguzi ama Seneti mzima ifanya uchunguzi. Kwa hivyo, tafadhali, usiende nje ya mada hiyo.

**Sen. Munyi Mundigi:** Naomba msamaha. Ni uchungu nilio nao kwa watu wa Meru. Unakumbuka Embu County tumeteseka kwa kipindi cha miaka kumi. Kama watu wa Meru wanahisi vile tulivyokuwa tunahisi kama majirani kwa muda wa miaka kumi, basi naunga mkono tuwe Maseneta 67 tuangalie vile itawezekana.

Hii ni kwa sababu tunajua kazi yetu ni kuangalia vile Kaunti 47 zilivyo. Napinga Hoja hii ili tuweze kuwa sisi wote tuangalie itakuwa vipi. Kama watu wanataka kulipiza kwa vile tulirudisha Deputy Governor wa Siaya, sio vizuri. Hatuwezi kukubali mnayoyasema, lazima twende njia ya Maseneta 67.

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

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

**Sen. Kinyua:** Bw. Spika, nilimsikiza Sen. Munyi Mundigi akisingizia ya kwamba Seneta wa Mombasa anaweza kuwa anatomia dawa za kulevya.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Sen. Munyi Mundigi, just sit down.

*(Loud consultations)*

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

**Sen. Kinyua:** Alisema. Ningependa hiyo nukuu iondolewe kwa sababu Sen. Faki ni Seneta wa Seneti hii na kusema kwamba anaweza tumia dawa ya kulevya sio vizuri.

**The Speaker** (Hon. Kingi): Sen. Munyi Mundigi, ikiwa ni kweli uliyatamka matamshi hayo, kwamba Seneta wa Mombasa, Sen. Faki, anatomia dawa za kulevya, itabidi usimame, uyaondoe maneno hayo katika nakala na uombe msamaha ndipo uendelee kumaliza.

**Sen. Munyi Mundigi:** Naomba msamaha kwa rafiki yangu, Seneta wa Mombasa. Labda hakusikia vizuri, sikusema hivyo. Kama nilisema hivyo, naomba msamaha.

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

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I thank you for giving me the opportunity to contribute to this proposal by the Senate Minority Whip.

I only have two things to say today. One, anytime this kind of business comes to this House, it is an opportunity for us, as a House, to rise above the politics of the day and give this House the status it deserves.

As the Senate Majority Leader has said, there is no bad or better way between the two ways. However, there was wisdom as to why we can consider two options. For me, it is circumstantial to the extent that the first thing to consider is the sanctity of this House. This is because we do not want to take a process that can lead us to litigation in whichever way possible.

We have these---

*(Sen. Cherarkey consulted loudly)*

Mr. Speaker, Sir, you must control Sen. Cherarkey. He keeps on making a lot of noise.

**The Speaker** (Hon. Kingi): Sen. Oketch Gicheru, would you wish to be informed by the Senator for Nandi?

**Sen. Oketch Gicheru:** Sen. Cherarkey is the most uninformed person in this House. Therefore, I would not want to be informed by him.

*(Laughter)*

**The Speaker** (Hon. Kingi): Would you wish to be informed? It is either 'yes' or 'no.'

**Sen. Oketch Gicheru:** I would not wish to be informed by Sen. Cherarkey.

Mr. Speaker, Sir, I want us to be cautious, so that we do not put ourselves in a situation where we are going to have litigation after this particular process.

Secondly, the weight of this matter is exemplified by the fact that this particular county is bringing this issue in the House for the second time. Therefore, it behoves this House to make sure that there is an absolute examination of every single issue raised in this particular impeachment.

We cannot ignore the fact that if we do not take our time to examine, as thoroughly as a Committee will do, then we will do a disservice to the people's will.

I agree with the Senate Majority Leader that both ways work. However, the examination and the justice that is needed will happen best when people are committed to examine the issues that have been raised.

With that, Mr. Speaker, Sir---

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

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. I stand to oppose the Motion to constitute a committee to hear the matter before the House regarding the removal of the Governor of Meru County for these reasons.

One, this is the second time this Governor is being brought for impeachment to this House. The first time, the Governor was brought here, we appointed a committee.

Mr. Speaker, Sir, they say only a fool does something the same way and expects different results. The first time we followed the committee way for this same Governor. Therefore, it would only be fair that this time round, we try the Plenary.

Two, this is the second impeachment happening within one year. I pray that you may protect me---

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

**Sen. Joe Nyutu:** Please, freeze my time.

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I rise on Standing Order No.105 on imputing improper motive. The Senator for Murangá County has said that when this matter first appeared before us in this House, we tried a committee. Therefore, it is justification enough for us to go the Plenary way.

Is he imputing that the committee that did the work in the previous matter did not do the right job? Is that what he is implying? He has even used the words “stupid” and “fools” in terms of the process. Is he suggesting that the Committee that was appointed by this House and given that task was not proper? Does he want a different outcome because that committee did not do the right job?

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

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. I would not have wanted to spend most of my time responding to Standing Orders. However, it is very important for Members to listen keenly. I said that they say, “only a fool does the same thing every time and expects different results”. It is not me who said that. Allow me to respond.

I know he wants to distract me. So, kindly allow me to proceed with my contribution.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Senators! Can you conclude your contribution, Sen. Joe Nyutu?

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. I was just about to say before the rude interruption from the Senator of Migori County, that the fact is that this Governor is being impeached for the second time. The County Assembly of Meru is doing an appeal.

Mr. Speaker, Sir, I have a right to be heard and then they will raise their points---

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, kindly take your seat. Please, freeze his time.

What is your point of order, Sen. Sifuna?

**Sen. Sifuna:** Mr. Speaker, Sir, I believe that this would fall under the ambit of anticipating debate. This is because what our colleague Senator is saying is that there is a desired result. If you go the same way, you will get the same results as the last time and that result was not desirable.

Mr. Speaker, Sir, in accordance with your guidance, nobody should anticipate what result would arise from what process. That is what you guided us to do. So, he should refrain in his debate from suggesting that somehow---

By the way, there is no such thing as a second impeachment acting as an appeal. I have not read the facts and the allegations, but they are based on new facts and new allegations. They are being treated as a new case to be examined objectively based on the facts and evidence. So, he is out of order. I would wish that you would rule on that particular objection.

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, the Motion before us is to have a Special Committee investigate this matter. From the onset, if I heard you correctly, you are opposed to it and you favour the Plenary.

Convince your colleagues why the Plenary is the best way to go without necessarily going the route that the Senator for Nairobi City County has just cautioned.

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir, for your guidance and advising me to avoid going that route. However, the second reason I opposed to this particular Motion is that, from our side, we have the same Members that heard the first impeachment proceedings in this House.

I have listened to my colleagues saying that the committee way will investigate the matter in a better way than the Plenary way. My submission is that from what I know, two heads are better than one. So, I am not convinced that when Members are fewer, they will do a job---

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

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I rise to oppose this Motion. We have had two impeachments since the inception of this particular House.

In the last two impeachments, we have gone the committee way. So, it is important also for the new Members to understand how the process of Plenary works.

Secondly, it is only fair for members of the public also to understand how impeachment is carried in the Senate in Plenary. When we go the committee way, the Committee sits, deliberates and brings to the House whether the charges are sustained or otherwise.

According to me, Plenary is the best way to go for purposes of transparency. In the public glare, members of the public can follow the debate and see where the problems are. So, I support the Plenary way. That will be fair to the county assembly, the people of Meru County and to the person who is being impeached. Therefore, I believe having sat in Plenary and also committee in the last two Senates, the best way to go is Plenary.

I oppose the Motion.

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

**Sen. Wafula:** Asante, Bw. Spika, kwa kunipa wakati huu kuchangia. Wakati gavana huyu alikuwa hapa kujitetea alipoletwa na kaunti yake husika, aliponea chupuchupu. Utetezi wake ulifanywa katika kikao ambacho hatukuwepo lakini kwa sababu ya uamuzi wa jumla wa Seneti kwamba waliyokubaliana nayo pia sisi tukubali, tukakubali shingo upande.

