

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 21st September, 2023

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): I am informed that we do have quorum now. Serjeant-at-Arms, kindly, stop the Bell. Clerk, proceed to call the first Order.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM HOMA BAY COUNTY ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I do have the following Communications to make. One, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, a visiting delegation from the County Assembly of Homabay. The delegation Comprises Members of the Procedure and Rules Committee who are undergoing a training programme in the Centre for Parliamentary Studies and Training (CPST).

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Hon. Senators, I request each Member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

- | | | |
|-----------------------------|---|------------------|
| 1. Hon. Julius Gayar | - | Speaker |
| 2. Hon. Samuel Oking Okomo | - | Deputy Speaker |
| 3. Hon. Erick Owidi | - | Member |
| 4. Hon. Nancy Anyango | - | Member |
| 5. Hon. Tom Joseph Ojwang' | - | Member |
| 6. Hon. Peter Nyakomita | - | Member |
| 7. Hon. Noah Billy Odhiambo | - | Member |
| 8. Hon. David Hamilton | - | Member |
| 9. Ms. Faith A. Apuko | - | Member |
| 10. Ms. Agnes Odongo | - | Committee Clerk |
| 11. Ms. Jael Boyani | - | Committee Clerk |
| 12. Ms. Claris Okong'o | - | Committee Clerk |
| 13. Ms. Wendy Winnie Opar | - | Legal Officer |
| 14. Mr. Santos Ouko | - | Hansard Officer |
| 15. Mr. Peter Adika | - | Serjeant-at-Arms |

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

VISITING DELEGATION FROM THE
PARLIAMENT OF UGANDA

Again, I would wish to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from the Parliament of Uganda. The delegation comprises parliamentary officers on a benchmarking visit with their counterpart in the Senate.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

- | | | |
|-----------------------------|---|------------------------------------|
| 1. Ms. Florence Nakitto | - | Principal Publications Officer |
| 2. Ms. Rebecca Bakyaaita | - | Senior Assistant Hansard
Editor |
| 3. Ms. Rose Inzikuru | - | Senior Assistant Hansard
Editor |
| 4. Ms. Olive Yemima Eyotaru | - | Assistant Hansard Editor |
| 5. Ms. Caroline Amulen | - | Assistant Hansard Editor |
| 6. Mr. Ronald Elakas | - | Lithographer |
| 7. Mr. Yusuf Muhindo | - | Assistant Hansard Editor |

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

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VISITING DELEGATION FROM MARSABIT
COUNTY ASSEMBLY

Hon. Senators, I also wish to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from the County Assembly of Marsabit. The delegation comprises two record management officers who are on a benchmarking visit with their counterparts in the Senate.

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

I will call upon Sen. Ogola to welcome the delegation from Homa Bay in under one minute, and Sen. Wambua to kindly, welcome the delegation from Uganda in under one minute.

Do we have the Senator from Marsabit County here? I call upon Sen. (Dr.) Khalwale to extend a word of welcome to the delegation from the County Assembly of Marsabit.

In that order, kindly proceed.

Sen. Ogola: Thank you, Mr. Speaker, Sir, for the chance to welcome the great delegation from the County Assembly of Homa Bay. Homa Bay County is a county of endless potential as demonstrated by the calm team that is sitted on the Speaker's Gallery.

The team is led by the hon. Speaker, Julius Gaya. I have worked with him for the last ten years that I worked for the County Government of Homa Bay as an Executive Committee Member.

Hon. Speaker, this is a team that is taking Homa Bay to greater heights as they go through their oversight of the Executive, that is also very steamed to work.

On behalf of Sen. M. Kajwang', who is the Senator of the great county, I welcome you. I demonstrate that we have confidence in you as a County Assembly, and we are willing to work with you as partners in this journey of protecting the interests of the counties.

Thank you, and welcome once again.

Sen. Wambua: Thank you, Mr. Speaker, Sir. On behalf of the leadership of the Senate on both sides, I take this opportunity to welcome the delegation from the Parliament of Uganda, who are here on a benchmarking visit with our Secretariat.

I give them the assurance that they are in the right place at the right time. You have come to visit the Senate at a time that we have a clear demonstration of professionalism in the management of affairs of the Senate and of Parliament. The beauty of it is that the Clerk who leads the Secretariat of the Senate is also the Secretary to the Parliamentary Service Commission (PSC). So, you are in the right place.

I wish you well as you visit with us. When you go back to Uganda, take the greetings from the Senate of the Republic of Kenya.

Mr. Speaker. Sir, I welcome them.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir, for allowing me to acknowledge the presence this afternoon of our visitors from Marsabit County Assembly.

Good people, you are most welcome to the Senate. As you go back to Marsabit County, please, teach your children that Marsabit has a big place in this Senate and Parliament because of the work and contribution of the late Dr. Bonaya Godhana, who you all know. He is one of the makers of the nation of Kenya for the contribution he made. You are most welcome.

I wish all your children well and hope that there will be many Dr. Bonaya Godhanas, who will be born to join us here in Nairobi to work for the nation.

Welcome.

The Speaker (Hon. Kingi): Next Order.

PETITION

The Speaker (Hon. Kingi): Proceed, Chairperson Standing Committee on Devolution and Intergovernmental Relations.

REPORT ON PETITION: REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET

Sen Abass: Mr. Speaker, Sir, I beg to lay the following document on the Table of the Senate, today, Thursday, 21st, October, 2023: Report on Petition: Refurbishment and Expansion of Kajiado Municipality Market.

On 27th April, 2023, the Senate received a Petition from Kajiado Municipality Clothes Market Traders on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.

The Petition was presented to the Senate by the Senator of Kajiado County, Sen. Seki, on behalf of the Petitioners as provided for under Standing Order No. 232 (1) (b) of the Senate Standing Orders.

Consequently, the Petition was tabled on the Floor of the House on Thursday, 4th May, 2023 and stood committed to the Committee pursuant to Standing Order No. 238 (1) of the Senate Standing Orders.

The salient issues raised in the Petition were-

THAT, during the Financial Year 2020/2021, the County Government of Kajiado received an allocation of Kshs63,061,154.20 on 22nd July, 2021 from the World Bank via the State Department of Housing and Urban Development.

The funds were meant to refurbish and expand the Kajiado Municipality Market to accommodate the clothes market vendors who had been displaced by the previous Kenya Urban Support Program (KUSP) project.

Additionally, the tender process undertaken by the County Government of Kajiado, and contract awarded to Bellin Mark Contractors at a contract sum of Kshs56,214,411.97 was put into question.

In addition, the petitioners alleged that the project was scaled down to less than 50 per cent where critical infrastructure, among them solar lights, control gates, water tanks, solid wastes sorting chambers, street-mounted solid waste bins, reconstruction of the

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market storm water drainage channels, fittings and fixtures for the cultural high streets were all together left out with no corresponding review on the contract sum.

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

It is noted that the Governor of Kajiado County, H.E Joseph Ole Lenku, being a key respondent to the issues raised in the Petition, was invited and actually appeared before the Committee together with other officials from the County Government where he made submissions on the issues raised in the Petition. The petitioners were also present at the meeting. Further, the State Department for Housing and Urban Development presented their written report on the Petition to the Committee.

The Committee also made a site visit to Kajiado County to inspect the market. The visit was made on Monday, 24th July, 2023 where the Committee inspected the Kajiado Municipal Market and held deliberations with the Deputy Governor, County Executive officials and the Director and National Coordinator for the Kenya Urban Support Program (KUSP) Project at the State Department for Housing and Urban Development to determine the status of its construction.

Based on its deliberations, the Committee has made various observations and recommendations which are set out at Chapter Four and Chapter Five of this Report respectively.

Mr. Speaker Sir, in summary, the recommendations of the Committee on the refurbishment and expansion of the Kajiado Municipality Market are as follows:

(1) On the expansion of the market under Phase 2 of the KUSP Project, there was indication that Phase 2 of the project was scheduled to start on 1st August, 2023. The Committee therefore recommends that the County Government should engage with the traders when planning and implementing the project as is required in the Resettlement Action Plan (RAP). In the meantime, the traders should consider occupying the available spaces until more funding is availed for the project and the spaces are adequately increased for all the traders.

(2) Having established that the space provided in the completed market for each trader, which is 5 by 6 square feet, is inadequate, the County Government should as a matter of priority increase the space to be occupied by each trader to a size agreeable between all concerned parties during implementation of phase 2 of the project.

(3) Upon completion of the expansion under Phase 2, the County Government should relocate some of the traders in Phase 1 to create more room for the traders.

(4) The County Government should, during their expansion of the market, consider and create ease of access to the market for Persons with Disabilities (PWDs).

(5) The County Government of Kajiado and the Ministry of Water, Sanitation and Irrigation should look into lasting solutions into the water supply problems in Kajiado Municipality and Kajiado County at large. The two entities should work to resolve the perennial water shortage faced by the traders and the residents of the county.

(6) On the status report and accountability, the County Government of Kajiado,

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the State Department for Housing and Urban Development and the World Bank shall submit their status report to the Senate during the undertaking and upon completion of Phase 2 of the project. The report should highlight how issues raised by the petitioners have been dealt with.

(7) On oversight of projects, the Committee shall re-evaluate the existing oversight framework for municipal/urban area projects which are funded through third party collaborations or national Government guaranteed loans or grants. There is need to enhance financial accountabilities of municipalities to County Assemblies as required by the Public Finance Management Act, 2012.

Mr. Speaker Sir, I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Petition successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the good work they have done.

It is therefore my pleasant duty, pursuant to Standing Order No. 228 (4) (a), to present the Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of a Petition on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

DRUGGING OF REVELERS IN ENTERTAINMENT SPOTS

Sen. Okenyuri: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the drugging of unsuspecting revellers by their would-be lovers in places of entertainment, especially in nightclubs.

In the Statement, the Committee should:

(1) explain the major pharmacological drugs used to drug victims, stating the number of cases that have been reported to the police due to the use of the drug commonly referred to as 'mchele' and the gender distribution of such victims;

(2) map out the hot spots in terms of reported incidents and the approximate monetary value of the entire 'mchele' criminal enterprise in Kenya, detailing how many people have been arrested on this criminal account, their gender ratios and any measures the security apparatus has put in place to deny these criminal elements access to the drugs;

(3) state the number of rape cases that have been reported and specifically related to the drugging of the rape victims, outlining the gender distribution of the victims and the percentage of the total drugging occurrences that are sexually exploitative;

(4) outline any policy, legislative or capacity gaps the Ministry might be aware of which might be hindering it from tackling these crimes and state any plans by the

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Ministry to educate and create awareness to the public on the tell-tale warning signs of a potential drugging encounter, to publish known hot spots and to create general security alertness to detect threats among the population.

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

PLIGHT OF ECDE TEACHERS IN NANDI COUNTY

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education concerning the plight of Early Childhood Development and Education (ECDE) teachers in Nandi County.

