

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Wednesday, 17<sup>th</sup> April, 2013

*The Senate met at the Kenyatta International  
Conference Centre at 9.00 a.m.*

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

### PRAYERS

### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Ethuro): Hon. Members, we need to determine whether we have a quorum. I think we have more than the requisite numbers.  
Mr. Clerk, let us proceed.

### PAPER LAID

### PRESIDENTIAL ADDRESS

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, pursuant to Standing Order No.24(5), I wish to lay on the Table of the Senate the President's Speech delivered at the Joint Sitting of Parliament held at the National Assembly Chamber on Tuesday, 16<sup>th</sup> April, 2013.

*(Sen. (Prof.) Kindiki laid the document on the Table)*

### NOTICE OF MOTION

### THANKS FOR THE PRESIDENTIAL ADDRESS

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the thanks of the Senate be recorded for the exposition of public policy contained in the Address of the President on the occasion of the opening of the Eleventh Parliament on Tuesday, 16<sup>th</sup> April, 2013.

## PROCEDURAL MOTION

## EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O. No.39(3)

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move that pursuant to S.O No.237 (1), the Senate orders that the business appearing on today's Order Paper be exempted from the provisions of Standing Order No.39 (3) being a Wednesday morning, a day allocated for Motions or Bills not sponsored by the Majority or the Minority party or a Senator belonging to the Majority or the Minority party or a Committee.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**Sen. Orenge:** Mr. Speaker, Sir, I want to say the following. Although there has been no justification either by the Leader of the Majority Party or the Leader of the Minority Party why this Procedural Motion is being moved, it is self-evident. However, as a matter of fact, we need to state that there is no business under Standing Order No.39 (3).

I beg to support.

**The Speaker** (Hon. Ethuro): Sen. Orenge, I thought that the Motion being procedural and people being clear on its contents, they found it unnecessary to explain the same thing.

**Sen. (Dr) Khalwale:** Mr. Speaker, Sir, indeed, as I congratulate all of us for being here, I am particularly disappointed by the Leader of the Minority Party, Sen. Wetangula. He should have used this opportunity to teach the Leader of the Majority Party that this is not just about reading a Motion to the House but that he must support the Motion and endeavor to convince us to support it. Hon. Wetangula, if you do not discharge your duty on this one, Sen.(Prof.) Kindiki might start thinking that the responsibility he has moved into is child's play. This is serious business. Sen. (Prof.) Kindiki, we would like you to take up your place, we know you are up to it.

*(Question put and agreed to)*

**The Speaker** (Hon. Ethuro): Senate Majority Leader! Senator Kindiki, I hope you have heard contributions from Senators and this is the opportunity to do the needful.

**Sen. Kajwang:** Mr. Speaker, Sir, this is Sen. Kajwang from Homa Bay. We heard the speech from the President yesterday. It was a good, eloquent made and covers many areas from governance, education---

**The Speaker** (Hon. Ethuro): Order, Sen. Kajwang! On which Motion are you?

**Sen. Kajwang:** I am on a point of order.

**The Speaker** (Hon. Ethuro): Okay.

**Sen. Kajwang:** Mr. Speaker, Sir, my view is that we be given some time. Although we heard this speech, we are seeing it for the first time this morning.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! I want to make it very clear that it is the duty of the Chair to determine whether a Senator is out of order or not, it is not for the rest of the hon. Senators. Being the first day in the Senate, Sen. Kajwang from Homa Bay can be allowed to finish what he wanted to say.

**Sen. Kajwang:** Mr. Speaker, Sir, I hope they will be patient as they learn that it is the job of the Speaker and not theirs.

Mr. Speaker, Sir, what I was trying to say is, and I think I have been corrected by Sen. (Dr.) Khalwale, that we may not go to the business. I was fearful that we may go into discussing the Address before we have time to digest and come prepared. So, I withdraw. Thank you very much.

**The Speaker** (Hon. Ethuro): Sen. Kajwang, there is nothing to withdraw. If you have a copy of the Order Paper which I suppose you have, the last business is actually Order No.9 and the Motion you are trying to disqualify from the business is not even on the Order Paper. So, it cannot be part of business this morning.

Majority Leader, proceed.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I am gratified to know that I am not the only one who needs a bit of teaching.

