



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, OCTOBER 17, 2023 AT 2.30 PM

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

3. **QUORUM IN THE SENATE**

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

And there being a Quorum at the expiry of the ten minutes;

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

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

a) On the Point of Order Raised by Sen. Eddy Oketch, MP against Sen. Gloria Orwoba, MP's presence in the Senate.

“Honourable Senators,

As you will recall, on Tuesday, 3rd October, 2023, Senator Eddy Oketch, MP, the Senator for Migori County, rose on a Point of Order seeking the direction of the Speaker as to whether Sen. Gloria Orwoba, MP, was in order to sit in and participate in the proceedings of the Senate, the said Senator having been suspended by the Senate.

Other Senators, including Sen. Boni Khalwale, MP, the Senate Majority Whip, Sen. Samson Cherarkey, MP, the Senator for Nandi County, Sen. Godfrey Osotsi, the Senator for Vihiga County, Sen. Danson Mungatana, MP, the Senator for Tana River County, Sen. Stewart Madzayo, MP, and finally, Sen. Kathuri Murungi, MP, made contributions to the Point of Order raised by Sen. Eddy Oketch, MP.

Honourable Senators,

By way of background, you will recall that on 2nd August, 2023, the Committee of Powers and Privileges commenced an inquiry, on its own motion, into the conduct of Sen. Gloria Orwoba, MP. The Committee sought to make a determination on whether the conduct of the Senator, in relation to the publication of allegations by the Senator on the Senate Business WhatsApp Group, constituted a breach of privilege; and if the conduct was found to be a breach of privilege, appropriate recommendations be made in accordance with the Parliamentary Powers and Privileges Act and the Senate Standing Orders.

Honourable Senators,

As the Committee of Powers and Privileges was settling down to investigate the matter, Sen. Gloria Orwoba on 4th August 2023, filed a petition in the High Court in Nairobi, being Nairobi High Court Petition No. E283 of 2023 against the Attorney General, the Clerk of the Senate, the Speaker of the Senate, the Senate Committee of Powers and Privileges and the Senate of the Republic of Kenya. In her Petition, the Senator sought conservatory orders barring the Senate Committee of Powers and Privileges from proceeding with the inquiry into her conduct. The court while certifying the matter as urgent, declined to grant the conservatory orders sought and instead ordered that the application be served and be mentioned on 21st September, 2023 to confirm compliance and for further directions.

The Committee therefore proceeded with the inquiry as per the law. It concluded its inquiry and tabled a report before the Senate thereon on 9th August, 2023, upon which, a Motion for the consideration of the Report of the Committee was debated in the following terms –

THAT, the Senate adopts the Report of the Committee of Powers and Privileges on the inquiry, on its own motion, into conduct of Senator Gloria Orwoba, MP and to establish if the conduct constituted breach

of Parliamentary Privilege, laid on the Table of the Senate on Wednesday, 9th August, 2023.

You will recall that debate on the Motion commenced on 10th August, 2023 and on 20th September, 2023, the Senate, by Resolution, adopted the Report of the Committee of Powers and Privileges. The recommendations adopted by the Senate on the matter were that –

- i. pursuant to section 17(3)(g) of the Parliamentary Powers and Privileges Act, 2017, the Senator be suspended from the House for the remainder of the Second Session of the Thirteenth Parliament;*
- ii. pursuant to section 17(3)(d) of the Parliamentary Powers and Privileges Act, 2017, restriction of access to the precincts of Parliament as defined in section 3 of the Parliamentary Powers and Privileges Act 2017 and standing order 2 of the Senate Standing Orders and withholding the use or enjoyment of any specified facility provided to Members by Parliament to be applied to the Senator for the remainder of the Second Session of the Thirteenth Parliament; and*
- iii. on resumption of Senate sitting for the Third Session, the Senator, while at the bar apologizes to the Senate, Honourable Senators, the Clerk of the Senate and the secretariat of Parliament before being admitted to the Senate, pursuant to section 17(3)(c) of the Parliamentary Powers and Privileges Act, 2017.*

This Resolution of the House was communicated to the Senator vide letter Ref. No. SEN/RESOLS/24/2023(01), dated 20th September, 2023 and was under implementation by the Senate.