Watu wa kaunti hii wana mambo ambayo wangependa kusikia yakitajwa, yakijadiliwa na yakizungumziwa peupe mchana. Pia wanataka kujua rafiki yao ni nani na asiye kuwa rafiki yao ni nani. Wanataka kujua kama Seneti inajua yanayoendelea katika kaunti yao ama hapana. Wanajua kwamba katika majadiliano ya watu wachache, kuna mazungumzo ya chini kwa chini ambayo hao hawahusiki.

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Leo, wana nafasi kusikia wazi. Wale wanaoitwa madaktari, maprofesa na walimu wadhihirishe uwezo wao wazi mchana kadamnasi. Ni wapi ama ni shinikizo zipi zinahakikisha kwamba wanapata haki ama nafasi ya kujieleza kwa sababu Seneti ni Bunge la kutetea ugatuzi.

Iwapo viongozi kama Wabunge wa Kaunti wamekata kauli kwamba lazima Pilato awape nafasi wamsulubishe Barnabas ama Yesu, sisi ni nani tuje hapa tuchukue nafasi yao kana kwamba hawana akili ilihali ni watu timamu kuambiwa hatima yao?

**The Speaker** (Hon. Kingi): Sen. Wafula, you are out of order to the extent of that particular statement.

**Sen. Wafula:** Naomba msamaha na naomba kuondoa. Lakini kabla sijakaa, watu kwetu husema, fisi aliambia jiwe ‘japo umenyamaza, lakini umesikia.’

*(Laughter)*

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

**Sen. Crystal Asige:** Mr. Speaker, Sir, first of all, I am not sure why Sen. M. Kajwang’ would have wanted to block me from supporting my Whip. However, he is very well aware that I am a musician; an award-winning musician at that. My voice will be heard one way or the other.

**Hon. Members:** Sing!

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

**Sen. Crystal Asige:** I will sing on Friday 3<sup>rd</sup> at Orchid Lounge for all of us. So, please come. That is where you will find me singing this week.

Mr. Speaker, Sir, I support this Motion. I have heard arguments about promises that have been made in the first impeachment Motion and now they will not be fulfilled here.

I remind the House that this is not a second Motion; it is the third. If a promise was supposed to have been fulfilled, it should have done so in the impeachment of the Deputy Governor of Siaya County that has now come and gone. For me, that does not hold.

Secondly, it has also been argued that the same Members from the Majority side are being recycled in this Committee. To me, that sounds like an internal wrangle, communication and conversation that should have been had by Senators from the Majority side with their leader and not something that should be brought to this House as part of the debate. The people of Meru County do not want to know who is being recycled or not. The Governor does not want to know and neither do we. That is something that should have been lobbied and persuaded internally.

I also believe that committee is the correct way to go because interrogations will be heard and the evidence will be combed through in a much synched way than if we are sitting here throwing mud and slinging at each other in terms of our debates and then, of course, wasting the precious time of this House.

Mr. Speaker, Sir, I reiterate the importance of giving somebody, in this case, the Governor of Meru County, a fair hearing. That will be done if, in my opinion, 11 people sit down, put their heads together and focus on the evidence and interrogate this matter to

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its conclusion. Thereafter, the House will have an opportunity to vote either for or against, whatever the committee decides.

I reiterate that I support the Motion. I thank Sen. M. Kajwang' for giving me, even though not in the first instance, this instance to do so.

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

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I rise as a delegation of Meru to completely oppose this Motion.

As a new Member in this House, it gives us an experience on matters Plenary. As the men had promised last time, this was the way to go so that even as a House, we can have the Plenary experience.

Further, I have noticed that in contributions to this Motion, I am the third female Senator to contribute. This being a female Governor, we want Plenary because we want an opportunity to have a feel, as women Senators, to understand if it is leadership issues or other issues in this county. That is why we want Plenary; so that all the voices of all the women in this House can be heard and we make the right decision for the great people of Meru County.

Looking at the list of the 11 Committee Members that have been put, if I am correct, I have seen only three female Senators. We want a bigger voice as women so that we are heard on the contribution that we are going to make. When the people elected the Governor, it was not about not knowing that she was a female. As females, we want to be respected. We want our voices to be fully heard. They can only be heard completely through Plenary in this House.

I continue rising and supporting that we go the Plenary way, so that we completely execute the issues of Meru County extensively for the benefit of the people of Meru County. The Governor has been impeached again. It saddens me because Sen. Orwoba and I were in the first line supporting and being happy that the Governor had survived, yet it has again come back.

I want us to try the Plenary way so that we get to understand the real deeper issues. The only answer is in Plenary.

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

**Sen. Kavindu Muthama:** Asante, Bw. Spika, kwa kunipa hii fursa niweze *ku-support* hii *Motion* ya kwamba hii *impeachment* ipelekwe kwa Kamati. Nimesikia wengi wakisema hii *impeachment Motion* ikipelekwa kwa kamati haitapata haki. Hii inamaanisha zile *Petitions, Statements* na *Motions* zinapelekwa kwa kamati hazipati haki?

Ninaamini zinapata haki. Kwa hivyo, ninasupport hii *Motion* ipelekwe kwa kamati ili watu wa Kaunti ya Meru na Gavana Mwangaza wapate haki yao na wawe na nafasi ya kuwasikiliza vizuri.

Bw. Spika, nimekaa kwa kamati ya *impeachment* mara mbili. Hii ya Gavana Mwangaza iliyokwisha na nyingine ya North Eastern. Pale, kuna wakati mwema ya watu kusikilizwa. Gavana asikizwe na malalamishi ya Wabunge wa Kaunti na watu wa Meru pia wasikizwe kwa makini. Kwenda kwa *committee* haimaanishi ya kwamba watu wa *media* hawawezi kuja pale ili watu wa Meru waweze kufuata kabisa kile kinachotendeka kwenye kamati hiyo.

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Niko katika kamati inayohusika na ulipuzi wa 1998. Kila wakati huwa mnaona kwenye runinga kwa maana huwa tunaita wanahabari kuja pale. Itakuwa wazi hata kwenye kamati.

Ninaunga mkono suala hili liende kwa kamati.

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

**Sen. Wamatinga:** Thank you very much, Mr. Speaker, Sir. I rise at the onset to oppose. I am quite perturbed by the mathematics that has been done in this House. I thought that a bigger number would give us a wider base of knowledge. Eleven Members cannot and will never possess the knowledge that the 67 Members of this House have.

As has been mentioned by my colleagues, I do not want to repeat that this is the second time that the governor will be coming here. Therefore, it is very important that the whole nation, specifically women in this country, get to follow on the issues, so that the Senate is not blamed for being gender biased. This is the only opportunity we have to open this up for all the 67, as we will be including our colleagues; the women, so that the Senate can be seen to have done justice to the people of Kenya, the people of Meru and most importantly, our daughters who are aspiring to become leaders in the future.

Mr. Speaker, Sir, when I hear the names of the 11 Members, I must admit that we do not have two sets of brains that you leave one when going to the Committee and take the other when going to the Plenary. We use the same brains whether we are 11 here in the House or not. This is an emotive issue. We must consider the weight it carries by going the Plenary way, so that the whole Republic of Kenya will know that, indeed, this superior House has the composition to deliver justice, to not only Kenyans, but also the future generations.

I want us to be future-centric. We need to give confidence to all our daughters who aspire to become leaders that, indeed, the House of Senate can deliver justice by opening this, so that is discussed in clear daylight for everybody to see.

Mr. Speaker, Sir, I oppose.

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

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for this opportunity to support the Motion by Sen. Olekina. First, I would like to say that both Plenary and Committee ways are provided for in the Standing Orders. However, one of them is better than the other in terms of how we approach the proceedings.

When we go the committee way, we have an opportunity to have an in-depth understanding of the cases because we interrogate the documents better when we are fewer. We had an opportunity to go through the same Petition of Hon. Kawira Mwangaza when we were led by Sen. (Dr.) Khalwale. The work that was done in that Committee was a sterling job. We looked at the documents very soberly and came up with a finding that the allegations were not substantiated.