**The Speaker** (Hon. Ethuro): Order! You will have an opportunity to say so, but for now, just move the Motion.

## MOTION

### APPOINTMENT OF MEMBERS OF THE RULES AND BUSINESS COMMITTEE

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to Standing Order No.174, the Senate approves the following Senators to be Members of the Rules and Business Committee:-

Sen. David Ekwee Ethuro	-	Speaker of the Senate - Chairperson
Sen. (Prof.) Kithure Kindiki	-	Senate Majority Leader
Sen. Moses Wetangula	-	Senate Minority Leader
Sen. Beatrice Elachi	-	Senate Majority Whip
Sen. Johnson Muthama	-	Senate Minority Whip
Sen. Beth Mugo		
Sen. (Prof.) John Lonyangapuo		
Sen. Charles Keter		
Sen. Kiraitu Murungi		
Sen. James Orengo		

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Sen. Janet Ong'era

Sen. (Dr.) Agnes Zani

Mr. Speaker, Sir, the Rules and Business Committee, as Senators would know, is a critical component or a critical starting point for the organization of the business of this House. Therefore, it is important that the constitution of this Committee be discussed and adopted by this House. We hope that this House will approve the names which have been tabled before this House so that work can start.

The other point that I want to make is that given the heavy legislative agenda that this House has, we will require this Committee to start working immediately so that the House can start discharging its constitutional mandate.

**The Speaker** (Hon. Ethuro): Who is seconding?

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

Please resume your sit, Sen. Wetangula.

Senate Majority Leader, I think since you have conceded that you are learning, the Chair is willing to assist you. Once you move the Motion, it is also up to you to indicate who is seconding it.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move the Motion and ask Sen. Moses Wetangula, the Leader of Minority Party, to second.

**The Speaker** (Hon. Ethuro): Well done. Senator Wetangula!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I beg to second the Motion as moved by Sen. (Prof.) Kindiki. This is a critical Committee that will be able to determine and arrange the business of the House. Being the first sitting, it is important that we allow, after approval of this Committee, the Committee to quickly formulate the timetable for work and the kind of work that we need to do. In so doing, I want to congratulate all my colleagues on their election or nomination and I hope that we are going to approach most of our business in a bi-partisan manner so that we can be able to give the country a clear direction particularly on devolution. This list meets the necessary constitutional criteria of gender balance. It does also meet the convenience of our arrangement. It is broad-based and has taken into account all shades of interest between us.

I do believe that Senators listed herein will be able to very quickly move to give us the necessary guidance in our work in the Senate. In saying so, I also want to encourage the Chair and the management of the Senate that seeing where we are seated, certainly this is not a Chamber befitting a Senate. We passed this Constitution quite some time back and everybody knew there was a Senate coming. Why did it take so long for Parliament to start reconfiguring the place where we are going to sit, that is, our Old Chamber? Even if they started late because it was in use, why has it not been done quickly to enable Senators to sit in an appropriate Chamber? That is something that your office needs to take up. More importantly, it is also worth noting that some of your Senators here do not have offices.

We need an urgent arrangement because, as we start the work of the Senate, appropriate working stations and working environments must be created for the Senate to be able to discharge its responsibility. No impression should be created that this Senate is the inferior House. No impression should be created that we are not the Upper House because we are the Upper House and we must constantly carry our responsibilities as the Upper House in the management of the affairs of this country. As we do so, facilities available to us to discharge our responsibility remains your cardinal responsibility together with the management of the Senate to make sure that within the shortest time possible, the Senate must move to the designated Chamber at the precincts of Parliament.

We need also to be guaranteed that as we sit in this building, which is frequented by so many people with so many activities, the security of the Senators is constantly an issue that you will take care of. This is because we live in a very volatile world where you cannot take things for granted. If terrorists can bomb marathoners, who else can they not? This is something that I want to encourage the management of the Senate to take quick responsibility.

Mr. Speaker, Sir, I want to urge that hon. Senators approve this list which was drawn after wide and deep consultations. It is a Committee that will determine how you are going to carry out your work, the order of work; Motions and Bills that you will bring and so on.

Mr. Speaker, Sir, with those few remarks, I beg to second.