Honourable Senators,

On 28th September, 2023, Sen. Gloria Orwoba again filed a Judicial Review Application (No. E008 of 2023 in Machakos High Court) against the Clerk of the Senate, the Speaker of the Senate, the Senate Committee on Powers and Privileges and the Senate of the Republic of Kenya. The Senator sought leave to apply for judicial review orders to quash the recommendations of the Committee of Powers and Privileges and the resolution of the Senate made on 20th September, 2023. The Senator further sought orders to restrain the Respondents referred to herein above from implementing the recommendations of the Report of the Committee of Powers and Privileges as adopted by the Senate on 20th September, 2023. The Senator also sought orders to compel the

Respondents to give effect to Articles 10, 27, 31, 33, 36, 47, 50 and 117 of the Constitution of Kenya.

On 28th September, 2023, the matter was heard ex parte before the High Court at Machakos and the following orders were issued, pending hearing and determination of the substantive Judicial Review application:

- i. That leave be and is hereby granted to the Ex-parte applicant to apply for an order of certiorari to bring into this Court and quash the recommendation by the 4th Respondent dated 9th August 2023 tabled and laid on the table of the House on 20th September 2023 and debated and adopted as a resolution of the 5th Respondent purporting to;
 - a) Suspend the ex-parte applicant from the service of the Assembly for the remainder of the second session of the thirteenth parliament from the date of adoption of the impugned report of the 5th Respondent.
 - b) Bar the ex-parte applicant from the Assembly precincts for the remainder of the second session of the thirteenth parliament from the date of adoption of the Report by the 5th Respondent being 20th September 2023.
 - c) On resumption to offer an apology to the 2nd, 3rd, 4th and 5th Respondents.
- ii. Leave be and is hereby granted to the ex-parte applicant to apply for an order of prohibition directed at the Respondents in particular the 2nd, 3rd, 4th and 5th Respondents prohibiting and restraining them from implementing the Report of the 4th Respondent dated 9th August 2023 tabled and laid on the table of the House on 20th September 2023 and debated and adopted as a resolution of the 5th Respondent purporting to –
 - a) Suspend the ex-parte applicant from the service of the Assembly for the remainder of the second session of the thirteenth parliament from the date of adoption of the impugned report of the 5th Respondent.
 - b) Bar the ex-parte applicant from the Assembly precincts for the remainder of the second session of the thirteenth

parliament from the date of adoption of the Report by the 5th Respondent being 20th September 2023.

- c) On resumption to offer an apology to the 2nd, 3rd, 4th and 5th Respondents.
- iii. Leave be and is hereby granted to the ex-parte applicant to apply for an order of mandamus compelling the compelling the Respondents to comply with and give effect to Articles 10, 27, 31, 33, 36, 47, 50 and 117 of the Constitution of Kenya.
- iv. That the ex-parte applicant is directed to file the substantive Notice of Motion Application within the next 14 days and serve all the Respondents with the same within 48 hours of being filed.
- v. That leave granted will operate as stay of the suspension of the ex-parte applicant, barring the ex-parte applicant from the Assembly precincts for the remainder of the second session of the thirteenth parliament from the date of adoption of the report by the 5th Respondent being 20th September 2023 and requirement that on assumption of duty to offer an apology to the 2nd, 3rd, 4th and 5th Respondent pending the hearing and determination of the substantive Judicial Review application given the fact that she stands to lose her parliamentary seat if absent for eight sittings of the house as provided for under Article 103 of the Constitution, 2010.
- vi. That this matter be mentioned on 25th October 2023 for further directions.

