

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 16<sup>th</sup> June, 2020

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

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### PROPOSED REMOVAL FROM OFFICE BY IMPEACHMENT OF THE GOVERNOR OF KIRINYAGA COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I have the following communication to make.

By a letter, Ref: CAK/SPK/SEN/1/001, dated 9<sup>th</sup> June, 2020, and received in the Office of the Speaker of the Senate on Wednesday, 10<sup>th</sup> June, 2020, the Speaker of the County Assembly of Kirinyaga informed the Speaker of the Senate that a sitting of the County Assembly held in the morning of Tuesday, 9<sup>th</sup> June, 2020, the County Assembly of Kirinyaga approved a Motion pursuant to Section 33(2) of the County Governments Act, for the removal from office, by impeachment, of Governor Anne Mumbi Waiguru, the Governor of Kirinyaga County.

The Speaker of the County Assembly also forwarded copies of the following documents-

(a) The Order Paper for the morning sitting of Tuesday 9<sup>th</sup> June, 2020, of the Kirinyaga County Assembly.

(b) The Notice of Motion on the proposed removal from office by impeachment of the Governor of Kirinyaga County dated 8<sup>th</sup> June, 2020

(c) The Roll Call Register on the Motion for the removal from office by impeachment of the Governor; and,

(d) Copies of documents containing the grounds and particulars on which the proposal for impeachment was made.

Hon. Senators, in terms of Article 181 of the Constitution, Section 33(3) (a) of the County Governments Act, 2012 and Standing Order 75 (1) (a) of the Senate Standing Orders, the Speaker of the Senate is required 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.

Consequently, Hon. Senators, pursuant to Section 33(3)(b) of the County Governments Act and Standing Order 75(1)(a) of the Senate Standing Orders, I hereby proceed to read the charges against the Governor of Kirinyaga County-

A. Gross Violation of the Constitution

The particulars cited under this ground are as follows-

- (a) Failing to deliver the annual State of the County Address to the County Assembly;
- (b) Undermining the authority of the County Assembly;
- (c) Violations under written law, including violation of the Public Procurement and Asset Disposal Act, 2015 and the Public Finance and Management Act, 2012; and
- (d) Violation of Article 201(a), (d) and (e) and Article 227(1) of the Constitution.

B. Abuse of Office and Gross Misconduct

The particulars cited under this ground are as follows-

- (a) Violation of section 46 of the Public Procurement and Asset Disposal Act, 2015;
- (b) Violation of Article 201(a), (d) and (e) and Article 227(1) of the Constitution;
- (c) Improperly conferring a benefit to herself;
- (d) Violation of the Public Finance Management Act, 2012 and the Salaries and Remuneration Commission Act, 2011; and
- (e) Violation of the right to health of the people of Kirinyaga County.

Hon. Senators, in terms of the way forward, following the reading of the charges against the Governor, Standing Order 75 (1) (b) of the Senate Standing Orders gives the senate two options on how to proceed on the matter. The Senate may-

- (a) by resolution, appoint a special committee comprising 11 of its Members to investigate the matter. Or;
- (b) investigate the matter in plenary.

The Senate Majority Leader shall shortly be giving Notice of a Motion for the establishment of a Special Committee. Should the Motion for the establishment of a Special Committee eventually pass, the Special Committee will be required, under Section 33(4) of the County Governments Act, and Standing Order 75(2) of the Senate Standing Orders 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.

Hon. Senators, it is noteworthy, and I wish to emphasize to all Hon. Senators, that when we come to the debate on the Motion to establish the Special Committee, debate on the Motion shall be limited to the substance of the Motion, namely, 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.

However, should the Motion for the establishment of a Special Committee not pass, the Senate shall proceed to investigate and consider the matter in Plenary. In that event, I will appoint the dates on which the Senate will sit in Plenary to hear and dispose of the matter.

Hon. Senators, the hearing of charges for the proposed removal from office of a Governor is one of the most important functions of the Senate under the Constitution. In undertaking this mandate, the Senate will be sitting as a quasi-judicial body and will conduct investigations into disputed claims and alleged infractions of the Constitution and the law and will, thereafter, make its determination.

In this regard, it shall be out of order, within the meaning of Standing Order 117, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, outside the confines of the impeachment proceedings; as such comments may prejudice the just outcome of the process.

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

I thank you.

**Sen. Olekina:** On a point of order.

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

**Sen. Olekina:** Mr. Speaker, Sir, I rise on a point order in reaction to your Communication.

I have listened to the charges which you have read out. I want to refer you to Article 179 of the Constitution of Kenya. This is a matter which is quite weighty. Article 179(1) states:

“The executive authority of the county is vested in, and exercised by, a county executive committee.”

(2) The county executive committee consists of-

- a) The county governor and the deputy county governor;  
and
- b) Members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly.”

Mr. Speaker, Sir, this is a matter that I would like you to give a ruling on. This is because when you read the charges against the Governor, I did not hear the other executive committee members being referred to in the charges that have been forwarded by the County Government of Kirinyaga.

The reason why I rose on a point of order is because this is a matter that the Constitution has spelt out clearly in the issue that concerns me.

**The Speaker** (Hon. Lusaka): Hon. Senator, I think it is a bit premature. It is premature because the notice has not been given. This is just a Communication from the Chair.

**Sen. Olekina:** Mr. Speaker, Sir, just allow me to prosecute my issue. It has to do with your Communication and its content. This is because you said that if we go further and raise issues, they will be out of order.

I have listened to your Communication very clearly. Before we get to that length, can we look at your Communication and the letters that were sent to you?

**The Speaker** (Hon. Lusaka): No, you are out of order, Sen. Olekina.

The notice has not been given. You are giving your comments prematurely. Wait until that time, then you will raise those issues.

**Sen. Linturi:** Thank you, Mr. Speaker, Sir. I was very keenly listening to you when you were doing your Communication. I got your directions and they are quite clear in my mind. Since I do not want to offend this Communication in any way, it is the reason why I seek further guidance and direction on this matter.

This is because if we have to faithfully follow what you have directed, it appears then that it will come to a time when we will be required to take certain positions as this House, either for or against.

The question that I want you to clarify is that, in the recent past, a number of issues have been brought to this House and they have been canvassed. The independence of this House is so crucial. That is why the Parliamentary Powers and Privileges Act was enacted to give immunity to debaters here. When we debate national issues, we do not have to turn back our necks to see or ask who is watching.

With a lot of respect, I would like to ask the Senate Majority and Minority Leaders and Whips to come out clearly and guide this House on whether – with regard to the matter that is coming before this House, so that we take positions. This is because there are certain political party positions that have been taken because some of us do not want to be disciplined. Some of us do not want to be told that we have defied our party leaders. We do not want to be told that a certain Member of a political party has refused to listen to the voice---

Mr. Speaker, Sir, we request that we get guidance from our party bosses within the House here so that we know how to manage ourselves. We do not want to appear to be out of order.

Thank you.

*(Loud Consultations)*

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

**Sen. Omanga:** On a point of order, Mr. Speaker, Sir. Following the protocol from the Ministry of Health on the 1.5 metres distance, I feel exposed because my neighbour is too close. I think all seats are designated and written, “Sit here.” There are Members who are seated haphazardly. I need guidance because I am exposed and really scared.

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

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Murkomen? I will respond to that, Sen. Omanga.

**Sen. Murkomen:** Mr. Speaker, Sir, the point of order raised by Sen. Linturi is very serious. This is because five Members of the Jubilee side where I lead went under a disciplinary process for decisions made in this House. We live in unprecedented times

because in my eight years in the Senate, no Senator has been punished for exercising the democratic right in whatever they do. In fact, it is the Standing Orders that give the Powers and Privileges of a Member of Parliament that protects them for whatever they say in this Chamber.

A Deputy Speaker was removed from his position in this House for rulings that he made while in that Chair. Over the weekend, a number of our nominated colleagues were sent messages. They have been intimidated. I will name them if necessary.

*(Loud Consultations)*

Mr. Speaker, Sir, can I complete what I am raising? I am on a point of order.

**The Speaker** (Hon. Lusaka): He is on a point of order. Just conclude then I will respond to it.

**Sen. Murkomen:** Mr. Speaker, Sir, we do not want another charade to ensue after this important debate on impeachment of a governor where some Senators will be written letters to be de-whipped from Committees.

I can tell you as a matter of fact that the Chairman of the Standing Committee on Finance and Budget, Sen. Mahamud has been removed from his position because of his stand on people of North Eastern on matters of finance and the formula.

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen!

**Sen. Murkomen:** Mr. Speaker, Sir, you must give direction as to what a Senator can say and cannot say in this House.

**Sen. M. Kajwang':** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. M. Kajwang'?

**Sen. M. Kajwang':** Mr. Speaker, Sir, I must say that I have experience in disrupting the Business of the House. I have filibustered, I have blown whistles, I have made noise and all sorts of things. Today, the nation is looking at the Senate and seeks to find whether the Senate is living up to its expectation of defending counties and their governments.

I realise why certain political parties in this Republic need a Parliamentary Group Meeting (PGM). This is because what some of their Members are trying to prosecute on the Floor of this House are issues that should be dealt with in PGM and caucuses.

I want to encourage my colleagues not to take this House for a ride. Those who say that this House is dead; I can say that they presided over the death of this House. They should not be here to bury the House.

*(Applause)*

Mr. Speaker, Sir, the elders say that it is only a foolish fly that follows a carcass to the grave. If this House is dead, then get off the skin of that carcass.

Would I be in order to request that we go back to the substantive issues because Sen. Olekina raised more substantive issues than others that should be sorted out in political party caucuses?

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko, then we proceed.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. In our Standing Orders, it is very clear that we are not allowed to raise frivolous or irrelevant points of order.

If you allow persistent interjections from anybody in the guise of a point of order, we will not get to the gist of this matter. I want to implore you to strictly enforce the Standing Orders that will allow us, in an orderly fashion, to carry out the Business of this House.

**The Speaker** (Hon. Lusaka): I want to appeal to all of you to observe the Standing Orders. Some matters are quite irrelevant in this House and can be handled outside in other organs like political parties. Let them not be brought here so that we can make progress.

Serjeant-at-Arms, we had asked you to check whether people are observing the social distancing as directed by the Ministry of Health.

Next Order.

Let us make progress.

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

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

**Sen. Farhiya:** Mr. Speaker, Sir, in the morning, we spoke to the Serjeant-at-Arms and asked them to book a seat for Sen. Yusuf Haji and Sen. Amos Wako. The one for Sen. Wako was done and he has a seat. However, the one for Sen. Haji is not there. That is why you can see me sitting here. He is my elder, but I cannot move out of my seat because I will be moving a Motion. I think there is a bit of discrimination on the part of the Serjeant-at-Arms in terms of not following procedures.

**Sen. Madzayo:** Jambo la nidhamu, Bw. Spika.

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

**Sen. Madzayo:** Asante, Bw. Spika. Upande wangu wa kushoto yuko ndugu yangu, Sen. (Eng.) Mahamud, ambaye ninamheshimu sana. Kwa bahati nzuri au mbaya, sijui kama leo amekosea au amepotea nji.

Sisi tunaona kwa heshima kuu Sen. (Eng.) Mahamud ameketi asipotakikana kuketi kila siku. Kama hakuna nafasi upande ule, hata wewe unaona kuwa upande huu hauna hata mmoja aliyechukua nafasi ya upande ule. Lakini upande ule una mmoja wao ambaye ni ndugu yangu, Sen. (Eng.) Mahamud.

Bw. Spika, ninakuomba arudi upande ule iwapo kutakuwa na nafasi au aende kule kwingine ambako kuna nafasi ya watu wote kukaa. Ni muhimu upande huu tuketi sisi ambao ni wapinzani.

**The Speaker** (Hon. Lusaka): I did mention that the Serjeant-at-Arms should go round and ensure that Senators are observing social distance. If there are Senators who are sitting where they are not supposed to, please, let them go and join the rest of the Senators in the extended Chamber.

Yes, Sen. Murkomen. What is it?

**Sen. Murkomen:** Mr. Speaker, Sir, on that issue, we would like you to make a more substantive ruling. It may not be necessarily today, but it can even happen next week.

I am raising that based on Standing Order No.249, which is very clear. It says:

“There shall be reserved seats in the Senate Chamber for the exclusive use of the following—

- (a) the Deputy Speaker;
- (b) the Senate Majority Leader;
- (c) the Senate Minority Leader; and,
- (d) Senators with disabilities.

(2) All other seats in the Chamber shall be available for the use of any Senator.”

Mr. Speaker, Sir, whether it is on the left or right side of the Speaker, once those seats have been designated for health reasons for anyone to sit, all of us are free to sit.

Mr. Speaker, Sir, you must also appreciate that there is no Standing Order that allows my sister, the Nominated Senator from Wajir County, Sen. Farhiya, to a designated sitting position, just like my friend, Sen. Malalah. I am sorry, but those are the Standing Orders. That Standing Order recognize five seats only.

Mr. Speaker, Sir, I am saying this because most of us come here on time; you want to sit but find many seats with reservations, against the provisions of the Standing Orders.

I do not know if you want to make the ruling now, but even if it is next week, that is a matter that your Office must look into.

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

Yes, Senate Minority Leader.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I just heard what the distinguished Senator for Elgeyo-Marakwet County has said. However, there is always a very important Standing Order; that is, Standing Order No.1. It states -

- (1) In all cases where matters are not expressly provided for by the Standing Orders or by other Orders of the Senate, any procedural question shall be decided by the Speaker.
- (2) The decisions made in paragraph (1) shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.”

Mr. Speaker, Sir, I want to emphasize the traditions of Parliament. There is nothing that says Sen. Murkomen should sit on the other side, but he has faithfully sat on the other side because that is the tradition. The Majority sits on the right of the Speaker and the Minority sits on the left. These are traditions and conventions that have been kept in this Parliament. Even when it was unicameral and now bi-cameral, they must be observed if we want to maintain order in the House.

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

**The Speaker** (Hon. Lusaka): Sen. Kihika, proceed.

**Sen. Kihika**: Thank you, Mr. Speaker, Sir. As the Senate Minority Leader has well put it about traditions in the House, a very important one was set about three weeks ago. I may be off, but I think it was two or three weeks ago, during the ouster of the former Deputy Speaker, Sen. (Prof.) Kindiki. Sen. Omanga, Sen. Linturi and I were in the

Chamber and sat on chairs not designated ‘sit here.’ You proceeded to have us leave the Chamber.

I am hopeful that you will keep the same precedent. If there is anyone sitting on a seat that is undesignated for sitting, like Sen. Farhiya, then she should be observing or participating from the other side like we did.

**Sen. Pareno:** On a point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Pareno, proceed.

Let us leave these things so that we are able to proceed.

**Sen. Pareno:** Mr. Speaker, Sir, I would like to read what Sen. Murkomen has left out, so that you take note.

The same Standing Order that he quoted, No.249 (3), reads-

“Subject to this Standing Order and any other order of the Senate, any question relating to the occupation of seats in the Senate Chamber shall be determined by the Speaker.”

Mr. Speaker, Sir, you have already determined how we are going to sit in this Senate. You already designated only 28 Senators; a certain number from both the Majority and Minority sides. As we sit now, the Majority side has even decided to take some of our seats on this side. Sen. (Eng.) Mohamud, whom I really respect, is sitting on this side.

Mr. Speaker, Sir, you have already given guidance according to the COVID-19 Regulations. You must be respected in as far as that is concerned. Can we enforce both this Standing Order and the guidance you have given in as far as the COVID-19 Regulations are concerned?

*(Several Senators stood up in their places)*

**The Speaker** (Hon. Lusaka): Order, Members! Take your seats, Majority Whip and Sen. Haji.

Hon. Senators, we have a very substantial matter to address. I have given direction. I want the Serjeant-at-Arms in collaboration with the Whips to make sure that those seated in places not designated for sitting move to the other Chamber, so that we make progress. It is so directed.

Next Order.

**Sen. Murkomen:** On a point of Order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Order! Let us make progress.

**Sen. Murkomen:** Mr. Speaker, Sir, it is a point of order on Messages.

**The Speaker** (Hon. Lusaka): Sen. Murkomen, we need to make progress.

**Sen. Murkomen:** Mr. Speaker, Sir, please, I beg you. On 12<sup>th</sup> May, 2020, you made a Communication in this House. This is very serious. It was in relation to purported removal of certain Members from positions of authority in this House.

Your Communication was a one-page with no reasons. You promised in a short while, to provide reasoned ruling. It is now more than one month since you made that Communication and we have not received the reasons.