**The Speaker** (Hon. Ethuro): First, even before I propose the Question, I want to agree with the sentiments by Sen. Wetangula. Part of the reason we need this Committee quickly is for such kind of business to be conducted. So, those sentiments are noted by the Chair.

*(Question proposed)*

**Sen. Hassan:** On a point of order, Mr. Speaker, Sir. I rise to support this Motion but with the following amendments.

**The Speaker** (Hon. Ethuro): Order!

**Sen. Hassan:** Mr. Speaker, Sir, I beg to oppose this Motion.

**The Speaker** (Hon. Ethuro): Order! Order!

**Sen. Hassan:** Mr. Speaker, Sir, I want to speak.

**The Speaker** (Hon. Ethuro): Order! Hon. Senators, I appreciate that this is our first Sitting and some of us are here for the first time. A point of order is for purposes of demonstrating that something is not properly placed before the House. If you want an opportunity to speak, you just rise from your seat and try to catch the eye of the Speaker. However, rising up does not translate automatically to being seen. So, you will appreciate that.

Can I have an indication of those willing to contribute to the Motion?

*(Several Senators stood up in their places)*

**Sen. (Eng.) Muriuki:** On a point of order, Mr. Speaker, Sir. I wish to ask for a clarification on a matter of procedure. This is because, ordinarily, there is something called a Maiden Speech for newcomers or a new House. I just wish to clarify that when one contributes to a procedural or preliminary matter like this, then that will not be counted as a Maiden speech where you cannot be interrupted and you can also say other things.

**The Speaker** (Hon. Ethuro): What is it, Sen. Wako? I will entertain points of order first before I allow Senators to contribute.

**Sen. Wako:** On a point of order, Mr. Speaker, Sir. There are two procedural issues and that is why I am raising this point of order. Looking at Standing Order No.174, is it in order that the suggested names Nos.4 and 5 should reflect the status which they have as Whips? Standing Order No.174 only recognizes the Speaker, Senate Majority Leader and Senate Minority Leader as people who will be there by virtue of their offices. Is it, therefore, in order that names Nos.4 and 5 should be reflected as if they are there by virtue of their offices? I do not object to them being there, but is it in order for them to be reflected as if they are there by virtue of their offices?

Mr. Speaker, Sir, the other point of order that I want to raise is under Standing Order No.174(d) which reads:-

“Not more than nine other Senators, reflecting the relative majorities of the seats held by each of the parliamentary parties in the Senate, who shall be nominated by the parliamentary parties and approved by the Senate at the commencement of every Session.”

None of the Mover or Seconder has told us that the parliamentary parties were consulted. Is it in order, therefore, for them to just present the list without, in their contribution, mentioning that the provisions of Standing Order No.174 have been followed? There are provisions of consultation and nomination by parliamentary parties. So, before we approve the Motion, I want to be assured of those two points of order which are procedural issues.

Mr. Speaker, Sir, I must add that substantively I accept, but I want us, right from the word go, to start by seeing to it that the Standing Orders are followed to the letter. I want that assurance before we can approve the Motion.

**Sen. Murungi:** On a point of information, Mr. Speaker, Sir. I would like to inform my learned friend, Sen. Wako, the former Attorney General, that according to Standing Order No.174 (3), in nominating Senators to the Rules and Business Committee, each parliamentary party shall include its whip into the membership. So, it is very proper for the two Whips to be included in this list as per this Standing Order.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I just want to reinforce the point of order under Standing Order No.74 raised by the former Attorney-General, Amos Wako. Contribution in this Parliament has been that when this kind of business is brought before the House, usually there would be an indication of which party a particular name belongs to. This normally helps the Floor during debate to appreciate whether there has been fairness.

I would like you, in your response, probably to guide us and possibly to re- invite the Leader of Majority Party to make that indication and, more importantly, to state to us

whether they were considering the party or the coalition, so that we know whether if you are in the coalition, you will be catered for or if it was not the coalition, those of us who come from small parties like the United Democratic Forum (UDF), we know whether we were thought about before this list was settled upon.

