

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 25<sup>th</sup> April, 2023

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

*[The Deputy Speaker (Sen. Kathuri) in the Chair]*

### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Deputy Speaker** (Sen. Kathuri): Clerk, confirm whether we have quorum.

*(The Clerk consulted the Deputy Speaker)*

I request we call for quorum for five minutes.

*(The Quorum Bell was rung)*

Hon. Senators, I have ascertained that we now have quorum. So, let us transact the House business.

Clerk, proceed to call the first Order.

*(Sen. Kavindu walked into the Chamber)*

Sen. Kavindu, speed up a bit to your seat.

### COMMUNICATION FROM THE CHAIR

#### GUIDELINES FOR CSs APPEARING BEFORE THE SENATE

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I have a Communication to make on guidelines for questions to Cabinet Secretaries (CSs) appearing before the Senate.

Hon. Senators, as you may recall, on Thursday 23<sup>rd</sup> March, 2023, the Senate passed a Motion on the fifth Report of the Procedure and Rules Committees; and approved amendments to the Standing Orders, which effect was to provide a framework for questions to CSs.

In approving the amendments to the Standing Orders, the Senate also varied hours of meetings to provide for sittings on Wednesday morning, pursuant to Standing Order No.34(1).

To this end, a resolution of the Senate to amend the Senate calendar in accordance with Standing Order No. 34 (1) was approved and adopted on 29<sup>th</sup> March, 2023.

Hon. Senators, the amendments took effect from Tuesday, 11<sup>th</sup> April, 2023, and the first set of Questions has been scheduled for tomorrow, Wednesday, 26<sup>th</sup> April, 2023, morning sitting.

In preparation for implementation of the Standing Orders on Questions, I issued guidelines on 28<sup>th</sup> March, 2023, detailing the key aspects relating to the procedure in which Questions shall be considered.

In preparation for implementation of this framework, allow me to give highlights of the guidelines as follows-

Hon. Senators, please make your way to your seats. This Communication is a bit long.

*(Several Senators walked into the Chamber)*

Please let me repeat. In preparation for implementation of this framework, allow me to give highlights of the guidelines as follows:

(i)Filing of Questions; a Senator who wishes to address a Question to a Cabinet Secretary (CS) will be required to deliver a signed copy of the Question to the Clerk. Thereafter, the Clerk shall process the Question in line with Standing Order No.(51( (b) and submit the notification to my office for approval.

Upon approval, the Clerk is required to convey the Questions to the relevant CS.

Hon. Senators at the back, please find your way to your seats. Some Senators are not even bowing. What is happening? Please find a way to your seats.

*(Several Senators bowed to the Chair and walked into the Chamber)*

That is good procedure. Thank you.

Let me proceed.

(ii)Scheduling of Questions; upon approval of Questions by the Speaker, the Clerk shall submit a list of the Questions to the Senate Business Committee (SBC), which shall schedule a CS, at least, seven days' notice before the date appointed for the CS to appear before the Senate.

(iii)Publication of Questions; the Clerk is required to publish and to circulate to Senators the schedule of Questions not later than the Friday preceding the day upon which the Question is to be responded to by the relevant CS.

(iv) Disposal of Questions in Plenary; Questions shall be dispensed with in the manner approved by the SBC and as scheduled in the Order Paper. A Senator shall only ask his or her Question on the day it is scheduled in the Order Paper. Senators will be required to address Questions to CSs pursuant to Standing Order No.51 (c) (1), in the form approved by the Speaker.

Hon. Senators at the back, please find your way to your seats.

*(Several Senators walked into the Chamber)*

(v) Order for Disposal of Questions; the Speaker may, on his own motion, or on the request of the Senator who proposes to ask a Question or the CS, vary the order in which Questions shall be disposed of.

(vi) Absence of a Senator on the due date of a Question; pursuant to Standing Order No.51(c) (2), a Senator may, in writing, nominate another Senator to ask a Question on his or her behalf where the Senator shall be absent on the day on which the Question is listed.

(vii) Supplementary Questions; after a CS has responded to a Question, the Standing Orders give the Speaker the power to allow the Senator who asked the Question to raise a maximum of two supplementary questions that relate to the original Question. Other Senators will be allowed to ask one supplementary Question.

(viii) Allocation of time per Question; each Question scheduled shall not take more than 20 minutes. This accounts for the original Question and the supplementary questions. CSs may submit to the Clerk, documents in support of oral responses, which will be deemed to have been tabled upon receipt by the Clerk.

Hon. Senators, can you also make your way in? Hon. Gataya Mo Fire, you are outside the House. Please get closer to the Bar so that I can allow you to get in.

*(Several Senators walked into the Chamber)*

*(Sen. Githuku consulted Sen. Gataya Mo Fire)*

Sen. Githuku, you are out of Order. I gave you leeway to get your seat now you; are standing and greeting Sen. Gataya Mo Fire. That was not the guideline that I gave you. Those are things you can do after the rise of the House.

(ix) CS submissions; whenever a CS addresses the Senate, the Cs shall be heard in silence. Interventions and points of order will not be entertained. Senators may, however, react to the submission by CSs through supplementary questions.

A CS will be required to provide five physical copies and an electronic copy of a response to a Question at least 24 hours prior to appearing before the Senate. The response is to be addressed to the Clerk and delivered to the Senate Journals Office located at Main Parliament Buildings.

Hon. Senators, the Office of the Clerk has made arrangements to ensure that CSs have access to the Senate Chamber to respond to Questions. To this end, upon arrival at the Parliament Buildings, a CS will be ushered to the lounge area in the New Wing.

At the appropriate time, the CS, accompanied by a maximum of three officers from the Ministry, will be led into the Chamber by the Serjeant-at-Arms. Other officers from the Ministry may take up seats in the Speaker's Gallery.

The CS, and the three designated officers will take up seats to the right of the Chair and wait for the Order for Questions to be called out upon which, Senators may pose their questions to the CS as approved.

The two Senators at the back, please find your way to your seats.

*(Sen. Mundigi and Sen. Kinyua walked into the Chamber)*

After a Senator has asked the Question, the Speaker will give an opportunity to the Cabinet Secretary (CS) to respond. In making the response, the CS will proceed to the podium on the right of the Chair and make his or her summations to the Senate. In the event that there will be need for consultations between the CS and his or her team, the CS may utilise the consultation rooms at the back of the Chamber.

After all the questions to the CS have been addressed, the CS will be at liberty to take leave, whereupon the Senate will continue with the Business scheduled in the Order Paper for the day.

Hon. Senators, in conclusion and appreciating that tomorrow will be the first time that the Senate will consider Questions in Plenary, I take this opportunity to implore upon Hon. Senators to acquaint themselves with the procedure in the Standing Orders on questions and the guidelines issued on the matter.

Thank you.

*(Applause)*

Hon. Senators, those who were not around when I started reading the guidelines for Questions to CSs appearing before the Senate can approach the Table Office to get a copy of this important communication. It is a public document.

Next Order.

The Senate Deputy Majority Whip, proceed.

## PAPERS LAID

### REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS ENTITIES

**Sen. (Dr.) Lelegwe Ltumbesi:** Mr. Deputy Speaker, Sir, I beg to lay the following papers on the Table of the Senate, today, 25<sup>th</sup> April, 2023-

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

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

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

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

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

I beg to lay.

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

**The Deputy Speaker** (Sen. Kathuri): Thank you, Senate Majority Deputy Whip.

There is another paper to be laid by the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations. Are you ready?

REPORT ON THE COUNTY BOUNDARY BILL  
(SENATE BILLS NO. 6 OF 2023)

**Sen. Abass:** Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, 25<sup>th</sup> April, 2023.

Report of the Standing Committee on Devolution and Intergovernmental Relations on the County Boundary Bill (Senate Bills No. 6 of 2023).

I beg to lay.

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

**The Deputy Speaker** (Sen. Kathuri): Thank you. Next Order.

Hon. Senators, let me make this Communication before we get to Order No. 7.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM MURANG'A COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, a visiting delegation from the County Assembly of Murang'a.

The delegation comprises the Speaker, Members of the Speaker's Panel and Secretariat, who are on a benchmarking visit with their counterparts in the Senate. They will observe the Plenary Sessions on Tuesday, 25<sup>th</sup> April, 2023 and Thursday, 27<sup>th</sup> April, 2023.

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

Hon. Moses Gachui	-	Deputy Speaker
Hon. Francis Kibe	-	Leader of Majority
Hon. John Kamwanga Mwangi	-	Member, Speaker's Panel
Hon. Antony Marubu Chege	-	Member, Speaker's Panel
Hon. Hannah Wairimu Kamau	-	Member, Speaker's Panel
Ms. Jane Nduta	-	Senior Clerk Assistant
Ms. Hellen Githinji	-	Principal Hansard Editor

Mr. Peter Ndung'u - Serjeant-at-Arms  
On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

Thank you.

We are now at Order No. 7; Questions and Statements. Pursuant to Standing Order No.53(1), I request the Senator for Kisii County, Sen. Onyonka, to seek his Statement from the Standing Committee on Finance and Budget, regarding the status of Pending Bills of Kisii County Government.

Hon. Senator, proceed.

## STATEMENT

### STATUS OF PENDING BILLS OF KISII COUNTY GOVERNMENT

**Sen. Onyonka:** Thank you, Mr. Deputy Speaker, Sir. Before I go on, I would like to give my regards to the team that has come from Murang'a to benchmark in the Senate.

I was not very clear in the mind when you made the Communication. I did not raise the issue because I did not know how to respond to your Communication. I am very excited.

Allow me to say this for the sake of the Members of this House who may not have been here before. When we used to have interrogations between the Ministers and the Members of the National Assembly (NA), because by that time the Senate had not been effected, the engagements were serious---

**The Deputy Speaker** (Sen. Kathuri): Order, Sen. Onyonka. Are you making your Statement? Your Statement is on pending bills?

**Sen. Onyonka:** Mr. Deputy Speaker, Sir, I am making my Statement. I thought you would let me slide through by giving you accolades. However, I will not. Let me go to the major issue.

*(Sen. Githuku walked into the Chamber  
without bowing to the Chair)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Githuku, Senator for Lamu County, this is not a cowshed. When you get to the bar you must appreciate that this is a House of honour. Go back to the bar and bow in honour of this House.

*(Sen. Githuku walked to the Bar, bowed to the  
Chair and walked into the Chamber)*

Hon. Senators, I am very keen today so you must be careful.

**Sen. Onyonka:** Thank you, Mr. Deputy Speaker, Sir, for protecting me.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Finance and Budget, regarding the status of pending bills of Kisii county

government as well as those of the other 46 county governments in our Republic of Kenya.

In the Statement, the Committee should-

(a)Furnish the Senate with a report of all the pending bills of Kisii County Government for the Financial Years 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021, 2021/2022, and 2022/2023.

(b)Explain the reasons for nonpayment and delay in the release of payments to contractors by the County Government of Kisii and many other county governments in the Republic of Kenya despite the stipulation and timelines specified in Section 139(2) (6) and 151 of the Public Procurement and Asset Disposal Regulations, 2020.

(c)Indicate the total amount of pending bills of all the county governments in the Republic of Kenya over the same period outlining the amounts owed to the contractors, all the service providers and if any contractors have been paid.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Onyonka. The next Statement is from the Senator for Kirinyaga County, Sen. (Dr.) Murango.

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

**The Deputy Speaker** (Sen. Kathuri): What is your point of order, Sen. Kinyua? It must be a point of order. You know that you cannot just raise frivolous points of order.

**Sen. Kinyua:** Asante Bw. Naibu Spika. Hoja yangu ya nidhamu ni kuwa, ni kawaida yetu wageni wanapotutembelea tuwakaribishe. Tuna wajumbe kutoka Murang'a ambao wametutembelea. Kwa sababu Seneta wa kutoka Murang'a hayuko, nimechukua jukumu hilo kama Kamishna.

*(Applause)*

Kwa unyenyekevu mwingi na kwa sababu Sen. Joe Nyutu ni Mwenyekiti wa Kamati ya Elimu. Itakuwa ni kosa, dhambi na laana kwangu mimi kama sitawakaribisha wajumbe hawa wakiongozwa na Naibu wa Spika pamoja na Kiongozi wa walio wengi---

**The Deputy Speaker** (Sen. Kathuri): Sen. Kinyua, mbona unaruka Seneta wa Nyeri na yeye ndiye jirani zaidi? Wewe uko Laikipia. Jirani wa Murang'a zaidi ni Seneta wa Nyeri.

**Sen. Kinyua:** Bw. Naibu Spika, akufaaye kwa dhiki ndiye rafiki. Hakusema lolote.

*(Applause)*

Mimi nimeona Sen. Joe Nyutu hayuko na ni Mwenyekiti wangu.

**The Deputy Speaker** (Sen. Kathuri): Nitampatia dakika moja. Yeye ni jirani mwema wa Murang'a pia.

**Sen. Kinyua:** Asante Bw. Naibu Spika. Naungana nawe kuwakaribisha wajumbe hawa kutoka Murang'a Kaunti. Ningependa kuwaambia karibuni Seneti. Kwenye Jumba hili mtasoma mengi. Nawatakia kila la heri wakati mko hapa kwa masomo yenu.

Vile vile, nataka kuwaambia mlifanya jambo la manufaa zaidi kumchagua Sen. Joe Nyutu. Yeye ni Mwenyekiti wetu wa Kamati ya Elimu. Yeye huongea Kiswahili sanifu katika Bunge hili. Pia ni mtu aliyebobea. Leo hayupo hapa, ameenda katika

shughuli za kikazi. Kwa hivyo, yeye ni mchapa kazi na anaendelea kufanya kazi ambayo amechaguliwa kufanya.

Bw. Naibu Spika, naungana na wewe kusema asante na kuwaambia karibu sana.

**The Deputy Speaker** (Sen. Kathuri): Seneta wa Nyeri?

**Sen. Wamatinga:** Thank you, Mr. Deputy Speaker, Sir. I want to commend you for noticing that Senator for Laikipia. Sen. Kinyua jumped two counties to get to Murang'a.

I take this opportunity to welcome Members of the Murang'a County Assembly. The Senator for Murang'a County, Sen. Joe Nyutu is away on official duty. He had told me that they are coming. I had said that I will wait for your grace to give me an opportunity. However, the Commissioner decided to use his mandate and power vested in him as a Commissioner to grab the opportunity. However, thank you.

I would like to tell the County Assembly of Murang'a that the Senator for Murang'a and I have decided to work together. We are forging an economic block of the Central region where I am the Chairperson of all the Senators from Mt. Kenya.

Sen. Joe Nyutu is our Secretary and, indeed, doing a good job. On Saturday we visited Murang'a County on official duty because we have recognised that it is important to make sure that we join Murang'a and Nyeri counties to become one, not for anything else but to vouch for socio-economic development together.

*Karibuni sana* County Assembly of Murang'a.

**The Deputy Speaker** (Sen. Kathuri): Senator for Nyeri, I did not know that you had that passionate message. Next time you must catch the Speaker's eye. Otherwise, you could have lost your message.

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

**The Deputy Speaker** (Sen. Kathuri): Sen. Mumma, what is out of order? Are you also claiming to be a neighbor of Murang'a?

*(Applause)*

### NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 37

#### THE DISCOVERY OF MASS GRAVES AT SHAKAHOLA IN KILIFI COUNTY

**Sen. Mumma:** Mr. Deputy Speaker, Sir, women are Kenyans. So, I can claim to be a neighbor of Murang'a because that is our nature.

Pursuant to Standing Order No.37, I seek leave of the Senate to adjourn to discuss a definite matter of urgent national importance, namely. the discovery of mass graves thought to be those of Pastor Paul Mackenzie's followers who purportedly died of starvation as part of the religious conviction prevailing in Shakahola Village, Kilifi County since 20<sup>th</sup> April 2023.

*(Several Hon. Senators stood up in their place)*



**The Deputy Speaker** (Sen. Kathuri): I can see for sure that this is a matter of national importance. It is a bipartisan issue. I have confirmed that you have the threshold and therefore, I direct that the Senate will adjourn at 5:30 p.m. to consider that Motion.

Hon. Senators, there is a Statement from Sen. (Dr) Murango. There are three other Statements. I can see Sen. (Dr) Murango is not around. So, those Statements stand deferred until the next sitting.

### STATEMENTS

#### ESTABLISHMENT OF A PUBLIC TEACHER TRAINING COLLEGE IN KIRINYAGA COUNTY

*(Statement deferred)*

#### CIRCUMSTANCES SURROUNDING THE AMPUTATION OF BABY NOOR'S FINGERS

*(Statement deferred)*

#### DELAYED CONSTRUCTION OF WAMUMU KEMRI STATION

*(Statement deferred)*

**The Deputy Speaker** (Sen. Kathuri): We will go to the next and the last one from Senator Oketch Gicheru. No, it is not the last one, there is one more.

#### SECURITY OF BODA BODA OPERATORS IN MIGORI COUNTY

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on National Security, Defense, and Foreign Relations regarding the threat to the security of *boda boda* operators in Migori. In the Statement, the Committee should-

(a) Investigate claims of the existence of a criminal gang operating in Migori County which has led to the rise of insecurity targeting *boda boda* operators in Migori town.

(b) Explain the circumstances that led to the killing of Lucas Makongoro and Edward Oigara on 14<sup>th</sup> April 2023 both of whom were *boda boda* operators in Suna West and injuring of another operator called Victor Okumu Chacha in Suna East during the same period.

(c) Outline the measures put in place by the national Government to conclusively deal with the causes of heightened insecurity with insistent attacks on residents which

have lately become rampant not only in Migori County but also in many parts of the Country on *boda boda* operators.

I thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): I want to allow Hon. Senators to make comments on those two Statements.

The Statements by Sen. Onyonka and Sen. Oketch Gicheru.

I can see there is a point of order from Sen. (Dr.) Lelegwe Ltumbesi. What is out of order?

**Sen. (Dr.) Lelegwe Ltumbesi:** Sorry, Mr. Deputy Speaker, Sir. I pressed that button when you read the Communication regarding Murang'a County Assembly.