**The Speaker** (Hon. Lusaka): Order! Sen. Murkomen, you will not direct the Speaker when to make his communication. It is out of order. You are out of order!

**Sen. Murkomen:** Mr. Speaker, Sir, I have not directed.

**The Speaker** (Hon. Lusaka): The Senate is still on. We have not closed or gone on recess. I will give my Communication.

**Sen. Murkomen:** Mr. Speaker, Sir, I have asked in good faith. Every time when you say that you will make a Communication, hon. Members in this House stand up and ask when you will do so.

**The Speaker** (Hon. Lusaka): My direction is that I will make the Communication.

Next Order.

## PETITION

### POOR ADMINISTRATION OF LAND REGISTRIES COUNTRYWIDE

**The Speaker** (Hon. Lusaka): Hon. Senators, I hereby report to the Senate that a Petition has been submitted by Ms. Carole Karuga, CEO, Kenya Private Sector Alliance (KEPSA) regarding the lands registry processes.

Secondly, as you are aware, under Article 119 (1) of the Constitution and I quote-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in this Petition are as follows -

THAT, in line with its core mandate to help Kenya be globally competitive in doing business, KEPSA recognizes that clearly defined legislation, highly quality land administration system and equal access to property rights is essential for enabling businesses to expand their operations and that the absence of land ownership protections in a country, leaves investors open to land disputes or property seizures, outcomes which are likely to hinder direct investment relating to land and property development projects;

THAT, the Ministry of Lands and Physical Planning has been issuing notices on closure of the Central and Nairobi Registries for purposes of conducting audit on all land records in the registries, with the most recent notice having been issued on 12<sup>th</sup> February, 2020;

THAT, the arbitrary closures will result to an enormous negative impact on the economy with regard to the overall global ranking on the ease of doing business and access to credit in Kenya, for lending institutions are not able to offer credit on unreliable data from the land registry, court cases filed arising from poorly maintained records or forgeries resulting in delay in transactions and processes that would likely undo the progress made in the country on matters relating to land reforms;

THAT, the audits were being conducted without the involvement of the relevant stakeholders who possess expertise on matters relating to land information management systems;

THAT, the Ministry issued a public notice in April, 2018, in relation to the preparation of online services and online processes of land transactions at the Land

Registry to digitize land registries. The Law Society of Kenya (LSK) on 5<sup>th</sup> April, 2018, wrote to the Cabinet Secretary, Ministry of Land and Physical Planning, regarding the legal issues affecting the new online services and requested for suspension of the online services and online processing of land transactions.

THAT, through the intervention of the courts, it was agreed that the Ministry establishes a task force to develop guidelines for the implementation of an electronic register and conveyancing system;

THAT, the Ministry of Land constituted a task force on electronic land transactions, registration, conveyancing and other related activities in August, 2018.

THAT, the task force presented its report to the Ministry which elaborated among other issues, the recommended guidelines for the implementation of an electronic registration and conveyance system;

THAT, the task force presented its report to the Ministry, but the report was never published and some of the recommendations made were already being implemented despite the report not being publicized. Key among the recommendation was enactment of the Business Law (Amendment) Bill, 2019 which introduced the electronic system of processing documents;

THAT, regulations operationalizing the Land Information Management System were published on 28<sup>th</sup> June, 2019 and submitted to the Clerk of the National Assembly on 1<sup>st</sup> August, 2019. The regulations were thereafter tabled in the National Assembly and referred to the Committee on Delegated Legislation which tabled its report on 13<sup>th</sup> November, 2019, recommending for the annulment of the regulations. This report was adopted on 25<sup>th</sup> November, 2019 in the National Assembly, effectively annulling the regulations.

THAT, following the annulment of the regulations, the Ministry has continued to unlawfully implement the Land Information Management System without the proper statutory backing; and

THAT, the land registry is poorly administered resulting to misplaced records, wrong stamping of documents and delayed transactional periods.

The Petitioner, therefore, prays that the Senate intervenes in the matter and undertake an investigation with a view of ensuring that the Ministry of Lands and Physical Planning ceases implementation of the Land Information Management System (LIMS), pending formulation and establishment of proper guidelines /regulations on the implementation of the same.

Hon. Senators, pursuant to Standing Order 231, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

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

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

**Sen. Kinyua:** Bw. Spika, umetoa uamuzi ya kwamba Maseneta ambao wameketi viti ambayo hawaruhisiwe kuketi, waondoke. Mimi nahofia maisha yangu kwa sababu ya ugonjwa wa COVID-19. Uamuzi wako haukuzingatiwi na baadhi ya Maseneta. Umerudia mara kwa mara, lakini bado wanauchukulia uamuamzi wako kama mzaha.

**The Speaker** (Hon. Lusaka): As I said, the Serjeant-at-Arms and the Whips are working on it to make sure that those who are sitting on undesignated areas leave.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. The issue of land and records is one that has---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members! As I said, the Serjeant-at-Arms are working on it.

Proceed, Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, thank you for protecting me.

The issue of COVID-19 has really disrupted many things. I am sure that the Ministry of Lands and Physical Planning is aware of complaints by lawyers about closure of land registries in the country. However, the Ministry is also grappling just like the Judiciary with the issue of opening---

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order, Members. Consult in low tones.

**Sen. Olekina:** Mr. Speaker, Sir, in order to make it easier for us to transact our business, maybe the Senate can consider renting the Bomas of Kenya. We can just measure one metre and you allow all Senators to sit there and prosecute their matters instead of this issue of who is sitting where. We are here dealing with an issue of a Petition on the closure of the Lands Office in the country and nobody is listening.

As we prosecute this issue of lands records, I would like the Committee that will be seized of it to work with any other Government department because I do not believe that it is only the lands office which can competently deal with this issue. Even here in this Senate, we are having problems of measuring one metre distance as recommended by the Ministry of Health. It is becoming problematic.

Mr. Speaker, due to the challenges of the COVID-19, this issue of land should be looked into carefully. Maybe the Committee should consult the Ministry as well so that we are seen to be doing our work. We are not able to do our work here. So, the Committee should expand its mandate further and involve other Government departments.

Finally, As I said, the Senate should consider renting the Bomas of Kenya so that we can continue working for Kenya.

**Sen. Kang'ata:** Thank you, Mr. Speaker, Sir. Let me speak on behalf of those people who do various work in the lands registries, including myself.

It is true that the issues which have been raised in the Petition are very crucial. There are so many problems in the lands registries in terms of lost files. I would urge that Committee to see how that Ministry can learn lessons from the Judiciary who have been able to leverage and ensure that matters are proceeding well in courts. However, lawyers who do conveyance are really suffering. When they go to the lands registry offices, they do not get files. There are cases of missing files. It is a pity that we cannot technologically convey a document or perfect it. Therefore, on behalf of those lawyers who are in that area of conveyancing, issues raised in this Petition are pertinent.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. This is a very important Petition before this House. The issue of lands registries and how we, as a country continue to manage them, after 56 years of Independence, leaves a lot to be desired. This House must put down its foot and ensure Kenyans get better services from the lands offices.

Every successive Government has been promising us that they would digitize our lands registries. I remember some Members of this House who have served as Cabinet Secretaries in the Ministry of Lands and Physical Planning promising the same, but they left the office without digitalizing land registries in his country. With the issue of COVID-19 and fraud in those offices, we should move with speed to manage our lands registries on a digital platform. Unfortunately, and as is the case and as is typical of us as a country, it ends with promises. Year in, year out, funds are allocated for the same to be done, but nothing seems to happen.

I am sure this matter will end up with the Committee on Lands, Environment and Natural Resources, I urge my colleagues before giving a final word or authority on how this issue need to be prosecuted, to tell us how much every successful government has spent in digitising our lands record and why we have not been successful.

If there are people that are found to have pilfered these funds, the report they bring to this House should include the names of those people so that they are surcharged because we need to sort out this issue of lands in this country once and for all.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko, proceed. We will then have Sen. M. Kajwang' followed by Sen. Linturi.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. The issues relating to land are very serious. Land is the basis of freedom and the cause of violent conflict the world over. Nobody can claim to enjoy any kind of freedom without exercising the freedom while standing on a parcel of land that he is allowed to stand on. You cannot speak if you are called a trespasser because you will be rounded up and thrown out of that place. You cannot move on land that does not belong to you.

When under the guise of COVID-19 the land registry is closed, this is affecting the freedom of many Kenyans. Land is a means of production and we need it to generate resources, food and so many things. By closing the registry because there is COVID-19, I do not think the public officials who are earning salaries and their work is supposed to ensure that the registries work, are doing Kenyans justice or helping mitigate or ammolite some of the problems we have as Kenyans.

I plead with the Committee that will deal with this matter to base their decision on the fact that land matters are sensitive. Without being resolved as we close the registries, conflicts continue and our people suffer the vagaries of poverty because they cannot produce on parcels of land that do not belong to them. This matter is urgent and the Committee it will be referred to should treat it as a very urgent matter.

There are many families waiting for title deeds. Many development activities that have stopped. In my County of Migori, the entire Nyatike have no title deeds, in Kuria East and West constituencies title deeds are not being processed. Some of us who have titles deeds need to dispose of them in order to get some little money for urgent matters cannot move because land registries are closed. There are land activities I need to engage in, but cannot because the registries are closed.

The legal profession and financiers are stuck because some people are afraid and do not want to devise ways of working under COVID-19. COVID-19 is not about to stop, it is spiking and this thing must be brought to an end. Land registries and activities be treated as matters of concern that need to be attended to quickly.

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang', you have the Floor.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, the petitioner in this case is not an idler, but the Chief Executive Officer KEPSA that is Madam Karuga. I have interacted with her a lot. Annually you organise the Speaker's Roundtable with the private sector. By the time the private sector decides to bring a Petition to this House, this affirms the confidence they have in this House. I do hope in our conduct of business today and into the future we shall conduct ourselves in a manner that lends credence to that perception out there.

The gist of this Petition is that we are implementing a lands information management system whose guiding regulations were annulled by the National Assembly. It is an illegality. That is impunity of the highest order if Government officials implement a project that is dependent on regulations which were annulled by a House of Parliament.

Mr. Speaker, Sir, we have automated everything in this country; births, deaths, money and vehicles. Why is it so difficult to automate land registries in a manner that is consistent with the law? Therefore, I wish to request and, perhaps you need to give us guidance going forward. Where you have regulations or statutory instruments that touch on specific areas of expertise, specific domains; for example, in the Order Paper there are the Crops regulations relating to tea and sugar. Is it enough for the Committee on delegated legislation to sit and scrutinise those regulations or would you direct in future that where the regulations are specialised they do some joint sittings?

It would be very important for the delegated legislation Committee of the senate to look at these regulations if they were to be committed back to the Senate, that they sit with the Lands, Environment and Natural Resources. If you are looking at crops' regulations, then the Committee on Delegated Legislation would find a way of sitting with the Committee on Agriculture so that the subject matter experts and specialist can also inject some thinking. However, there is no other definition of impunity rather than a Government implementing a lands information system and yet Parliament has annulled the regulations.

**An hon. Member:** Absolutely!

**The Speaker** (Hon. Lusaka): Sen. Linturi, did you want to contribute?

**Sen. Linturi:** Mr. Speaker, Sir, thank you. I rise to support the Petition. It has taken time and Kenyans have understood how painful it is not to have a functional land registry and how costly it is for business not to have the opportunity to charge or create securities for those that want to do business, especially at this period of COVID-19 when money is urgently required for ease of doing business.

As the Committee looks into this, I would want to ask other Kenyans listening and those in authority to understand that it is not easy to realise the gains of operating land registries without considering the backlog of cases relating to land pending in various courts for lack of judges. The money that is held and would have been released to the economy as a stimulus out of the quick dispensation of land cases that pend because of lack of judges in the environment and land court are many.

Anybody that means well for this country and has an opportunity to play any role to ensure that the economy moves the right way, let him or her do a part. I urge the Committee to quickly get into this matter and make a report and see how we can facilitate those people that are frequent users of land registries to continue and ensure they are in business.

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

**Sen. Kihika:** Mr. Speaker, Sir, my point of order is on having Members in the Chamber who are sitting in non-designated areas. The last time this happened on May 22<sup>nd</sup>, you had us leave the chamber. Since we have been informed that the Sergeants have given you the names of those sitting in such areas, why nothing is happening? Do rules not apply to everyone?

**Sen. Kang'ata:** Can I comment?

**Sen. Kihika:** Mr. Speaker, Sir, as I finish, on our side, there is Sen. Farhiya. On the other side, I am not aware. However, I am talking of what I can see on this side.

**Sen. Kang'ata:** Mr. Speaker, Sir, on this side it is Sen. Farhiya, but when you enforce some of those rules, you are essentially saying my brother, Senator from Embu, who is a respected Senator to get out of my seat. I respect him and do not mind him staying there. Why would you push the Senator for Embu out of my seat? He can stay there. We need to be magnanimous. I am seated humbly in this seat. It is unfair for my sister from Nakuru to push the Senator from Embu out of my seat.

**The Speaker** (Hon. Lusaka): Hon. Senators, we are dealing with serious health issues. It is our responsibility to make sure that we observe rules that have been given to us. Some of these problems have been created by some of you who are sitting here. However, since you have pushed me, let me now say what happened. This is the report I have from the Serjeant-at-Arms.

Sen. Olekina, you removed a sticker from the seat. Sen. Farhiya, you are sitting in a wrong place. Others are Sen. Madzayo and Sen. Khaniri. The Majority Whip has been moving up and down. Let us observe the rules so that we make progress.

**Sen. Ochillo-Ayacko:** Point of information, Mr. Speaker, Sir. Under Standing Order Nos.1 and 249 that Sen. Murkomen read, you gave clear rules, that Senators that should be prioritized to be in the Chamber are those in the leadership. This is because the business of this House is introduced by the leadership.

We have the Majority Whip, Sen. Kang'ata and we expect business from him. We also have the Deputy Majority Whip who is Sen. Farhiya and we expect business from her. If both of them were thrown out, how will business be transacted? You should enforce that rule. Otherwise, there will be no business here.

**The Speaker** (Hon. Lusaka): I know Sen. Farhiya will move a Motion. She requested to stay and I allowed her. Sen. Khaniri will be making a Statement.

Let us make progress. Let the rest of the people I have mentioned move to the waiting area.

Sen. Linturi had talked. We still have Sen. Cherargei and Sen. Madzayo.

**Sen. Cherargei:** Mr. Speaker, Sir, I want to contribute to the Petition which I support because we have been having problems where I come from. As my colleague Senators have said, let us be given inventory of what the Ministry of Lands and Physical

Planning has done to ensure digitalization of land records. This is because land is an emotive issue in this country.

There are many blames that lands registry has become a conduit of land frauds in this country. It has led to deaths and family breakups. People have also been duped because of the inefficiency and ineffectiveness of our lands registries.

Coming from the KEPSA, that is serious. The most affected areas as indicated in the Petition are Nairobi and Central Kenya. It is time the Ministry of Lands and Physical Planning came up with a proper way of handling issues of land, especially in our counties because land is a problem. If it is not between the Government and the people, it is between families.

Mr. Speaker, Sir, you may be aware that along Nandi-Kakamega border, we have been having recurrent land clashes. It is because of non-address to the challenges we are facing regarding land. The Committee on Lands, Environment and Natural Resources must go beyond what has been raised in the Petition.

We have the County Boundaries Bill which we need to talk to the National Assembly to fast-track because some of challenges we are facing regarding border issues can be sorted out by the legislative proposal before Parliament.

Mr. Speaker, Sir, as I support this Petition, I hope the Committee on Land, Environment and Natural Resources will do justice to ensure that it gives direction to the counties and the country.

I thank you.

**The Speaker** (Hon. Lusaka): Finally, Sen. Madzayo.

**Sen. Madzayo:** Bw. Spika, kwanza naunga mkono hii *Petition*. Kuna maswali fulani ambayo lazima yaulizwe. Wizara ya Ardhi imezembea katika kazi yake. Kwa mara nyingine tena, maovu yamechipuka.

Tunafahamu kwamba uchumi wa Kenya unategemea sana ardhi ama mashamba. Biashara zote zinazohusiana na mambo ya ardhi zimesimama. Watu wa kuuza na kununua nyumba na mashamba hawawezi kufanya chochote.