Honourable Senators,

On 29th September, 2023, the Office of the Clerk, through the Directorate of Litigation and Compliance Services, was served with the aforementioned Orders together with the pleadings on behalf of the Clerk of the Senate, the Speaker of the Senate, the Committee of Powers and Privileges and the Senate of the Republic of Kenya.

This matter was brought to the attention of the Senate Business Committee at its 24th meeting held on Tuesday, 3rd October, 2023. Upon extensive deliberation on the matter, the Committee resolved to oppose the Petition and the Judicial Review Application by Sen. Orwoba, MP on the following grounds:

- a) That due process was followed while undertaking the inquiry into the misconduct of Sen. Gloria Orwoba by the Senate Committee of Powers and Privileges and that the Senate did not breach any provisions of the Constitution or any other law in adopting the report, and
- b) That the actions by Sen. Gloria Orwoba of filing multiple cases against the Respondents on the same subject matter in Nairobi High Court Constitutional Petition No E283 of 2023 (Gloria Orwoba Vs. Ag, Clerk of the Senate and 3 others) and in Machakos High Court, JR Application No. E283 of 2023 (Gloria Orwoba Vs. AG, Clerk of the Senate and 3 others) is an abuse of the court process.

I wish to inform Honourable Senators that the Senate and other respondents have already made an application seeking to vacate these conservatory orders. The same is coming up for hearing on 23rd October, 2023.

Honourable Senators,

That being the case, I will now address myself to the issues raised in the Point of Order by Sen. Eddy Oketch and supported by a number of Senators.

The issues up for consideration are—

- a) Whether, under the doctrine of separation of powers, the Court can interfere by way of injunction with an ongoing process that is being undertaken by the Senate
- b) Whether, under the doctrine of separation of powers, the Court has the power to review, vary or set aside a decision on a matter that has been determined conclusively by the Senate.
- c) Whether the Senate is obligated to comply with the Conservatory Order issued by the Court staying the decision of the Senate to suspend Sen. Gloria Orwoba.

Honourable Senators,

The issue as to whether the court can interfere by way of an injunction with an ongoing Senate process that is being undertaken by the Senate is not new. The same has arisen before in this Parliament and previous

Speakers of both Houses and even the Courts have pronounced themselves on the same.

On 17th October, 2019, rising on a point of order, Sen. Mwaruma, MP and Sen. Kajwang', MP sought the Speaker's intervention to stop further proceedings of the Senate in the matter of the removal from office, by way of impeachment, of Hon. Granton Samboja, the then Governor of Taita-Taveta County, alleging that the matter was active in court.

On 23rd October, 2019, after the Senate was served with the Court Order barring the Senate from considering the resolution of the County Assembly of Taita Taveta to remove from office Governor Granton Samboja, then Governor of Taita Taveta County, Hon. Sen. Kithure Kindiki sitting as Speaker ruled that the Courts cannot injunct or curtail Parliament from carrying out its Constitutional responsibility. He noted thus—

“There are at least three jurisprudential reasons why injunction of Parliament by courts is not constitutionally and legally tenable.

First, courts injuncting Parliament is a frontal and deadly attack on the substratum of the hallowed legal doctrine of separation of powers, the bedrock upon which our constitutional order is raised.

Secondly, trying to curtail Parliament's constitutional responsibilities undermines the sui generis stature of Parliament as the constitutional organ that is directly elected by the people and thereby exercises the sovereign will of the people.

Thirdly, attempts to injunct Parliament is inimical to the desirable levels of institutional comity and cordial relations among the branches of Government and is in itself tantamount to subversion of the Constitution.”

Hon. Sen. Kindiki further ruled that the courts of law cannot and shall not stop or attempt to prevent Parliament from undertaking its constitutional mandate. Neither can the Judiciary compel any action to be undertaken by Parliament. He further ruled that any injunction interfering with the work of Parliament has no effect on Parliament in exercise of its constitutional functions, and that such court orders have no effect on the National Assembly or the Senate or on any of their Committees, respectively. On the basis of this Ruling, the Special Committee on the removal from office of Governor Samboja proceeded

to consider the Resolution of the County Assembly of Taita Taveta to impeach the said Governor and tabled its Report before the Senate.