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

**The Speaker** (Hon. Ethuro): Why do I not dispose of these ones first; unless they are related?

**Sen. Kariuki:** Mine is a bit critical!

**The Speaker** (Hon. Ethuro): What is it, Sen. G.G. Kariuki?

**Sen. G.G. Kariuki:** Mr. Speaker, Sir, I think we are dealing with a matter which I consider a matter which does not belong to us. We are discussing a document which is supposed to guide us in this House and this document has not been ratified by the Senate itself, because my understanding is that the Senate needs to midwife their own Standing Orders and that is why we have started with confusion. We do not understand the source of this document. I think when this Committee we are talking about is accepted by this House, there is need for us to start thinking about looking at these Standing Orders which I do not think we contributed to.

**The Speaker** (Hon. Ethuro): Order, hon. Senators! Several points of order have been raised. One was whether the Whips should be part of the list, in their capacity of being Whips. The second one was whether the party Members have been informed by the respective political parties on the composition of this Committee. Another one by Sen. G.G. Kariuki was whether these Standing Orders should be used by this Senate, having not contributed to them and the initial one was by Sen. (Eng) Karue; whether really contributions to procedural Motions amount to a maiden speech.

Let me start with the last one that came first. For purposes of our deliberations, your contribution to a Procedural Motion is not your maiden speech. Your maiden speech which you will make without being interrupted by any other Senator, will be when we have substantive business before the Chamber. So, I hope that is clear.

The one on whether the Whips should be there and designated as Whips, I think Sen. Murungi has explained and I was wondering why Sen. Wako decided to read No.4 before No.3, because I thought it follows that you read the first ones before you go to the other ones. So, it is clearly stated that in nominating Senators to the Rules and Business Committee, each parliamentary party shall include its Whip into the membership. So, while it does not come under Standing Order No.174 (1) where the rest are indicated, they become part of 174 (1) (d) and I think there is really no harm because part 3 has provided that they must be there. So, it is just good to indicate. In any case, Sen. (Dr) Khalwale wanted a statement indicating which party and perhaps what he did not say is even which region.

Except, for the information of Sen. (Dr.) Khalwale, it is not the practice of even the other parliaments, have indicated those details. I think always these names have come like this on the list and Members know each other. So you can easily determine where they come from. I can assure you as your Speaker that we took care of that when the submissions were being made to us as per the Standing Orders.

On the second point by Sen. Wako concerning the parties, we have gotten written representation from the leaders of the parties as required by the same rules, including minutes. So, I would like to make the point that we will try as your Chair not to manage political parties in the Chamber. We would like really to keep the political parties issues within the political parties. If you have any issue, you would rather not raise it here first. We encourage that you raise it with the representatives of the parties and they are indicated. Unless you do not get any response, then you can approach the Speaker in his Chambers and then we will be able to help sort out that particular matter.

With regard to Sen. G.G. Kariuki, if you just look at the very cover of the Standing Orders, the bottom words say thus:-

“These Standing Orders as adopted by the National Assembly on 9<sup>th</sup> January 2013 pursuant to Article 262 and Section 11 of the Sixth Schedule to the Constitution”.

I have just asked my Clerk to give me that particular section of the Constitution and it says:-

“11(1) Until the first Senate has been elected under this Constitution -

(a) The functions of the Senate shall be exercised by the National Assembly.

(b) Any function or power that is required to be performed or exercised by both Houses acting jointly or one after the other shall be performed or exercised by the National Assembly.”

There is a provision in the Constitution that before the Senate came into existence, whatever was required was performed by the National Assembly. So, it has the full force of law and it is a constitutional requirement. So, these Standing Orders are legitimate. Having said so, it does not stop the Senate - just like the National Assembly - from making improvements. These are matters that, once we have the Rules and Business Committee which we are proposing now in place, they can be taken into account. But for our purposes, these Standing Orders are very legitimate and they will help us do our business until the Senate decides to bring other amendments. And even so, they do not invalidate the current Standing Orders until they are adopted and we proceed from that point onwards. I hope I am clear.

Hon. Senators can now contribute to the Motion. Did I propose the Question? I thought I did so. The HANSARD will---

**Hon. Senators:** You did!

**The Speaker** (Hon. Ethuro): I did propose the Question. I remember reading the names. There is no way I would have done so, if I was not proposing the Question.

The hon. Senator from Mombasa County!

