

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Wednesday, 29th November, 2023****Morning Sitting**

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

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

PRAYER**DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING**

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

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

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

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

(The Quorum Bell was rung)

Serjeant-at-arms, I am informed that we now have quorum. Kindly stop the Bell. Clerk, proceed to call the first Order.

(Several Senators walked into the Chamber)

Hon. Senators, kindly, take your seats. I have a communication to deliver.

COMMUNICATION FROM THE CHAIR

VISTING DELEGATION FROM MIGORI COUNTY ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I wish to acknowledge the presence in the Speaker's Gallery this morning of a delegation from Migori County Assembly. The delegation comprises Members of the Select Committee on County Delegated Legislation and its Secretariat. They are here for a benchmarking visit.

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

1. Hon. Collins Agaye - Chairperson
2. Hon. Brian Osodo
3. Hon. Dorren Dande
4. Hon. Rose Aoro
5. Hon. Tibaya Gimase
6. Hon. Anne Kieye
7. Hon. Moses Magwe
8. Hon. James Mwansima
9. Hon. Simeon Nyaoke
10. Hon. Graham Kagali
11. Hon. Elizabeth Ochaye
12. Ms. Lydia A. Aruko
13. Ms. Jane Marua
14. Mr. Dickson Odie

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

I will allow Sen. Wambua, under one minute to extend words of welcome to the delegation.

Sen. Wambua: Thank you, Mr. Speaker, Sir, for this opportunity. On my own behalf and the leadership of the entire Senate, I extend this welcome to the delegation and wish them well in their study tour. Your Senator is a very active Member of this House. I am very sure by the time you are leaving, he will be with us. Follow proceedings and learn as much as you can.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

The Speaker (Hon. Kingi): Hon. Senators, we were scheduled to receive three Cabinet Secretaries to respond to the Questions as listed in the Order Paper. Unfortunately, we have since received communication from the three Cabinet Secretaries that they will not be able to attend this session for the purpose of responding to these Questions.

As far as Question No.18 is concerned, we received a letter this morning that the Cabinet Secretary in charge of Foreign and Diaspora Affairs is out of the country on delegated duties. Therefore, he will not be with us this morning for purposes of

responding to it. The Question was asked by Sen. Lomenen. That is as far as Question No.18 goes.

Question No.67 is by Sen. Kathuri Murungi directed to the Cabinet Secretary for National Treasury and Economic Planning. This morning, we received a letter from him indicating that the Question ought to be directed to the Cabinet Secretary for Health. For those reasons contained in this letter, he is unable to be present today for purposes of responding to that Question.

Question Nos.59, 74, 78 and 79 were directed to the Cabinet Secretary for National Treasury and Economic Planning. Again, a communication was received yesterday indicating that the Cabinet Secretary had prior arrangements in regards to COP 28 being held in Dubai. Therefore, he is unavailable to appear before the Senate for the purposes of responding to those four Questions.

Hon. Senators, with these letters from the Cabinet Secretaries, it means that we have no Cabinet Secretary today for purposes of responding to any of these Questions. Therefore, we will proceed with other orders.

Question No.018

RELEASE OF PASTORALISTS ARRESTED IN UGANDA

(Question deferred)

Question No.067

DELAY IN DISBURSEMENT OF FUNDS TO NHIF

(Question deferred)

Question No.059

BREAKDOWN OF POWER TRANSFORMERS IN KIRINYAGA COUNTY

(Question deferred)

Question No.074

GOVERNMENT-TO-GOVERNMENT FUEL SUPPLY AGREEMENT

(Question deferred)

Question No.078

CONSTRUCTION OF ELECTRICITY TRANSMISSION
LINES BY KETRACO

(Question deferred)

Question No.079

POWER OUTAGE IN THE COUNTRY

(Question deferred)

Yes, Sen. (Dr.) Khalwale, proceed.

POINT OF ORDERNON-APPEARANCE OF CABINET SECRETARIES
BEFORE THE SENATE

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, we hear you. However, from your communication, the Prime Cabinet Secretary has alerted the Senate this morning. The Cabinet Secretary for National Treasury and Economic Planning has alerted the Senate this morning.

It should also occur to this House that this is not the first time the Prime Cabinet Secretary is failing to appear before this House. If this does not imply attitude, then what does? The Prime Cabinet Secretary has an attitude about this House. He thinks that the House is waiting for him so that this morning it discovers that he is not around. He had a seven-day window during which he knew he was going to travel. He should have informed us.

This is the time for us now to sanction the Prime Cabinet Secretary so that he respects the House of equity that represents the 47 counties of Kenya. If we do not call the current Cabinet to order as Parliament, they are going to run rough shots on all Kenyans. The same applies to Prof. Njuguna Ndung'u.

Probably, *shingo upande*, we can accept the one who is "in Dubai" because he had the courtesy of informing us earlier. However, these two represent two critical portfolios and they must be here.

I beg you today on this Standing Order, that you sanction them. Otherwise, Parliament will start looking like a *baraza* in Malinya, Mtwapa, Loiyangalani or Maua. That cannot be the case. Who are they to challenge the Senate? Who?

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

Sen. Wambua: Mr. Speaker, Sir, we must set the record straight. Once sufficient notice is given to a Cabinet Secretary (CS) to appear before a committee of Parliament, there can never be an excuse for not appearing. Being on a trip abroad is not a reason for not appearing before a committee of the Senate. It is actually a very shameful excuse. I am impressed by the drafters of our Constitution. This is because they recognized the first responsibility and function of the President is to be answerable to Parliament. CSs who serve at the pleasure of the President must be 10 times answerable to Parliament.

I am a bit concerned because - I speak for the Minority side - we had stayed away from the morning session on account of a legitimate court process. Once that process ended, we are back to engage. I do not know if the CSs are afraid of the presence of Minority side in the House and they do not want to face the tough questions.

Mr. Speaker, Sir, I plead with you if we do not let this out of the bag now, then it will become the order of the day and CSs will be giving you excuse after excuse why they cannot appear before the Senate. I implore you to find reason in our own Standing Orders and even Constitution to censure these CSs and ensure they appear before the Senate to respond to questions.

Lastly, there is a casualness that is creeping in. That a CS will have the audacity to write to the Speaker of the Senate of the Republic of Kenya in the morning and tell him they are not going to appear before the Senate. Do something! Do not allow these people to mock you. You sit there for and on behalf of 47 delegations in this country. The questions that we are asking these CSs are for the benefit of the people of the Republic of Kenya.

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

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for allowing me to give a comment on this evolving trend by the CSs. Let me first handle my Question which I directed to the CS for National Treasury and Economic Planning. The CS for National Treasury and Economic Planning has been on this question for almost three months now. He rescheduled last week; he did not appear. The content of my question is the money, which has not been disbursed to National Health Insurance Fund (NHIF). The NHIF did their part. They awarded these victims, but the National Treasury has not released Kshs11.6 billion to NHIF so that they can pay.

When the CS asks us to go to the Ministry of Health, he is running away from his responsibilities. The Ministry of Health does not allocate budgets. If they have given the money that they need to pay these people, then National Treasury should be held responsible so that they can pay these people. These people are already dead. Their kin are following this money.

I have one case, which led me to investigate this. One of my constituents in Meru County whose wife died due to COVID-19 in 2020, to date, he is owed Kshs7 million by NHIF. I have assisted him follow this money through the Ministry of Health, but he is always referred to National Treasury. I do not know how you will guide me to proceed.

Mr. Speaker, Sir, I seek your guidance also to direct that the CS for National Treasury and Economic Planning to appear so that he can answer this Question. He seems to be running away from it. You are the Chairperson of Senate Business Committee (SBC), which allocated the businesses of this House. We have little time to the end of this session. Today morning, you had allocated time for these CSs and put aside all other business that we have in this House. When we receive letters in the morning that the CS is not appearing and we have a lot of pending business, I feel like they are not respecting this House and this is the right time to crack the whip.

We are committed to do the work that we were elected to do. If the CSs are not honouring this House, then they should be sanctioned so that they can respect this House. This is an honourable House of 47 delegations. So that next year we start on a clean footing, you should do a letter especially to the Head of State. He has the responsibility and is the one who supported the CSs to appear in the two Houses.

