



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

AFTERNOON SITTING

WEDNESDAY, OCTOBER 18, 2023 AT 2.30 PM

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM IN THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum after the expiry of ten minutes,

The Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair:-

a) Visiting Delegation of University Student Leaders from Kisii and Nyamira Counties

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, visiting delegation of University Student Leaders from Kisii and Nyamira Counties. The delegation is in the Senate for a one-day academic exposition.

Honourable Senators,

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

I thank you.”

b) Visiting Teachers and Students from Faith Ventures Christian Academy in Roysambu, Nairobi City County

“Honorable Senators,

In the public gallery, we have twenty-one (21) students, accompanied by two (2) teachers from Faith Ventures Christian Academy in Roysambu, Nairobi City County who are in the Senate on an education tour.

Honorable Senators,

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

I thank you!”

c) On Substantiation of facts by Sen. Godfrey Osotsi, MP, pursuant to Standing Order 105 (2)

“Honourable Senators,

As you may recall, at the sitting of the Senate held on Thursday, 5th October, 2023, the Temporary Speaker (Sen. Abdul Haji, MP), directed Sen. Godfrey Osotsi, MP, to substantiate utterances made in the course of debate, following interventions, pursuant to Standing Order 105 (1).

Standing Order 105 provides, and I quote -

- (1) *“A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.*
- (2) *If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 121 (Disorderly conduct) unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”*

Honourable Senators,

The Senator was not able to substantiate his statements pursuant to Standing Order 105(1) and, subsequently, requested the Speaker to provide the evidence at the next sitting day in accordance with Standing Order 105 (2). Having acceded to the request, the Speaker, pursuant to the Standing Order, directed that the Senator substantiates his allegations at the next sitting day.

Subsequently, the substation was not carried out at the next sitting due to the business at hand. I have, therefore, reviewed the Hansard report of the proceedings held on Thursday, 5th October, 2023 and I have ascertained the remarks that necessitated the Senator to be challenged to substantiate his claims.

The particulars of the allegation that requires substantiation by the Senator is as follows: -

Sen. Samson Cherarkey, MP, sought the intervention of the Chair to require Sen. Godfrey Osotsi, MP, to substantiate the statement that “... *We have had issues even recently in my county, in the boundary between Vihiga and Aldai at a place near Serem. This was very recent, in the last month. The attackers came, provoked and attacked a village, killed animals, burnt them, injured people, and burnt houses. That was not given the coverage that Sondu is being given now.*”

Honourable Senators,

Pursuant to Standing Order 105(2), I now invite the Senator to forthwith substantiate his claims, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 121. In the absence of such substantiation, the Senator will be required to withdraw the statements and apologize to the Senate.

I thank you.”

Thereupon, the Senator for Vihiga County (Sen. Godfrey Osotsi, MP) tabled a USB flash drive containing information to substantiate his statement.

d) Visiting Delegation of Kapkwen Boda Boda Group in Bomet County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation of Kapkwen Boda Boda Group in Bomet County. The delegation is in the Senate on a courtesy call.

Honourable Senators,

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

I thank you.”

5. **MESSAGES FROM THE NATIONAL ASSEMBLY**

The Speaker conveyed the following Messages from the National Assembly;

a) Passage of the Sugar Bill (National Assembly Bills No. 34 of 2022)

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46 (3) and (4), I received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Sugar Bill (National Assembly Bills No. 34 of 2022).

The Message, which is dated Thursday, 28th September, 2023 was received on Monday, 16th October, 2023, in the Office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message-

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

WHEREAS the Sugar Bill (National Assembly Bill No. 34 of 2022) was published vide Kenya Gazette Supplement No. 150 of 6th October 2022 as a Bill seeking to reinstate provisions of the Sugar Act, 2001 that was repealed through the enactment of the Crops Act, 2013; to re-establish the Kenya Sugar Board and restore its roles that are currently performed by the Sugar Directorate of the Agriculture and Food Authority established under the Agriculture and Food Authority Act, 2013; and to reinvigorate the sugar sector through re-establishment of the Sugar Development Levy and the Sugar Development Fund; and to establish the Kenya Sugar Research Institute;

AND WHEREAS, on Wednesday, 27th September 2023, the National Assembly considered the Sugar Bill (National Assembly Bill No. 34 of 2022) and passed it with amendments and in the form attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Honourable Senators,

The Message was received with a request from the Sponsor of the Bill, Hon. Emmanuel Wangwe, CBS, MP of the National Assembly that Sen. David Wafula Wakoli, MP, co-sponsors and introduces the Bill in the Senate.