**The Deputy Speaker** (Sen. Kathuri): Proceed. Let me give you one minute to at least say something, on behalf of the leadership of the Majority Side.

**Sen. (Dr.) Lelegwe Ltumbesi:** Thank you, Mr. Deputy Speaker, Sir. I join you in welcoming Murang'a County Assembly led by the Deputy Speaker, to the Senate.

Here in the Senate, you will learn many procedures from us that will make your service to Murang'a County better. The leaders of the house will learn procedures of the Speaker's Panel and will discharge their duties well when they go back. So, take your time to learn more from us.

**The Deputy Speaker** (Sen. Kathuri): Thank you. There is another intervention from Sen. Veronica Maina.

**Sen. Veronica Maina:** Mr. Deputy Speaker, Sir, with your kind permission, I am from Murang'a County, my county of birth. If you allow me, I wish to welcome the Speaker's Panel from Murang'a County.

I take this opportunity to warmly welcome them to the Senate. Murang'a is a great county and one of the best in Kenya. I know many of us are aware that it has been registered as the County that produces some of the best wives in Kenya and therefore, building families and affirming the rights of women.

Mr. Deputy Speaker, Sir, Murang'a has very many female Members of Parliament (MPs), who were voted in by the people of Murang'a County. It is a County that deals with women very well.

We are happy that you are here in the Senate. There are very many areas that we can share. I serve in the Speaker's Panel. I believe that by the time you leave, you will have learnt a few tips, even as you observe the debate and participate in the proceedings of the House.

Welcome to the Senate.

**The Deputy Speaker** (Sen. Kathuri): Sen. Veronica Maina, your statement about Murang'a County having the best wives, is a statement of fact because no Member has objected to your statement. Therefore, you carry it. Yes!

Let us have Sen. Maanzo.

**Sen. Maanzo:** Thank you, Mr. Deputy Speaker, Sir. I would like to briefly comment on two issues. One is by Sen. Onyonka. I wish to state that the issue of pending bills touches every single county and the national Government.

Despite the challenge of the public debt, which eventually affects the Division of Revenue Bill between the national Government and counties, it is only fair that Kenyans

who have been doing business with either counties or the national Government and even international communities get paid.

This matter must be given priority because businesses, especially the young ones, have borrowed from banks, in order to finance projects for counties. This includes Kisii and Makueni counties. The moment they are through, counties then fail to pay for years.

I am aware of quite several businessmen from Machakos County who have been auctioned. This has caused them to suffer ailments out of the stress they have gone through while awaiting to be paid money for work that was done under the administration of the previous Governor.

Mr. Deputy Speaker, Sir, in some counties, after the work has been done, they bring up petty excuses to delay payments, instead of being straight forward that the Division of Revenue Bill allocation to counties is not enough.

This House needs to look for a solution and ensure that private businesses who have won and executed county tenders, do not have their money delayed. The delay should not be too much. Although the law has fixed it in Clause 151 of the Public Procurement and Disposal Act, the Senate has to help, so that business people working in counties get paid.

Secondly, *boda boda* people are useful but very vulnerable all over the country. They give people directions, ferry people at night and they are part of the security system. Unfortunately, they have been attacked at night by people who were originally customers but turn out to become thugs. It is not only in Migori County but also other parts of the country.

The solution is for *boda boda* to form Savings and Credit Cooperative Societies (SACCOs). They will have a way of helping each other and work with the Government. The security system will make sure that whenever they are attacked, they are easily rescued by the police.

**The Deputy Speaker** (Sen. Kathuri) Proceed, Sen. Cheptumo.

**Sen. Cheptumo:** Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Statement by Sen. Onyonka.

When you talk about pending bills, it means there was some delivery of service by contractors in those counties. It also means that those contractors spent their resources to undertake those projects, with the hope that county governments will pay. When there is delay in payment, it affects the lives of those contractors and their families. They are even unable to plan and project their future.

Mr. Deputy Speaker, Sir, the function of this House, under Article 96 and 100 of the Constitution, is to protect the interest of counties and county governments. This Statement raised by Sen. Onyonka is critical, not only in counties but even in the national Government.

Therefore, it is important that as governors push for remittance of more money to counties, I appeal to them to first pay those contractors when they receive their funding because there is untold suffering. I am aware that Members of this House have been approached by contractors to help them in this situation. It is becoming very challenging to our people. Those contractors who have been doing projects such as road construction well, are now unable to do it.

I agree with what Sen. Maanzo said, that this House should come up with rules and regulations, so that counties are mandated, as a matter of procedure and law, to ensure that those contractors are paid.

Mr. Deputy Speaker, Sir, this is also another way that corruption is exercised in counties. After a contractor has done their work, they are supposed to be paid. Sometimes those who are supposed to pay put certain conditions, that you give some consideration before you are paid. It is an area that we need to focus on as a House, so that we help suffering Kenyans to access their resources and be able to do their businesses going forward.

I support.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Hon. Senators, as management of this good House, we really need to stick to the one hour for Statements. I can see there is a lot of interest on these two Statements. We still have another Statement by Sen. Miraj.

So, I request that if I give you an opportunity, just take advantage of two minutes; comment and that is it. This is because we are not debating.

Kindly proceed, Sen. Osotsi.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, I wish to comment on the Statement by Sen. Onyonka on pending bills. How I wish the Committee that would be dealing with this Statement widens it so that they consider other counties as well. This is because the issue of pending bills is a problem in all the 47 counties.

These pending bills, as has been alluded to by the Senator for Baringo is another way of corruption. If you look at the list of pending bills, many of them are fake. They have not provided services. However, you find that the fake ones are paid but the real pending bills where people have delivered services or goods are not paid.

Mr. Deputy Speaker, Sir, we must also look at the entire process of payment in our counties. We had an engagement with the Controller of Budget (CoB) on the issue of approvals for payment. You find that the approvals that are made are not what is paid. Other companies are substituted and paid but the real approvals that were submitted to the CoB are not paid. This is a scam.

Yesterday when the CS for National Treasury appeared before my committee, he said that the National Treasury is amending the system. It is automating that process so that we can deal with this problem of approvals which are not paid eventually.

I request that the Committee that will be dealing with this matter considers that this is a problem that affects the 47 counties. It should deal with the 47 counties including my own County of Vihiga, where I know genuine contractors who provided services for many years have not been paid. Some of them have ended up being auctioned and others have died out of stress.

This is a serious problem which requires the intervention of this House. This is because, as Sen. Cheptumo has said, this House exists to protect counties. We cannot say that we are protecting counties when we are not dealing with the serious issues that are affecting our counties like pending bills. For that matter, I support the Statement.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Let us now hear the former governors. You know matters pending bills are domiciled in both the national Government and the county governments. So, let us hear from Sen. Mandago.

**Sen. Mandago:** Thank you very much, Mr. Deputy Speaker, Sir, for this opportunity to weigh in on this matter of pending bills.

There is something that the House, the National Treasury, county governments and the general public need to understand. Unless we have another definition of a pending bill, 'a pending bill' is a bill of either a service or a project that has been delivered to completion but has not been paid and it was budgeted.

What we are experiencing in counties are not really pending bills. These are ongoing contracts that have been rolled over from different financial years. They were ongoing. Their money is budgeted. The money is there but counties are failing to pay. So, there must be clarity on the matter of pending bills. These are not pending bills. This is impunity by officers who have been given the responsibility of examining and paying for services and goods received.

Mr. Deputy Speaker, Sir, the matter that we are supposed to be addressing is the question of non-payment of ongoing contracts or those that have been completed in the course of time and the money is there in the budget. There is confusion sometimes between pending bills and ongoing works. The figures that are given are not for pending bills because their money is there.

What we need to address, as a House, is how we will make sure that any contractor, not just in the county governments but also the national Government entities and semi-autonomous government agencies is paid on time.

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

**The Deputy Speaker** (Sen. Kathuri): Sen. Cheptumo, what is your point of order because Sen. Mandago was making a point?

**Sen. Cheptumo:** Mr. Deputy Speaker, Sir, I have not been a governor before but the Member who was on the Floor, tried to define a pending bill. Is he in order to mislead the House?

A pending bill is a bill that is not paid even if the project is not completed, once a certificate is issued to be paid, it should be paid. It is a pending bill. However, the Member seems to give us the impression that it should be a service given, completed, approved, and certified. According to me, that is not the definition.

**The Deputy Speaker** (Sen. Kathuri): Sen. Mandago, can you give your sentiments?

**Sen. Mandago:** Thank you very much, Mr. Deputy Speaker, Sir. The hon. Senator did not even say which Standing Order he was rising on. However, it is good that he has clarified that he has not been a governor. So, let me inform him from practice.

**The Deputy Speaker** (Sen. Kathuri): He made it clear that he has never been a governor.

**Sen. Mandago:** Mr. Deputy Speaker, Sir, the Statement by Sen. Onyonka is very clear. There are contractors who have worked and delivered but they have not been paid. It is not that the money is not there.

In this House, we have heard Senators saying requisitions have been made for particular projects and services but that money has ended up paying others, other than the ones that were being requisitioned for.

As a Senate, we need to tighten the turnaround time and the requirements for payment of works and services that have been completed. It is true that most of these counties that we are hearing about pending bills and non-payments have undergone transition. They either have a new governor and so it a new administration.

In this country, there are things that we must sort out. The government is a going concern. It is not about the individuals who hold positions. When you come to that office, you continue with the work of that office.

*(Applause)*

In this nation, after every transition of five years, whether the national Government or county governments, you will hear, “we are not paying these bills until we investigate because it was for the previous administration” as if the government starts and ends in an election.

Mr. Deputy Speaker, Sir, we must allow public servants who are not political to continue doing their work in accordance with the law. That is why we have a law on procurement and the Office of the Auditor-General which is not a political office.

If the payment has not been flagged off by the Auditor-General not to pay, action must be taken on any public servant sitting on any payment. This is where we need to invite the Office of the Auditor-General and the Controller of Budget (CoB) to find out whether there is need for legislation to enable their offices to make sure that payments that are due are paid. As a Senate we shall be more than willing to engage in that discussion and even Amend the Public Finance Management Act, to make sure that contractors do not suffer.

This is a country where we create entrepreneurs for five years and destroy them in one year immediately after the election and begin struggling by saying that we want to create employment.

Mr. Deputy Speaker, Sir, I support the Statement by Sen. Onyonka. The Governor for Kisii County must pay all contractors who delivered service. Not just the Governor for Kisii County, all the governors in this country must pay all contractors and people who have delivered service to their respective counties without any delay.

I beg to support the Statement.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Mandago.

Hon. Senators, I communicated that I am giving two minutes each for a comment on the Statements. I will be really restricted to give a few others, maybe three or four, from both sides.

Sen. Ogola, you may have the Floor.

**Sen. Ogola:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity. From the onset, I support the Statement by the Senator for Kisii County. On pending bills, it is a disaster in our counties and the whole nation. Counties were supposed to be centers of

growth. With devolution, our people were very excited. They knew they were going to do business with their counties on supplies and works.

Anybody can attest that recently; we saw a grown African man crying on the streets naked. You know how bad that is, that a grown man can go naked crying before people. Soon after that, on the same public platforms, it was reported that he lost his life. That comes back to the issue of pending bills that Sen. Onyonka has brought here. Works that have been done by the people at the counties has brought misery.

Mr. Deputy Speaker, Sir, there was the portion of 30 per cent to women and the youth. Our youth and women all over the counties went for this work so excited that they had a chance to pull themselves out of poverty. However, what has this brought to the women and the youth at the county?

*(Sen. Ogola's microphone was switched off)*

*(Sen. Ogola spoke off record)*

**The Deputy Speaker** (Sen. Kathuri): Hon. Senator, the speaker does not do that. Once we say two minutes, you stick to your point and deliver it.

Sen. Ali Roba, you may have the Floor.

**Sen. Ali Roba:** Thank you, Mr. Deputy Speaker, Sir. I rise to give my contribution to both Statements starting with the statement by Sen. Onyonka.

The issue as described by Sen. Mandago, the problem of pending bills, is an issue that needs to be understood first. A lot of the problems currently faced are problems arising from an administration that has changed hands, and the incoming administration fails to honor liabilities arising from contractual engagement between the county government and contractors. Failing to understand that it is a legal contract, not a favor or a privilege. It is not something that is the prerogative of a governor or a new administration for them to decide whether to pay or not to pay.

Number two, there is a misunderstanding in terms of what constitutes a pending bill. If a contract is done, planned and budgeted for, that is supposed to be something that is procedural in terms of processing of payment as it is required. Liabilities that have not been budgeted for are the ones that form pending bills. It then becomes a major issue that needs to be dealt with.

The issue Sen. Onyonka has raised may not be limited to Kisii County but affecting other counties as well. It is extremely important that governors and new administrations understand that contractual engagement entered into by previous regimes or governments, is a legal contract that ought to be honored. It is not a privilege in terms of what need to be considered to be paid or not.

*(Sen. Ali Roba's microphone was switched off)*

*(Sen. Ali Roba spoke off record)*

*(An. Hon Member spoke off record)*

**The Deputy Speaker** (Sen. Kathuri): You both have the same timeline of two minutes. Yes, two minutes. You approached the Chair and I advised you to squeeze your time.

**Sen. Methu:** Point of order, Mr. Deputy Speaker, Sir,

**The Deputy Speaker** (Sen. Kathuri): Sen. Methu, which Standing Order are you rising on?

**Sen. Methu:** I have it in my hand. These days, I have known the rules of this House very well. I am rising in regard to the Speaker's Rules No. 5 which is part of what guides us.

“Senators are required not to enter into the Chamber, lounge or dining room without being properly dressed---”

Mr. Deputy Speaker, Sir, I do not want to read the entire bit, but I am getting a little impatient. You had promised to deliver a ruling on the second day that I made that request. This is a very serious issue; we are just about to discriminate a religion in this particular House. It is very clear that religious attire is allowed in the House. I came here in an Indian religious attire.

**The Deputy Speaker** (Sen. Kathuri): Who is not properly dressed?

**Sen. Methu:** No, nobody is improperly dressed, we only want your guidance.

**The Deputy Speaker** (Sen. Kathuri): Sen. Methu, who is being discriminated?

**Sen. Methu:** I came in this House with an Indian attire, and you chased me out.

**The Deputy Speaker** (Sen. Kathuri): These are things which were cleared last year and you are raising them again?

**Sen. Methu:** They did not appear last year because ---

**The Deputy Speaker** (Sen. Kathuri): However, if you were a gentleman enough, you could have worn the same attires then come and raise your issues.

**Sen. Methu:** No, you had said that you shall rule---

**The Deputy Speaker** (Sen. Kathuri): Today you are properly dressed, let us make progress.

**Sen. Methu:** I presume that you have allowed me to come with it. I will come with it.

**The Deputy Speaker** (Sen. Kathuri): Yes, just for tomorrow, come with it then we will handle it.

**Sen. Methu:** I have many of them, I will come with one tomorrow.

**The Deputy Speaker** (Sen. Kathuri): Okay, we will meet here tomorrow morning or afternoon.

Sen. M. Kajwang' you may have the Floor.

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir, I rise to ---

**The Deputy Speaker** (Sen. Kathuri): Be looking at these lights when you are making your points because we really need to restrict ourselves to the one hour for statements so that we can do Bills and Motions.

**Sen. M. Kajwang':** I hope that is off the ticker.

Mr. Deputy Speaker, Sir, in the public sector accounting standards, there is nothing like pending bills. It is not an accounting term; it is a Kenyan creation. A creation



of laziness in a county. A creation of a conspiracy where one governor leaves office, and the next one does not want to pay.

I have chaired committees that have looked at the Auditor-General's (AG) report on pending bills. The AG, Eddie Ouko, his last act before he left office was to audit pending bills across the country. What did we do, we took it to the Intergovernmental Budget and Economic Council (IBEC). IBEC decided to audit the work of the AG. Each county went back to set up pending bills varication committees.

Mr. Deputy Speaker, Sir, the matter has been going on for so long that in a county like Kirinyaga, which we considered last week when the Governor, who is also the Chairperson of the Council of Governors (CoG), appeared before us. They owe suppliers Kshs200 million. The age of that debt is seven years. For seven years, women, youth and persons with disability in Kirinyaga have not been paid Kshs200 million. Then, they have the cheek of saying that the Senate is the one that is not supporting devolution.

The Chairperson Standing Committee of Finance and Budget should broaden this inquiry. This is because the report of the Controller of Budget (CoB) has the numbers that Sen. Onyonka is asking for and we must make sure that we interrogate that report county by county. There is no reason why the CoB brings a report to this House every quarter and we take no action and then this thing called pending bills piles up.

Mr. Deputy Speaker, Sir, finally, I support the Statement by Sen. Oketch Gicheru. We should not look at *boda boda* as a nuisance. *Boda boda* contributes close to four per cent of Kenya's Gross Domestic Product (GDP). If you look at the Kshs1 billion per day collection. We should not only---

*(Sen. M. Kajwang' microphone was switched off)*

**The Deputy Speaker** (Sen. Kathuri): Sen. M. Kajwang' you have done so well. That is past 80 per cent.

Sen. Kinyua, you may have the Floor.

**Sen. Kinyua:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii. Nasimama kuunga mkono taarifa iliyoletwa na Sen. Onyonka.

Sheria zetu zinasema vijana na walemavu wapewe kazi. Hata hivyo, ni jambo la kuvunja moyo kuona baada ya wao kupewa kazi, hawajalipwa kwa wakati ufao. Siyo Kaunti ya Kisii pekee yake, bali kaunti nchini ambapo unapata watu wengi hawajalipwa.

Wawekezaji na wafanyi kazi wengi wanasononeka sababu tayari wamechukua mikopo ya benki. Inakuwa ni vigumu sana kwao kuweza kuendelea na biashara zao ilhali kaunti hizi zaendelea kupokea pesa na kuchagua ni nani watakayelipa. Ikiwa wewe hauwaungi mkono kisiasa, haulipwi.