(Sen. Sifuna applauded)

This is the first time Sen. Sifuna has clapped when I am talking. I end there so that Sen. Sifuna can add to where I have left.

The Speaker (Hon. Kingi): Sen. Thang'wa, please proceed.

Sen. Thang'wa: Mr. Speaker, Sir, when we were elected to this House, the President implored us to amend our Standing Orders for the CSs to appear before us. We had the support of the Head of State. So, when they do not appear, they not only show contempt to this House, but also to the President of this Republic. As is the feeling of many Members, please, crack the whip.

My Committee on Roads, Transportation and Housing on Monday, after inviting the Governor of Kajiado County, Hon. Ole Lenku, to appear before us, even after summoning him, he had the audacity to say that he will not appear 45 minutes before the meeting was supposed to start. We gave him a suspended sentence and fined him Kshs500,000. If he does not appear tomorrow, it will take effect.

We need to do things differently. Yesterday, we fined the Governor of Nairobi City County, Hon. Sakaja, who one time happened to be the Senator of Nairobi City County. We have invited him since November 2022; we are in November 2023, six times, and he has never appeared. We gave that fine because we know he will not appear tomorrow. If he does not, we are going to invoke Section 19 of the Parliamentary Powers and Privileges Act that he should be arrested and brought to the Committee.

It is high time that this House is taken with the seriousness it deserves, especially those Governors who were once Senators. They are giving this House a bad name. They should be the ones to respect this House because they have been here for about 10 years yet they are the ones who are not appearing in committees. Even my Governor of Kiambu County, Hon. Wamatangi, has been invited about six times and has not appeared.

We should crack the whip because in future, we want to be governors and we do not want people to say Senators were the worst governors. We have to do it today. For the Cabinet Secretaries who did not appear today, crack the whip. Give them a fine. Invoke section 19 because if you do not do that, we will receive the apologies a minute before we get into the House.

Thank you, Mr. Speaker, Sir.

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

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I want to weigh in on the issue of the disrespect that the Senate is receiving from the Cabinet. I believe that when the Kenya Kwanza Government ran for office, we are here for the hustler nation, for the people. What else are the Cabinet Secretaries so busy doing that they cannot come here to answer questions that the hustlers are asking?

Today, I was looking forward to engaging with the Cabinet Secretary for Energy and Petroleum. The bills on Kenya Power are crazy. There is rogue billing and many things are happening at the Kenya Power and we have questions from the people who have sent us here.

The rate at which this is going, I implore the President to kindly make sure that we have the Chief Administrative Secretaries (CASs) appear before the Senate. If the Cabinet Secretaries are now tired of their jobs, let their assistants come here and do the job. It is at this point when we would really appreciate that if the Cabinet Secretaries are not available because they are busy, they are travelling or whatever they are doing, their assistants and those people, who are already sworn in, can come we engage them. This is

part of the duties that they could be doing. The CAS are sitting somewhere and they could have been serving this country.

I urge that even as you crack the whip, perhaps it is now necessary--- I hope the opposition can now see the role, some of the duties and responsibilities that the CASs were going to have. I hope that they can see that it is at this point that we would have gotten the assistant ministers to tell us what is happening. Thank you.

Sen. Sifuna: Mr. Speaker, Sir, correct me if I am wrong, but the High Court found that the position of CASs was unconstitutional. We are not going to substitute the people responsible for the Ministries for unconstitutional officeholders. In fact, if you brought those CASs here, I would not partake of that session. In fact, I think it is the Bible that says that all good things come to those who wait. I do not know whether it is the Bible; the Christians fundamentalists are on the other side, they will clarify.

Mr. Speaker, Sir, I am extremely happy that every single day we are vindicated as Members of the Minority on this Floor; because you would remember that this question of the appearance of Cabinet Secretaries on the Floor of this House originated from a Presidential Memo. It was the President's own idea to send his own Cabinet Secretaries to the Floor of this House. Of course, we were in opposition of that particular move because it was our thinking then that it was an unconstitutional way to go around the constitutional provisions to bring them before the Floor of the House.

We actually filed a constitutional reference before the High Court. The High Court disagreed with us and said there is nothing wrong with the Cabinet Secretaries appearing before the Floor of the Senate. It is not a coincidence that just the second week when the Members of the Opposition wanted to engage robustly with these people, they are already running away. It does not make any sense.

I was looking forward because we have a serious controversy in this country about the G-to-G oil deal. I wanted to look the Cabinet Secretary for Energy and Petroleum in his eyes and ask him those questions that I have written down here, but he has run away.

This is becoming a habit even in the Committees. My Chairperson of the Roads, Transportation and Housing Committee has just elucidated what we are going through in the Committees of the House. You invite a Governor to answer questions about his own people--- The people of Jericho, Lumumba and Maringo estates were in the Committee yesterday waiting to ask questions through their Senator to the Governor of Nairobi City County. He just said he has travelled.

My suspicion is that this Cop 28 that is happening in Dubai is going to be one of the biggest scandals in this country. When the final list of the number of Kenyans who have gone to Dubai is published, we will be embarrassed as a country. I am happy that as a Senator, I was told there is no money in the Senate, so I decided to just stay at home. Mr. Speaker, you are aware of this issue.

(Laughter)

Some of us have serious contributions to make on the matter of climate change and the environment, but we were denied that opportunity. Now, my brother, Musalia Mudavadi, has gone there. I doubt if he can be more eloquent on issues about the

environment as I would have been in Dubai. Anyway, let us see what will come out of that particular Conference. So, we want to say this ---

Mr. Speaker, Sir, in fact, this morning sitting was created specifically for these Cabinet Secretaries. We should have been having our committee meetings ---

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, you have heard the remarks by the distinguished Senator of Nairobi about the Cabinet Secretary. Is he in order to drag this House into the fights between him and Mr. Mudavadi over the matter of kingship in their community? Is he in order to bring such a matter here?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, in fact, you are out of order to the extent that you are rising a point of order on a Senator who is contributing on a point of order. To that extent, your point of order is overruled.

Conclude, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, let me assure Sen. (Dr.) Khalwale I am not in competition for anything with Musalia Mudavadi. I do not see myself competing with him for anything. I am just saying that the Communication from the Speaker came that he has travelled to the Conference of the Parties to the Convention (COP). I just wondered because this issue of climate change could better be elucidated. I would rather send Sen. Okenyuri or my sister, Sen. Orwoba, because the younger generation has a greater appreciation of this matter than some of these guys.

Mr. Speaker, Sir, I am deeply disappointed. We, as a House, must put our foot down. I am very happy with the Chairperson of the Committee on Roads, Transportation and Housing, Sen. Thang'wa, that he does not joke when it comes to respect for the people and the committees of this House. He assigned people liberally and I want to encourage you, Chairman, that we are all behind you as Senators in that Committee. Arrest people and drag them before this House because some of them fly in and fly out. *Waswahili wanasema "wanabadilisha nguo bandarini"*. We want them to be arrested at the *bandari* when they are changing their clothes and be brought before committees of this House.

Thank you, Mr. Speaker, Sir.

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

Sen. Mungatana: Bw. Spika, nilikuwa natarajia kumwona Waziri wa Kawi, Mhe. Chirchir kwa sababu watu wa Tana River wanajua Kenya Electricity Transmission Company (KETRACO) walilipwa pesa ili zile nyaya zao zipite kwa mashamba za watu. Watu wanajua mamilioni ya pesa zililipwa lakini wananchi hawakupata hizo pesa. Wananchi wa Tana River wanangoja kuelezwa hizo pesa ziko wapi, halafu, Waziri anakosa kuja ilhali wananchi wanamgoja.

Bw. Spika, ningependa kutoa maoni yangu ya kwamba utoe faini sio ya elfu mia tano lakini faini ya milioni moja kwa kila waziri ambaye anakosa kufika kwa Bunge la Seneti. Kisha uandike barua kwa Rais kwamba wakati wa kufuta kazi Mawaziri, wa kwanza kufutwa ni hawa Mawaziri ambao wanakosa kufika Seneti kujibu maswali ya wananchi.