On 12th November, 2008, while the National Assembly was considering a Bill to amend the Constitution, Hon. Olago, Member for Kisumu Town West, rose on a point of order, and tabled copies of pleadings and a Conservatory order in Judicial Review Petition No. 689 of 2008 (Samuel Mutua Kivuitu and 22 others versus the Attorney-General). The said order sought to restrain the Government of Kenya from taking or commencing any Executive or Legislative action or process to disband or abolish the Electoral Commission of Kenya (ECK) and/or remove its members from office. The Hon Member sought a ruling from the Chair on whether the Court Order amounted to a derogation from the Constitutional principle of separation of powers by the Judiciary. He argued that the ruling of the High Court contravened Section 30 of the former Constitution and amounted to a subjugation of Parliament by the Judiciary. He therefore sought a ruling from the Chair in this regard.

On 27th November, 2008, Speaker Marende delivered his ruling where he stated thus-

“it has been stated that next only to the privilege and immunity of free speech within the House, the most important privilege of this House is the right of the House to regulate its own procedure, free from intervention by the Executive or the courts... the House retains the right to be the sole judge of the lawfulness of its own proceedings. Accordingly, Parliament cannot be stopped or prevented from performing its legislative function. Any person or authority purporting to do so, would be acting in vain.”

Honourable Senators,

Apart from the rulings made by my predecessors cited herein above, the Courts have also pronounced themselves on this issue. The Supreme Court, in the matter of the Speaker of the Senate & Another v. Attorney General & 4 Others, Reference No. 2 of 2013 while considering a request from the Senate for an advisory opinion pursuant to article 163(6) of the Constitution on whether the Division of Revenue Bill was also subject to deliberation by the Senate, pronounced itself on the doctrine of separation of powers. The Supreme Court cautioned against undue interference with ongoing processes in other arms of Government and stated that the Court will not question each and every procedural infraction that may occur in

either of the Houses of Parliament. That the Supreme Court emphasized that the Courts cannot supervise the workings of Parliament and the institutional comity between the three arms of government must not be endangered by unwarranted intrusions into the workings of one arm by the other.

In the case of Mwangi wa Iria & 2 Others v. Speaker, Muranga County Assembly & 3 Others, Petition No. 458 of 2015, Nairobi, Governor Mwangi wa Iria made an application seeking to restrain the Speaker of the Senate and the Senate from considering the Resolution from the County Assembly of Murang'a of the removal of the Governor from office. At the time of hearing the said application by Governor Mwangi wa Iria, the Senate special committee constituted to consider the charges and investigate the matter of removal from office of the Governor had held its first meeting on 28th October, 2015 and was scheduled to hold another meeting with the parties concerned including the Governor and the County Assembly of Murang'a on 3rd November, 2015. In a ruling delivered on 3rd November, 2015, the Learned Justice Onguto (deceased) declined to issue any conservatory orders. In his application, the Governor alleged that his constitutional rights had been infringed by the County Assembly, that there was no public participation by the County Assembly and that the County Assembly of Murang'a had not followed the correct procedure in impeaching him. Delivering his ruling on the application made by the Governor, the Learned Judge had the following to say –

“I take cognisance of the fact that the Senate is truly, what I may call, the Impeachment Court. The Senate is expected not only to investigate the nexus of the allegations to the 1st Petitioner. The Senate must also interrogate the entire process as it scurried through the County assembly. I have seen no law that restrains the Senate from returning a verdict that the process was not conducted as detailed under the Constitution or any law for that matter.”