Kamati itakayohusika na jambo hili inafaa iangazie mambo haya kwa undani na wale ambao wamefanya kazi wapate kulipwa pesa zao. Watu wakilipwa, kaunti zetu zitaendelea kunawiri kwa sababu pesa zitaenda mashinani. Kama tunavyosema sisi, watu waanzie mashinani wakipanda juu na itawezekana. Kwa hivyo, kaunti zetu ziwezi kulipa madeni ya watu ambao wamefanya kazi.

Kama vile Sen. Oketch Gicheru alivyosema katika taarifa yake, watu wa bodaboda wanapaswa kuchungwa sana. Kazi ya Serikali ni kuchunga mali na maisha ya

wananchi. Wanabodaboda wanafanya kazi zao vizuri na wanapaswa kulindwa maana wanalipa ushuru. Ukisikia kaunti ambayo wanabodaboda wameanza kushambuliwa, inatutia kiwewe kwa sababu wataanza na wao, waende kwa watu wa magari na hatimaye watatushambulia sisi.

*(Sen. Kinyua microphone switched off)*

**The Deputy Speaker** (Sen. Kathuri): Asante sana, Sen. Kinyua. Sen. Kavindu Muthama, kindly proceed.

**Sen. Kavindu Muthama:** Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia taarifa ya Sen. Onyonka kutoka Kisii.

Ninaunga mkono taarifa hii. Jambo la pesa ambazo hazijalipwa wale *contractors* na *suppliers* waliopeleka vitu na kufanya kazi katika kaunti, ni sugu sana kwa kila kaunti. Kama kaunti ya Machakos, tuko na hizi pending bills za kutoka 2014 hadi wa leo. Na bado hazijalipwa.

Bw. Naibu Spika, ningeomba wale ambao wataangalia jambo hili waangalie kaunti zote na hata kuundwe jopo la kuchunguza ni watu wangapi hawajalipwa pesa zao katika kila kaunti.

Mambo haya ya watu wa *bodaboda* ambayo yameletwa na Seneta mwenzetu ni muhimu sana katika kukuza uchumi wetu. Wanafanya kazi ya maana sana kwa sababu kusipokuwa na magari, wao ndio wanafanya usafiri. Wanastahili kulindwa na kuheshimika.

Asante, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): Asante sana. Both Statements are referred to the respective committees.

As Members have requested, I will advise that, as the Committee on Finance and Budget replies to the Statement by Sen. Onyonka, they should include all the 47 counties and table a Report in this House so that we see how the 47 counties are faring on pending bills.

There is the next Statement by Sen. Miraj.

I have today observed that Sen. Cherarkey has misled two ladies by trying to speak to them when they are transacting business. Now, he crossed over and took you behind there. Sen. Cherarkey is on a mission today.

Yes, proceed Sen. Miraj.

#### LANDING RIGHTS FOR SCHEDULED INTERNATIONAL FLIGHTS TO MIA

**Sen. Miraj:** Thank you, Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order 53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding landing rights for rescheduled international flights to Mombasa International Airport (MIA).

In the Statement the Committee should-

(1) State the reasons for restrictions or denial of landing rights for several scheduled international flights to Moi International Airport (MIA) in Mombasa County.

(2) Inform the Senate of measures in place to mitigate the effect of the impact of the suspension of direct scheduled international flights to Mombasa and the denial of landing privileges on the tourism economy of the coast region.

(3) Provide reasons by the Ministry of Roads and Transport for revoking Turkish airlines and Qatar Airways landing licenses for direct flights to Mombasa as we as grounds for rejecting the re-application.

(4) Establish the basis of the Ministry of Roads and Transport to deny the request of Emirates, KLM, Turkish Airlines and Qatar Airways to land at Moi International Airport.

(5) State measures by the Government to return to the open sky policy in order to attract more international traffic to MIA aimed at promoting the tourism industry at the Coast.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Miraj. Let me give a few Members time to make comments.

Sen. Faki, Mombasa County, proceed.

**Sen. Crystal Asige**: On a point of order, Mr. Deputy Speaker, Sir.

**Sen. Faki**: Asante, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kathuri): What is your point of order, Sen. Crystal Asige?

**Sen. Crystal Asige**: Thank you, Mr. Deputy Speaker, Sir. Maybe my ears are not clear, but the Statement was from the Senator to the Standing Committee on Finance and Budget, is that correct when it seems like it is more due to Committee on Transport and Roads?

**The Deputy Speaker** (Sen. Kathuri): I will give you two minutes to make a comment on the Statement and give us reasons why you feel it should go to Transport and Roads Committee. I can see you are lined up.

Sen. Faki, proceed.

**Sen. Faki**: Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia taarifa ambayo imeletwa Bungeni na Sen. Mteule, Sen. Miraj.

Kabla ya janga la COVID-19, mwaka wa 2020, ndege nyingi zilikuwa zinakuja Mombasa, kwa mfano, Turkish Airlines, Qatar Airways na nyingi nyinginezo zilizokuwa zikileta abiria na kufanya biashara katika Mji wa Mombasa. Bali na Jomo Kenyatta hapa Nairobi, MIA ni mojawapo ya vile viwanja vikubwa viwili ambavyo vina uwezo wa kuchukua ndege zote zinazoweza kuruka ulimwenguni.

Ni masikitiko kwamba kutokana na ukosefu wa ndege hizo, biashara katika kaunti ya Mombasa na kaunti jirani imedorora kwa sababu ya ukosefu wa wageni wanaokuja kutalii kwenye fuo za bahari ya Pwani na kwingineko. Ndege nyingi zilikuwa zikija Mombasa. Tukiwa wadogo Condor, British Airway, Lufthansa na zingine nyingi zilikuwa zinashuka Mombasa na kuruka bila matatizo yoyote.

Ni masikitiko kwamba serikali imeweza kulemaza biashara katika MIA ambayo ndio uwanja mkubwa kabisa mbali na Jomo Kenyatta hapa Nairobi. Ni muhimu kwamba kamati ambayo itashughulikia swala hili, ilishughulikie kwa undani zaidi ili kuona

kwamba uwanja ule haukai bure na Kenya Airways pekee yake au ndege mbili au tatu ambazo ni za kukodi zinakuja moja moja kutoka Ulaya.

Iwapo ndege hizi zitaruhusiwa, Turkish, Qatar na Emirates zilizokuwa zinakuja, zikiruhusiwa zitasaidia pakubwa kuinua biashara katika ukanda mzima wa Pwani.

Ukanda wa pwani unafika hadi sehemu za Kitui na kwengine ambako hamna viwanja kama hivi.

Tungependa swala hili liingiliwe kwa undani zaidi kwa sababu hakuna lengo la Kenya Airways kupata hasara kila mwaka kwa sababu hamna ndege nyingine zinatua pale ilhali uwanja ni mkubwa na unaeza kuhimili ndege aina yeyote katika ulimwengu huu.

Asante.

**The Deputy Speaker** (Sen. Kathuri): Asante sana. Sen. Mumma proceed.

**Sen. Mumma:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this Statement. I fully support Sen. Miraj on this Statement. I would like the Committee to go further than just enquiring about MIA, Mombasa, but ask about the four international airports in Kenya. The Eldoret, Kisumu and Mombasa international airports are under-utilized.

If we fully operationalize Kisumu and Eldoret airports, we can begin intra-Africa trade with neighbouring countries because Western Kenya region is the food basket of the country. We can have flights from Eldoret and Kisumu to West Africa and other regions of Africa to enable the African countries trade with our people in matters relating to agricultural products and many others.

Mr. Deputy Speaker, Sir, therein lies a great opportunity to open up the region in Western Kenya to trade opportunities that will provide employment opportunities for our young people. I, therefore, support and request that even as we spoke recently about industrializing this nation and getting the counties to come up with industries, particularly agricultural industries-that we will actually operationalize this airport.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Shakila Abdalla.

**Sen. Shakila Abdalla:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the statement by Sen. Miraj. Mombasa is a tourist destination. The reason why they moved the operations of port of Mombasa to Naivasha was that they wanted to make Mombasa a tourist city.

A tourist city should be able to open its transport sectors in all means by either road, air or sea. This then opens an opportunity for tourism. The airport is one of the opportunities where tourists use a lot to come to Mombasa County. It is unfortunate that after COVID-19 pandemic, this opportunity was not opened. All those flights that were to come to Mombasa County - it being a tourist destination - were closed off and caused a lot of inconvenience to the tourists.

We, therefore, urge the Government or the Ministry concerned to look into this sector and make sure they are open all the other airlines to Mombasa so that they do not cause any inconvenience to the tourists who want to travel to the coast region as a whole.

I thank you and support.

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, you realize that the interest is on my left-hand side. Do not ask me why I am not giving to the right side. Sen. Kinyua, you are very low on the list we are yet to get to you. The ladder has not captured you yet.

Proceed, Sen. Wambua.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I shall only say two things about the Statement by Sen. Miraj. One, there is a growing trend which is alarming. I wish the Committee, which I sit in and my Chair is here too, draw a line between what is good for Kenya Airways and what is good for this country.

In the process of trying to protect Kenya Airways, there are a lot of things we are getting wrong as a country. We need to expand our economy and grow our transport sector. Every time there is an attempt to that direction, consideration of the impacts it would have on Kenya Airways comes in the way of making that movement.

A similar Statement - this will be my last comment - was brought to this House by the current Governor of Makeuni County, Hon. Mutula Kilonzo Jnr. and at that time, the issues were of the frequency of Emirates flying into Jomo Kenyatta International Airport (JKIA).

The protectionist mentality that successive governments have in favour of Kenya Airways may collapse our transport sector, especially air transport. It is important that we open up our airspace and airports. Mombasa, Kisumu and Eldoret International are all big airports. At Eldoret International, there is some cargo---

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Kibwana.

**Sen. Kibwana:** Asante, Naibu Spika. Ningependa kuunga mkono taarifa ya kukubalia Qatar Airlines haki kama mashirika ya ndege zingine, kutua uwanja wa Kimataifa wa Mombasa. Huu ni mjii mkuu wa pili wa Kenya. Tumeona ndege nyingi kama Condor zilizokuwa zinatoka Ujerumani hadi Mombasa. Qatar italeta mambo ya utalii na itatuwezesha kuinua uchumi wa nchi.

Haya ni masikitiko makubwa kama tumeinyima uwezo wa kufika jijini Mombasa. Naunga mkono pia kuwa Mombasa yafaa kupewa kipao mbele kwa upande wa utalii na haki za kuwezesha ndege zingine kufika na kutua katika uwanja wa ndege wa Mombasa.

Asante.

**The Deputy Speaker** (Sen. Kathuri): Mwisho, Sen. Kinyua.

**Sen. Kinyua:** Asante, Bw. Naibu Spika. Ni vizuri ndege zingine kama vile Qatar na Turkish zipewe mamlaka ya kuzuru Mombasa na sehemu zingine za Kenya. Wataleta ajira kwa vijana---

**The Deputy Speaker** (Sen. Kathuri): Kuzuru au Kutua Mombasa? Ni kutua, kuchukua na kuleta abiria. Ndege haiwezi kuzuru Mombasa.

*(Laughter)*

**Sen. Kinyua:** Bw. Naibu Spika, haiwezi kutua kama haijazuru. Kwa lugha ya Kiswahili inapaswa---

Wacha niendeleo. Wanapaswa kuzuru Mombasa na sehemu zingine za Kenya kwa sababu inaongeza ajira kwa vijana wetu.

Vile vile ikiwa ni ndege moja itapewa ruhusa ya kuzuru Mombasa, hakutakuwa na mashindano. Pia watalipisha nauli wanavyotaka. Tukikubali mashirika ya ndege mengine kuzuru na kutua kule itakuwa jambo la manufaa kwa wateja na watalii wataongezeka. Ndio maana tumetengeneza reli inayoenda Mombasa.

Bw. Naibu Spika, ni vizuri hata ndege zile zingine ziwe zikitembelea pale. Jambo hili litaongeza ajira kwa vijana wetu. Utalii nchini utaimarika kwa kuwa watalii wengi watazuru Kaunti ya Mombasa kwa sababu nauli itakuwa imeongezeka. Uchumi wetu umezorota, na wananchi hawana hela. Ndege nyingi kutembelea Mombasa zitaleta ushindani kibiashara na bei zitapungua.

Nimesikia Sen. Wambua akisema kuwa sina uwezo wa kuongea kuhusu ndege ---

**The Deputy Speaker** (Sen. Kathuri): Sen. Wambua, uko na hoja ya nidhamu?

**Sen. Wambua:** Asante, Bw. Naibu Spika. Nimemskiza Seneta mwenzangu, Seneta wa Laikipia, Sen. Kinyua. Kwa mara kadhaa amerudia maneno “ndege kutembelea Mombasa”, “kuzuru na kutembelea” pia. Jinsi ninavyoelewa Kiswahili, watu hutembelea sehemu fulani, lakini ndege hutua. Sijui kama Seneta wa Laikipia anaongea kuhusu ile ndege sisi tunafahamu ama ni ndege zingine.

**The Deputy Speaker** (Sen. Kathuri): Sen. Kinyua, weka hoja zako bayana ili tuelewe kile unamaanisha.

**Sen. Kinyua:** Bw. Naibu Spika, nina hofu kidogo kwa sababu, siku ya leo amenitaja mimi na Sen. Madzayo. Siwezi nikaongeza zaidi kwa sababu haelewi. Kabla ndege haijatua, huwa inazuru ndio iweze kutua. Ni lugha ya Kiswahili ambayo hafahamu.

*(Sen. Kinyua's microphone went off)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Kinyua, muda wako umeisha. Sen. Chute, uko na hoja ya nidhamu kuhusu haya maneno ya “kuzuru, kutua na kutembelea”.

**Sen. Chute:** Asante, Bw. Naibu Spika. Kiswahili chao ni kigumu kwa vile nimetoka Kaunti ya Marsabit. Nitazungumza kwa Kiswahili na wasinikosoe kwa sababu nimetoka Kaunti ya Marsabit.

Naunga mkono Kauli ya Sen. Miraj. Wiki mbili zilizopita nilikuwa nimesafiri hadi Addis Ababa, Ethiopia. Ethiopia Airlines wamepata faida ya USD\$950 milioni, dollari za Amerika.

*(Laughter)*

*Telcom* ya Ethiopia imeunda billioni mbili dollari, pesa ya Amerika.

**The Deputy Speaker** (Sen. Kathuri): Kiongozi wa walio wachache, una hoja ya nidhamu?

**The Senate Minority Leader** (Sen. Madzayo): Bw. Naibu Spika, Seneta wa Marsabit ni ndugu na rafiki yangu, namheshimu sana. Singependa kumuingilia kati, lakini ametaja pesa za America kama “dollari”. Je, pesa za America zaitwa dollari ama zina jina lingine la Kiswahili.

**The Deputy Speaker** (Sen. Kathuri): Mweleze vile zinaitwa kwa sababu labda unaelewa inaitwaje.

**The Senate Minority Leader** (Sen. Madzayo): Bw. Naibu Spika, unasema tu *dollar*.

**The Deputy Speaker** (Sen. Kathuri): Sen. Chute, proceed.

**Sen. Chute:** Asante sana, Bw. Naibu Spika. *Dollar* ni kiingereza na dollari ni Kiswahili sanifu. Vile mambo iko hapa Kenya, sijui tumerogwa na nani. Ukizuru nchi nyingine, watu wote wanafanya kazi yao vizuri. Ukiangalia hapa nchini, kampuni kama zile za sukari na *Telcom* ziko chini.

Kampuni ya *Telcom* Ethiopia imetengeneza billioni mbili, ata Safaricom wamefika huko na wakashindwa kupenya kwenye soko la Ethiopia kwa sababu ile *Telcom* ya Ethiopia iko na nguvu zaidi.

Kutaka ndege za kampuni za nje kutua Mombasa na viwanja vingine vya ndege nchini haitasaidia Kenya Airways. Kenya Airways imefilisika na kukwisha hata wakifanya nini hawataendelea. Jambo nzuri ambalo wanawezafanya kusaidia Kenya Airways---

*(Sen. Chute's Microphone was switched off)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Orwoba, what is your point of order?

**Sen. Orwoba:** Mr. Deputy Speaker, Sir, Sen. Chute is misleading the House. He cannot say that nothing can be done to uplift Kenya Airways. That is not a fact. We are in the process of ensuring that Kenya Airways is profitable. He must withdraw that statement.

**The Deputy Speaker** (Sen. Kathuri): Sen. Orwoba, who is in the process? Can you clarify your statement so that he can understand better?

**Sen. Orwoba:** Mr. Deputy Speaker, Sir, I meant to say that this Government is in the process of reviving Kenya Airways. The Kenya Kwanza Government led by the President, His Excellency Dr. William Samoei Ruto.

**The Deputy Speaker** (Sen. Kathuri): Mr. Clerk, let us proceed to the next Order. We are done with the happy hour and we now want to proceed to serious business.

## BILL

### *Second Reading*

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

*(Sen. Tabitha Mutinda on 20.4.2020)*

*(Resumption of debate interrupted on 20.4.2020)*

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, we are resuming debate interrupted on Thursday 20<sup>th</sup> April, 2023. This Bill had been moved and seconded. Now it is open for Members to contribute to the Motion. I will start with Sen. Olekina, you are number one on my list.

*(Sen. Orwoba and Sen. Cherargei spoke off record)*

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

**The Deputy Speaker** (Sen. Kathuri): My direction was right 100 per cent. Sen. Orwoba, you are out of order. Sen. Olekina, proceed. You did not contribute. The time to debate is up for grabs.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Equalisation Fund Appropriation Bill 2023. From the onset, I want to go on record and say that I do hope counties get their money.

The Constitution provides for setting up a percentage of revenue to assist counties that have been dragging behind to catch up with the other counties. This country was developed, along the railway line. If you look at the country today, the developed areas are along the railway line. This is because of Sessional Paper No.10.

Mr. Deputy Speaker, Sir, the framers of our Constitution saw it fit to set aside a certain amount of money to assist counties develop. We talk about equity versus equality. The framers of the Constitution would like to see a country where equity would be the rule of law.