Bw. Spika, kwa hayo mengi naomba uchukue mkono wako wa nguvu uwatie hawa watu adabu kwa sababu wanatukosea heshima.

Asante, Bw. Spika.

Sen. Ogola: Thank you, Mr. Speaker, Sir, for the opportunity. From the word go, this morning, I was very keen on the appearance of the respective Cabinet Secretaries and particularly, I really wanted to engage the Cabinet Secretary of Energy and Petroleum.

Mr. Speaker, Sir, one year ago, I raised an issue of faulty transformers in Homa Bay County and rightfully a response was provided to the Committee on Energy and commitments were made by the same Cabinet Secretary on repairs that were to be done by the end of July, 2022. Up to date, no repair has been undertaken as was committed by KPLC and Rural Electrification Authority (REA) in Homa Bay County.

It is on that note that I was really interested in the Question that was submitted by Sen. (Dr.) Murango on the replacement of defective power transformers in Mwea Constituency.

Going forward to Sen. Chute's Question, you see the disruption of power supply in most parts of the country. In the last three months, we have experienced historical nationwide blackouts, with one ranging for 20 hours, and another, just the other Saturday, for the whole night.

Mr. Speaker, Sir, this is a House of representation. When the Senators here ask Questions, they are there representing their constituents. When the Cabinet Secretaries come here, we can get the different responses to the concerns of Kenyans.

Mr. Speaker, Sir, on the issue that has been mentioned on Conference of the Parties (COP) 28, I would like to state that the issues of climate change are important. We have experienced raging floods all over the country and their effects. Therefore, I support the Conference that is ongoing in Dubai. I am also looking forward to participating.

As I wind up, I would like to add my voice in welcoming the Hon. Members of the County Assembly (MCAs) of Migori. In the membership present here, are some of the MCAs that I have worked with in the past, in the Executive and some are friends. I welcome you to the Senate and hope that we will continue working together.

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

Sen. Dullo: Thank you, Mr. Speaker, Sir. I must contribute to this. Some of us have been around for some time. I remember in the Second Senate, we used to have issues with Cabinet Secretaries because even the National Assembly was of the opinion that Cabinet Secretaries should not appear before the Senate. It was a long fight for us to have Cabinet Secretaries appear before the Senate.

Secondly, I remember that in the First Senate, we used to respond to the Questions or Statements by Members on the Floor of the House, instead of going to committees just to improve the way issues are responded to. However, that never worked. In the Second Senate, we thought that by directing the Statements to be handled by the committees, things are going to be better. The Government went through a very long process to make sure that Cabinet Secretaries appear before the Senate so that we can have direct engagement with them and to respond to the issues raised by Members and the concerns of members of the public.

Mr. Speaker, Sir, I remember one time, we got a warrant of arrest against the then Governor of Murang'a County because he refused to appear before a certain Committee. Unfortunately, we were frustrated by the Office of the Inspector General (IG) and the courts until the said Governor escaped that warrant of arrest.

Mr. Speaker, Sir, today, none of the Cabinet Secretaries we invited appeared here. If we let this go, next week the same thing will happen again. We must take a serious

action today; not tomorrow. As per our Standing Orders, if the Questions that we have currently are not responded to, they will lapse by the time we come back. Please, take serious action against these Cabinet Secretaries who are frustrating this House. I know when those Cabinet Secretaries are called by the National Assembly, they come running. However, they see the Senate as a lesser House. We must show them that we are equal as far as responsibility is concerned.

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

Sen. Kinyua: Asante, Bw. Spika, kwa kunipa fursa hii. Kwanza, Mawaziri husika wameonyesha kwamba hawana heshima yeyote na Seneti. Mawaziri hao walianza kwa kukejeli na kudhihaki Kamati zetu. Wakiitwa katika Kamati, hawakuji na hata hawasemi chochote. Sasa wameona kwamba wamehitimu. Kutoka kwa kamati, sasa wanataka kukujaribu wewe kama Spika wa Seneti. Wanangoja kwa hamu na ghamu waone utafanya nini. Usipofaya jambo leo, Seneti itakuwa imezama lakini mimi nina imani ya kwamba wewe kama Spika wetu utafanya jambo.

Nilikuja hapa asubuhi na mapema ili niweze kuona Waziri wa Kawi anieleze ni mipango gani aliyonayo kwa sababu sehemu nyingi za Kaunti ya Laikipia hazina stima kwa sababu ya maji. Nilitaka kujua ni mipango gani alizonazo. Sababu tunazopewa sio za kutosha.

Hata kuna Waziri aliyekuambia asubuhi ya kwamba, yeye alikuwa na mipango mingine maalum. Katiba ya Kenya katika Kipengee cha kwanza inasema, nguvu zina wananchi wa Kenya. Sisi ndio tunawakilisha wananchi wa Kenya. Ninangoja kwa hamu kuona maamuzi yako. Namshukuru Sen. Thang'wa, ambaye ni mojawapo wa wenyeviti wa Kamati za Seneti. Jana alifanya jambo na Wakenya wakaona amefanya jambo la maana. Waswahili husema, kizaliwacho ni kizuri kuliko kinachozaa. Ninangoja.

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

Sen. Mumma: Mr. Speaker, Sir, thank you, for allowing me to contribute to this important debate. What we are discussing is not happening for the first time. Members have complained before about Cabinet Secretaries not responding in good time, not just for the Plenary, but also for the Committees.

Mr. Speaker, Sir, I believe this is the time for us to make a determination as to whether the Senate is a House of Parliament or a House of jokes. It is, the highest state of disrespect for Cabinet Secretaries to receive notification to appear in the Senate at least 14 days to the day they are coming for them to send you a letter on the morning that they are supposed to appear in the Senate.

Mr. Speaker, Sir, that is the highest demonstration of disrespect for this House. It means they think Senators do not have anything to do, and that Senators can just be given notice on a few minutes to call off their meetings. We need to send a message that is not acceptable. We also need to send a message that their boss, who wanted this Session to happen, had something serious in mind when he proposed that we change our Standing Orders to accommodate them.

Mr. Speaker, Sir, I suggest that, apart from them being summoned, the three Cabinet Secretaries should appear without fail, even if we have others, so that if necessary, that session should be extended in order for the meetings to be met. I also suggest that the Prime Cabinet Secretary should be requested to confer with the other Cabinet Secretaries to convey the seriousness with which this House takes this session, and for them to commit to appear to this.

As the Deputy Speaker says, the excuse by the Cabinet Secretary for National Treasury and Economic Planning is not acceptable. Did he just interpret the Questions this morning? He has had these Questions for three weeks. I think the Cabinet Secretaries are joking with this House. Please, crack the Whip.

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

Sen. Chute: Thank you, Mr. Speaker, Sir. I would like to know if the letter that went to the Cabinet Secretary stated Standing Order No.51(c)(5), which reads-

“A Cabinet Secretary shall provide a physical and electronic copy of a response to a Question at least twenty-four hours before appearing before the Senate.”

Standing Order 51(d) is also clear. It states-

“The Senate may, where a Cabinet Secretary fails, without reasonable cause, to appear and respond to Questions under this Part, move a Motion to censure the Cabinet Secretary.”

Hon. Speaker, Sir, I do not know if the letter that was sent to them spelt out these Standing Orders.

Mr. Speaker, Sir, I was to travel to Marsabit yesterday. However, I had posed a question to the Cabinet Secretary in regards to public interest on electricity issues. Some months back, this country was in darkness for almost 20 hours. The question was very simple.

We have a problem. Will it repeat? What caused it? Who is going to pay the cost? Unfortunately, the Cabinet Secretary is not here today to answer those questions.

I also want to support what Sen. Kathuri has said. A widow from Marsabit lost her husband, Eng. Guyo, about three years ago. She asked me to go to the National Health Insurance Fund (NHIF) to see if she can get the dues that are payable to her.

When I went to NHIF, I was referred back to the National Treasury and Economic Planning. I was told the money is going to be paid from the National Treasury. In the letter we received today, the Cabinet Secretary is saying that this is not his responsibility, but of the Ministry of Health.

