

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 2<sup>nd</sup> May, 2023**

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.33 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 Clerk-at-the Table consulted with the Speaker)*

**The Speaker** (Hon. Kingi): Serjeant-at-Arms, I am informed that we now have Quorum. Kindly, stop ringing the Bell.

Clerk, please, proceed to call the first Order.

### COMMUNICATION FROM THE CHAIR

#### ABSENCE OF MOVERS OF BUSINESS SCHEDULED IN THE ORDER PAPER

**The Speaker** (Hon. Kingi): Hon. Senators, Standing Order Nos.43, 44 and 45, provide for the preparation, publication and circulation of the Senate Order Paper, the weekly programme of the Senate Business as well as the sequence in which the Business shall be disposed of.

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The Office of the Clerk prepares the Order Paper and publishes it in the Parliamentary website and circulates to all Senators *via* other electronic means on the eve of the Sitting. This is done so as to, *inter-alia*, allow Senators with Business on the Order Paper to prepare adequately.

Hon. Senators, in the past few weeks, there have been several cases where Senators are not in the Chamber to prosecute the Businesses, including Statements, Bills, Motions and Amendments to Bills.

This situation has made it necessary for the Chair to defer such Business, thereby inconveniencing fellow Senators. This action has led to some Business clogging the Order Paper with a number of Statements, Motions and Bills being a permanent feature in the Order Paper.

This matter was deliberated upon at a meeting of the Senate Business Committee (SBC) held Today, 2<sup>nd</sup> May, 2023. The Committee observed with concern that incidents of lack of Movers have become more frequent and persistent. This state of affairs has the potential of derailing the legislative mandate of the Senate. The Committee urged that I make a Communication on this matter today.

Hon. Senators, Standing Orders No.256 states as follow:

“A Senator intending to travel outside Kenya whether in an official or private capacity, shall give to the Speaker a written notice to that effect, indicating

- (a) The destination intended to be visited.
- (b) The dates of the intended travel and period of absence from Kenya.
- (c) The email, telephone contact, postal or physical address of the Senator during the period of absence from Kenya.”

It should also be noted that under Article 103(1)(b) of the Constitution, the office of a Member of Parliament (MP), becomes vacant if during any Session of Parliament, the Member is absent from eight Sittings of the relevant House without permission in writing from Speaker; and is unable to offer satisfactory explanation for the absence to the relevant Committee.

Going forward, failure to adhere to these provisions will result in the application of Standing Order No.64(3) which states as follows:

“Where no Senator moves a Motion and indeed any other business belonging to that Senator at the time specified by or under these Standing Orders, such Motions shall not be published again in the Order Paper during the same session, except where the leave of Speaker is sought.”

Hon. Senators, I urge all Senators to observe the provisions of the affirmation Standing Orders and ensure they are available in the House to prosecute the Business as scheduled on the Order Paper.

Movers of amendments to Bills, who will not be in the Chamber at the required time, shall also be subjected to the provisions of the Standing Order No.64(3), translating to the amendments being dropped and consideration of the Bill shall proceed without amendments.

Kindly, be guided accordingly.

Thank you.  
Clerk, proceed to read the next Order.

### PAPERS LAID

**The Speaker** (Hon. Kingi): Sen. Kathuri was supposed to lay a Paper. I do not know whether he has indicated this to the Senate Majority Leader.

#### REPORT OF THE 146<sup>TH</sup> ASSEMBLY OF IPU AND RELATED MEETINGS

*(Sen. Kathuri was not in the Chamber)*

*(Laying of the Paper deferred)*

Deputy Senate Majority Leader, please, proceed to lay the Papers.

#### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, Today, 2nd May, 2023-

Report of the Auditor-General on the Financial Statement of the County Executive of Vihiga for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Vihiga for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Vihiga County Assembly Members and Staff Mortgage and Car Loans Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Mandera for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Mandera for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Mandera – Receiver of Revenue for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Mandera – County Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Elwak Municipality in the County Government of Mandera for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of Mandera Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Mandera County Education Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Lamu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Lamu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Lamu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Lamu – Receiver of Revenue for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Revenue Fund of the County Government of Lamu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Lamu County Gender and Social Development Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Municipality of Lamu for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Lamu County Emergency for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Lamu County Fisheries Development Agency for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Tana River for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Tana River for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Tana River County Disaster Risk Management Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Tana River County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Tana River County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Tana River - County Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Garissa - County Revenue Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Garissa County Revolving Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Government of Garissa - Receiver of Revenue – Revenue Statements for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Executive of Siaya for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Assembly of Siaya for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Siaya County Education Bursary Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Wajir County Climate Change Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the County Revenue Fund of the County Government of Wajir for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Wajir County Disability Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kisumu County COVID-19 Emergency Response Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kisumu County Car Loan and Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kericho County Emergency Fund for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statement of the Kericho County Enterprise Fund for the year ended 30<sup>th</sup> June, 2022.

The report of the Auditor-General on the financial statements of Garissa County Revolving Fund for the year ended 30<sup>th</sup> June, 2021.

*(Sen. (Dr.) Lelegwe Ltumbesi laid the documents on the Table)*

**The Speaker** (Hon. Kingi): Sen. Kathuri, you are supposed to lay a Paper. Kindly proceed if you are ready.

**Sen. Kathuri:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today 2<sup>nd</sup> May, 2023-

REPORT OF THE 146<sup>TH</sup> ASSEMBLY OF THE IPU  
AND RELATED MEETINGS

Report of the 146<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Manama, Kingdom of Bahrain, from 11<sup>th</sup> to 15<sup>th</sup> March, 2023.

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

Next order, Clerk.

**NOTICE OF MOTION**NOTING OF THE REPORT OF THE 146<sup>TH</sup> ASSEMBLY  
OF THE IPU AND RELATED MEETINGS

**Sen. Kathuri:** Mr. Speaker, Sir, I beg to give notice of the following Motion-  
THAT, the Senate notes the Report of the 146<sup>th</sup> Assembly of the IPU and Related Meetings, held in Manama, Kingdom of Bahrain, from 11<sup>th</sup> to 15<sup>th</sup> March, 2023, laid on the Table of the Senate on Tuesday 2<sup>nd</sup> May, 2023.

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

**STATEMENTS**THE GOOD PERFORMANCE BY KENYAN ATHLETES  
IN THE LONDON AND BOSTON MARATHONS

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No. 52(1), to make a Statement on an issue of general topical concern and national importance, namely: the good performance posted by our gallant athletes in both the London and Boston marathons.

Mr. Speaker, Sir, on Sunday, 23<sup>rd</sup> April, 2023, we witnessed a superb performance by our athletes at the Tata Consultancy Services (TCS) London Marathon which saw Kelvin Kiptum become the second-fastest marathon runner of all time by knocking 12 seconds off the previous course record held by fellow Kenyan, Eliud Kipchoge, and also breaking the course record by clocking 2:01:25.

Kiptum won the men's race by almost three minutes ahead of his compatriot, Geoffrey Kamworor, who clocked 2:04:23. It is worth noting that Eliud Kipchoge holds the World Marathon record at 2:01:09, set at the Berlin Marathon in German.

In the Women's Marathon, Sifan Hassan of the Netherlands came first, clocking 2:18:33, while Kenya's Olympic champion, Peres Jepchirchir, finished third.

Mr. Speaker, Sir, on 17<sup>th</sup> April 2023, Evans Chebet became the first athlete to win back-to-back in Boston in 15 years when he won the 127<sup>th</sup> Boston Marathon by clocking 2:05:54 and defending his 2022 title.

In the same marathon, Hellen Obiri, a two-time Olympic silver medalist in the 5,000 meters, won the women's Marathon, finishing at 2:21:38 to complete the Kenyan sweep at the Boston Marathon in America.

This sterling performance by our athletes has sent a serious warning to our competitors and the world at large that Kenya is still a force to reckon with and home of athletics. Further, the record currently held by Eliud Kipchoge might soon be broken by homegrown upcoming athletes.

I wish to call upon our athletes, as I have reiterated on the Floor of the House before, to remain clean and dedicated to their careers by avoiding the doping menace that

is rattling the sports fraternity in the country. It has also dented the image of the athletes and that of the country at large.

Mr. Speaker, Sir, I will not relent in calling upon the Ministry of Sports, Culture and Arts, Athletics Kenya, National Olympic Committee of Kenya (NOCK) and all the relevant authorities to ensure that the affairs of our athletes, including finances, taxation and rewards, are well-structured to enable them to grow and remain motivated at all times.

In conclusion, on behalf of the great people of Kenya and Nandi, where a number of athletes hail from, the source of champions, I congratulate them and wish them well. I assure them of our commitment and support, at all times, as they continue to fly high the flag of our great nation in the sports arena.

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1) by Sen. Mundigi.

#### DESTRUCTION OF CROPS BY WILDLIFE IN EMBU COUNTY

**Sen. Mundigi:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the destruction of crops by elephants from the Mwea National Reserve in Embu County.

In the Statement, the Committee should-

(1) Explain the measures being taken to contain elephants that have been roaming within the farmlands of Machang'a Village near Kamburu Dam in Mavuria Ward, Mbeere South Constituency, Embu County.

(2) State whether there will be any compensation for farmers around the reserves neighbouring Makima and Mavuria Wards whose crops have been destroyed as a result of the elephants' invasion.

(3) Explain the extent of the damages caused as well as future remedies to curb such occurrences.

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

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The Statement by the Senator for Nandi cannot go unsupported. This is a matter of growth and national importance---

**The Speaker** (Hon. Kingi): Sen. (Dr.) Khalwale, Statements under Standing Order No.52(1) do not attract comments.

**Sen. (Dr.) Khalwale:** I beg your pardon. I thought it was Standing Order No.53(1).

**The Speaker** (Hon. Kingi): That is why I could not allow any Senator to make comments.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I am guided.

**The Speaker** (Hon. Kingi): Thank you. Proceed, Sen. Mungatana.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, thank you for giving me this opportunity to rise in support of the Statement by Sen. Mundigi on the menace of elephants.

This problem is not only in Embu County. So, I would argue the Committee to look at it from a wider perspective. Elephants are romping freely. They are entering many farmlands in Tana River County.

As I speak, people have sacrificed a lot to get seeds and to put them on the ground, yet the elephants are moving all over the farms.

They are taking people back to a state of poverty when they were expecting that they would have food security. There is a serious menace of elephants, not only in the Tana River delta where Garsen Constituency is, but also in Galole Constituency. Maybe it is time that the Committee explored the possibility of returning the elephant culling in Kenya. We should have seasonal culling of these elephants. The elephants have become so bad that people are just tired of them. In the past when we shouted and gestured at them, they would run away. However, these elephants of today still come for you even if you sing those traditional songs for them.

It is time we allowed a change of Government to enable official culling of elephants. I hope the Kenya Wildlife Services (KWS) is listening to us. We are tired of their animals. They are of no benefit to us in Tana River County. We are completely tired of them. Come, pick them and take them to your parks. May the Committee make a very strong recommendation because we do not want these elephants in our county at all.

I join Sen. Munyi Mundigi in asking the Government to chase away these elephants back to the parks or we just ask for seasonal culling like they do in other countries.

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Cheruiyot.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I can understand the frustration of my good friend Sen. Mungatana. He is not a man that easily gets worked up, but if you see him in the mood and position that he has taken on this matter, then it tells you that for sure there is a problem. I was getting scared because growing up we knew him as the crocodile eater. So, when he was threatening the elephants, I did not think that he would say that he was going to chase them away. I feared he would say that he was about to turn them into delicacies; then we would be very afraid for them.

Mr. Speaker, Sir, if you read through the UDA manifesto, commonly referred to as the plan, the Bottom-Up Economic Model, we went around the country and got views from the residents of each county on what were the key priority areas and what they wanted the Government to address.

We listed down the challenges that are faced by citizens in each of the 47 counties. This topic that Sen. Munyi Mundigi featured prominently when we listened to the citizens of this country in Embu, Tana River, Kitui, Kajiado counties and various parts of the country.

In regard to human-wildlife conflict; the proposal that we gave - and perhaps that is why the people of Kenya are agreed with us and voted in this administration - was that we were going to change the model of compensation.



I do not wish to make light of the Statement by Sen. Munyi Mundigi because he is canvassing a very important point on the destruction of crops, but sometimes it even gets to a point where a human life is lost.

The unfortunate thing is that you will find that the KWS is now compensating people for incidents which occurred in 2014. So, those Kenyans who were involved in human/wildlife conflict and lost their lives from 2015 onwards, none of them have been paid. This topic features prominently together with crops.

We gave a proposal that KWS should partner together with the management of the various parks, the county governments, and the national Government to develop an insurance package for both farmers and human beings.

This was to ensure that in the course of your interaction with wildlife, if animals destroy your crops, if you are harmed, or unfortunately, you lose your life, there would be an insurance bond to ensure people are paid so that the KWS remains careful. They would then again use the proceeds of the bond to ensure that this menace does not permeate in our society.

Mr. Speaker, Sir, as the Committee responds to the very grave concerns that have been raised by Sen. Munyi Mundigi, I request if they could also ask the KWS management, the Ministry of Tourism and Wildlife and State department, how far they have gone with this particular programme? We want farmers, not only in Embu, but in other parts of the county to rest easy knowing that KWS or the managers of private animal sanctuaries will be held accountable anytime their animals destroy either crops or human life?

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Dullo.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I would like to support the Statement by Senator for Embu. I understand why your Senator for Tana River is angry with the KWS. I have a similar situation in my own county.

Two days ago, there was a young man who was attacked by a crocodile. He is suffering in Isiolo General Hospital. KWS have not even attempted to go and look at that boy or write a statement. Things are very bad. KWS values wildlife more than human life.

As the Senate Majority Leader has said, there are so many people who have lost their lives because of attacks from elephants, buffalos, lions or snakes. Unfortunately, no compensation has been paid.

The KWS is supposed to compensate for crops destroyed by wildlife, but nothing is happening on the ground. These are people who have put their lives on the line to put something together for their livelihood, but KWS is doing nothing.

In my county, KWS is busy abducting individuals in the name of poachers without even caring about those who have lost their lives. The Committee needs to look at this matter very seriously and summon KWS directly to come and explain to us what is happening with the department.

I remember we had a meeting with the former director of the KWS who was removed, to discuss gaps within legislation, policies and several other areas where we

thought the KWS should improve; so that Kenyans can value wildlife *vis-a-vis* the revenue collected from KWS through tourism. I wish the Committee can look into this matter seriously and come up with a better solution.

I thank you.

**Sen. Kathuri:** Thank you, Mr. Speaker, Sir. I want to make a brief comment on the Statement by my friend Sen. Munyi Mundigi. This problem has escalated in the last 15 years. There is no budgetary allocation for the compensation of the destroyed crops and people killed by wildlife.

Three months ago, there was an exodus of elephants from Isiolo County. I thought these elephants belonged to Sen. Dullo. I have just been informed today by Sen. Mungatana that they belong to the KWS. I was going to lead a mass movement to drive them back to Isiolo County.