**Sen. Hassan:** Mr. Speaker, Sir, I want to make my contribution to this list notwithstanding the consultations that might have taken place in the political parties. If you logically follow the sequence of members to this Committee, you will see that every political coalition---

*(Loud sounds emanated from outside the Chamber)*

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

**The Speaker** (Hon. Ethuro): What is it, Sen. Karaba?



**Sen. Karaba:** Mr. Speaker, Sir, there is a lot of noise emanating from behind where I am seated. It has become almost impossible to hear the hon. Senators' contributions.

**Hon. Senators:** Yes! True!

**Sen. Karaba:** Mr. Speaker, Sir, could we be advised? The noise is from outside this room.

**The Speaker** (Hon. Ethuro): Sen. Karaba, I hear you. I have also heard the same sounds. The Serjeant-at-Arms will look into this and ensure that there are no noises from outside.

Proceed, Sen. Hassan Omar.

**Sen. Hassan:** Mr. Speaker, Sir, if you look at the logic behind the appointment of most of these members, there is the Senate Majority Leader, Sen. (Prof.) Kindiki and the Senate Deputy Majority Leader, Sen. Keter. We also have the Senate Minority Leader minus the Senate Deputy Minority Leader. There is also the Senate Majority Chief Whip and the Senate Deputy Majority Chief Whip. There is also the Senate Minority Chief Whip and a Senate Deputy Minority Chief Whip. By the exclusion of the Senate Deputy Minority Leader, this Committee is not properly constituted by virtue of the fact that it fails the test of regional balance. Not only does it fail the test---

**The Speaker** (Hon. Ethuro): Order, Sen. Hassan! I am not curtailing your speech. I just want to know who has been excluded.

**Sen. Hassan:** Mr. Speaker, Sir, Sen. Hassan Abdulrahman is the Senate Deputy Minority Leader. Therefore, this does not meet the threshold of regional balance because Northern Kenya is not on this list. There are several Senators from the former North Eastern Province. There is not a single Muslim, yet there are about 11 to 12 Senators in this sitting. I think that omission is fatal, reckless and should be remedied by this august House.

**The Speaker** (Hon. Ethuro): Order, Sen. Hassan! Although the Chair can indulge you and the rest of the Senators for this particular session, it is also a good opportunity to indicate that some of those words may be considered unparliamentary.

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

**The Speaker** (Hon. Ethuro): Yes, Sen. Abdirahman!

**Sen. Abdirahman:** Thank you, Mr. Speaker, Sir. This will also serve as a point of information. I was actually involved in the deliberations when it came to the CORD membership to this list. Our understanding---

**The Speaker** (Hon. Ethuro): Order, Sen. Abdirahman! You may approach the microphone at the front.

*(Sen. Abdirahman approached the microphone at the front)*

**Sen. Abdirahman:** Thank you, Mr. Speaker, Sir. I was involved in the deliberations in terms of constituting the Rules and Business Committee from the CORD membership. Our understanding as per the Standing Orders then was that it is only the leaders, whether it is from the Minority or the Majority parties to be included in the list.

That was our assumption. The inclusion of Sen. Keter, although I have no problems with him, may raise eyebrows. If they brought in another ordinary Senate Member----

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

**Sen. Abdirahman:** Mr. Speaker, Sir, I am on a point of order.

**The Speaker** (Hon. Ethuro): Order, Sen. Keter! The hon. Senator is on a point of order!

Proceed, Sen. Abdirahman.

**Sen. Abdirahman:** Mr. Speaker, Sir, I am not saying Sen. Keter should not be included---

*(Several Senators stood up in their places on points of order)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! The Chair will facilitate all contributions.

**Sen. Abdirahman:** Mr. Speaker, Sir, let me finish. I am only saying what the requirements are as per the Standing Orders. That is why I omitted myself from the list. I was involved in the preparation of this list together with Sen. Muthama and others. That is how I understood it.

**Sen. Keter:** On a point of order, Mr. Speaker, Sir. With due respect to my colleague, Sen. Abdirahman, whom we served together in the Ninth Parliament, am listed in the list as Sen. Keter, not the Deputy Majority Leader, as indicated. Therefore, he should be giving factual information. I do not want my name to get into the records of this House without justification. I need that to be corrected.

*(Several Senators stood up in their places on points of order)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! When the Chair says "Order" it means he requires compliance, you do not keep standing.