In the Statement, the Committee should:

(1) state why the County Government of Nandi has not implemented the schemes of service for ECDE teachers in the county;

(2) explain why the County Government of Nandi is using different and unapproved payment structures in paying ECDE teachers employed on permanent and pensionable terms a special salary, thus making their payslips invariable;

(3) give reasons why the County Government of Nandi has failed to harmonize salaries for all ECDE teachers, hence demotivating and causing anxiety among teachers due to the imbalance of terms of service;

(4) provide a list of all ECDE teachers in Nandi County, indicating their terms of employment, salaries, and teacher distribution per sub-county across the six sub-counties in Nandi County; and,

(5) probe the claims that the County Executive Committee (CEC) member in charge of education in Nandi County and the Governor have been intimidating and harassing ECDE teachers instead of addressing their grievances.

Mr. Speaker, Sir, will you allow me to go to my second Statement?

The Speaker (Hon. Kingi): Kindly, proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir.

SUSTAINABILITY OF KENYA AIRWAYS

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads, Transportation and Housing regarding the sustainability of Kenya Airways.

In the Statement, the Committee should:

(1) state measures put in place to address the shortage of aircraft experienced by Kenya Airways (KQ) disclosing details of current, planned leases of aircraft, to also include their terms of operation, the commercial viability of leasing such aircraft by KQ;

(2) disclose the details of the signed strategic partnership framework between KQ and South Africa Airways, which is under receivership, explaining the potential impact of the partnership and whether it would result in a merger of the operations of the two airlines.

The Speaker (Hon. Kingi): Sen. Crystal Asige, are you ready to make a request for a Statement under Standing Order No.53(1)?

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Sen. Crystal Asige: Yes, Mr. Speaker, Sir. Thank you. I have two Statements under Standing Order No.52(1). However, I was assured as recently as this morning that they are on the Order Paper but I see that they are not. I wonder what guidance you might give me on that.

The Speaker (Hon. Kingi): Just proceed to make a request under Standing Order No.53(1). This is because thereafter, I will give room for Senators to make contributions on all the Statements for 15 minutes.

So, if within 15 minutes, your Statements under Standing Order No.52 will be availed, I shall grant you a chance to proceed.

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir.

STATUS OF RECOGNITION OF SPECIAL NEEDS
EDUCATION PROGRAMMES BY TSC

Sen. Crystal Asige: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the recognition of special needs education programmes by the Teachers Service Commission (TSC) across higher education institutions in Kenya.

In the Statement, the Committee should:

(1) list the approved higher education institutions in Kenya by the TSC, duly accredited to offer nationally recognized certification for special needs education programmes, and where not indicated on this list, explain why higher education institutions such as the Kenyatta University (KU) and Maseno University are alleged to not hold special needs education accreditation but continue to offer such courses;

(2) explain the rationale behind the TSC decision to withhold the accreditation for special needs education programmes offered by certain institutions in Kenya, such as those by KU and Maseno University, which has led to the unemployment of thousands of graduates;

(3) investigate why higher education institutions continue to entice students to enrol in these specialized programmes without holding proper accreditation to offer such courses, leaving students without accurate prospects into post-graduate employment pathways; and,

(4) apprise the Senate on recourse measures that will be taken to ensure funds or compensations are made to thousands of graduates who are affected, that hold certificates in these specialized programmes from higher education institutions that have no accreditation to offer such courses.

The Speaker (Hon. Kingi): Hon. Senators, I will allow 15 minutes for any intervention on this Statement. Therefore, if you are given an opportunity to speak, mind your colleagues, please.

Sen. Kinyua, you have the Floor.

Sen. Kinyua: Asante, Bw. Spika, kwa kunipa fursa hii. Ninaunga mkono Taarifa ya Sen. Okenyuri. Mambo ambayo yanatokea katika sehemu za kujiburidisha yamekuwa donda sugu.

Ukitembelea sehemu nyingi, unapata watu ambao wanajifanya wameenda kuburidika lakini wanavizia wengine; ni wakora. Wamebeba dawa ambayo inajulikana kwa Kingereza kama Dormicum. Wanawekea watu wakati wameenda kujiburudisha na hawana nia yoyote.

Unapata mtu amewekewa dawa ambayo, kwa lugha ya mtaani inaitwa ‘mchele’ na baada ya dakika chache, wanalala na kukosa fahamu, na kuibiwa. Wengine wanakubeba na kukupeleka kwa gari na kukuibia chochote ulichonacho.

Kwa hivyo, Kamati ya Usalama inaposhughulikia jambo hili, waliangalie kwa undani duka za kuuza madawa kwa sababu hapo ndipo shida huanzia. Kuna madawa ambayo imekubalika kuuzwa lakini inapaswa kuuzwa kwa mtu aliye na *prescription*.

Unapata watu wengi ambao wameajiriwa katika maduka ya kuuza madawa hawashughuliki ni dawa ipi haipaswi kuuzwa bila *prescription*. Nao wakora wametafuta njia mbadala ya kuwaibia watu. Badala ya kutumia bunduki na risasi, wanatumia madawa. Ninafikiri ni vile teknolojia inaendelea kukua, watu wanaendelea kutumia njia mbadala za kuwaibia wanainchi.

Ni vizuri Kamati hiyo iangalie kwa kindani na sio tu kwenda katika sehemu za burudani, lakini tuangalie pia duka za kuuza madawa.

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

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii ya kuchangia. Ningemshauri ndugu yetu, Sen. Madzayo, achangie Taarifa hii ya Sen. Okenyuri kuhusiana na maswala ya ‘mchele’ katika mangwe.

(Laughter)

La msingi, ningependa kuchangia maombi ya Taarifa---

(Laughter)

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

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

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika, kwa kunipa nafasi hii. Ninataka kuuliza swali moja. Je, ni haki yeye kiongozi wake wa waliowengi wachache--- kama mmoja wa wanaotakiwa kuongea kuhusiana na “mchele”, unaofanya wengine kuzimia. Ni haki?

(Laughter)

The Speaker (Hon. Kingi): Sen. Madzayo, I do not think you understood Sen. Faki. He picked on you because the kind of drink that he was referring to, is only available in your county. Mangwes are only available in Kilifi County. So, he was saying if this thing is rampant in bars, could it also be available in those mangwes in Kilifi?

(The Senate Majority Leader (Sen. Madzayo) spoke of record)

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(Laughter)

Sen. Faki, you have mangwes in your county. You can as well proceed and tell us whether this substance commonly known as ‘mchele’ is also available in Mombasa County.

Sen. Faki: Bw. Spika, ukweli ni kuwa mimi hupita mbali na mangwe kwa sababu imani yangu hainiruhusu kutumia vinyawaji hivyo. Kwa hivyo, ningependa kuondoa swala hilo kama Mhe. Madzayo hataki kuzungumzia mambo ya ‘mchele’ kuhusiana na mangwe. Ningependa kuondoa matamshi yangu.

Bw. Spika, la msingi, ningependa kuchangia taarifa iliyoletwa Bungeni na Sen. Cherarkey kuhusiana na Kenya Airways (KQ). Ni kweli kwamba miaka nenda miaka rudi, KQ inapata hasara. Hasara hii inabebwa na Serikali. Inabebwa na kodi zetu.

Leo ukiangalia tikiti ya kutoka jijini Nairobi kwenda Mombasa, sio chini ya Kshs15,000. Hatujui kama ni mafuta yako juu, gharama za uendeshaji wa shirika hilo ama ni madeni ambayo wanadaiwa. Vile vile, Serikali pia haijakuwa na msimamo wowote kuhusiana na shirika hili. Utapata kila mwaka ikifika wakati wa kulipa madeni, Kshs60 bilioni au Kshs50 bilioni zinakwenda. Hatujui ni mambo ngani ambayo yanafanyika.

Kwa upande mwingine, Serikali hii hii inakusudia kubinafsisha baadhi ya huduma katika bandari ya Mombasa. Wametoa zabuni ya kubinafsisha *berth* ya kwanza hadi saba, *container terminal one* na huduma nyinginezo. Kenya Ports Authority (KPA) inapeleka faidha nyingi kwa Serikali, mpaka ikatumika kama zabuni ya mkopo uliojenga Standard Gauge Railway (SGR).

Kwa hivyo, tunaona kwamba Serikali hii haina msimamo mmoja kuhusiana na mashirika haya. Wakaenda kule Magharibi kwa kina Sen. (Dr.) Khalwale, na kusema hakuna ubinafsishaji wa viwanda vya sukari. Wakija Pwani, wanasema watachukua Kenya Petroleum Refineries (KPR) waiunganishe na Kenya Pipeline Company (KPC). Itakuwaje mto uunganishwe na bahari? KPR iko na mali nyingi kuliko Kenya Pipeline (KP). Hata hivyo, wanasema kwamba kwa kuwa wanataka kuboresha huduma za KPR, wataondoa KPR waiunganishe na KPC.

Bw. Spika, hii Serikali haina msimamo dhabithi kuhusiana na viwanda. Kama hawana msimamo dhabithi kuhusiana na viwanda, waachane na viwanda vile vilivyo. Sisi tunajua bandari haiwezi kupata hasara daima dawama. Kwa hivyo, hatukubaliani na hili suala la kubinafsisha baadhi ya huduma katika bandari hiyo. Ndio maana ninasema ni lazima Serikali iwajibike. Kama wanaweza kulipa Kshs60 bilioni kwa KQ kwa mwaka na kuanzisha tena kazi katika KPR, haihitaji bilioni hizo.

Tunajua kuna mafuta Turkana. Juzi, tuliambiwa hata wiki ijayo tutakapoenda katika vikao Kaunti ya Turkana, tutapata fursa ya kwenda kuangalia visima vya mafuta. Kusafirisha hayo mafuta mpaka Kaunti ya Mombasa ni rahisi, kuliko kusafirisha mpaka India kwenda kusafishwa.

Kiwanda tuko nacho pale. Nafasi ya kuweka hayo mafuta iko ya kutosha na pia soko liko la kutosha. Kwa hivyo, ni bora Serikali irejeshe tena kazi katika kiwanda cha

KPR kuliko kuiunganisha sasa na KPC, ili watuibie mali yetu ambayo tumekuwa nayo kutoka jadi mpaka jadi.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I wish to request for further responses to the issue of KQ. This is very sad. The thought of losing KQ should perish. An international airline like the one we have in Kenya, is actually the face of the country especially when you are out of the country.

We should learn from the best international practices. Airlines such as Ethiopian Airlines which has been at the same level with KQ for a long time, is doing pretty well. We are to blame.

I am not a big sympathizer of the former President, Uhuru Kenyatta. Nonetheless, when President Uhuru Kenyatta advised the last Parliament – the 12th Parliament – to allow KQ to operate Jomo Kenyatta International Airport (JKIA), he was learning from the best international practices. Bole International Airport in Addis Ababa, Ethiopia is operated by the Ethiopian Airlines and it is profitable.