We have a lot of challenges. I would urge the Committee responsible to discuss this matter with the Cabinet Secretary (CS) concerned. We need to hit the nail on the head and allocate resources, especially for compensation.

When I met the KWS director three weeks ago, he mentioned that they needed about Kshs3 billion to clear claims up to date. I cannot see the responsible Committee Chair, the youngest Senator, but Sen. Munyi Mundigi once you are invited to the Committee make sure there is budgetary allocation so that farmers and those who were killed or sustained partial injuries are compensated.

The Senator for Tana River County and other Senators have a big challenge because of the snakebites. I participated in the enactment Wildlife Management and Compensation Act, 2016, when I served in the Environment and Natural Resources Committee in the National Assembly. We removed snakebites as a part of human wildlife conflict.

This should be relooked into because sometimes you sleep in a house in Makueni, Mwingi or Tharaka and these crawling animals come and bite you. At the time, as a Committee, we thought snakes do not belong to KWS.

Most importantly, for the Committee should note that this is a national problem. This then can be handled holistically and not only targeting Embu County, but the whole country.

**The Speaker** (Hon. Kingi): We move to the next Statement by Sen. Crystal Asige.

#### MANAGEMENT AND COLLECTION OF MUSIC ROYALTIES IN KENYA

**Sen. Crystal Asige:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 53 (1) to seek a Statement from the Standing Committee on Labour and Social Welfare concerning the operations of Music Copyrights Society of Kenya (MCSK), Performer Rights Society of Kenya (PRISK), the Kenya Association of Music Producers (KAMP) and the Kenya Copyright Board (KECOBO) on the management of music royalties, collection and distribution to their membership.

In the Statement, the Committee should-

(1) Provide a detailed breakdown of monies collected as royalties on behalf of musicians in the last five fiscal years, including information on the sources of revenue and the specific amounts collected.

(2) Confirm whether the organisations distributed at least 70 per cent of the collected royalties to their members as mandated by their governing rules, tabling comprehensive statements of account for the last five years that demonstrate this distribution.

(3) Apprise the Senate on existing mechanisms that allow for independent auditing of financial records of MCSK, PRISK and KAMP to ensure transparency and accurate distribution of royalties.

(4) State measures, if any, that KECOBO has put in place to ensure that MCSK, PRISK and KAMP are operating with valid licenses, confirming the status of these licenses, if any.

(5) Lastly, cause investigations on concerns from songwriters, musicians, producers, and other creative artists on the state of their interests not being properly served despite being members of the aforementioned. Disclosing plans, if any, to ringfence their earning across various platforms and improve communication with members to address these concerns.

Thank you.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise to support the Statement by Sen. Crystal Asige.

Paying royalties to our musicians is important. Majority of young people depend on the music and entertainment industry. This industry employs many youths. In July 2021, the MCSK distributed more than Kshs22 million while musicians still make earnings of Kshs2,500 which is unfortunate. When you board a matatu, music from the Kenyan artists is playing.

During weekends, such as the long one we had, the *Kapuka* genre, *ghetto music* and the other genres we listen to, the artists are not paid properly. The *Skiza* tunes by Safaricom must be relooked.

There is a famous song that is played in most of the entertainment joints called, '*enda usikie vibaya huko kwenu*' by Ssaruru and Fathermoh. We do not want to tell that to our young people. We must stand with them and the royalties must be relooked.

MCSK harass people even though they have law on their side. For example, majority of the secular and gospel artists from my community come from the South Rift where Sen. Cheruiyot comes from.

They are famous after their songs were used in political campaigns, in clubs and to win and convert souls to the kingdom of God unlike the Shakahola massacre. However, when you go to their homes, this does not reflect.

We must relook at this because the music and entertainment industry is the greatest employer of young people in this city. There are others who use the music in moderation, both in gospel and secular world. This is the right time to hold some of these

organisations accountable. Most of the songs are being used to promote clubs, soft and hard drinks and in promotional messages.

We must also look into the digital aspect. When some of the people post their pictures and politicians are guilty of this, they use these songs as the soundtracks and do not pay for the use. We must relook and ensure young people earn. Let us stand with young people and stop telling them: *‘Enda usikie vibaya huko kwenu’*.

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I would also like to support this Statement and seek for further clarity. What the Senator is speaking to is an important aspect of intellectual property. Intellectual property can either be at an individual or community level

I would like the Statement to clarify the nexus. How do they compensate communities from which artists plagiarize their songs and then the songs become hits? Then the artists, however, little get out of it, nothing reaches the community.

The biggest culprit is my community. Many of my community songs have become hits and the community gets nothing.

I heard for many months *“lero, lero, lero lero ni lero”*

*(Laughter)*

Mr. Speaker, Sir, the intellectual property of that song is for the community. You have heard of *Mwanamberi*, the intellectual property is the community. Nonetheless, Them Mushrooms have been enjoying from this.

This is something we should think seriously about it. So that, we place the right of the community where it belongs. It did not just happen. Many days ago, a brilliant person must have come up with this song. However, because he passed on, that recognition should be there.

Finally, we have great musicians who pass on. We should be told how families access whatever benefits that accrue long after Jacob Luseno and François Luambo Luanzo Makiadi is gone.

Television stations are using these as promotional songs and make millions of money and nobody takes an account to find out.

I know my young “daughter” here is a great musician. Not many of you might be knowing this. I was more comfortable with you when you were at *“Sauti Sol”* than when you are in the Senate. Not because of the comparable performance, but because you have an impossible voice, a good voice. Intellectual property should be respected.

**The Speaker** (Hon. Kingi): Sen. Orwoba, proceed.

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir, for this opportunity. I support Sen. Crystal Asige’s Statement on copyrights and benefits for artists. Before that, allow me to correct Sen. (Dr.) Khalwale. Sen. Crystal Asige is not a member of the Sauti Sol band. Sen. Crystal Asige is Crystal Asige as a musician. Sauti Sol had an opportunity to work with her and that is how some of her things were seen.

Mr. Speaker, Sir, I come from that world; I was a producer in the past. I produced a musical in 2012 for the Ministry of Tourism, Wildlife and Heritage. We paid a lot of money for the copyrights to the international collecting agency in Amsterdam, Netherlands. When we came back, the local artists were trying to sue our production company because they did not receive the rights.

The MCSK and all these other collecting agencies are not being honest with artists in Kenya. They have been given the mandate to collect the copyrights and the money for the artists, yet they are not remitting to the artists what belongs to them. For a long time, this has been a conversation around the industry. However, I believe it is also because the legislators do not understand what it means to earn as a musician.

I motivate Sen. Crystal Asige because she comes from that background to ensure that she pushes on this agenda because consumers of music are paying a lot of money, but it is not remitted to the artist.

I rise to support this Statement.

For purposes of record and to Sen. (Dr.) Khalwale, Sen. Crystal Asige has actually been in the industry way longer than Sauti Sol. That should be noted.

**The Speaker** (Hon. Kingi): We move to the next Statement by Sen. Kibwana.

#### ALLEGATIONS OF SHORTAGE OF OXYGEN IN EMERGENCY CARE FACILITIES IN THE COUNTRY

**Sen. Kibwana:** Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health concerning claims of shortage of oxygen in Kenya's Emergency Care Facilities.

In the Statement, the Committee should-

(1) Shed light on reports that over 30 per cent of emergency care centres in the country do not have regular supply of oxygen and that close to 90 per cent of those with oxygen do not have piped oxygen in the emergency department or that which is delivered directly from the tanks to the patient.

(2) Provide the estimated cost of providing adequate oxygen supply to all public hospitals and emergency care facilities in the country.

(3) State the amount of funds used to purchase refill of compressed and cryogenic oxygen, acquisition of tanks and cylinders, installation of high-volume Pressure Swing Absorption (PSA) oxygen generation plants and piping and installation of manifolds as well as oxygen outlets to health facilities, stating the specific numbers purchased in the last five years.

(4) Probe these claims of shortage of oxygen, stating tangible actions that can be taken to expand access to medical liquid oxygen over the long term and recommend interventions to permanently respond to this dire state of health in emergency care in the country.

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

**Sen. Chute:** Mr. Speaker, Sir, in support of Sen. Kibwana's Statement, I believe she has forgotten something. She is talking about only 30 per cent of hospitals or

emergency centres who do not have oxygen plants or pipes. In our rural areas, almost 90 per cent of the facilities, specifically in Marsabit County, have no oxygen facilities.

During the COVID-19 pandemic, we lost so many people; not because they were sick, but because there was not enough oxygen both piped and cylinders. I remember that some time back, I lost a very good friend of mine, former Sergeant in the Kenya Defence Forces, Aden Oda. He died between Laisamis and Archers Post. The reason is that, they had only one oxygen cylinder, which was exhausted before they reached Isiolo County Referral Hospital; the next hospital with those facilities. Unfortunately, he lost his life.

Mr. Speaker, Sir, in Marsabit County, we have a plant she is referring to called PSA oxygen generation plants. This has been there for the last three years. The problem is we do not even have experts to fix those plants or operate them. This is very unfortunate. Apart from Isiolo County Referral Hospital, the next centre you will find oxygen is in Meru County or Nanyuki. Sen. Kibwana has raised this very serious issue.

I support this statement.

I urge the committee to look into all the 47 counties; what facilities are there, what is not there and what can be done. This is a very serious issue. You cannot lose your life because oxygen cylinders or facilities are not there.

I support Sen. Hamida's Statement.

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

**Sen. Kisang:** Mr. Speaker, Sir, I wish to make some comments on this one although I wanted to make on the earlier one.

I remember during the COVID-19 pandemic, we had many issues. We did not know that oxygen was really something that we needed. During that time, I remember counties were given resources to set up Intensive Care Units (ICUs) and oxygen plants.

It is important we ensure that each of our referral county hospitals have oxygen plants. It is not very difficult to put up an oxygen plant and do piping in all the wards where our patients require oxygen. We can put conditional resources when we are allocating resources to the counties so that most of our emergency facilities in the counties have oxygen. This is an essential and a priority.

Mr. Speaker, Sir, I agree with the Senator that we need to do something urgently. We can set time aside to audit and ensure that the Governors and the Executives at the counties comply so that we have oxygen. National referral hospitals such as the Kenyatta National Hospital, Mama Lucy Kibaki Hospital, Kenyatta University Teaching and Referral Hospital and Moi Teaching and Referral Hospital (MTRH) in Uasin Gishu County should have enough oxygen.

In some cases, patients are referred from the referral hospitals to private hospitals because they do not have enough oxygen.

This is a good Statement that we need to look into. The Committee needs to report back to the house so that we know the actual status.

I hope that in the next financial year, we can give conditional resources as a grant to put up oxygen plants in the counties. I am happy to report that I was in my county

referral hospital recently and they have already put up a plant. I believe that in the next few weeks, the Iten County Referral Hospital will have oxygen in all the wards.

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

**Sen. Okenyuri:** Mr. Speaker, Sir, I support the Statement by Sen. Kibwana.

While taking note of the initiatives that the Kenya Kwanza Government is taking to sort out these issues, some weeks back, I saw the President flagging off some oxygen cylinders to counties in a bid to sort out the shortage of oxygen cylinders.

I also want to bring to the attention of Members that as Sen. Kisang has said, during the COVID-19 period, we saw counties rushing to set up centres that were to provide different hospital facilities with oxygen. In fact, the county of Sen. (Dr.) Khalwale set aside Kshs100 million for purchasing oxygen cylinders and other facilities in relation to that.

The media highlighted that as they usually do. As sad as it is today, none of those have actually come to actualization. We only read statistics on our newspapers that patients are lacking oxygen, which is very critical, especially to terminally ill patients, children and many people at the bottom who we represent in this House.

Mr. Speaker, Sir, I support the Statement, but take recognition of what the Kenya Kwanza Government is doing to sort out some of these challenges. Specifically, the President flagged off quite a number of oxygen cylinders with the support of the Global Fund.

I thank you.

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

**Sen. Abass:** Mr. Speaker, Sir, I beg to support the Statement on supply of oxygen. As you are aware, supply of oxygen is necessary, especially during emergencies. This is because there are many accidents happening, but oxygen is scarce in most parts of the country. During the COVID-19 pandemic, many Kenyans died due to lack of oxygen.

Another thing is that in far-flung counties, most of us have the plans, but oxygen is in short supply. Oxygen is not enough for all those places and they cannot manufacture their own oxygen.

Another thing is that, for any person who unfortunately gets sick and is taken to the ICU, when they require oxygen, it becomes very expensive. Prices are exorbitant such that most Kenyans cannot afford.

If one is taken to the ICU, after one or two days, the bill comes to about Kshs500,000. It is high time the Committee found out how best we should supply oxygen to all hospitals and look into the issue of the cost.

Another issue is leasing of medical equipment by various hospitals. Most of that equipment is not being used, yet counties are paying a lot of money. Instead of leasing the equipment, we need to prioritize what is essential. For example, supply of oxygen should be part of the leased equipment. Dialysis should also be part of the leased equipment instead of having equipment that does not work.

With those few remarks, Mr. Speaker, Sir, I beg to support.

**The Speaker** (Hon. Kingi): We will now move to the next Statement by Sen. Cherarkey.

## OPERATIONS AND FINANCIAL STATUS 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 Trade, Industrialization and Tourism, regarding the state of operations and financial status of Kenya Airways (KQ).

In the Statement, the Committee should-

(1) Apprise the Senate on the current operational and financial status of KQ, stating measures, if any, to address significant losses by the airline, which stood at Ksh38.26 billion by December 2022.

(2) Outline strategies that the management of KQ has implemented to ensure timely repayment of loans without incurring additional interests and penalties.

(3) Provide reasons contributing to the increasing operational costs of the airline.

(4) State the number of employees, their skills and jobs assigned, and address the concerns that the management has favoured recruitment of foreign workers for positions that could be filled by Kenyan professionals.

(5) State the extent to which KQ's revenues were affected by the stalling of a Singapore Airlines cargo plane on the Jomo Kenyatta International Airport (JKIA) runway on 17<sup>th</sup> April, 2023, spelling out measures that have been taken to prevent such occurrences from affecting the operations of KQ.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Veronica Maina, you have the Floor.

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir, for this opportunity. I rise to support the Statement by Sen. Cherarkey. The story of KQ is a sad one. For the longest time, KQ was the Pride of Africa. It was the leading airline even ahead of South African Airways. It was also ahead of Egypt Air and many other airlines.

We have unfortunately watched the growth of airlines like Emirates Airlines. We have also watched Qatar Airways grow and by-pass KQ, which was an airline that was serving the whole of the African Continent.

The saddest story is that I have not seen a company hitting this kind of losses, a whopping Ksh38.26 billion, without suffering the fate of bankruptcy proceedings or being wound up. Every moment, this company is injected with public funds without accountability.

It is painful for me to state this. If I have ever used an airline that holds you at the airport, delay your flight for five hours without being remorseful or explaining anything about it, it is KQ. They even send you back home when you are a Kenyan and book foreigners to nice hotels without thinking much about the Kenyan.