Let me dispose of this issue. It is true what Sen. Keter and Sen. Abdirahman have said. They are both right because Sen. Abdirahman says that his understanding was that the Deputy Minority Leader was not part of the list. If you look at those members listed from number one to five, those are already prescribed by the Standing Orders. That is why they are there. The rest of this membership has been proposed by the respective parties. So, you can be proposed for the other positions irrespective of your position. But the ones that are required to be there by the Standing Orders are one to five in the list. So, you could be in the rest of the list from number six to 12 and occupy other positions within your party or whichever other arrangements you have. As long as the party has proposed your name, we will take it. So, Sen. Keter is not here by virtue of another position. He is on the list because he has been proposed by his party.

**Sen. Orenge:** On a point of order, Mr. Speaker, Sir. I want your guidance in this debate because you already proposed the question. Hon. Senators are standing on points of order that seem to be points of debate on why they do not agree with the list. Why do we not debate the list and if there is any Senator who has any reason as to why he does not agree that any particular name or set of names should be on the list, then he convince

or persuade us and we can reach a resolution? Particularly for me, if there is any Senator who believes that I should not be on the list, I can stand persuaded and act accordingly. But we are entering the realm of debating the substance of the Motion while giving the Speaker a lot of hard work which is not part of his responsibilities because these lists do not come from the Speaker. They come from the parliamentary parties and they know what to do.

Without the Rules and Business Committee, other business of the House will stand compromised. Why do we not debate the substantive Motion and then proceed to make a decision?

**The Speaker** (Hon. Ethuro): Hon. Senators, we will proceed along those lines. Thank you, Sen. Orendo, for your assistance. Except to say that the Chair does not mind the extra work; he is up to the task.

I had started by asking the Senator for Mombasa County to contribute. I think he has concluded his contribution. So, we will move on to Sen. Khaniri.

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this important Motion on the Rules and Business Committee.

Mr. Speaker, Sir, before I contribute to this Motion, I have one observation to make. It was the practise in the National Assembly that when hon. Members stood to contribute - I know it is your prerogative to decide who speaks on the Floor of this House - but priority has always been given to the senior hon. members of the House. After you had made your ruling on the points of orders, I noticed that several of us stood up requesting to contribute to the Motion and you gave the opportunity to the Senator for Mombasa County who is a first timer. He made some mistakes, as it were. It is important that the new Senators learn from the old members of---

**Sen. Kajwang:** Mr. Speaker, Sir, my point of order is small. Ours is a new House; it does not matter whether you have been in that ballot box five times. The only other value we may look at is that Sen. G.G. Kariuki is a little older than some of us. That one, we can look at it.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Let me just clarify on that particular point. I entirely agree with Sen. Kajwang; this is a new House and nobody is really senior to the other. Although there are times when we consider for purposes of division some longevity or age factor, but really for purposes of contribution we do not do so. You remember the Senator from Mombasa County rose on a point of order while wanting to contribute and I disallowed him. This is because you do not contribute when you rise on a point of order. So, he had definitely indicated at the very beginning his desire to contribute and, so, I had to give him that opportunity as the first person who has expressed that desire. So, let us rest those issues.

Sen. Khaniri, continue and contribute to the Motion. Let us also factor what Sen. Orendo had suggested, really. This is a fairly straightforward Motion; we should dispense with it, so that the Committee can get to work and come up with the business which will be brought before the House this afternoon.

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir. I want to take this opportunity to state that I support the Motion. I want to congratulate all those who have been appointed to this Committee. As observed by the Leader of the Majority Party, this is a very important Committee. It is, therefore, important to consult widely before this kind of a Committee is constituted.

Mr. Speaker, Sir, I come from the United Democratic Forum (UDF) party which is represented in this Senate by three hon. Senators. I have just observed that of all the parties that have more than two Senators in this House, it is only UDF that does not have representation on this list. I am not saying that we want any names to be dropped for us to be included, but I just want it to go on record that, in future, as we form other Committees of this House, it is important that this should be observed. As I said, the UDF party has three Members in this Senate and it must be considered when forming important Committees like the Rules and Business Committee.

Thank you, Mr. Speaker, Sir.

*(A lady Senator stood up in her place)*

**The Speaker** (Hon. Ethuro): Hon. lady Senator, you will forgive me for the fact that I am still learning your names.

**Sen. Kanainza:** Mr. Speaker, Sir, I have an observation to make; I do not think the youth is represented in this list.