I appeal to colleagues that we should allow this matter to come to the Senate and the National Assembly; so that we allow KQ to operate JKIA and probably Mombasa, Eldoret and Kisumu airports. Could the Committee come with a position of Government on whether they are willing to do another attempt?

The second comment is, if we do not fix this, this thing appears to have become a cash cow. There are some owners of shares within KQ, who know that every financial year, they will be benefiting from the cash which is normally injected in.

Perhaps this report should tell us these people who are leasing aircrafts. We are told some big political families in this country own aircrafts. I have not said which family but they own aircrafts which they lease to us. We cannot surrender the common wealth of the nation to a few families. This has to be clear. We want Kenya to go on. I flew KQ when it was still a small thing. I fly it today and I would like my grandchildren to fly it even when it is better.

The Speaker (Hon. Kingi): Proceed, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika, kwa kunipa nafasi hii. Tabia ya kuwekewa ‘mchele’ katika vilabu vya kimataifa au vya kawaida, iko. Watu wamepoteza maisha yao na wengine kuugua na hatimaye kufariki.

Tunajua kuwa watu wanapoenda katika vilabu vya burudani, huwa hawana uangalifu maalumu wakati wamelewa. Ni kweli kabisa. Ninamuunga mkono kwa dhati dada yangu, Sen. Okenyuri, kwamba ni muhimu kuwe na uangalifu zaidi. Vile vile, tuisitize na tutele sheria ambazo zitawezesha kuwachunguza wauzaji wa madawa katika vituo vya afya. Siku hizi kuna mchezo ambapo mtu anaingia tu katika duka la kuuza dawa na *prescription* kutoka kwa Dr. Boni Khalwale, halafu unauziwa dawa. Hata kama huna *prescription* yoyote, bado utapata hizo dawa.

Ninafikiria kungekuwa na mwamko mpya na mambo yabadilike. Madakatari na wauzaji wa madawa wachunguzwe wakati ambapo wanauza dawa. Wanapouza dawa ambazo wanajua ni za kulevya, ni lazima wachunguzwe wanauzia nani na dawa hizo zinaenda kutumika wapi kisha namna gani?

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Murango.

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Sen. (Dr.) Murango: Asante Bw. Spika. Nawapa pole walio wekewa yale madawa yanayoitwa “mchele”. Kama Seneta wa Kaunti ya Kirinyaga kunakokuzwa mchele, ninawahakikishia kuwa hatuongeti kuhusu hii mchele kama mchele ya kawaida kwa sababu huenda ikatuharibia biashara. Inafaa kuitwa kwa jina inayofaa; kwamba ni madawa mabovu ambayo yanayowekeka katika vilabu vingi hapa nchini na watu walio na nia mbaya.

Kwanza pole sana kwao. Pili ningetaka kuunga mkono Hoja hii iliyoletwa hapa na Seneta wa Kaunti ya Nandi, Sen. Cherarkey. Jambo linalonishangaza ni kuwa shirika la ndege la Kenya Airways lina tikiti ghali kuliko ndege zingine. Ndege sio matatu, haziwezi fupisha njia zinazotumia. Hakuna anayekosa kutoa nauli. Tunalipa sote na kulazimishwa kuwa wazalendo kwa kutumia ndege zile.

Hatufai kumbembeleza punda akiwa kwenye mteremko. Tumeteseka ya kutosha. Kila mtu ana ruhusa ya kufanya kazi anavyotaka ili ajipendekeze kwa wanaotumia huduma zile. Mambo haya yanafaa kuangaliwa kwa umakini. Waswahili husema ukiona manyoya, ujue imeliwa. Kuna kasoro katika shirika hili na linafaa kuangaliwa na kutatuliwa.

Asante sana, Bw. Spika.

The Speaker (Hon. Kingi): Proceed, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, I am a member of the Standing Committee on Transport and we have interacted with this question about Kenya Airways quite at length. This is not the first time a Senator is raising this matter on this Floor. Out of the interaction, I am convinced that the only solution to this question is getting the Government out of Kenya Airways.

It is the only parastatal I am ready and willing to support for full privatisation. All of the interferences and nuances that Senators are referring to are because of the influences of the people in the Board of Management (BOM) in Kenya Airways. I do not agree with those who proposed - and Sen. (Dr.) Khalwale has spoken to it here - that we allow Kenya Airways to run the airports. What we would be doing is taking a loss-making entity and putting it in charge of a profit-making entity, which is the Kenya Airports Authority (KAA). That is not a solution I would prefer.

However, it is good that this matter is coming up for the tenth time. The National Assembly had inquiries in this matter together with the Senate Committees about Kenya Airways and its viability. I still believe that the only solution is to get Government influence out of the management affairs of Kenya Airways.

Lastly, we had a very interesting debate here. It has come full circle that today Sen. Okenyuri has brought a question before the House, whose victims and the vast majority are the men. I have heard you saying that the Committee should give a demographic spread of the victims. The largest percentage of reported victims of “mchele” are men. Most of them are in this City. There are people who have tried to criminalize *sherehe* in this country by making it look like it is something that God frowns upon.

I want to remind them that the first miracle that Jesus performed is turning water to wine. If these ladies who *sambaza* this “mchele” were there at the miracle at Canaan, they would have wreaked havoc because everybody in that party had a drink. We have an

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organisation or a Government entity in this country known as the Kenya Pharmacy and Poisons Board (KPPB). It is their responsibility to ensure that the supply and availability of this stupefying drug is not as rampant as it is right now.

I saw an investigation by one of the local media houses. It was so easy to procure these drugs. You just go across the county and ask them ‘*leo mko na gani?*’ Which one do you have now? They will even tell you that there is a more potent one that has come. This should essentially be controlled substances. It is not about blacklisting known places, as Sen. Okenyuri was talking about. The purveyors of “*mchele*” are mobile. Today, they will be in a club in Ngong’ Road, and tomorrow if you run away and go to Thika Road, you will find them there as well.

There have been reported cases even in this City where some security personnel collude with these criminals essentially to poison people. We have seen very serious cases. Some people actually die. There is nothing that I, as the Senator of Nairobi City County would hate more than people who want to ruin *sherehe* in this City. Therefore, I strongly agree with my sister, Sen. Okenyuri. This is a matter we need to deal with firmly, especially because a vast majority of the victims are men like me.

Mr. Speaker, Sir, this is close to my heart. I would like it to be resolved as quickly as possible.

I thank you.

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

Sen. Ali Roba: Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Cherarkey on Kenya Airways. It seems this problem is unlikely to go away. It is webbed in challenges of other stakeholders controlling their issues. The solution suggested by Sen. Sifuna can only be the full privatisation of Kenya Airways in order to make sure that the entity is able to compete unhindered by unseen forces around its management.

Kenya Airways has proven beyond any reasonable doubt that it will be incapable of changing itself in its current structure and setting. I would like to request His Excellency the President of the Republic of Kenya. I feel pain as a pilot. I have travelled vastly in my career before. Whenever I travel, for example, less than 10 years ago, Ethiopian Airlines was way behind Kenya Airways. Recently, I travelled to Addis Ababa. I looked at the fleet of Ethiopian Airlines in Bole International Airport and what I saw was unimaginable; from the handling of passengers in transit at the terminal, the number of people working in that airport in terms of shifts, and how busy it was.

It really calls for a radical re-design of Kenya Airways in terms of structure and management. Kenya Airways needs to be fully privatised. The issues bedevilling them need to be looked into because it is in the best interest of the Government. The Government is struggling to create employment.

This airport can employ hundreds of thousands of Kenyans if it is restructured properly, in order to do its work as required as a fully private entity, competing on a level platform with other players and airlines within the region and beyond. As I have shared before when this issue came up, it is not that the tickets are the cheapest in the region. You then wonder if the aircraft has full passengers, loaded to capacity and the tickets are not cheap; why should they then be making losses? It means that there is an issue beyond

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Kenya Airways. If the Government is too willing to bail them out, then why should Kenya Airways report profit in the first place? That is the challenge we have.

I support. Thank you.

The Speaker (Hon. Kingi): Proceed Sen. Osotsi.

Sen. Osotsi: Thank you, Mr. Speaker, Sir. Let me comment on the two Statements by Sen. Cherarkey. One is on the Early Childhood Development Education (ECDE) teachers. This issue is common in all our counties including my County of Vihiga. The ECDE teachers are going through a lot of challenges. The committee that will handle this matter can ensure that all other counties are looked into, so that we have a permanent solution to the problem of ECDE teachers in our counties.

On Kenya Airways, the problem in this country is that we have many ideas on paper, but do not implement. I remember that this Senate took time to look into this issue in a committee led by the current Governor for Kisumu, Hon. Prof. Anyang'-Nyong'o. That Report has not been implemented.

In the last Parliament, the National Assembly dealt with this matter and came up with a good report, which I have read. It listed the problems and challenges of Kenya Airways. One of the challenges was that Kenya Airways cannot compete favourably with other airlines because they do not have an airport of their own. All major airlines in Africa, for example, Rwanda Airlines and Ethiopian Airlines have their own airports. They do not compete in paying charges with other airlines.

The Committee recommended that the solution is to come up with a company that will be a merger of Kenya Airports Authority and Kenya Airways to reduce the cost of operation of Kenya Airways. This report is largely unimplemented.

Parliament has a responsibly to ensure that its reports are implemented. It does not make sense to come up with a report and address issues conclusively, and several years later, we come back and restart the same thing.

The Committee that will look at this matter should go to the archives and pick the two reports; one by the Senate and the other one by the National Assembly, so that we do not appear like we are reinventing the wheel when we have solutions to these problems.

I support.

The Speaker (Hon. Kingi): Hon. Senators, we have expended the 15 minutes. Therefore, we will proceed to Statements pursuant to Standing Order 52(1). However, before I allow Sen. Crystal Asige and Sen. Mumma to make their Statements, I have the following Communication to make.

(Interruption of debate on Statements)

COMMUNICATIONS FROM THE CHAIR**VISITING DELEGATION FROM MURUNGARU
SECONDARY SCHOOL, NYANDARUA COUNTY**

The Speaker (Hon. Kingi): I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting teachers and students from Murungaru Secondary School in Nyandarua County.

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

I thank you.

(Applause)

**VISITING DELEGATION FROM UPENDO CDC,
NAIROBI CITY COUNTY**

The Speaker (Hon. Kingi): I would also like to acknowledge the presence, in the Public Gallery this afternoon, of visiting teachers and students from Upendo CDC Nairobi City County.

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

(Applause)

I will allow Sen. Sifuna to say a word of welcome, in less than a minute.

Sen. Sifuna: Mr. Speaker, Sir, with your kind permission, as the head of delegation for Nairobi County I would like to allow Sen. Nyamu to convey the welcome remarks.

The Speaker (Hon. Kingi): Sen. Nyamu, proceed.