The sad part is that Kenyans are going for Qatar Airways and Emirates Airlines because of the gross inefficiency of KQ. I speak with pain because a nation like Kenya, which was almost leading in the continent, is proud to have a national carrier. It is painful for any Kenyan to consider even shutting down KQ because of its institutional behaviour. If it was in any other part of the world, they would have faced axe.

As I support this Statement, I request the Senate Committee on Trade, Industrialization and Tourism to interrogate. If you may recall, a few months ago, there



has been a conversation regarding the purchase of Airbuses by KQ. Those Dreamliners were purchased by KQ. Midway, the contracts were abandoned and they were leased to KQ.

There is so much to talk about KQ. That is a company that needs to restructure itself and re-think its business proposition and relevance to the lives of Kenyans.

That should be Kenya Airways.

This Standing Committee on Trade, Industrialization and Tourism has a lot of work to do. We want to see an airline that makes Kenya proud; one that will bounce back to the position where we started with KQ. The current state of affairs in KQ is not one that we bargained for. That is not the airline that was in this country about 15 years ago.

So, I support this Statement. The Standing Committee on Trade, Industrialization and Tourism should do a good job and help us revamp KQ to where it was.

**The Speaker** (Hon. Kingi): Sen. Wamatinga, proceed.

**Sen. Wamatinga:** Thank you very much, Mr. Speaker, Sir. I also rise on my feet, not as a proud Kenyan, but a disappointed one because of the way we have run most of the State corporations. This is not only limited to KQ. We have been conducting an inquiry into why Kenyans have been made to pay whooping sums of money to private power producers.

*(Applause)*

It beats logic why a sitting Cabinet Secretary (CS), Permanent Secretary (PS) and Managing Directors (MDs), who are paid by the Kenyan taxpayers' money, would sit and collude with investors to defraud Kenyans of their money.

*(Applause)*

It is not by mismanagement, but by design that KQ has continued to make losses because whenever it does so, the money is paid from the taxpayers. It is a way to siphon money from Kenyans.

If we could be candid with one another, we know that the equipment owned and hired by KQ belongs to the 'who is who' in this society. They are out to siphon our money. We see the buses at the airport. They earn millions of shillings per day for doing nothing. It is high time we bite the bullet and say, enough is enough. We are tired of Kenyans being exploited. We must call State corporation's bluff for siphoning money from the State's coffers. This must come to an end.

The same case applies to KenGen, Kenya Power and Kenya Ports Authority. All of them have been arm-twisted by the political leaders in the dynasty, so that they can be used to siphon money from Kenyans.

As a result, we have seen an airline that was flourishing, doing so well, every time you try to book a flight, it is always full, and it flies at capacity, yet it is always making losses. Nobody is given a lift by KQ; you pay for it. How does it make the losses?

*(Applause)*

This airline uses defined routes, it does not make *mkato* like the *matatus*. How does it make losses? If it flies from here to New York at full capacity, how does it make losses? It is high time Kenyans stopped being taken as fools. We must now put a stop to this habit of hiring equipment expensively, maintaining them even in a more expensive way, so that few individuals can benefit.

I, therefore, think that this Statement is timely. It is high time we try to expose people who are involved, like we are doing in the energy sector. If for nothing, the law allows every civil servant in this country to protect public resources from theft. If there is nothing we can do, we can institute Senate civil proceedings, so that we can recover the money lost over the years through these people.

I support, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Okiya Omtatah, you may proceed.

**Sen. Okiya Omtatah:** Thank you, Mr. Speaker, Sir, for the opportunity to address this august House. I rise to support the Statement by the Sen. Cherarkey; the warrior of Nandi. I do so because this goes to the heart of very many things in this country. It epitomises many issues that have gone wrong with our concept of a developmental state.

When we began forming these parastatals in the 1960s, the Asian Tigers did the same. We turned ours into bodies of stealing from the public, while the Asians put theirs to the purpose they were meant to be. We can see where the Asians are and where we are with ours.

In supporting this Statement, I will request that you also look at who will be looking into it. I need to say that I am part of the Committee that will be looking into it because I belong to the Standing Committee on Trade, Industrialisation and Tourism.

Initially, public money was spent to privatise Kenya Airways. Those responsible were not followed. Then it went into private hands and Government has continued pumping money into it without holding anybody accountable for the losses. I would like to invoke the provisions of Article 226(5) of the Constitution. I will also support what Sen. Wamatinga has said, that the people responsible for the losses should be pursued, so that we can auction them

*(Applause)*

This is because public money has been spent. Even after privatisation, the Government has kept on pumping money into this body.

The other thing that is of concern to me about KQ is that in 2016, somehow, they sold what would amount to be part of the territory of Kenya. The special landing slot at Heathrow Airport was sold for about Kshs7 billion to Oman Airways. Who authorized it? Did he have the mandate of the people of Kenya to sell? That asset belonged to the country called Kenya and not to a company called KQ.

*(Applause)*

So, in looking into this, I would request that those who are responsible for that sale be taken to task. The Government of Kenya should initiate a process even through diplomatic means to recover that asset from Oman Airways.

*(Applause)*

When KQ sold that special landing slot, which was the prime slot, it decapitated itself. It made the most profitable route not serviceable. That was the London Heathrow route.

The other issue has been the use of the European mercenaries to run KQ. Characters who because they are white, are hired and given very senior jobs in KQ. They are then used to steal money. Some of them are residents of this country. They should be summoned to answer questions. Through the last contract that we had, where the contractor is the so-called expert, they spent a lot of money through KQ.

*(Applause)*

So, these European mercenaries, especially those still residing within our borders, should be called before the Committee and held to task.

Then the other thing we need to address is the overpricing of KQ tickets.

*(Applause)*

Why is KQ so expensive on all its routes? It is so expensive and, therefore, not sustainable. So, people who are traveling on a budget will go to KQ as a last option and not as a first option. Why are they largely overpriced? In supporting this Statement, I will expect that it be expanded to address all the question of KQ, once and for all.

This is because KQ has been an abyss into which public resources have sunk. Going forward, if the Government decides to bail out an organ, first of all, they need to lock up the culprits who created the debt.

*(Applause)*

Do not take taxpayers money - *mama mboga's* money from Gikomba - to bail out somebody who has stolen money and is living in Europe. If we were to look at Obama's administration, when they bailed out the Motor Vehicle Groups, they never gave anybody what they called a golden parachute. They followed these people and the Government even made a profit by bailing out General Motors and others. That is how it should be done.

If KQ is not too big to fall, it should be allowed to fall. If we do not want it to fall, then it must be run as a company that belongs to the public and that public is a Republic, not a *kiosk*. A Republic is a Government of law.

I fully support the Statement by Sen. Cherarkey, the warrior of Nandi County.

Thank you, Mr. Speaker, Sir.

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

**Sen. Ali Roba:** Thank you, Mr. Speaker, Sir. The core business of any airline is flight operations. That is flying passengers from point 'A' to point 'B' and nothing else.

Now, KQ is not the cheapest airline around this region. It is way more expensive than any other airline. I keep asking why KQ should report profit, when the Government is too ready to bail them out every time they report loss. What has been happening is perennial and almost given. It is the default position of KQ to report loss. When they report their financial performance, they must report a loss. We keep bailing them out because we want to safeguard the flag carrier of Kenya. So, as long as they keep reporting loss, it is a bad image for this country. The question that begs is; why should KQ not report profit?

Mr. Speaker, Sir, my colleagues in the Senate and I fly back and forth, within and outside the country. There is no time KQ reports less than 90 per cent seat occupancy rate, in terms of passenger's occupancy in the routes that we fly.

The tickets are not any cheaper. Their core business is flying passengers. The flying is so well that the flights are always overbooked. You cannot even amend your ticket. The ticket prices are higher than Ethiopian Airlines and other competitors in the region, and KQ says it is because their operation costs are high.

Mr. Speaker, Sir, sometimes back, I was in the aviation industry. It was reported that the cost of overhauling one engine was higher than the price of buying a brand new engine for KQ. Therefore, it is a business entity that is serving other interests rather than one that is supposed to continue surviving on its own. It is now a going concern.

If KQ cannot do well on its own, then, the coffers should not be wasted by a default position of reporting financial loss and being bailed out by the Government every time. Which Chief Executive Officer (CEO) will report financial performance better than a loss, if he knows very well that if he continues reporting a loss, he will be bailed out? That is the situation we have in the country. If KQ has to fall, let it fall so that we can start a fresh with better foundation that we are not going to be subjected to the ridicule that is happening.

*(Applause)*

As a professional pilot, I have another issue that is of concern to me. We used to fly passengers and every time there was even a 40 minutes delay, we felt so guilty. We had to provide refreshments and try to personally talk to the passengers and create comfort. For KQ, it has become normal to cause inconvenience to the tune of several hours, a day, cancel flights and they feel nothing because nobody holds them to account. This is unacceptable. Nobody holds them to account.

The Kenya Civil Aviation Authority (KCAA) needs to enforce the provisions of the law and KCAA Regulations that requires them to conform to global airline standards as required by the International Air Transport Association (IATA).

The situation in KQ is extremely wanting. If it is sustained, we are going to be doomed as a country. The only critical issue that I want Senators to support in this

Statement is that it has become a default position to report loss in the financial performance because the Government of Kenya will automatically bail them out.

I stand to support.

**The Speaker** (Hon. Kingi): Proceed, Sen. Wafula.

**Sen. Wafula:** Bw. Spika, asante kwa nafasi hii. Ninadhani alicholeta Sen. Cherarkey ndani ya Bunge hili, ni kwamba kuna matapeli katika Serikali. Vile vile, kuna nyenzo ama lemba zao katika shirika la ndege ambao wako na mkataba wa kupora na kupunja pesa za umma. Haiwezekani mtu kurejesha matokeo ya kuanguka mtihani ama kipato cha shirika hilo kwenda chini, na Serikali inampigia makofi na kutia sahihi kandarasi mpya. Ni kinaya sana.

*(Laughter)*

Sijaona Waziri au mtu yeyote katika Serikali, akikashifu Shirika hili kwa matokeo duni jinsi tunavyoona.

Juzi tumeona wenzetu Mombasa wakilalamika kwa sababu shirika hili lilifutilia mbali shughuli zao kule Mombasa na kwenda mpaka nchi za ughaibuni. Kwa sababu wameshindwa, sasa wengine hawapaswi kufua dafu katika usafiri wa ndege.

Mimi ninaunga Sen. Cherarkey mkono. Iwapo wameshindwa, wafunge shirika hilo kabisa. Milango ifungwe, watu wafukuzwe waende nyumbani na tuanze upya kwa karatasi jipya lisilo na dosari yoyote. Iweje mabilioni yamezwe na walafi kupitia shirika hili, ilhali kuna viwanda vya sukari na kuna wakulima wachochole mashinani ambao hawana pesa? Tutamlilia nani iwapo Serikali haisikii?

Mimi ninaomba tusimame na Wakenya ambao hawajawahi hata kupanda ndege wala hawajui ndege inavyofanana. Tusije hapa na tukawapigia makofi wanaojivinjari kwa ndege, ilhali walio chini wanaomba Mungu: “Ee Mungu rabuka, tulikukosea nini?”

Asante, Bw. Spika.

**The Speaker** (Hon. Kingi): Sen. Onyonka.

**Sen. Onyonka:** Mr. Speaker, Sir, this is very important to me because my young brother has worked for KQ for 26 years. Right now, the young man is bedridden because of having spent so much time flying airplanes for the airline, until his kidneys collapsed. It is because of the compressions and all that.

I bring this story because I am explaining to you that I actually do not believe that KQ is able to take him for a kidney transplant that he wants. This is my young brother.

Mr. Speaker, Sir, today, I want to tell this House who actually owns KQ.

*(Applause)*

**Sen. Cherarkey:** Yes! *Toboa kaende!*

**Sen. Onyonka:** Mr. Speaker, Sir, the beauty of this House is that we are able to articulate and state facts. If somebody wants me to substantiate, I will. KQ is actually owned by two companies; one is called Serengeti Holdings and the other one is called

Tsavo Holdings. These two companies were set up by none other than the great man, who we believed was a genius; Mr. Titus Naikuni.

However, the information that we got later on was that Mr. Naikuni was not acting for himself. He was acting for the power players and individuals who eventually ended up buying KQ. KQ ended up negotiating to purchase Embraer planes from Brazil. In the process of those airplanes being bought through Serengeti Holdings and Tsavo Holdings, they just signed an agreement, where KQ buys everything through Serengeti Holdings and Tsavo Holdings, and then sells it to KQ in Nairobi.

Mr. Speaker, Sir, the Boeing planes that this country has are owned by the Government of Kenya. Yes, because we have shares in it. However, KQ is actually owned by private individuals who have been stealing money from that airline for the last 24 years.

Mr. Speaker, Sir, I am sure all of us have seen the people who work at KQ. You cannot compare the individuals who worked there 10 years ago and those that work there today because even the uniforms are different. It is shocking.

For example, an airplane like the one we took last evening had cockroaches running around. This is because the company that supplies spare parts and manages the engineering department in fixing the aeronautical engineering, is owned by the same people who also supply the food that we eat in those airplanes.

Mr. Speaker, Sir, there is something that is completely crazy. I do not know whether this House knows. That is why I am saying this because we now need to tell each other the truth. We do not have the airspace agreements, which were signed between the Government of Kenya and *Google*.

Every single thing about our airspace is controlled. The rights were sold to *Google*. I do not think anybody knows what this agreement says. Therefore, the Committee that is going to look into matter must go to the bottom of it and find out who signed the lease agreement for this agreement to be validated.

Look at the profit that has been made by the Ethiopian Airlines. They made US\$2 billion profit this year. Rwanda Airlines is doing well because the Ethiopians are the ones running Rwanda Airlines with Kenyans.

*(Applause)*

So, how can one airline make billions of dollars? If you were to co-change that into billions of dollars, you can see how much it makes. Our Airline could most, probably, be paying our debts. Our airline is not making money. It is being run by Kenyans, but every year, we are making losses. This matter must be rested.

Let us agree in this House. I ask especially Sen. Cherarkey, who is on the Majority side, this time and we are on the Minority side, we must talk about what these guys have done. Can you show Kenyans that you are brave enough and disclose the issues that are messing up our country?

Let us go back to the State capture. Let us begin to look at the issues that are making our country not to move. If you look at the airlines, Kenya Power Company and Independent Power Producers (IPPS), it is the same story. We know all these things.

Mr. Speaker, Sir, as far as I am concerned, I hope the Committee will look into this issue with detail and a toothcomb. Look at the air controllers, the ones we have at the airport. The system that we got initially was provided by the French. Then somebody went and brought an air controlling system that is owned by the Chinese and everything is in Chinese. Those are the things.

*(Applause)*

How that happened, Sen. Cherarkey, I hope you will find out. I saw the President choose the Kenya Civil Aviation Authority (KCAA) board. However, he did not put anyone who has ever flown a plane or an aeronautical engineer despite the money that the board handles.