Hali ya uchumi na pesa kuzunguka katika uchumi wa Kenya vimefungiwa katika ofisi za ardhi. Vile vile, mawakili ambao wanafanya kazi zinazohusiana na Ofisi ya Ardhi, mimi nikiwa mmoja wao, wamefunga ofisi zao na biashara pia zimelala. Hii ni kwa sababu Ofisi ya Ardhi haifanyi kazi. Kazi zote za mawakili na wale wanaouza na kununua mashamba zimelala. Wengine wana shida na pengine wanatafuta namna ya kupata pesa za kwenda kutafuta matibabu nje ya nchi. Hali imekuwa ngumu.

Wanafaa kuanza kutumia mtandao wa kisasa. Hata hivyo, ofisi hizo zinafaa kufunguliwa ili uchumi wa nchi uweze kuendelea.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order, 232(1), the Petition should be committed to the relevant committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Lands, Environment and Natural Resources.

In terms of Standing Order No.232, the Committee is required in not more than 60 calendar days, from the time of reading of the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid to the Table of the Senate.

I thank you.

*(The Petition was committed to the Standing Committee  
on Lands, Environment and Natural Resources)*

Let us go to the next Order.

### PAPERS LAID

#### THE THIRD REPORT OF THE PRC ON AMENDMENTS TO THE SENATE STANDING ORDERS

**The Deputy Speaker** (Sen. (Prof.) Kamar): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Tuesday, 16<sup>th</sup> June, 2020:

The Third Report of the Procedure and Rules Committee on Amendments of the Senate Standing Orders to Facilitate Virtual Sitzings of the Senate and its Committees.

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

**The Speaker** (Hon. Lusaka): Yes, Senate Majority Leader.

**Sen. Murkomen:** Mr. Speaker, Sir---

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen, you are not the Senate Majority Leader.

**Sen. Murkomen:** Mr. Speaker, Sir, you know I got---

**The Speaker** (Hon. Lusaka): I have not given you permission. Order, Sen. Murkomen.

Sen. Dullo, proceed.

#### THE CROPS REGULATIONS, 2020

**Sen. Dullo:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Tuesday, 16<sup>th</sup> June, 2020:

(1) The Crops (Tea Industry) Regulation, 2020 – Legal Notice No.97 of 2020.

(2) The Crops (Sugar) (General) Regulation, 2020 – Legal Notice No.99 of 2020.

I thank you.

*(Sen. Dullo laid the documents on the Table)*

**The Speaker** (Hon. Lusaka): Let us have the Chairperson, Committee on Justice, Legal Affairs and Human Rights.

#### REPORT ON APPROVAL OF APPOINTMENT OF HON. RACHAEL AMESO AMOLLO AS A MEMBER OF THE PSC

**Sen. Linturi:** Mr. Speaker Sir, I beg to lay the following Paper on the table of the Senate, today, Tuesday, 16<sup>th</sup> June, 2020:



Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the approval of hon. Rachael Ameso Amollo for appointment as a non-member of Parliament Commissioner to the Parliamentary Service Commission.

*(Sen. Linturi laid the document on the table of the senate)*

**The Speaker** (Hon. Lusaka): Let us have the Chairperson of the *Ad Hoc* Committee on COVID19 Situation in Kenya.

THE SEVENTH PROGRESS REPORT OF THE *AD HOC* COMMITTEE  
ON COVID19 SITUATION IN KENYA

**Sen. Sakaja:** Mr. Speaker Sir, I beg to lay the following Paper on the table of the Senate, today, Tuesday, 16<sup>th</sup> June, 2020:

The Seventh Progress Report of the *Ad Hoc* Committee on COVID19 Situation in Kenya.

*(Sen. Sakaja laid the document on the table of the Senate)*

**Sen. Murkomen:** On a point of order, Mr. Speaker Sir. Is it in order for Sen. Sakaja to - you know I am the one who moved the Motion to establish that Committee - table a paper on COVID19 situation while sitting on the wrong seat, violating all the regulations and all the rules?

**The Speaker** (Hon. Lusaka): Proceed, Sen. Sakaja.

**Sen. Sakaja:** Mr. Speaker Sir, the immediate former Senate Majority Leader seems not to realize the fact that I have a lot of business and I have requested special permission because I have this Paper, a Notice of Motion, A Motion and Statement.

Right now, the most important and current issue this Senate is dealing with is COVID19. Would you kindly, inform him that I made a special request and you have allowed me?

By chairing the Committee, I understand the actual protocols of 1.5 meters and there is no person within a radius of 1.5 meters close to me. In fact, if I stretch my hands-- I am six feet tall and if I stretch my hands, there is no one within earshot or my vicinity.

*(Applause)*

Mr. Speaker, Sir, allow me to keep pushing the agenda that this House gave me the mandate to do.

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

**The Speaker** (Hon. Lusaka): Order! Order, Sen. Murkomen! You have been here for long and you know the rules; you cannot be talking and at the same time be seeking my attention. I must give you permission. It pays just to have some respect.

**Sen. Murkomen:** On a point of Order, Mr. Speaker, Sir.

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

**Sen. Murkomen:** Thank you, Mr. Speaker, Sir. The authority of the office of the Speaker has been challenged most of this afternoon and that is not good for the rules of the House.

The Senator of Murang'a is sitting next to the Senator of Siaya. You have told Sen. Madzayo to move out and he has not. You said something about the Senator of Narok. You talked about the nominated Senator from Nairobi; Sen. Farhiya.

If this will be the trend; Sen. Sakaja has walked in, sat in between two Senators and there are two Senators in front of him. It is not about me but about the authority of the Speaker and this House. If these COVID-9 rules are mere guidelines, then we should not have frog marched Sen. Kihika and Sen. Linturi. They were frog-marched in our eyes.

If the authority of this House has to be upheld, you must remain consistent, because, then otherwise, even people who are watching out there, just see that we are behaving in a manner that does not even respect the rules of COVID-19 that we raised.

Sen. Sakaja, you do not have to be condescending to me. I have seen all those things you are trying to parade---

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

**Sen. Murkomen:** I am raising the issue about COVID-19 and the rules of this House.

**The Speaker** (Hon. Lusaka): Order. That was exactly what I was saying. Sen. Murkomen, you are one of those who are not observing the rules. You are on your feet talking and yet you want to seek my attention. That is not to say that I am disregarding what you have said. I still maintain that except for Sen. Farhiya who is going to move a Motion in a short while, the Serjeant-At-Arms should be able to get the rest to the extended Chamber. That includes Sen. Khaniri.

**Sen. Sakaja:** Mr. Speaker Sir, If Sen. Murkomen is talking about your authority and it is the same authority that I have requested because of the kind of business that I am pushing this afternoon, what authority is he questioning?

Despite that, there is no protocol that is not being observed over here. The 1.5 metre rule being observed. I have this Paper, two Statements, a Notice of Motion and a Motion.

**The Speaker** (Hon. Lusaka): Proceed, Chairperson, Senate Committee on Land, Environment and Natural Resources.

REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT  
(AMENDMENT)BILL (SENATE BILLS NO. 24 OF 2019)

**Sen. Mwangi:** Mr. Speaker, Sir, I beg to lay the following Paper on the table of the Senate, today, Tuesday, 16<sup>th</sup> June, 2020-

Report of the Standing Senate Committee on Land, Environment and Natural Resources on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019).

The Report is with the Clerk of the Senate.

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

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

### NOTICES OF MOTIONS

#### APPROVAL OF THE THIRD REPORT OF THE PRC ON AMENDMENTS TO THE SENATE STANDING ORDERS

**Sen. (Prof.) Kamar:** Mr. Speaker, Sir, I beg to move the following Notice Motion:

THAT pursuant to Standing Order No. 25(2) and 25(5) the Senate approves the Third Report of the Procedure and Rules Committee on amendments of the Senate Standing Orders to facilitate virtual sittings of the Senate and its Committees laid on the Table of the Senate today, Tuesday, 16<sup>th</sup> June, 2020 and pursuant to the provision of the Article 124(1) of the Constitution and Standing Order Nos. 255 and 257-

(1) resolves to amend its Standing Orders as contained in Appendix 1 of the Report, and;

(2) order that the Amendments of the Standing Orders as contained in Appendix 1 of the report shall come into effect upon approval.

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

#### ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE BY IMPEACHMENT OF THE GOVERNOR OF KIRINYAGA COUNTY

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

THAT WHEREAS Article 181 of the Constitution, Section 33 of the County Governments Act 2012 and Standing Order No. 58 of the Kirinyaga County Assembly Standing Orders on the 9<sup>th</sup> June 2020 the County Assembly of Kirinyaga approved a Motion to remove from office by impeachment the Hon. Anne Mumbi Waiguru the Governor of Kirinyaga County.

AND FURTHER, by letter referenced REFCAKSPK SEN 1001 dated 9<sup>th</sup> June, 2020 and received in the office of the Speaker of the Senate on Wednesday, 10<sup>th</sup> June, 2020, the Speaker of the County Assembly of Kirinyaga informed the Speaker of the Senate 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.

AND WHEREAS pursuant to section 33(3)(b) of the County Government act, 2012 and the Standing Order No. 75(1) (b) of the Senate, the Senate may-

- (i) By resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or
- (ii) Investigate the matter in Plenary,

NOW THEREFORE, Pursuant to Section 33(3)(b) of the County Governments Act, 2012 and the Standing Order 75(1)(b)(1), the Senate resolves to establish a special Committee comprising-

- (1) Sen. Abshiro Halake, M.P
- (2) Sen. Dr. Michael Mbiti, M.P
- (3) Sen. Mwangi Paul Githiomi, M.P
- (4) Sen. Beth Mugo, E.G.H, M. P
- (5) Sen. Annuar Loiptip, M.P
- (6) Sen. Philip Mpaayei, M.P
- (7) Sen. Cleophas Malalah, M.P
- (8) Sen. Beatrice Kwamboka, M.P
- (9) Sen. Stewart Madzayo, M.P
- (10) Sen. Judith Pareno, M.P
- (11) Sen. Moses Kajwang', M.P

To investigate the proposed removal from office by impeachment of the Governor of Kirinyaga County and report to the Senate within 10 days pursuant to Standing Order No. 75(2) of its appointment on whether it finds the particulars of the allegations to have been substantiated.

**The Speaker** (Hon. Lusaka): The Chairperson of the Committee on Justice, Legal Affairs and Human Rights, proceed.

**Sen. Linturi:** Mr. Speaker, Sir, you better mention the name because we are now confused and do not know who the Chairperson of the Committee on Justice, Legal Affairs and Human Rights is. We are seeking guidance. We are in very unprecedented times in this country, including in this House.

When you mention that you want me to speak, just say: Sen. Linturi, because I do not know whether I am the Vice Chairperson, Chairperson or whoever I am. My boss, Sen. Cherargei, is here and, as far as I am concerned, he has not duly directed or assigned any duties to me because all Vice Chairpersons must be assigned business by their bosses.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Cherargei.

**Sen. Cherargei:** Mr. Speaker, Sir, as far as I know, I was informed that I was de-whipped. Therefore, I am no longer the Chairperson of the Committee on Justice, Legal Affairs and Human Rights. I have not received any further communication from the State House appointee, the Majority Whip, Sen. Kang'ata.

**The Speaker** (Hon. Lusaka): Sen. Linturi, you have already tabled as the Vice Chairperson. So, carry it to the end.

Proceed, as the Vice Chairperson.

It is a Notice of Motion. Please, approach the Chair.

*(Sen. Linturi approached the Chair)*

ADOPTION OF REPORT ON APPROVAL OF APPOINTMENT  
OF HON. RACHAEL AMESO AMOLLO AS A MEMBER OF THE PSC

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

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the approval of Hon. Rachael Ameso for appointment as a non-Member of Parliament Commissioner to the Parliamentary Service Commission (PSC) laid on the Table of the Senate on Tuesday, 16<sup>th</sup> June, 2020, pursuant to Standing Order No.71, Article 127 (2) (d) of the Constitution and Section 9 (2) of the Parliamentary Service Act, approves the appointment of Hon. Rachael Ameso as a member of the PSC.

Thank you.

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

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

**The Speaker** (Hon. Lusaka): What is your point of order?

**Sen. Sakaja:** Mr. Speaker, Sir, thank you. I have a notice of Motion that has been approved because I have tabled the Report. Kindly, can I give notice?

**The Speaker** (Hon. Lusaka): It is next after the Senate Majority Leader.

**Sen. Sakaja:** I am sorry, Mr. Speaker, Sir. I thought you said: "Next Order."

**The Speaker** (Hon. Lusaka): The Senate Majority Leader, proceed.

ALTERATION OF THE SENATE CALENDAR

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

THAT, notwithstanding the Senate resolutions made on 27<sup>th</sup> February, 2020, (approval of Senate Calendar), 17<sup>th</sup> March, 2020, 14<sup>th</sup> April, 2020, and 2<sup>nd</sup> June, 2020, (alteration of the Senate Calendar), the Senate, pursuant to Standing Order Nos.29 (4) and 31 (3) (b), now resolves to hold its sittings on Tuesday, 23<sup>rd</sup> June, 2020 morning (starting from 10.00 a.m. and ending at 12.30 p.m.) and afternoon, and thereafter proceed on recess and resume sittings on Tuesday, 7<sup>th</sup> July, 2020.

Thank you.

**The Speaker** (Hon. Lusaka): Chairperson of the *Ad-Hoc* Committee on Coronavirus Disease (COVID-19) Situation in Kenya, proceed.

ADOPTION OF THE SEVENTH PROGRESS REPORT OF  
THE *AD-HOC* COMMITTEE ON COVID-19 SITUATION IN KENYA

**Sen. Sakaja:** Thank you very much, Mr. Speaker, Sir. I beg to give the following Notice of Motion-

THAT the House adopts the Seventh Progress Report of the *Ad-Hoc* Committee on COVID-19 Situation in Kenya.

**The Speaker** (Hon. Lusaka): Next Order!

### STATEMENTS

Proceed, Sen. Khaniri.

**Sen. Kang'ata:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): You are already standing.

**Sen. Kang'ata:** Yes, Mr. Speaker, Sir, allow me. When you look at the Order Paper, you will see that there are many Statements. If we were to go through all of them, I think we will be doing---

We need to take into account some Members who came just for this Motion. In particular, there are some Members who specifically told us, as Whips, that we take their interests into account, including the curfew and some have health issues. I ask you to kindly rearrange the Order Paper and we give the Motion on the issue of impeachment of the Governor for Kirinyaga County priority.

Thank you.

**The Speaker** (Hon. Lusaka): I will use my discretion on the Statements.

What is your point of order, Sen. Wetangula?

**Sen. Wetangula:** Mr. Speaker, Sir, before you use your discretion to give direction, is it true that Members of this House, who are obligated to be in this House, anyway, have only come for the Motion of impeachment?

We have a duty as Senators to be in this House. Subject to availability of sitting space, we are obligated to be here. It cannot be true that there are Members who have just come here for the Motion of impeachment. If there are, let them stand up and be counted and we know who they are.

**Sen. Kang'ata:** Mr. Speaker, Sir, allow me to respond to that.

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

**Sen. Kang'ata:** Mr. Speaker, Sir, the hon. Senators who are with us here do a lot of work both in and out of the House. There are those who go to lobby for their constituencies in the Ministries. That is the work of a Senator. There are also those who want to go and prepare Bills. That is their work. You need to take into account their interests.

**The Speaker** (Hon. Lusaka): Order! We have to make progress. I have said that I will use my discretion on that matter. Let it rest there. I will give directions in a few minutes.

Proceed, Sen. Khaniri

### DEMISE OF MZEE JOHN AMUTABI MWANGA NZENZE

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir. My Statement is on the death of Mzee John Amutabi Mwanga Nzenze.

You recall that I was to make this Statement last week, but we did not get an opportunity to do it since we had a lot of business. *Mzee* John Amutabi Nzenze was buried on Saturday, and I was hoping that I would do this before his burial. Nevertheless, I will proceed.

First, I would like to pass my condolences to the family and friends of the late *Mzee* Nzenze following the death of their patriarch, husband, father and grandfather. Indeed, the country has lost one of the greatest pioneers of *Twist* music. However, the death of *Mzee* Nzenze is actually a celebration of a life well lived.

His moves, tunes and sounds will live on with us. Even though the COVID-19 pandemic has changed the way we provide a decent sendoff to our departed loved ones, we still have an opportunity to reflect, learn and praise them.

Mr. Speaker, Sir, to understand the greatness of *Mzee* Nzenze, one needs to reflect on twist music. Twist music is one of the earliest inventions of indigenous music styles introduced in the country even before Independence by Kenyan natives.