The Learned Judge in making reference to the case of Martin Nyaga Wambora & 32 Others v County Assembly of Embu, Constitutional Petition No 7 & 8 of 2014 at Embu (consolidated), noted with approval the position as restated in the Supreme Court of India in State of Rajasthan vs. Union of India [(1977) 3 SCC 592] where it was observed that:

“This Court has never abandoned its constitutional function as the final Judge of constitutionality of all acts purported to be done under the authority of the Constitution. It has not refused to determine questions

either of fact or of law so long as it has found itself possessed of power to do it and the cause of justice to be capable of being vindicated by its actions. But, it cannot assume unto itself powers the Constitution lodges elsewhere or undertake tasks entrusted by the Constitution to other departments of State which may be better equipped to perform them. The scrupulously discharged duties of all guardians of the Constitution include the duty not to transgress the limitations of their own constitutionally circumscribed powers by trespassing into what is properly the domain of other constitutional organs.

Honourable Senators,

It is therefore clear that the Courts, save for justifiable instances, should not interfere with an ongoing process before Parliament as clearly demonstrated by the aforementioned court decisions and rulings, which decisions and rulings I fully agree with. In fact, this position was further demonstrated by the Honourable Judge in Petition No. E283 of 2023, Nairobi filed by Sen. Gloria Orwoba where the Judge declined to grant Sen. Gloria Orwoba conservatory orders against the Senate Committee of Powers and Privileges. Aware that the Senate was discharging its constitutional mandate, the Court refrained from interfering with the inquiry that was being undertaken by the Powers and Privileges Committee.

Honourable Senators,

On the issue as to whether under the doctrine of separation of powers the Court has the power to review, vary or set aside a decision on a matter determined conclusively by Parliament, again this is an issue that has arisen before and has been addressed by Speakers of Parliament and the Courts themselves.

In the ruling by Hon. Sen. Kindiki that I have referred to herein before, while addressing himself to the doctrine of separation of powers the Hon. Deputy Speaker stated as follows —

“In the spirit of the concept of checks and balances, which is in itself an offshoot of the separation of powers doctrine, our constitutional design ensures that the Judiciary is empowered to scrutinize legislation and other outputs of Parliament ipso facto to ensure that the Constitution and the law have been complied with.

Thus, the unfettered, but solemn privilege of Parliament to proceed unhindered by the Judiciary and the Executive is moderated by the

reality that the Executive can veto legislation ... and courts of law in exercise of their judicial authority under the Constitution retain a residual power to declare in justifiable instances, any legislation or other output of Parliament illegal, unlawful or unconstitutional.”

In this ruling, the Hon. Speaker appreciated the fact that the judiciary may in justifiable instances review, set aside or vary a final determination of Parliament.

In the matter of the Speaker of the Senate & Another v. Attorney General & 4 Others, Reference No. 2 of 2013 already referred to herein before, the Supreme Court stated that—

“Parliament must operate under the Constitution which is the supreme law of the land. If Parliament violates the procedural requirements of the supreme law of the land, it is for the courts of law, not least the Supreme Court, to assert the authority and supremacy of the Constitution. It would be different if the procedure in question were not constitutionally mandated. This Court would be averse to questioning Parliamentary procedures that are formulated by the Houses to regulate their internal workings as long as the same do not breach the Constitution..., by rendering its opinion, the Court does not violate the doctrine of separation of powers. It is simply performing its solemn duty under the Constitution and the Supreme Court Act.”

Another matter that clearly demonstrated that the decisions of Parliament are subject to review by the Courts was the matter of James Opiyo Wandayi v Kenya National Assembly & 2 others, Judicial Review Application No. 258 of 2016. In this matter, on 31st March, 2016, the Speaker of the National Assembly ordered Hon. Opiyo Wandayi to withdraw from the Chambers pursuant to Standing Order 107 of the National Assembly Standing Orders for gross disorderly conduct while attending a joint sitting of Parliament during the State of the Nation address by the then Head of State. The Hon. Member refused to comply with the Speaker’s Order, and the Speaker consequently invoked Standing Order 111 of the National Assembly Standing Orders and ordered that the Hon. Member be removed from the Chamber by force.