Sen. Kathuri was also referred back to the National Treasury and Economic Planning. He should, therefore, come here and tell us what part he can be responsible for and leave the other part to the Ministry of Health to deal with.

Finally, please, take some action. You remember when I brought the vegetable oil issue in this House, Cabinet Secretary, Hon. Moses Kuria did not want to come here. In today's newspapers, the lady in charge of Kenya National Trading Corporation (KNTC) was arrested because of the same issue of vegetable oil. This country has lost over Kshs15 billion. When you see the Cabinet Secretaries refusing to come here, there must be something they are hiding.

Mr. Speaker, Sir, you are in charge of this House. We look up to you to take some action.

I thank you, Mr. Speaker, Sir.

Sen. Onyonka: Thank you, Mr. Speaker, Sir, for allowing me to also talk about this issue. It is very clear that the responsibilities of a Senator, other than all the other issues we handle, is legislation. The other issue that the Senate deals with is oversight. I have just come in this morning expecting the Cabinet Secretary to be here. I have just found out that he has not appeared.

In fact, I am quite disappointed because Prof. Ndung'u was my lecturer at the University of Nairobi (UoN) in the class of Economics. He always used to say that you must be responsible and always be on time. Those are the qualities of good leadership.

I am quite surprised that he has not come. The question that I had asked on the Order Paper is about him telling me whether the Government has a Government-to-Government (G-G) agreement, which was signed when the negotiations for the purchase of the oil were taking place.

The Cabinet Secretaries must understand the responsibility they hold. Their job primarily is to serve this country. Even when they have been selected and nominated by the President to work on his behalf, they are answerable to Kenyans.

The questions that Kenyans are asking us are the ones we want the Cabinet Secretaries to come and give us answers. That is how democracy is designed.

I have just listened to one of my colleagues say that the issue of Cabinet Secretaries coming to this House to answer questions was something that President William Ruto personally engaged himself in. Particularly after the ruling, it means that this is something that will take place in this House and it is a responsibility of the Cabinet Secretaries.

I would want you to put your foot down. I want our colleagues to realize that we are here not by accident; we are here by design. Let them know that we are going to hold them to account.

The responsibility of this House is to oversight the national Government and county governments. We take that responsibility very seriously. I hope that your ruling will be drastic, effective and will achieve results as fast as we deserve them.

Sen. Kisang': Thank you, Mr. Speaker, Sir. I also rise to make comments on this. The President requested this House and the National Assembly to amend the Standing Orders, so that the Cabinet Secretaries may come to this House and answer questions, instead of the Chairpersons of Committees getting responses and coming to reply on the Floor of the House.

It is deploring that this is not the first time. Even in the past, they have not been coming. Today, we expected three Cabinet Secretaries in this House to come and answer questions.

I know that when most of them are invited by the National Assembly, they run there. However, when they are invited by the Senate, they look for excuses. They cannot use COP 28 as an excuse. If the President is going to Dubai and the Cabinet Secretary in charge of Environment, Climate Change and Forestry, I do not see the reason the others are going there and we are trying to have austerity measures to save money.

Some of us were also invited. The climate change caucus of this House nominated some of us, but we could not go because there are no resources. How come all the Cabinet Secretaries or more than 50 per cent want to go to Dubai for COP 28 to waste resources?

You need to crack the whip because these Cabinet Secretaries will not take us serious if we just let it go. They think we will excuse them. We need to fine and censure them. We should also not allow the so-called Cabinet Administrative Secretaries (CAS) to come to the House. This is because the Standing Orders are very clear that it is the Cabinet Secretaries (CS).

In the Standing Orders, there is nothing like a CAS. It is the Cabinet Secretaries who are supposed to come and answer in the House. So, be firm and crack the whip.

My colleague, the Chairperson of Roads and Transportation said something earlier about Governors who were Senators in this House. The Governors of Nakuru, Nairobi City and Kiambu are very notorious. When they are invited to committees, they do not come. So, we need to also ask the Chairpersons to crack the whip, fine and censure them.

Sen. Oketch Gicheru: Today in the morning, I resumed my football session in preparation for the East African Legislative Assembly (EALA) games that are coming in just about a week.

As you know, we do not have any field to train. So, we keep on moving from one place to another. Today in the morning, I was training around Magadi Road. Therefore, I had to rush to get here.

Through your honour, may you give me an opportunity to welcome the team from Migori? I am very proud of these Members who have been delegated duties in the county assembly. I hope that I will get time to talk with them in our tradition in Parliament.

In the spirit of rushing to get to this House, I also noticed that this is the second week since the court pronounced itself on the tussle that was between the Majority and the Minority sides on the issue of whether it was constitutional for the Cabinet Secretaries to appear before this House. The courts ruled that it is okay, to the extent that Members of the Minority side are attending the session.

Since the ruling, this is the second Wednesday that Members of the Minority have attended the session. In those two consecutive sessions, the Members of the Cabinet have been behaving funny. They do not appear.

Mr. Speaker, Sir, if you read the HANSARD, you will realize that even while the matter was in court, I was always able to come to the House and just listen to what was going on. I used to notice that the CSs used to come religiously and attend to their meetings here.

I am beginning to think that perhaps it used to be a *tete-a-tete* between colleagues from the Kenya Kwanza side. It was just a dialogue, that there was no interrogation or nuance perhaps in terms of engaging the CSs. However, now that the Opposition is here to interrogate, scrutinize and be able to ask the right questions, they are running from the House. This is the problem that we had seen. This also indicts the so-called Prime Cabinet Secretary.

Mr. Speaker, Sir, I am saying 'the so-called' because it is not in the Constitution, but it was created anyway. We disputed it as Members of the Minority side. However, now that it is there, Article 153 of the Constitution on Decisions, Responsibilities and Accountability of the Cabinet lies squarely with the Prime Cabinet Secretary. His duty is to supervise and ensure Members of the Cabinet come to this House, answer questions and be held to account. So, it is an indictment and a big failure on Hon. Musalia Mudavadi.

Consequently, before we deal with the individual CSs, there has to be a letter from your desk, perhaps, directed to the Prime Cabinet Secretary, that he is doing very poorly and embarrassing the entire Cabinet, because his Members are not showing up to this House.

As I conclude, I have seen in other committees where I have been in, where if we invite different officials in Government and they do not show up, we are very religious also in punishing. We punish by summons and fines because we are mandated to do so.

The censure that I was expecting under Standing Order No.51D is one that goes with punishing these Cabinet Secretaries with fines. I hope that these fines cannot only be for the House. If you can be courteous enough, through that fine, you can make sure that Sen. Kinyua, Sen. Chute, Sen. Orwoba get Kshs500,000 and the Majority Leader gets his Kshs1 million. The CSs will then know that this is a very serious House. People should learn to respect our time because that time is extremely valuable.

Mr. Speaker, Sir, I support the letter of censure from your desk to these CSs. I thank you.

(Applause)

The Speaker (Hon. Kingi): Now, hon. Senators, I have taken time to allow a number of us to ventilate on this particular matter. Indeed, it is very serious. Now, if you look at the three letters that I have referred to this morning, none of them contains a reason that is an emergency. It means all the three CSs knew that they were not going to appear before the Senate many days ago.

Courtesy demands that they ought to have communicated with the Senate. When we were sitting in the Senate Business Committee (SBC), we could have then dropped their Questions under their request and pick other CSs for purposes of responding to the Questions today.

Now, hon. Senators, we have over 60 Questions in the queue. We could not pick other questions because we were convinced last week when we sat in SBC. There was no communication to the contrary that the CSs would appear before this House for purposes of responding to these questions.

Indeed, receiving this Communication this morning is the epitome of discourtesy. This is not a House of lamentation, but actions.

(Applause)

However, our action must rest either on the Constitution, Statutory law or our Standing Orders. Many of you standing to contribute to this point of order invited me to be firm on the CSs. I have combed through the Constitution, Statutory law and our Standing Orders, to see where the Speaker is able to punish these CSs.

Hon. Senators, if I had any powers to punish these CSs, that day would be now, not tomorrow. Hon. Senators, I will invite you to our Standing Orders, more particularly on Standing Order No.51D. The punishment that a CS's invites for non-attendance for purposes of responding to these Questions is contained in our Standing Orders, more particularly Standing Order No.51 D - a Motion of Censure.