Most of the people that the President has appointed do not know the subject matter. So, how will they interrogate what is happening at the KCAA and our airport?

Sen. Cherarkey, I thank you. However, how did the Government of Kenya sell our landing rights at Heathrow and nobody knew about it? Who was there when these agreements were being signed?

Those are the things I hope that this Committee will bring up, so that we sit and look at them. This is because Kenyans are beginning to ask questions. Is it so difficult for us to fix some of these things?

My conclusion is that if we tackle two or three of these issues and remove the cartels, this country will start moving in the right direction.

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Chute.

**Sen. Chute:** Asante sana, Bw. Spika. Ningependa kumshukuru sana Sen. Cherarkey. Maajabu, Ijumaa usiku, nilitoka Mombasa nikija Nairobi kutumia KQ. Nilipokuwa *Airport*, masaa ya ndege ilibadilishwa mara mbili na tukaambiwa, tuongoje masaa ambayo tutaambiwa tena. Kwa bahati nzuri, tulifika hapa saa sita ya usiku.

Bw. Spika, wakati tuliingia kwa ndege, mama mmoja mjamzito na kijana wake walikosa mahali pa kuketi kwa ndege na wakawekwa *kwa jump seat*. Mimi niliketi hapo karibu nikimwangualia tu. Kijana wake alikuwa ameketi kwa *jump seat* ingine. Mimi nilijiuliza wamekosa ndege namna gani? Walipofika kwa ndege walipiga kelele na kusema lazima wapewe kiti. Hiyo ni aibu kubwa sana.

Bw. Spika, mimi nimefanya biashara ya ndege kwa miaka nyingi sana. Na mimi pia ni rubani wa ndege kama vile ---

*(Applause)*

Nimefanya biashara sana na Ethiopia. Mimi ninapenda nchi hii sana. Juzi nilipofika Ethiopia wakati tulikuwa uko kwa kazi ya Seneti, nilienda kuona Mwenyekiti

wa Ethiopia Airlines. Ninataka watu wasikize. Mheshimiwa alisema walipata bilioni mbili lakini ninataka kurekebisha hiyo. Walipata faida ya US\$937 bilioni.

Bw. Spika, ni vizuri watu wajue ni nini inaendelea. Mwenyekiti wa Ethiopia Airlines aliniambia *Ethiopia Airlines* iko na *branches* kadhaa. Iko na *branch* inaitwa; *Ethiopia Aviation Academy*, ambayo ni yao pekee yao, iko *Ethiopian Cargo and Logistics* ambayo wanatengeneza pesa na *Ethiopia Ground Services*, hiyo ni kando. Pia kuna *Air Ethiopia Maintenance and Repairs*. Karibu ndege zote za Africa, hata za Kenya, zinafanyiwa *repair* Ethiopia.

Ukiangalia vizuri, kwa masomo, hakuna mtu ameshinda Kenya katika Afrika. Lakini, wakifika kwa hiyo mashini, sijui ni *confusion* aina gani wanapata mpaka hata *bolts* wameshindwa kufunga. Hii ndio maana ndege zetu zinatolewa hapa na kufanyiwa *repair* katika nchi ya Ethiopia.

Bw. Spika, bado sijamaaliza. *Ethiopia Airlines* ina-manage airports zote za Ethiopia. Wanatengeneza pesa kutoka hapo.

Wako na *Travel and Tourism Agency* yao. Ukitoka kwenye *airport* ya Ethiopia, upande wa kushoto utaona *Ethiopia Airlines Hotel* ambayo ni *five-star hotel*. Iko na vyumba Zaidi ya 500. Hiyo yote inawaletea pesa.

KQ saa hizi, wakora, *wanabook* ndege ya Boeing na Airbus. Wakenya wakitaka kutumia hizi ndege lazima wapitie watu fulani. Hawa watu hawajalipa pesa. Pesa ya Kenya *wakisign lease*, ile *deposit* wanalipa ndio inaenda kulipwa kwa hiyo kampuni ya ndege.

Ndege haitakuwa tayari mpaka miaka mbili au tatu. Kitambo hiyo yote, KQ inaendelea kulipa mpaka siku ndege itakuwa tayari na pesa yote itakayotumika ni ya KQ.

Bw. Spika, juzi tuliketi kwa ndege ambayo imeendikwa *Pride of Africa*. Lazima tuiapatie jina nyingine. Tuite *Future of Africa*. *Future*, sio *Pride of Africa* saa hii. *Future Pride of Africa*.

*If we say it is the "Pride of Africa"* saa hii tumekosea. Ile shida ambayo iko kwa KQ leo ni *leases*.

Bw. Spika, Serikali iliyopita ilikuwa uongozini kwa miaka kumi. Serikali ya Kenya Kwanza ambayo sisi tuko ndani, sasa imebakisha miezi miwili au tatu imalize mwaka mmoja. Hata baada ya miaka mingine tano, sioni kama mabadiliko yatakuja. Hata Serikali ya Kenya Kwanza haitaleta mabadiliko. Nafikiria hivyo kwa sababu kuna *cartels* wame *sign contracts*.

Kama vile Sen. Wamatinga amesema, ukiangalia IPPs, wale watu wanapeana stima wakati huu, wamesaini kandarasi ya miaka 25. Hata kutoka kwa hiyo *contract* itakuwa ni shida. Hata saa hizi *leases* zimesainiwa za miaka 20 au 25. Hatutatoka kwa hiyo kandarasi. Kile kitu tungefanya kwa sababu hii maneno ya Kenya imekuwa shida. Kama ni wasomi, pesa na ujuzi tuko nazo, lakini vitu vyetu vyote viko nyuma.

Ukiangalia, Kenya Power Company, KenGen na Menengai Geothermal Project ni *zero*. Kama hii Serikali ya Kenya Kwanza haitaleta mabadiliko kwa miaka tatu ijayo, Kenya imekwisha.

**Sen. Cherarkey:** State capture!



**Sen. Chute:** Bw. Spika, sijui hiyo “*State capture*” ni gani. Tusilete tu hapa Statements pekee yake. Wiki mbili zilizopita, Waziri wa Barabara alisema Kenya Airways ni *private company*. Kwa hivyo, hawataulizwa maswali katika Bunge.

Kama hatuwezi kuwauliza maswali, basi wacha tumuambie Mhe. Raila aende afanye maandamano asimamisha hao watu kazi. Kama sisi tumeshindwa kusimamisha hawa watu kazi, basi tutumie yule mtu ambaye ataweza kuwasimamisha. Kisheria, sisi hatuwezi kuwasimamisha kwa sababu *contract* imesainiwa ya miaka 25. Kama hatutoki, basi twende tuvunje hizo *contract* zao.

Bw. Spika, nikiunga Sen. Cherarkey mkono, ningependa tusiongee mambo ya kusema ati tunafanya hii na hakuna kitu kinachofanyika. *Statement* pekee yake haitatusaidia. Kama inawezekana, *inquiry* ifanywe na tuhakikishe hiyo kitu imesimama.

Jambo la mwisho, kuna mjadala unaendelea ambao unasema hii *airline* tuiuze ama tuiongezee pesa. Ukitoboa debe hapo chini, hata ukiweka maji namna gani haitajaa. Hiyo kampuni iuzwe, inunuliwe na kampuni kama *Emirates* ama *Ethiopian Airlines* ili Kenya ipate hizo pesa tuingize kwa mashamba yetu.

Asante sana, Bw. Spika.

**The Speaker** (Hon. Kingi): Hon. Senators, we have long exceeded the one hour meant for the Statements time. Therefore, I am going to allow Sen. Orwoba five minutes then we end there.

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. I support Sen. Cherarkey’s Statement on Kenya Airways. However, I want to put emphasis on two things. One is the issue of expatriates. It appears we are still colonized in our minds, such that we still believe that the only people who can do great work are people who are not of Kenyan origin.

When I look at all the issues that have been highlighted by my fellow Senators, the one key issue that stood out is that the management of Kenya Airways needs to be looked into. We have issues of accountability and transparency. I have heard Sen. Veronica Maina give examples of how basic bad behavior is actually being tolerated. The same is actually coming from the top.

It is very unfortunate that Sen. Chute said that nothing can be done. I believe that the President has the best interests of KQ at heart. However, he is being let down by so many of his foot soldiers, starting from the management of that airline.

As I stand here today, I was trying to calculate what Kshs32.26 billion worth of loses looks like in terms of what we could do with it. At the end of the day, when we bring Statements and they are referred to the different committees, particularly for this specific Committee of Transport, Infrastructure, Housing, Urban Development and Public Works, I know they are dealing with a lot. I urge you to kindly, perhaps, this is an issue that requires an *ad hoc* Committee. This is so that we can have Senators who are committed to sit down and actually work on this thing for three or two weeks, so that they can finalise on it. From where I sit, there are two issues. Transparency and accountability must be dealt with.

I have listened to Sen. Onyonka go round and round and tell us about the issue of company limited. However, we know that the owners - what we were calling “State

capture” - of these Limited’s are the same owners of the IPP. It is known. We need an *ad hoc* committee that will be able to table a report.

We have moved from the past regime where State institutions were y being used to favour certain individuals. These same individuals are using that part of Kshs38.26 billion to fund the *maandamano*s that are going on in the country.

This is not a matter that should just be dealt with as any other matter brought to the House. This is a matter that requires an *ad hoc* committee. We should give this matter a time limit, say in a maximum of a month, we should be given the report and the recommendations. The President wants us as the ‘upper’ House to conduct our duties. Not that he cannot deal with the issues, but many people are letting him down.

This morning, based on some of my bookings, I tried to reach the management of KQ. If I, as a Senator, cannot access the management of this airline, how about those Kenyans who do not even know any worker on the ground? The culture of unaccountability and lack of transparency starts from the top. I do not fear to say that if the management is unable to deal with it, we have to start from the top and carry out a complete overhaul because, honestly, we cannot continue making the losses of Ksh32.26 billion.

**The Speaker** (Hon. Kingi): Conclude, Sen. Orwoba

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir

**The Speaker** (Hon. Kingi): Thank you. Hon. Senators, we now move to the Statement by Sen. Murango. That has been dropped. He had three Statements. Having sent no Senator to hold his brief, his three Statements stand dropped from the Order Paper.

ESTABLISHMENT OF PUBLIC TEACHERS TRAINING  
COLLEGE IN KIRINYAGA COUNTY

*(Statement dropped)*

AMPUTATION OF BABY RIDHWA YASIR NOOR’S FINGERS  
IN KERUGOYA COUNTY REFERRAL HOSPITAL

*(Statement dropped)*

DELAYED CONSTRUCTION OF KEMRI  
IN MWEA WEST SUB-COUNTY

*(Statement dropped)*

Next Order.

The Senate Majority Leader, you may have the Floor.

Do we have any Member of the Senate Business Committee (SBC) in the House?

Sen. Veronica Maina.

*(Sen. Veronica Maina consulted with the Clerks-at-the-Table)*

### PROCEDURAL MOTION

#### REDUCTION OF PUBLICATION PERIOD FOR THE COUNTY ALLOCATION REVENUE BILL (SENATE BILLS NO. 16 OF 2023)

**Sen. Veronica Maina:** Mr. Speaker, Sir, on behalf of the Senate Majority Leader, I beg to move the following Motion:

THAT, pursuant to Standing Order 139, the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No.16 of 2023) from seven (7) days to five (5) days.

Mr. Speaker, Sir, the basis of this Motion is that under Article 218 of the Constitution-

- (1) At least two months before the end of each financial year, there shall be introduced in Parliament –
  - (a) a Division of Revenue Bill which shall divide revenue raised by the national Government among the national and the county levels of Government in accordance with this Constitution, and;
  - (b) a county allocation of revenue Bill which shall divide among the counties the revenue allocated to the county level of Government on the basis determined in accordance with the resolution in force under Article 217.

Mr. Speaker, Sir, end of this financial year is 28<sup>th</sup> April, 2023. If we take another seven days, it will have fallen out of the timeline within which it should be presented.

I move that the Senate do resolve to reduce the publication period of this County Allocation of Revenue Bill (Senate Bills No. 16 of 2023) from seven (7) days to five (5) days, to enable this compliance to be in force.

Mr. Speaker, Sir, I beg to move and request Sen. Cherarkey to second.

**Sen. Cherarkey:** Mr. Speaker, Sir, in seconding this Motion, I would like to say the following. This is a straightforward Motion. It is a procedural Motion to allow for efficiency and effectiveness of the House in discharging its mandate.

We are aware that the County Allocation of Revenue Bill is very critical. You are aware that under Article 96, the role of the Senate is to protect the devolution and interest of counties.

Anything that will fast-track and enhance efficiency is very welcome as per our Standing Orders and as has been stated by the Mover of the Motion.

With those few words, I beg to second.

*(Question proposed)*

**The Speaker** (Hon. Kingi): Hon. Senators, the Floor is now open. Sen. Mungatana, MGH.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, as has been said by Sen. Cherarkey, this is a procedural Motion. I would urge us not to speak much because we are just being efficient. I would ask as we approve this Motion. As I sit, that you humbly put the question.

Thank you.

**The Speaker** (Hon. Kingi): There being no other Senator wishing to respond; there being no debate at all, I do not think I will call the Mover to respond. I will, therefore, proceed to put the question.

*(Question put and agreed to)*

Next Order.

## BILLS

### *First Reading*

THE COUNTY ALLOCATION OF REVENUE BILL  
(SENATE BILLS NO. 16 OF 2023)

*(Order for First Reading read – Read the  
First Time and ordered to be referred to  
the relevant Senate Committee)*

Next Order.

### *Second Reading*

THE EQUALIZATION FUND APPROPRIATION BILL  
(SENATE BILLS NO. 3 OF 2023)

*(Sen. Ali Roba on 27.04.2023)*

*(Resumption of debate interrupted on 27.04.2023)*

**The Speaker** (Hon. Kingi): Hon. Senators, the debate on this Bill had been concluded. Therefore, I call upon the Mover to reply. That is the Chair of the Committee on Finance and Budget.

**Sen. Ali Roba:** Thank you very much, Mr. Speaker, Sir. This is a Bill that has been extensively contributed to by majority Members.

During the various contributions by majority Members, there was information gap in relation to equalisation fund and how certain counties and marginalised areas have benefited.

I have taken it upon myself as the Chair of the Committee on Finance and Budget to try and give some background information for purposes of making sure as I respond to various contributions. I wish to put this issue in the right context, so that Senators will understand how the equalisation fund came into being.

The equalisation fund was established under Article 204 of the Constitution of Kenya. It was mainly meant to correct certain historical and systemic inequalities within this country that resulted from policy document of the colonial government and that affected what was then called the Northern Frontier District (NFD).

During the colonial government, quite a number of policies and legal documents came into being such as the District Ordinance Act of 1902, the Vagrancy Act, the Northern Frontier Province Poll Tax and Special District Administration Act that all were meant to disenfranchise and disadvantage NFD.