There are numerous pioneer artists of twist music who have since passed away. They include Daudi Kabaka, Gabriel Omolo, Habel Kifoto and now *Mzee* John Nzenze.

They belted timeless songs like *Msichana wa Elimu*, *Lunch Time*, *Christina*, *Angelike*, among others, that had the themes of love, life, nationalism, patriotism and development. Those of us who grew up in the 1960s, 1970s, and 1980s would understand this.

I will excuse Sen. Cheruiyot and Sen. Cherargei because this may sound like Greek to them. For those who were lucky to have the old gramophone, the nostalgic memories can never fade away. A great population born in the 1950s, 1960s, and 1970s can understand the memories I am talking about.

Mr. Speaker, Sir, the death of *Mzee* Nzenze though painful, should serve as a reminder of the urgency we have as a country to take time and reflect on the status and handling of our history and heritage. That includes the great music compositions and artists.

There are a number of issues about performing arts and artists that require urgent action to right the wrongs. One is the issue of royalty, protection of intellectual property, all artists, now media and Government support to musicians. Most of the musicians in our country are living in poverty in their sunset years and even in death they are not assured a descent sendoff.

Mr. Speaker, Sir, it is unfortunate that the Music Copyright Society of Kenya (MCSK) has failed to live up to its purpose of collecting royalties for and fairly handing over the same to artists. The mismanagement and corruption at MCSK is not only illegal, but also immoral. While this is a simple case of mismanagement that the Government has the mechanism to correct, the concerned Ministry is doing nothing. Surely, if the MCSK, an organization established by musicians for musicians, is the source of their misery, what hope do artists have in this country?

Mr. Speaker, Sir, the Cabinet Secretary (CS), Ministry of Sports, Culture and Heritage should institute measures to preserve our heritage in the form of music and develop policies that will ensure men and women who flew our national flag high internationally are appreciated. The Ministry should sponsor and spearhead the production of documentaries and establish art galleries of these great citizens.

While appreciating the efforts by the Senate in the legislation of the County Hall of Fame Bill (Senate Bills No. 39 of 2018), it must be recognized that some of the heroes and heroines of our country deserve national recognition and support today.

Today, amateur documentaries on *YouTube*, or even the *Wako Wapi* series on *KTN* and other televisions, depict former musicians in abject poverty. Such depiction of misfortune should serve to remind us of the urgency to fast track such important legislations. While it might not be possible to legislate on how artists spend or invest their money, it is possible to ensure that they get their fair share of royalties and provided with social protection in old age.

*Mzee* Nzenze deserves a befitting tribute. Like many from his generation, he sang timeless songs that are very relevant even today. He sang in perfect Swahili that had African listenership. From his days with the late Daudi Kabaka, they sang *Msichana wa Elimu* to *Shauri Moyo*, and later on independently he sang *Angelike*, *Bibi Agineta*, *Susanna*, *Zipora*, *Amina*, *Bachelor Boy*, *Masitsa*, among others. He sang throughout Eastern Africa to Mozambique and China.

Mr. Speaker, Sir, it so unfortunate that Kenyans will mourn a country music legend and not even spend a minute to pass condolence message to a fallen legend of twist music. Nobody will celebrate our heroes for us. As much as the Government has for a very long time failed musicians in terms of providing them with special social protection, *Mzee* Nzenze should not be neglected today.

There will never be another opportunity to pay him another last respect, he deserves a befitting send off. *Mzee* John Amutabi Nzenze was laid to rest on Saturday 13<sup>th</sup> June 2020 at his home in Vihiga County, Hamisi Sub-county at Kaptech. May his soul rest in eternal peace.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Olekina. He is not in the House.

Hon. Senators, because of the Motion that we have, I am rearranging the Order Paper so that we go to Order No. 15.

## MOTION

### ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE BY IMPEACHMENT OF THE GOVERNOR OF KIRINYAGA COUNTY

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. The Motion is entitled - Establishment of a Select Committee to Investigate the Proposed Removal from Office by Impeachment of the Governor of Kirinyaga County.

THAT, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act (2012), and Standing Order 58 of the County Assembly of Kirinyaga approved a Motion to remove from Office---

**The Speaker** (Hon. Lusaka): Sen. Farhiya, you need to move the Motion. Say, "I beg to move".

**Sen. Farhiya:** Okay.

Mr. Speaker Sir, I beg to move the Motion---

**The Speaker** (Hon. Lusaka): The following.

**Sen. Farhiya:** Mr. Speaker, Sir, I beg to move the following Motion---



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

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

**Sen. Murkomen:** Mr. Speaker, Sir, I know that we have only two years to the end of our term, but maybe after the COVID-19 pandemic, we need to organize a small seminar for Members of Parliament to appreciate the Standing Orders.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Farhiya.

**Sen. Farhiya:** Thank you, Mr. Speaker Sir. I beg to move the following Motion-  
THAT, WHEREAS pursuant to Article 181 of the Constitution, Section---

*(Loud consultations)*

He is distracting me.

Section 33 of the County Governments Act, 2012, and Standing Order 58 of the Kirinyaga County Assembly Standing Orders---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Hon. Senators, let us consult in low tones.

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

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

**Sen. Murkomen:** Mr. Speaker, Sir, have you seen Sen. Moi? He is holding a mini rally in the corner.

*(Laughter)*

More importantly, I know that you gave guidelines about COVID-19. Are the gloves he is wearing part of the protection, because I have not seen any other Senator having such kind of gloves? Maybe you should give further direction on how we should dress in future.

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen! There are different types of protective gear. You can decide to wear a mask. If it is recommended, you can also decide to wear a *gunia* if it can assist you.

Sen. Farhiya, proceed.

**Sen. Farhiya:** Mr. Speaker, Sir, I beg to move the following Motion-

THAT, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act, 2012, and Standing Order 58 of the County Assembly of Kirinyaga Standing Orders, on 9<sup>th</sup> June, 2020, the County Assembly of Kirinyaga approved a Motion to remove from office by impeachment, Hon. Anne Mumbi Waiguru, the Governor of Kirinyaga County;

AND FURTHER, WHEREAS by letter Ref. Ref: CAK/SPK/SEN/1/001 dated 9<sup>th</sup> June, 2020, and received in the Office of the Speaker of the Senate on Wednesday, 10<sup>th</sup> June, 2020, the Speaker of the County Assembly of Kirinyaga 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.

AND WHEREAS, pursuant to Section 33(3) (b) of the County Governments Act, 2012 and Standing Order No. 75(1)(b) of the Senate, the Senate may, by resolution, appoint a Special Committee comprising 11 of its Members to investigate the matter in Plenary;

NOW THEREFORE, pursuant to section 33(3)(b) of the County Governments Act, 2012 and Standing Order No. 75(1)(b)(i), the Senate resolves to establish a Special Committee comprising-

- (1) Sen. Abshiro Halake, MP;
- (2) Sen. (Dr.) Michael Mbito, MP;
- (3) Sen. Mwangi Paul Githiomi, MP;
- (4) Sen. Beth Mugo, EGH, MP;
- (5) Sen. Anuar Loititip, MP;
- (6) Sen. Philip Mpaayei, MP;
- (7) Sen. Cleophas Malalah, MP;
- (8) Sen. Beatrice Kwamboka, MP;
- (9) Sen. Stewart Madzayo, MP;
- (10) Sen. Judith Pareno, MP; and
- (11) Sen. Moses Kajwang', MP.

to investigate the proposed removal from office, by impeachment, of the Governor of Kirinyaga County and to report to the Senate within 10 days, pursuant to Standing Order No. 75(2), of its appointment, on whether it finds the particulars of the allegations to have been substantiated.

Mr. Speaker, Sir, on several occasions, select committees have been used to conduct impeachment. I think, on two occasions, we have also used Plenary to conduct the same. I had an opportunity to attend both. We should remove emotions, Members taking sides and other issues.

I had the advantage of being in the Gov. Samboja Impeachment Committee and I found it to be more detailed, probing and investigative in nature.

Mr. Speaker, Sir, because the Senate Business Committee had decided on the same, from my experience on investigations through both plenary and a select committee, I found that the probing was more thorough when it was done through committee.

I beg to move and ask Sen. Malalah to second.

*(Loud Consultations)*

**Sen. Malalah:** Thank you, Mr. Speaker, Sir. I do not know why I am causing a lot of excitement from the other side.

**The Speaker** (Hon. Lusaka): The excitement is that you may be defending your position because you are a Member of the Committee. On a light note.

**Sen. Malalah:** Mr. Speaker, Sir, I beg to second this very important Motion.

First, this is because the mode in which the Motion has been proposed, on how we are going to transact the Impeachment Motion has been provided for in our Standing Orders; Standing Order No. 75 (1) (b) (i), which clearly says that:

“The Senate may, by resolution appoint a special committee comprising 11 of its Members to investigate the matter.”

Secondly, I second this Motion because I am a Member of the Senate Business Committee. The Senate Business Committee has been very consistent in the manner in which it proposes on how such Motions are transacted in this House. Many a times, the Senate Business Committee has been proposing the committee way, although I am alive to the fact that it is a matter that has to be adopted on the Floor of this House.

Therefore, as a Member of the Senate Business Committee, that was our position. We proposed that we are going to bring forth a Motion proposing membership of a committee which is going to transact this Motion.

Mr. Speaker, Sir, it has been the tradition of this House that the business of this House will be transacted by committees. Committees will transact the business of this House on behalf of the Plenary. That is why we have 16 committees transacting various businesses of this House. Therefore, we are within the normal traditions of this House.

The big question is: Why the Committee? One, it is because last time we transacted Governor Waititu’s impeachment through Plenary, I was not satisfied with the manner in which we interrogated that matter on the Floor of the House.

The evidence adduced before this House was not deeply interrogated. We did not have enough time to peruse through the evidence and the submissions. Therefore, we turned this House into a political gathering that was just meant to make a decision. However, through the committee, we will have an opportunity to look thoroughly into the submissions of both parties, make determinations, do research and come up with a resolution that we shall bring to this House for adoption.

Mr. Speaker, Sir, I have seen in both print and broadcast media pressure from the residents of Kirinyaga ---

**Sen. (Dr.) Langat:** On a point of order, Mr. Speaker, Sir.

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

**Sen. (Dr.) Langat:** I do not think it is in order for Sen. Malalah to refer to this particular House as a political gathering, when we are actually deliberating on matters to do with the benefit of the country. I think it is not in order.

**The Speaker** (Hon. Lusaka): Sen. Malalah, do you want to respond?

**Sen. Malalah:** Mr. Speaker, Sir, I think Sen. (Dr.) Langat has already made up his decision on this matter and, therefore, he is not concentrating. He is just waiting to vote. I would urge Sen. (Dr.) Langat to concentrate on what I am

saying. This is because I did not term this House as a political gathering; I was trying to juxtapose the benefits of us---

**Sen. (Dr.) Langat:** Last time, he was the Chair of the Committee that was selected and he refused to take over during that time. Talking about juxtaposition is not in order. He should withdraw calling this particular honourable House a political gathering when it comes to deliberating on matters which are very serious and important.

**Sen. Cherargei:** Mr. Speaker, Sir, my point of order is on the use of the word “political gathering”. I wish he would have said it is a Senate decision that was made. I can assist him in a train of thought so that he maintains the focus that he has decided to stay on.

I thank you.

**Sen. Kibiru:** On a point of order. Mr. Speaker, Sir. Is it in order for the Senator who is speaking to keep on referring to the issue of former Governor Waititu, whereas, in essence, he has become a professional committee Member? This is because, in that committee, he was a Chairman of that committee and when it was brought to the Floor of the House, he declined and voted against it.

Is he in order to keep on referring to that issue?

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

**Sen. Murkomen:** Mr. Speaker, Sir, Sen. Malalah is my good friend. His thought was flowing, but I do not know if it is order for me to deduce from what he was saying that he was trying to confess his past sins and trying to ask for apology from the House.

Mr. Speaker, Sir, as you know very well, Sen. Malalah being a Member of the Senate Business Committee sat with me and passed a resolution to establish a Committee to investigate the matter of impeachment of former Governor Waititu.

I know the explanation he gave, but that explanation is for our memoirs. Sen. Malalah came to the Floor of the House after he had been proposed to be the Chairperson of the Committee, he walked to the House and voted against the decision he had made.

How do we know that Sen. Malalah will not second this Motion then vote against it after the deliberation?

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

**Sen. Linturi:** Mr. Speaker, Sir, as we approach the future, we need to be serious as a House, because this House is a House of record. It is disorderly conduct when a Member takes a certain position and runs away from the same position that has been taken without any reasonable cause.

The Constitution requires us not to participate in matters that we may have interest in. The seconder of this Motion, in my view, would have been pricked by his conscience to understand that since he is a Member of this Committee, the best thing he would have done was to keep quiet or fail to second this Motion for him to see the reaction of other Members.

What we expect him is to do is to defend his position; a position which he declined to support last time when we had a Motion that was brought before this House.

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

**The Speaker** (Hon. Lusaka): Sen. Olekina, he is on a point of order.

**Sen. Linturi:** Mr. Speaker, Sir, is it in order for Sen. Malalah to second this Motion when he has interest as a Member of that Committee?

Secondly, the position that he is advancing today is a position that he opposed last time because we thought that the Committee was not necessary that time because it did not serve his interest.

**The Speaker** (Hon. Lusaka): Sen. Olekina.

**Sen. Olekina:** Mr. Speaker, Sir, a wise man said that only a fool does not change his mind.

**The Speaker** (Hon. Lusaka): Sen. Olekina, wear your mask.

*(Sen. Olekina wore his mask)*

**Sen. Olekina:** It just came out. My head is too big, but it is okay.

Mr. Speaker, Sir, let me repeat this; a wise man said that only a fool does not change his mind. I have listened to Sen. Linturi trying to point out how Sen. Malalah is out of order, yet we are not discussing the substance of the matter.

I think he can either support or oppose when we are discussing the Motion. Currently, he is only seconding the Motion. Therefore, can you please allow Sen. Malalah to finish seconding the Motion? When the Motion has been properly moved, we can then support or oppose by giving the reasons that Sen. Linturi is giving.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Nyamunga and then Sen. Ochillo-Ayacko.

**Sen. Nyamunga:** Mr. Speaker, Sir, to the best of my knowledge, I think this is the work of the House Business Committee that decides on the names of Members to be floated in this House for the Committee. Therefore, it is not a Member to decide. He cannot be an interested Member and cannot choose himself to be here.

The list is not yet approved. Once the list is approved, that is when someone can declare their special interest.

**The Speaker** (Hon. Lusaka): Hon. Senators, we need to make progress.

Sen. Malalah, I just want to caution you to be careful. Your generosity with English words may land you in a problem.

*(Laughter)*

Try to be careful and guard what you say.

**Sen. Malalah:** Thank you, Mr. Speaker, Sir. That was expected and we take it as it is.

We saw the former Senate Majority Leader, Sen. Murkomen, bring here names for adoption to Committees and Members who were listed to be selected into those Committees contributed to those Motions. Therefore, it is not unique that I am a Member of that Committee and I am seconding.

By seconding, I am trying to ask this House to support this Motion so that we can go the Committee way.

I have read in both print and broadcast media that citizens of Kirinyaga County and the leadership of Kirinyaga, the Senator, Women Representative and the Members of Parliament giving their positions and suggestions on how they would want this matter to be transacted in this House.

In as much as we respect the position of the people of Kirinyaga, I want to assure them that their sovereign power was exercised by the Members of the County Assembly of Kirinyaga. Their aspirations were encapsulated in the Motion tabled at the County Assembly.

Therefore, when this matter comes to the Senate, the Senate is an independent organ and an independent institution. We cannot be dictated by the people of Kirinyaga on how the Senate should transact its business.

I am a Member of the Senate from Kakamega County and, therefore, I would want---

**Sen. Kihika:** On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Malalah to continue talking with his mask off?

**The Speaker** (Hon. Lusaka): Hon. Senators, try to keep your masks on.

*(Sen. Malalah wore his mask)*

Why can you not allow him to conclude so that we get to the---

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

This is a very serious Motion. In a hundred years' time, people will want to read what the Senate said on this important Motion. For the last 10 minutes, people have been rising on points of order, some of which are not grounded on any Standing Order.

I would plead with you, and if we go by the records of this House, all the impeachment Motions that have come, either to establish a Committee or in the debate, people have tended to address the core issues raised in the Motion or in the charges that are brought before the Senate.