Now, hon. Senators, the Speaker of this House cannot file a Motion. I can only moderate and facilitate debates to make sure you do the right thing. If, indeed, hon. Senators, you are persuaded that the behaviour of this CSs is unbecoming, invoke Standing Order No.51D.

As your Speaker, I will be here to moderate that Motion. In that Motion, you may resolve any punishment. You can pass a resolution that these CSs be fined to the extent of whatever amount of money this House will resolve.

How I wish I had the powers to punish these CSs, I would do it today.

(Applause)

So, hon. Senators, please, do not allow this House to be disobeyed. Kindly, invoke Standing Order No.51D. As the Speaker, I will be here to moderate that debate, but this behaviour cannot be left unpunished.

I hope in the coming days, on my desk, I will see a Motion of censure. I will not hesitate to approve it. So, hon. Senators, do the right thing.

I thank you.

Next Order.

Hon. Senators, if you look at today's Order Paper, Order Nos.8, 9,10,11,12, 13 and 14 are supposed to proceed to the Committee of the Whole. Clearly, we do not have the numbers to prosecute those Orders. Therefore, we shall defer those orders and proceed to Order No.15, that is, the Motion on the Shakahola Report.

COMMITTEE OF THE WHOLE

THE EQUALIZATION FUND APPROPRIATION BILL
(SENATE BILLS NO.30 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL
(SENATE BILLS NO.9 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE AGRICULTURE AND LIVESTOCK EXTENSION SERVICES BILL
(SENATE BILLS NO.12 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE MUNG BEANS BILL
(SENATE BILLS NO.13 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE START-UP BILL (SENATE BILLS
NO. 14 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 7 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO. 9 OF 2023)

(Committee of the Whole deferred)

The Speaker (Hon. Kingi): I invite the Clerk to read that Order, so that debate can resume on that particular Motion.

Clerk proceed.

MOTION

ADOPTION OF REPORT ON THE PROLIFERATION OF
RELIGIOUS ORGANISATIONS

THAT, the Senate adopts the Report of the *Ad-Hoc* Committee to investigate the proliferation of religious organisations and circumstances leading to more than 95 deaths in Shakahola, Kilifi County, laid on the Table of the Senate on Thursday, 19th October, 2023.

(Sen. Mungatana on 23.11.2023)

(Resumption of debate interrupted on 28.11.2023)

The Speaker (Hon. Kingi): Hon. Senators, at the interruption of debate on this particular matter, on Tuesday, 28th November, 2023, Sen. (Dr.) Khalwale had the Floor and had a balance of 19 minutes. I, therefore, invite the hon. Senator to proceed to make his contribution.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I had just started before it was time for adjournment of the House. I had acknowledged the good work that has been

done by this Committee, led by the distinguished Senator for Tana River County, Sen. Mungatana.

He moved the Motion very clearly using articulate means. I do not want to belabor, but appreciate some of the salient points I have found in this Committee's report.

Mr. Speaker, Sir, the Committee has been humble enough to realize the complexity of the work at hand and come out with nine action points, which it has recommended to the Directorate of Criminal Investigations (DCI) and Directorate Public Prosecutions (DPP) to take up. Let them undergo the due process, so that this criminality is brought to an end. I laud them.

Further to this, I want to appreciate the Committee because they have asked the Cabinet Secretary for Interior and National Administration to shut down the physical premises of the Good News International Ministry and Good News Media House plus, of course, their affiliates that are operating within the Republic of Kenya within 30 days after the Senate adopts this Report.

It is very important because Kenyans know and they have seen footage where even while this criminal makes appearances in court, we still have some people who are foolish enough to celebrate him. The answer is for the place to be closed down physically.

I want to laud the Committee that they have asked the DCI and the DPP to initiate the process of the freezing assets belonging to Paul Mackenzie and any other associates, and the proceeds be used to compensate the families of the deceased victims.

Mr. Speaker, Sir, this is very reflective. Paul Mackenzie, like many such misguided so-called prophets and preachers, used the pretext of the people's vulnerability to have a better life after death. They convert them into paupers and in the process enrich themselves. Therefore, it is not surprising that the country is abound with preachers who drive fuel guzzlers. Some even have helicopters just to show how good they are at looting the public.

The Cabinet Secretary for Interior and Administration must declare the Good News International Ministry and Good News Media House Limited as organized criminal gangs. These are criminal gangs. I am personally offended by the lack of cooperation on the part of Hon. (Prof.) Kindiki Kithure when this Committee wanted his help to have the witnesses appear before them; it was unfortunate that the professor of Law said he was going to speak for the witnesses.

Since when did a Cabinet Secretary speak for a criminal or have privileged information that he could give to a serious Committee like this one? I appeal to my younger brother, Hon. (Prof.) Kindiki, humble yourself. You should have allowed Kenyans who wanted to give evidence to do so. What are you protecting professor?

The DCI and National Intelligence Service (NIS) was able to appear before the Committee and where they thought certain pieces of evidence required secrecy, they applied for being heard in-camera. Our professor has been a Deputy Speaker and a Leader of Majority in this House. He knows these privileges. Was he deliberately trying to frustrate a committee of the Parliament of the Republic of Kenya?

Your Excellency, President William Samoei Ruto, we are going to help you get rid of non-functional Cabinet Secretaries who are - for anything else - as good as dead wood. Why would a Cabinet Secretary make it difficult for a committee of Parliament to deliver?

When I think about the grief in Kakamega County, in the villages of Mumias, Ikolomani, Shinyalu and our communities when we learnt that some of our teachers had died in Shakahola, I have no kind words for anybody who shielded the exposure of these criminals.

Mr. Speaker, Sir, in this elaborate Report, which I am glad that now all Members are acquainted with, the Committee is asking the National Police Service Commission (NPSC) to severely sanction security officers, whose acts of commission and omission aided or abetted the Shakahola tragedy, 30 days from now. It should remain evidently clear to the Republic of Kenya that civil servants and senior security officers drink and dine on the blood of the poor.

The Committee has been very specific. It has said on page 135 that Mr. Joseph Kemboi, the Senior Superintendent of Police in charge of the Sub-County Police Commander in Malindi, should be disciplined. Mr. Charles Kamau Wanguu, the Assistant Superintendent of Police; the Criminal Investigations officer in Malindi County, should be disciplined as should Mr. Simon Odera the Superintendent of Police Sub-County Police Commander. The same for Mr. Guracha, the Superintendent of Police, Critical Infrastructure Protection Unit in Malindi County and Mr. Augusto Okuna, the officer Commanding Police Station in Malindi County, together with Mr. Hassan Hamara, Officer Commanding Police Station Lango Baya; Calvin Malowa Otieno, Directorate of Criminal Investigation (DCI) Malindi. There is also Daniel Muthusi Muleli, County Criminal Investigation Officer (CCIO); Jecinta Wesonga, County Police Commander (CPC); Paul Maweu, Critical Infrastructure Protection Unit (CIPU); and, Joseph Yator, Police Officer attached to Directorate of Criminal Investigation. These officers should be disciplined.

I am reading out the names in this august House, so that members of the public in Malindi, Kilifi, the Coast, and every part of this country should not obey any instruction from any of these officers should the usual nonsense of Government of transferring police officers who are supposed to be sacked be the practice in this case.

I can assure any of them that if they appear in Kakamega County on transfer, I will request politely the bullfighters of Khayega to resist.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, are you calling for civil disobedience in Kakamega? Withdraw the statement and proceed with your good contribution.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am directed, and I do withdraw. Let it be understood that in our community we say 'he who is mourning knows no shame.' In this debate, I am mourning. I have visited the homes of affected families. In some of the homes, we have already buried wet banana stems.

In our culture, you bury a wet banana stem when you have lost out on the possibility of ever bringing your beloved one to be buried home. Our families have been in Kilifi County for months, they are told that DNA testing is ongoing and are unable to know who amongst the bodies is their beloved ones. They have buried bananas.