*[The Speaker (Hon. Kingi) left the Chair]*

*[The Temporary Speaker (Sen. Veronica Maina) in the Chair]*

These districts were at that time Turkana, Marsabit, Wajir, Mandera, Garissa, Isiolo and Samburu. Post-independence Government of Kenya continued with that policy of Sessional Paper No.10 of 1965, which continued marginalizing.

This concept of marginalization is greatly misunderstood. Marginalization is not equal to poverty or poverty equal to marginalization. Marginalization is a state of resource denial that was deliberate. It resulted from successive governments denying resources to certain areas of this country and, thereby, contributing to a very serious state of under-development within these regions as discussed.

Madam Temporary Speaker, during the process of Constitution making, the leaders from the Arid and Semi-Arid Lands (ASAL) regions lobbied extensively at the Bomas of Kenya for certain, specific and special consideration for some resources to be allocated for purposes of bringing these seriously under-developed regions as a result of resources denial by successive governments at par with the rest.

That brought Article 204 that created 0.5 per cent of all revenues collected nationally to be shared between the marginalized counties that had been considered. Around that time when the Constitution was passed, the first three years of passage of the Constitution, 2010, the Commission on Revenue Allocation (CRA), which was also a creation of the Constitution, developed policy criteria identifying marginalized areas of sharing equalization fund.

They came with 14 counties at that time; Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, Taita-Taveta, Isiolo and Lamu. The primary criteria that was used was just the state of under-development as envisaged in the Constitution, 2010.

Madam Temporary Speaker, during the implementation, the process of institutionalization and operationalization of the Equalization Fund did not take shape. As a result, there was a myriad of problems that were institutional, political and otherwise,

that led to the lack of implementation of the fund. While the first policy was not fully implemented, CRA went ahead to develop what they called the second policy. It was largely a result of political pressure on CRA. However, it misunderstood the perception of what the equalization fund was meant to cure. The discussion around the time of the second policy was that there should be consideration of pockets of marginalized areas in other counties.

Madam Temporary Speaker, the leaders from the ASAL region tried to counter that frantically. However, the top leadership supported that and we did not make any progress, and such, the second policy of marginalization came into being. It considered marginalized areas instead of marginalized counties and that it now extended to considering other pockets of poverty in the country and brought the beneficiary counties from 14 to 34.

The focus of the second policy shifted from historical resource denial to considering pockets of poverty within counties, thereby diluting the original intent of the drafters of the Constitution.

Madam Temporary Speaker, why am I sharing this as the Chair of this Committee? It is because I have listened to many of my colleagues saying their counties have not been considered and counties are getting less money. From the foregoing, it is worth to note that the Committee on Finance and Budget did not develop the formulae, neither did it develop the beneficiary areas. but that came from the CRA in the second policy.

An amendment can only come into being through the development of a third policy. It is extremely unfair and unjustified to deny the original counties the equalization fund who before the advent of devolution were denied resources for over 50 years. The Government of today ought to come up with another 0.5 per cent to take care of the urban-poor within the 47 counties, but leave the equalization fund to benefit the intended beneficiary 14 counties initially identified by the CRA.

Madam Temporary Speaker, the equalization fund was operationalized in 2011/2012 and it is worthwhile to share with this House that the implementation has not taken shape as envisaged. Where we stand with the passage of this Bill is that it is only Kshs12 billion that has been appropriated to marginalized counties, out of Kshs54 billion that was supposed to be appropriated to benefit marginalized counties.

The Committee has processed the equalization fund in order to make sure that from where it Committee sits; it is the first time this equalization fund has found traction. For the first time, going forward, this fund will flow properly. The Bill that is before the Senate has brought funds from 2021/2022 and 2022/2023, for purposes of appropriation, so that it is released to beneficiary counties.

Madam Temporary Speaker, these funds are not going to lapse. Once they are appropriated through this Bill, the funds will be released to the equalization fund and will remain there to be utilized by beneficiary counties.

I would like to share that in the wisdom of the Committee, and in order to make sure that the equalization fund works flawlessly well; we have drafted the Equalization

Fund Administration Bill that will take care of all the existing gaps that may cause the further delay of the operationazation fund.

Madam Temporary Speaker, I request you pursuant to Standing Order No.66 (3), and move that the putting of the question be deferred to a later date.

I beg to reply.

**The Temporary Chairperson** (Sen. Veronica Maina): Thank you, Senator. I direct that the Division be put in tomorrow's Order Paper, at 2.30 p.m.

*(Putting of the Question on the Bill deferred)*

Next Order.

Sen. Mungatana, MGH, I believe you are the Vice Chairperson of that Select Committee.

### MOTION

#### ADOPTION OF THE REPORT ON THE STATUTORY INSTRUMENTS (EXEMPTION FROM EXPIRY) REGULATIONS, 2022

**Sen. Mungatana, MGH:** Thank you, Madam Temporary Speaker. I beg to move the following Motion-

THAT the Senate adopts the Report of the Select Committee on Delegated Legislation on its recommendation of the Statutory Instruments (Exemption from Expiry) Regulations, 2022, laid on the Table of the Senate on Tuesday 28<sup>th</sup> March, 2023, and that pursuant to Section 18 of the Statutory Instruments Act, resolves to annul in its entirety, the Statutory Instruments (Exemption from Expiry) Regulations, Legal Notice No. 217 of 2022.

Madam Temporary Speaker, before I go into the substance of this Motion, I wish to give my thanks to the membership of this Delegated Legislation Committee, which has been set under Standing Order No.195 of the Senate Standing Orders.

Madam Temporary Speaker, the membership comprises-

1. Sen. Mwenda Gataya Mo Fire, MP - Chairperson
2. Sen. Mungatana, MGH, MP - Vice Chairperson
3. Sen. Joyce Korir, MP
4. Sen. Mohamed Faki, MP
5. Sen. Agnes Kavindu, MP
6. Sen. Daniel Maanzo, MP
7. Sen. Julius Murgor, MP
8. Sen. Betty Montet, MP
9. Sen. Gloria Orwoba, MP

I give thanks to all these Senators who have spent hours on timeless debates and energy to come up with this report, which I have the pleasure of presenting before this House on behalf of the Committee.

We are requesting the House to pass this Motion. I will try to explain it in a brief way, so that Members seated can understand what we are talking about. The Motion is legalistic, but also simple.

The Attorney-General, on 21<sup>st</sup> November, 2022, wrote to the Clerk of the Senate and asked the Committee on Delegated Legislation to propose that we give extension to 1,764 pieces of rules and regulations, which were derived from 400 Acts of Parliament, which were due for automatic lapse or revocation on the 23<sup>rd</sup> January, 2023.

In that letter, the Attorney-General attached a copy of all those regulations and asked us to help him give extension, so that those regulations can still be effective despite the fact that the automatic revocation, which was supposed to take effect in January be extended further by another year.

Hon. Senators, we looked at the requests by the Attorney-General. He asked us to do an omnibus approval of these 1,764 regulations to be extended coming from 400 Acts of Parliament. That was a serious request.

If some of the regulations lapsed and we revoke them, it means some parastatals which were created by force of the regulations, would cease to exist. It would mean that out of the 400 Acts of Parliament that are in force, the regulations making those Acts to be implementable would cease to function. That is a serious request.

On behalf of this Senate, we expected the Attorney-General to come himself and explain to us the reason all these regulations were not extended on time. The Committee records its great disappointment that the Attorney-General did not take this matter as seriously as we thought. Instead, he sent one of the legal counsels to represent him.

Mr. Samson Davis Maundu, Principal Legal Counsel, came from the Attorney-General's Office. We tried to interrogate him on various issues and he kept asking for time to consult his principal in the office who could not attend the meeting for reasons that we were not convinced were good enough.

At the end of it, the Committee said that because of the heaviness of this matter and the way Senate was taking it, we would request to re-invite the Attorney-General to the Committee. Him being the Chief Legal Advisor, he was to come and explain some of the questions that we had as a Committee, which we were not getting answers from Mr. Maundu.

We requested for that meeting, but it never took place. We are convinced that the Attorney-General's Office did not give this matter the serious attention it required.

The Committee observed, especially that under the Statutory Instruments Act, 2013, in particular, Section 21(2), the person who is supposed to seek for an extension of a regulation is the Cabinet Secretary (CS) responsible. The CS responsible is supposed to seek the extension in consultation with the Committee.

Unfortunately, no CS came. The Committee of the Senate observed that it was unprocedural for the Attorney-General to purport to act on behalf of all the CSs, who were seeking extension of the application of those regulations from the 400 Acts, yet they never consulted the Committee.

The problem is that we were asking questions that even the Attorney-General could not answer even if he came. For example, if you are dealing with the coffee regulations



and seeking to extend, the questions we were asking are why they had to wait until the last minute, where the officers within the Ministry were and what they were doing. We needed justification to accept those extensions.

This particular section of the Statutory Instruments Act made it mandatory that the CS should come and make consultations with us before seeking extension, but it was not done. In fact, the Attorney-General did not come. The argument of him being the Chief Legal Advisor of the Government did not arise because he did not come to explain himself.

After failing to honour the Committee's invitation on 8<sup>th</sup> December, 2022, we decided, resolved and made two recommendations.

One, Pursuant to Section 15(1) of the Statutory Instruments Act and Standing Order No. 195(4) (b) of the Senate Standing Orders, the Select Committee on Delegated Legislation recommends that the Senate resolve that the Statutory Instruments exemption from expiry Regulations, Legal Notice No.217 of 2022 be annulled.

Secondly, that the respective Cabinet Secretary urgently republish and submit to the Senate for scrutiny, the respective Statutory Instruments pursuant to Section 11 of the Statutory Instruments Act, 2013.

It is my duty, therefore, to Move this Motion, which speaks to what we found out on behalf of the Senate. This is an indictment on the office of the Prime Cabinet Secretary, Hon. Musalia Mudavadi; that your Cabinet Secretaries are not following what is required of them under the law.

Your Cabinet Secretaries are not doing what is supposed to be done under the Statutory Instruments Act. As a Select Committee, we are not happy that your Cabinet Secretaries are not cooperating with the Senate Delegated Legislation Committee. We are annulling these rules and we are inviting them to republish them. Since the Prime Cabinet Secretary is in charge of coordination between the Senate, the National Assembly and the Cabinet, he should speak to this issue because there are serious legal consequences that can follow because of it.

We feel sad that we could call the Attorney General to a Committee meeting and he sends someone who has no answers. We gave him an opportunity and agree on a date, but he failed to show up. This is the Attorney General of the Republic of Kenya. The reason he exists is because he needs to do the correct thing within the law.

As a Committee, we are not happy. Members expressed dissatisfaction in the manner in which 1764 Regulations, which are supposed to operate 400 Acts of Parliament, were not being handled with the seriousness of purpose that the Office of the Attorney General and the Cabinet Secretaries concerned ought to.

Our prayer is that we approve this Report in its entirety as we annul all the 1764 Regulations from the 400 Acts of Parliament.

I, therefore, move and ask Sen. Cherarkey to second this Motion.

**The Temporary Speaker** (Sen. Veronicah Maina): Sen. Cherarkey, you have the Floor.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker. I thank the Vice Chairperson of the Committee, Sen. Mungatana, the one and only “*mila mamba*”, as he is famously known in Tana River County and in the Republic of Kenya.

This is a straightforward matter. This is not the first time that the Senate and Parliament have annulled rules and regulations in their recommendation in the report. This is a sad state of affairs because over 1,000 Rules and Regulations are annulled. As you are aware, there are organisations and agencies within the Government, which are illegal as at now because of this illegal extension resulting in the legal notice issued by the Attorney General.

The current Attorney General and my good friend, former Speaker of the National Assembly, Speaker Justin Bedan Muturi, is a former Member of Parliament and former Speaker of the House. He knows the pivotal role that Parliament plays.

When we get a former colleague snubbing a Committee of the House, some of us find it sad and unfortunate. We expect a lot from our colleagues who sat with us in this Parliament and appreciate the unique role that Parliament plays. What are you showing the others who have never served in Parliament?

The Legal Notice No.217 of 2022, which was issued by the Attorney General is illegal *ab initio*. The law is clear in Statutory Acts that an extension is sought by the specific Cabinet Secretary. If the rules and regulations concern a hospital, the Cabinet Secretary in charge of health, Hon. Nakhumicha, should be the one to gazette them. If it is about rules and regulations like pest control, it is the Cabinet Secretary in charge of Agriculture, Sen. Linturi, who should request the extension.

We appreciate that the Committee on Delegated Legislation of both Houses; the National Assembly and the Senate cannot sit and pass 1761 Rules and Regulations at ago. This is why the law has provided for an extension. However, this is done by the specific Cabinet Secretary.

Madam Temporary Speaker, this was illegal from the word go. I agree with the Committee that the specific Cabinet Secretary can gazette and request for an extension of such regulations. I do not know why the Committee did not use its powers. There is what we call the Powers and Privileges Act. Article 125 of the Constitution gives Parliament the power to summon any witness. The Attorney General is not an exemption.

The work of Parliament is not a wedding; it is not a baby shower or a birthday party where we say “please come and appear”. The Powers and Privileges Act and the Constitution have given us powers; quasi-judicial powers of the High Court to summon when the invitees have declined our invitation.

The law has given us the power that the Inspector General of Police should produce a witness without failure. We have been given powers to surcharge those State officers by making them pay way and above Kshs500,000 as a fine for failure to appear before a Committee.

I would like to challenge the Committee on Delegated Legislation through my brother, the Vice Chairperson, that they have powers to summon the Attorney General if he fails to come. This is not a courtesy business. The law requires that if the Attorney General - where I serve, as the Vice Chairperson and a member of the County Public

Accounts Committee (CPAC), we have on several occasions summoned Governors and ensured that they are frog marched.

I sat in the Committee of the 12<sup>th</sup> Parliament, where there was the famous case of Hon. Mwangi wa Iria from Murang'a County. We directed that he be produced by the Inspector General (IG) of Police. The IG appeared before us and explained why he could not frog-march Mwangi wa Iria.

When I see former Governor of Murang'a Mwangi wa Iria lecturing us about integrity and going to *maandamano*, I always cry for this country. The same person who is saying, "follow the rule of law" declined to appear before the CPAC, which is given powers by the Constitution, when he was the Governor.

These people are hypocrites of the law. We fined the former Governor of Kitui, Hon. Charity Ngilu. It is because of these instruments that we can summon and charge them. I want to challenge them on the Floor of this House. The President has been magnanimous with Parliament. This is why we amended the Standing Orders, so that Cabinet Secretaries can appear on the Floor of the House to answer questions.

The President of the Republic of Kenya, His Excellency (Dr.) William Samoei Arap Ruto, has instructed all Government officers to appear and answer questions before Parliament. Therefore, the goodwill of the President should be respected by the people, including the Attorney General.

We cannot take it lightly. We shall implore the President both in private and official capacity, that some of these individuals - whether Cabinet Secretaries (CSs) or the Attorney General - who feel or are sickly to appear before Parliament, must do so. The President has insisted even in Parliamentary group meetings, that Government officers must appear before Parliament. So, there is no two ways about it.