I am pleading with you because this is going to be a matter of record and if we go on this way, we will be dealing, not with the problem, but with our own idiosyncrasies instead of going into the content.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. With all due respect - I respect you giving me this opportunity - we cannot predict how many points of orders we can raise in the Chamber as long as it is a point of order, including the ones that we raised on the health issues and so forth. However, this is more fundamental.

Is it in order for Sen. Malalah in moving this Motion to insinuate that the people of Kirinyaga have no power or authority to direct this House? When the Constitution says sovereign power belongs to the people of Kenya, can the Senate of the Republic of Kenya tell off citizens of this country who pay tax money for Sen. Malalah to sit in this House, and tell them that they have no power to dictate to us? We say that what we do here is because the sovereign power belongs to the people.

**The Speaker** (Hon. Lusaka): Sen. Malalah, I cautioned you. As we come to discuss, please, remember what I said in my Communication. I said that this should not

be a debate on the substance of the impeachment or its merit, propriety, prudence, constitutionality or the legality of the processes that have proceeded the submission of this matter to the Senate.

**Sen. Malalah:** Mr. Speaker, Sir, the gist of my presentation was very clear, that the Senate cannot be micro-managed by certain citizens of this country. The Senate is independent. I still stick to that fact; that we are an independent House and we shall not be micro-managed by people seated in a certain corner thinking that the Senate can be manipulated.

Lastly, I want to ask Hon. Members of this House to support the proposals made in this Motion. This is because if you look at the Membership of this Committee, I think we have hon. Members who are competent enough to interrogate this matter in a fair manner.

I do not know why some of the Members here think that going the Committee way is not going to be fair. I think the fairest way is the Committee way because we shall have enough time.

Mr. Speaker, Sir, looking at the Membership, we have considered regional balance. We have Sen. Mugo from Nairobi, Sen. Loiptip from Coast, Sen. (Dr.) Mbitio from North Rift, Sen. Mpaayei from the Lower Rift, Sen. Malalah from Western, Sen. Madzayo from Coast, Sen. Pareno from Maasai land and the whole country. The face of Kenya has been reflected in this Committee. We have Sen. M. Kajwang' from Nyanza.

This is the best platform to ensure that this matter is adjudicated in a fair manner, and we shall be setting good precedent for this House.

I beg to second this Motion.

*(Question proposed)*

**The Speaker** (Hon. Lusaka): Sen. Linturi, proceed.

**Sen. Linturi:** Thank you, Mr. Speaker, Sir. I open by saying that I have heard and understood your Communication in terms of the directions you gave us in addressing this matter.

I am cognizant of the fact that this Motion is not intended to look on the merits or demerits of the Motion, otherwise, we will be very speculative.

**The Speaker** (Hon. Lusaka): I will give each Senator five minutes.

**Sen. Linturi:** Mr. Speaker, Sir, we must only confine ourselves either to the merits or demerits of having a Committee or going to Plenary.

May I remind every Member that this Senate took oath to defend and protect the Constitution of this country. This being the case, we are here courtesy of the people who gave us this high office to exercise their authority on their behalf, and in the event that we fail to exercise that authority diligently, the public or people have a right to go to the streets and exercise their own authority when we fail them.

That is the sovereign power that Article 1 of the Constitution talks about. The people have donated this power to us to exercise it on their behalf. In the event that we do not, then they can do it themselves.

Mr. Speaker, Sir, I have heard the people of Kirinyaga County speak. They have spoken through their representatives. I invite every Senator here to look at the Second Schedule of the Constitution of Kenya, which has clearly put the oath that we take. May I remind them that the oath that we take when we are sworn in is to bear true allegiance to the people and the Republic.

The Oath of Assumption of Office of Governor is different from ours because they are supposed to truly serve the people. When we look at the Speaker, the President and his Deputy, it is true allegiance to the people; be faithful to the people and the Republic. A Cabinet Secretary (CS) does not do that.

I agree that impeachment is a new phenomenon in this country. Since there is no developed jurisprudence on how this is supposed to be done, we must seize the moment to create jurisprudence in the manner in which future impeachments will be done.

Mr. Speaker, Sir, Article 185 of the Constitution lays down the legislative authority to the counties. Article 185(3) says that one of the serious duties of the county assemblies is oversight.

Section 8 (b) of the County Governments Act clearly states or defines the authority of the county assembly in terms of what they need to do and what is expected of them. What the County Assembly of Kirinyaga did is within their mandate.

For consistency, I want this to go on record. I remember last time I sat here and listened quietly because I was a Member of the Committee that was proposed to impeach former Governor Waititu. I was listening to what the distinguished Senators were saying that day.

What is shocking me today is the change of heart of the very serious proponents of the Plenary sitting to try former Governor Waititu at that time. I remember – and the HANSARD can bear me out – I said that a time will come when we will remember the position we are taking and be required to be answerable to it because our governors or friends will be brought here.

Since this House sets precedent, it is not more than two months ago that this House voted unanimously to go the Plenary way. This was despite some of us opposing because we thought that a Committee could interrogate the matter better than the Plenary. However, because of the interest then, people decided to use reason and apply a method they thought was best at that time.

Mr. Speaker, Sir, in view of this, I am considering the pain that I can see the people of Kirinyaga County speak with. If we are to support the Building Bridges Initiative (BBI), corruption is one of the things that we must fight.

**Sen. Kang'ata:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Kang'ata?

**Sen. Linturi:** With that, Mr. Speaker, Sir, I beg to oppose this Motion of creation of a Committee and urge the House to adopt a Plenary.

Thank you.

**The Speaker** (Hon. Lusaka): Sen. Kang'ata, what is your point of order?

**Sen. Kang'ata:** Thank you, Mr. Speaker, Sir. I did not intend to interrupt my brother from Meru County.



Mr. Speaker, Sir, I am doing that because I am asking you to confirm whether he used the phrase “people did not use reason”. You know that then imputes something very negative on hon. Members who rendered that verdict.

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

Sen. Wambua from the extended Chamber should be approaching.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to Support this Motion for the following reasons: One, earlier on during your Communication, I rose on a point of order on a very serious matter in terms of the legal framework which---

**The Speaker** (Hon. Lusaka): Sen. Omogeni, I am told you have a point of order.

*(Sen. Omogeni spoke off record)*

**Sen. Olekina:** It is past.

**The Speaker** (Hon. Lusaka): Is it a point of order or point of information?

**Sen. Omogeni:** Mr. Speaker, Sir, it is a point of order. If you may permit me. The Order Paper indicates that each Senator will be allocated 15 minutes to make his submissions on this fairly weighty matter.

Under Standing Order No.106 (2), the only way that there can be limitation on time is if an hon. Member has moved a Motion. However, you have directed that debate on this issue be limited to five minutes. Standing Order No.106 (3) on Limitation of Debate says:

“A Motion under paragraph (2) shall not be made in the course of debate to which it refers, unless it is moved after the adjournment of such debate and before the debate is resumed.”

*(Applause)*

Mr. Speaker, Sir, already Sen. Linturi was on the Floor making his submissions.

I do not want to anticipate debate. However, if this matter goes to the Committee, we will not have time to make any comments. So, we need time. We watch deliberations of the House of Commons and even our neighbours in Tanzania where elected Members are given adequate time to ventilate the issues that come before the Floor. That is why all of us were elected.

I want your direction whether it is really in order to limit our deliberations to five minutes while the Order Paper talks of 15 minutes. There has not been any substantive Motion to alter the 15 minutes allocated to us.

Thank you.

*(Applause)*

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I had approached the Table to also establish how best this can be tackled.

We have violated Standing Order No.106 many times. We are all guilty here because we are the ones who run to the Chair and ask you to limit our time to three or five minutes. However, this has been brought substantially by Sen. Omogeni and I totally

agree with him. It is only in few instances in the history of the House that we have a Motion of this magnitude.

At the moment, Kenyans are tuned in from all over the country. In fact, I am told in Kirinyaga County, the social places that have been opened up to 7.30 p.m. and people are sitting in their homes waiting for this very important decision. They are not just waiting for the decision, but they want to hear whether our decision is based on serious deliberations in this House.

Mr. Speaker, Sir, if you look at the American Congress, the House of Commons or even the South African Parliament, Members are given adequate time to deliberate on issues. Today, we all know Hon. Julius Malema, MP and Leader of Economic Freedom Fighters because of the South African Parliament. He is not holding any position. He sits at backbench, but we know him because of the serious deliberations of their House. Please make a decision on this issue as raised by Sen. Omogeni so that you allow this House to ventilate on it.

If Senators decide to have only three minutes to make their comments, it will be fine because we need to enjoy the 15 minutes provided for by the Standing Orders. We do not want to violate our own Standing Orders. If someone is unhappy with the 15 minutes, they should raise a Motion on it to amend. However, we cannot raise the Motion at this point in time because the Standing Order itself says so.

Legally speaking, we have 15 minutes to make our serious deliberations. Those who are in a hurry and those who have their farms to tend to and all those other issues Sen. Kang'ata was talking about can excuse themselves. Those of us who are interested in sitting here even if it is up to midnight should be allowed to do so. I remember during the impeachment of Governor Wambora, we sat here upto 10.00 p.m. The few of us who want to make serious deliberations can have our time.

**Sen. Kang'ata:** On a point of order, Mr. Speaker, Sir. I beg to argue the point of order which was raised by the Hon. Senator from Nyamira. It is misplaced because you had already made a ruling. Looking at the Standing Orders, I do not see where they provide that the Chair can vacate or review whatever findings it has already made a ruling on.

Secondly, in my honest view, the powers bestowed in your Office by Standing Order 1 are enough for you to render the kind of judgment that you have already rendered in terms of limiting time.

Most importantly, we must also take into account the interest that many Members want to speak on this matter. Therefore, you allow as many Members as possible to ventilate on this issue. That can only be achieved if you limit time.

**The Speaker** (Hon. Lusaka): I have given direction on the time. However, where I notice that a Member still wants to talk, I will use my discretion to allow him to ventilate.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. Once again, I rise to support this Motion for the following reasons. Earlier on, during your Communication, I rose on a point of order on a very serious constitutional provision regarding the management or the authority of a county government.

Article 179(1) of the Constitution of Kenya is very clear. It says:

“The executive authority of the county is vested in, and exercised by, the county executive committee.”

The hon. colleague from Meru County quoted Article 185 of the Constitution while he was opposing this Motion. In his submission, he said that the County Assembly is given the authority to oversight. However, he forgot to draw our attention to Article 179 which vests that authority on the executive committee.

Mr. Speaker, Sir, a select committee will look at all these matters. I agree with him that we will be setting precedence on how future---

**Sen. Linturi:** On a point of order, Mr. Speaker, Sir. I can be challenged by Sen. Orenge, Sen. Murkomen or Sen. Wetangula. I want to bring to the attention of Sen. Olekina that if he does not really understand what that particular provision of Article 179 means - I wish Sen. Kang'ata will address himself to it - the executive authority of the county is vested and exercised by the executive committee. However, it has nothing that relates to the functions and the office of the governor.

The area that I referred the House to is the function of the county assembly because Articles are read differently. I want him to look at that particular provision and be guided that the matter which he is addressing is one to do with the office of the governor and not the authority and work of the Members of the County Assembly.

**Sen. Olekina:** Mr. Speaker, Sir, when everything is written in black and white, there is no point in trying to assume that some people are blind. These are very weighty matters. Article 179 says that authority is vested in the executive committee.

Yes, I agree with him that we are setting a precedence. Remember that before we start any proceedings in this House, we begin with a prayer---

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir. I would not want to interrupt my brother, Sen. Olekina, but let me do so. I want to invite him to read Article 181 on the removal of a governor. It does not talk about removal of county executive. Let him not read the Constitution in a selective way. He should try to read it harmoniously so that he gets the framework, decision, substance, spirit and the letter of the Constitution.

**Sen. Olekina:** Mr. Speaker, Sir, some people read the Constitution upside down. I said this Constitution itself is ambiguous. If you look at Article 179 and Article 181 referred to by the distinguished Senator for Nandi, there are issues that are not clear.

We have agreed here that we are setting a precedent. If we are, indeed, setting precedence, then we are the only people who can sit down as a committee and adduce evidence presented to us by the county assembly.

Article 179 says that the executive authority is vested and exercised by an executive committee. Unless this Committee, which is being prosecuted in this House looks at the evidence, the work or the charges and be able to present a report to this House, there is really no way that we will be doing justice to the people of Kenya.

*(Loud consultations)*

Mr. Speaker, Sir, can you protect me from the distinguished Members? When they were contributing, I was silent and listening to them.

**The Speaker** (Hon. Lusaka): Let us consult in low tones.

**Sen. Olekina:** Mr. Speaker, Sir, if I am a threat because I am reading the Constitution properly, then so be it.

In my support for this Motion, I feel like we can serve this country well. We should always be guided by the rule of law and the Constitution. This House does not interpret the Constitution but makes laws. Where there is ambiguity, it does not hurt to give it to our respectable Members. I have listened to the conversation of the distinguished Members and respected lawyers who can take time and guide this country.

Article 96 of the Constitution is very clear that this Senate protects the interests of the counties and their governments. If we are clear and sincere to the oath of office that we took and to the prayer you read every single day when we enter the chambers, then the only way to be objective is to allow a Committee to guide us and look at the voluminous documents which will be presented. The last time when we were prosecuting the matter of Governor Waititu I felt like there were things we did not do right. The only thing that consoled me was the fact that in line with Article 179 of the Constitution, the Deputy Governor had bolted from the word go.

Article 179(7) clearly says that when we exercise the provision of Article 181 the Committee Members will also lose their offices. The only reason why I was consoled and said it was fair to proceed the plenary way that time is because in the executive committee there was a Member who was not part of that government although he was elected and he was also appointed to be the deputy governor.

Mr. Speaker, Sir, because of the interest on this matter I want to summarise as follows; only a Committee will give the people of Kirinyaga justice. Only a Committee will guide us for all future impeachments. So that when we are punishing somebody let us not be selective but objective. The last time I checked a governor does not sit in tender Committee. A governor does not write checks or go to the bank to give out money.

**The Speaker** (Hon. Lusaka): You are getting into the substance of---

**Sen. Olekina:** In conclusion, I fully support the distinguished Members appointed by the House Business Committee to represent this House in doing the hard work. Our work will be so simple; that is, to read the report. If we find that the Governor of Kirinyaga has a case to answer, then we follow the law. If she does not, then we give the people of Kirinyaga justice.

I support.

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

**Sen. Wambua:** Mr. Speaker, Sir, thank you. I do not know what the cause of excitement is.

I want to thank you for this opportunity to contribute to this Motion.

I want to begin by reminding us that the motto of the Parliament of Kenya clearly states that both Houses of Parliament exist to push forward the welfare of society and the just government of the people.

The people of Kirinyaga County are crying out for justice from the Senate of the Republic of Kenya. They define justice differently according to different segments of that society. However, all of them are crying out for justice. Governor Anne Mumbi Waiguru is crying out for justice from the Senate of the Republic of Kenya. I do not know how she has defined that justice but she wants justice. The matter before this Senate is not a

simple matter but a weighty matter. It is a public issue. There is nothing private about the decision that the Senate will make today on the process we will use in determining the impeachment process of Governor. Anne Waiguru.

I have listened carefully to the voice of almost the entire elected leadership of Kirinyaga County. They have made their position very clear about what their expectations are. I have listened and taken the liberty to consult widely. I have also listened to the voice and reasoning of the great people of Kitui County on what position they want their Senator to take on this matter. I have followed opinion in both mainstream media and social media on what this country wants. If this Senate will choose to benefit from the opinion of one of the most senior journalists of long and good standing in the name and character of Sen. Wambua, the people of the Republic of Kenya want Plenary.

It does not matter what the outcome of the process will be but we are a House that pushes forward the agenda of devolution and in it we advocate for inclusivity. We want to listen to the different views on the same subject. We want as many people to state their position on a matter before we make a decision. If the worry of those who are pushing the Committee route is that there will be limited time for Senators to ventilate on this matter, then we are not bound by a single day but can sit for two or three days in plenary and transact this matter but give an opportunity to every Senator to contribute to this matter.

At some point - I do not see my brother, the Senator for Kakamega County - I heard him say something about this Senate being coerced or pushed to make a decision by the people of Kirinyaga which is a very unfortunate statement. The Senate of the Republic of Kenya does not exist in a vacuum. Public opinion must always shape the decisions we make. We are here to transact public business

With those many remarks, I oppose the Committee route.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko

**Sen. Wambua:** Mr. Speaker, Sir, for the record I oppose the Motion for the establishment of a Committee to process impeachment of Governor Anne Mumbi Waiguru.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this important matter. I have also been listening to my colleague Senators and the public out there. The common denominator of what they are saying is that they want justice. I happen to be fortunate that I am a trained lawyer and I went to one of the best universities in Kenya; that is, the University of Nairobi, not just once but twice. I also went to the Kenya School of Law, the only school of law in Kenya that enables us to be Advocates, so I know what justice is.