I, therefore, withdraw that remark and appeal to the security organs to ensure disciplinary action is taken against these criminals, who are in uniform.

The Committee recommends that Parliament enacts the proposed Religious Organization Bill, 2023, to provide a legislative framework for the regulation of religious organizations and establishment of the office of registrar of religious organizations,

registration framework, qualification of religious leaders, offences and penalties for non-compliance.

If I had the power, I would convert Sen. Mungatana's Committee into a special committee to work on this Bill. This Bill must be available. The tragedy that is Shakahola has given us the reason, opportunity, courage and excuse for us to face the religious leaders and tell them that they will be regulated. Religious organisations must be regulated.

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

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

Why do we have the Bible and the 10 commandments? Why do we have the teachings of the disciples of Jesus Christ? Why do we have the teachings of the Prophet Mohamed in the Quran? These teachings are meant to set standards to regulate. Regulation is already provided for in the Bible, Holy Quran and the Constitution. We must regulate churches. There are far too many. From Sigalagala Junction to Malinya, on the road from Sigalagala to Butere ---

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

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.105 on responsibility for statement of fact. I would not want to interrupt the cadence with which the Majority Whip is presenting. This is a passionate issue that we worked on well. However, the chapter he has read is not on the regulation of churches, but the regulation of religious organisations, which is inclusive of churches. I would like to stress this because one of the imminent challenges we faced when we were conducting public participation was assumed that we were making recommendations to attack or regulate churches. The regulation is for all religious regulations and is not limited to churches. Sorry for interrupting, but it is important to emphasize that.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, that is a point of information.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I wanted to laud him for that piece of information. However, if anybody has sent you to this House to interrupt the Senator for Kakamega when I am debating, tell him that the strategy is for you to wait for your time and debate.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru is in order to inform you or seek clarification. Do not gag him; utilize your minutes.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, if he wanted to inform me, he would have asked me to allow him to inform me. I would have gladly done so. I am helping him to be a better legislator. I can assure you that you have an opportunity to be a better legislator. If you talk to Sen. Mungatana---

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you should not talk to your colleague directly. I am not here by chance, but to moderate the debate. If you start communicating with your colleague directly, you better tell me to go pluck tea in Meru.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir, I am guided. I was speaking of the Holy Quran and the Bible. I am not sure which verse in the two books, but there is a verse that states that blessed are those who believe when they do not see.

In paragraph 509, the Committee recommends that the DCI investigates the relationship between Mr. Paul Mackenzie and Mr. Ezekiel Odera, to establish any criminal culpability of Mr. Ezekiel Odera in aiding or abetting the events in the Shakahola tragedy within 30 days of the adoption of this Report.

Congratulations my brother, Sen. Mungatana. This recommendation will stand for many years because when you were frustrated by some civil servants and some forces we have come to learn later of, in your efforts to get down to this, you took the unprecedented initiative of going to Mavueni. The country raised eyebrows. The country feared that Parliament was being compromised. Now that you have come up with recommendation 509, we respect you. You are holding the name of the Senate high that it is out of the frustrations by functionaries of Government that forced you to do the unprecedented by going to Mr. Ezekiel Odera's church in the manner you did.

I appeal to Pastor Ezekiel Odera from the bottom of my heart that Parliament was in your place; the children of God have died because they believed in the teachings of Paul Mackenzie. Because of the blood of those children, please, come clean.

(Sen. (Dr.) Khalwale's microphone went off)

The Deputy Speaker (Sen. Kathuri): Sen. Faki, you may have the Floor.

Sen. Faki: Asante Bw. Naibu Spika, kwa kunipa fursa hii ili niweze kuchangia Ripoti ya Kamati ya uchunguzi wa Shakahola.

Naipongeza Kamati hii ambayo iliongozwa na Seneta wa Gatuzi la Tana River, Sen. Mungatana. Nikiwa mmoja wa wanakamati, tulihudumu katika Kamati hiyo kwa hali iliyokuwa ngumu kidogo. Hii ni kwa sababu, baadhi ya mambo tuliyoyapata yalihatiji uchunguzi wa kina. Lakini, tulizuliwa kimfuko kufanya uchunguzi na kuwaona na kuwahoji baadhi ya mashahidi. Kazi ya Kamati ilikuwa ngumu kidogo, lakini tulijitahidi tukaja na Ripoti ambayo ni muhimu sana kwa nchi yetu.

Bw. Naibu Spika, swala hili la mkurupuko wa mashirika ya kidini ni jambo ambalo halijaangaliwa katika nchi yetu, mpaka alipokuja Pastor Mackenzi na kanisa lake ndio watu wakaona kwamba kuna hatari na baadhi ya watu walikuwa washapoteza maisha yao. Kwa hivyo, kulikuwa na haja ya serikali kuingilia maswala ya mkurupuko wa dini tofauti tofauti. Imekuwa rahisi kwa mtu yeyote akitaka kufungua kanisa ama shirika lolote la dini. Akishika Bibilia, asimame Jeevanjee ama Mama Ngina Mombasa na ahubiri, baada ya wiki moja au mbili, kanisa limesimama.

Ipo haja ya kuwa na kanuni za kuweza kusimamia mashirika ya kidini. Hii ni kwa sababu hata sisi katika Bunge, kuna mambo ambayo tunaweza kufanya na kuna yale ambayo hatuwezi kufanya. Kwa hivyo, haiwezekani kwamba mashirika ya kidini yana jificha chini ya uhuru wa kuabudu na kufanya mambo ambayo ni kinyume na maadili na dini zao na kanuni za nchi yetu ya Kenya.

Mauaji ya Shakahola hayakuanza na Pastor Mackenzie. Kwa muda mrefu, kwa vile Shakahola inapakana na Mbuga ya Wanyama ya Tsavo, ilikuwa mahali ambapo watuhumiwa wa mauaji ya kiholela ya polisi walikuwa wakitupwa pale. Hili ni swala ambalo hata polisi wenyewe walikuwa wanajua kwa sababu wakati uchunguzi

ulipoanza, wale ambao walitupwa mwanzo, polisi walijaribu kuwapuuza kwa sababu walijua ni jambo la kawaida.

Tungependa uchunguzi zaidi ufanywe kuhusiana na wale ambao walipotezwa, hususan katika sehemu za Pwani. Hii ni kwa sababu, wengi ambao walipotea, simu zao zilikuwa zinapotea maeneno ya Malindi karibu na msitu wa Shakahola.

Kuna baadhi ya mambo ambayo bado yanaendelea katika maswala ya Shakahola. Kwa mfano, kuna wale ambao walichukuliwa kama manusura katika ile sehemu Pastor Mackenzie alikuwa anahudumu. Wale walichukuliwa sio wale waliyofanya mauaji au vitendo vya kinyama, lakini waathiriwa ambao walipatikana pale. Mpaka sasa, waathiriwa hawa bado wako Shimo la Tewa. Wamewekwa pale kama hifadhi.

Mnamo Mwezi wa Nane kabla kupelekwa katika gereza la Shimo la Tewa, walikuwa wamepewa hifadhi katika shule moja ya kibinafsi pale Mtwapa. Tarehe 12 Agosti, 2023, walikuwa wamepanga kujiuwa wote pamoja. Lakini, baadhi yao walitoa hizi habari na maafisa wa usalama wakawachukuwa wote wakawapeleka katika gereza la Shimo la Tewa ambako bado wanaendelea kufanyiwa uchunguzi na ushauri nasaha, yaani, *counseling*, ili kuhakikisha kwamba zile fikira walizokuwa nazo za kujitoka uhai ziondoke katika fikira zao.

Bw. Naibu Spika, tunapongeza mahakama, hususan Mahakama ya Shanzu ambayo baadhi ya washukiwa wamewekwa na wanaenda kortini mara kwa mara, ili kuitikiwa au kuangaliwa ni vipi wanaweza kusaidika ili warejee katika jamii.

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.98. I just need your direction. When you look at this Report, will it not be neater and in order for the Committee Members who authored the same Report to be the ones contributing last? This is because they already had an opportunity. It is like they are having a second bite at the cherry.