When we went the committee way in the case of the Deputy Governor for Siaya, again, the committee that was there looked at the documents and there were some allegations that were substantiated. There was an opportunity when we came to Plenary to overturn the finding of the committee, and Hon. Oduol was let off the hook.

Mr. Speaker, Sir, both ways are okay. However, it is better when we use the Committee because, then, we can interrogate the issues much better and we will have a

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better understanding of the issues. When I saw the list from the Majority side, I knew we were set. It was a poison chalice because the same Members who had participated in the other impeachment for Hon. Kawira Mwangaza are the same people who have been put in the Committee. So, I knew they were set, so that they could be disenfranchised, disenfranchised and vote against the committee way.

Mr. Speaker, Sir, I will be waiting on the vote, but most likely if we go the committee way, we can give the people of Meru the justice they require. I support.

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

**Sen. Chute:** Thank you very much, Mr. Speaker, Sir. Let me use the words of Sen. Mwaruma. Thank you very much for noticing the issue of the six Members. Sen. Olekina should have known this and there are things we do not need to waste a lot of time on.

Article 181 is very clear. It talks about the impeachment of a governor. Standing Order No.80 (b) (1) talks about the Special Committee and b (2) talks about the Plenary. Seven governors have been impeached since 2013. We started with Governor Wambora, Governor Chepkwony, Governor Anne Waiguru, Governor Mike Sonko and Governor Muhammed Abdi from Wajir. This is to notify the Senator for Machakos that we do not have a county called North Eastern; we have Wajir County. The latest governor to be impeached now is Hon. Kawira Mwangaza from Meru. We also had an opportunity to have our guest, the Deputy Governor, Dr. William Oduol, here.

The impeachment of Dr. William Oduol, Hon. Martin Wambora, Hon. Chepkwony, Hon. Anne Waiguru, and Hon. Muhammed Abdi went through the 11-Member Committee. In the previous one, Hon. Kawira Mwangaza went through the 11-Member Committee. The impeachment of Hon. Waititu and Hon. Mike Sonko went through the Plenary.

Mr. Speaker, Sir, all these methods are okay. I do not want to say whether I support or oppose. However, I would want to ask our brothers on the other side that we do not argue on this. Let us go the Plenary way because it is an experience for some of us who are new and have not gone through this process to learn. I request that you kindly follow this process and have the Plenary way.

Thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. M. Kajwang’.

**Sen. M. Kajwang’:** Mr. Speaker, Sir, as I rise to comment on this Motion, the leadership of this House, who are the gentlemen and women we have put in the Senate Business Committee (SBC), should spare us this agony that we are going through. This debate has not helped to educate anybody, but expose the bias amongst the judges sitting in this House.

Hon. Senators will be sitting as the judges and the bias is clear. Everyone who stands on my side supports and everyone who stands on the other side opposes, yet we have not even heard the case; we have only read the charges.

Mr. Speaker, Sir, in the future, I want to encourage the SBC because that is where the numbers are balanced. We have the leaders that we trust and leaders we have entrusted with a mandate to bring us a formula that will not be subjected to debate.

**Sen. Olekina:** On a point of order, Hon. Speaker, Sir.

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**Sen. M. Kajwang’:** Secondly, the Senate Majority Leader referred to Standing Order No.80---

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

**Sen. Olekina:** Mr. Speaker, Sir, I rise on Standing Order No.80, which is the Standing Order that we are prosecuting. I would not wish to disrupt my colleague and brother, the distinguished Senator from Homa Bay, whom I respect a lot, but is he in order to suggest that the SBC can make a decision, yet, it is clearly stipulated on how such a decision should be made in our Standing Orders? The SBC deals with the Calendar of the House and resolves matters of the House.

Mr. Speaker, Sir, when you read, you clearly indicated that this was a decision and a resolution of the Senate. The SBC is not the Senate. I would like to persuade my brother to look at the Standing Orders and not point aspersion to the SBC. He should also call on the entire House to amend the law as well as the Standing Orders, so that a formula can be brought, which will not solicit the debate where people will need to decide whether people have already made up their mind.

Mr. Speaker, Sir, I would like you to find my brother out of order.

*(Laughter)*

**The Speaker** (Hon. Kingi): Sen. M. Kajwang’, the decision as to whether to go the committee or the plenary way is a decision to be made by the House. The SBC can only facilitate a Member wishing to bring a Motion on the Committee.

In this regard, the SBC facilitated the tabling of the Motion by the Senator for Narok, but the decision ultimately is supposed to be done by the House.

**Sen. M. Kajwang’:** Mr. Speaker, Sir, I do not have necessarily to agree with you considering it is not a matter of interpretation. If you look at Standing Order No. 81(b)---

**The Speaker** (Hon. Kingi): Sen. M. Kajwang’, the Chair has ruled.

*(Laughter)*

**Sen. M. Kajwang’:** I will not challenge your ruling, Mr. Speaker, Sir.

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

**Sen. M. Kajwang’:** I am not challenging your ruling, but I am proceeding with what I wanted to say.

The only thing that requires a resolution is a Special Committee. The Plenary is the default mode of operation of this House. If you want a Special Committee, you seek a resolution of the House. Otherwise, by default, this Senate is supposed to process impeachments in Plenary. A Special Committee is an exception that is acquired through a resolution of the House.

*(Applause)*



Mr. Speaker, Sir, I am not challenging the tabling of this Motion because this Motion seeks the resolution and, therefore, there is nothing wrong with it. However, the default position of the Senate is to prosecute in Plenary, so that all of us can be present.

*(Loud consultations)*

I will finalise by saying that we should be extremely careful so that those people in the County Assembly of Meru and in the entire nation do not start looking at us through the coalition colours and formations. This debate has been fairly poisonous and is exposing some bias that might be prejudicial to what we will be dealing with in the next couple of days.

I submit, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Order, Sen. Olekina! Sen. Cherarkey and indeed, Sen. M. Kajwang', the mandate of the Senate is to prosecute this matter at the Plenary. However, the Senate in its own wisdom can decide to form a Committee.

Sen. Cherarkey.

**Sen. Cherarkey:** Mr. Speaker, Sir, from the onset I rise to oppose the Motion with three reasons. Firstly, the trophy of the defenders of devolution this afternoon goes to the great Members of the County Assembly of Meru. MCAs should benchmark with the wonderful work that the Meru MCAs are doing. They have been very consistent and patient. I laud them for taking this bold step.

Unfortunately, governors have made most of their MCAs their partners in bad governance in counties. This should be a warning to most county governors when they have MCAs who play their rightful role of oversight and this is very important.

Secondly, there are reasons as to why Standing Order No.80 and Section 33 is clear. We prosecute either by Committee or Plenary, but I invite most of my colleagues who have never had the privilege and the rare opportunity to prosecute through Plenary---

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

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I rise on the point of order on limiting debates. The Senator for Nandi has just prosecuted this matter conclusively, stood in front of this House and gave a judgment on the work of MCAs and on the personality of the Governor for Meru. In his own wisdom, the Governor stands guilty on the charges you have read before us.

The debate we are having here is whether we are going to prosecute this matter on principle in the committee or in the Plenary. Is Sen. Cherarkey in order to make a judgment on substantive issues that the House is yet to discuss?

Mr. Speaker, Sir, according to your ruling, I find this grossly disorderly given that you had given Sen. Cherarkey many warnings. He is doing this deliberately, perhaps to disregard the orders you had given. You should find him out of order, if it pleases you and throw him out of the House because he is reducing this House to a mere theatre of jokes.

I rest my case.

**The Speaker** (Hon. Kingi): Sen. Cherarkey, I gave guidance when I was giving the Communication. What is before you is a Motion to pass a resolution for a Special

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Committee. Either, you are for it or you are not. The substance of the impeachment cannot be the subject matter of any Senator's contribution here. It is either you are opposing and you give reasons why you think the Plenary will be a better forum to handle this matter. Kindly avoid delving into the substance of the impeachment.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I am well guided. In the words of Burning Spear, there is a saying that goes, "we are not all that stupid." I borrow the words of Lucky Dube, the reggae artist that justice, fairness and social equality should be the cornerstone. The reason I am saying this is that we need to ensure that there are principles of natural justice.