The National Assembly’s then Standing Order 111 provided that Honourable Members once removed from the Chamber by force would thereupon without question put be suspended from the service of the House for the remainder of the Session. The sitting in question being in March, 2016, it meant that the Hon. Member would have been suspended up to February, 2017.

Just like Sen. Gloria Orwoba, Hon. Wandayi subsequently filed a Judicial Review Application in the High Court challenging his suspension from the service of the House for the remainder of the Session. He obtained orders staying his suspension from the service of the House pending the hearing and determination of the Judicial Review application.

Upon service of the said Court order, the Speaker of the National Assembly complied with the same and allowed Hon. Wandayi to access the National Assembly, pending the hearing and determination of the Judicial Review application.

This is exactly the same position the Senate finds itself in today. Sen. Gloria Orwoba, having been suspended pursuant to the resolution of the Senate, moved to court by way of a Judicial Review, and obtained conservatory orders against that suspension.

The upshot of these court decisions and rulings made by my predecessors is that the Courts have constitutional power to review, vary or set aside decisions of Parliament if such decisions are found to have violated the Constitution or any other written law.

Honourable Senators,

Having considered this matter after taking into account previous rulings of Speakers of Parliament and court decisions, it is my ruling that whereas the Senate is dissatisfied with the conservatory order obtained by Sen. Gloria Orwoba, the Senate shall comply with the said order, while reserving its right to vigorously defend its position in court to demonstrate that the Senate accorded the Hon. Senator due process and that the Senate did not breach the Constitution or any other law in arriving at its decision to suspend the Honourable Senator.

I thank you.”

b) Visiting Delegation from the County Assembly of Murang'a

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, a visiting delegation from the County Assembly of Murang'a. The delegation comprises Serjeant at Arms Officers who are on a benchmarking visit with their counterparts in the Senate.

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

I thank you.”

5. PETITIONS

- i.) Pursuant to Standing Order 238 (2), the Vice Chairperson, Standing Committee on Labour and Social Welfare tabled the Report of the Standing Committee on Labour and Social Welfare on a Petition by Mr. Kimutai Kirui and other residents of Uasin Gishu County concerning alleged fraud by M/S. First Choice Recruitment and Consultancy Agency Limited.

Pursuant to Standing Order 238 (2), the Speaker invited Senators to make comments or observations in relation to the Petition.

- ii.) Pursuant to Standing Order 238 (2), the Vice Chairperson, Standing Committee on Labour and Social Welfare tabled the Report of the Standing Committee on Labour and Social Welfare on a Petition by Dr. David Bhimji Atellah and others on unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting conjoined with the Petition on unfair treatment of the COVID Health Emergency Response Project (CHERP) staff beyond the pandemic.
- iii.) Pursuant to Standing Order 236 (2) (a), the Senator for Turkana County (Sen. James Lomenen, MP), presented a Petition by residents of Turkana County concerning the state of insecurity in Turkana County.

Pursuant to Standing Order 238 (1), the Speaker committed the Petition to the Standing Committee on National Security Defence and Foreign Relations.

6. PAPERS

The following Papers were laid on the Table of the Senate;

- i. Report of the Standing Committee on Labour and Social Welfare on a Petition by Mr. Kimutai Kirui and other residents of Uasin Gishu County concerning alleged fraud by M/S. First Choice Recruitment and Consultancy Agency Limited.
- ii. Report of the Standing Committee on Labour and Social Welfare on a Petition by Dr. David Bhimji Atellah and others on unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting conjoined with the Petition on unfair treatment of the COVID Health Emergency Response Project (CHERP) staff beyond the pandemic.