Will it not be neater to have them contribute at a later stage because they already had an opportunity to enrich the Report? Why can we not be given a chance to contribute to the Report? We gave them an opportunity to prosecute this matter at the Committee level. It is not that they do not have a right, they do. However, for neatness and an opportunity to also clear our thinking because at least their thinking is already there.

Mr. Deputy Speaker, Sir, you can guide us because Standing Order No.1 gives you powers to provide direction to the House.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, Members of the Committee also have a lot of information that you do not have. Balancing the two sides is better, so that Members can also benefit from those who did the investigation.

Leave that to me. I do not want to explain what I am doing here. For your benefit, you can see I have a list on my right, the Report is here, I know the membership, and I also have the dashboard. Sen. Cherarkey, I am not as foolish as I look.

(Laughter)

I know exactly what I am doing. Clear your time, Sen. Faki.

Sen. Faki: Asante, Bw. Naibu Spika. Saa zingine, ukweli unauma. Watakuja kama hawa waweze kupinga na kujaribu kusitisha mtiririko wa mawazo ya wale wanaochangia.

Mahakama imefanya kazi nzuri hadi sasa. Ijapokuwa, mahakama za awali zilimpa Pastor Mackenzie uhuru mwingi usiostahili kupewa kulingana na maswala ambayo yalikuwa yanachunguzwa wakati ule.

Tumeona pia kuna watu wengi waliyohusika katika maswala ya Shakahola, wale ambao tunaita *First Responders* kwa Kiingereza, kama vile; Kenya Red Cross, yale mashirika ya haki za kibinadamu, polisi na watu wa upausaji; almaarufu *pathologist*. Wamefanya kazi nzuri kabisa kusaidia jamii na waathiriwa kupata nafuu na ushauri kutokana na majanga yaliyowakumba.

Red Cross wametoa mchango mkubwa. Wale walioenda kule kwanza, hakukuwa na mfumo wowote uliyowekwa. Lakini kwa uwezo wa Redcross, waliweza kuchangia pakubwa. Mpaka sasa, ile miili ambayo imewekwa kule Malindi Mortuary, imewekwa katika hifadhi ya Red Cross. Wametoa *container* ambayo imewekwa barafu na miili yote imewekwa pale.

Jambo la kusikitisha ni kwamba licha ya kwamba tulikuwa na janga la COVID-19 miaka miwili na nusu iliyopita, Serikali ya Kilifi haikujitayarisha kuwa na hifadhi ya kutosha kuweza kuweka miili mingi, kama walivyo tarajiwa kufanya walipopewa pesa za COVID-19 mwaka wa 2021.

Bw. Naibu Spika, ni lazima kaunti zetu ziwe na uwezo fulani wa kujitayarisha. Haiwezekani janga kama hili limetokea Kaunti ya Kilifi na hatuna uwezo wa kuhifadhi miili ya walioathiriwa. Ninakubaliana na mapendekezo yote kwamba ni lazima uchunguzi ufanywe.

Tumeona Waziri wa Usalama wa Ndani, Mhe. (Prof.) Kithure Kindiki alizuia baadhi ya mashahidi kuenda kutoa ushahidi. Alimzuia Waziri Aisha Jumwa kuja kutoa Ushahidi wakati Mhe. Aisha Jumwa alikua mtu wa kwanza kuonyesha bendera nyekundu kuhusiana na maswala ambayo yalikuwa---

The Deputy Speaker (Sen. Kathuri): Samahani Sen. Faki. Kuna hoja ya nidhamu. Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, under our Standing Order No.98, the Senator for Mombasa is a senior Member of this House and he knows that if you want to discuss an individual, you bring a substantive Motion. Why is he---

(Loud consultations)

Mr. Deputy Speaker, Sir, protect me.

The Deputy Speaker (Sen. Kathuri): Order, hon. Members.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, can I be heard? I have been listening.

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Order, Sen. Onyonka. Let him execute his point of order. If you have a contrary opinion, I can give you the Floor.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, the good Member---

I do not mind the noises and heckling. I think my brothers have missed demonstrating and they should go back soon.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, what is your point of order? Go direct to your point of order, kindly.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, if Sen. Faki wants to discuss the Cabinet Minister of Interior and Administration of National Government, a distinguished professor, he should bring a substantive Motion. He cannot be mentioning people's names.

The other time we tried to mention some names of leaders and the other side protested, I was told to bring a substantive Motion. We cannot have a law that serves differently on our side.

(Sen. Onyonka consulted loudly)

Mr. Deputy Speaker, Sir, protect me from Sen. Onyonka. Under Standing Order No. 98(1) and the one on a substantive Motion, I request that Sen. Faki withdraws from mentioning Hon. (Prof.) Kithure Kindiki and brings a substantive Motion. We are willing to prosecute him. We do not have a problem if he wants to discuss the hon. Cabinet Secretary, but he must bring a substantive Motion on the Floor of the House.

Sen. Faki should refrain from that. He cannot be mentioning people at the expense of gaining political convenience. I request that you rule Sen. Faki out of order.

(Sen. Oketch Gicheru gestured towards Sen. Cherarkey)

Sen. Oketch Gicheru is pointing at me and his name is not on the list to Rwanda. I do not know why he is troubling himself by pointing at me.

Mr. Deputy Speaker, Sir, rule him out of order.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, I was trying to listen to Sen. Faki on whether he was talking about the conduct of Cabinet Secretary, Prof. Kithure Kindiki. He has only mentioned an observation that is in this Report but he has not gone in the area of discussing his conduct.

Sen. Faki, do not go there. You are not out of order.

Sen. Faki: Bw. Naibu Spika, ningetaka kumjibu Sen. Cherarkey.

The Deputy Speaker (Sen. Kathuri): Proceed and clarify what you meant before I give another Member a chance.

Sen. Faki.

Sen. Faki: Bw. Naibu Spika, yale yote niliyosema yako katika Ripoti hii. Shida ni Sen. Cherarkey ni kama wale wanagenzi. Hajasoma Ripoti lakini akisikia Waziri ametajwa, anaruka. Kumetajwa Mawaziri watatu hapa na watu wakakubaliana kwamba, *they need to be punished*. Alikua wapi?

Katika Bunge hili, Mawaziri watatu wametajwa. Kiongozi wa Wengi yuko pale na pia Spika pia akasema waadhibiwe. Leo ni Jumatano na saa zingine Sen. Cherarkey---

The Deputy Speaker (Sen. Kathuri): Sen. Faki, malizia.

Sen. Faki: Bw. Naibu Spika, ngoja kidogo. Jumatano iliyopita asubuhi, Sen. Cherarkey alifukuzwa hapa. Kwa hivyo, kama anataka kufukuzwa tena, aendelee kunikatiza.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, what is it?

Sen. Sifuna: Mr. Deputy Speaker, Sir, I have made this appeal to the Speaker and Members of the Speaker's Panel before. These Standing Orders protect us from frivolous points of order.

I have not seen Standing Order No.121(b) being effected by Members of the Speaker's Panel because every single time--- The Members who are notorious for this are known. At this point in time, we need to cut out these frivolous and false points of orders that interrupt debate in this House. Some people are just here to shout point of order and when they stand up, they have nothing to say and have no content whatsoever.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, before a Member stands up on a point of order, how can the Chair read their mind?

Sen. Sifuna: That is not the point.

The Deputy Speaker (Sen. Kathuri): He must raise his point of order for the Chair to rule, as I have done for you to prosecute this matter.

Sen. Sifuna: Mr. Deputy Speaker, Sir, you have misunderstood me. Under Standing Order No.121, there needs to be a time when a ruling is made when someone repeatedly makes false points of orders. After you have determined that this point of order is frivolous and useless, what is the action taken? That is what we want to see.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, if you also check Standing Order No.101, you can raise a substantive Motion in this House to discuss the conduct of another Senator. You can have that list for us to discuss them and put them in order. So, you have that space to do that.

No point of order again. Sen. Faki, proceed to finish.