When you seek justice as an aggrieved person, you cannot insist on a particular process, unless you do not want to afford the other side justice. Justice is for both parties that seek it.

As I listened to the people of Kirinyaga, to the extent that I can do it as Ochillo, I guarantee that I will give them justice. However, they should also be open to the fact that the other side is also in need of justice. What is important in a judicial process or a process of justice is an open hearing where both parties are given opportunity to present

evidence and documents and to invite witnesses to support their case. In my view, a select committee would be the most suitable to do that.

We are a plenary here. Other than listening, all of us are entitled to raise points of order. I can assure you that if the 67 of us were to raise points of order in the intensity that our colleague Sen. Murkomen is doing - and he is entitled to do so - there would be no hearing in that plenary. That plenary will be charged. I can assure you the Senator for Migori is light footed. He will rise frequently on points of order. So, nothing will be heard in that plenary.

I believe the people of Kirinyaga have a cogent case. If we want to hear them---

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I respect my colleague Senator for Migori. I witnessed his second coming at the University of Nairobi (UoN). We were in the same class. I was standing while he was seated. However, what is important is that we should not allow the argument he is making about lack of order in plenary proceedings, which is misleading, and that there will be points of order.

There are rules that have been applied in the two impeachment proceedings that happened in the plenary. You will remember that even in the Waititu Impeachment, there were no interruptions because time was given to the lawyers. He can make his argument for the committee but not bastardize the whole process of the House.

**The Senate Minority Leader** (Sen. Orenge): On a point of order, Mr. Speaker, Sir. A point of argument can never be out of order. In fact, he is suggesting arguments that Sen. Ochillo-Ayacko should propose. That is Sen. Ochillo-Ayacko's opinion. You cannot impose opinion of another Member on another Member who has a different opinion. That is not a point of order. Otherwise, if he was of the same opinion, we will not be debating.

Mr. Speaker, Sir, we better go to the substances instead of having points of order which have no basis. In fact, there is a time that hon. Marende insisted that when you stand on a point of order, cite the Standing Order first and then continue from there. The way we are operating, everything is a point of order.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Ochillo-Ayacko.

**Sen. Ochillo-Ayacko:** Mr. Speaker, Sir, they will take all my time yet everybody is interested to talk.

Mr. Speaker, Sir, justice is about a fair hearing and it is a process. The mandate of the Senate is to legislate, carry out oversight, allocate funds to the counties and also impeach wayward governors.

If you look at legislation, oversight, and allocation of finances, we do them through committees. When we want to investigate a particular governor, a committee is recommended here. If we think that the Senate is useless, why do we do those other important functions through committees?

I believe that Members of the Senate who have been appointed to committees are people who have merited being in the Senate. They are people of character and substance. If Members who constitute other committees are also people of substance, I do not see why there is hullabaloo about going the committee route.

I had the occasion to be a Member of a committee that was listening to matters of Taita-Taveta when the Governor appeared before the Senate. I can assure you that we

arrived at a decision. I have heard people talk negatively about the decision but the other side did not even present evidence for prosecution, leave alone not showing up.

I encourage all of us to believe in the Senate. We must believe in our committees and their membership and support them. Tomorrow we will have a committee made up of other members.

The undertone here is that some Members are suspicious of other Members being part of that committee and they would rather do it themselves. Why can they not belong to the Senate Business Committee (SBC)? Why do they trust the SBC? Why do they trust other committees where they are not members? Let us believe in ourselves and the institution of the Senate. Let us believe that Members in those committees have a right to be there and can do the job as well as any of us.

Mr. Speaker, Sir, I have heard the people of Kirinyaga with a lot of sympathy. I am actually concerned and humbled that they are petitioning this House. The assurance they will get from me and Members in this House is that that committee will do its work. That work will be done publicly and with opportunity being given to anybody who has information that will help the committee arrive at the correct position.

If the people of Kirinyaga County, including the elected leaders who are attacking other leaders who cannot defend themselves, have information that is relevant to that committee, that is the place to take it. That is the place to prosecute that information. Whenever I will get opportunity to talk to Members of that committee because they are my colleagues, I will encourage them to vindicate the dignity of the Senate; that the Senate can do justice through a committee or through plenary. That is very important.

What I am apprehensive about is that some people take it out there that the independence of the Senate is something they own and walk with. The independence of the Senate is for the Senate to listen to everybody. The independence of the Senate does not mean that the Senate does not listen to them.

If they make decisions out there and say that the Senate must abide by that, then there is no need to have the Senate. They should have just removed that governor from there and made it a *fait accompli*. The Senate is here to listen to the parties that are interested in the outcome of the matter. I believe that a committee provides valuable time and an atmosphere where all the persons presenting evidence can do so without intimidation.

When we are seated here as a fully constituted Senate, we are quite intimidating. In fact, we are scaring. Witnesses who come before us and see this number of fellows, including Senators like my brother and friend, Sen. Murkomen, Sen. Orengo and Sen. Wako, could be scared. So, it is important for them to appear before a panel of 11 Members and present, without intimidation, the facts they have. That panel of 11 will bring to us their findings, so that we make a well-researched decision which will be in the interest of the Senate.

In conclusion, I hope that committee will vindicate the image of the Senate and give convincing reasons for whatever findings they will arrive at.

I thank you.

**The Speaker** (Hon. Lusaka): Let us listen to Sen. Ndwiga.

**Sen. Ndwiga:** Thank you, Mr. Speaker, Sir. This House today is seized of a very important task of determining whether the accusations against the Governor of Kirinyaga County will be heard by a Committee or the Plenary of this House.

Whereas I have no problem with the Members of the Committee chosen and I have no problem with a Committee system, I want to persuade this House to listen to the People of Kirinyaga.

*(Applause)*

This is because I know the Committee will give us a report. What the people of Kirinyaga want is justice.

**Sen. Linturi:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Does he want to be informed?

*(Loud consultations)*

**Sen. Ndwiga:** Okay.

**Sen. Linturi:** Mr. Speaker Sir, I want to inform the public---

**The Speaker** (Hon. Lusaka): It is the Member on the Floor not the public.

**Sen. Linturi:** Mr. Speaker, I want to inform the distinguished Senator that however much we want to agree, the information that is not known out there is that, in the event that the Committee does not return the agreed verdict, then the report does not come to the Chamber, the Senate will not have an opportunity. It is important so that we are clear in our minds.

**Hon. Senators:** No! No! No!

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker Sir, the Senator who spoke last has misled the House. It is so unfortunate because he is the Vice-chairperson of the Senate Committee on Justice, Legal Affairs and Humans Rights. The gentleman who was on the Floor, who he was purporting to inform was the Chairperson of the Gov. Samboja Committee and the Report was brought here.

Is it in order for a Member to stand up and mislead the House? The Report was tabled.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members. Let me put this on record. If the Committee finds allegations substantiated, then the report will still come here and a vote will be taken.

If the allegations are not substantiated, it will be tabled but there will be no further debate on the matter; it dies there. The report will just come for noting. I have directed.

*(Loud Consultations)*

**Sen. Ndwiga:** This is my time---



**Sen. Olekina:** On a point of order.

**The Speaker** (Hon. Lusaka): What is your point of order?

**Sen. Olekina:** Mr. Speaker, Sir, I think it is important for the public to note---

**Sen. Kihika:** His mask!

**Sen. Olekina:** God! My mask!

*(Sen. Olekina wore his mask)*

*(Laughter)*

You are not complaining of other people's masks, only mine.

I would like to request you to be a bit clear on your directive for this reason: If a report is tabled in this House, nothing stops a Member from this House to request you to give a detailed ruling.

*(Loud Consultations)*

Mr. Speaker, Sir, on your Communication, we invite you to give us a ruling on a point of order. There are precedents in this Parliament. So, let us be clear. When we are informing the Member who was speaking, let us not lie to the public that we do not have the power to raise issues on that report.

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

**Sen. Murkomen:** Mr. Speaker, Sir, I think we should rest this matter. I am really surprised that even Sen. Mutula Kilonzo Jnr., would fall into the same trap. I would have expected him to appreciate further because he has been here longer.

Section 33(5) of the County Governments Act 2012 - which I was privileged to participate in its drafting - provides that:

“If the Special Committee reports that the particulars of an allegation against the Governor have not been substantiated, further proceedings shall not be taken under this Section in respect to the allegations.”

Mr. Speaker, Sir, you are right. We must tell the public the reason why there is a clamor for Plenary or the Committee. It is because the Senators who are here know very well that if a Committee is chosen and for whatever reason they go and clear the Governor, that is the end of the matter. It will never come back to this House.

The reason the people of Kirinyaga are crying that let it come to the House is because they are saying that instead of subjecting it to 11 Senators to make that very important decision, they want the 67 Senators to make the decision and that is all.

**The Speaker** (Hon. Lusaka): I think the matter is clear. Let Sen. Ndwiga continue.

**Sen. Ndwiga:** Mr. Speaker, Sir, as Sen. Mutula Kilonzo Jnr. says, I was privileged by this House to Chair the Committee on investigation of allegations against Governor Samboja. It is true that if the Committee finds there is no incriminating evidence against the Governor, that is the end of the matter.

That is why the people of Kirinyaga are crying out to this House. I am not saying that there will be no justice if the matter goes to the Committee but justice should be seen to be done and that is what the people of Kirinyaga expect.

We have a lot respect for the Senators who have been appointed to this Committee but the people of Kirinyaga and the people of this Republic of Kenya are waiting to hear the verdict of this House.

I advise the political players, particularly the party leaders to watch out. This pace is not as steady as you think. It is very slippery. Two years down the road, we will need the people. Two years down the road, Kirinyaga people are unlikely to forget what you did to them if you do not go the way they want.

*(Applause)*

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

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

**Sen. Ndwiga**: Which point of order?

**The Speaker** (Hon. Lusaka): Order! Sen. Ndwiga.

**The Senate Minority Leader** (Sen. Orengo): The Speaker has been allowing points of order. We are not seeking vengeance; we are seeking justice and justice has got two sides. The people of Kirinyaga have got their expectations but the issue before the Senate is not about what is being said out there; it is what is being presented before the Senate. Facts are stubborn.

We may as well go and have a *baraza* in Kirinyaga. That is an alternative but the rules say we must stick here.

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

**The Speaker** (Hon. Lusaka): Sen. Orengo is on a point of order. What is your point of order, Sen. Cheruiyot?

**Sen. Cheruiyot**: Mr. Speaker, Sir, it will be of great interest to this House for Sen. Orengo who has been a leading crusader this afternoon and I agree with him that we should adhere to the provisions of our Standing Orders every time we rise on a point of order. Will he be more gracious and inform us which Standing Order Sen. Ndwiga violated that led him to stand?

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, according to the County Government Act, 2012, the Constitution and the Schedule to the Standing Orders, there are parties who are before the Senate. I invite you to look at the Schedule particularly and even the County Government Act, 2012.

The parties that are going to appear before you are the Governor and the county assembly and you are going to administer the cases presented by these two parties. If you want to bring in a third party, then we are not talking about the case which has been filed before the Senate. I have quoted the Schedule, the Standing Orders which flow from the Constitution and I think we better take it seriously.

**Sen. Ndwiga**: I thank you, Mr. Speaker, Sir. I have a lot of respect for Sen. Orengo. However, if he had waited, he would have heard me say that even the Governor

of Kirinyaga County also expects justice from this House. The people of Kirinyaga County have spoken through their elected representatives. First, it was the Members of the County Assembly (MCAs) and now we are here. Every one of us is elected in the counties we come from, but the moment we come here, we represent those counties. However, we are national leaders inside here.

I have just come from that side of the country. My plea to the House is that, please, let us listen to the people. We are here to represent the people. The people of Kirinyaga County and the Governor of Kirinyaga County is also a person from Kirinyaga County. Let us listen to the people. The people of Kirinyaga County have spoken unequivocally about what they expect. It is the way justice is dispensed. They expect that the Plenary of this House will listen to this case.

Mr. Speaker, Sir, if this case is heard in Plenary, it will vindicate the Governor if she is innocent. However, the people of Kirinyaga County will have seen that justice was served in the right way. If we go the other way and then vindicate the Governor, ask yourselves: How is she going to operate in Kirinyaga County thereafter? Ask yourselves that question.

I say this because Sen. Orengo, Sen. Mutula Kilonzo Jnr. and Sen. Murkomen were here when you impeached the Governor of Embu County three times. I can assure you that for five years Embu County was at a standstill. Let us not drive Kirinyaga County that direction. I am pleading with my colleagues in this House that let us listen to the people of Kirinyaga County.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. M. Kajwang'?

**Sen. M. Kajwang'**: Mr. Speaker, Sir, Sen. Ndwiga is my Chairperson in a Committee and I have immense respect for him. However, we have a rule in our Standing Orders about anticipating debate and the outcome of a process. He gives me the impression that he is anticipating that one approach will lead to a certain end and another shall lead to another end. Is it proper for a very distinguished Senator and long serving Member of Parliament (MP) to anticipate the debate and decision of this House?

**Sen. Ndwiga**: Mr. Speaker, Sir, if my good friend, Sen. M. Kajwang', listened to me, I did not say 'when this happens.' I said that if the Plenary vindicates the Governor, she will be free to walk around everywhere and say, "yes, I was listened to by the Plenary."

If you look at the people in this Senate, these are very sober minds. If you put all of them together, they can listen and make a decision. I am not saying that a Committee will not do that. However, my worry is that already the people who will be affected by the decision made by this Senate are those from Kirinyaga County. They have cried to you and said: "Please, we want this to be heard by the Senate."

Mr. Speaker, Sir, this is not to say that the Committee will not do justice to this matter. That is not what we are saying, but it is the way it is perceived by the people whom that justice is meant to serve. The people of Kirinyaga have really cried everywhere in the media, through messages and wherever. I say that it is not a threat. For those of us who are in political parties and want to be talking to the people, this is the time.

I support the President of this Republic. He says that he fights corruption and wants to uphold the rule of law, and this is where we are. For me, this afternoon, we want justice to be seen to be done. That is why I am inviting hon. Members that let us go the Plenary route because that is what the people are asking for.

Mr. Speaker, Sir, it is not because there is anything wrong with the Committee. The fact is that the people of Kirinyaga County want Plenary and all of us have heard that. How can people ask you, as leaders, that this is the direction they want to go and you deny them that direction? We can have all the arguments for the committee, but we all know that if the people want another option, let us give the option that they want. Even we, as the Senate, will be vindicated.

I thank you and beg to oppose vigorously the setting up of this committee. I am a neighbour of Kirinyaga County and have been in these Houses for some time. Listen to me!

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr., proceed.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. We have sat patiently and listened to everybody. We are aware of the comments made by leaders from Kirinyaga County. We have seen videos from leaders of Kirinyaga County purporting that Members of the Senate are corruptible.

For the first time, and I was hoping that you would make a comment about this, I found in your office a letter, a message or whatever it was. It was signed by Kirinyaga County leaders, seeking your direction that this House adopts a Plenary.

Mr. Speaker, Sir, for those who do not know, and those who know, these are interested parties in a dispute. When you are an interested party in a dispute, you do not choose the judge or forum. In legal parlance, we call it forum shopping. On that ground alone, I cannot support the insistence that we must go the Kirinyaga way because we will confirm two things. One is that the Members of this Senate, without exception, are subject to corruption. Secondly, the Members of this Senate are subject to influence.

Thirdly, the people of Kirinyaga's views--- I am surprised because there is no format of seeking public participation when we are making Motions. Who gave these Members of this House a right to go and conduct public participation before the debate? How do we gauge who they spoke to and what they said? How do we know the ones who oppose and what they said? The argument---

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

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

**Sen. Kibiru:** Mr. Speaker, Sir, I heard Sen. Mutula Kilonzo Jnr., whom the people of Kirinyaga County are waiting to hear what he says because they have a lot of respect for him, say that there was a letter that said that Senators are corrupt. Please, table it.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, thank you. There is a book I should prescribe for you called "Listening more and talking less." Listen, Sen. Kibiru. I said there is a video. That video was even posted on our *WhatsApp* group of a leader from Kirinyaga County.