Last year, we engaged with the Commission of Revenue Allocation and discussed the parameters to be used.

I remember we were arguing in this House asking where the disparity is in this country. The current Governor of Nairobi City County, who was the then Senator for Nairobi City County, Sen. Sakaja, raised a very important point and said that there is a lot of disparity and challenges in Nairobi City County and that Nairobi City County should have also been considered in this fund.

Mr. Deputy Speaker, Sir, I, therefore, posed the question, what exactly were we looking at when we talked about the Equalization Fund? Other people refer to it as the marginalisation fund. I know, the decision to define counties as being marginalised was reached by a serious study that was carried out by the CRA.

I am happy that ultimately, they decided to narrow down to wards, sub wards or villages so that they can assist counties to at least develop. One of my biggest pet peeves is every financial year, money is set aside, but that money never reaches the counties. I hope that now, finally, with this Equalisation Fund, the money will reach the counties.

One of my other bigger problems is that there are so many people through the Ministry of Finance and Planning who were engaged in contracts. If you happen to go to counties, you will be shocked. There are hospitals that were built, but ended up just being white elephants.

Earlier on, when I was in my office, I was listening to the good Senator from Homa Bay County talking about pending bills. Yesterday, we had the Cabinet Secretary (CS) in charge of the National Treasury discussing pending bills and also money that is sent to counties *vis-a-vis* money that is sent to the national Government.

Mr. Deputy Speaker, Sir, it is sad that at this time, we are still grappling with the idea of coming up with legislation that will ensure that we comply with the Constitution. We have highlighted the Constitution for so many years. Right now, National Treasury



has violated Article 219 of the Constitution when it comes to the issue of sending money, the share of county governments. Yesterday, we got to some form of consensus on where the money for February will be sent.

My biggest problem now is the Constitution sets up a sunset clause on the issue of equalisation. It was only supposed to be 10 years. However, our counties have not enjoyed any resources from the Equalisation Fund. We have kept this money.

So, as I support this Bill, the question is; will all the money that has been kept aside, be sent to the counties? Is that money in the consolidated fund or not? Those people who built those hospitals and were never paid, will they be paid? Will those hospitals that were built in some counties and the roads which were paved or graded so that the counties or villages still living in old age can slowly catch up with the rest of Kenya functional or they are dilapidated?

Mr. Deputy Speaker, Sir, as a county, we need to be asking and reminding ourselves of the concept of fiduciary responsibility. I dare say that we as legislators and the other arm of Government, the Executive have not been as responsible because if we were and we cared about our counties catching up with other counties, 2023 should not be the first time we are discussing the issue of Equalisation Fund. If we are to be remorseful, I hope the National Treasury will be able to release the entire amount set aside for our counties.

I also hope those contracts which will be built using the money from the Equalisation Fund will be given to the youth and women from the villages. We do not want a situation whereby a small cabal or cartel ends up getting all the contracts yet the whole concept of setting aside a small percentage of all the revenue collected should be supporting those counties which are behind in terms of development.

In conclusion, since I do not want to belabour the point, I believe my point was very clear from the onset. In my view, this Senate failed in defending devolution by agreeing for the very first time with the national Government in terms of the sharable revenue and we are going to pay hard for it.

I do hope that now, all of us will be able to support this and also follow through to make sure that whatever amount of money is sent to Narok County--- There is a point of order? I am happy to wait.

**The Deputy Speaker** (Sen. Kathuri): What is your point of order, Sen. Cherarkey?

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, I rise under Standing Order No. 105 on Responsibility of Fact. What Sen. Olekina is insinuating is that the Senate did participate in cutting money that is meant to be sent to counties. Sen. Olekina and I sat in this House and in the last financial year, counties got Kshs370 billion. We have increased that amount by Kshs15 billion to make Kshs385 billion. So, this is a House of record, traditions and respect.

Mr. Deputy Speaker, Sir, through you, I would urge my colleague to separate what he says in public and in the newspapers and what he is saying on the Floor of the House. I remember, even in your ruling on the Meru County case, when I tried to contest the report that I was disagreeing with, that was laid in this House, I was thrown out of the Chamber.

Is Sen. Olekina in order to allege that the Senate is killing, dismembering and committing makable against devolution yet we have added Kshs15 billion to the counties? In fact, what he should be saying is that the Senate added Kshs15 billion to the Kshs370 billion although they wanted Kshs 407 billion. This incitement of the Senate by the likes of Sen. Olekina and the public is uncalled for.

In conclusion, Sen. Olekina knows very well that the country is in a deep mess because of public debt. The first charge when we collect revenue is the high cost of Kshs10 trillion. You are aware Sen. Olekina voted and it is in the records on the rising cost of the public debt ceiling. So, is it in order for him to mourn and wail than the bereaved?

**The Deputy Speaker** (Sen. Kathuri): Sen. Olekina, you have heard the issues raised on your Statement.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, facts are very stubborn. In the history of the Senate, this Senate, for the very first time, failed devolution. This Senate, for the very first time, went against its own committee.

*(Applause)*

The Committee, which is Chaired by the distinguished Senator from Mandera County, is a committee of this House.

*(Applause)*

The Committee proposed that we, in this Parliament, agree with the CRA by sending Kshs 407 billion to the counties. If the distinguished Senator from Nandi County would like me to substantiate my facts, I would be more than happy. The first thing I will table here is the Report of the Committee on Finance and Budget Chaired by the very able party leader, EGH, Captain, Sen. Ali Roba who recommended that we send Kshs 407 billion to the counties.

Mr. Deputy Speaker, Sir, this is something that I am willing to defend. We will cry for a very long time. It is absolutely ludicrous for anyone of us to purport to say that this Senate has promoted devolution by agreeing with the national Government. Our task is very simple, to defend devolution.

*(Applause)*

My brother is now inviting me to comment on the Division of Revenue Bill. Article 218 of the Constitution says that when we deviate from the recommendation of the CRA, we must give substantive reasons. The National Assembly proposed that we send Kshs385 billion. The reasons we were given in the Memoranda of the Division of Revenue Bill, to try and justify the deviation from CRA, was that the money was set aside to pay the Hustler Fund. So, it begs the question, why are we here? Are we here to defend the national Government or county government?

**An Hon. Senators:** Shame! Shame!

**Sen. Olekina:** Mr. Deputy Speaker, Sir, facts are very stubborn. Let me tell you, we will cry and next time when they distinguished Senator---

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

**Sen. Olekina:** I am responding to his point of order.

**The Deputy Speaker** (Sen. Kathuri): Just a minute, Sen. Olekina. What is it again, Sen. Cherarkey? You are interrupting all the time.

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, I will not be intimidated. Under Standing Order No.105. I just wanted him to clarify because every Committee makes a report.

You cannot behave as if the Senate must agree with the Committee report. There are instances when Sen. Olekina sat in the Committee that investigated the lease of Medical Equipment Supplies (MES). In that report which he was a Member, he said that it was a criminal enterprise. However, he came and denied the same report.

The House has the power to either agree or disagree with any Committee report. Therefore, the statement and accuracy of facts was to stop misleading the House and the public. The last financial year was Kshs370 billion. We have increased by 15 billion shareable revenue to Kshs385 billion.

Under Articles 202-205 of the Constitution, it is not only shareable revenue.

*(Sen. Olekina spoke off record)*

Mr. Deputy Speaker, Sir, can I finish? He did not listen properly because maybe he has been busy milking cows.

Articles 202-205 of the Constitution, the money that goes to counties is shareable revenue, conditional grants and other grants that are given by the national Government

Mr. Deputy Speaker, Sir, to mislead the House that the money that was meant for the counties was being taken to the Hustler Fund, is a fallacy and misnomer. We should not allow him to go that direction.

Is he in order to allege that the Senate should agree with any report prepared by its Committee?

**The Deputy Speaker** (Sen. Kathuri): Conclude, Sen. Olekina.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, you know---

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, the word "shame" is not Parliamentary. You are colleagues, Hon. Senator. The word is absolutely unparliamentary because in this House, you either vote to defeat Bill. You either vote "No" or "Yes" and that is done. To me, as your Chair this afternoon, the word "shame" is unfortunate.

Please, conclude.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, it baffles me when a Senator, someone who is supposed to read any Bill that he contributes to, stands on the Floor of the House and says that I am misleading the public. That, the reason we deviated was not the Hustler Fund?

I wish to invite the distinguished Senator from Nandi County to seek a copy of the Division of Revenue Bill and read the Memorandum. Reasons were given. This is a gentleman who is an advocate of the High Court.

**An Hon. Senator:** Allegedly.

**Sen. Olekina:** I believe that an advocate of the High Court, would pay attention to details and read everything---

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

Yes, I am an advocate of the High Court.

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

**The Deputy Speaker (Sen. Kathuri):** Sen. Kinyua, what is your point of order?

**Sen. Olekina:** Mr. Deputy Speaker, Sir, the points of order by the Senator are points of annoyance. Seriously.

**The Deputy Speaker (Sen. Kathuri):** Let us hear the point of order from Sen. Kinyua. You also must quote the Standing Order and not just interrupt business.

**Sen. Kinyua:** Mr. Deputy Speaker, Sir, it is in the public domain and even in the Kenya Gazette, that Sen. Cherarkey is an advocate of the High Court.

**An Hon. Senator:** Quote the Standing Order.

**Sen. Kinyua:** It is not in our Standing Orders. It is in the Kenya Gazette. The Kenya Gazette states very clearly---

*(Loud consultations)*

He is. You cannot come here and say I am insinuating. He does not allege. It must be known that the Committee of this House has only nine Members. When the report is brought here, it can be amended by this House. So, it is no big deal when Sen. Ali Roba brought a report here and it was amended. The Senate was doing its work.

The Senator for Narok County cannot come here and tell us that the report was brought. So many reports have been brought into this House and amended. This is not the first one.

**The Deputy Speaker (Sen. Kathuri):** Okay. Your point is taken.

Sen. Olekina, kindly, conclude your contribution.

**Sen. Olekina:** Mr. Deputy Speaker, Sir---

**Sen. Sifuna:** Point of order, Mr. Deputy Speaker, Sir!

**The Deputy Speaker (Sen. Kathuri):** Sen. Sifuna, you must learn the tricks of this game. Point of order on what?

**Sen. Sifuna:** Point of order on him.

**The Deputy Speaker (Sen. Kathuri):** He is not on the Floor. You must wait.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I can see him on the Floor.

**The Deputy Speaker (Sen. Kathuri):** Sen. Olekina, proceed.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, I am loving this because “debate” is a terminology used in Parliament, for or against. It is very interesting because these points of order by the distinguished Senator from Nandi County are not really points of order because facts are very stubborn.

**Sen. Sifuna:** Point of information, Mr. Deputy Speaker, Sir.

**The Deputy Speaker (Sen. Kathuri):** Sen. Olekina, do you want to be informed?

**Sen. Olekina:** Mr. Speaker, Sir, absolutely.

**The Deputy Speaker (Sen. Kathuri)** Okay. Proceed.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, I wanted to inform my colleague here that, in fact, the conduct by Sen. Cherarkey, offends Standing Order No.121(1)(b), where a colleague knowingly raises a false point of order.

That is not a point of order. It is a pretext for him to defend himself against the heat that he is feeling both in Nandi County and in Nairobi for the vote that he took.

It is a question of fact that there was a Committee report by the Senate Standing Committee on Finance and Budget, that was brought before this House, asking this House to add counties money from Kshs385 billion to Kshs407 billion. It is also a fact that that proposal or amendment to the Bill, was put to this House in a vote.

It is also a fact that 22 of our colleagues, decided that they were not going to support our Committee on Finance and Budget, but they were going to follow direction from other quarters. Therefore, we understand the discomfort. People do not want us to discuss.

**Sen. Orwoba:** Point of order, Mr. Deputy Speaker, Sir.

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

*(Loud consultations)*

Please teach her the rules of the House. I am on a point of order. I am on a point of order.

**The Deputy Speaker** (Sen. Kathuri): Conclude your point of order, Sen. Sifuna.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, whether you like it or not, history has already been written.

*(Sen. Orwoba spoke off record)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Orwoba, you are out of order. Just give him time to finish his point of order, he is also on a point of order. You cannot rise on a point of order when another Member is on a point of order. Just familiarise yourself with the Standing Orders.

**Sen. Sifuna:** Thank you, Mr. Deputy Speaker, Sir, for protecting me against ignorance.

*(Laughter)*

**The Deputy Speaker** (Sen. Kathuri): Proceed and finish.

**Sen. Sifuna:** Thank you for your protection against ignorance.

**The Deputy Speaker** (Sen. Kathuri): Sen. Sifuna, I have given you a leeway to make your contributions.

**Sen. Sifuna:** Mr. Deputy Speaker, let me finish.

**The Deputy Speaker** (Sen. Kathuri): Just the information you were to give him should be brief.

**Sen. Sifuna:** Let me finish until he is informed properly. No, you need to allow me to finish.

**The Deputy Speaker** (Sen. Kathuri): Give him brief information.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, in one minute.

**The Deputy Speaker** (Sen. Kathuri): You want to have five minutes for information?

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, the ink is dry on history. The vote was taken last week and it does not matter how much discomfort it causes. Let your conscience kill you, but the fact of the matter remains that you voted to deny counties money.

**The Deputy Speaker** (Sen. Kathuri): Sen. Olekina, are you done? Since you have been informed, we can go to the next Member?

**Sen. Olekina:** No, Mr. Deputy Speaker, Sir, I am not done. I was interrupted on my third point. I was interrupted before I even contributed.

**The Deputy Speaker** (Sen. Kathuri): You have four minutes.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir.

**An Hon. Senator:** On a point of order, Mr. Deputy Speaker, Sir.

**Sen. Olekina:** Mr. Deputy Speaker, Sir, there is another point of order. These are points of annoyance. I hope you will not listen to them anymore.

As I conclude on the matter, I was asked to substantiate. I have sat on this chair for the last six years.

In two years, I sat in the Mediation Committee between the National Assembly and the Senate. For the history of the Senate, this year will go down as the first year when we denied counties money. That is a fact.

*(Applause)*

Resting that point, I also want to reiterate that our relevance in this House is determined by how much we send to the counties and how we oversight them. We will go down in history as the Senate that has contributed to the killing of devolution.

*(Applause)*

Mr. Deputy Speaker, Sir, I am happy to see that my county will get some money. At least, the poor people who cannot get resources in their wards will be given some money to try to catch up with the rest.

I hope that these funds will not be delayed or treated like the sharable revenue. This is a country that does not respect the Constitution. If we respected the Constitution, Article 219 would not have been violated.

Yesterday, the Cabinet Secretary (CS) of the National Treasury said that when they receive donor funds, they do not hold it, but they send it immediately.

The Equalization Fund is set aside by the Constitution. So, that money should be treated equally. There is a legislative framework on how to disburse it to counties. Therefore, it should not be delayed.

It is important that I mention it for my people of Narok. I am happy that in Trans Mara East, Emurua Dikir, Kshs30 million will be transferred to Kapsasian and Mogodo wards. In Kilgoris, Ang'ata Barigoi ward will get about Kshs51 million. Keiyani Ward

will get Kshs33 million. Kilgoris Central will get Kshs50 million, Kimintet, Kshs.54 million. Kilgoris Constituency on its own, will get Kshs289.

Narok East, where I come from, will get about Kshs122 million. Narok North Constituency will get Kshs203 million. Narok South Constituency will get about Kshs230 million and Narok West Constituency will get Kshs161 million.

I wish there was a way we could ring-fence these funds to ensure that those who participate in the tenders are people from those wards. That is when we can clearly define the meaning of equalization.

However, what will happen, and this is the reality that my biggest pet peeve is that ‘tenderpreneurs’ and they know themselves, will be running from one office to another seeking a tender. Just like when the budget is made in this country, someone always makes sure there is a road for them. I hope that for once even if we have lost one battle, at least, we can think about the future.

Sometimes we behave as if we will live forever. We will not. We are just passing through. So, we should ensure that, at least, we support our brothers who have been left behind for many years for them to get a hospital and road.

Another big debate will come up. This big debate that will come up is one we defeated in the last Parliament on the issue of how resources should be divided in this country.

I hope that the Equalization Fund will give us a second time to redraft Session Paper No.10 so that every part of this country can develop.

I will be happy to see a child from Mosiro, where this year, many homes were closed because of the drought, become a President of this country one day. The only way we can do it is by ensuring that the Equalization Fund reaches the intended people.

Secondly, as the Senate, we need to readjust the sunset clause of the money, which was set aside for the Equalization Fund. For more than eight years that money has never been sent.

I am surprised that we are only getting very little. We are getting peanuts. So, as we pass this, I hope that the Committee on Finance and Budget will now go to the Consolidated Fund and see how much of that money is there.

I do not believe that the Schedule that is presented here equals the amount of money that has already been set aside. I am happy to be informed.

*(An. Hon Senator consulted loudly)*

**The Deputy Speaker** (Sen. Kathuri): Kindly proceed and conclude. Sen. Olekina, conclude your contribution.

**Sen. Olekina:** I really want to be informed. However, if I cannot be informed, I might as well end there.

**The Deputy Speaker** (Sen. Kathuri): There is no time for information. Just survive with what you know for now.

**Sen. Olekina:** Thank you, very much for giving me this time. Be blessed

*(Applause)*

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, there was a directive I was to make on the Statement issued by Sen. Miraj. This Statement on landing rights for scheduled international flights to Mombasa International Airport should go to the Standing Committee on Roads, Transportation, and Housing.

Sen. Wakili Sigei, proceed.

**Sen. Wakili Sigei:** Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Equalization Fund Appropriation Bill.

My colleagues have spoken about the Division of Revenue Bill that was passed in this House last week. I would like to be candid and inform the House that sometimes, it is good to be a realist on matters of national resources.

It is very convenient to speak about what is negative and say that this House denied counties funds that they are entitled to. It is, however, not convenient to say the positives that went into it.