There was the Hon. Waititu, Hon. Sonko and other governors that we listened to through Plenary. This will give new Members the opportunity to learn because Senate should be a learning curve and will expose them. The committee way is limited. At the resolution of the committee, I heard a misconception where some Members were misleading the House by saying that the Senate will have the second bite at the cherry.

Mr. Speaker, Sir, it does not have to because when the Committee sits and agrees that the governor is guilty or not; that matter ends there. We are ready to listen to the Plenary way as we listen to the tunes of guitar, so that we understand and listen keenly.

I propose that we go the Plenary way. I have been the champion of the Plenary way on the Floor of the House so that we and Sen. Crystal Asige have that opportunity. I rarely give out my advice *pro bono*, but today, I do it for free. I inform Members that they will have the opportunity to cross-examine and analyse. Sen. Okiya Omtatah can look at the documentation, so that if someone moves to court, the way Sen. Okiya Omtatah does, they will not question that the Senate did not consider this matter.

Mr. Speaker, Sir, I oppose. Let us go the Plenary way. I thank my Chairman; he is always brilliant. Sen. M. Kajwang' is the man to watch.

*(Laughter)*

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

Sen. Sifuna, I can only pick a Senator from this side whose name is on the dashboard. As I speak, the names on the dashboard are all from this side. So, if you wish to speak---

Proceed.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I want to say something that has not been said. For hon. Senators who are practitioners in the court, when a witness appears before you, you have the benefit of looking at that witness. You see the eyes, the demeanour of that witness and even appreciate the voice in terms of presentation; whether that person is actually telling the truth. You have the opportunity to 'feel' that witness.

Now, the Senate is going to sit as a court. I am trying to appeal to the legal minds on the other side, since we are sitting as a court---

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

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Asige? Sen. Mungatana, kindly yield.

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**Sen. Crystal Asige:** Thank you, Mr. Speaker, Sir. It is a point of clarification. Is the good Sen. Mungatana trying to imply that people who cannot see, will not be able to prosecute a matter?

*(Applause)*

We know very well that in Kenya, we have a Judge who is blind and he does a fantastic job. He does not see the witness's demeanour, facial expressions or anything else in terms of body language. I would like Sen. Mungatana to clarify if that point in his argument is actually factual.

**The Speaker** (Hon. Kingi): Sen. Mungatana, be sensitive on this matter.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, I hardly wish to engage my very good friend because we have come a long way with the old man. I do not want to go that way. However, even with visual challenges and a witness is before you, you 'feel' the voice. For people who have been in these courts for a long time, you can actually tell when a witness is telling a lie or the truth.

My point, which has not been said is that, we want the entire "court", the entire Senate to have the benefit of the witness. I want to see Hon. Kawira Mwangaza because I never saw or heard anything from her the last time. The Committee sat and then said that she was okay. I want to see her. I want to see what the problem is. I want to see how does this person who is disturbing the entire Meru County, look like? I just want to see.

*(Laughter)*

I support that we should have a Plenary. I oppose this Motion.

**The Speaker** (Hon. Kingi): Sen. Thang'wa, proceed.

**Sen. Thang'wa:** Thank you, Mr. Speaker, Sir. I must thank you because I landed back today from Angola, where you had appointed me to represent this country at the Inter-Parliamentary Union (IPU) Assembly. That shows that you have confidence in me.

Whoever put my name on this Motion to be a Member of the 11 Member Committee has a lot of confidence in me. This is because I was part of the previous Committee. Probably, I bring institutional memory and I know a thing or two.

That is why I stand here to support this Motion. I have to support it because I believe that the Committee is supposed to investigate and, of course, substantiate the allegations. Now, how does a Plenary investigate? I believe in the rule of law and process. I know one day one time I am going to be here. I am trying to insinuate that the only problem---

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

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

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I am just curious. I have heard Sen. Thang'wa ask how the Plenary does an investigation. Then my question to him is, how will you find out if you do not give yourself the chance to serve in a Plenary?

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If you had the opportunity to serve in a committee, do not be a victim of misinformation that is being peddled on the Floor. I have told you as your leader and I cannot mislead you, that there is nothing that you can do in a committee which you cannot do in Plenary. This includes questioning a witness.

**The Speaker** (Hon. Kingi): That is more of a point of information than a point of order.

**Sen. Thang'wa**: Thank you, Mr. Speaker, Sir, for that information. I hope you froze my time. Sen. Chute enumerated very well those who went through the committee and those who went through the Plenary. May I inform this House that those who went through the committee are still in office or never left office. Those who went through the Plenary are home today. My issue---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order! If you have information to pass, you know exactly what to do. Proceed Senator.

**Sen. Thang'wa**: Mr. Speaker, Sir, before I am informed, I stand here to say that I believe in the committee way. The only problem with the committee is that when they find that the grounds are not substantiated, we do not discuss that report. That is why I have a Bill that is in your office and it will, probably, be here. It says that we should always go through the committee. However, whether they find it substantiated or not, it must be brought to the Plenary for scrutiny so that all of us can go through it.

A committee will always do good work by writing to offices. Now, imagine we want to stand here as a Plenary and I want to investigate myself. Do I write as Sen. Thang'wa or I write to the Speaker for him to write to that office? A Committee has a Chairperson.

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

**Sen. Ali Roba**: Thank you, Mr. Speaker, Sir. I rise to contribute to this Motion before I decide to oppose or support it. I was privileged to have served in the first impeachment as a Committee Member. Quite sincerely, I hold a favourable view that a committee will do justice to this impeachment process by getting the opportunity to look in-depth into the issues.

However, the behaviour that was portrayed by Members of this House during the first impeachment was unfortunate. Senators who were not Members of the Committee went ahead to even give derogatory statements directly in the face of Committee Members, in the most disrespectful manner without any justification whatsoever. That has put many question marks.

The diligent investigation done by the committee and the decision that the committee undertook and eventually what came out is a situation that manifested a position of distrust within our own Members here.

I want to go on record for the benefit of the people of Meru County to understand that we are not prosecuting anything at the Senate right now. We are only trying to agree on modalities of execution of the responsibility before us. As such, there is no predetermined position because both ways are legal. We are only agreeing.

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I am inclined because of that bad experience and position of distrust that was portrayed by Members of this House. Maybe for the benefit of them getting to understand the treacherous work that committees undergo, to give them the opportunity to execute it through Plenary as suggested.

Both ways are legal. I am not responding to my brother, Sen. M. Kajwang'. However, there is nothing wrong with holding different views in terms of what is constitutionally allowed and we are only taking that position. That is my take.

I oppose.

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

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. I rise to support the position that we go the committee way. From the presentations made earlier, one of the Senators indicated that we should give new Members an opportunity to also get the experience of the committees.

I have seen the names that have been forwarded. Sen. Crystal Asige is one of them. She had not been a Member of an earlier committee. I want to support and that would be a very good opportunity for her to also experience the committee way. That should also follow that a number of us that are new will also get an opportunity next time to experience the committee way of dealing with impeachment.

The second reason why I want to support going the committee way is that the committee will also ensure that the matter is dealt with clarity because there will be fewer Members and less time will be spent in the deliberations. I, therefore, support the committee way.

The committee should also investigate and find out why over three-quarters of MCAs would vote against the governor and that can only be determined by intensively looking at the matter where less Members are.

I, therefore, support the committee way.

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

**Sen. Veronica Maina:** Mr. Speaker, Sir, thank you for this opportunity. I rise to oppose this Motion for the reason that Standing Order No.80 provides for the procedure for removal of a governor. It provides either the Plenary or a Special Committee.

When I look at the functions that are laid out in Standing Order No.82 (a) and (b), the function remains the same for both the Special Committee and the Plenary.