I stand here to say that the issue of Kirinyaga County pales in the shadow of the issues that Sen. Dullo and Sen. Wetangula are handling on the medical equipment leasing. Have you accused them of corruption? The report has not been issued.

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

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

**Sen. Murkomen:** Mr. Speaker, Sir, Sen. Mutula Kilonzo Jnr. must stick to the Standing Orders. In this House, under Standing Order No.96, if you make an allegation, you must substantiate. It is clear from your rulings and the Standing Orders that you cannot import social media videos, newspaper cuttings and make them absolute truth here. You either substantiate or withdraw and apologize.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, there is nothing to withdraw. Please let us ignore Sen. Murkomen.

Mr. Speaker, Sir, if Sen Murkomen who is so famous for posting all sorts of things on our platform needs substantiation, he should go to the platform. That video is on the platform. I am not going to substantiate anything because it is there.

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

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

**Sen. Cheruiyot:** Mr. Speaker, Sir, we are beginning to lose it. It is really unfortunate if you allow this to happen. You are the Speaker and you preside over this House. If you allow the kind of exchanges between Sen. Mutula Kilonzo Jnr. and other Senators in this House where he says even if Standing Order No.96 demands he substantiate and he says he will not, we are losing it as a House. There is no basis for anybody rising against him, then you are setting a very dangerous precedent.

Sen. Orenge raised a very important issue, which I had hoped you would give us a ruling on, that for every time that Senators rise on points of order, they will state the particular Standing Order in which the Member who is on the Floor has violated. Sen. Murkomen, in compliance with that, has set a precedent. He has given us Standing Order No.96, which Sen. Mutula Kilonzo Jnr. has violated. Instead of following the good practice that has been set, thanks to the intervention of the Senate Minority Leader, you have allowed the speaker who is on the Floor to dismiss him so casually.

Mr. Speaker, Sir, please do not allow this to pass. Make a determination on that point of order. Sen. Mutula Kilonzo Jnr. must either substantiate or withdraw, as per our Standing Orders.

**Sen. Sakaja:** Mr. Speaker, Sir, I rarely agree with Sen. Murkomen and I rarely disagree with Sen. Mutula Kilonzo Jnr. However, our Standing Orders are not suggestions and cannot be taken casually. Sen. Mutula Kilonzo Jnr was wrong; it is not Standing Order 96; it is 100. Standing Order 100 talks about the responsibility for a statement of fact. It says,

“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.”

Mr. Speaker, Sir, let us maintain the integrity, credibility and honour of this House. If such a Statement cannot be substantiated, Sen. Mutula Kilonzo Jnr. should kindly withdraw and apologize.

*(Loud consultations)*

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

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, that same Standing Order says that I do not have to substantiate today, but I can do so at another session.

The existence of the video is something that I can produce at any time if you ask me to do so. It is a matter of public record. In fact, if I offer Kenyans the opportunity to send that video to me right away, they will do so.

**The Speaker** (Hon. Lusaka): For us to be consistent, I will give you 24 hours to substantiate that.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir.

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

**The Speaker** (Hon. Lusaka): What is your point of order, Senate Majority Leader?

**The Senate Majority Leader** (Sen. Poghio): Mr. Speaker, Sir, if we followed Standing Order 93(1), all these disruptions would not be there. It says:

“Any Senator may raise a point of order at any time during the speech of another Senator stating that the Senator raises a point of order and that Senator shall be required to indicate the Standing Order upon which the point of order is based.”

Mr. Speaker, Sir, if we are embracing our own rules, then let us begin from here. It makes the Chair’s work easier.

If you move on to Standing Order 96, you will find a lot about the content of our speeches and what we cannot do. Let us begin from where disruptions and interruptions about everything becoming a point of order by sticking to Standing Order No.93(1).

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I was on my second point. I urge members to look at the Wambora Case Supreme Court ruling. First of all, it affirmed the work that was done by Sen. Murkomen in the Wambora Committee. More importantly, the court said that we are an appellate court. So, I have urgent restraint. Since I have no evidence of a Senator who is corrupt, I must continue saying that Senate must continue working through its committees.

I was on the Floor when I suggested that the Committee lead by Sen. Dullo and deputized by Sen. Wetangula is dealing with a transaction worth billions and billions of shillings.

Sen. Linturi, Sen. M. Kajwang’ and Sen. Wamatangi were accused of very unlawful things by the owner of the Ruaraka land. What was the reason? They did not want that report to come here. We allowed that report to come here. Whatever happened to it happened, but we defended the integrity of the Senators.

On the Solai Dam, we were offered money. I am talking about a lot of money. We were intimidated. Four of us either agreed to the intimidation or refused it, including the Senator for Nakuru and Sen. Sakaja. They never signed the report, but I signed it. They know this. We have withstood intimidation, offers for bribes and pressure from the powers that be from State, deeper or whatever it is. Therefore---

*(Loud consultations)*

Allow me to proceed.

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

**Sen. Mutula Kilonzo Jnr.:** I am glad that Sen. Murkomen agrees with me and laughs. It is not a laughing matter. He knows very well that in the case of Ruaraka, for purposes of a Committee, we tabled a report. He knows what happened. I will not repeat it because it is on record.

Mr. Speaker, Sir, Kenyans are watching this afternoon. They want to see whether we will shoot ourselves in the foot by attempting to pretend that either of the other produces a better result for purposes of the matter before us. The ones who are saying Plenary is equal justice. Sen. Sakaja, who says that he does not disagree with me is sitting in two committees, one on the COVID-19 situation in Kenya. We have entrusted this good gentleman, together with Sen. Kasanga to go round the country collecting views on our behalf. Nobody has made an allegation against them.

There is a gentleman seated here, Sen Haji. He has chaired a Committee for the last eight years. Why have we not accused him of anything? The reason is---

**Sen. Sakaja:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Do you want to be informed?

**Sen. Mutula Kilonzo Jnr.:** Yes, by Sen. Sakaja.

**Sen Sakaja:** Sen. Mutula Kilonzo Jnr. is my brother.

I would like to inform Sen. Mutula Kilonzo Jnr. that the Committee that I Chair and which is deputized by Sen. Kasanga brings a report to his House very week, including today. The issue that we have with this Committee is that if it rules one way or another, it will not bring a report. That is the only difference.

**Sen. Mutula Kilonzo Jnr:** That is the problem of allowing some of the people who are your brothers to give you useless information. It is just useless information for what I was saying; he is not helping.

We want to investigate and get into the bottom of this matter. I have this book. This book has all the impeachment records of this Senate.

*(Sen. Mutula Kilonzo Jnr. held up a book)*

Why do you think it is this big? It is because we have sat in several committees and we have something that we can look up to. If you want to read the reports for the Plenaries, including that of the late Hon. Gachagua and Hon. Waititu, you will find nothing useful for the Senate here.

There are four impeachments coming, one from the western region, one from central region, then the eastern region, and the coastal region. Do not get excited because

you think that Kirinyaga is the *magnum opus* of impeachments. We are going to get much more. You will get a Committee and an opportunity.

Lastly, let me say this---Allow me to finish.

Shakespeare said, "Though this be madness, there is a method to it." This Senate has found a method to interrogate serious intricate issues. We walk away from such methods, which we have agreed to do, then, I expect all the Chairpersons of committees to resign. This is because they are both either incompetent, corrupt and cannot deliver. Simple.

Thank you. I support the committee.

**The Speaker** (Hon. Lusaka): Order, Members! Sen. Kibiru, then Sen. Halake from the "extended Chamber."

**Sen. Kibiru:** Thank you, Mr. Speaker, Sir, I would want to start by seeking your indulgence. First, I may not be very comfortable, or good in the gab of this language called English. I am not the man who mobilized the language and took it to war. However, I want to be allowed to speak in whatever form I can, so that I can tell the Hon. Senators, what is it that the people of Kirinyaga County are saying.

Secondly, Mr. Speaker, Sir, I also would like to seek your indulgence, so that you can add me one or two minutes.

**Sen. M. Kajwang':** On a point of order.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. M. Kajwang'?

**Sen. M. Kajwang':** Mr. Speaker, Sir, in our Standing Orders, we have a rule--- I am talking about what Sen. Kibiru has said. I have a lot of respect for him. We have worked with him in the County Public Account and Investment Committee (CPAIC). He knows my views on his county.

**The Speaker** (Hon. Lusaka): Take your seat, Sen. Kibiru.

**Sen. M. Kajwang':** My only question is that you need to give us direction. Even though the Standing Orders talk of conflict of interest being pecuniary or proprietary, but we have established a precedence in this House that when you have an Impeachment Motion against the governor of your county, you kind of stand down. It is not in the Standing Orders because I do not believe that Sen. Kibiru has pecuniary or proprietary interest. However, you need to advise us because sometimes, it could muddy the waters when it is your county that is being tried before the Senate. Is it in order for Sen. Kibiru to actively participate in this debate to persuade the House to go one way or the other?

In the Impeachment Motions that I have sat through in this House, and I have sat through about three, the Senators of the counties involved stood down.

**The Speaker** (Hon. Lusaka): Order, Members! We do not need to spend a lot of time on some issues.

Sen. Murkomen: Point of Order! Point of Order!

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen! I am in the Chair.

I was going to say that it is a personal choice. For whichever Senator, if in your conscience, you feel that you do not want to contribute because of whatever reasons, it is up to you. I will leave it to the discretion of the Senator for Kirinyaga.

**Sen. Murkomen:** Mr. Speaker, Sir, on a point of order, if you allow.

**The Speaker** (Hon. Lusaka): Yes, Sen. Murkomen.



**Sen. Murkomen:** For the record, what the Senator for Homa Bay County is saying is not true. The Senator for Kiambu, Sen. Wamatangi, spoke. The Cabinet Secretary (CS) of the Ministry of Health spoke when the impeachment of the Governor of Nyeri was brought here. The Senator for Embu then, spoke when the issue was brought here. I do not remember a situation where the Senator did not speak. This is because it is a matter of extreme public importance for the County where anyone is coming from as a Senator.

**Sen. Kibiru:** Mr. Speaker, Sir, I want to speak more so because people have kept on referring to what the people of Kirinyaga are saying. Indeed, I have the mandate, as the only independent Senator in the Republic of Kenya, to talk on behalf of the people of Kirinyaga.

Mr. Speaker, Sir, I just wanted to say that Kirinyaga County has over 600, 000 people. In that county, we have close to 100 sub-locations. For us to be able to articulate issues of Kirinyaga, we normally move around and ask, what is it that has been happening? I want to urge and say--- I am not saying and do not want to persuade any Member, to say that it is the Governor who is guilty. The only thing that the people of Kirinyaga are saying is that, Senator---They sent me messages, called me, and they have been persuading me as their Senator and a person elected to represent them. They have been telling me, "Senator, can you please persuade the Senate, especially as Members of County Assembly (MCAs), to let us come in front of them because we would want to listen to what Senators like Sen. Wako, Sen. Mutula Kilonzo Jnr., Sen. Orengo and Sen. Poghisio would say. These people will not be in the committee. Therefore, they will not have the mandate to talk about the process that the people of Kirinyaga have used.

The people of Kirinyaga are not saying it is anybody's guilt. They are saying, this is a learning process. They would also want to come to the Senate and learn. Where they have made a mistake, it would be explained and where they have done well, they will be given the correct position. Like Sen. Linturi said, we are setting out issues of how we can move on issues of impeachment.

I like the way Sen. Mutula Kilonzo Jnr. is saying that he has documented, and this is also a learning process. Most of my fellow Senators here have only participated in Gov. Waititi's impeachment. I am lucky that I have participated both in a committee and in the plenary. So, I know the merits and demerits of the two options. I do not need to be educated on the merits and demerits of the two, but more importantly---

Can I be informed?

**Sen. Cheruiyot:** On a point of information.

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

**Sen. Cheruiyot:** A point of information to Sen. Kibiru because he has raised a very important point; where he was comparing the success rate of a committee vis-à-vis that of a plenary. Senate has handled 10 impeachments. Seven by committee and three by plenary. For the three that was done in plenary, two of them were successful. Of the seven that were done by committee, only one went through. So, he is right. I want to inform Sen. Kibiru, that he is right in his assertions that plenary is the way to go.

**Sen. Kibiru:** I appreciate the information that I have received from my good friend, Sen. Cheruiyot---

**Sen. Ochillo-Ayacko:** On a point order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of information, Sen. Ochillo-Ayacko?

**Sen. Ochillo-Ayacko:** Mr. Speaker, Sir, you heard the Senator for Kericho say that two have been successful. Would I be in order to ask the meaning of success? This is because this is something very important.

*(Laughter)*

We are talking about justice. What is the meaning of success according to the parlance of Sen. Aaron Cheruiyot, the brother of Moses? I have respect for him.

**Sen. Kibiru:** Mr. Speaker, Sir, I would like to proceed before I lose my line of thinking. Thank you, Sen. Ochillo-Ayacko, the honourable Senator for Migori County.

The people of Kirinyaga, the young MCAs who also went to the universities that we went to, but they are inexperienced in a certain way, they would want to listen to Senators like you, who are not in this committee. They would really want to hear you talk the way you are talking when they will be standing there. It is a milestone for them. I want to repeat that nobody is saying that the governor is guilty. I would never want to persuade you to see it from that perspective. The point the people of Kirinyaga are asking is, please, do not make this place look like what it was in April 1989, where one person said, decency has been thrown out of the House.

We want to stand by the words of the late of late Vice President of this Republic, Prof. George Saitoti, MP, where on 18<sup>th</sup> March, 2002, he stood up and said that, "There comes a time when the nation is bigger than an individual." He went further and said, "There also comes a time when an individual will be called to make a personal decision." I do not want to dwell on the issues that have been going on since this matter came into the Senate, but I can tell you, we are not fools, we did not come to Nairobi the other day, we know what has been happening. You can take that to the bank.

I want to stand here - and history will absolve me. I want to tell the people of Kirinyaga, looking at this committee---

**The Speaker** (Hon. Lusaka): Order. Do you want to be informed by Sen. Kinyua?

**Sen. Kinyua:** Bw. Spika, nataka kumwambia mwenzangu nimemskiza kwa makini na Mswahili anasema, kwa nini kuandika na mate na wino ipo? Tayari ametuambia mapendekezo ya vile ndugu zetu ambao tungependa kusikia maoni yao kutoka Kirinyaga, vile walivyosema. Wanasema wangetaka twende jumla, inamaanisha ya kwamba, badala ya kamati, Seneti nzima ikae na kuwasikiza. Badala ya kupoteza muda zaidi na mwenyewe amesema, mimi ninakubaliana na yeye twende vile walivyosema wenye maneno, *plenary*.

**The Speaker** (Hon. Lusaka): Sen. Kinyua, you are out of order.

*(Laughter)*

**Sen. Kibiru:** Thank you, Sen. Kinyua.

Mr. Speaker, Sir, I just wanted to remind the Senate---

Whip, I am on the Floor of the House. I sought the indulgence of the Speaker that I be given time speak. I need protection so that I can articulate the issues of the people of Kirinyaga.

Before I conclude, I have a problem---

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

**Sen. Murkomen:** Mr. Speaker, Sir, I am sorry for interrupting the Senator of Kirinyaga, Sen. Kibiru. However, this is important for him.

*(Interruption of debate on Motion on establishment  
of Impeachment Committee)*

## MOTION

### EXTENSION OF SITTING TIME

**Sen. Murkomen:** Mr. Speaker, Sir, I beg to move the following Motion for extension of Sitting time: -

THAT, notwithstanding the provisions of Standing Order 31(2) and pursuant to the provisions of Standing Order 31(3) (a), the Senate resolves to extend its Sitting until conclusion of the Business listed in Order No.15 in today's Order Paper.

The reason is that you have already ruled that every Senator should have five minutes to contribute to this important Motion. The people of Kirinyaga and Kenya would like to listen to our important deliberations before we vote.

Therefore, I am requesting that we extend the time to enable those of us who have not contributed to do so for the interest of the House.

I would like to ask Sen. Linturi to second.

**Sen. Linturi:** Mr. Speaker, Sir, I second this Motion because we should not be seen to be in a hurry. We are lazing around in most cases because Plenary does not sit due to the COVID-19 regulations.

If there is a better time to demonstrate to the country what we do as Senators, the moment is now. It does not matter even if we go up to tomorrow morning. Let us make sacrifices for the people of Kirinyaga.

As per the oath that we took, these are extraordinary times that require us to work extra hours.

I support.

*(Question proposed)*

**The Speaker** (Hon. Lusaka): I will put the question, but the only challenge is that there are Senators who are sitting in the extended Chamber. Therefore, a voice vote will not work.