Sen. Nyamu: Thank you, Mr. Speaker, Sir, for the opportunity. I would also like to thank my head of delegation, Sen. Sifuna. I welcome the guests to this Plenary session. Take in as much learning as you can.

I happen to have links in the County of Nyandarua through the father of my children; I am part of you. I am sure the ones from Nyandarua know what I am talking about.

Welcome, enjoy the session and learn.

The Speaker (Hon. Kingi): Sen. Crystal Asige, proceed to present your Statement pursuant to Standing Order No.52.

(Resumption of debate on Statements)

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EMPLOYMENT AND LABOUR RELATIONS COURT'S JUDGEMENT
ON THE REGISTRATION OF THE KENYA MUSICIANS' UNION

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. I appreciate your Office and that of the Clerk of the Senate for your swift action.

I rise, pursuant to Standing Order 52 (1), to make a Statement on a matter of general topical concern, namely; the judgment of the Employment and Labour Relations Court in Civil Appeal No.E130 of 2022, which required the Registrar of Trade Unions to register the Kenyan Musicians' Union.

The right to unionize is a fundamental human right. Article 23(4) of the Universal Human Rights Declaration states that-

'everyone has the right to form and to join trade unions for the protection of his interests'.

This right is also recognized under the Article 41 of the Constitution, which grants every worker the right to form, join or participate in the activities and programmes of a trade union.

The importance of trade unions is well established in our country. Historically, they have been the vehicles through which workers have communicated their needs, championed for rights, such as leave and pension benefits, agitated for better pay and generally improved their working conditions. These are huge undertakings that are difficult to attain at an individual level, but together, workers from different industries have been able to channel their voices through Collective Bargaining Agreements (CBAs) and achieve more humane and respectable conditions.

Musicians are workers whose tools are their voices, instruments and sheer talent. It is of great concern that in our country, where music brings us together and marks every major occasion of life, musicians lack a union through which they can better organize themselves to earn a respectable living from their work.

The success of unions is evidenced by the success enjoyed in jurisdictions such as the United States of America (USA), the United Kingdom (UK) and France, where various musicians' trade unions have successfully set industry minimum standard rates, established codes of conduct for matters such as harassment and discrimination and facilitated benefits such as health insurance and legal representation for their members.

These unions are also at the forefront of current developments affecting musicians. For example, in the UK, the Musicians' Union is currently coordinating efforts to help musicians understand the impact of artificial intelligence on copyright law. It goes without saying, therefore, that a union for musicians would be a valuable tool for our enterprising musicians in the current digital age.

In 2021, a World Bank report valued Kenya's music industry at over Kshs320 million. Despite this massive potential, incredibly talented young people in this country have unfortunately fallen far behind their peers in other countries, both in Africa and beyond, partly because we have failed to create a conducive environment for local talent to make a sustainable trade out of their work through active and reliable unions.

As we are all aware, musicians in our country have long been among the most underrepresented groups. Despite our music's significant success and attention, our

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musicians have historically been excluded from development policies and strategic plans, equitable industry standards and systems. We often witness several of our musical greats spend their lives in deplorable conditions. This stark reality has been the subject of previous statements and petitions that I, and many others, have brought before this esteemed House.

It is worth noting that we already have the Kenya Union of Entertainment and Music Industry Employees, which has existed since the 1960s. However, throughout its existence, it has failed to negotiate a Collective Bargaining Agreement (CBA) on behalf of musicians. This shortcoming can be attributed to its broad focus, encompassing both the music and entertainment industries, which dilutes its ability to adequately represent musicians' specific needs.

Trade Unions use CBAs to dialogue with stakeholders towards reaching satisfactory consensus for both workers and employers. The International Labour Organization credits CBAs with greater cooperation and increased productivity of workers, which leads to higher profits due to improved performance. For musicians, the equivalent is higher quality and consistency in their craft.

In truth, musicians do not need handouts, but rather, need to be empowered. CBAs help to bring about more conducive and sustainable work conditions and this is crucial in the arts. This is a great opportunity, not just to the musicians who will be able to create value and benefits for themselves, but to the whole economy at large. Musicians can in turn employ and contract dancers, managers, stylists, fashion designers, social media managers, accountants, and the list goes on and on.

The value creation resulting from this can result to even more money flowing in and out of the creative economy. We can have a Kenya where the music industry is a major contributor to the National Gross Domestic Product (GDP).

Mr. Speaker, Sir, with this context in mind, the proponents of the Kenyan Musicians Union sought to create a platform that will solely focus on our concerns. They applied to the Registrar of Trade Unions to register this union aiming for future recognition.

By law, the registrar invited objections. The Kenyan Union of Entertainment and Music Industry Employees initially rejected, but withdrew their objections after there was clarification that it was not to replace them, but to focus exclusively on music issues. Shockingly, the Registrar inexplicably refused to proceed with the registration, leading to this court dispute.

Mr. Speaker, Sir, every Kenyan has the constitutional right to freedom of association as outlined in Article 36 of our Constitution. I am pleased to note that the High Court of Kenya recognizes this fundamental right and acknowledges the importance of the proposed union in representing musicians' interests.

Regrettable, this matter should not have escalated to a court dispute, but it has and the court has delivered a judgement. Now, our collective attention must be to take the next steps by all parties involved.

I urge Hon. Members in this House to put considerable effort into looking into the plight of musicians in their counties, including championing for those who are trying to

unionize. Further, I also seek the support of colleague Senators when I bring legislative proposals on creative industry matters to the Floor of this House.

To the musicians, I urge you to remain vigilant and take advantage of the present opportunity to find strength in numbers. Musicians deserve to have their voices heard and their interests protected by an entity that genuinely understands and advocates for their worth.

I thank you.

Mr. Speaker, Sir, I am just pulling up my second Statement.

The Speaker (Hon. Kingi): Yes, proceed with the second Statement.

INTERNATIONAL WEEK FOR DEAF PEOPLE AND
INTERNATIONAL DAY OF SIGN LANGUAGES

Sen. Crystal Asige: Mr. Speaker, Sir, I rise, pursuant to Standing Order 52 (1) to make a Statement on a matter of general topical concern, namely; the International Week of Deaf People and the International Day of Sign Languages.

The International Week of Deaf people is observed annually between 18th and 24th September with the International Day of Sign Languages being celebrated on 23rd September, this Saturday.

To mark these important occasions, we are called upon to reflect on the lives of deaf people and the status of their inclusion and empowerment as members of society. It is an opportunity for us to ponder on how these individuals participate in various aspects of life that you and I may take for granted and how our policies, laws and procedures can improve matters for them. It is also a chance to recognize efforts made so far towards better inclusion for the deaf community.

The National Association of the Deaf estimates that there are over 2.7 million deaf people in Kenya, assuming the 5.5 per cent global prevalence. It is important to note that this number might be even higher based on the 2017 study by the Kenya Institute of Special Education (KISE) that found in Kenya, the prevalence of persons affected with hearing loss is 10 per cent, which is above the 5.5 per cent global average. It is a significant portion of the nation that needs to be upheld.

Mr. Speaker, Sir, the International Week of Deaf People encompasses various themes and objectives aimed at raising awareness on matters affecting the deaf community. This year, these themes include:

- (a) the recognition of the rights of deaf children;
- (b) inclusion of deaf people in matters that concern them; and,
- (c) the diversity of deaf people globally.

The United Nations (UN) declared 23rd September as the International Day of Sign Languages to mark the key role that sign languages play in the realisation of the fundamental human rights for deaf people.

Sign language is not a means of communication alone; it is a gateway to inclusion, empowerment and equal participation in society for millions of individuals who are deaf or hearing-impaired.

It cannot be gainsaid how crucial sign languages are to secure basic human rights and belonging. Through sign languages, people can express their thoughts, feelings and ideas. This is how we all, whether deaf or hearing, form connections and build relationships, understand one another and even gain an understanding of different cultures and communities.

Mr. Speaker, Sir, the International Day of Sign Languages is marked to recognise deaf people as an integral part of our society, who add diversity and colour to our heritage. As such, the Kenyan Sign Language should be promoted for use by all across Kenya.

A definitive step toward achieving this is the swift enactment of the Kenyan Sign Language Bill. In doing so, we can surpass the World Deaf Federation's call for governments to take steps to ensure that at least 50 per cent of our children know their national sign language and create societies where deaf people can sign anywhere in the world.

Our Government should lead by example by taking further steps to provide mandatory sensitivity training programmes across public sectors to ensure the respect, dignity and protection of the rights of the deaf across the board. In fact, I will go as far as questioning why this has not happened yet in this honourable House.

Mr. Speaker, Sir, I wish bring to your attention that even on our Parliament livestream sessions, we do not provide sign language interpreters to translate the daily business of both Houses, for deaf Kenyans to follow. Being that our Kenyan Sign Language Bill is currently moving successfully in the Order Paper, we will be remiss to not provide interpretation when debating legislation, without including of those it so crucially impacts.

It is important to acknowledge that sign languages are not universal. They vary from one region to another. Currently, there are over 300 unique sign languages recognised globally, reflecting the rich linguistic and cultural diversity of the deaf and hard-of-hearing communities. Our Sign Language is the primary means of communication for the deaf community, and it plays a pivotal role in their daily lives.

Sign languages also play an essential role in the educational landscape. Deaf children who are exposed to sign languages from an early age have the opportunity to access quality education at par with their hearing peers. Inclusive education, where sign language is recognized and integrated, ensures that deaf students can thrive academically and socially.

Mr. Speaker, Sir, moreover, there is a need for increased awareness and understanding of the importance of sign languages within our society. Education and sensitisation efforts should extend beyond the deaf community to ensure that everyone recognises the value of sign languages as a bridge to inclusion.

As the hearing community, we should take it upon ourselves to try to learn basic sign language to communicate, reduce social isolation, discrimination, and misunderstanding. The knowledge of sign language is a great skill to have and would mean so much to every deaf person we interact with.

Mr. Speaker, Sir, to conclude, let us reaffirm our commitment to the rights of inclusion and well-being of deaf individuals in Kenya. It is for this reason that I am

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pushing, alongside Sen. (Prof.) Kamar, for the enactment of the Kenyan Sign Language Bill, 2023, and I ask colleague Senators for their continued support.

I even invite them to sign. It is very easy if you would wish to support my Motion to sign this way:

(Sen. Crystal Asige used the Kenyan sign language)

“Mr. Speaker, I support”

I thank you.

The Speaker (Hon. Kingi): Thank you. Sen. Mumma, you may have the Floor.

INDIGENOUS PEOPLES OF KENYA

Sen. Mumma: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 52(1) to make a Statement on the indigenous people of Kenya.

Kenya has a multi-ethnic population of several bands of tribes, who have resided in this country well before the arrival of the colonial government and the establishment of the Nation of Kenya, as it is known today.