(The Vice Chairperson, Standing Committee on Labour and Social Welfare)

7. **NOTICE OF MOTION - EXTENSION OF THE MANDATE OF THE NATIONAL DIALOGUE COMMITTEE**

(The Senate Majority Leader)

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

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

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

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

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

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

*NOW, THEREFORE, the Houses of Parliament RESOLVE to extend the mandate of the National Dialogue Committee by a further thirty (30) days from 28th October 2023 and consequently, the Committee shall be required to report

to the Leadership of Kenya Kwanza and Azimio Coalitions, on or before 26th November 2023 and after that submit its Report, to Parliament.

8. **NOTICE OF MOTION – ADJOURNMENT OF THE SENATE PURSUANT TO STANDING ORDER 37(1) TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE RELATING TO THE DEMOLITION OF HOMES AND PROPERTIES IN MAVOKO, MACHAKOS COUNTY**

Rising a point of order, pursuant to Standing Order 37(1), the Senator for Machakos County (Sen. Agnes Kavindu, MP) sought leave to give notice of a Motion for the adjournment of the Senate to discuss a definite matter of urgent national importance, namely, the demolition of homes and properties in Mavoko, Machakos County.

And there being the requisite number of Senators rising in support of the claim;

Thereupon, the Speaker nominated thirty minutes past five O'clock, as the time when the Motion would be moved.

9. **STATEMENTS**

a) **Pursuant to Standing Order 52 (1)**

The Senator for Nandi County (Sen. Samson Cherarkey, MP) made a statement concerning the sterling performance of Mr. Kevin Kiptum at the 2023 Chicago Marathon.

Thereupon, the Senator highlighted that Mr. Kiptum had made history by becoming the first person to complete a marathon in a time of 2:00:35. The Senator observed that Mr. Kiptum was the sixth Kenyan to break a record at the Chicago Marathon, with the others being Mr. Paul Tergat, Mr. Patrick Makau, Mr. Wilson Kipsang, Mr. Dennis Kimetto and Mr. Eliud Kipchoge.

The Senator emphasized on the need for recognizing and celebrating Kenyan athletes on their sterling international achievements that have brought honour to the country. The Senator urged the Senate Leadership to invite outstanding athletes as dignitaries in accordance with the Standing Orders, to address the Senate as such an initiative would motivate the athletes.

In conclusion, the Senator highlighted on the need for the Ministry of Sports, Athletics Kenya, and the National Olympics Committee of Kenya to operate with utmost transparency in facilitating Kenyan athletes to compete in international events. Furthermore, he highlighted the responsibility of the Anti-Doping Agency of Kenya to safeguard athletes from potential doping scandals.

b) **Pursuant to Standing Order 53 (1)**

- i.) The Senator for Bungoma County (Sen. David Wafula, MP) sought a statement from the Standing Committee on Health regarding healthcare services to the beneficiaries of the National Health Insurance Fund (NHIF).
- ii.) The Senator for Bungoma County (Sen. David Wafula, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding the status of recent employment of senior management positions at the Kenya National Highways Authority (KeNHA).
- iii.) The Senator for Migori County (Sen. Eddy Oketch, MP) sought a statement from the Standing Committee on Health regarding the death of Ms. Maurine Achieng' and her newborn baby at health care facilities in Nairobi County.
- iv.) The Senator for Kiambu County (Sen. Karungo Thangwa, MP) sought a statement from the Standing Committee on Roads, Transportation and Housing concerning the status of compensation of land owners along the Western bypass in Kabete by Kenya National Highways Authority (KeNHA).
- v.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding an attack on a Kenyan athlete by a stray dog in Buenos Aires in Argentina.
- vi.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Health regarding the medical insurance cover for Nandi County staff.
- vii.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Information, Communication and Technology concerning the financial status and operations of the Postal Corporation of Kenya.
- viii.) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning civilian deaths and injuries caused by the country wide demonstrations including cases in Kisumu County.
- ix.) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) sought a statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the promotion of fish farming in Kisumu County.
- x.) Nominated Senator (Sen. Veronica Maina, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding the promotion of African attire.
- xi.) Nominated Senator (Sen. Veronica Maina, MP) sought a statement from the Standing Committee on Labour and Social Welfare concerning

allegations of politically-instigated harassment of employees in the counties.