We are aware that as a House, there is always a procedure to be followed where a report from every Committee comes before the House, it is debated, and it can be amended, or adopted without the amendments.

In this case, the Bill that came before the House was voted in and an amendment was proposed. Therefore, that went into what the majority of the Members dealt with. None is speaking about the positive issues in the Bill, including the enhanced allocation to national issues like library services that were previously never available.

Nobody is talking about the fact that is a devolved function. Therefore, the Senate is there to protect the devolution and county governments. That is exactly what this House did last week in order to ensure that resources that are allocated to the counties are available for disbursements. Yesterday, we heard the Council of Governors (CoG) speak to the Bill.

Allow me to now speak about the Equalization Fund Appropriation Bill. Article 204 of the Constitution--

**Sen. Crystal Asige:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): What is your point of clarification, Sen. Crystal Asige? Is it a point of information?

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, I do not want to be informed.

**The Deputy Speaker** (Sen. Kathuri): Give her the microphone.

**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, mine is a point of clarification. I thought that the Senator for Bomet County was rising to---

**The Deputy Speaker** (Sen. Kathuri): Who is clarifying because that is---

**Sen. Crystal Asige:** It is a point of clarification, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Is it a point of information? She wants to inform you.

*(Loud consultations)*

**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, it is a point of clarification and not a point of order.

**The Deputy Speaker** (Sen. Kathuri): Sen. Crystal Asige---



**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, my point of clarification is just for you to help clarify whether the Senator for Bomet County is contributing to the Equalisation Fund or what happened last week. Right now, we are contributing to the Equalisation Fund. My clarification is about relevance in his contributions.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Wakili Sigei, Sen. Crystal Asige is saying ---

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, I was laying a foundation to my contribution to the Equalisation Fund. Therefore, allow me to continue and contribute to the Equalisation Fund.

**The Deputy Speaker** (Sen. Kathuri): Okay, proceed.

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, kindly protect me from Sen. Cherarkey.

*(Sen. Cherarkey spoke off record.)*

**The Deputy Speaker** (Sen. Kathuri): Sorry. What did you say?

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, kindly protect me from Sen. Cherarkey who keeps interrupting me every time.

**The Deputy Speaker** (Sen. Kathuri): Sen. Cherarkey, you are out of order.

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

**The Deputy Speaker** (Sen. Kathuri): You are out of order and you now have a point of order?

*(Laughter)*

Proceed, Sen. Wakili Sigei.

**Sen. Wakili Sigei:** Mr. Deputy Speaker, Sir, from the drafters of our Constitution, the Equalisation Fund was aimed at ensuring that there is equality. It is to ensure that some or most of the marginalized counties in various areas of our country are not left behind. It is aimed at ensuring that we tag along all Kenyans, in terms of development and resource allocation. The fund should ensure that those areas benefit from resources of our country.

The Equalisation Fund, from what I have gone through and that which Sen. Olekina said, has a sunset clause. However, as we speak right now, I, as the representative of the County of Bomet, appreciate the allocation that has been given to Bomet County. However, I still seek to ensure that all marginalized areas, in this case, under the policy by the Commission on Revenue Allocation (CRA), in terms of identifying areas, which need to benefit, are enhanced. That is because there are certain areas, which are not supposed to benefit, but are benefiting from this Fund.

Mr. Deputy Speaker, Sir, I come from Chepalungu Constituency in Bomet County. From this Fund, Chebunyo Ward has benefited with Kshs8.7 million, Nyangores Ward has Kshs8.6 million and Sigor Ward has Kshs8.5 million. It totals to Kshs25.8 million from this particular allocation. From where I sit, there are direct benefits that people coming from these particular wards will benefit. However, there are other places

that are more demanding and require the funds, so that services including water, roads and health facilities are availed to the people, especially when it is aimed to benefit them.

Mr. Deputy Speaker, Sir, as I support the Bill, in terms of allocation of this Fund, I propose that this Fund, as already set aside, should immediately be released, so that we do not get to a situation where we are at the moment. Allocations are made, but the funds are not released for the direct benefit of areas identified as marginalized areas.

Mr. Deputy Speaker, Sir, that is my position. I support the Bill as presented by the Committee.

Thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you. Proceed, Sen. Crystal Asige.

**Sen. Crystal Asige:** Mr. Deputy Speaker, Sir, I thank you for giving me an opportunity to contribute to the Equalisation Fund that is being discussed this afternoon. I rise to support the Bill.

I wish to also thank the Committee on the work done so far on the Bill, appreciating its time sensitivity, being that the end of the financial year is fast approaching. What we know so far is that the Bill comes at a time when several counties are still in desperate need of basic services.

Article 204 (2) of the Constitution states—

“The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.”

Mr. Deputy Speaker, Sir, my view is that it is essential to have an explicit formula or provide an exact portions allocated to benefit Persons With Disabilities (PWDs), children, elderly, youth and women who make up special interest groups in these marginalized areas. The Equalisation Fund should ensure that the funds allocation, allocated to each ward, has a specific cap for special interest groups in line with the objectives in our Constitution.

Mr. Deputy Speaker, Sir, as you know, you will mostly find in our urban areas, Kenyans of working age leaving their home counties in search of opportunities to better their lives. For example, a young man from Marsabit will move to Nakuru, another one from Lamu may move to Mombasa or one from Nyamira might move to Kisumu and thousands will move to Nairobi. This means that our villages and rural areas comprise heavily of women, the elderly, PWDs as well as other marginalized groups.

A clear allocation structure is vital to ensure that this segment of the society is not left behind. The funds should be utilized effectively to address the needs of our marginalized communities within these marginalized areas.

Mr. Deputy Speaker, Sir, tied to this is the urgency to implement any programmes covered by this Fund because of its sunset clause, designed to elapse 20 years after its commencement. This put it at only a handful years left unless we, as Parliament, intervene.

Mr. Deputy Speaker, Sir, in the 2011/2012 Financial Year, the approximated constitutional entitlement was the sum of Kshs2.3 billion. However, nothing was

transferred to the fund. Five years on, in 2015/2016, it had accrued to Kshs15.4 billion, yet only about Kshs6.4 billion was transferred to the Fund. In the current Financial Year, 12 years since inception of the Fund, the entitlement has accrued to Kshs55.3 billion, for the transfers not cleared, resulting in a huge shortfall against the entitlement.

Further, according to a Report published by United Nations Children's Fund (UNICEF), 31 per cent of Kenyans do not have access to clean water, with 72 per cent lacking proper sanitation, as we speak. If put to proper use, the money from this Fund would reduce these numbers and enhance quality of life, increase our human development index and create sustainable lifestyle for the affected communities, particularly the special interest groups.

There are some gaps that I have also identified as important to be addressed, even as we move to pass this Bill. Firstly, the Bill should specify the accounts from which the allocated funds will be withdrawn. It is crucial to set up designated accounts for each county to ensure that the circa Kshs30 billion appropriated by the fund are used for the specific purposes itemized in the Constitution.

Secondly, considering the sunset clause, nothing much has happened since its inception.

*[The Deputy Speaker (Sen. Kathuri) left the Chair]*

*[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]*

The fund is in substantial arrears despite constitutional requirements to ring-fence its allocation and to transfer those allocations to the fund's accounts

Thirdly, the Commission on Revenue Allocation (CRA) and the Equalization Fund Board must also serve the Senate with regular Monitoring and Evaluation (M&E) reports.

Lastly, when it comes to the Equalization Fund, the revenue shared must be in line with the Constitution as what is currently being used as a basis is not clear or legally measurable.

Mr. Temporary Speaker, Sir, we might be in danger of using a lower threshold as some of the revenue components seem to be excluded from the aggregates. This is my submission as I support the Bill.

I thank you.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Crystal Asige. Kindly proceed, Sen. Lomenen.

**Sen. Lomenen:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I strongly support this Bill. I urge and request the Finance and Budget Committee to seek funds that were allocated in the past years since 2013.

I remember and have witnessed that some of these Equalization Funds were not disbursed to the specific or the mentioned counties. I remember one time, as Members of Parliament from the marginalised areas, we visited the Cabinet Secretary (CS) for National Treasury and asked him if the National Treasury has the Equalization Fund. He said that the project that we had identified would be funded by the national Government.

Mr. Temporary Speaker, Sir, I want to be so specific. I do not know why the decision in the Sessional Paper No.10 of 1965 was made. That Sessional Paper denied some counties the potential of advancing or developing. It is not even written in any scripture, Quran, Bible or any Constitution why these counties were marginalised.

To be logical, areas like Marsabit, Mandera, Turkana are about 77000Km<sup>2</sup>. Marsabit and Turkana put together is like half of Kenya. The reason we were denied this opportunity of development is not known to date.

It is our time. I know the first reason I support this Bill is because of funds that are allocated to Turkana County; I appreciate it. However, in reality, the funds were supposed to be three or four times more than the previous years when the area did not get the allocation of the Equalization Fund.

Mr. Temporary Speaker, Sir, 50 years ago, the county and other areas that are marginalised were denied justice. The first time that we saw a tarmacked road was just five years ago, yet this money was meant for electricity, roads and health facilities. These funds are supposed to be allocated to marginalised counties, so that those counties can be at par with other counties.

Mr. Temporary Speaker, Sir, up to now, some counties are still in the dark ages. The Bible states that *'light and darkness will never remain the same'* meaning, these counties that are in darkness will never be at par with the developed counties.

The most painful experience I had one time as a Member of Parliament is when I crossed the river without some of my clothes on because there was no bridge. The expectant mothers, while crossing the river, lost their children. The elderly wanted to access a health centre, not a hospital, but they too lost their lives.

It is not just sympathy; it is a deliberate action to confirm that every part of this nation enjoys privileges and rights enshrined in the Constitution. That is not enough as in these areas people are still struggling with basic needs like health, water and food. They cannot afford a meal a day. That is why we are asking, "When will they enjoy that right to food, health services and electricity"? As the cost of electricity is going high right now, we wonder how these areas will actually afford it. I doubt they can afford it.

The other most important point is that water is a problem in the marginalised areas and that is why we require this money, so that the citizens of these marginalised areas can enjoy their rights.

Mr. Temporary Speaker, Sir, on the issue of electricity, most of these areas are in the dark because they have not seen an electric wire. So, when will they see electricity? This is the right time for them to see electricity. Rural electrification is supposed to be proper. There is Rural Electrification and Renewable Energy Corporation (REREC) and Kenya Power and Lighting Company (KPLC). Some of these areas have not even seen a post erected by Kenya Power or REREC. They do not know. That is why it is not their problem; it is deliberate.

There is a certain dictum where when you are travelling from Turkana to Nairobi, people say, "I am going to Kenya." This is because Nairobi is developed. When roads, schools, health centres and other important amenities were being built in Nairobi, these other areas were in darkness. They were just taking care of their animals.

Mr. Temporary Speaker, Sir, it is time we call a spade a spade. We give 'Caesar what belongs to Caesar and God what belongs to God.'

Give Nairobi City County what belongs to Nairobi City County and give Turkana County what belongs to Turkana County. God did not make a mistake in creation. The only thing I know is that God is visionary.

He decided to put sugarcane, tomatoes and coffee in some areas. One time, one moment, this country will depend on the so called marginalised counties. Why? It is because we have realised recently that all the minerals such as gold, silver, oil and others are found in marginalised areas. This means that God had a plan. He said let us just use the resources that are found within Nairobi and its environs then, when they get finished, we will go to Turkana County and we will be assisted. This is just to show you an exhibit.

Mr. Deputy Speaker, Sir, another thing I ask of my Senators with due respect, marginalization was allocated for 20 years in the Constitution. However, because of the delays and other issues that are so critical, this other 10 years got lost. The areas did not benefit. When I read the Constitution, I ask the dignified Senators that we can still appeal and amend. Half of these Members of Senate can appeal and amend this constitution. This is so that we can add this lost 10 years to become 20 and we enjoy these services of electricity, roads and water until the time we come at par with the other areas.

Mr. Temporary Speaker, Sir, I have a case study. We passed the Division of Revenue Bill. It is very okay. There is someone who sang a song saying that money is not the problem, the problem is how to use it. Yes, we have passed and appropriated the Division of Revenue Bill and the Equalization Fund. The question that the Senators are supposed to ask is, do they have enough strong teeth to bite? This is what we were asking the leadership of this House. We have disbursed money to the county, but what you will realise is that the Senators have forgotten. They will not even pick their calls. They are just looking like people who are ---

*(An. hon. Member spoke off record)*

Yes, it is like we are refugees in our own county. We expect the Oversight Fund to be the teeth to bite, so that we evaluate, monitor and oversight this fund at the county. We make sure that if it is 10 boreholes, we make sure that they are done. If it is electricity, we make sure that every rural village is electrified. When we see roads, we make sure that they are there.

I was a Member of the 11<sup>th</sup> and 12<sup>th</sup> Parliaments. It is a paradox that the Constituency Development Fund (CDF) was building a road with approximately Kshs1million or Kshs2 million on the higher side. When we get into the county, you will find that a two or five-kilometer road is done at Kshs25 billion against Kshs1 million. Surely, this is misappropriation. We can pass this appropriation and I support, but in reality, to tell you the truth, it will be misappropriated.

The other thing is about the designs in the counties. We are supposed to have a design by a specialized government official. Every governor gets his designer who draws the projects. You will see that they defer and it is too expensive.

Mr. Temporary Speaker, Sir, the other grave issue is the cost of inflation of funds. You will find that there are projects in the county that are not complete and most of these projects are for national Government.

People get contracts from the marginalised area, after getting the tender, they then say that this area is very insecure they cannot go there. Why did you agree to take that money? Was that money not insecure? No, that is marginalization. When a project is meant to be taken to Kibish, let it be taken to Kibish.

God created this earth and said, 'let there be sand,' and there was sand. 'Let there be moon,' and there was the moon. This is what you are supposed to be in this Senate. When we say, 'let the classroom be in Kibish,' let the classroom be there. Let the road be in Mombasa or Malindi, let it be there. We have that power; the citizens have given us power to prioritize their needs.

Mr. Temporary Speaker, Sir, I appreciate this money, because they say, just appreciate what God has given you, but in the reality, it is not enough. If it will reach the Third Reading, surely, I will ask our dignified Senators, to add Turkana County more money because we have gold. It will also give you paraffin and kerosene. Sen. M. Kajwang', if you add us something, we will also consider you in future. I remember, the Bible says that when you deny me this opportunity on earth, you will also be denied that opportunity in Heaven during the day.

**An hon. Member:** On a point of information, Mr. Temporary Speaker, Sir.

**Sen. Lomenen:** Point of information? No, I am just quoting the scriptures. You cannot have more information on the scriptures.

Thank you so much.

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you so much, Sen. Lomenen.

Sen. M. Kajwang' you may have the Floor.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, I rise to support this Bill for very selfish reasons. I am embarrassed that I am not supporting it for nationalistic reasons; reasons that build a nation called Kenya, but reasons that are rather selfish.

Mr. Temporary Speaker, Sir, Homabay County is receiving Kshs176 million in the allocations that will come from the monies that we have approved today. Out of the Kshs13.89 billion, Homabay Town will get Kshs8.6 million, Ndhiwa Constituency will get Kshs99 million, Suba North will get Kshs24 million and Suba South will get Kshs44 million.

It is very difficult to stand on the Floor of this House and argue against money that is going to your county, but it is still not enough. If we go by the deprivation index that the Commission on Revenue Allocation (CRA) came up with to determine which administrative units should get this money, we still think that the Kshs176 million going to Homabay County is not enough.

Mr. Temporary Speaker, Sir, this Fund has been ring-fenced for basic services, including, provision of water, roads, health and electricity. In as much as I am talking about Homabay County getting Kshs176 million, a Ward like Gembe, where I come from, in Suba North Constituency, will be getting about Kshs8 million shillings. That Kshs8 million, if you look at it being an allocation that spans two financial years, you

will realize that this money is not sufficient to carry out an effective implementation or an effective project that will reverse the marginalization that these areas have experienced over the years.

I wish that going forward, the 0.5 per cent that is specified in the Constitution can be applied to the latest audited accounts. I do hope that the National Assembly, whose accounts are used as a basis for this allocation, can fast-track their consideration of audit reports, so that we get the most recent audited accounts of the national Government funds, and that way, perhaps, Homabay will get more than Kshs176 million.

**Sen. Oketch Gicheru:** On a point of Information, Mr. Temporary Speaker Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. M. Kajwang', do you want to be informed by the Hon. Senator?

**Sen. M. Kajwang':** Indeed, my neighbour and younger brother can inform me, particularly if my fly has not been zipped up.

*(Laughter)*

**Sen. Oketch Gicheru:** Sen. M. Kajwang', I really share in your pain with regard to what you are getting in this particular Schedule. My point of information is that since the inception of the Constitution, when this particular fund was established, it is important to note that our biggest struggle has been to implement this particular part of the Constitution.

If you look at it critically, if we go by the Financial Year 2022/2023, because I sit in this Committee, the National Treasury should by now have given this fund Kshs54 billion. Sen. Kajwang', what we are struggling with in this Bill today is to get Kshs10 billion because what had actually been availed was Kshs26 billion. What we are fighting for here, Sen. Kajwang'---

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

**The Temporary Speaker** (Sen. Wakili Sigei): What is your point of order, Sen. Cheptumo?

**Sen. Oketch Gicheru:** I am on a point of order. Can we implement the rules of the House? I am on a point of information to Sen. Kajwang'. Let me just finish.

**The Temporary Speaker** (Sen. Wakili Sigei): You are on a point of information.

**Sen. Oketch Gicheru:** I am Informing Sen. M. Kajwang'. I ask you to fight for this money. If we can insist as a House, so that we get the entire Kshs54 billion, you will be better placed to get more money for your particular county.

**The Temporary Speaker** (Sen. Wakili Sigei): Just go straight to your information. You are already debating. You are eating into Sen. M. Kajwang's time. Inform him.