Article 260 of the Constitution of Kenya acknowledges that indigenous people are part of marginalized communities and that indigenous people, in the wording of this Article, include "an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy."

The phrase ‘indigenous’ has been used in different Articles of the Constitution in diverse contexts, with recognition being given to the notions of indigenous languages under Article 7; indigenous technologies under Article 11; indigenous seeds under Article 11; and, indigenous knowledge under Article 69, wherein these notions are recognized as worthy of protection.

The concept of “indigenous peoples”, however, does not have a universal meaning and is considered differently in different jurisdictions. International and regional treaties such as the United Nations Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), and the African Charter on Human and Peoples' Rights (ACHPR) have not defined this concept nor uniformly used it, but sought to clarify the concept through committees and working groups.

Mr. Speaker, Sir, it is concerning that successive Governments of Kenya, including the current Executive, continue to send mixed signals on the subject of indigenous peoples'. The phrase is casually and selectively used depending on the context, as was the case in the recent recognition of the indigenous peoples, during the recently concluded Climate Action Summit in Nairobi.

However, none of the successive Executive Orders have assigned functions to any Ministry and State Departments on this mandate that deals with indigenous peoples.

The Kenyan Government has previously portrayed reluctance in the recognition of indigenous persons, as was the case in the State's submissions in the matter of the Endorois Community before the African Commission on Human and Peoples Rights and

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in the Matter of the Ogiek Community before the African Court on Human and People's Rights and in the Kenyan State Report to the United Nations Committee on the Elimination of Racial Discrimination (CERD/C/KEN/1-4) in 2011, where the Government's position was that "treating a part of its multi-ethnic population as indigenous peoples will constitute discrimination and will degrade its celebration of diversity".

State institutions, including independent institutions, such as the National Gender and Equality Commission (NGEC) and the Kenya National Commission for Human Rights (KNCHR), as well as NGOs have been registered to address indigenous peoples' concerns, regularly attend international forums on this subject.

We also tend to celebrate The International Day for Indigenous Peoples on 9th August every year, where some communities participate as indigenous peoples.

Mr. Speaker, Sir, from the foregoing, I call upon the Senate Committee on Justice, Legal Affairs and Human Rights to engage the Prime Cabinet Secretary and the Attorney General with a view to -

(1) Determining the official legal position on indigenous Peoples in Kenya, considering that the country has adopted varying interpretations and arguments in this matter.

(2) Classify which communities, from the over 53 communities and clans, are considered to be indigenous peoples of Kenya and the reasons for such classification.

(3) Propose specific development projects and measures to be put in place, by the Government, to address the marginalization of the communities that are considered indigenous peoples, to guarantee that they receive an equitable share of the benefits of State resources as other communities.

(4) Designate a Ministry or State Department to deal with matters relating to indigenous peoples.

(5) Outline steps taken by the current Government to promote and protect the development of different issues that serve to preserve the indigenous traits of Kenyan communities such as culture, heritage and language, as required under the Constitution, including indigenous technologies and materials such as seeds and plant varieties in the development agenda that the Government has drawn.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.57(1) by the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 26TH SEPTEMBER, 2023

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to issue this Statement on the business of the Senate for the week commencing Tuesday 26th September, 2023, pursuant to Standing Order No.57(1).

Before I do so, I take this opportunity to welcome hon. Senators back from the recess. We look forward to a fruitful Session over the next four weeks until 20th October, 2023 when the next short recess is scheduled to begin.

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Mr. Speaker, Sir, during the last recess, the Senate held two Special Sittings on 29th and 31st August, 2023. At these special sittings, the Senate considered and passed a Motion on the establishment of the National Dialogue Committee, the Public Finance Management (Amendment) Bill, (National Assembly Bills No.16 of 2023), the Climate Change (Amendment) Bill (National Assembly Bills No.42 of 2023) and a Motion to alter the Senate Calendar in respect of Part V.

The Senate also received messages from His Excellency the President on the nominee for appointment to the position of the Chairperson of the Board of the Central Bank of Kenya (CBK) and from the National Assembly on the legislation passed by that House.

I take this opportunity to thank hon. Senators for sacrificing your time during the recess and availing yourselves to transact that very urgent and important legislative business. Indeed, your dedication, commitment and sacrifice will play a significant role in making the future of our country better.

As indicated in today's Order Paper, the Motion for adoption of the Joint Report of the Departmental Committee on Finance and National Planning of the National Assembly and the Standing Committee on Finance and Budget of the Senate on the nominee for appointment to the position of the Chairperson of the Board of the CBK is scheduled under Order No.8 and debate began yesterday. I urge hon. Senators to fast-track it, debate and conclude the matter.

In terms of other legislative businesses that are pending consideration in the Senate, there are 28 Bills, out of which 22 are at the Second Reading Stage, while six are at the Committee of the Whole. Twenty-four Motions are pending conclusion, while 15 Petitions have matured for reporting by respective committees.

In addition to this, 188 Statements are pending conclusion by Standing Committees, while 22 Questions are pending. Ten of these have been scheduled for response by respective Cabinet Secretaries on Wednesday 27th, September, 2023.

I urge that we all play our part in ensuring that the business of the Senate is dispensed with in a timeous manner. This will require committees to table reports as required in the Standing Orders. Movers of the business scheduled in the Order Paper need to be available to prosecute their business and the individual Members to turn up for both Plenary and Committee meetings.

The Party Whips will also be required to mobilize the requisite number of County Delegations for Divisions to be undertaken when due.

Mr. Speaker, Sir, at its meeting held on Tuesday, 19th September 2023, the Senate Business Committee (SBC) approved the next set of Questions to be scheduled in the Order Paper for Wednesday, 27th September, 2023.

The summary of Questions and Cabinet Secretaries to appear are as follows: -

(1) Question No. 11 by the Senator for Laikipia County, Sen. John Kinyua Nderitu, MP, to the Cabinet Secretary for Interior and National Administration concerning the state of security in Laikipia County and the wider North Rift Region.

(2) Question No. 12 by the Senator for Laikipia County, Sen. John Kinyua Nderitu, MP, to the Cabinet Secretary for Interior and National Administration concerning the rampant abuse of Ketamine.

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(3) Question No. 25 by the Senator for Marsabit County, Sen. Mohamed Said Chute, MP, to the Cabinet Secretary for Interior and National Administration regarding the recruitment and deployment of chiefs and assistant chiefs.

(4) Question No. 26 by the Senator for Marsabit County, Sen. Mohamed Said Chute, MP, to the Cabinet Secretary for Interior and National Administration regarding delay in recruitment of National Police Reserves (NPRs) in the wider Northern frontier counties.

(5) Question No. 32 by the Senator for Kirinyaga County, Sen. (Dr.) James Murango, MP, to the Cabinet Secretary for Interior and National Administration concerning the kidnappings along Makutano-Sagana Highway in Kirinyaga County.

(6) Question No. 45 by the Senator for Turkana County, Sen. James Lomenen, MP, to the Cabinet Secretary for Interior and National Administration concerning the security situation in West Pokot and Turkana counties.

(7) Question No. 18 by the Senator for Turkana County, Sen. James Lomenen, MP, to the Cabinet Secretary for Foreign and Diaspora Affairs regarding inaction of the Kenya Government to hasten the release of the Turkana pastoralists currently incarcerated in Uganda.

(8) Question No. 36 by the Senator for Kajiado County, Sen. Seki Lenku Ole Kanar, MP, to the Cabinet Secretary for Energy and Petroleum regarding compensation to land owners affected by the construction of electricity transmission lines in Kajiado County.

(9) Question No. 52 by the Senator for Marsabit County, Sen. Mohamed Said Chute, MP, to the Cabinet Secretary for Energy and Petroleum regarding electricity transmission from Lake Turkana Wind Power Plant (LTWP).

(10) Question No. 45 by the Senator for Kakamega County, Sen. (Dr.) Bonny Khalwale, CBS, MP, to the Cabinet Secretary for Mining Economy and Maritime Affairs concerning the status of coal mining activities in Kakamega County and the stalling of the construction of a gold mining refinery in Ikolomani Constituency.

Finally, as hon. Senators are aware, pursuant to the Resolution passed on 30th May, 2023, the Senate will hold its Plenary and Committee Sittings in Turkana County from 25th to 29th September, 2023. I urge hon. Senators to ensure that they participate in these momentous sittings outside Nairobi.

Mr. Speaker, Sir, I thank you and hereby lay this Statement on the Table of this Senate on behalf of Sen. Aaron Cheruiyot, MGH, MP, Senate Majority Leader, today the 21st September, 2023.

(Sen. (Dr.) Khalwale laid the document on the Table)

The Speaker (Hon. Kingi): I will make the following communication before the Clerk calls the next Order.

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COMMUNICATION FROM THE CHAIR**ONGOING SENATE INTERNSHIP
PROGRAMME IN THE SENATE**

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of seven young men and women who have been in the Senate for the last three months undertaking an internship programme.

Hon. Senators, the objective of this programme is to provide young people with first-hand experience in the legislative process and to expose them to the intricate world of public policy and public service.

On behalf of the Senate, and on my own behalf, I wish them well during the program and in their future endeavours.

I call upon Sen. Thang'wa in under one minute to just say a word of welcome.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir, for the opportunity to welcome these students. You said they were here for a learning experience. I also take this opportunity to encourage others out there because this Senate is very different from the last Senate. We are a mixture of those who were here before and previous Members of the County Assembly (MCAs) like myself. We also have former governors like Sen. Mandago and Sen. Ali Roba as well as former Members of Parliament (MPs) and we are led by you, Mr. Speaker, Sir, a former governor.

This Senate has a mixture of experience. When they learn from this Senate, Senators and members of staff who are well-versed with the running of any Parliament, I believe these students will go home with a lot of knowledge and an experience to remember.

The Speaker (Hon. Kingi): I will also allow Sen. (Dr.) Khalwale for a minute to also give a word of welcome.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Their presence makes me extend my gratitude to you the Speaker of the Senate, the Speaker of the National Assembly, the two Clerks and all the employees of Parliament considering that amongst those young people, is my son - Engine Kukaste Khalwale - who is pursuing a degree in computer science in the university.

(Applause)

The Speaker (Hon. Kingi): Next order.

MOTION**ADOPTION OF REPORT ON APPROVAL OF
MR. ANDREW MUKITE MUSANGI FOR APPOINTMENT
AS CHAIRPERSON OF THE CBK BOARD**

THAT, the Senate adopts the Joint Report of the Departmental Committee on Finance and National Planning of the National Assembly and the Standing Committee on Finance and Budget of the Senate, on the vetting of Mr. Andrew Mukite Musangi for appointment as the Chairperson of the Board of Directors of the Central Bank of Kenya, laid on the Table of the Senate on Tuesday, 19th September, 2023, and that pursuant to section 11(2A) of the Central Bank of Kenya Act and section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011, the Senate approves the appointment of Mr. Andrew Mukite Musangi to the position of Chairperson of the Board of the Central Bank of Kenya.