Mr. Speaker, Sir, just in line with the message you read to this House as you were detailing the charges that have come from Meru County, it was clear that the Senate at Plenary or as a Special Committee will consider the charges that have been levelled against the governor. The Special Committee or the Plenary will have the function to investigate the matter and it will sit as a *quasi*-judicial body.

That means it will not be an ordinary debate; it will be investigative in nature. Nothing will stop the Senate or the Plenary from questioning any document that is presented, taking evidence, calling and cross-examining any witness who appears before the Plenary or the Special Committee.

That is why I have found some of the submissions that have been brought to this House, almost not in consonance with Standing Order No.80. There seems to be a misunderstanding.

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Some Senators are thinking that when Senate retreats to discuss or investigate this matter, they will be operating as a normal debate. That cannot be further from the truth. If the Plenary is not good enough, then the Special Committee is not good enough.

If the Special Committee is good, then the Plenary is good enough because the Special Committee will be drawn from the same body of Senators. It is not outsiders coming in here. It is the same group of Senators.

When it is in the Plenary, it gives an opportunity to many more Senators to bring in their perspective, raise all the questions, interrogate the matter that is before the House and it brings a richness that comes from the diversity of the number of Senators who will be sitting here. That is why I stand to oppose that Motion and say that both should be treated equally.

What the Plenary or the Special Committee will need to do is to observe what is provided for under Article 50 of the Constitution to render a fair process to the governor when she appears here and to those who are complaining against the governor.

For those reasons, I oppose.

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

**Sen. Nyamu:** Thank you, Mr. Speaker, Sir. I have listened very carefully to my colleagues who are supporting the Motion to have this process done under Committee and they could not state a single reason for doing so. They say no process is better, but the Committee is better.

Barely one year since the governor of Meru, hon. Kawira Mwangaza appeared before the Senate on an impeachment Motion, she is back again. The day that it was ruled in the County Assembly of Meru that the governor had been impeached, headlines were flowing. The conversation was national.

Mr. Speaker, Sir, such a matter that has elicited such national interest, is proper as a House that we make the decision to have the Plenary process because it is more transparent and inclusive. Kenyans want to know what is happening in Meru. This process is going to give integrity to this House because it is going to be open. Nothing is being done behind closed doors.

A Motion that Sen. Sifuna supports with so much vigour, I cannot be part of it. I must oppose it for reasons best known to me and other colleagues who agree with me.

Precedence has been set before of successful Plenary sessions that executed impeachment processes. Some successfully saved the governor and some sent the governor home. Let this House rise to the occasion and do what the country is expecting of us, which is to make this process as open as possible to everyone.

I thank you.

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

**Sen. Miraj:** Asante, Bw. Spika. Ninasimama kupinga Hoja hii. Nakubaliana na Seneta mwenzangu Tabitha Mutinda ya kwamba, sisi kama wanawake tutakuwa wachache katika kutoa mwelekeo wa hii *Impeachment Motion*.

Kwa hivyo, mimi pia ninaungana na walio wengi kusema hiyo Hoja iletwe hapa, tuisikize sote kwa pamoja.

Asante.

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

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**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. As a staunch defender of women and women rights, I stand to oppose the Motion that has been tabled by Sen. Olekina.

I have been on record talking about fair hearing and transparency. Wherever Governor Kawira Mwangaza is seated, watching and following, I believe that I speak on behalf of her thoughts today, that she wants to come to the public finally to defend herself and tell us what is really happening.

The Plenary offers her that opportunity. As women leaders, we are tired of people insinuating that we are flower girls and are being protected. Let her come to plenary and defend her leadership and what she thinks or assumes is good governance. The women leaders of this country are tired of being assumed. I, therefore, support that we go the Plenary way.

Secondly, since the last report on Gov. Kawira's impeachment was tabled; how many of the 67 Senators have actually read it? Can they tell us what the grounds of letting her go were? We all know that we trust the committees and their leadership to do the job. Therefore, when the report is tabled, we trust that the committee has done a good job. For once, especially for us new Senators, we want to interrogate all questions that are being raised concerning her impeachment.

I stand here as a staunch defender, a devoted and committed woman leader who really supports women leadership. We would like to see Governor Kawira in Plenary so that she can speak on her own behalf and even defend women leaders who are defending her out there. If she is found guilty, I will be the first one to say this woman must go home. If she is found innocent, I will be the first one yet again to walk with her in the corridors and show people that women leaders given a chance they can deliver.

I do not think there is an issue on what we are debating. Let Governor Kawira come to Plenary and defend her position.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Wakili Sigei proceed.

**Sen. Wakili Sigei:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to speak to this particular Motion. From the onset, I oppose the Motion to subject this investigation before a committee.

This is not the first time that the governor is appearing before this House nor is it the first investigation on an impeachment Motion brought before this House.

From the time the Senate was founded, it has considered 13 impeachment Motions. Out of 13 impeachment Motions, three were considered in Plenary while the other 10 were considered through Committees. There is no harm if this one goes to Plenary. That is why I am opposing the Motion. The claims that if the matter goes before Plenary, appropriate investigations will not be done is not founded on any basis.

The team of Senators in this House whether from the Minority or Majority side will apply their minds and investigate on the evidence that will be brought before the House and subject the governor to an inquiry. She shall be given an opportunity to defend herself. There is no basis that there will be a better outcome if it goes before a committee rather than the Plenary. That is the main reason why I wish this particular impeachment was dealt with in Plenary.

Secondly is on the listed Senators proposed to sit in the committee. We all desire to learn. The Senate Majority Leader has made reference that you can only gain experience by learning. We also desire to have an opportunity to question, investigate and inquire from the governor before the Plenary because not all of us can serve in the 11-Member Committee. For those reasons, I oppose the Motion that the Committee way be the preferred way.

I thank you

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

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I rise to oppose the Motion. There was wisdom by the drafters of the Standing Orders of this House who gave two options through which a governor can be impeached; Plenary or a Special Committee. Those options will do one particular thing, which is to investigate whether in Plenary or committee.

Mr. Speaker, Sir, what is investigation? The dictionary defines the word as carrying out systematic or formal inquiry to discover and examine the facts to establish the truth. The question that arises is whether the Plenary can undertake a systematic and formal investigation. The answer is, yes. Just as it is true that in committee you can do the same.

When this issue came before the House the first time, this House gave a chance for the impeachment hearing to be heard by a Committee. We know the consequences of that particular impeachment Motion. We have the second impeachment Motion of the same governor. It is prudent for this House this time around to allow Plenary to deal with this matter so that we can do an inquiry.

I agree with what the Senator for Nyeri County spoke about. We do not think better in Special Committees than when we are in Plenary. In fact, the debate and discussion in Plenary will be more transparent and open. It is wrong for anybody to imagine that by debating this matter in Plenary, we are going to deny the governor a chance to prove her case. Standing Order No. 80 clearly states that the governor will choose to have a representation by a legal counsel or---

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

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

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

**Sen. Sifuna:** Mr. Speaker, Sir, with your kind permission under Standing Order No. 109, I would now like to propose that we call the Mover to reply.

**The Speaker** (Hon. Kingi): Sen. Sifuna, look at Standing Order No. 110(4) and just read it for the benefit of your colleagues and yourself in particular.

Sen. Sifuna, kindly look at Standing Order No. 109(3). Would you still wish to proceed with your point of order?

**Sen. Sifuna:** No, Mr. Speaker, Sir.

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

**Sen. Seki:** Thank you, Mr. Speaker, Sir. I also rise to oppose this Motion on the impeachment of Governor Kawira. This House has an opportunity to understand more about the issues of Meru County if the matter is considered in Plenary rather than going the committee way.

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I suggest and propose that we go the Plenary way because it will give us the opportunity to hear for ourselves and see what is happening in the county and understand the problems coming from the governor herself. A Committee heard the first impeachment Motion of Governor Kawira. We now have a chance to consider the impeachment Motion in Plenary.

It is true that we have seen this House going through the Committee way with different governors who have been impeached. However, I believe that if we consider this matter in Plenary, it will give us a chance as new Senators to also debate and give contribution as county delegations to this Motion.

I oppose this Motion.