**Sen. Oketch Gicheru:** I am not contributing.

**The Temporary Speaker** (Sen. Wakili Sigei): Finish up, Senator.

**Sen. Oketch Gicheru:** As I finish, Sen. M. Kajwang', on this point of information, I think that your pain is also expressed by some Senators who are not informed that they needed to have fought for Kshs22 billion in the Division of Revenue Allocation (DORA) Bill that was supposed to go to the account.

It is very disappointing to see Sen. Lomenen complaining here about very small money, and when you are given an opportunity to put more money to your people, you kill it. Sen. M. Kajwang, fight for the bigger pie that is here than the smaller one that we are allocating right now.

*(Loud consultations)*

**Sen. M. Kajwang**: Thank you, Senator for Migori County, for duly informing me.

*(Laughter)*

Mr. Temporary Speaker, with that information in mind, we must reflect on the reason the Equalization Fund was established. Article 204 (1) of the Constitution talks about the Equalization Fund. In all our dealings, and I keep saying this, this House is not the Supreme Court, the High Court or the Court of Appeal. We must always look at the spirit of the law in as much as we look at the letter of the law. This money was meant to go towards counties and regions that have been marginalised as a result of Government policy and the most famous being the Sessional Paper No.10 of 1965.

I have seen some of my colleagues who sat in the National Assembly, and I am glad that they are now here to see the reality of some of the decisions that they made. Let us be honest to the nation. It got to a point where everyone wanted to get a piece of this money. We moved from the original marginalised counties of 14 and today they are 34. We argued that there were pockets of deprivation everywhere.

Mr. Temporary Speaker, Sir, it was argued that even if you went to Westlands Constituency and to that Ward where Runda is, that there is a slum called Githogoro. Therefore, there is deprivation there and as a result, Westlands should also be able to get part of the Equalization Fund. I see the Senator for Nairobi City County is very excited. You get an area like Karen where there is a lot of wealth, there are also some pockets of deprivation. You take the money that was supposed to go to Turkana, Mandera, Marsabit and Baringo and such places and bring it to Nairobi or Nyeri.

We lost it when we made the argument that this money should not go through the devolved structures, but through the structures of the provincial administration, which, if we are honest with ourselves, has no place in Kenya's political and administrative architecture. We made a commitment as a country that the system of provincial administration that was meant to control, tame and contain black Africans, needed to have been reviewed and overhauled with the advent of devolution.

Mr. Temporary Speaker, Sir, what did we do? We took the county commissioner and put him right at the centre of decision making in deciding and implementing projects under the Equalization Fund. To make it worse, even us, the Senators, legislated ourselves out of this matter because at the county level, the chair of the committee that determines the projects is the county commissioner. Then, you will have the County Executive Committee Member (CECM) Finance for the county, the chairs of the National Government Constituencies Development Fund (NG-CDF), the NG-CDF fund managers. In my county, I have eight CDF funds, and so, eight of them will be sitting there. Then



there will be one person representing the county assembly and technical people from the ministries.

Mr. Temporary Speaker, Sir, this was absurd. We made arguments that county governments are just thieves 'eating' money and we should give them additional money. We have a deficit of trust in this country. If we think that the people we have in counties are thieves, why do we keep voting them back? Why can we not kick them out of office? There are a lot of instruments we have in the Constitution and various laws. We cannot keep making legislation on the basis of suspicion. This House should not sit aside and watch devolution, the structures of devolution and county governments dismantled.

If I see Sen. Ali Roba has bought a new car, I start thinking that he has bought that new car from DORA or County Allocation of Revenue Act (CARA), not knowing that Captain Roba receives a salary of a million shillings and is capable of buying a new car. We made a mistake.

Mr. Temporary Speaker, Sir, I have just been talking to the then Chair of the Committee on Delegated Legislation, Sen. Faki. The National Treasury made a commitment to this House that, please, pass these regulations, let us unlock funding to the marginalised areas; we will come back and amend the regulations. Those regulations have not been amended today. Where is the National Treasury? The Chairman of Delegated Legislation Committee, Sen. Gataya Mo Faya, you must demand from the National Treasury the amendments that they promised.

Mr. Temporary Speaker, Sir, for this, we are all equally guilty because this came in the heat of the campaigns and some of us thought we would be in government, so that we could change these things once in government. I now challenge those who got into government through the back door and through the windows. Can you now amend those regulations because you stridently stood on the Floor of this House saying that those regulations should not pass?

Mr. Temporary Speaker, Sir, the sunset to this particular provision is fast approaching. Let us be bold enough to come up with legislation to extend the duration for this financing. Let us not use that as a window to bring on board the 13 other counties that are not included here. The other counties have got money through the Division of Revenue Allocation (DORA) Bill and County Allocation of Revenue Act (CARA) that the Senate appropriates every other year. Let us not mix things.

Why is Turkana not the richest county in this country? As Sen. Lomenen had said earlier---

**Sen. (Dr.) Khalwale:** On a point of Order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, what is your point of order?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I rise on Standing Order No.105. Did you hear the distinguished Senator for Homa-Bay County allege that we got our way into Government through the back door? Under Standing Order No.105, he has the responsibility to demonstrate the factuality of his statements, otherwise, he owes those in government and Kenyans who voted for us overwhelmingly an apology and a withdrawal of that Statement.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. M. Kajwang' you have heard that. Are you going to substantiate the comments made?

**Sen. M. Kajwang'**: Mr. Temporary Speaker, Sir, the Constitution talks of 47 plus One government. We have one national Government and 47 county governments. I do not know why Sen. (Dr.) Khalwale got jittery when I talked of the government. I do not mean the Government he is holding brief for. It might as well be a government in Homa-Bay County or Migori County.

*(Loud consultations)*

Mr. Temporary Speaker, Sir, Sen. Oketch Gicheru is advising me to use a proverb that is a bit un-Parliamentary. It says in my language that the person who fouls the air is always the first one to fight and so, Sen. (Dr.) Khalwale might be guilty of something.

*(Laughter)*

Mr. Temporary Speaker, Sir, I was talking about the sunset to this particular provision. Let us be bold to extend it, review the regulations and policies. It was said on the Floor of this House. I know some of the characters who work within this space. I have gone to school with some of them and sometimes they inform me informally that the development of the next marginalization policy is going on and the Commission of Revenue Allocation (CRA) is going around the counties. They are visiting counties without the knowledge of the county governments and the Senators representing those counties.

We must call the National Treasury and the Equalization Fund Committee to order. The development of the next marginalization policy alongside the CRA must be consultative, involving the county government, Governors and the representatives and defenders of counties, which in this case are the members of the Senate as well as the National Assembly, who represent the interest of the people in Parliament.

Finally, on Sessional Paper No.10 of 1965. It is not farfetched when the Senator for Turkana County says that in future Kenya is going to rely on the Northern Frontier for its wealth. It was not too long ago when the collapse of great civilizations like Persia and great cities like Baghdad and Damascus, where power shifted to the global west. These areas were seen as places that offered no promise except for nomads, camels and lots of sand. When the British discovered oil in Saudi Arabia and they incorporated British petroleum, Saudi Arabia suddenly became important. Baghdad and Damascus also became important.

That part of the world which was formerly a great civilization, just like Turkana County where humankind started--- When we find fossils in Turkana County, it tells you that it was a seat of great ancient civilization. It shall come to pass that this country shall start looking up north. Today, we think the north offers nothing, but violence and poverty. When our children from the north go to school in Kiambu County, we tell them to go back to their counties as if some counties are more important than others.

We assume that the money that goes to counties comes from certain communities or business people. The news that should go to the people peddling division, sowing

discord and saying that the children of parents from north eastern region; Turkana, Mandera and Marsabit Counties, should not be seen in Kiambu, Nairobi City or Nakuru Counties--- These are the people out to destroy this great nation of Kenya.

When this country is destroyed, the areas developed, as a result of Sessional Paper No.10, will not thrive if there is no peace. We provide services, agriculture and real-estate; things that cannot thrive when issues go south the way they are in Sudan.

When they tell our children not to study in schools in specific counties, they split and destroy this country. The people of the north will know how to defend themselves with AK47. These people are used to adversity and hardship, and finally, they shall extract the oil and water that lies under that soil in Turkana County.

All I am calling for is a government that looks at the big picture, revisits and revises the injustices of the past. All I am calling for is a better definition of the Bottom-Up model; a model not seen as stealing money from the poor to the pockets of the rich. The marginalized areas must be prioritized in development and planning in this Republic--

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, what is your point of order?

**Sen. (Dr.) Khalwale:** On a Point of Order, Mr. Temporary Speaker, Sir. I rise at the pain of asking again that you request the Senator for Homa-Bay County to withdraw and apologize for his xenophobic remarks about Kiambu County. We are painfully constructing a Republic called Kenya. I know many children who are not Kikuyu at Alliance Boys and Girls, Loreto and Mang'u High School, yet there has never been a single report of a single attack in school.

In fact, my children go to these schools. If you have facts to demonstrate that somebody is marginalizing children from outside Kiambu County, table them. If you do not, we want peace to continue in those schools. Kindly withdraw and apologize.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, Sen. M. Kajwang'.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, Sen. (Dr.) Khalwale has been in this Parliament long enough to reflect on rulings that have been made in the past. Even though it is possible to bring evidence to support what I have said, I will go by the decision of a Speaker, who is very prodigious in terms of his decisions. He said that you do not substantiate the obvious. What I have said is in the public domain, but if Sen. (Dr.) Khalwale feels aggrieved, I withdraw and substitute Homa-Bay County in the place of Kiambu County. I hope that will make him feel happy.

As I conclude, let us pass this Bill, but kindly let the Chairpersons of the Standing Committees on Finance, Delegated Legislation and the communities which were the true beneficiaries of this money go back and right the wrongs that have been committed in the past five years by denying the true recipients of this money and sending it to places, where if they put more effort to collect own-source revenue, and if they used devolved funds better, they would get faster results as opposed to our brothers from the north.

Our brothers from the north and those forgotten and left out as a result of Sessional Paper No.10, you shall get justice. I can tell you without doubt or fear that if

Hon. Raila Odinga was the President of Kenya, the conversation today would have been different. You would not be begging for---

*(Loud consultations)*

*(Sen. Orwoba spoke off record)*

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. M. Kajwang'. Hon. Members, let us be in order. Sen. Oketch Gicheru, let us be orderly. Sen. Orwoba, let us be orderly. It is now 5.30 p.m. and earlier on, there had been an appointed time following a Motion moved by Sen. Mumma under Standing Order No. 37 to discuss a matter of national importance. I will ask the Mover to take her 10 minutes to move and speak on the Motion.

### **MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37**

#### **THE DISCOVERY OF MASS GRAVES AT SHAKAHOLA IN KILIFI COUNTY**

**Sen. Mumma:** Thank you, Mr. Temporary Speaker, Sir. I thank colleagues for supporting this Motion.

I beg to Move -

THAT pursuant to Standing Order 37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the discovery of mass graves thought to be those of Pastor Paul Mackenzie's followers, who purportedly died of starvation as part of the religious conviction prevailing in Shakahola Village, Kilifi County since 20<sup>th</sup> April, 2023.

Mr. Temporary Speaker, Sir, this matter is still live in this country. I brought this Motion because we share in a collective shame, that we could have a cult in this country running for 20 years; and ended up with a tragedy of the magnitude that we are being told. The case is still unfolding. Apparently, 83 bodies have been exhumed. I am told the number is 89, but the operation is still on.

The right to life is the number one right. It is the primary right without which all over rights cannot be enjoyed. When people are killed through starvation, the freedom from torture, cruel, inhuman and degrading treatment is lost. It is unacceptable when that is meted on children who cannot express themselves in terms of choosing a religion or an opinion.

The story of the cult involving Mr. Paul Mackenzie and the wife happened in Malindi, but is a national disaster. Those affected are not just people from Malindi, but people from areas like Western Kenya, Kisii, Luo Nyanza, Nairobi City and other regions.

It is perplexing that we have a country with security forces and a County Security Committee. Nonetheless, we have allowed this to happen for 20 years. The so called Pastor Makenzie is a public figure that has been appearing even in some presidential campaigns. I do not want to accuse anybody, but it is a collective shame, that we could have somebody like that pass and get away with it. He has actually gotten away in my view because those lives can never be recovered, even if he was to be shot or mutilated in public.

Mr. Temporary Speaker, Sir, commenting on religion in this country is an abomination. Religious organisations sometimes make it difficult to point out any issue that is of concern. This has allowed cults to come up. This has allowed people to set up churches or religious organisations that extort poor people of money. They purport to have miraculous methods of curing disease, prohibit children from going to school and go to hospital. We continue to let them be, yet the right to education is in the Constitution.

Article 53 of the Constitution provides for compulsory primary education for every child. How we could have children claiming publicly that they are not going to school and nobody does something about it, is unacceptable.

Mr. Temporary Speaker, Sir, I hope I have my 10 minutes.

As I move this Motion, I wish to ask why this happened. County governments, particularly governors, are not involved in County Security Committees. Beyond what the police and the investigation teams are doing, this House needs to come up with a policy decision that can see county governments participate in local security issues. If there was investigation that pointed out to funny decisions or happenings and a county governor was on that Committee, the matter would not have reached where it has.

As I say so, county governments have administrative officers; ward and village administrative officers. The national Government is supposed to have chiefs and sub-chiefs. How did this happen without anybody picking it out? County governments have Community Health Volunteers (CHVs), who walk to every house in this country. How did they not ever pick what was happening in Shakahola?

We need to ask questions beyond what the police are doing. We need to get back to the policy level to find out whether we need to regulate religious organisations in this country; and stop being intimidated by their leaders who do not want to be regulated. This is a matter of life. As a House, we need to rise up and be counted. I request that this House does something urgently.

With two minutes left, I wish to invite Sen. Madzayo from Kilifi County to second this Motion.

I beg to move.

**The Senate Minority Leader** (Sen. Madzayo): Asante, Bw. Spika wa Muda. Ninamshukuru dada yangu kwa kunialika niunge mkono Hoja hii.

Uongozi wa dini humu nchini unaruhusiwa. Katika maeneo ninayotoka, kuna kanisa la Good News International, ambalo linaongozwa na Pastor Paul Mackenzie Nthenge.

Kulingana na sheria zetu za dini, mtu yeyote anaweza kujiunga na kanisa lolote analotaka na kuomba Mwenyezi Mungu. Hivi majuzi tumepoteza zaidi ya watu 86. Hawa

watu wamekufa wakiwa Kaunti ya Kilifi. Ni jambo la kusikitisha ya kwamba Wakenya wanapoteza maisha yao kwa sababu ya kiongozi wa dini.

Jambo la kusikitisha ni kwamba, tulipoanza ugatuzi, tulikosea zaidi kwa kutomuweka gavana kwenye Kamati ya Usalama. Pastor Mackenzie amekuwa Kaunti ya Kilifi kwa zaidi ya miaka 16.

Hii dini yake imekuwa ikiendelea ndani ya Kaunti ya Kilifi zaidi ya miaka 16. Mtu huyu anajulikana sana na amekuwa akizunguka kila mahali. Lakini, juzi vilivyogonga vichwa vya habari ni kwamba alianza na msimu wake ya kwamba watoto wasifanye mitihani. Na *security* inaona. Baadaye, watu walipopiga kelele, akashikwa akapelekwa kortini, akaachiliwa kwa dhamana ya Kshs10,000. Akaja tena akashikwa kwa sababu alisema sio kufanya mtihani peke yake lakini, pia watu waanze mambo ya *fasting*.

Bw. Spika wa Muda, utakuja kuona kufikia wiki zilizokwisha, alianza kwa kuwakataza watu wasile chakula au kunywa maji ama kujisaidia kwa njia yoyote kwa sababu dini yake inasema ukienda huko, unaenda kukutana na Yesu.

Kuna mashirika tofauti ya kuangalia vitengo vya sheria. Kufikia hivi sasa, kuno vitengo vya *Directorate of Criminal Investigations* (DCI), vile vya ujasusi, kuna machifu, *County Commanders*, wale wa polisi na kaunti Kamishna, ambaye anaketi katika mambo ya *security*. Ninataka kuuliza kitu kimoja, je, kitendo kama hiki kilipokuwa kikitendeka, watu hawa walikuweco? Wanajua hiyo? Na kama wanajua, ni hatua gani walichukua?

Bw. Spika wa Muda, Kaunti Kamishna mwenyewe, anaketi kwa hiyo *security team*. Wale waliokuweco miaka 16 iliyokwisha ndani ya Kaunti ya Kilifi lazima wajukumike. Kama huyo mtu alianza dini miaka 16 iliyokwisha, basi Makaunti Kamishna wote ambao walikuwa huko, lazima waitwe na kuhojiwa. Kama walimwona mchungaji Ezekiel Nthenge akianzisha shirika lake la hili kanisa, ni hatua gani ambayo ilichukuliwa?

Mimi ninatoka katika eneo hili na ningependelea unisaidie uniongeze dakika fulani niweze kueleza kwa sababu niko na uchungu sana. Watu wangu wamekufa. Ni lazima taifa liweze kujua kuwa tunaongea juu ya mambo ya Shakahola. Ninataka uniongeze dakika tatu au nne ili niweze kumaliza.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Madzayo, I will give you five minutes for two reasons. One, it is your county. Two, I am informed that you had---

Go ahead.

**The Senate Minority Leader** (Sen. Madzayo): Asante, ndugu yangu. Ni jambo la kusikitisha kuona ya kwamba hakuna hata Kaunti *security team* yoyote ama Kamati ambayo ilikuwa inawezakugundua hii.

Swala la kujiuliza ni kwamba, huyu Kaunti Kamishna na *security team* yake ikiongozwa na *police commander*, na ofisa mkubwa wa DCI, walikuwa wapi ilhali wanaishi na sisi kila siku kwenye mitaa na kupokea mishahara yao kila siku?

Lakini, wakisikia kuna maandamano, wanajua kila kitu mpaka wanatuambia 'kesho tutatengeneza mabomb tuweke. Lakini, hawajui saa ya watu kufa. Kifo cha mtu sio kwamba hujui ama umeharibu.