If somebody does not want to appear before Parliament, they get paid by taxpayers and they serve Kenyans. Unless they serve anybody else. Anybody, including Senators who are seated here, serve Kenyans. Madam Temporary Speaker, you also serve Kenyans at your capacity. Who else is our boss? It is Kenyans.

Madam Temporary Speaker, when these organisations remain illegal as they are today because of rules and regulations, somebody must be held for the commission or omission. I urge the Committee to stop writing love letters to the person concerned. This is a serious matter. Let us be serious.

The Attorney General enjoys the status of a CS. In my view, in future, if any CS declines to appear before a Committee through your office, they should not appear before the Senate. You cannot refuse to appear before a Committee of the Senate, then you want to appear before the Senate to answer questions.

Madam Temporary Speaker, you should give a direction and a ruling that such individuals who do not want to appear before our Committees, should not appear before the Senate during question time on Wednesdays.

Since this is a straightforward matter, this is to challenge CSs. They need to be the ones that issue the extension of the arm of these rules and regulations. The rules and regulations are many. I would not want to tire my colleagues because I know the report

has been prepared by the Committee. These are 1,761 Rules and Regulations. Some of them are critical, cutting from aviation to agriculture and many others that will facilitate.

Legal Notice No.217, Statutory Instrument Act No.23 of 2013 and extension on rules that were sort, should not suffice legally because it does not hold water.

The recommendations of the Committee be annulled. You cannot cherry pick. I know when some Government officers appear before the National Assembly, they imagine that they should not appear before the Senate. We had that problem in the last Parliament and we cannot allow that to happen. Therefore, even if they had appeared before the National Assembly, they should not be in a fallacy that they cannot appear before the Senate.

Madam Temporary Speaker, Article 93 of the Constitution of Kenya 2010 says that Parliament is the Senate and the National Assembly. I am the least person to advise the Attorney General because he is more senior than some of us. However, Article 93 of the Constitution is very clear. Having served as the Speaker and Member of Parliament (MP), he should be aware.

Finally, we need to republish because there are many organisations that are as illegal as at now. I had indicated that it is due to the number of rules and regulations that are there.

Colleagues, I urge us to move ahead and ensure we follow the rule of law. We are exercising all these on behalf of the people. The powers that we have been given is lawmaking powers. There is nowhere in this country where they have the privileges that parliamentarians have. We can make, amend, annul and nullify the law. We enjoy those powers that have been given to us. When rules and regulations come, our Committee on Delegated Legislation have an obligation.

I congratulate and thank the Committee for the job well done. We want our Senate Committees to always do their job as per the law, in good faith and to table their reports. I beg for the respect of this House. We served with Sen. Kavindu Muthama in the last session. For the respect of this House, we must annul these rules and regulations.

I was here when we did a match of justice from the Senate Lounge. It was not *maandamano*. Let me call it Senate of justice. We went through Parliament Road, General Post Office (GPO) and Valley Road up to Milimani Law Courts before Justice Weldon Korir. We were challenging more than 24 legislations that had been assented by the former President, Uhuru Kenyatta, without the concurrence of the Senate.

This House has come from far. We drafted those pleadings courtesy of and with the support of the secretariat then. I can see most of the people in the Table Office lead by Mr. Zakayo Mogere and my sisters here, were there. The name Zakayo has another meaning on the streets. We walked to Milimani High Court.

The Senate has been fighting to survive from 2013. I ask you, my colleagues, the fight is still on; *aluta continua*. For the Senate to have a position in this Parliament and to be respected, we have had to fight many hurdles and to overcome many challenges.

Madam Temporary Speaker, being an immediate former Secretary General (SG) of the ruling party, you know that. Thank God, the President of the Republic of Kenya holds the Senate in the highest esteem. That is why the Senate needs to thrive during this

Session because we have the blessings of the highest office in the land to do our job. We are not saying the support of the President means that the Senate should not do its job in any way. We are doing it, but complementarily and in a symbiotic relationship.

In Form Two Biology, there was something called symbiosis. There is that symbiotic relationship between the Executive, Parliament and the Judiciary. So, the survival and the fight of the Senate is still on. Even on the Division of Revenue, we have been seeking the assistance of the Supreme Court since 2013.

In fact, there was a time they said that the Senate should not be involved in the budget making process. We went to the Supreme Court and they said involvement of the Senate must be there.

On the issue of Money Bill, I know of colleagues who have generated Bills. However, when it reaches the National Assembly, they say it is a money Bill and so, the Senate should not be involved.

Madam Temporary Speaker, security is a national Government function, but it affects counties. In immigration, many counties such as Kilifi, Busia and Bungoma border other countries. Should counties and the Senate not be involved because it is an immigration issue?

The soul and the heart of this House is on the line. Such decisions that we make on the Floor of this House will make this House to be respected and to be allowed to do its job. Therefore, I challenge my colleagues to agree with the Report of the Committee on Delegated Legislation led by our Vice Chairperson, Sen. Mungatana, MGH. He also represents us in the Inter-Parliamentary Union (IPU).

I am surprised. I did not know Sen. Oketch Gicheru is in the House. I saw him on Waiyaki Way and all over hanging around the tarmac on the road. I am happy he has realised that the people of Migori County did not send him to be on the streets, but on the Floor of the House. I hope Sen. Mungatana, MGH, is guiding him. You know you are a proper senior.

Madam Temporary Speaker, with those remarks and with utmost respect, I beg to second. I urge my colleagues to adopt the Report of the Committee as is.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Cherakey.

*(Question proposed)*

Hon. Senators, this matter is now open for debate and contribution from the Members.

I call upon Sen. Ali Roba to contribute.

**Sen. Ali Roba:** Thank you very much, Madam Temporary Speaker.

I rise to support this Motion by the Committee on Delegated Legislation, which is exhaustively done and presented by Sen. Mungatana.

I rise to thank them for a job well done in safeguarding the interest of the nation and that of entities that are affected. This is because sometimes, requests are presented to various committees, but if you do not look into them keenly, you cause a lot of inconvenience and disadvantages to many.

The legislations that are proposed to be extended affect many different groups. However, it is important for all people to account for failures to implement regulations as they are presented. When you talk about 1,764 Regulations that affect over 400 Acts that are published, it is a very serious issue.

Our able Committee has done a wonderful job in making sure that they have dissected and looked through it. They have also given the right opportunity for the persons who have sponsored the extension of these expiries to appear before the Committee, with respect. This way, they will be able to defend why and what has led to these regulations not being effected, in due course.

The Committee has reported that, neither the respective Cabinet Secretaries (CSs) nor the Attorney-General (AG) has responded to the invitation that was given by the Committee in order to make sure that they seek further information or clarification so that they make an informed decision.

In the absence of that, the Committee has recommended that we annul that request. I rise to support the annulment request and the Motion as presented and also the adoption of the report as presented by the Select Committee on Delegated Legislation in order to make sure that the right thing is done. There is no lesser House. In actual sense, Members of this House are elected from the entire county.

If maybe, responsible persons or accountable officers appear before the National Assembly and fail to appear before the Senate, this will create a precedence that will render the Senate irrelevant. We cannot allow that. As such, I support the Motion to annul and that of adoption of the report.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator.

Sen. Okenyuri, you have the Floor.

**Sen. Okenyuri:** Thank you, Madam Temporary Speaker. I also rise to support this Motion.

I agree with the report of Members of that Committee that has just been laid by the good Senator of Tana River County, *m/a mamba*.

In supporting some of the recommendations that they have made, I will share my experience in the Senate Standing Committee on Health. For the third time now, we are requesting the Cabinet Secretary (CS) for Health to appear in our Committee, and she has failed to appear.

She also failed to appear for the induction meetings that give Members basic knowledge on what the Ministry is doing or how we should closely work with the Ministries to help them achieve their mandate in serving the several millions of low-class citizens, middle-class and well-doing Kenyans. So, it is time for the Senate to stand with whatever we agree and then the other Houses will take us seriously on this issue.

When you write to even a CS, the responses are so basic that any other school-going child can read and not show up. Why should you respond to very basic issues? If the Committee had alternative ways of looking for information, they should not have written to you. There is a reason why Senators seek Statements. It is not just to get written answers. They write for you to appear physically because there is information that

you can get from a one-on-one engagement that cannot be gotten from then officers who are in an acting capacity and cannot account for anything agreed at the Committee level.

So, I support this proposal. In as much as it is radical, it will give the Senate a new lease of life that we do not complain about being ignored, but show how tough we can bite and how we can stick to whatever we agree.

Sen. Cherarkey said it very well. You cannot refuse to appear before the Committee and want to appear at the Senate where you only respond to a question and then go out and there is no chance for Members to interact further because it is limited.

Madam Temporary Speaker, I support this Motion and urge other Members of similar opinions to support it in its entirety.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Korir, you have the Floor.

**Sen. Korir:** Thank you very much, Madam Temporary Speaker, for giving me this chance to also echo my sentiments pertaining to these rules and regulations from the various departments.

I thank the Committee on Delegated Legislation led by our able Vice-Chairperson. I am a Member of the same Committee. We deliberated on these issues that are supposed to be followed. The reason why it is being annulled is because of the procedures that were not duly followed.

I believe there was a notion that the Committee might not take it seriously. That is why they allowed over a thousand rules and regulations to be annulled today.

It is not a good practice for this country, especially when we are fighting to improve the economy. We are not setting good precedence in terms of how we are doing; or the way the CSs are setting their rules and regulations for them to be able to operate.

Madam Temporary Speaker, the Committee went ahead to invite him to come and deliberate issues together that it wanted to be addressed. Having failed, the Committee has decided to annul this. That is why I thank a number of Members who have spoken to this report and are in agreement that it has to be annulled.

Sen. Cherarkey has said that we wrote some love letters. They were not love letters. It was just some respect that we gave them. So, they should not take our respect for granted. That is what we have shown them through the annulment.

I do not want to say much about it. I just say that I am in support of the Committee to annul these regulations.

I thank you, Madam Temporary Speaker.

**Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Korir. There are no other requests for contribution to this debate. So, I now call upon the Mover of the Motion to reply.

Sen. Mungatana, MGH, you may proceed.

**Sen. Mungatana, MGH:** Madam Temporary Speaker, I want to thank you for giving me this opportunity to reply.

I beg to reply as follows. I appreciate all the speakers who have spoken to this Motion. I want to thank Sen. Cherarkey for seconding this Motion. I also want to thank Sen. Okenyuri, Sen. Korir, and Sen. Ali Roba. I am grateful that they had confidence in what we have done as a Committee.

We are sending a message to the Executive that they must take their work seriously for the benefit of this country.

I, therefore, beg to reply and request that you defer the putting of the question to a later date pursuant to Standing Order No.66 (3).

I thank you, Madam Temporary Speaker.

**Temporary Speaker** (Veronica Maina): I will defer the putting of the question to tomorrow at 2.30 p.m.

*(Putting of the Question on the Motion deferred)*

I would also wish to rearrange the business of the day in the Order Paper.

Let us go to Order No.21.

### MOTION

#### COMPENSATION OF KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES EMBASSY IN NAIROBI

*(Sen. Kavindu Muthama on 16.3.2023)*

*(Resumption of debate to a Motion interrupted  
on 16.3.2023)*

Sen. Kavindu Muthama, you had 13 minutes remaining on this Motion.

**Sen. Kavindu Muthama:** Thank you, Madam Temporary Speaker, for giving me this opportunity to complete my Motion for compensation for the Kenyan victims of the 1998 bombing of the USA Embassy in Nairobi.

I had already read what I had written on the Motion. I want to continue by saying that I do not see why the American Government should not compensate Kenyans who died in the bomb blast and those whose, some of their body parts were cut off by the impact of the bombs. Some of them were seriously hurt, injured and are still undergoing treatment. Some of them are really suffering because of lack of funds.

There are children who never finished school because their parents who were the sole breadwinners and were the ones who were educating them died and others lost their jobs. As a result, these children could not continue with their studies.

The USA Victims State-sponsored Terrorist Fund which is there should then compensate the Kenyans. I do not see why they should not be compensated given that even the American Government officials and dignitaries have been visiting the Nairobi Memorial Park where the 1998 bomb blast occurred.

The American Government officials who visited the Memorial Park are Prudence Bushnell, former USA Ambassador. She visited the scene in 2001. Michael Ranneberger, former USA Ambassador visited the Memorial Park in 2008. Hillary Clinton, the then US Secretary of State visited the Memorial Park in 2009. Roncank, US Ambassador to



Kenya visited it in 2009. Joe Biden, the US Vice President in 2010 visited the Memorial Park, while Barack Obama, former US President visited in 2015. John Kerry, US Secretary of State visited in 2015 and Robert Godec, US Ambassador and Laurie Monkeson visited in 2018. Rex Tillerson, the US Secretary of State visited the Memorial Park in 2018. David Hale, the US Secretary for Political Affairs visited in 2019. Eric Kneedler, the US Charge d' Affairs visited in 2018. Margaret Whitman, US Ambassador visited in 2022 and just most recently, Jill Biden, the US First Lady visited the scene this year, 2023.

Madam Temporary Speaker, all these dignitaries being aware of what happened in Kenya, that our people died and some are still suffering; I do not see why they should not be included in this fund. That is why I am requesting the Cabinet Secretary, Ministry of Foreign Affairs and Diaspora and the US Embassy to speak to the American Government to include Kenyans in this fund so that they can be compensated.

I had agreed with Sen. Cherarkey that he would second me, but since he is not here, let Sen. Oketch Gicheru second me.

I thank you, Madam Temporary Speaker.

**Temporary Speaker** (Sen. Veronica Maina): Sen. Kavindu Muthama, have you moved the Motion?

**Sen. Kavindu Muthama:** Madam Temporary Speaker, I move the Motion and request Sen. Oketch Gicheru to second.

**Sen. Oketch Gicheru:** Madam Temporary Speaker, I thank you for giving me this opportunity to second this wonderful Motion by the good Senator for Machakos County, Sen. Kavindu Muthama, on the compensation of victims of what I would term as international terrorism that occurred in our borders in 1998.

International terrorism is something that countries continue to struggle with. Even before we talk about the victims of such kind of heinous crimes, we have seen concerted efforts by different countries who have got good cooperation among themselves. We have seen constant cooperation in dealing with terrorism even between Kenya and the USA to the extent that that collaboration that we have always seen before terror attacks happen in the country or otherwise, should be the spirit with which we approach this issue of compensation.

I say this because there are families that lost lives in 1998. In fact, history tells us that in this particular incident, 213 Kenyans lost their lives in that attack.

There is no life that is more important than the other, but comparatively, 12 Americans lost their lives in that attack. We are as well told by history that 5,000 people from both countries experienced other kind of damages; be it to property, their own physical and psychological torture, due to this terror attack.

Madam Temporary Speaker, some people who died in this terrorist attack were working for the USA Embassy. This is the kind of goodwill that I was talking about.

Terror attacks and the problem that comes with terrorism in our borders, I think it is something that should not be confrontational. It is something that should not be able to bring conflict. It should be in good spirit for the USA to consider helping those who suffered from these terror attacks.