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

**Sen. Kisang:** Thank you, Mr. Speaker, Sir. As per Standing Order No.80, we have the option of establishing a Special Committee or investigating the matter in Plenary. I was the Chairperson for the Special Committee on Impeachment of the Deputy Governor for Siaya County. During the process, we gave the accusers and the Deputy Governor enough time. We sat as a committee through the night looking at all reports. I believe constituting a committee is the best way.

Senators have an issue with the six Members from Kenya Kwanza Coalition who sat in December last year investigating the impeachment Motion for Hon. Kawira Mwangaza. The reason they have been nominated by the leadership is that they want them to bring in historical memory so that they can check if the accusations brought are the same.

The impeachment process for the Deputy Governor of Siaya County was covered live. The people of Meru County will follow the proceedings because all the media houses will be present to cover the proceedings live the same as having it on Plenary. By proceeding to the Special Committee, we will not lose anything. We will gain because if the committee finds that the allegations are substantiated, then the report will be debated in Plenary. There will be an opportunity for the governor to appear in Plenary.

I support this Motion. This is a bipartisan Motion where we need to agree on the constitution of a Special Committee.

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

**Sen. Kinyua:** Asante, Bw. Spika.

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

**The Speaker** (Hon. Kingi): Sen. Okiya Omtatah, who has permitted you to stand? What is your point of order, Sen. Okiya Omtatah?

**Sen. Okiya Omtatah:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 109.

I beg to move that the Mover of the Motion is called upon to reply. We are now bombing rubbles. We are repeating ourselves. There is nothing new being said.

Let the Mover be called to reply.

*(Sen. Githuku stood in his place)*

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**The Speaker** (Hon. Kingi): Senator for Lamu County, take a seat.

Hon. Senators, Sen. Okiya Omtatah has read the mood of the House and is seeking for the chair to call the Mover to reply.

*(Sen. Mwaruma stood in his place)*

Sen. Mwaruma, take your seat. This is a matter we can dispense with in a minute. I will proceed to put the question.

*(Question, that the Mover be now called upon to reply put and agreed to)*

Sen. Olekina, proceed to reply.

**Sen. Olekina:** Mr. Speaker, Sir, I thank you for this opportunity. I rise to reply. I have listened to all our colleagues make contributions. As I reply, there are a few things that must be clarified, particularly for the new Members of the Senate. The beauty of debates is that you are either for or against the Motion. My job is to persuade you to find it fit to support the Motion, but with reason. When I was in school, I was taught that debate enriches skills and also challenges you to think outside the box.

During the submissions of our colleagues, one of our colleagues indicated that it is important for the governor to come to this Plenary so that she can defend herself and all Senators get a chance to cross-examine her. I would like to correct this assertion.

When we sit as 67 Members of the Senate, we will only sit as a jury. The only thing we can do is seek clarification. You will rise and ask for clarification. The reason why I was and still am persuading my colleagues to consider the committee way, is that this is the only option you will have to cross-examine any witness. Sitting here in Plenary, we will all be juries. These televisions will be switched off and after the governor and the assembly have made their case, we will sit down to consult and agree as 67 juries.

It is important that any decision we make as a Senate; we make it when we are fully informed. I would like to persuade the new Members who have made an argument that they have not been allowed to experience a Committee and would like to be allowed to participate in an impeachment Motion. On our side of the divide, we proposed new Members. Out of the 11 Members, we have proposed four women, which is above one-third.

We are discussing precedence and procedure. Whether to proceed to appoint this committee or proceed to Plenary. You will not get an opportunity to cross-examine a witness in Plenary, you will only be a jury. We must consider these issues as we make our decision.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order, Sen. (Dr.) Khalwale and Sen. Kisang!

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**Sen. Olekina:** Mr. Speaker, Sir, we are a new democracy. I am happy that soon we will be celebrating 60 years of Independence. We have chosen a presidential system of governance. In the United States of America, during an impeachment process, a group of representatives are referred to as managers who prosecute the matters. They submit a report for the full House to debate. We are far when it comes to the issue of understanding the impeachment process. I know that what drives us is our political affiliation.

As I close, colleagues, whatever happens today will go on record. This will help build the Senate. I know that you have made up your mind. Nonetheless, the people of Meru County need to know that today we are not prosecuting or debating the issue of whether to send the governor away. We are debating whether to give this matter to 11 members to cross-examine the witness---

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

**Sen. Kathuri:** Mr. Speaker, Sir, it is very unfortunate that I did not get an opportunity to also speak on this particular matter touching on my county. However, Sen. Olekina convinced us enough.

I think he is just belabouring the points that he gave us. Can you kindly just summarise your reply and then we make the decision. That is the reason why we were given two minutes each and I was also on the queue. It is not fair at all.

**The Speaker** (Hon. Kingi): Senator for Meru County, indeed, I am aware that this matter originates from your home county. However, if you look at our Standing Orders, the Mover has 20 minutes to make a reply.

Sen. Olekina, you are left with three of the 20 minutes.

**Sen. Olekina:** Mr. Speaker, Sir, I thought I was left with 17 of the 20 but I will respect ---

**The Speaker** (Hon. Kingi): Proceed, now you have two of the three minutes.

**Sen. Olekina:** Within three minutes, I conclude as follows - we can make all the noise.

*(Sen. Cherarkey stood in his place)*

Mr. Speaker, Sir, please talk to Sen. Cherarkey and freeze my time.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I need to say this for future engagement. I am rising under Standing Order Nos. 98, 103, 47, 48 and 111. I need your interpretation. When a Motion is limited after you have opened it for debate, does it mean that when the Mover is replying, they are also limited to the three minutes?

So that we do not go to conundrum, my interpretation is to have the Mover's reply restrained to three minutes. That is the import of standing Order No.111.

Under Standing Order No.1 and the import of Standing Order No. 111, is it in order to request you to kindly call the Mover to just finish under there minutes just like all the other Senators. This is because it is not like the Animal Farm where ---

**The Speaker** (Hon. Kingi): Senator for Nandi County, had you not shot up on a point of order, Sen. Olekina would be through by now. I said he had three minutes.

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**Sen. Cherarkey:** Thank you for the guidance. I just needed that clarity.

**Sen. Olekina:** Mr. Speaker, Sir, you know my dear brother from Nandi County loves to hear the sound of his own voice ---

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

**Sen. Olekina:** Let me conclude in two minutes with the following - it is important for us to know the facts of either Committee or Plenary.

During Committee, our distinguished 11 Senators will get a chance to retreat to go and write a well thought-out report and then come back here and persuade us to either send the governor home or save her.

During Plenary, this will only take two days. There will be no time for retreat to write the reporting. Looking at the calendar, it is quite evident that maybe we will have only the 7<sup>th</sup> and the 8<sup>th</sup> of November and that is done.

As we leave this House today and as my colleagues from both sides of the isle make their determination on whether to go Plenary or committee way, remember that impeachment is a very painful process. I will never wish it for anybody. I plead with you to support---

*(Loud consultations)*

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

**Sen. Olekina:** Mr. Speaker, Sir, I have tremendous respect for the Deputy Speaker. However, him being the Deputy Speaker, he sits in that seat and knows the rules of debate. Let us not make it a shouting matter. I am trying to convince you. If you bring Narok County here, I will be sitting here and you will tell me the same thing.

Mr. Speaker, Sir, I beg to reply and request Senators to support.

**The Speaker** (Hon. Kingi): Hon. Senators, as you may notice, this is a Procedural Motion. It does not go to the substance of the subject of impeachment. Therefore, pursuant to Standing Order No.84 (1), I will proceed to make my determination, which is that, it does not affect the counties.

*(Sen. Oketch Gicheru consulted loudly)*

Sen. Oketch Gicheru, I will throw you out.

I will proceed to put the question. At the end of the question, voting shall be by voice.

*(Sen. Nyamu stood at the Bar)*

Sen. Nyamu, please, proceed and take your seat.

*(Loud consultations)*

Order! Members, how will you vote if you do not hear the question? What are you going to vote on if you cannot be still to hear the question?