Tuchukue mambo kwa uzito unaofaa. Watu wamepoteza maisha yao. Watu wametoka sehemu mbalimbali kuja kutafuta wapendwa wao. Yaliyotendeka yote kumi, la kumi na moja ni kwamba kulikuwa na utepetevu wa mambo ya usalama. Watu waliotakikana kuangalia mambo haya ni Kaunti *Commander*, Kaunti Kamishna na waliokuwa katika Kitengo cha Ujasusi la DCI.

Vilevile, tuko na machifu, wazee wa mitaa, wazee wa nyumba kumi. Kwa hivyo, mambo yetu ya usalama lazima yazingatiwe zaidi.

Ninajua hata Rais mwenyewe ameweza kutamka akisema huyu mtu ni *terrorist*. Kwa hiyo, ninamwomba afute kazi Kamishna ambaye anaketi kama *Chairman* wa Kamati ya *National Security and Foreign Relations* akifuatiwa na Kamanda wa polisi, DCI na wale wako chini wanaohusika mpaka kwenye vijiji. Wasiwe katika kazi zao. Huwezi kupata kitu kama hiki ambacho kinauwa watu na wewe usichukue hatua yeyote.

Bw. Spika wa Muda, mimi kama Seneta wa Kaunti ya Kilifi, ninasikitika. Niko pamoja na watu wote ambao wamepoteza wapendwa wao. Tunawaombea Mwenyezi Mungu. Lakini, jambo kama hili ni lazima lichunguzwe, lifikishwe mwisho na wale watakaopatikana walizembea kwa kazi zao, Rais achukue hatua ya kuwafuta kazi.

*(Applause)*

**The Temporary Speaker** (Sen. Wakili Sigei): Do you second?

**The Senate Minority Leader** (Sen. Madzayo): Yes.

*(Question proposed)*

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members, I am aware that there are other Senators who had placed Statements and confirmed. I will give them a priority, each five minutes, in this particular order: Sen. Orwoba, Sen. Kibwana, Sen. Veronica Maina and Sen. Mandago. Thereafter, I will embark on the Members who have requested to speak to this Motion. Those five Senators had their Statements approved by the Clerk.

**Sen. Orwoba:** Thank you, Mr. Temporary Speaker for this opportunity. I add my voice to this issue but first, before I get into my arguments, I want to do some sensitization.

There seems to be some confusion about religion and cults. A cult is not a religion. It is a social movement. What we are witnessing is a social movement and not a religion. So, as I weigh in on this, I urge, my fellow Senators to understand that we are discussing a matter of a social movement whereby we have a person who has convinced people to starve themselves and their families to death.

We have an issue ---

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

**The Temporary Speaker** (Sen. Wakili Sigei): What is your point of order, Sen. Sifuna?

**Sen. Orwoba:** I hope my time will be given back to me.

**Sen. Sifuna:** Mr. Temporary Speaker, Sir, Sen. Orwoba is misleading this House. It is in the public domain that, in fact, this gentleman was running a church called Good News International. If you feel constrained to speak freely on this issue, you do not have to contribute. However, what you cannot do is try and mischaracterize what we are facing.

We know what social movements are. Like what she was trying with sensitization on period shaming, that is a social movement. It is not a cult. Are you saying your movement is a cult?

It is in public domain that, in fact, this gentleman was operating and running a church. It is based on certain faith and believes that are founded in religion. If you feel that because of your own political constraints---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Sifuna, you have made your point.

*(Loud consultations)*

**Sen. Sifuna:** Let me finish. You will not shout at me. I am on a point of order.

**The Temporary Speaker** (Sen. Wakili Sigei): Order, Sen. Orwoba.

**Sen. Sifuna:** I am on a point of order. If you feel constrained by your political chains that you cannot put them down and speak to an issue objectively, you do not have to contribute. However, you do not have to mislead us here.

*(Sen. Cherarkey spoke off record)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Orwoba, proceed to prosecute your issue.

**Sen Orwoba:** Mr. Temporary Speaker, Sir, I am standing here, giving my views as Sen. Orwoba. I do not see any chains around me and let it be known to the public that what I speak here represents my belief and my opinion. I do not speak for anybody.

So, as I was saying, a cult is a social movement and that is what it is. We have so many people who are opening up all sorts of establishments disguised as religious institutions. They are not just churches but there are other sort of things including mosques, religious schools and things like that. Some of us who are Christians know what the church looks like.

We are in this House, the 'upper House', to legislate. What we lack in this country is the legal definition of a cult. If we had a legal definition of a cult, this would have been a clear case of, 'this is a cult, this is what it entails and this is how we have to deal with it'.

We heard the pronouncement of our leader when he said that this man is a terrorist, and I agree. This is not a pastor. This is a terrorist. A terrorist who has gone out of the way to influence people to kill themselves the same way we have suicide bombers.

When weighing on this matter, I want to sensitize people that we are talking of cults. You may want to put a blanket on them and call them religious institutions, try and tie them to the church, but it is obvious and it is in the public domain that any person who



pushes other people to kill themselves or pushes other people to have extreme activities within a social movement is cultist.

Article 32 of our Constitution states that every person has a right to freedom of religion, thoughts, belief, and opinion. However, one cannot stand up and say that they have the freedom of belief and religion yet what they are hiding behind are acts of terrorism.

When looking at this case, I propose that we have a commission of inquiry because this is an act of terrorism. This is a situation where we had a terrorist sitting somewhere and recruiting people into terrorist activities. Therefore, it must be dealt with as an act of terrorism.

It is also stated in our Constitution that the State shall take legislative policy and other measures including setting standards to ensure that all rights are protected. So, on this particular matter, the state should continue to ensure that the right to life is protected.

**The Temporary Speaker** (Sen. Wakili Sigei): Wind up, Sen. Orwoba. Your time is up.

*(Sen. Orwoba microphone was switched off)*

Resume your seat, Sen. Orwoba.

*(Sen. Orwoba spoke off record)*

Sen. Kibwana, you have got your five minutes starting now.

*(Loud consultation)*

**The Temporary Speaker** (Sen. Wakili Sigei) Order, Sen. Orwoba.

**Sen. Kibwana:** Asante, Bw. Spika wa Muda. Langu ni kukemea kile ambacho kilitendeka na kutoa masikitiko makubwa kwa watu wa Kaunti ya Kilifi na Wakenya kwa jumla. Watu wengi sana walikwenda na imechukua miaka nyingi sana.

Hii ilianza mwaka wa 2017. Ninaambiwa hapa ya kwamba ilianza mwaka wa 2003. Haya yote yalikuwa yakitendeka katika nchi yetu tukiwa tuko hapa. Nchi ilikuwa kwenye utawala wa kaunti na ilikuwa na Gavana ilhali hatukuweza kujua kuwa watu wetu, familia zetu na ndugu zetu walikuwa wakienda kwenye huo msitu. Huo msitu umekula watu wengi.

Ningeomba uchunguzi ufanywe kwa haraka. *Pastor Mackenzie* alikuwa ameshikwa kabla ya haya yote na alitolewa kwa faini Kshs10,000 peke yake. Kwa yale yote aliyofanya, alipewa faini ya Kshs10,000. Tunaomba uchunguzi ufanywe kwa haraka na tuweze kuona matokeo. Kuna watu waliofariki na familia zao zimeumia. Sijui ni *compensation* gani tunaweza kuwapea ili waweze kuangaliwa?

Pili, tutaweza *kumonitor* vitendo kama hivi vipi? Hii ni kitu kinachoitwa *cult*. Hii kitu haikuwa kwa mtu mmoja tu. Haiko tu kwa *Pastor Mackenzie* peke yake. Imekwenda mahali pengi.

*Pastor Mackenzie* ni mtu anayejulikana kwa sababu alionekana akiwa na Rais wa nchi ya Kenya wakiwa kwa maombi pamoja. Hii ni masikitiko makubwa.

*(Loud Consultation)*

Ninataka kujua kama ni kweli ama si kweli?

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

*(Sen. Sifuna spoke off record)*

Pastor Mackenzie kujulikana ni kuwa---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, what is your point of order.

Resume your seat, Sen. Kibwana.

**Sen. Orwoba:** Mr. Speaker, Sir, on a point of order.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Orwoba, I have granted Sen. (Dr.) Khalwale permission to speak.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. I rise on Standing Order No.105 but this is bigger than Standing Order No.105. The Senator is not only contravening Standing Order No.105, but she is also attempting to drag the name of the Head of State into a national calamity, something that borders on terrorism/apocalypse.

If the intention of the new Senator is to discuss the President, then these Standing Orders allows her---

*(A Senator spoke off record)*

My sister, I am helping you.

These Standing Orders allows her to discuss the President. She can bring a substantive Motion but it is wrong to disparage the name of the Head of State, even if he is her opponent. It is wrong to do so even if he was not the presidential candidate of her choice. That is not the route to go.

She can imagine her husband being associated with Mr. Mackenzie. Where will that leave her?

*(Loud consultations)*

**The Temporary Speaker** (Sen. Wakili Sigei) Order, Members! Order Senators. Go on, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, I, therefore, request that the Senator be forced to withdraw and apologize. For the purposes of national unity, we can still debate the demerits of the Head of State with decorum.

**The Temporary Speaker** (Sen. Wakili Sigei) Allow him to finish.

*(Loud consultations)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, we are killing our own Senate; the same one that we keep on lying and saying that it is the 'upper House'.

**The Temporary Speaker** (Sen. Wakili Sigei): You have made your point, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I want to help the young Senator for Nairobi City County. This is important---

**The Temporary Speaker** (Sen. Wakili Sigei): You have made your point. Sen. (Dr.) Khalwale, resume your seat.

Sen. Kibwana, I want to invite you to the provisions of the Standing Order No.105 for you to either substantiate or apologize for that statement.

*(Loud consultations)*

**Sen. Kibwana:** Bw. Spika wa Muda, mimi hata hawakunipa nafasi ya kusema vile nilikuwa nataka kusema. Mimi nilikuwa nikisema kuwa Bwana Mackenzie alionekana wakiomba pamoja. Sikusema zaidi ya hapo. Hivyo tu ndivyo nimesema

*(Loud consultations)*

Sijasema kitu. Kwa hivyo, mimi nimesema tu wamekuwa kanisani pamoja. Hiyo tu ndio nimesema peke yake. Je, kuna ubaya wao kuwa kanisani pamoja? Yeye ni mchungaji.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Wakili Sigei): Order Hon. Senators!

**Sen. Kibwana:** Bw. Spika wa Muda, kabla watu hawajajua ni kazi gani aliyo kuwa akifanya, alikuwa ni mchungaji na alikuwa anaombea watu. Kwa hivyo, ameonekana na watu wengi kanisani.

*(Loud consultations)*

Bw. Spika wa Muda, naomba uweze kunilinda nimalize, tafadhali. Na naomba niongezewe dakika moja.

*(Loud consultations)*

Bw. Spika wa Muda, kwa hivyo, naomba uchunguzi wa haraka uanzishwe. Naomba wakubwa wa makanisa na wa---

*(Sen. Kibwana's microphone was switched off)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Kibwana, your time is up. Sen. Veronica Maina, proceed.

*(Sen. Kibwana stood in her place)*

Resume your seat, Sen. Kibwana.

**Sen. Veronica Maina:** Mr. Temporary Speaker, Sir, would you protect me?

**The Temporary Speaker** (Sen. Wakili Sigei): Order, hon. Senators. Sen. Veronica Maina, proceed.

**Sen. Veronica Maina:** Mr. Temporary Speaker, Sir, I rise to debate this Motion that brings a very sad day to the nation of Kenya. I watched such a horrendous action from one Mackenzie whom I would never dignify with the title of pastor. We need to come to a very simple conclusion that Mackenzie operated and acted on his motion. He was not guided by any form of religion; he was driven by the evil scheme of occultism. Cultic behavior lured very innocent victims who are gullible to his den, where he persuaded them to fast until their death.

What has shocked me is, in such a serious Motion where we are not even supposed to define all or even see indications of the political divide any Senator belongs to, I watched the same this afternoon. It has been politicised to the point where my honorable colleague, Sen. Kibwana, has mentioned the name of the Head of State.

Before I even proceed, it is the saddest moment that we would want to trivialize an event that amounts to a massacre to the point of even saying that they have been in church with anybody without any substantiation as though that proves anything.

*(Loud consultations)*

You will keep quiet; I finish what I am submitting before this House and you will respect my time.

**The Temporary Speaker** (Sen. Wakili Sigei): Order, hon. Senators! Can the Senator be heard in silence?

**Sen. Veronica Maina:** Respect my time, please. You will keep quiet until I finish.

**The Temporary Speaker** (Sen. Wakili Sigei): Order, hon. Senators! Allow the Senator to be heard in silence.

**Sen. Veronica Maina:** Let me say this, Mr. Temporary Speaker, Sir

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed

*(Sen. Oketch Gicheru consulted loudly)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Oketch Gicheru, Order!

**Sen. Veronica Maina:** The hon. Senator did not offer any evidence before the Floor of this House to prove that he had been in church with anybody. Let me be very clear. Not that it would have made any difference if he went to any church with anybody including with Sen. Sifuna or Sen. Kibwana. The point is: It would not have reduced the magnitude of the massacre that happened in Kilifi.

I hope that when we retreat from today's debate, Sen, Madzayo---

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Oketch Gicheru, Order, please! Let the Senator be heard in silence. Order, Members! Order, please!

**Sen. Veronica Maina:** Sen. Madzayo, who is deeply affected, this being a massacre that has happened in his County, will sit down his political side of the divide

and talk to them about taking issues more seriously, especially when they touch on loss of lives of many Kenyans.

*(Loud consultations)*

Mr. Temporary Speaker, Sir, the tragic incident has caused loss of lives.

*(The amber light was switched on)*

**Sen. Oketch Gicheru:** On a point of order, Mr. Deputy Speaker, Sir!

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Oketch Gicheru, order, please. Allow Sen. Veronica Maina to be heard in silence.

**Sen. Veronica Maina:** Mr. Temporary Speaker, Sir, it is shocking that as a society, there was no detection and lives were lost. I have asked myself many questions; was there no community around Shakahola Village in Kilifi County? Was there no chief or security intelligence to detect? How does one person die, the sixth, tenth up to the 80<sup>th</sup> person? Is this the kind of society that we have nurtured for our generation and ourselves?

Mr. Temporary Speaker, Sir, criminal activity is criminal activity. Mackenzie has entered into a different realm that cannot be called religion. He has traversed into egregious violations of human rights. If his case has to be handled, then it has to be handled with the seriousness that it deserves.

We sympathise with the hearts of the victims and the families of those who have lost their lives in Kilifi County. The church, which has been conducting its affairs within its spiritual and legal mandate, must not now be put to defense on account of Mackenzie's evil schemes and criminal activity.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Members---

**An. Hon. Senator:** On a point of information, Mr. Temporary Speaker, Sir!

**Sen. Veronica Maina:** Mr. Temporary Speaker, Sir, I wish to be informed.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Veronica Maina, take your seat.

Hon. Members, this is a very serious Motion that we are discussing. Let us be sober for a moment. This is a serious Motion.

Proceed, Sen. Mandago.

*(Loud consultations)*

Hon. Members, remember I had indicated there were five Senators who had submitted Statements and they had been approved. Sen. Mandago is among the five and he is the last one in that list.

Thereafter, I will follow the system of those who have requested to speak to it.

**Sen. Mandago:** Mr. Temporary Speaker, Sir, my five minutes start now.

First, I rise in support of this Motion on a critical matter in Kilifi County. It is quite unfortunate that an activity of such magnitude has resulted in 89 deaths. We do not know how many more will come up.

The most astonishing thing is the fact that in this country, more than 89 people can die and buried without any alarm from any security quarters. I am also wondering whether the families of those affected reported the matter of disappearance of their kin to any security agency.

Mr. Temporary Speaker, Sir, this is a very serious issue. It is time that the Houses of Parliament and especially the Senate, came up with legislation to prohibit cults and even regulate religious activities.

You remember in the past, we had another church called the Finger of God. You know what happened to one of our beautiful and bright news anchors who was duped into that. Her career and family were destroyed and they even lost a child.

We should not continue shying away from doing what we are supposed to do as legislators. It is time we regulated religion. How can we lose up to 89 people and more investigations are still going on? We are not even aware of how many cultic activities are happening around the country.

Mr. Temporary Speaker, Sir, there is need for legislation to prevail. A country like Rwanda passed legislation that requires anybody starting a church to have some qualification in theology. We cannot have people waking up to be an apostle, then a Reverend and before long, they are bishops or Archbishops. Shortly, you will discover they have become Jesus of Tongaren. If we continue to allow this, it will form a precedence.

Finally, where was the National Intelligence Service (NIS) and the County Security Committee team? When you look at the period when most of the people were buried, it was after the Jubilee Administration governed by the 'handshake.' The NIS and the security were busy gerrymandering with politics and forgot a very important function of making sure that citizens of this country are safe.

Mr. Temporary Speaker, Sir, it is not proper that such an act can happen without our agencies who are galloping a lot of resources in this country, noticing or even reporting unless, the County Security Committee team in Kilifi was part and parcel of this process.

I request that the County Security Committee be investigated for sleeping on the job and proper action be taken. The hon. Senator for Kilifi, I am also surprised that 89 people can die in your county and you and the county government are not aware.

Thank you, very much Mr. Temporay Speaker, Sir, I beg to support the Motion.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Wakili Sigei): Thank you, Sen. Mandago. Kindly, proceed, Sen. Maanzo.

**Sen. Maanzo:** Mr. Temporary Speaker, Sir, not everybody who says '*Lord, Lord shall make it to the kingdom of Heaven*'. Only those who do what God commands have that chance.

The biggest commandment is clear. 'Love God and others as you love yourself.' Again, in the last days, there will be many false prophets and they shall be known by their product. The product of pastor Mackenzie is now known to be death.

A lot of activities that have taken place in Kilifi are of criminal nature and have to be investigated thoroughly. In fact, I agree with Sen. Mandago that the NIS should have picked this up many years ago, relayed that information to the security agencies and the activities whereby many people have been found dead would have been stopped a long time ago.