Madam Temporary Speaker, there are families that their children were left without parents because of that attack, to the extent that these children were left without a parent or even in some case two parents gone. They will experience a life time of poverty. They are most likely to die without ever getting education, employed or having a possibility of owning property.

In some cases, people were maimed in these terror attacks. It is so inhuman to see that they have lived with these scars for so long. We are talking about 1998. I know of it, personally. In an unrelated matter, I lost my own mother in 2003. I know the trauma that comes with losing a mother to the extent that when I was still in primary school, I was forced to drop out of school, to try my own life.

I struggled in the backstreets of Migori Town until I ended up finding myself in Nairobi. I ended up being supported by other families that gave me a chance. In total, I was adopted by seven families, so that I could be able to get education. That is why today, I bear a name of the two most confronting and rival tribes. I bear the name Oketch and Gicheru because a Gicheru did not see any tribe, but a talent in me and, therefore, supported me to go to school.

I can imagine of somebody like me, who was not a victim of war or conflict, but had to struggle to find a basis or compass direction in life. What about those that lost their parents in the dust of this terror attack?

Madam Temporary Speaker, up and above the economic emptiness and medical problems that they have experienced, the trauma is unbearable. Sometimes it is not clean and clear in the minds of people who are sitting way overseas. However, this is an issue of humanity, human dignity and morality.

This is when the USA, a country that prides itself as the land of the free and brave should self-examine and be able to think about these families, not as Kenyans or Africans, but these families as one human family; one race of humanity. They should be able to work with the Government of Kenya to ensure that these families are not only compensated, but are supported to find a bearing in their lives. They should be supported to be able to dream and build families that have got meaning.

Madam Temporary Speaker, in any case, as I finish, we do know that under the United States (US) Department of Justice, the funds that are always collected to support efforts to assist people who have been affected by this kind of terror attacks are usually fines and money that are raised by the general population of the USA.

These funds are sometimes proceeds of violation of International Emergency Economic Powers Act. It means that it is the people of US that are putting together these funds to respond to those who have unfortunate been to experience deaths, or even loss of property and health, which they did not plan.

Madam Temporary Speaker, I urge the US Government and the Ministry of Foreign and Diaspora Affairs of our country, that this is not a matter that we should confront each other with. This is a matter that the US should look at it as an issue of human dignity.

No family ever signed to work in the borders within the US Embassy or planned to be in these attacks. In any case, the people who were innocently going about their

businesses were working in a pseudo land of the USA because an embassy is actually a territory of the USA.

I urge the US Government and in particular the US Department of Justice to seriously consider this. It is a consideration that will go far in terms of even cementing the relationship between the US and Kenya.

If you stand with Kenya at times when we are struggling with dealing with people who innocently gave their lives without knowing that by working for the US Embassy, then, we see a friend, a country that we can work or trade with and be able to build a strong relationship with.

This is one of the best Motions that I have seen in my time in the Senate. I believe that this Motion is going to test the bilateral relationship between Kenya and the US.

Madam Temporary Speaker, as I second, I want to urge us, Senators, to support this Motion. We should also put some pressure on the Executive to take a different approach that can build this relationship so that these people get compensated and have better lives.

Madam Temporary Speaker, with that, I second.

**The Temporary Speaker** (Sen. Veronica Maina.): Thank you Senator.

*(Question proposed)*

Hon. Senators, we are now free to contribute to this Motion. I call upon Sen. Beth Syengo to make her contribution.

**Sen. Beth Syengo:** Thank you, Madam Temporary Speaker. I stand to support this Motion by the Senator for Machakos County on the Compensation of Kenyan Victims from the Bombing of the United States (US) Embassy in 1998.

Disaster strikes when least expected as it happened in 1998 when Kenyans were awakened to international terrorism. It is saddening to know that since it happened, 25 years ago, the American Government has compensated some of the American individuals and families yet Kenyans are still languishing and suffering.

I read that as discrimination in the sense that there are Kenyans who lost their lives, some got maimed, disabled and others blind. They are suffering. Even those who survived may not take their children to school or contribute to nation building as expected of them.

Madam Temporary Speaker, the Kenyans who were working at the American Embassy and other who were in the adjacent buildings suffered. Some lost their lives and others suffered as it has been stated.

The USA prides herself in democracy. It would be prudent for the Government of the USA to compensate Kenyan victims who suffered from this act of international terrorism. Looking at what has been happening, there are so many other disasters and international terrorist attacks that have happened and action has been taken. Why leave out these Kenyans?

I request the Kenyan Government to act. I know that under the leadership of His Excellency President (Dr.) William Samoei Ruto, who says that they are following the bottom-up model and minding about the ‘hustlers’ those who are suffering; these are some of the ‘hustlers.’ Those Kenyan victims are ‘hustlers.’ The Government should take priority in pushing for compensation of the Kenyan victims.

Madam Temporary Speaker, I beg to support the Motion. I thank you.

(Applause)

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Beth Syengo. Kindly, proceed, Sen. Korir.

**Sen. Korir:** Thank you very much, Madam Temporary Speaker. Allow me to congratulate the one and only iron lady from the land of Machakos; the Kamba nation. I am seeing his brother looking at me furiously.

This is a very emotive issue that has taken ages before it is concluded. The details are within the Government and even in the USA, which is the Washington DC. I have been trying to do some research and I have seen that they are also willing to pay. However, I believe that there are some misunderstandings between the USA and Kenya in terms of amendments of some laws to allow them to pay the victims.

As it has been stated, it is prudent that we take this seriously not by just debating in this House. We should take this matter seriously to an extent that the relevant Committee together with the Mover of the Motion could have a meeting with the relevant Ministry. There is need for an *ad hoc* Committee to be formed that will address the issues with membership ranging from the Kenyan Embassy to the Washington DC and with this Parliament so that we can have a conclusive report.

That will pave the way on how best we can handle this. This is something that we cannot just debate, but we need to get facts on how far has it gone in Washington DC, with the Embassy and the Ministry, so that, the issue that have been raised by Sen. Kavindu Muthama, can be addressed adequately.

I do not want to say much, but these are victims who have really suffered; some of them are no longer walking, some of them died, their families are frustrated and some of their children might not be going to school.

There are many unanswered questions. I have also tried to look at some by doing some research. I read a number of comments issued by the former Prime Minister on this matter. I have also read a number of comments made by the current President, whom I know he is concerned about the compensation to these victims.

Let us handle this matter with a lot of conscience. I request you, Madam Temporary Speaker, that before we conclude on this Motion, you may make a better ruling that will enable this House to fast track and know the exact position of this matter, because this is now a document of this House.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator. Let us now listen to Sen. Maanzo.

**Sen. Maanzo:** Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute on this important Motion, which I support.

Madam Temporary Speaker, when this happened, I was a fourth year Law Student at the University of Nairobi. I do remember, as I was leaving Parklands Campus, there was this loud bang, which shook Nairobi all the way to Parklands.

When I came to town, I realised the town was chaotic. I had friends who were working at the Cooperative Bank Building that had been injured. Additionally, I know a man who was walking near the roundabout where the USA Embassy was based; he got his clothes torn off from the force, which had come from the bomb. He later found himself naked in the hospital.

I was in Nairobi and I followed the events. There was a Minister Kamotho who was having a meeting with the US Ambassador Prudence Bushnell in the building nearby. There was a lot effort to save Kenyans. It was really bad.

Madam Temporary Speaker, at the same time this happened here, there was another bomb in Tanzania and Sudan. It was an international attack. It was not really the negligence of our country or even the Americans. It was just an act against the Americans and the American Government. It was an act of war. Subsequently, because we are very good friends with the Americans, it hit us here.

Madam Temporary Speaker, I have a very personal interest with the American Embassy in Kenya because my wife worked there for 19 years and then resigned to complete her Doctor of Philosophy (PhD). There are people I know very well who were victims. Some of my wife's workmates were even in that bomb situation. Quite a number of Kenyans that I know got injured there.

Now that there are some proceedings going on and there has been an effort to do something, quite a number of American leaders have visited the Memorial Park. It is something known very well even by the President of America and quite a number of Senators, Congressmen and women who are our friends.

I know quite a number of people in the Congress and the Senate of the United States of America (USA). When Senator Christopher Kunz was here, after meeting quite a number of Kenyans, I am the last person who had a cup of tea with him before he flew back to the USA. I actually represented Senators.

They checked for any Senator who was around because we were on recess and I went to represent all of you. We were at Villa Rosa Kempinski and I had about an hour with him. He is a very resourceful Senator.

I believe that because of the friendship with the USA Government, the Senate, the Congress and some influential people I know in Washington DC who are doing quite a number of activities. My first employer, Mr. Pheroze Nowrojee, an advocate understands this and he is a writer. We can have a way of getting even representation or a team, as it has been proposed, to address this matter, once and for all.

Recently, Hon. Paul Muite, who is an advocate, addressed the matter of *Mzungu Aende Ulaya Mwafrika Apate Uhuru* (MAUMAU) after many years. This matter can also be addressed. Some of the victims are still alive while others have passed on and their relatives are suffering.

There is a sister to Prof. PLO Lumumba who is an advocate. I used to see her at the Embassy when I was a student and she was helping me with some work when I was doing my desertion. They were quite resourceful.

The mistake we did as Kenyans was to put the Embassy in the middle of town. It is actually not a mistake because a terrorist can attack anybody anywhere.

The outcome of terrorism has to be addressed in one way or another. That is why they have come up with the US Victim of State Sponsored Terrorism Fund. The existence of that Fund means there is goodwill for the people to be compensated. It is just a matter of legislation because this is a different state. It needs a little bit of action.

I believe the action can originate from this Senate. Probably it may mean an amendment of this Motion, so that a committee is set up. I urge the Mover to think about that. A committee of this Senate should be set up to approach the Senate of the US and Congressmen because they are good people.

I attended their national prayer breakfast in February and they were organised. We were hosted by about 30 congressmen the previous evening. When we went for the national prayer breakfast the next day, it was something else. We visited them in their offices. We can get one or two congressmen moving from the other side. When it is House to House, it is much better and faster. I believe we can move fast.

All the victims are identifiable. That is why there is a memorial park with their names. Those who are blind are still around. I know one or two friends of the Sen. Kavindu Muthama who I even met a week ago when we were preparing something for her.

She is friends with those people and she knew them even before they were injured. You can imagine how someone suffering blindness in their maturity finds it difficult to navigate, yet they have children who are going to school. I can assure you those families really suffered.

Not only this particularly victims, there was Ufundi Co-operative Building that was completely brought down. That co-operative had savings for members, but they have never recovered although they tried. They need compensation of some sort.

The Cooperative Bank Building was affected. They actually repaired it themselves. I am sure they suffered a big loss which almost saw the bank in a financial crisis. Their building was damaged and their employees affected. That is the headquarters.

We need to relook at the whole thing, so that as you compensate victims, you also compensate any other damages done to the country because we know exactly what happened. In future, we must think of fighting terrorism as a country. We must stop these local wars. Recently we were hit in Westland and terrorists are still around.

The other day I approached CS Hon. (Prof.) Kindiki together with a team from Makueni County. The meeting was about the safety of the highway, the towns and the Standard Gauge Railway (SGR).

There are supposed to be people patrolling, but most of the times, their vehicle is broken down. Many people are now using the SGR. However, a better part of the railway line which runs for about 200 kilometres in Makueni County is unsecured.

You recently saw what is happening in churches. The churches need to be secured every Sunday or Saturday for the Adventists. You saw what happened in our neighbouring country of Congo, where a church was attacked and 58 worshippers died. The terrorist was a Kenyan who had been indoctrinated. He has now been arrested in Congo.

Many young Kenyans had gone for training and are around. In fact, one of them was coming to commit an act like that in a public gathering like the one we had yesterday, but he saw his mother singing. The mother had not seen him for years. He decided not to go on with the attack. Sometimes, these people even sneak past our security checks.

We need special training on this, so that we secure the country and avoid such disasters in future. This is because when disasters happen in other places, there may be no funds. As Kenyans, we should begin thinking of a similar fund in case things happened.

There are terrorist activities that have happened in Kenya where people have been injured and cars destroyed like in Westlands. I know one or two people who lost relatives and they have not been compensated.

Madam Temporary Speaker, this is something we need to think about very carefully. I agree with our Commissioner that something more than what we have presented here needs to be done, so that we help Kenyans in this regard.

I support.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator. Sen. Methu, you have the Floor. We have three more Senators interested in this debate. I hope you will be considerate of the time.

**Sen. Methu:** Madam Temporary Speaker, I will also allow other colleagues to comment on this Motion. I rise to support this timely Motion.

I do not know why the Senator for Makueni started mentioning where they were when the attack happened. At that time, I was in nursery school. That makes it even sad that I have grown until I became a Senator, but no compensation has been made to the victims of that particular terrorist attack.

Looking at the definition, a victim is an individual who suffers direct or threatened physical, financial or emotional harm because of commission of crime. In this case, it is terrorism. The 5,000 people who were injured, and 213 Kenyans and 12 Americans who died in the unfortunate terror attack dully qualify to be deemed as victims of this crime.

In fighting and combating terrorism, terrorists must never feel like they won or had it. One of the major perceptions of terrorists is when they imagine that they have inflicted too much pain on a country and that people will not recover. To ease the burden and prove to them that they never succeeded, that is why I am convinced that this is a timely Motion that we must consider.

Reading into the prayers of the Motion, our Government through the Ministry of Foreign Affairs and Diaspora advances friendship and cooperation between our country and the USA, to support the eligibility of Kenyans and their American counterparts who

survived, the victims and those who were injured in the attack. They qualify to get a share of the victim compensation fund.

It is my considered opinion that we must first build a nexus between the Kenyans who were in the Embassy and the American Government. As my colleague has elaborated, the attack did not only happen in Kenya. It also happened in Tanzania and Sudan. The target was the American people and their Government.

It is not the laxity of the Government of Kenya. Neither is it the laxity of the Government of Sudan or that of Tanzania; this was a terrorist attack just like any other. In this case, the nexus between the victims and the Government is seen in the sporadic attacks that happened in the three countries. As a country and as a people, we must cooperate with the USA Government. I am persuaded by the sentiments of our colleague, Sen. Maanzo, upscale it to the level of this House.

We have had a very cordial working relationship with the Senate of the USA. We could approach this matter in a more bipartisan manner and stand in the gap of those ones who perished in that heinous act. We need to take that burden. It is not fair that we speak about these victims, year in, year out. Some of those who were injured have died poor. The people who had good jobs were not able to take care of their families. They died poor.

Madam Temporary Speaker, if we do not take the bull by its horn now, I do not know when we shall take up this matter. I would never want us to get to that situation. Every morning and every evening, we speak about the *Mzungu Aende Ulaya, Mwafrika Apate Uhuru* (MAUMA) and their descendants yet we have not been able to do anything since 1952 when they were in the forest. Shall we, 60 years down the line, still speak about this 1998 attack? Something has to be done. We are the ones to do it. The burden is on us and we have to do it.