Thank you.

*(Applause)*

**The Speaker** (Hon. Ethuro): The hon. Senator from Mandera?

**Sen. Billow:** Mr. Speaker, Sir, the way these things are designed, I hope you can hear me.

Mr. Speaker, Sir, thank you very much for giving me this opportunity to contribute to the Motion. First and foremost, I must congratulate all the hon. Senators who have been mentioned here. With all due respect, they are very respectable members of the Senate and I have no problems with them. But I want to mention one very important fact that when the political parties sit down to craft such lists, they must have due regard to the provisions of the Constitution. The Constitution now requires that you take into consideration regional, ethnic and religious balance. This is a very important Committee because it determines what Business will come to the Floor of this House. We do not want to get into a situation where some Business will come to this House and some regions or some groups are not aware or are taken by surprise. So, in future, it is really my appeal to the political parties who sit down to consult, not only to consult, but also to make sure that, that kind of composition is included. If there is an opportunity for the political parties to review this list, particularly the coalition party that I come from, Jubilee, that I believe has the largest share, they must consider north eastern province, Muslim groups and others. That kind of religious-ethnic regional balance must be taken care of.

Thank you very much.

*(Applause)*

**Sen. (Dr.) Machage:** Thank you, Mr. Speaker, Sir. My congratulations are to all my fellow Senators. I have looked at the list as proposed to us by the Senate Majority Leader. Indeed, pursuant to Standing Order No.174, the list is in order. However, I would like to remind the political parties that they should, henceforth, not continue with the mischief of giving more appointments to single individuals. I have seen---

*(Sen. Hassan kneeled down to consult Sen. Abdirahman)*

**The Speaker** (Hon. Ethuro): Order! Order, Senator from Mombasa! This House has a certain sitting arrangement!

*(Sen. Hassan sat down)*

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I have seen Members who have already been appointed to some substantive positions in this House already being given extra responsibilities. I believe every hon. Senator in this House has the ability and intelligence to be appointed to some committees. Maybe we may excuse the political parties for this now, but we would wish to see every hon. Senator participate in committees thereafter. I support the sentiments as raised by Sen. Hassan and Sen. Billow. There must be due consideration for areas that have hitherto been marginalized in leadership. This should be observed in due course, otherwise, I beg to support.

**Sen. Murungi:** I thank you, Mr. Speaker, Sir. I rise to support this Motion. The Rules and House Business Committee is the most important Committee of this House. In fact, if this Committee was in China, it would be called the "Central Committee."

Mr. Speaker, Sir, this Senate will succeed or fail based on the performance of this Committee. We are going to be a weak or a strong Senate, principally on the performance of this Committee. Right now, this Senate is just an afterthought; the Senate is considered just a mere appendage of the National Assembly. That is why we are sitting in this makeshift arrangement that you see here today.

Mr. Speaker, Sir, we have the Members of this Committee to assert the integrity and the dignity of the Senate as a House. It is also the responsibility of this Committee which you Chair to make sure that the Senate is accorded its proper place as the apex body of the devolution institutions in this country.

We cannot perform the functions we are supposed to perform at the Senate with demoralized Members, understaffed Senate, underpaid members and underpaid staff. It is your duty as the Chairman of this Committee to make sure that there is proper working environment for both the Senators and staff for us to discharge our duties effectively.

So, I would like to support this Motion so that this Committee gets to work immediately and makes sure that the Senate is not an appendage of any other body and that it plays its role at the centre of the politics of this country.

*(Several hon. Senators stood up in their places)*

**The Speaker** (Hon. Ethuro): I will allow the three that are on their feet. Please, make your contributions very minimal.

**Sen. Bule:** Mr. Speaker, Sir, mine is just to know something about the Committee. I think the committee Members were selected. I would like to know who selected the Committee Members, what criterion was used and the requirements of being a Member of the Committee.

**The Speaker** (Hon. Ethuro): Hon. Senators, we are contributing to the Motion. Therefore, it is good for you to indicate whether you are opposing or supporting.