Pursuant to the provisions of Standing Order No. 163 (2) which states –

163 (2) Before a Bill originating from the National Assembly is read a First Time in the Senate, the Speaker shall notify the Senate whenever a Message is received from the Speaker of the National Assembly naming a Senator or Senators who have been nominated by the Sponsor of the Bill to co-sponsor the Bill in the Senate;

Honourable Senators,

In this regard, this request has been conveyed to the aforementioned Senator for his further action.

I Thank you.”

b) Passage of the Facilities Improvement Financing Bill (Senate Bills No. 43 of 2023)

Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46(3) & (4), I received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Facilities Improvement Financing Bill (Senate Bills No. 43 of 2023).

The Message, dated Tuesday, 17th October, 2023, was received on Tuesday, 17th October, 2023, in the Office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly -

WHEREAS, the Facilities Improvement Financing Bill (Senate Bill No. 43 of 2023) was published vide Kenya Gazette Supplement No. 168 of 15th September 2023 to provide for public health facility improvement financing and the management and administration of facility improvement financing in the country;

AND WHEREAS, the Senate passed the said Bill on 27th September 2023 and referred it to the National Assembly for consideration in accordance with the provisions of Article 110(4) of the Constitution;

FURTHER WHEREAS, on Tuesday, 17th October 2023, the National Assembly considered and passed the Facilities Improvement Financing Bill (Senate Bill No. 43 of 2023) without amendment and in the form passed by the Senate;

NOW, THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

I am in the process of forwarding the Bill to H.E the President for assent.

I thank you.”

c) Passage of the Primary Health Care Bill (Senate Bills No. 44 of 2023)

Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46(3) & (4), I received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Primary Health Care Bill (Senate Bills No. 44 of 2023).

The Message, dated Tuesday, 17th October, 2023, was received on Tuesday, 17th October, 2023, in the Office of the Clerk of the Senate.

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly -

WHEREAS, the Primary Health Care Bill (Senate Bill No. 44 of 2023) was published vide Kenya Gazette Supplement No. 169 of 15th September 2023 to provide a framework for the delivery of, access to, and management of primary health care;

AND WHEREAS, the Senate passed the said Bill on 28th September 2023 and referred it to the National Assembly for consideration in accordance with the provisions of Article 110(4) of the Constitution;

FURTHER WHEREAS, on Tuesday, 17th October 2023, the National Assembly considered and passed the Primary Health Care Bill (Senate Bill No. 44 of 2023) without amendment and in the form passed by the Senate;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 144 of the National Assembly

Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

I am in the process of forwarding the Bill to H.E the President for assent.

I thank you.”

6. PETITIONS

Pursuant to Standing Order 236 (2) (b), the Speaker reported a Petition by representatives of Mwabundusi land squatters in Bobaracho Ward, in Kisii County, concerning delayed allocation of alternative land following alienation of ancestral land for the construction of Kenya Agricultural Research Institute and the Kisii Farmers Training Centre.

Pursuant to Standing Order 237, the Speaker invited Senators to make comments, observations or seek clarifications in relation to the Petition and, subsequently committed the Petition to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 238.

7. PAPER LAID

The following Papers were laid on the Table of the Senate: -

- i. The National Treasury and Economic Planning 2nd Annual Report on the State of Public Private Partnerships for Financial Year 2022/2023.

(The Senate Majority Leader)

- ii. USB flash drive containing information to substantiate statement made pursuant to Standing Order 105.

(Sen. Godfrey Osotsi, MP)

8. THE EQUALIZATION FUND APPROPRIATION BILL, (SENATE BILLS NO. 30 OF 2023)

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Equalization Fund Appropriation Bill (Senate Bills No. 30 of 2023) be now read a Second Time.

(The Vice Chairperson, Standing Committee on Finance and Budget)

Debate arising;

Rising on a Point of Order pursuant to Standing Order 109(1), Nominated Senator (Karen Nyamu, MP) claimed to move –

THAT the Mover be now called to reply

(Sen. Karen Nyamu, MP)

And the Temporary Speaker (Sen. Catherine Mumma, MP) acceding to the claim, forthwith put the Question pursuant to Standing Order 109(1).

Question put and negatived.

Debate interrupted resumed;

And there being no other Senator wishing to contribute;

The Senate Majority Whip replied on behalf of the Mover;

Pursuant to Standing Order 66(3), the Senate Majority Whip requested the Temporary Speaker (Sen. Catherine Mumma, MP) to defer putting of the Question to a later date;

And the Temporary Speaker (Sen. Catherine Mumma, MP) acceding to the request, deferred putting of the Question to a later date.