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*(Question put and negatived)*

*(Applause)*

*(Several Senators stood in their places)*

Order, Hon. Senators! If you are standing, you will be counted on this side. Before I allow the Clerk to count, I am giving you a second, either to stand or to sit. This is because we are going to proceed to count.

*(Loud consultations)*

Sen. Olekina, you stand and keep quiet.

Hon. Senators, the Clerk-at-the-Table has proceeded to count the Senators standing. They are 14. Therefore, it is defeated. Clerk, please proceed to call the next order.

## **BILL**

*First Reading*

THE SUGAR BILL (NATIONAL ASSEMBLY  
BILLS NO.34 OF 2023)

*(Order for the First reading read – Read the First  
Time and ordered to be referred to the relevant  
Departmental Committee)*

Hon. Senators, kindly take your seats. For those who are not willing to continue after that vote, you can wait for your colleagues at the lounge. Do not disrupt the proceedings of the House. We need to proceed.

Pursuant to Standing Order No. 45 (2), I will further rearrange the sequence of today's Order Paper. Senator for Meru County, kindly take your seat. If you look at today's Order Paper, Order Nos.19 and 20 have been appearing for the last three months if not more. These are procedural matters that we can dispense with at this moment then revert to the original flow of today's Order Paper.

Hon. Senators, we will proceed to execute Order Nos.19 and 20 before resuming the normal flow of today's business. Clerk, proceed to call that Order.

## MOTIONS

NOTING OF REPORT OF THE 146<sup>TH</sup> ASSEMBLY OF  
IPU AND RELATED MEETINGS

THAT, the Senate notes the Report of the 146<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings, held in Manama, Kingdom of Bahrain, from 11<sup>th</sup> to 15<sup>th</sup> March 2023, laid on the Table of the Senate on Tuesday 2<sup>nd</sup> May, 2023.

**The Speaker** (Hon. Kingi): Sen. Kathuri, please proceed. This Motion is from the Senator for Meru County.

**Sen. Kathuri:** Mr. Speaker, Sir, wait. Please give me time. I was not ready and also my mind has no temperament to prosecute that Motion.

*(Motion deferred)*

**The Speaker** (Hon. Kingi): Very well. Proceed to call Order No.20.

NOTING OF REPORT OF THE SENATE DELEGATION TO THE 67<sup>TH</sup>  
SESSION OF THE COMMISSION ON THE STATUS OF WOMEN (CSW 67)

Proceed, Sen. Dullo.

**Sen. Veronica Maina:** Mr. Speaker, Sir, can I do it on behalf of Sen. Dullo?

**The Speaker** (Hon. Kingi): Yes, you can do that.

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

*[The Temporary Speaker (Sen. Abdul Haji) in the Chair]*

**Sen. Veronica Maina:** Mr. Speaker, Sir, this is the Report of the Senate Delegation to the 16<sup>th</sup> Session of the Commission on the Status of Women (CSW 67).

I was honoured to be part of the delegation that proceeded to CSW 67 meeting in New York and I now present the report.

The United Nations CSW is the principle global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women ---

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Veronica Maina, please approach the Speaker.

*(Sen. Veronica Maina approached the Chair)*

Proceed, Sen. Veronica Maina.

**Sen. Veronica Maina:** Mr. Temporary Speaker, Sir, I beg to move-

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THAT, the Senate notes the Report of the Senate Delegation to the 67<sup>th</sup> Session of the Commission on the Status of Women (CSW) held in New York from 6<sup>th</sup> – 17<sup>th</sup> March, 2023 laid on the Table of the Senate on Thursday 29<sup>th</sup> June, 2023.

I will now go to the Report.

The United Nations (UN) CSW is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. This is a functional Commission of the Economic and Social Council (ECOSOC), which was established in June 1946. The CSW is instrumental in promoting women's rights, documenting the reality of women's lives throughout the world and shipping global standards on gender equality and the empowerment of women.

The Commission holds a two-week annual event where representatives of UN member states, civil society groups, non-governmental organizations (NGOs), the media and other UN entities converge at the UN headquarters in consultative status with ECOSOC to discuss priority, themes critical to the well-being of women around the globe.

The 67<sup>th</sup> Session of the Commission on the Status of Women took place at the UN headquarters in New York from 6<sup>th</sup> -17<sup>th</sup> March, 2023. The theme of the session was Innovation and Technological Change and Education in the Digital Age for Achieving Gender Equality and the Empowerment of all Women and Girls.

In the first fully in-person session following three years of the COVID-19 pandemic, CSW 67 registered attendants from 181-member states with more than 7,000 participants, including four Heads of States and governments and 116 Ministers, 205 side events on UN premises and about 700 NGO parallel events.

For the first time, the session included an interactive youth session with young people, youth representatives of delegations, civil society and United Nations Organisations engaging in dialogue and providing recommendations on how to ensure young women and girls are part of the digital transformation.

The Commission also benefited from important contributions from a wide range of civil society organisations, including the leaders and commitment makers of the action coalition on technology and innovation for gender equality launched as part of the generation equality forum.

The action coalition on technology and innovation for gender equality has made a significant contribution in cementing alliances between governments, the private sector, civil society, and the UN system and in driving momentum and commitment to advance gender equality through technology and innovation.

Mr. Temporary Speaker, Sir, the Senate delegation to the 67<sup>th</sup> Session of the Commission of the Status of Women comprised the following -

1. Sen. Fatuma Adan Dullo, CBS, MP, who was leader of the Delegation
2. Sen. Veronica Maina, MP
3. Sen. Betty Montet, MP
4. Sen. George Mungai Mbugua, MP
5. Ms. Michelle Bibi Fondo, Deputy Director Speaker's Office
6. Ms. Josephine Kusinyi, Principal Legal Counsel and Secretary to the Delegation

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On behalf of the delegation, I wish to thank the offices of the Speaker and the Clerk of Senate for the support extended to ensure participation of the delegation in the event.

It is my pleasure and humble duty to submit the Report of the Senate Delegation to the 67<sup>th</sup> Session of the Commission on the Status of Women to the Senate for noting and action where necessary.

The Commission on the Status of Women (CSW) first met at Lake Sussex in New York in February 1947, soon after the founding of the United Nations (UN). From its inception, the Commission was supported by a unit of the UN that later became the division for the advancement of women in the UN Secretariat.

The CSW forged a close relationship with Non-Governmental Organizations (NGOs) with those in the consultative status with the UN Economic and Social Council (ECOSOC) invited to participate as observers. From 1947 to 1962, the Commission focussed on setting standards and formulating international conventions to change discriminatory legislation and foster global awareness of women issues.

Since the confiscation of the legal rights of women needed to be supported by data and analysis, the Commission embarked on a global assessment of the status of women. Extensive research produced a detail country by country picture of their politics and legal standing which overtime became a basis for drafting human rights instruments.

In 1963, efforts to consolidate standards on women rights led to the UN General Assembly to request the Commission to draft a declaration on the elimination of discrimination against women, which the Assembly ultimately adopted in 1967.

Mr. Temporary Speaker, Sir, as evidence began to accumulate in the 1960s that women were disproportionately affected by poverty, the work of the Commission cantered on women's needs in community and rural development, agricultural work, family planning and scientific and technological advances. The Commission encouraged the UN system to expand its technical assistance to further the advancement of women, especially in developing countries.

In 1972, to mark its 25<sup>th</sup> anniversary, the Commission recommended that 1975 be designated International Women's Year, an idea endorsed by the General Assembly to draw attention to women's equality with men and to their contribution to development and peace. New UN offices dedicated to women were established in particular, the UN Development Fund for Women (UNIFEM) and the International Research and Training Institute for the Advancement of Women (INSTRO).

Mr. Temporary Speaker, Sir, in 1987, as part of the follow up to the Third World Conference on Women in Nairobi, the Commission took the lead in coordinating and promoting the UN systems work on economic and social issues for women empowerment. Its efforts shifted to promoting women issues as cross-cutting and part of the mainstream rather than as a separate concern.