- xii.) Nominated Senator (Sen. Esther Okenyuri, MP) sought a statement from the Standing Committee on Finance and Budget concerning the socio-economic impact of the Hustler Fund.
- xiii.) The Senator for Embu County (Sen. Alexander Mundigi, MP) sought a statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding stalled government irrigation projects in Embu County.
- xiv.) The Senator for Embu County (Sen. Alexander Mundigi, MP) sought a statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding alleged shortage of certified seeds supply to farmers.
- xv.) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) sought a statement from the Standing Committee on Finance and Budget regarding the underpayment of retirement benefits to former employees of Housing Finance Corporation of Kenya (HFCK).
- xvi.) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a statement from the Standing Committee on Health regarding the high prevalence of cancer in Marsabit County.
- xvii.) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the existence of an Artificial Insemination (AI) goat centre in Ahiti Ndomba in Kirinyaga County.
- xviii.) Nominated Senator (Sen. Catherine Mumma, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding measures put in place to address the state of insecurity in Turkana County.
- xix.) Nominated Senator (Sen. Hamida Kibwana, MP) sought a statement from the Standing Committee on Health concerning the challenges faced by Kenyans with hearing impairment.
- xx.) Nominated Senator (Sen. Hamida Kibwana, MP) sought a statement from the Standing Committee on Information, Communication and Technology regarding the sale of Telkom Kenya to Infrastructure Corporation Africa.
- xxi.) The Senator for Nairobi City County (Sen. Edwin Sifuna, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding the alleged grabbing of Tom Mboya Social Hall in Makadara Constituency.

10. **THE PUBLIC HOLIDAYS (AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2023)**

(Sen. Karungo Thang'wa, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on National Security, Defence and Foreign Relations.

11. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 37 OF 2023)**

(Sen. Godfrey Osotsi, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

12. **THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL, (SENATE BILLS NO. 38 OF 2023)**

(Sen. Dr. Boni Khalwalw, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Roads, Transportation and Housing.

13. **THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, (SENATE BILLS NO. 40 OF 2023)**

(Sen. Hamida Kibwana, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Finance and Budget.

14. **THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, (SENATE BILLS NO. 41 OF 2023)**

(Sen. Esther Okenyuri, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Trade, Industrialization and Tourism.

15. **THE ENERGY (AMENDMENT) BILL, (SENATE BILLS NO. 42 OF 2023)**

(Sen. Edwin Sifuna, MP)

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Energy.

16. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON THE**

APPLICATION FOR CONFERMENT OF CITY STATUS TO THE MUNICIPALITY OF ELDORET

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the application for conferment of city status to the Municipality of Eldoret laid on the table of the Senate on Wednesday, September 20, 2023 and pursuant to Section 8(6) of the Urban Areas and Cities Act, 2011 the Senate approves the conferment of City status to the Municipality of Eldoret.

(Sen. Richard Onyonka, MP, on behalf of the Chairperson, Standing Committee on Devolution and Intergovernmental Relations – 05.10.2023)

Debate interrupted on Thursday, 5th October, 2023 resumed;

And the time being half past Five O'clock, the Deputy Speaker interrupted the debate.

17. **MOTION – ADJOURNMENT OF THE SENATE PURSUANT TO STANDING ORDER 37(1) TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE RELATING TO THE DEMOLITION OF HOMES AND PROPERTIES IN MAVOKO, MACHAKOS COUNTY**

Motion made and Question proposed;

THAT, pursuant to Standing Order 37(1), the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the demolition of homes and properties in Mavoko, Machakos County.

(Sen. Agnes Kavindu, MP)

Debate arising;

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

18. **SENATE ROSE** - at forty minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, October 18, 2023 at 9:30 a.m.*