In the circumstances, we will have to do a Roll Call vote. This is because we do not want to disadvantage those who are out there.

Hon. Senators, I now order that the Division Bell to be rung for one minute.

*(The Division Bell was rung)*

**The Speaker** (Hon. Lusaka): Order, Members! The Deputy Speaker and one Clerk will go to the extended Chamber to take the votes there, so that we move faster. Those that are here will vote here.

*(Loud consultations)*

Order, Members! Draw the Bar and close the doors.

*(The Bar was drawn and doors closed)*

Sen. Kang'ata, you will be a teller for the "Yes." Let us start.

*(The Senators proceeded to vote by Roll Call)*

**The Speaker** (Hon. Lusaka): Open the doors. Can you bring the results from the other Chamber?

Hon. Senators, please, take your seats.

## DIVISION

### ROLL CALL VOTING

*(Question, that notwithstanding the provisions of Standing Order 31(2) and pursuant to the provisions of Standing Order 31 (3a) this Senate resolves to extend its Sitting time until conclusion of its business listed in Orders 15 and 24 in today's Order Paper, put and the Senate proceeded to Vote)*

**AYES:** Sen. Cherargei; Sen. Cheruiyot; Sen. Iman; Sen. (Dr.) Kabaka; Sen. Kibiru; Sen. Kihika; Sen. Kinyua; Sen. (Dr.) Langat; Sen. (Dr.) Lelegwe; Sen. Linturi; Sen. (Eng.) Mahamud; Sen. Murkomen; Sen. Ndwiga; Sen. Omanga; Sen. Sakaja; Sen. Wambua; Sen. Wario; and, Sen. Were.

**Teller of the Ayes:** Sen. Murkomen

**NOES:** Sen. Boy; Sen. Chebeni; Sen. Dullo; Sen. Faki; Sen. Farhiya; Sen. Haji; Sen. Halake; Sen. (Eng.) Hargura; Sen. M. Kajwang'; Sen. (Prof.) Kamar; Sen. Kang'ata; Sen. Kasanga; Sen. Kwamboka; Sen. Loiptip; Sen. Madzayo; Sen. (Eng.) Maina; Sen. Malalah; Sen. (Dr.) Mbito; Sen. (Dr.) Milgo; Sen. Moi; Sen. Mpaayei; Sen. (Dr.) Musuruve; Sen. Mutula Kilonzo Jnr.; Sen. Mwangi; Sen. Mwaruma; Sen. (Dr.) Mwaura; Sen. Nyamunga; Sen. Ochillo-Ayacko; Sen. Olekina; Sen. (Prof.) Ongeru; Sen. Orengo; Sen. Outa; Sen. Pareno; Sen. Poghio; Sen. Prengei; Sen. Seneta; Sen. Shiyonga; Sen. Wako; Sen. (Rev.) Waqo; Sen. (Dr.) Zani; and, Sen. Zawadi.

**Teller of the Noes:** Sen. Kang'ata.

**The Speaker** (Hon. Lusaka): Hon. Senators, these are the results-

**AYES:** 18

**NOES:** 41

**ABSTENTIONS:** 0

The “Noes” have it.

*(Question negatived by 41 votes to 18)*

*(Resumption of Debate on Motion on  
Establishment of Impeachment Committee)*

This means we must finish our business by 6.30 p.m. I, therefore, call upon the Mover to reply.

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

**The Speaker** (Hon. Lusaka): Order, Members! Just a minute. Sen. Kibiru, you will have to finish because we must conclude this by 6.30 p.m. He was on the Floor.

**Sen. Kibiru:** Mr. Speaker, Sir, as I conclude, the people of Kirinyaga County are watching and it is unfortunate that the die is cast. I can tell the people of Kirinyaga that going the Committee way means that the verdict is known.

I seriously oppose the Motion.

**The Speaker** (Hon. Lusaka): I call upon the Mover to reply.

**Sen. Farhiya:** I am the Mover, and I donate my time to the Senate Majority Leader and the Senate Minority Leader.

**Sen. Murkomen:** Point of Order! Point of Order!

**The Speaker** (Hon. Lusaka): Order! Order, Sen. Murkomen, Order!

**Sen. Murkomen:** Mr. Speaker, Sir, I am on a point of order, which is important. I know that you have called the Mover to reply. We cannot challenge the decision of the Speaker because we have to respect the operation of the House.

There is a huge constituency that has been disenfranchised in this House; the ones that were opposed to the question of forming the Committee. The people of Kirinyaga are watching us and they know that there were issues we wanted to say related to them.

*(Loud consultations)*

**Sen. Murkomen:** I am asking for your indulgence. Out of the 18 minutes remaining, you should have given us eight minutes to make something.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order! We will not conclude this matter since we have to vote the Roll Call way. We will go beyond time. We have had time to express ourselves.

Let me call the Senate Minority Leader to conclude.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, if you look at the Constitution of Kenya in the area that deals with Parliament, Committees are provided for

as an integral part of Parliament. The same powers given to Parliament in Plenary are given to Committees. Committees can summon witnesses.

**Sen. Murkomen:** Point of Order! Mr. Speaker, Sir, I thought you had called the Mover to reply?

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen! The Mover had donated some few minutes to the Senate Majority Leader and the Senate Minority Leader.

Proceed, Sen. Orengo.

**Sen. Murkomen:** Mr. Speaker, Sir, is it not the same issue that I said you are disenfranchising us?

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen!

Proceed, Sen. Orengo.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, having said that, this Senate should never be in a position where there is dictation on how we handle our business. This is a very important institution. In fact, if you go by why in the federalist papers they say the Senate is an important institution, you will know that we are here because the Standing Orders and the Constitution give us powers to make the decisions we are making.

I would like to say this as I finish. Salome the daughter of Herod danced so well for Herod. When Herod asked her what she wanted, she asked for the head of John the Baptist. Today, some people have danced so well. They are not looking for justice, but for somebody's head. That head is not for Salome, but for somebody.

Gov. Waiguru's head is being asked for, not by the County Assembly; I can tell you that and I have the evidence. The people looking for Waiguru's head is not the County Assembly.

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

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

**Sen. Murkomen:** On a point of order!

*(Loud consultations)*

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

**An hon. Senator:** We are not looking for the head of the governor.

*(Sen. Kwamboka stood in her place)*

**The Speaker** (Hon. Lusaka): Sen. Kwamboka, sit down.

*(Sen. Kwamboka resumed her seat)*

**The Speaker** (Hon. Lusaka): We have to conclude. What is it, Sen. Kihika?

**Sen. Kihika:** On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Orengo, who is the Senate Minority Leader, to impute improper motive in this House, when we know very clearly that the Impeachment Motion was brought by the County Assembly of

Kirinyaga? Why should he continue lecturing us here on nonsense, if I may say? It is inappropriate.

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

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

**Sen. Murkomen:** You said that you would give me a chance.

**The Speaker** (Hon. Lusaka): Order! Can you sit down?

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

**The Speaker** (Hon. Lusaka): Just a minute. Sen. Kihika was on the Floor and you know the Standing Orders. You cannot be on the Floor at the same time.

Hon. Senators, the whole world is watching us. Let us conduct ourselves with decorum. We do not have time.

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

**The Speaker** (Hon. Lusaka): Senate Minority Leader, can you contribute?

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. We have been accused---

**The Speaker** (Hon. Lusaka): Order! We must conclude.

**Sen. Murkomen:** Mr. Speaker, Sir, you said that you would give me a chance.

**The Speaker** (Hon. Lusaka): Sen. Murkomen, I have given you a lot of time.

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

**The Speaker** (Hon. Lusaka): Sen. Orengo, can you conclude?

**Sen. Murkomen:** We cannot allow that to go on record.

**The Speaker** (Hon. Lusaka): I will make a ruling.

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

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, with those remarks, I support. The stone has heard me.

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

**The Speaker** (Hon. Lusaka): I will allow Sen. (Dr.) Langat to say something. We do not have time.

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, it is wrong for Senior Counsel, Sen. Orengo, to cast aspersions on Members of this House as a group of people who are after the head of somebody. We never initiated this Motion; it was initiated by Kirinyaga County Assembly. He should withdraw that.

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

**The Speaker** (Hon. Lusaka): Order, Members! Let us proceed. Senate Majority Leader.

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

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

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

**The Speaker** (Hon. Lusaka): Order, Members.

Proceed, Senate Majority Leader.

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

**Sen. Cheruiyot:** On a point of order, Mr. Speaker, Sir. Just one.

**The Speaker** (Hon. Lusaka): Order, Members.

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

**Sen. Cheruiyot:** Mr. Speaker, Sir, please, one.

**The Senate Majority Leader** (Sen. Poghio): Mr. Speaker, Sir, in supporting this Motion---

**Sen. Murkomen:** We are on a point of order, Mr. Speaker, Sir.

**The Leader of Majority** (Sen. Poghio): I appeal---

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

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

**Sen. Cheruiyot:** Mr. Speaker, Sir, on a health issue. There is a health issue.

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

**Sen. Murkomen:** There is a record that must be corrected.

**Sen. M. Kajwang':** You cannot force the Speaker to allow you to raise a point of order.

**Sen. Murkomen:** There is a record that must be corrected.

**The Speaker** (Hon. Lusaka): I am giving you one minute, Sen. Murkomen.

**Sen. Murkomen:** Thank you, Mr. Speaker, Sir. The people of Kirinyaga have all along this week suspected that there is a decision already made elsewhere to form a Committee to save Gov. Waiguru.

**The Speaker** (Hon. Lusaka): Order! Order, Sen. Murkomen, Order!

**Sen. Murkomen:** Mr. Speaker, Sir, and then Sen. Orengo goes public to confirm-- He goes on record to confirm that a decision has already been made---

**The Speaker** (Hon. Lusaka): Order, Senator!

**Sen. Murkomen:** If this Committee is going to sanitize Gov. Waiguru, they should tell us the truth.

**The Speaker** (Hon. Lusaka): Order! Order, Sen. Murkomen!

**Sen. Murkomen:** I want to tell the people of Kirinyaga that a decision has already been made and this Committee is a sanitizing committee---

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen!

**Sen. Murkomen:** This is a sanitizing Committee.

*(Loud Consultations)*

**The Speaker** (Hon. Lusaka): Order! Order, Sen. Murkomen!

**An hon. Senator:** *Toa yeye nje.* Chase him out!

**The Senate Majority Leader** (Sen. Poghio): Mr. Speaker, Sir, Standing Order No.116 will bear you out on people who cause these kinds of problems.

The verdict that is coming out of here is from the Senate. It shall be owned by the Senate because Committees are owned by the Senate. I support and ask that we move in this direction, so that we can conclude and vote. We can then determine the direction and that is going to be owned by the Senate.

Thank you.

**The Speaker** (Hon. Lusaka): Order, Members. The Mover had donated time. I will now put the question.



**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. Before putting the question, the Standing Order---

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

**Sen. Murkomen:** There is a constitutional question---

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen.

**Sen. Murkomen:** There is a constitutional question; you have to determine whether or not it concerns counties.

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

**An. hon. Senator:** You cannot just continue with a procedure like that.

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

**Sen. Murkomen:** Mr. Speaker, Sir, there is a constitutional procedure that you are jumping, and we must say it.

**The Speaker** (Hon. Lusaka): Wait! Order, Members! I know. When we voted here, my last ruling was that it was not a matter affecting counties.

**Sen. Murkomen:** But you have not ruled today.

**The Speaker** (Hon. Lusaka): Wait! Order, Sen. Murkomen! Even in Gov. Waititu case, all Members voted. So, I am saying it is not a matter concerning counties.

**Sen. Murkomen:** You should say that. That was the point I was trying to tell you.

**The Speaker** (Hon. Lusaka): As I said, we will use the Roll Call vote. The voice vote cannot work because of the extended Chamber. We are going to do exactly as we did in the other voting.

The Deputy Speaker and a Clerk will now go and get the votes there as we start ours here under the guidance of the Deputy Clerk. The Division Bell will be rung for one minute as the Deputy Speaker goes to the extended Chamber.

*(The Division Bell was rung)*

Can we start because time is not on our side? Hon. Senators, take your seats. The Majority Whip, take your seat. You are the one who is supposed to be organizing your people. I direct that the Bar be drawn and the doors locked.

*(The Bar was drawn and the doors closed)*

*(The Senators proceeded to vote by Roll Call)*

**The Speaker** (Hon. Lusaka): I direct that the doors be opened.

*(The doors were opened)*

I am using my powers under Standing Order No.31 (2), which states:

“Unless for the convenience of the Senate, the Speaker or the Chairperson (as the case may be) in this case being the Speaker, directs earlier or later interruption of business at 6.30 pm., the Speaker or the Chairperson shall interrupt the business then under consideration and if the

Senate is in Committee, the Chairperson shall leave the Chair and report progress and ask for leave to sit again.”  
I am just waiting for the report. I wanted to use my powers under that section.  
Order, Members! Kindly, take your seats!

## DIVISION

### ROLL CALL VOTING

*(Question, that the Senate establishes a Special Committee to investigate the proposed removal from office by impeachment of the Governor of Kirinyaga County, put and the Senate proceeded to vote)*

**AYES:** Sen. Boy; Sen. Chebeni; Sen. Dullo; Sen. Faki; Sen. Farhiya; Sen. Haji; Sen. Halake; Sen. (Eng.) Hargura; Sen. (Dr.) Kabaka; Sen. (Prof.) Kamar; Sen. Kang’ata; Sen. Kasanga; Sen. Khaniri; Sen. Kwamboka; Sen. (Dr.) Lelegwe; Sen. Loiptip; Sen. M. Kajwang’; Sen. Madzayo; Sen. (Eng.) Maina; Sen. Malalah; Sen. (Dr.) Mbiti; Sen. (Dr.) Milgo; Sen. Moi; Sen. Mpaayei; Sen. (Dr.) Musuruve; Sen. Mutula Kilonzo Jr.; Sen. Mwangi; Sen. Mwaruma; Sen. (Dr.) Mwaura; Sen. Nyamunga; Sen. Ochillo-Ayacko; Sen. Olekina; Sen. Omogeni; Sen. (Prof.) Ongeru; Sen. Orengo; Sen. Outa; Sen. Pareno; Sen. Poghio; Sen. Prengi; Sen. Seneta; Sen. Shiyonga; Sen. Wako; Sen. (Rev.) Waqo; Sen. Were; and, Sen. (Dr.) Zani.

**Teller of the Ayes:** Sen. Kang’ata

**NOES:** Sen. Cherargei; Sen. Cheruiyot; Sen. Iman; Sen. Kibiru; Sen. Kihika; Sen. Kinyua; Sen. (Dr.) Langat; Sen. Linturi; Sen. Murkomen; Sen. Ndwiga; Sen. Omanga; Sen. Sakaja; Sen. Wambua; and, Sen. Wario.

**Teller of the Noes:** Sen. Murkomen.

**ABSTENTIONS:** Sen. (Eng.) Mahamud

**The Speaker** (Hon. Lusaka): Order, Members. The results of the Division are as follows:

**AYES:** 45

**NOES:** 14

**ABSTENTIONS:** 1

The “Ayes” have it.

*(Question carried by 45 votes to 14)*

*(Applause)*

Order! That excitement can be done outside the Chamber. Order, Members! I, therefore, direct that the Committee commences its work immediately and reports back within 10 days.

Next Order!

**MOTION**

## ALTERATION OF THE SENATE CALENDAR

**The Senate Majority Leader** (Sen. Poghio): Mr. Speaker, Sir, I beg to move—  
THAT, notwithstanding the Senate Resolutions made on 27<sup>th</sup> February, 2020 (approval of Senate Calendar), 17<sup>th</sup> March, 2020, 14<sup>th</sup> April, 2020 and 2<sup>nd</sup> June, 2020 (alteration of the Senate Calendar), the Senate, pursuant to Standing Order 29 (4) and 31 (3) (b) now resolves to hold its Sittings on Tuesday, 23<sup>rd</sup> June, 2020 morning (starting from 10.00 a.m. and ending at 12.30 p.m.) and afternoon and thereafter proceed on recess and resume Sittings on Tuesday, 7<sup>th</sup> July, 2020.  
I beg to move and ask Sen. Orengo to second.  
**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I second.

*(Question proposed)*

*(Question put and agreed to)*

**ADJOURNMENT**

**The Speaker** (Hon. Lusaka): Hon. Senators, having concluded the business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 23<sup>rd</sup> June, 2020, at 10.00 a.m.

The Senate rose at 6.38 p.m.