(Sen. Tabitha Mutinda on 20.09.2023)

(Resumption of debate interrupted on 20.09.2023)

The Speaker (Hon. Kingi): Before debate was interrupted, Sen. Thang'wa had the Floor and he has a balance of 12 minutes.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir, for giving me this opportunity to conclude my contribution on approving the Report by the Committee on affirming Mr. Musangi to be the Chairperson of the Board of Directors of the Central Bank of Kenya (CBK).

Yesterday I stood to inform Sen. (Dr.) Khalwale that when he was listing the women who have broken the glass ceiling, he forgot the first Maasai woman to be elected as an MP – Sen. Peris Tobiko.

As I support this Report, I urge CBK and its Chairman to listen carefully to the clarion call by the President. He has on numerous occasions said that we require a new financial infrastructure or architecture. This means there should be new rules and regulations when it comes to our finances in this country. The President is talking about the whole world and global finances, but I also urge the Chairman as he takes on this seat and the Governor of CBK to heed that clarion call so that citizens of this country can also enjoy the new finance infrastructure.

As I stand here, they have already started. Safaricom has increased the transaction limits from Kshs150 to Kshs250. That is what we require in this country. The financial rules, regulations, and the way the system works need to be brought to speed in these economic times.

I urge the CBK to come up with systematic changes for transactions. Yesterday, when I was making my contribution, I said that I am a great supporter of cryptocurrency. When we talk about systematic change, it brings about transparency. Cryptocurrency is based on a blockchain. Therefore, it brings about transparency.

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Maybe, to bring to speed to my good friend the Chairperson of the County Public Investment Committee (CPIC), Sen. Osotsi, a block chain is where when you do a transaction and immediately get your receipt, it is distributed to everybody in the network. This means that you can never go back there to complain that your receipt is different from everybody in the world.

To bring you very close to this scenario, during the presidential election, we did a block chain without knowing. At the counting of the presidential results, form 34 was stuck on the door and it was photocopied by everybody. It was even distributed online.

That is why it was very hard for anybody to change it. Trying to change it, you would have had to recall all the forms in the whole country and change each and every one and then you give us a copy.

So, blockchain brings about transparency. If the Chairperson who commented about cryptocurrency will take that seriously, together with the Governor of the CBK, I believe that we are going to move in the right direction. This is what we call the new financial infrastructure.

As I conclude, because I had made my comments yesterday, what stops the National Treasury, CBK and also the Senate from having digital screens?

When you go to a bank, you see how much a dollar is exchanged with Kenya shillings, Australian Dollars, Chinese Yuan, and all that. What stops the CBK, the Controller of the Budget, the National Treasury and the Senate from having something?

Today we would be able to know which county received what and how much a few days ago. What I am trying to bring across, is that we need a transparent infrastructure when it comes to the way we transact business and especially on our legal tender, the Kenya shilling.

We should at least come up with a law that regularizes or legalizes cryptocurrency. Just because you do not regulate it, it does not mean that it is legal.

There were millions of youth who queued in Nairobi to have their eyeballs scanned. Some were arrested while others were deported to their country. However, because we do not have regulations, such a thing happened. If there were regulations, the World Coin would have come to the office of either the Capital Market Authority (CMA) or the Information Communication Technology (ICT) to report what they wanted to do, and Kenyans could have been protected.

We urge the CBK to not just sit there. It should adapt to the changes that are happening in our financial institutions, financial system, and financial infrastructure and architecture so that they go in line with the current world today.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Kingi): Sen. Olekina?

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the report of the Committee on the approval of the nominee of the CBK.

During this time, we are dealing with a lot of challenges as an economy. We have issues that must be thought out clearly. The only way we are going to save this country is by ensuring that we pass or advance economic policies that will think about future generations.

One of the biggest challenges that we have in this country is that many people who are tasked with responsibilities are not qualified enough. In most cases, they are appointed based on who they know, and where they have been. When it comes to the issue of monetary policy and the economy of a country such as this, over the last two years, we have seen the way the exchange currency in this country has gone down. Today, a Dollar is trading at about Kshs150. I dare say all that leads down to the policies.

When you look at our neighbouring countries, a good example is Ethiopia and Rwanda, there are policies that are defined to protect the currencies of those countries. Someone who led the CBK should understand the unintended consequences of protecting trade in the country.

If you go to Ethiopia today and you attempt to exchange dollars in a hotel, the exchange rate will be for one dollar, you probably get 55. If you go to the streets, you will get a 110. In most cases, when you go to those hotels and you try and pay with their own money, they will not allow you to do it. They will tell you to pay in dollars because they want to build that economy.

If you trade in a country like Rwanda or Burundi, it will be very difficult to take all your profit out of your country. I am not saying that we should start policies that hinder investors from repatriating their profits. We have to have a balance. This issue where the dollar is constantly in free fall, is something that should worry any economist in this country. Any leader in this county should be worried.

I had a quick chat with Sen. Tabitha Mutinda on the gentleman whose nomination we are about to approve. She said to me he is very knowledgeable. I hope that we are not just coming here to approve for someone else to go and sit in CBK but then move this country to where no one would want to be.

Currently, we have to be very realistic. De La Rue moved out of this country. The CBK is tasked with the responsibility of ensuring that they come up with policies to print currencies. We need to know why De La Rue left and how we are going to print money. I am not saying for the sake of trying to stabilize the currency. Sometimes, you have notes that become too old and you want to print new. So, as we deliberate, reward Kenyans and talk about people taking over.

I hope that this gentleman whom I have seen the recommendations are quite good, can restructure the roadmap to saving this economy. In fact, if you stabilize our currency so that we move from being slaves of hard currencies, at least we can talk about Kenya having a future.

The biggest challenge we have today is that although Kenya is regarded as the biggest economy in East Africa, some might say in East and Central Africa because of its stability, our currency is still soft. I hear people ask why is it that we have to trade with the dollar. Why can we not trade among each other with our currencies and maybe that is something we need to talk about.

Mr. Speaker, Sir, yesterday, I had one of my colleagues talk about the Government-to-Government (G2G) agreements in terms of importing of petroleum into this country. A lot of people do not really understand the G2G. The Government had nothing to do with the money. The Government does not own anything. It is the oil marketers that own. However, if the dollar continues being on a freefall, the oil marketers

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will still end up paying a lot of money and that pain will still go to the citizens. We have to be clear.

Maybe we should have had those arrangements basing it on the Kenya Shilling. I will be happy if this gentleman would come up with policies that would propel our Kenya Shilling to be a currency that we can negotiate in the East African community.

I was in Arusha the other day and I needed to deposit some Kenya Shillings in my bank in Kenya. I was very happy because I walked into Kenya Commercial Bank (KCB) in Arusha and I could deposit Kenya Shillings and they reflect immediately. It is the same in Rwanda and Uganda where KCB is.

In fact, if you trade - I happen to be a trader among the East African countries- the financial institutions in those countries will tell you that it is easier for me to pay you in Kenya Shillings than in dollars. It is about time that we now change our thinking and not continue being slaves of hard currencies.

Today, when I look at the Kenya Shilling to USD1, it is Kshs150. Very soon, it will be Kshs200. Suppose we borrow the policies that are being applied by countries like Ethiopia and Burundi then localize it? We do not necessarily have to go the way they go, but we can also localize it so that we can protect our currency.

I hope that this House will approve the new Governor of Central Bank. We will be able to now think outside the box. We can no longer continue to try and build this economy with a cut and paste or with a textbook description of how you build an economy. We have to now start thinking outside the box and ask ourselves what works for us.

Mr. Speaker, Sir, if you go to a country like Tanzania today. The Dairy Board of Tanzania has got quotas. They say if you want to export milk to Tanzania, you can only be given a license for up to six months, you have to pay some money for each consignment and they put a maximum of litres that you can export to Tanzania. That is all advised by the Central Bank in terms of protecting their farmers so that whatever the farmers have becomes valuable and meaningful.

We are treading in very dangerous grounds at the moment in terms of trying to save this economy. Politics aside, we talk about issues of the bottom up and of different types of economics. The truth of the matter is our people are suffering. Our currency is one of the things that I hope the new Central Bank Governor would sit and think throughout on how we are going to protect our people.

Everything we are buying now when it comes to the issue of fuel relies on the dollar. So, when we buy fuel at a price of about Kshs200 and 54 per cent of that is in taxes, you think Kenyans will still afford the 46 per cent? No, they cannot. It becomes very expensive. However, if the Kenya Shilling was stable, people would be able to deal with it. We have such an industrious economy and a resilient population. So, with good monetary policies, we will move this country into futuristic thinking.

Mr. Speaker, Sir, finally, we may end up having to amend the Constitution because the Constitution says in Article 231 that the Central Bank Governor cannot be directed by anybody. I hope that we can be able to amend either the Public Finance Management (PFM) Act and also the Constitution, just like Article 153 of the

Constitution mandates each and every Cabinet Secretary to table the report on how their departments are performing.

It is time to consider amending the Constitution and the PFM Act to set timelines, goals and milestones whereby the Central Bank Governor can come to Parliament and give a report on the efforts that is put in place in terms of developing policy that will end up stabilizing our currencies. I believe that will promote confidence among traders in this country.

I support.

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

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, the Hon. Senator has just concluded his remarks.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, because the Senator was making a very informed contribution, I waited towards his tail end so as to rise on Standing Order No. 105. Is the Member in order to blame the falling Kenya Shilling on the Government when he knows or he ought to know that there exists the Foreign Exchange Transaction Act of 1999 that liberalised exchange rates? Why would he want to play politics with such an emotive and important issue to belittle it to look like a contest between us who are in Government and them who will be in Government someday?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, I am afraid I am going to have to overrule your point of order. This is because it is being raised when the Hon. Senator has already concluded making his remarks.

Sen. Wamatinga, please proceed.

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I also rise to support the report. Indeed, the Central Bank is a very important institution in any country. We know that of late, we have been facing severe monetary and fiscal issues.

We also know that the country needs to put itself on a recovery path faced with the downward trade of economic crisis across the globe, the dilemma of paying by the United States of America (USA) and a changing climate condition that has affected our production of the major earners having come shortly after COVID-19 and four seasons of drought.

Mr. Speaker, Sir, we need a strong institution in the name of the Central Bank of Kenya (CBK). We need sound policies that can put the country back on track for economic recovery.

It is known to everybody that, save for tea, everything else that we consume in this country is imported. I have listened to my fellow Senators give their presentation. Indeed, we must ensure that Kenya becomes self-sufficient in terms of food production and edible oil production. We have favourable climatic conditions but because of unfavourable geopolitics, we have not attracted enough investors to come and start up farming of edible oils in this country.

We spend millions of dollars to import edible oil and even clothing. We have climatic conditions that can support Bt cotton and we can revamp our textile industry.