In 2011, the four parts of the UN system, Division for the Advancement of Women (DAW), INSTRO, the Office of the Special Advisor on Gender Issues and advancement of Women (OSAGI) and UNIFEM merged to become the UN Women, now the Secretariat of the CSW.

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During the Commission's annual two weeks' session, representatives for UN member States, civil society organizations and UN entities gather at UN Headquarters in New York. They discuss progress and gaps in the implementation of the 1995 Beijing Declaration and Platform for Action. The key global policy documents on gender equality and the 23<sup>rd</sup> Special Session of the General Assembly held in 2000, Beijing Plus 5, as well as emerging issues that affect gender equality and the empowerment of women.

Member States agree on further action to accelerate progress and promote women's enjoyment of their rights in political economic and social fields. The outcome and recommendation of this Session have been forwarded to Economic and Social Council (ECOSOC) for follow-up

Regarding methods of work, the Commission adopts a multi-year programme of work to appraise progress and make further recommendations to accelerate the implementation of the platform for action. These recommendations take the form of negotiated, agreed conclusions on a priority theme. The Commission also contributes to the follow-up to the 2030 Agenda for Sustainable Development so as to accelerate the realisation of gender equality and the empowerment of women.

Under its current methods of work at each Session, the Commission:

(a) Convenes a Ministerial segment to reaffirm and strengthen political commitment to the realization of gender equality and empowerment of women and girls as well as their human rights and to ensure high-level engagement and the visibility of deliberations of the Commission, including through Ministerial round tables or other high-level interactive dialogues to exchange experiences, lessons learned and good practices.

(b) Engages in general discussions on the status of gender equality identifying goals attained, achievements made and efforts underway to close gaps and meet challenges.

(c) Convince interactive expert panel discussions and other interactive dialogues on steps and initiatives to accelerate implementation and measures to build capacities for mainstreaming gender equality across policies and programmes.

(d) To also consider one priority based on the Beijing Declaration and platform for action and the outcome of the 23<sup>rd</sup> Special Session of the General Assembly and linkages to the 2030 Agenda for Sustainable Development.

(e) Evaluate progress in implementing agreed conclusions from previous sessions as a review theme.

(f) Discusses emerging issues, trends, focus areas, and new approaches to questions affecting the situation of women, including equality between women and men, that require timely consideration.

(g) It considers enclosed meetings the report of its working group on communication.

(h) Agrees on further action for the promotion of gender equality and empowerment of women by adopting agreed conclusions and dissolutions.

(i) Contributes gender perspectives to the work of other Inter-Governmental bodies and processes.

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(j) Reports on the aspect relating to gender equality and empowerment of women of the agreed main theme of the economic social council in order to contribute to its work.

(k) Celebrate International Women's Day on 8<sup>th</sup> March when it falls within its Session.

Mr. Temporary Speaker, Sir, Kenya prepared a Country Position Paper (CPP) to articulate the country's position on the 67<sup>th</sup> CSW priority theme.

I want to give the observations that were done by the delegation although it would have been good to see what Kenya presented. I believe the report will be availed for Senators to take note.

The delegation observed that:

(a) There was need to move beyond the focus on access and ensure women are equipped with the knowledge, awareness and skills to leverage connectivity for their economic and social empowerment.

(b) Data is important to make informed decisions and there is a need to continually collect comparable sex-disaggregated data to monitor progress toward meaningful connectivity.

(c) Policies and programmes should be rolled out to facilitate access and subsidised smartphones and other digital devices and girls.

(d) There is a need to develop online content and services that are accessible to women with limited literacy and digital skills and Parliament as an institution should consider hosting a side event during the 68<sup>th</sup> session.

The recommendation was that the Senate Delegation to the 67<sup>th</sup> Session on the Commission of the Status of Women urges the Senate to note this report.

Mr. Temporary Speaker, Sir, the report contains much more information and the many side events that the delegation attended. It would be very good if Senate notes so that you can make progress in gender matters.

I thank you.

I would request Sen. Mungatana, MGH to second.

**Sen. Mungatana, MGH:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to second this Motion and to table this report before this House.

I want to congratulate the Mover of this Report, Sen. Veronica Maina and pray that it be adopted by the Senate. I also want to take this opportunity to congratulate the leader of the delegation, Sen. Dullo and all the Senators who accompanied this delegation.

Mr. Temporary Speaker, Sir, every time we talk about women issues, I am the first one to support because I am a product of a very strong woman leader called Martha Mungatana, my late departed mother; may God rest her soul in peace.

My mother went to the United Nations Beijing Conference. We had a very strong paternalistic system in our house, as it is in most African countries, where my father was everything. However, very interesting things happened in our family set up when my mother came back from Beijing.

My mother taught us many things. She told us it is not just my sister who is supposed to cook; we are supposed to learn how to cook, how to look after the home and

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how to take care of ourselves, because we need to be good men to marry good women in future.

In fact, I can dare say that she laid a foundation in leadership in Tana River of which I was a specific beneficiary. When I vied for the seat of a Member of Parliament many years later, many people would tell me: “If you are the son of Martha you do not need to campaign here, we shall support you”.

Mr. Temporary Speaker, Sir, I mentioned this because women in our country have made great contributions. Since those days of the United Nations, breaking the barriers and bringing the one-third rule, we have made great progress, even in this Senate. In the Constitution, we created a special provision to make sure that we never fail in the one-third gender rule. We have come a long way, but this particular session that our colleagues attended was focusing on the digital.

In seconding this Report of the 67<sup>th</sup> Session of the Commission on the Status of Women, some of the things that they talked about, we would not have been talking about them or even visualize them many years ago. At the time of the UN Decade Conference in Beijing, or even the time that the agitation started for women rights and the one-third rule. This time now, we are talking about women in the space of technology. I am impressed by what they did when they went there.

In particular, I was very happy to see the Kenya's country position on this matter. This is because they summarized that in Kenya we have set four pillars; the digital infrastructure, digital government service product and data management, digital skills and digital innovation. We have come a long way in our country. We have accepted women leadership and now we are accepting women in the technological sphere.

The latest move by the Kenya Kwanza Government led by President Ruto was launching of smartphone costing as little as Kshs6,000. It is a fantastic idea, which has gone a long way towards helping the women working in the shops, mama mboga and those doing small-scale businesses. With that kind of facilitation, we are helping our women to take one-step ahead of the others.

I emphasize that Kenya as a country under the leadership of the President has done very well. Recently even our own political party the United Democratic Alliance (UDA) went out of its way to amend its constitution so that if the Chairman is a lady the Deputy must be a gentleman and *vice versa*. That follow for all the positions. This reflects the kind of thinking that we have as a Government.

We thank the delegation that went there. We pray that through this report, where there is action to be taken, it will be moved in the various Ministries. I congratulate them. Keep up the spirit. There should never be a reverse gear on the agenda issues. It does not matter how much resistance you get on the way because we have all come a long way. With time, this country will be better than it is today.

With those very many remarks, I beg to second.

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, I will now propose the Question.

*(Question proposed)*

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There being no Senator wishing to contribute, I will, therefore, put the Question. Pursuant to Standing Order 84, I determine that this matter does not affect counties.

*(Question put and agreed to)*

Next Order.

## **BILL**

### *Second Reading*

#### THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. Pursuant to the provisions of Senate Standing Order No.146 (1), I rise to move that the Prevention of Livestock and Produce Theft Bill (Senate Bills No. 12 of 2023) be read a Second Time.

This Bill has come at the appropriate time while we continue to fight and struggle against cattle rustling and banditry. You have to appreciate where it has come from. The issue of banditry and cattle rustling continues to be a problem in the North Rift and Central Rift areas such as Baringo County and other areas. Therefore---

## **ADJOURNMENT**

**The Temporary Speaker** (Sen. Abdul Haji): Order! Sen. Cherarkey, you will have a balance of 59 minutes when the Bill appears next on the Order Paper.

Hon. Senators, it is now time to interrupt the business of the Senate. The Senate stands adjourned until tomorrow, Wednesday, 1<sup>st</sup> November 2023 at 9.30 a.m.

The Senate rose at 6.30 p.m.