Mr. Temporary Speaker, Sir, these activities can affect anyone of us here; our relatives and our children. They should not be allowed to go on, either in this church or in any other church, in any part of the country or world. I am sure that it even offends International Law. For that matter, this particular incident must be investigated very closely.

It is not the only church that has such activities. In fact, we have to go back to the old debate. Using that measure that was given by Jesus Christ himself, then, it shall be determined by the products or outcome of the activities of such preachers. The biggest commandment is that of love. The moment one does not measure to that, then, obviously, the agencies in this country must act.

Mr. Temporary Speaker, Sir, by what has happened, we demand information as to the outcome of post-mortems, which will be conducted on these bodies. Has some scalp been crushed, starved to death or has any other method been used to kill or commit atrocity against these particular people?

There is a lot of information that has come out from the people who know this pastor and those who live in Kilifi. In fact, there was a lot of cash movement.

The people would sell whatever they have so that they could follow this movement and reach everlasting life which everybody aspires to. Nevertheless, in the process, some of them would starve themselves to death. When some of them attempted to escape, from the information I have, they were revisited.

Mr. Temporary Speaker, Sir, the person who released this information went through this massive land of forest, to another corner and found themselves in a place they could give information and investigations could begin.

I also inform the House the information I have is that, Pastor Mackenzie surrendered himself to police when he heard there were issues. That is why, Sen. Kibwana, as a lawyer, will tell you that, the police are allowed by the law to release anybody on bond as long as they can be traced. This pastor was released on bond. I am told during the investigations, he has been making demands to the police. He claims that he must be left alone at the back of the police car, the Land Cruiser, and sure enough, he has been complying and allowing the investigations to take place.

Mr. Temporary Speaker, Sir, we have a lesson to learn here even as politicians. We should not trust everybody who even invites us to Harambees or for prayers. Unfortunately, this pastor with other pastors, have been visiting the Head of State during the campaign and even purporting to pray for him yet, behind the scenes, he is committing atrocities and misleading Kenyans. Therefore, anybody is gullible to such people.

Now that it is claimed that religion is the opium of the poor, we have to be careful with religion. We have to test every religion with the test we were given by Jesus Christ; to see them by their outcome and whether it results into breaking the law of God, with the greatest being the law of love and the other one is to follow the commandments of God. Whoever follows the commandments of God will not commit murder, which is one of the commandments.

I rest my case and support.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Cherarkey, you may have the Floor.

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. My empathies and sympathies go to the family and friends who have lost more than 89 Kenyans. This looks like a genocide movie in the famous Hotel Rwanda. It is very sad that religion, as Karl Max said, is the opium of the masses and the poor, as my brother has also alluded.

I propose the following to the Government, that, the issue of mental illness and depression is a very serious issue. You even saw the case of Kitengela that is trending.

We did the Mental Health Bill last Session and therefore, these families and many Kenyans are going through mental issues that should be looked at. I propose that the Government, through the Ministry of Interior and Coordination of National Government, and also the Attorney General's Office, should immediately vet afresh and look at the registration of religious organisations in the country, be it Christianity, Hinduism or Islam.

There is a misnomer where we are only keen against the Muslim Community because there is a perception that there is radicalisation. This has shown that we should look all ways. Even within Christianity, there is radicalisation going on. Therefore, vetting and registration of religious organisations must be done.

Mr. Temporary Speaker, Sir, we are aware that there is right to religion. Every one has a right to worship but the Constitution provides that, where your right starts, is where my right ends.

Even as we go through investigation, we ask all of us to refrain from commenting. Sometimes, it is prejudicial. I have seen the Director of Public Prosecutions (DPP), Directorate of Criminal Investigations (DCI) and the Cabinet Secretary (CS) going there. We need to be given forensic information on postmortem of what really happened.

This issue of cult and religion is very sad. I have heard my friends alluding that in some occasions, the infamous Pastor Mackenzie was in the same congregation with the President. Those are just illusions and statements that have been made for political expediency. We are aware. I urge the Minority side not to trivialize some of these matters and not to do it for political expediency that we are seeing.

The President of the Republic of Kenya is a truthful and honest man of God. He will ensure that anybody who was a culprit, even the Government that might participated in aiding in one way or another, is brought to book.

Finally, as leaders, I am surprised that the Minority Leader is the Senator for Kilifi County. I know a number of Members of Parliament (MPs). These things were happening behind their backs and they were busy doing demonstrations.



It is very sad that as a leader you can allow such things to happen behind your back. Where was the Senator for Kilifi County? Where was the Woman Representative? Where were the leaders from Coast region, including Sen. Faki? I have seen the people alluding that the deaths that happened from 2017 were in the previous Government. It is this Government that has unearthed these grievous things that are happening.

Mr. Temporary Speaker, Sir, I urge that religious organization need to be vetted. Madam Ida Odinga had made a comment about this in January 2022. I think she might be right to some extent when she said that we need to relook at the registration and the vetting of religious organizations in the country. That is the position of the Government, so that we can protect our people.

Finally, I want to call upon the Kenya Film Classification Board to be on the lookout and flag content. These people are preaching in our televisions. I saw one telling his congregation to wave their phones and by the end of the week, they will get Kshs300,000. It is very unfair. We must flag these things.

We need to have this conversation. Most of the gullible congregation are women. As we empower the girl child, we must talk to our women because these people are exploiting them. Some of them are telling them that if I touch you, you will be healed. When a woman goes and they have breast cancer, they might touch where the disease is. That is sexual violence and people are finding it convenient watching television and cheering. There was one preacher who told his congregants to sell everything and bring the proceeds to him. I condemn such, and I support this Motion.

Thank you for the opportunity, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, my screen is reflecting that every Member is desirous of speaking to this issue.

I propose that instead of five minutes, those of us who will get time to speak to do three minutes so that we accommodate as many as possible.

*(Loud Consultations)*

Very well. Thank you. That is okay. We are not going to debate. I will allow those who will be reached to speak to it.

Proceed, Sen. Wambua.

**Sen. Wambua:** Thank you, Mr. Temporary Speaker, Sir. For the record, I stand in support of this Motion.

Sen. Cherarkey and my Chairman, if you can just listen to this, it may be important. When John the Evangelist was aging, he retreated to Asia Minor. From there, he wrote The Gospel of First John. In chapter four between verse one and six, he says that we should test all the spirits because there are some spirits that will come in the name of God but they are evil spirits. That statement is as true today as it was then.

Jesus Christ himself, before ascending to Heaven and before the betrayal, he said the following words about his death and the betrayal. He said that the son of man will go just as it is written about him, but woe unto the man by whom the Son of God is betrayed. It would have been better if that man had not been born.

Mr. Temporary Speaker, Sir, I thought we agreed we do five minutes.

**The Temporary Speaker** (Sen. Wakili Sigei): Proceed, you have five minutes.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, religion is meant to give hope and speak life to hopelessness and despair. In particular, Christianity is a religion founded on the foundations of education and health care.

It is alarming that the false and fake pastor Paul Mackenzie is telling our children that they should not go to school and if they get sick, they should not seek medical attention. The first missionaries who came to this country beginning with those who arrived in Rabai at the coast, Kaufman who led his team in Kitui South, Ikutha, and established a church in 1891.

Peter Cameron Scott led his team to Machakos and established the biggest christian training college today known as the Scott Theological College. They believed in the value of education and healthcare. How is it that today we have religious leaders who are telling their followers not to go to school nor seek medical attention?

Let Senators debate this matter soberly for two reasons. Today, we are told that we have only 79 bodies that have been found. However, that number could grow to a bigger one. It is possible that we have people from all our counties who have suffered this fate. We lived in this country when we had imposters called “mamluki” who found themselves to the sanctum of power. They conned their way into the Presidency. It is not to say that the late President Kibaki was compliant or allowed them to come near him, no.

We had an imposter police officer who went into the stations and was transferring and firing officers. You cannot say that he Inspector General of Police (IGP) had conspired with him. Let people debate this matter. Lastly, this man could actually be harvesting body parts from the people that are dying. Let us sober up as we get to the bottom of this matter.

*(Sen. Wambua microphone was switched off)*

**The Temporary Speaker** (Sen. Waliki Sigei): Proceed, Sen. Munyi Mundigi.

*(Sen. Cherarkey spoke off record)*

**Sen. Cherarkey:** Sen. Munyi Mundigi, *chapa kabisa*.

**Sen. Munyi Mundigi:** Bwana Spika wa Muda, naunga mkono hii Hoja ipeleleze vizuri. Hoja ambayo tunajadili haifai kuleta urushaji wa maneno. Kuna mambo ya kisiasa na kuna mambo yanayohusu afya za watu. Haya si mambo ya Azimio la Umoja au Kenya Kwanza. Tunafaa kuketi pamoja kama Maseneta na kuonyesha nchi hii kazi ambayo tunafanya.

Tunayamulika mambo ya Kaunti ya Kilifi na hatujamulika ya Kaunti ya Embu na pembe zote za nchi. Kenya ina Kaunti 47. Serikali ya Yesu Kristo tunayofuata kwa wakati huo ilikuwa na madaktari, walimu, wapishi na watoza ushuru na kila kitu. Lakini tulipofika wakati wa kupeleleza, tumeanza kujibizana.

Tunatazama Kaunti ya Kilifi ilhali kuna mifano mingi kama hiyo katika nchi hii. Ninaomba upelelezi ufanywe kuhusu maneno haya na uanze kutoka kwa eneo ndogo,

waakilishi wa wadi, na rafiki Seneta wa miaka kumi, katika Kaunti ya Kilifi. Kuna Kaunti zilizokaribu kama Mombasa na Lamu. Tunafaa kuangalia kazi waliokuwa wanafanya kwa sababu---

**The Temporary Speaker** (Sen. Waliki Sigei): Kindly hold, Sen. Munyi Mundigi. Hon. Members, pursuant to Standing Order No. 34(2) (a), we are extending the interruption of the sitting for the next 15 minutes.

**Sen. Munyi Mundigi:** Kwa sababu tunaanza kupigana kama haya ni mambo ya Azimio au Kenya Kwanza; mambo ya kurusha mawe au la. Tunataka kuonyesha dunia nzima jinsi Bunge hili la Seneti linavyoendelea kwa sababu haya ni mambo ya kishetani wala sio ya Mungu na yanahusu afya ya watu. Naomba upelelezi ufanywe kutoka kwa vongozi wote.

Rafiki yangu, Seneta wa Kilifi alikuwa kiongozi wa kaunti hiyo kwa miaka kumi. Alikuwa anafanya kazi gani? Nimechaguliwa kama Seneta wa Embu na nimehudumu kwa muda wa miezi sita. Kila siku asubuhi na jioni lazima nijue matukio yote katika kaunti yangu.

Seneta wa Kilifi ametuambia mambo mengine ambayo hatufahamu. Yafaa atuambie; kwa muda wa miaka kumi, alikuwa anafanya nini. Tufanye upelelezi na Seneta wa Kilifi atuambie jambo hili lilitukia vipi.

Juzi watu walipoenda kurusha mawe alikuwa katika mstari wa mbele. Hakutuambia jambo lolote kuhusu watu wanaokufa Kilifi. Naunga Mkono hoja hii.

Asante, Bw. Spika wa Muda.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Olekina, proceed.

*(Sen. Munyi Mundigi consulted loudly)*

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. I would like to request you to protect me from my dear friend. This is a sad affair. We need to debate it with a lot of sobriety. When I listen to the suspect who is purportedly a pastor, what I could see is the true definition of mental illness. I am sure the Senate Majority Whip would attest to the fact that what this pastor was exhibiting was tendency of someone suffering from Schizophrenia.

We need to ask ourselves some tough questions: What is happening to our young population and what is luring people to such deadly cults? I can only conclude that it is poverty, lack of awareness and the desire to be recognized by someone who you have perceived to be superior.

If you go to the rural parts of our country, you will be shocked by the number of people who follow certain characters because of the hope of tomorrow. Our population is poor. The gap between the rich and the poor in this country is wide. We need to create awareness among our people.

The people suffer and sometimes mental illness is something that confuses the population. I asked myself what could have gone wrong when I heard of the young educated girl who had travelled the world and understood every aspect of this world sold all her properties and went to follow the pastor. Maybe, she was having personal problems. Maybe the only shoulder she had that she could lean on was the pastor. This is

an opportunity for us to seriously investigate this matter. Is it that this is a criminal enterprise?

I do not want to name people. Nonetheless, I sometimes wonder. If you go to Kajiado County, you will find a preacher who has bought about 500 acres of land. This character had 860 acres of land. It was his own private property. He could do whatever he wanted in that land and no one could question.

This is an opportunity for us to be sober and educate our people so that they can stop being gullible. This is a fact; we are gullible. We are people who, when you are told tomorrow you will become rich, you go there to become rich. This is not only happening in Kilifi county. If our National Intelligence Services(NIS) do not get deep into our societies, we will be hearing another massacre somewhere else.

We see people travelling to Kilifi County. This is the question I keep on asking myself; why do people leave Kisumu, Kakamega, Kisii and Narok counties in buses to go to another big church in Kilifi County? Maybe, that is the only place they can get hope.

This is a very serious thing that requires us to be sober and investigate whether this character, I cannot even call him a pastor because then the word pastor loses its meaning. Maybe he was harvesting and selling human organs. He is a very rich man. He can afford 800 acres of land in Kilifi County. We need to investigate that.

Mr. Temporary Speaker, Sir, I support this Statement. I hope that this is a matter that the National Intelligence Services (NIS) and the DCI can investigate further to find a way to stop our population from being lured into deadly traps.

I support.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Okenyuri, please, proceed.

**Sen. Okenyuri:** Mr. Temporary Speaker, Sir, I was really waiting for this opportunity. I came to the House late due to the bipartisan talks that we were having.

First, the Shakahola revelations are so tragic. This massacre can only be compared to the Garissa University attacks where terrorists killed 147 young people. We cannot use such instances--- We cannot say the terrorists killed young people and use that to say all Muslims are bad people. That is the same thing I am looking at in this instance. We cannot use the actions of Mackenzie, who is hiding behind the church to perpetuate criminal activities to castigate the church generally.

We have seen several contributions by different religious organisations who have been very supportive at the societal level. There are positive attributes. We must dig deeper to know some of these criminals who are hiding under religious institutions to perpetuate their own false and individual agenda.

I quote the Bible in Matthew 7:15, which says, beware of false prophets who are covering themselves as sheep whereas they are wolves. It is very difficult to regulate issues of beliefs. What actually disturbs me is, where was the society when this was happening? It is something that needs us to think deeply as a society. When your friends disappear several years down the line, do you only come out now to give narrations? Where were we? Where was the County Security Committee when this was happening? Where were the *Nyumba kumi* initiatives that we have at the lowest level in the areas where we come from?

I am very upset because the statistics comprise very many young people we are reading in the newspapers in this country, on this Shakahola massacre. It is an opportune time for the Senate to request an inquiry. Also, as leaders we need to take personal responsibility to be our own brothers' keepers.

Due to the failure of the local authorities to point out this on time, we need to know, was this business that people were benefiting from? They are so many other issues that we need to interrogate so that we do not have the loss of lives that we have seen just because people have been brainwashed to believe a certain thing and they end up losing their property and eventually their lives.

So, as a young person, I am very saddened by these actions. I pity young people who are struggling to look for identity. Some of them are even going to these places of worship to get a connection with God but later on, are brainwashed to believe things that have cost their lives. It is really sad.

I do not want us to look at Mackenzie's issue to criminalise what the church and other religious institutions are doing. We should dig deeper and expose criminals who are hiding behind the cover of religion instead.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Osotsi, please proceed.

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, I represent Vihiga County, which has the highest concentration of churches and several prominent churches headquartered. I am very sad that some of the victims of this massacre are from my county. That is very sad considering the fact that we are a county that believes in real Christianity and not fake Christianity that this church is practicing.

The Shakahola massacre almost reminds me of Boko Haram. That is why I want to agree with those who say this is terrorism. Boko Haram started like this. They believed that education was harmful and they went on like that and started believing that purification was more important. They wanted to practice Sunni as opposed to Shia Islam. Boko Haram has grown to cover several countries in Western Africa: Chad, Niger, Mali and others.

Therefore, it saddens me that this crime has been going on for years, without the knowledge of the State. In fact, the biggest terrorist in this matter is not this individual called Mackenzie; it is the State. Where was the State? Where was the National Intelligence Service (NIS)? Where was the police? Where was the County Commissioner?

Mr. Temporary Speaker, Sir, let this not just be a Motion of Adjournment. The relevant Committee has to visit the place and even do an inquiry that this House can look at. Most importantly, the causes and contributors of these religious crimes must also be analysed and understood.

I can see my good friend, Sen. Oketch Gicheru, wants to contribute. So, I will not go into many details. Let me just urge that let us restrict ourselves to the teachings of the Bible. The things we see in the media are not good. In fact, some colleagues on the other side go to church every Sunday and say they are talking about God. However, they end up talking about one man called Hon. Raila Amollo Odinga and not Jesus or God. Shame on you!

I support.

**The Temporary Speaker** (Sen. Wakili Sigei): Sen. Thang'wa, proceed.

**Sen. Thang'wa:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to support this Motion.

From the onset, I am not worried when I hear the said man was seen in church, praising and worshipping with people who are known in this country. Criminals also go to church. Even *waganga* go to church.

Radicalization and cultism are a result of effective propaganda and recruitment techniques. We need to ask ourselves why or what are the factors that lead people to these cults or radicalisation. We have religious, tribal and even political cults.

I urge the Government when it is investigating this, it must cast its net wider so that we get to know and understand where else this kind of atrocity is---

**The Temporary Speaker** (Sen. Wakili Sigei): Sorry Sen. Thang'wa, time is up.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Wakili Sigei): Hon. Senators, it is now 6:45 p.m., time to adjourn the Senate. Therefore, the Senate stands adjourned until tomorrow, Wednesday, 26<sup>th</sup> April, 2023 at 9:30 a.m.

The Senate rose at 6:45 p.m.