I was in a foreign country just the other day and was surprised by the resilience of the citizens. I was surprised by the fact that most farmers especially in the coffee sector are young farmers and young researchers. They have delivered because of a deliberate

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effort by the Colombian Government, which has done everything possible to win young people to join coffee farming. The option that they were doing before, is known to everybody.

It is important that we have the right leadership in this very important institution; as we, in the Kenya Kwanza Government, strive to put this country in the path of economic recovery. We can have the backing-sounding policies. Most important, we can establish an Industrial Development Bank (IDB) as it was in the Industrial and Commercial Development Corporation (ICDC). Establishment of the Enterprise Development Bank (EDB) can support especially the younger generation without asking them for collateral.

Therefore, CBK is a key player. It is a central player in determining the monetary and fiscal policy of this country. We need sound leadership. I feel that with the right chairmanship, right Governor and the right Cabinet Secretary for the Ministry of National Treasury and Economic Planning, we can get this country back on the path of recovery.

However, this cannot happen, if Kenyans do not change the narrative of every time blaming it on the Government. We must also look at our habits. Many at times, including in this House, we conduct business with lights on and then complain that the cost of electricity is very high.

With the current technology, we can fix a few solar panels up there and light our House with solar panels. We do not need to pay for electricity bills. We must change our consumer mannerisms. There is no way we will keep on doing things the same way and expect to have different results.

It is the duty of every Senator in this House and I challenge us that as we go to our counties and conduct the oversight and representation roles that we are mandated to do; we start advising our people that we must change the narrative of the way we do our things.

Having lived in a foreign country for some years, I have seen people carpooling. Here, we complain that our roads are not good enough and that fuel is expensive. Even so, look at the cars that even Parliamentarians are buying. Going forward, I urge Members to become a bit selfless and limit ourselves to vehicles whose engine size is under 3,000cc as it was intended. Let us drive smaller cars so that we can also save our environment first and on the fuel guzzlers that are being driven around.

Mr. Speaker, Sir, we must tell ourselves the truth. The truth is that we have found ourselves in a hard economic situation. To recover, we must change the way we do things in this country.

With a population that is getting ever younger, getting more educated but with no opportunities, CBK can create incentives around industrialisation like it was in the early 60s. You could walk into ICDC with a business proposal and get financing to start a business.

We have a young generation that has a platform in the Information Technology (IT) industry, but it needs them to have the capacity to invest in the same. Without equating that to crypto currency, thousands of businesses can be done but we must create enough hubs across the country, so that we have enough infrastructure to support upcoming businesses.

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As I wind up, I would urge all of us that it is important that we realise that if we have to change the economic fortune of this country, we have to change the narrative of the way we have been doing things.

Mr. Speaker, sir, I support.

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

Sen. Osotsi: Thank you, Mr. Speaker, Sir, for the opportunity to also raise my voice on this Motion.

I am one of the people who are quite careful in supporting appointments made by the Kenya Kwanza Government. However, I fully support Mr. Andrew Mukite Musangi to be the Chairperson of CBK.

I know him personally. He is the son of the pioneer Vice Chancellor of Egerton University, Prof. Richard Musangi. I have known him as a very serious lawyer on commercial and insurance matters. So, he is an able person who is very experienced and knowledgeable for this position. He may not belong to the same political persuasion as some of us but I know him as a capable person, who is needed at this critical time when this country is facing economic challenges.

Mr. Speaker, Sir, the role of CBK is to provide the right fiscal and monetary policies for the economy to thrive. I think Mr. Musangi will provide the leadership that is required for CBK to achieve a sound environment for fiscal and monetary policy.

I also expect my good friend, Mr. Musangi, to take charge of the economic management of this country. It is because lately, we are seeing a situation where serious matters of management of the economy are now being discussed on social media by those who are supposed to be driving this economy. We have seen careless comments on social media by people like Mr. David Ndi. An economy cannot grow when some of these issues are being discussed carelessly like that.

We look forward to Mr. Musangi bringing sanity in CBK to those who advise the President on how the economy should run. That will enable us to have the right environment in which the economy can thrive.

One of the things Mr. Musangi can deal with, is the exchange rates. He now has a chance to ensure that we deal with the problem of the exchange rate. The exchange rate is a key economic indicator. When it is very high, it affects the performance of the economy. You cannot say that when the exchange rate is fluctuating upwards, it has nothing to do with the economy. It has every reason to do with the economy.

We are also looking forward to Mr. Musangi and his team of advisors, making sure that the economic decisions that are made, have fiscal and monetary thinking around them.

Regarding the Government-to-Government (G2G) deal, I do not think it was well thought out. If it was well thought out and motivated by the economic situation we are having, we would not be having this problem.

We look forward as Kenyans towards economic improvement guided by a strong team at the CBK led by my good friend, Mr. Andrew Mukite Musangi.

Mr. Speaker, Sir, I support this Motion. As a Kenyan, I fully support Mr. Andrew Mukite Musangi to be the Chairperson of CBK. I pray for my friend to perform better and excel in his role as the Chairperson of the CBK.

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

(Applause)

Sen. Nyamu: Thank you, Sen. Cherarkey.

Thank you, Mr. Speaker, Sir, for giving me this opportunity. I rise to support the nomination of Mr. Andrew Mukite Musangi as the Chairperson of the Board of the CBK.

As a colleague and a senior in the legal profession, Mr. Andrew Mukite Musangi has demonstrated a wide range of contributions towards national building in his resume.

As we are all aware, the President inherited a dilapidated economy. So, he will need a partner on that front to help him steer the country in the right direction. We have Mr. Andrew Mukite Musangi who has experience in law, business, public affairs management and politics. So, I have faith in him and his capacity.

Article 231 (2) of the Constitution clearly outlines the mandate of CBK to formulate and conduct monetary policy and to keep inflation within the targets of the National Treasury.

As my colleagues before me have said, he is also tasked with managing the foreign exchange reserves and to issue currencies. I wish to remind him of the huge responsibility before him. As the state of our economy and as Kenyans, we look up to him. Therefore, should he be approved by this House, we will support him and we wish him the best.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Kisang.

Sen. Kisang: Thank you, Mr. Speaker, for this opportunity. I rise to support the report by the Finance Committee to approve Mr. Andrew Mukite Musangi as the Chairperson of the CBK Board of Directors.

I have gone through the report and seen his Curriculum Vitae (CV). It is very good. From the CV, he went to Alliance High School in 1984 when I was in Form Three. He cleared Form Six in 1989. This is good. We expect him to help us and change things at the CBK.

Mr. Speaker, Sir, for the last few years, I think the policies that the CBK put in place must have had some issues. Although we have challenges with our economy now, I believe there must have been something wrong that happened during the last regime of the last Governor of CBK because the shilling went down drastically. The exchange rate between the Kenya shilling and the dollar moved from Kshs80 something to Kshs150, which has made things very difficult.

The cost of fuel is so high now. The cost of importing vehicles into the country is very high because of the exchange rate. We expect this new chair, if he is approved by Parliament, to sit down and relook at the policies that are in place at the CBK. He must ensure that the Kenyans are elevated from the current situations in the country.

Mr. Speaker, Sir, I believe he was also a Vice-Chair of the Commission for Revenue Allocation (CRA) at one stage. Therefore, he must have worked very closely with the Senate in terms of allocation and looking at the formulas to distribute resources across our counties.

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I believe, even as a lawyer, while working for CRA, he should have gained a lot of knowledge in terms of the economy and that will be useful for him. The current Governor of the Central Bank is an economist. The deputy governor is a banker and Mr. Andrew Mukite Musangi is a lawyer.

So, I believe this is a very good team that should be able to steer CBK and even tell us what happened. Why did *De La Rue* also relocate from our country? We lost a lot of employment opportunities for our youths when that particular plant closed.

Mr. Speaker, Sir, one of the things that I also want him to look into very closely if he gets approved is the morale of the employees of the CBK because it is very low. This is because there was a lot of nepotism in the last regime. He needs to rejuvenate the morale of the employees so that they can work and help them deliver the mandate that they have been given.

Mr. Speaker, Sir, on cryptocurrency or the blockchain, I think there are regulations that are supposed to have been passed a while ago. This particular sector needs to be regulated. I believe the Chair and his team should be able to come up with regulations so that Kenyans can be comfortable in trading in cryptocurrency.

Finally, I remember towards last year's election, the retired President had given an Executive Order that we raise the limit of cash withdrawals from a million to about Kshs2 million or Kshs3 million.

Mr. Speaker, Sir, up to now, the CBK has not actualised it. So, I believe and hope that as soon as this particular Chair of this Board reports, he will open up so that our people can trade easily without filling out so many forms when you go to the bank to withdraw more than a million from your account.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Kingi): Proceed, Sen. Chimera.

Sen. Chimera: Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this very important Motion. May the record reflect that I rise in support of this Motion. I take this opportunity to congratulate and thank the Committee on Finance and Budget for a job well done.

Mr. Andrew Mukite Musangi is well-known to me in person. He is a colleague in the profession and a senior for that matter. I have had a chance to work with him on a number of matters before the courts and in various capacities as transactions.

I am alive to the fact that he is a very capable man. I pray that he comes on board to sort out our issues with regard to the fiscal and monetary policy that this country is facing currently.

I also wish to underscore the fact that his nomination is indeed a very spot-on and not to cast aspersions on other nominations that the Kenya Kwanza Government has actually done in the past.

This is a person who has extreme capacities. He is extremely brilliant. I have looked at his resume. He is an expert in banking and finance law. Therefore, that is the person we need in this current dispensation.

Mr. Speaker, Sir, I just want to take a few minutes to urge Kenyans at large to allow the Government of the day to fix the economy. We cannot afford to continue trivialising and politicising our economy. The economy is in bad shape and that is a hard

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core fact. I know my friend Mr. Andrew Mukite Musangi is alive to this fact. He is up to the task and his work is well cut out for him.

I wish him all the best. He knows what he needs to do in terms of stabilising the dollar and easing the pressure on the Kenya shillings. We want him to address many other issues that my colleagues have spoken about like the cryptocurrency and the issue of opening up our cash deposits rule. This is the only way the economy can be opened and Kenyans be able to trade freely in a much wider capacity.

Thank you, Mr. Speaker, Sir. I support the nomination.

The Speaker (Hon. Kingi): Proceed, Sen. Gataya Mo Fire.

Sen. Gataya Mo Fire: Mr. Speaker, Sir, I am very sure that His Excellency the President means well for this country and that is why he is bringing the very best brains that we have in this country.

I have personally never interacted with Mr. Andrew Mukite Musangi. However, I have listened to quite a number of attributes that have been hyped upon him by those that have worked closely with him, including Sen. Chimera. With those kinds of arrangements, Kenya will be economically stable. We have seen other sectors where His Excellency the President has picked the very best. I am sure in the next few months we will not experience the kind of escalations that we are experiencing currently.

I support and wish Hon. Musangi the very best as the Chairman of the Board at CBK.