9. **MOTION – EXTENSION OF THE MANDATE OF THE NATIONAL DIALOGUE COMMITTEE**

Order Read;

Motion made and Question proposed;

AWARE THAT the National Dialogue Committee was established through a Resolution passed by the National Assembly and Senate on 16th August 2023 and 29th August 2023 respectively;

FURTHER AWARE that the Resolution outlines the mandate of the Committee which includes to facilitate dialogue, consensus building and recommend appropriate constitutional, legal, and policy reforms on issues of concern to the people of Kenya;

ACKNOWLEDGING THAT since its establishment, the Committee has made tremendous progress in exercise of its mandate and has achieved the following milestones: Formulated and adopted the Framework Agreement; Framed and adopted the Statement of Issues; Unbundled the Issues and agreed on prioritization of Issues; Harmonized the unbundled Issues; Conducted public participation and stakeholder engagements in line with the requirements of Article 10 of the

Constitution; and Examined and analyzed the memoranda that were received from the public and stakeholder submissions;

FURTHER COGNIZANT that the Committee is presently in the process of considering the issues for negotiations and recommending appropriate constitutional, legal and policy reforms on each of the framed issues which are Electoral Justice and Related Matters: Outstanding Constitutional Matters: Fidelity to Political Parties/Coalitions and the law on multiparty democracy: Entrenching the National Government Constituencies Development Fund, National Government Affirmative Action Fund, and the Senate Oversight Fund into the Constitution and Establishment and Entrenchment of State Offices;

CONSCIOUS that the Resolution as passed by both Houses of Parliament, required the Committee to report to the Leadership of Kenya Kwanza and Azimio Coalitions within sixty (60) days, from 29th August 2023;

RECOGNIZING the need for the Committee to conclude the consideration of the issues for negotiations, the process of making the appropriate constitutional, legal and policy reforms on each of the issues as framed by the Committee and preparation of a Report for submission to the Leadership of Kenya Kwanza and Azimio Coalitions and thereafter, to Parliament;

NOW, THEREFORE, the Houses of Parliament Resolve to extend the mandate of the National Dialogue Committee by a further thirty (30) days from 28th October 2023 and consequently, the Committee shall be required to report to the Leadership of Kenya Kwanza and Azimio Coalitions, on or before 26th November 2023 and after that submit its Report, to Parliament.

(Sen. Erick Okong'o Mogeni, MP, on behalf of the Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the question was put and pursuant to Standing Order 84(1), the Temporary Speaker (Sen. Catherine Mumma, MP) ruled that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

AWARE THAT the National Dialogue Committee was established through a Resolution passed by the National Assembly and Senate on 16th August 2023 and 29th August 2023 respectively;

FURTHER AWARE that the Resolution outlines the mandate of the Committee which includes to facilitate dialogue, consensus building and recommend appropriate constitutional, legal, and policy reforms on issues of concern to the people of Kenya;

ACKNOWLEDGING THAT since its establishment, the Committee has made tremendous progress in exercise of its mandate and has achieved the following milestones: Formulated and adopted the Framework Agreement; Framed and adopted the Statement of Issues; Unbundled the Issues and agreed on prioritization of Issues; Harmonized the unbundled Issues; Conducted public participation and stakeholder engagements in line with the requirements of Article 10 of the Constitution; and Examined and analyzed the memoranda that were received from the public and stakeholder submissions;

FURTHER COGNIZANT that the Committee is presently in the process of considering the issues for negotiations and recommending appropriate constitutional, legal and policy reforms on each of the framed issues which are Electoral Justice and Related Matters: Outstanding Constitutional Matters: Fidelity to Political Parties/Coalitions and the law on multiparty democracy: Entrenching the National Government Constituencies Development Fund, National Government Affirmative Action Fund, and the Senate Oversight Fund into the Constitution and Establishment and Entrenchment of State Offices;

CONSCIOUS that the Resolution as passed by both Houses of Parliament, required the Committee to report to the Leadership of Kenya Kwanza and Azimio Coalitions within sixty (60) days, from 29th August 2023;

RECOGNIZING the need for the Committee to conclude the consideration of the issues for negotiations, the process of making the appropriate constitutional, legal and policy reforms on each of the issues as framed by the Committee and preparation of a Report for submission to the Leadership of Kenya Kwanza and Azimio Coalitions and thereafter, to Parliament;

NOW, THEREFORE, the Houses of Parliament Resolve to extend the mandate of the National Dialogue Committee by a further thirty (30) days from 28th October 2023 and consequently, the Committee shall be required to report to the Leadership of Kenya Kwanza and Azimio Coalitions, on or before 26th November 2023 and after that submit its Report, to Parliament.

The Temporary Speaker (Sen. Catherine Mumma, MP) adjourned the Senate at forty-five minutes past six O'clock, without Question put, pursuant to Standing Order 34(2A).

10. **SENATE ROSE** – at forty-five minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, October 19, 2023 at 2:30 p.m.*