The second prayer is that the Ministry of Foreign Affairs and Diaspora should partner with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast. This is not a big prayer. It is not too much to ask. These people suffered in the line of duty. These people are victims of a terrorist attack.

If the Government cannot give them subsidized medical care and support, what then can we use to show that we care for the people who have had this kind of suffering? This should not be a matter to discuss, adjudicate or argue about. This matter can and should be addressed almost immediately.

We do not require the Government of the USA to come in handy to help in giving survivors of the 1998 bomb blast medical support. If we have surviving Mau Mau heroes, just like we have been asking, let them be given medical support. It is the least that we can do to show respect. It is the respect that we can show as an appreciation for the kind of work they have done for this country.

I am very convinced that it is not the wish of anybody to find themselves trapped in a terrorist attack. A terrorist attack can happen anywhere. If we do not take care of the victims, if we do not love them, if we do not give to the victims, then it is a win for the terrorists who are attacking us. We should prioritize taking care of the victims to prove to the terrorists that we, as a people, have stood, have won and have overcome the attack



against our country. It is not the only attack of this magnitude that has happened in Kenya. It is not really fair, that year in, year out, people come to visit the 1998 Bomb Blast Memorial Park. Every time we get a leader from the USA and other places, they come to visit the memorial park.

When shall we speak about the victims? When shall we speak about the survivors? When shall we speak about those who died? We cannot just keep lamenting every day. We cannot just keep saying that a bomb blast happened. Yes, it happened.

Out of it, 12 Americans and 213 Kenyans died, and 5000 people were affected. If we cannot speak about them, then there is no point in doing the memorials every year. The memorials are painful for the victims. Imagine, a person who lost their sight, a person who lost their limbs, a person who cannot walk switching on their TV to hear of the memorial and the Government has never done anything about them.

Nobody has ever spoken anything about you and when you switch on your TV, you see that an American Senator, envoy or Vice President, is visiting the memorial park of the 1998 bomb blast. How will it make you feel?

The time to speak about those victims is now. Not next year, not in the next election, not in the next Senate and definitely not in the next government. It can only be done now and by us. I support this Motion with everything that I own, everything that I have and everything that would add weight to this matter.

Madam Temporary Speaker, I do not want to belabour this point, but if we want to prove to those who have attacked our country year-in, year-out, we must take care of the victims.

Today, in my considered opinion, it is a very big day for the women of this country. In my short life in politics, I have not seen women rise as high as I have seen today. That a woman from your county, the Hon. Sabina Chege, is now a party leader. This is something that we cannot just keep quiet about. That is a major win for the women of this country. I would want to congratulate the Jubilee Party. Out of the many parties that we have, Jubilee Party has found it necessary to have a woman in the highest decision-making position of the party.

It is such a good step that we are now putting in new blood to replace the retired President. We are now injecting the spirit of women. Women have been known to multi-task on many things. I am sure the kind of struggle that was there in Jubilee when they had the former party leader, will come to an end naturally because a woman is now at the top.

I congratulate Hon. Sabina Wanjiru Chege, the new party leader of the Jubilee Party. I feel that the women of this country should celebrate.

Thank you very much.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Methu, we take note of the new developments that are happening within the political landscape, though it was not connected to the current debate.

Now, it is time for Sen. Gataya Mo Fire.

**Sen. Gataya Mo Fire:** Thank you, Madam Temporary Speaker.

(Sen. Maanzo spoke off record)

I need protection from Sen. Maanzo who is trying to disrupt my presentation.

I stand here today as a very sad person because we are debating an issue that took place over 25 years ago when Sen. Methu was either in nursery school or in his nappies.

(Laughter)

Madam Temporary Speaker, we have had a lot of debates about compensation across the board, both in the National Assembly and in the Senate. If we check our archive, quite a number of hon. Members have brought Motions on compensation. We had a Motion that was supposed to compensate the former councillors.

That Motion was brought to the National Assembly 15 years ago. There was also a Motion to compensate the Mau Mau; people who had lost their land, property and lives. There was another Motion to also compensate teachers.

Madam Temporary Speaker, I do not know the seriousness we are displaying. We may end up talking a lot of English here with beautiful presentations, but some of these things will not end up anywhere.

I congratulate my sister and mom, Sen. Kavindu Muthama, for coming up with this brilliant idea. The most critical part of this idea is to make sure we do the necessary follow-up. This Motion will require a lot of involvement because we need to bring many stakeholders on board. The target of the bombing was not Kenyans but the Americans living in Kenya. I have heard a number of Members say we had other attacks in Tanzania and other places at the same time.

Madam Temporary Speaker, it is the responsibility of the American Government to ensure that the Kenyans who lost their lives, got crippled and maimed get their dues. I am sorry to repeat that we are discussing this issue 25 years down the line.

This Motion is viable and will bring on board a number of stakeholders, even if it means going all the way to the America Government so that we pursue this matter conclusively. We have had a lot of empty talk on these commissions. Today, someone will bring a Motion for compensation and yet we have lost Motions on compensation of the Mau Mau fighters, former councilors and teachers.

Madam Temporary Speaker, let us not create a House of rhetoric, where we just argue, make beautiful presentations and the issue dies just like that. This is a serious matter where we are talking about lives and it is not only this Motion. This country has lost many people through dubious circumstances.

It is very important that this time round, we must identify the stakeholders who are supposed to make sure that we get these people compensated. Some of them died, but they left behind relatives and next of kin who may have lost livelihoods because the people who used to earn on their behalf died.

Madam Temporary Speaker, I am happy because this will involve other Committees. Through your guidance, we can form an *ad hoc* Committee that will bring on board all the stakeholders so that we can pursue this matter conclusively and have these people paid as required.

I strongly support.  
**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Gataya Mo Fire.

I now invite Sen. Cherarkey.

## POINT OF ORDER

### ADJOURNMENT OF DEBATE UNDER STANDING ORDER No.110

**Sen. Cherarkey:** Madam Temporary Speaker, I stand under Standing Order No.110. Looking at the gravity of this Motion, I request that the debate be now adjourned until a later date, in order to give latitude, more time and engagement to improve on this Motion. The purpose of this is to allow amendments to the Motion to ensure that we involve most Senators and also bring about changes that we can speak about here. This includes even engaging USA, so that our brothers and sisters who fell victim, get an opportunity.

Madam Temporary Speaker, as I move this Adjournment of Debate, I know there are colleagues who wanted to contribute. However, we want to refine and make it better. I request we move and allow amendment to this Motion.

As per the Standing Orders, I request Sen. Mungatana, MGH, who has not spoken to this matter, to second. Sen. Oketch Gicheru had spoken to it.

**Sen. Mungatana, MGH:** Madam Temporary Speaker, I rise to second the idea and the brilliant Motion that has been brought by my colleague, whom I respect very much. I agree with the adjournment that is seeking to amend this Motion.

About a month ago, I received a telephone call in my office from a gentleman who comes from Tana River County, Garsen Constituency. He informed me that victims of the bomb blast had been asked to get in touch with their Senators so that Senators can create a list in order to make a follow-up for them to be compensated because they had not received anything.

I then looked at the Order Paper and saw Sen. Kavindu Muthama's Motion, which had not been debated. It has been there for a long time and I connected the two. So, I purposed to support this Motion when it comes before the House because the victims are not just people from Nairobi City or Machakos counties.

The affected people include people from Tana River County. They were here in Nairobi City looking for jobs, working in offices and walking along the streets for leisure. The people from various counties got affected and this Motion affects all of us. Therefore, it is a good move today to second this idea that has come.

The 7<sup>th</sup> August, 1998 will remain a big memory in the minds of many Kenyans who saw what happened that day, watched on television, heard the cries and felt the pain of those who lost their loved ones. The American Government deployed 900 Federal Bureau of Investigation (FBI) agents. It was the biggest deployment of FBI outside America since the World Wars. They came here and combed every piece of evidence.

The bombs in Dar es Salam and Nairobi City erupted simultaneously. They named them the Ken Bomb and Tan Bomb and they collected a lot of evidence and information. These people are thorough in their jobs and have their records.

I agree with those who spoke before me that there is a sense of discrimination in the sense that they have the information and knowledge of who was involved, affected, died or got hurt. The records show 4,500 were injured, amongst those who died in that bomb blast

Madam Temporary Speaker, the spirit of this Motion is to seek compensation and it is not confrontational. Sen. Kavindu Muthama did not want us to file a suit or confront the American Government. The spirit of this Motion is; can we do something for those people who did not get anything?

Suggestions have come here that maybe we need to have a sort of Senate Committee. I support this idea so that we can speak to our colleagues, either the Congressmen or Senators on the other side. The spirit of this Motion needs to capture what we are talking about and that is good.

I hope Sen. Kavindu Muthama does not feel bad about this, but it is good for us to adjourn it so that she can get the feeling of the Senate. Amend it, get all the information and see how you can accommodate all of us.

The idea of us cooperating with the American Government and forming a team that will, probably, engage directly with our colleagues and that of Sen. Maanzo of House to House engagement are very useful. Therefore, I second this Motion wholly and urge our colleagues to accept it so that we can make real movement.

**The Temporary Speaker** (Sen. Veronica Maina): The matter being debated is one of great national importance. It has necessitated a Motion to be moved by Sen. Cherarkey seeking to adjourn the debate so that the Motion may be amended.

Having considered Standing Order No.110, and the Motion that has been moved by Sen. Cherarkey and seconded by Sen. Mungatana, I hereby direct that the debate be now adjourned to a later date and the relevant amendments be filed before the debate resumes next.

*(Question that the debate on the Motion be now adjourned put and agreed to)*

**The Temporary Speaker** (Sen. Veronica Maina): We have reorganized the Order Paper once again. We shall have Order No.20. Sen. Cherarkey, you had 11 minutes to complete the debate on moving the Motion.

## MOTION

THE DOPING MENACE THREATENING KENYA'S IMPECCABLE  
GLOBAL REPUTATION IN ATHLETICS

THAT, AWARE THAT in 2018 Kenya was placed under Category  
A by the World Anti-Doping Agency and since then 40 Kenyan athletes

have been banned by either the Athletics Integrity Unit (AIU) or the Anti-Doping Agency of Kenya (ADAK) and has led to a situation whereby the Kenyan athletes have to undergo intense testing before participating in major events and has immensely affected the reputation of the Kenyan athletes and the standing of Kenya in the international sports arena where it currently ranks at number five;

CONCERNED THAT, despite the high number of alleged doping cases, Kenya has only one World Anti-Doping Agency (WADA) approved blood testing laboratory forcing it to send urine tests to Qatar and South Africa for analysis and that the Anti-Doping Agency of Kenya (ADAK) is taking too long to address the doping menace which is likely to affect the state of preparedness for the athletes in the upcoming 2024 Olympic games in Paris;

NOW THEREFORE the Senate resolves that the Ministry of Youth, Sports and Arts: -

a. Come up with modalities that can help achieve increased testing, intelligence gathering on athletes and doping awareness programmes;

b. In collaboration with Athletics Kenya (AK) and National Olympic Committee of Kenya (NOCK) vet all training camps, coaches, trainers and other athlete handlers;

c. Initiate investigations at Anti-Doping Agency Kenya (ADAK) to identify and sanction all responsible officers liable for the menace of doping;

d. In collaboration with the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) finalize pending investigations and recommend prosecution of individuals involved in giving this banned substance to athletes; and

e. In collaboration with the Ministry of Health to identify and revoke licenses for medics, pharmacies and hospitals responsible for the prescription of the commonly abused drugs by the athletes.

*(Sen. Cherarkey on 9.03.2023)*

*(Resumption of debate interrupted on 14.03.2023)*

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker, for this opportunity to continue. You gave me an opportunity to thank our brothers and sisters who performed very well in the London and Boston Marathons a few weeks ago.

The biggest challenge is doping that is not only affecting athletics, but also football and rugby. If I am not wrong, Sen. Oketch Gicheru plays football in the Senate Bunge Football Club (FC).

I do not know what Sen. Thang'wa can play, but from the look of things, he might be good at night running.

*(Laughter)*

This threat is real. The issues of doping are denting our image. If you remember, Russia was banned because of the doping menace. I urge our athletes to participate in clean sports. If you are a footballer, you do not need to reach the level of Dennis Oliech or anyone who plays in the leagues. We need to have athletes who are clean.

ADAK has failed this country. It is not behaving like the famous Maguire of Manchester United. He is a player in the Manchester United Football Team. Whenever he plays on the defense, he normally aids his own team to lose. I respect Manchester United fans. However, Maguire is a liability in the team because the moment you see him playing, you are sure that Manchester United will lose. This is what is happening with the anti-doping agency, for us who are football lovers.

There are a number of athletes that have been blacklisted, but because of corruption in the ADAK, this agency has not done any sensitization.

Two, it does not tell us which substances have been banned. Why are they banning athletes only? They need to ban the laboratories and pharmacies that are aiding doping. They need to recall the licenses of doctors who aid some of these athletes and sportsmen and women to use doping substances.

ADAK only ban athletes. They do not even allow the Directorate of Criminal Investigations (DCI) to investigate the people who are giving doping substances to our young men and women. We are told that these substances have adverse effects to the human bodies. After using these steroids and other chemicals, the “batteries” of most of these athletes are dead. They cannot sire children; they “shoot blanks”.

Madam Temporary Speaker, this is a very serious public health issue. I fear for my agetates and the younger generation. They used to refer to the Senate as “*nyumba ya wazee*,” but majority of the young people are here, like Sen. Oketch Gicheru, myself and other Senators who are young. This is a House where we have everybody on board and we fear for our future generation.

The biggest challenge is the issue of compliance. Up to date, ADAK, DCI or Ethics and Anti-Corruption Commission (EACC) have never tabled a report. There are sports coaches and trainers who come using tourists visa, but they are training our athletes in Kaptagat, Mt. Kenya or Nairobi.

Some of the things happening in our country are shocking. How can a coach fly in all the way using a tourist visa and train our athletes? Which country are we living in? Sports is our greatest resource as a nation. Wherever you walk in the streets of Europe and America and you tell somebody you come from Kenya, they will ask you whether it is that country where people run.

We need to be serious as a country. We cannot allow our young men and women to be abused. Where is the Ministry of Interior and National Administration, the DCI, the EACC and National Intelligence Service (NIS)?

The other day, the NIS was being blamed for the deaths in Shakahola. I saw the party leader of Sen. Oketch Gicheru saying that Shakahola annex is somewhere. As we blame the NIS, what are the immigration officials doing? We do not know what these coaches do. They walk in, wear sport shoes and tracksuits and say they want to train. If we are not careful, we will have human trafficking where we allow them to---

**The Temporary Speaker** (Sen. Veronicah Maina): Sen. Cherarkey, you have a balance of five minutes when the House resumes tomorrow at 2.30 p.m.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Veronicah Maina): Hon. Senators, it is now 6.30 p.m. time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 3<sup>rd</sup> May, 2023 at 9.30 a.m.

The Senate rose at 6.30 p.m.