Sen. Miraj: Asante, Bw. Spika. Nasimama kuunga mkono uteuzi wa Mwenyekiti wa Benki Kuu ya Kenya. Namtaka kila la kheri katika kazi yake. Ijapokuwa sijaweza kutangamana naye mahali popote wala kushirikiana katika kazi zozote za kiofisi nimewasikia wenzangu wakizungumza juu ya uzuri wake katika zile sehemu za kazi ambazo amefanya.

Nauunga uteuzi huo kama Seneta kutoka Kaunti ya Mombasa.

Sen. Wafula: Asante, Bw. Spika, kwa kunipa nafasi hii. Ningependa kujiunga na Maseneta wenzangu kukubali au kutia sahihi uteuzi wa Wakili Musangi kuwa Mwenyekiti wa Benki Kuu ya nchi ya Kenya. Mimi kama Seneta wa Kaunti ya Bungoma ninatia kidole cha ndio kwa sababu Musangi ni mzaliwa wa Kaunti ya Bungoma. Vile vile mwanabondia shupavu Bw. Wanyonyi, mwanariadha Bw. Ferdinand Wanyonyi, Bw. Chebukati na watu wengi wote wazuri wanatoka Kaunti ya Bungoma.

Waswahili husema chema chajiuza na kibaya chajitembeza. Wengi wamezungumza hapa sifa za Bw. Musangi na ni kweli chema chajiuza. Sitaki kumsahau Daktari Papa wa Roma Spika wa Bunge la Kitaifa ambaye pia ametoka Kaunti ya Bungoma.

Jambo la muhimu ni kuwa na msingi wa sera, sheria, mikakati falsafa za kiuchumi na kuhakikisha kwamba nchi ya Kenya inarejelea hadhi yake kimataifa katika mchakato wa uchumi wa kimataifa.

Sina budi kutia sahihi na kusema kwamba Mhe. Rais na Bunge limefanya jambo muhimu kumchagua kijana msomi kutoka Bungoma kuwakilisha Serikali katika Benki Kuu na kuhakikisha kwamba mchakato wa chini juu unatimizwa katika awamu ya miaka tano ya Serikali ya Kenya Kwanza.

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Kwa hayo machache nashukuru kwa nafasi hii. Namtakia Bw. Musangi kila la kheri kwenye uchapa kazi wake katika Benki Kuu ya Kenya.

Asante, Bw. Spika.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I also rise to support this Motion on the nomination of Mr. Andrew Musangi Mukite. I want to thank the President because we have been having an issue where many people have been telling the President that the Kenya Kwanza Government does not have the face of Kenya.

I am happy today because if you look at the person who has been nominated to the Chairperson of the CBK Board, he is a Kenyan. We need to note that the Government is doing its best, especially the President, in ensuring that there is the face of Kenya in appointments.

Secondly, I am happy because Mr. Musangi has shown that you can work in this country, rise up in your career ladder and be intact with integrity. Nowadays to get somebody with integrity in this country is very hard. I want to congratulate him because it costs tenacity, commitment and ensuring that you maintain integrity is very important. Therefore, I want to laud the Committee of Finance and Budget chaired by the able Sen. Ali Roba for the wonderful job they have done.

As a country, we should reward integrity. The only way to follow President Ruto's "*mambo ni matatu*" in the fight against corruption is to reward integrity. If we reward integrity of people like Mr. Musangi corruption will die a natural death and it will be as rare as a snowball in hell.

Under Article 231 of the Constitution of Kenya, the role of the CBK role is very clear. The work of CBK is to ensure economic stability, stable forex exchange, macro economy and the bank of the Government.

Mr. Musangi, Governor of the CBK together with the advisors of the President, the task on your shoulders is very huge. This country is going through challenges.

I want to confirm to the nation that when President William Ruto took oath on 13th September, 2022, which is one year ago, this economy was in the Intensive Care Unit (ICU). I am happy to report to the country that the economy is now in the High Dependency Unity (HDU) and is headed to the general ward for full recovery. The prosperity we saw in the Kibaki era is going to come in the next one or two years. I want to urge Kenyans to be patient and allow the President to stabilize the economy.

The President is in New York under the United Nations General Assembly. He has ensured he is talking to each and every person that matters in this world to ensure at least good things come to this country.

On forex exchange, I know the cost of fuel is rising because the dollar has gained strength. That is basic economics. I am not an economist, but any person will know that it is because of the strength of the dollar. There are allegations that in the previous regime bribery was being received in dollars and that is what has caused dollar shortage. This has affected and weakened the shilling.

Mr. Musangi should ensure there is forex exchange stability because of high price of fuel and the high cost of living. On the issue of public debt. I was talking to a financial expert and I want to thank the Parliamentary Budget Office (PBO) through the Clerk. When the shilling becomes weak, the public debt goes up because we pay in

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dollars. If this House has been following, one of the biggest agenda of President William Ruto outside climate change, is on the fair financial justice.

I am happy when I watch President Kagame of Rwanda; we wish him well as he seeks his fourth term. He said yesterday that he does not care what the West thinks. He spoke about two things as he was addressing UN General Assembly in New York. He talked about climate change and also about fairness of international financial institutions. Why should a developing country like Kenya pay more than a country which is in the first world such as Canada and others?

I want to thank the President because he is pushing African Nations to rally behind him and stand for fairness in financial systems from the World Bank and Bretton Woods institutions because this will assist us in getting fairness and justice.

The position of Government has not been to dismiss anybody through *Twitter* or look down upon Kenyans. This Government was formed to fix the economic mess that was there.

We want to ask the country to be patient because when the dollar stabilizes the cost of fuel will come down, especially from January and as we approach winter in parts of America and other places. As you are aware, there is war in Ukraine and Russia which has also greatly affected the supply of oil.

I want to tell the country because we are truthful men that Kenya does not produce fuel. That is a fact. Secondly, I want to challenge the Committee on Energy - I heard Sen. Wamatinga talking – going to find out what happened to the Tullow Oil in Turkana County. What are we supposed to do?

Mr. Speaker, Sir, the oil producing countries under Organization of Oil Exporting Countries (OPEC) decided to sit down and cut the supply of oil into the market yet the demand is still very high. The same thing happened during COVID-19 pandemic. That is the challenge we are still talking about.

The fourth point is on giving facts on public debt. Mr. Musangi should be aware of Article 125 of the Constitution. He should note that Parliament is not the National Assembly, but the National Assembly and the Senate. When called upon to appear before the Senate Committee on Finance and Budget chaired by Sen. Ali Roba, he should be ready.

We are not interested in fighting with the National Assembly. The fights are fruitless. The National Assembly indicated that they want to be the only ones approving such appointments. This is why they rejected our amendments. I hope we will send strong men and women of the Senate to the Mediation Committee to talk sense to Members of National Assembly, that public debt is a concern of all Kenyans. Unless they are telling us that there are no Kenyans in counties. The 47 county governments form one nation, one people, under God.

I also want to raise the issue of withdrawals from banks. I heard Sen. Kisang from Elgeyo Marakwet talk about Kshs1 million as the limit. Nowadays, withdrawing Kshs1 million will involve explaining the number of cows you have sold and other businesses you have engaged in to raise the it. While we appreciate that the limit is important to curb money laundering, we must be realistic.

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Why not raise the limit to Kshs20 million? If you withdraw Kshs5 million, you will need several clearances. Mr. Musangi who we have given blessings should allow us to withdraw up to Kshs20 million. A sum of Kshs1 million is not enough; it is not even enough to buy one or two 'slay queens' in this town. The cost of living is high.

Finally, I agree with the report of the Committee and wish Mr. Musangi well. For the first time, we are rewarding integrity. As a result, we will wind up corruption. Allow me to end my submissions because of the task ahead of us. I congratulate the Committee and support the Motion.

The Speaker (Hon. Kingi): Thank you. Hon. Members, as you are aware, we have a kamukunji. Therefore, at this juncture, I will call upon the Mover to reply.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I take this opportunity to reply. I thank all the colleagues who have contributed to this Motion on adoption of the report of the Committee on Finance and Budget on the nominee to Chair the CBK Board led by Sen. (Dr.) Khalwale who seconded this Motion. I appreciate all the other Senators; Sen. Thang'wa, Sen. Olekina, Sen. Miraj, Sen. Nyamu, Sen. Wafula, Sen. Gataya Mo Fire, Sen. Chimera, Sen. Kisang', Sen. Osostsi and finally Sen. Cherarkey.

I have heard the concerns that you have raised. Mr. Musangi comes from a humble background which is an indication that anyone can hold any office in this country, it does not matter where you come from. He has 28 years' experience in governance and leadership within different cooperate sectors that have had high value. This is a man who has built up his wealth. He is worth over Kshs1 billion. How he has grown his empire is great.

Debate on the Motion have ranged from the economy, the currency and the dollar rate. I believe that Mr. Musangi working with other colleagues in CBK, the Governor and Madam Susan Koech the Deputy Governor, they will make changes and improve the economy of this country. They will advise accordingly on matters finance and the economy in this nation.

I would like to finish by acknowledging that His Excellency the President has appointed a man who is competent, eloquent and understands his role. This is an indication that anybody from any region or tribe can hold a position in this country. It is also a clear indication that there are diverse opportunities in this country.

We were keen to ask question on fraudulent bank withdrawals during the vetting process. The leadership of the CBK and the new Chairperson of the board will make sure that Kenyans' money is safe. The issues we have seen on the fraudulent withdrawals will be dealt with and measures will be put.

We have 42 banks in this country. They are more than enough. They should offer Kenyans what they need in terms of economic support and financial support for entrepreneurs.

Mr. Speakers, I beg to reply.

The Speaker (Hon. Kingi): Hon. Senators, this matter does not concern counties. Therefore, voting shall be by voice. I proceed to put the question.

(Question put and agreed to)

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The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, what is your point of order?

**MOTION OF ADJOURNMENT UNDER
STANDING ORDER NO. 35**

SENATE SITTINGS IN TURKANA COUNTY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise under Standing Order No.35 to Move-

That the Senate do now adjourn, for the reason that the Senate anticipates to hold sittings outside Nairobi, specifically in Turkana County. I request that we adjourn to allow us to do the necessary housekeeping and preparations to enable us travel to Turkana.

I request Sen. Chimera, to second.

Sen. Chimera: Mr. Speaker, Sir, I second.

(Question proposed)

The Speaker (Hon. Kingi): I do not see any Member interested in debating that Motion. Therefore, I will straight away proceed to put the Question.

(Question put and agreed to)

(The Clerk-at-the-Table consulted the Chair)

Let the hon. Senators be upstanding.

ADJOURNMENT

The Speaker (Hon. Kingi): The Senate, therefore, stands adjourned until Tuesday, 26th September, 2023, at 2.30 p.m. at the Turkana County Assembly Chamber in Lodwar, Turkana County.

The Senate rose at 5.11 p.m.