**Sen. Ongoro:** Thank you, Mr. Speaker, Sir. I stand to support this Motion. I support all the Members who have been selected to this Committee. In my opinion, these are leaders and Senators who are equal to this important task. I have engaged with them at different levels and I think they will deliver. However, before I proceed, let me take this opportunity to congratulate all Senators present here, elected and nominated to be Members of the Second Senate since Independence. This was a very rigorous process. I am also very happy that we have ended up with you as our Speaker even though our side of the coalition lost. However, I have absolute trust in you. I have seen you engage with us in the Tenth Parliament and I saw how you managed while you were on the Chair. I have no doubt in my mind that you will guide us well.

I want to add my sentiments to the fact that this is the First Senate. Here, we will not pretend that there are senior Members. All of us are equal. It is the first time that all of us are sitting here as hon. Senators and we do not have any points of reference. Some of these Senators may appear young and inexperienced, but I can assure you that the selection process was very rigorous. Their respective parties must have seen a lot of potential in them for them to end up in this Senate.

Thank you, I support.

**Sen. Muthama:** Thank you, Mr. Speaker, Sir. I also stand to support this Motion. First of all, I wish to share my experience as the Whip at the National Assembly and allay fears as expressed by some Senators. Looking at this list, I want to assure hon. Senators that it is absolutely inclusive. It is the prerogative of the Whip to advise parties accordingly if they want to replace any Member listed here. In fact, every Member here can serve in any Committee. I was involved in constructing this list together with other members from the CORD Coalition. We factored in regional representation and gender balancing. It is not only the name of Sen. Keter that is appearing on this list as one of those who have been given positions in the Senate. Sen. Janet Ong'era is my deputy. She is the Deputy Minority Whip.

Once again, I support the Motion.

**The Speaker** (Hon. Ethuro): Order, hon. Senators, there was a proposal on the Floor of the House on the closure of this Debate which I said I would entertain after allowing the three Senators who were already on their feet.

According to Standing Order No.96, I will now put the Question.

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

He may now reply. As you reply, you need to deal with the issues that hon. Senators raised, at least, in passing.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. Hon. Senators have made very important contributions concerning the constitution of this Committee. We have noted the very important issues that have been mentioned. We want to assure hon. Members that as we continue constituting other Committees and transacting business, we will do things much better.

What came out clearly were the needs for inclusivity and to forge unity, not only within parties and coalitions, but also within the entire House when something of this nature is coming up. So, we have noted largely that there has not been a lot of opposition to the names. Most of the points of order were around the issue of the process and we want to give our assurance that we will take on board the concerns which have been raised while constituting other Committees and while transacting business generally before this House. We want to build collegiality. The intention here is not to allow any person to take away the collective authority and legitimacy of this House.

Mr. Speaker, Sir, without much ado, I am happy and we have noted the concerns. I would like to request the House to approve of this Motion.

**Hon. Senators:** You should say, I beg to move.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move.

**The Speaker** (Hon. Ethuro): Before I put the Question and still on the learning curve, especially regarding the contribution by Sen. Khaniri, I want to refer him to Standing Order No.2 on Interpretation on page 19 which gives the definition of a parliamentary party. It says:-

“Parliamentary party” means a party or a coalition of parties consisting of not less than ten Senators;

**Sen. Otieno Kajwang:** On a point of order, Mr. Speaker, Sir. I have noted that when we speak we refer to Senators as some being elected and some nominated. I think you should give firm directions so that we know that everybody in this House has been elected. That is the position of the new Constitution. It says that before an election, parties shall provide a list and the elections will include all the people on the list. So, every Senator in this House is elected. The only difference is that some have constituencies and some do not, but we are all elected.

**The Speaker** (Hon. Ethuro): Hon. Senators, for purposes of parliamentary parties, that is clear. Regarding the issue raised by Sen. Kajwang, we will do a communication to that effect, but not now. I, therefore, wish to put the Question.

*(Question put and agreed to)*

**ADJOURNMENT**

**The Speaker** (Hon. Ethuro): Hon. Senators, for those who have been appointed to the Rules and Business Committee, we are convening immediately at the rise of the House this morning in the boardroom Second Floor.

Hon. Senators, since we have concluded the business on the Order Paper, the House, therefore, stands adjourn until this afternoon, Wednesday, 17<sup>th</sup> April, 2013, at 2.30 p.m.

The Senate rose at 10.15 a.m.