Sen. Faki: Bw. Naibu Spika, dakika zangu zilisimamishwa. Bado niko na kama dakika kumi na tano. Nilikua nasema kwamba Waziri Aisha Jumwa aliyekua Mbunge wa zamani wa eneo Bunge la Malindi, kule eneo la Shakahola liko, alikua shahidi muhimu kuja kwa hii Kamati kueleza ni mambo gani aliona hapo awali kuhusiana na Pastor Mackenzie. Haya mambo, walinda usalama hawakuyachunguza ili kuhakikisha tukio kama hili la Shakahola limedhibitiwa.

Tumeona kwamba Dr. Johansen Oduor, mkuu wa upasuaji, hakuruhusiwa kuja mbele ya Kamati kutoa ushahidi. Hatujui ni jambo gani ambalo Dr. Oduor angezungumza ambalo lingekua kinyume na usalama wa Taifa.

Tulimuona mkuu wa usalama, Mhe. Noordin Haji ambaye alikuja mbele ya Kamati na akatoa ushahidi bila kua na shida yeyote. Kwa hivyo, katika kuzuiliwa Kamati hii kufanya uchunguzi wake kikamilifu, ilikua ni makosa kwa Waziri wa Usalama wa Ndani, kuzuia mashahidi kuja kutoa ushahidi katika Kamati yetu.

Bw. Naibu Spika, mwisho ni kwamba, tulipata fursa ya kwenda ofisi kuu za Directorate of Criminal Investigations (DCI). Kusema kweli, DCI yetu ni moja ya masharika yana utaalumu mwingi na zina vifaa vingi vya kufanya kazi. Lakini, jambo la

kusikitisha ni kwamba, budget ama pesa zinazotengwa kwa shuguli zao muhimu zimekua haba sana.

Tulipokua pale, hata ule wino wa kuchukua alama za vidole ili upate *certificate of good conduct* ilikua imepungua. Mikataba mingi wamefanya na mashirika yanaleta vile vifaa kame yale mahabara yanayotumika kuchunguza mambo mengi, imekwisha na pesa hazijalipwa.

Bw. Naibu Spika, ipo haja ya Serikali, sababu DCI inafanya uchunguzi wa maswala ya jinai na uhalifu. Ni shirika muhimu katika nchi yetu kwa hivyo, lazima iweze kupata pesa za kutosha ili izuie maafa kama haya ya Shakahola na mengine ambayo yanaweza kutokea katika nchi yetu ya Kenya.

Bw. Spika, naunga mkono Ripoti hii. Ningependa kwamza Seneti iweze kuzikubali zile taasisi ambazo zimeombwa ziweze kuifanyia kazi, tuone kwamba mashirika ya kidini ambayo yana taswishi na yanafanya mambo kinyume cha sheria, maadili na vitabu vya Mwenyezi Mungu, yameweza kusimamishwa ili wananchi waishi kwa usalama.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, please proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I join my colleagues in appreciating the work of this *Ad hoc* Committee that investigated the proliferation of religious organizations and circumstances leading to more than 95 deaths in Shakahola, Kilifi County.

The first thing that I would wish to say about this Report is that I appreciate the industry that went into its preparation and the work that has been done by our colleagues who took time. I watched them a couple of times listen to witnesses, interrogate them, establish where there are gaps in legislation, statutes, regulations and so on and so forth. Our colleagues did an impressive job.

However, there are quite a number of glaring gaps that are in this Report, which, as we appreciate and celebrate their work, as a Senate, we must ask ourselves how to move forward from here. The Committee has established and has done direct linkage between the so-called Mackenzie; the fake pastor, and the crimes that were committed. There are people along the line that contributed to this happening.

I have seen that further down the Report, the *Ad hoc* Committee has given sanctions and recommendations to the various bodies and State agencies that need to follow up and give direction on what happens. While that is in order - I will be making a comment on the same especially on the language that is used in the recommendations part of the Report - allow me to first establish, and perhaps this is something that the Committee will inform us better; when you title the Committee that it is more than 95 deaths in Shakahola, it is quite interesting.

This is because we went out as a House and said we need the Committee to inform us on exactly the number of people that died. Unless I have not been able to capture it appropriately in the Report since it is voluminous and I began reading yesterday and have moved on quite well this afternoon, it does not come out explicitly in the Report on their findings whether there are more to be discovered that are still buried. Remember, there was that exhumation exercise that was ongoing in this particular part of the country. This is something that is good for the history books.

Mr. Speaker, Sir, Kenya is still a young Republic. Many times we do work and do not know that years down the line, in another 50 or 100 years, there will be Members of

Senate who will refer to such reports. There might not be anybody alive to bring to the facts like a report of a committee of Parliament can do. Therefore, they will be relying on reports such as the one that we adopted in this House, to get the accuracy of the happenings in this particular day and age.

Therefore, I wish to urge colleagues that when we retreat to such particular instances, let us do this job the same way. This is not with specific reference to this Committee, but to all of us as Members of Parliament to know that when we generate such reports, there will be people 100 years down the line who will know that there was a Senator called Danson Mungatana and he represented the people of Tana River County in the Senate in the 13th Parliament.

It will be remembered that one time, Sen. Mungatana chaired an *Ad Hoc* committee that looked into the proliferation of such cultic behaviours and so forth. I would wish to draw a reference at that particular time. People who would want to understand why certain laws are the way they are and why the country behaves in a particular way, will refer to these documents.

By the time I left the Parliamentary Service Commission at the end of last term, we were in the process of acquiring a digital record. It is good that I say this when Commissioner Sen. Omogeni is here. I hope that they can conclude on that particular process. Many Members of Parliament do not know where the Parliamentary library is. It is somewhere hidden in a building called County Hall, in the basement. There are many Members who have never shown up at that place. It is important to establish a mechanism through which we file such reports so that it is not just in pen and paper or on a computer. It will be important for people to search in a 100 years or even more later and establish what this House and its committees said.

Mr. Speaker, Sir, the first thing that I appreciate about this Committee is that it pointed out a glaring gap. I agree with those saying it is insanity, as we have been informed elsewhere, to do the same thing over and over and expect different results each time.

The Deputy Speaker (Sen. Kathuri): Would you like to be informed?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I do not mind being informed by the Chairperson of the *Ad hoc* Committee.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mungatana.

Sen. Mungatana: Mr. Deputy Speaker, Sir, I have great respect for the Senate Majority Leader. It is not in my habit to interrupt debate, but I just want to inform him the exact numbers of deaths at Shakahola. There were 428 deaths as we have stated in the Report.

The Senate Majority Leader has graciously explained that he has not reached to that chapter, but we have set out the comparison of the people who were killed in various tragedies in this country. It is clear that this was the biggest by far as compared to all those.

Senate Majority Leader, that information is actually there. Do not worry, we did a good job.

Thank you.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. That is very useful information from the Committee Chair. That is why it is

important to have the chairpersons of committees listen in when the Members are debating their report so that they can shape and guide us when we miss.

I like the fact that he has reminded Parliament and the country that of all the tragedies you can think of that have befallen this nation, there is nothing that compares to this Shakahola madness. It bothers me deep down in my heart that the minute this matter got out of media attention and the court's battle that we continue to see with Makenzie, it appears to be a matter that we have quickly swept under the carpet.

An individual began an exercise that leads to the death of over 400 countrymen and it does not shock us? I am surprised that we do not have a full-time schedule of punishment for those that in one way or the other by commission or omission participated in this exercise, reaching the grave nature that it did. That is something that should trouble all of us as leaders.

All the 428 deaths that Sen. Mungatana has referred to, most of the victims came from the far-flung corners of this country. It could be somebody from Kisii, Kericho or whichever other part as far as Turkana or Kakamega as has been stated by Sen. (Dr.) Khalwale earlier on.

Think about it good people. If you imagine the 1998 bom blast, you know what has been done, how it has been recorded, how some of the perpetrators were found and others were not because these were acts of terrorism. You can think about any other tragedy. Think about any other tragedies that this country has ever experienced such as the ferry that sunk in the early 90s and so many other tragedies that has befallen this nation, nothing compares. The chairperson pointed us to this morning, to the fact that there is no other tragedy that has befallen this nation such as this particular incident.

(Loud consultations)

Sen. Mungatana, I beg that you listen to me the way I listened to you.

If you read our Constitution, and allow me to paraphrase. Article 94(5), gives us enormous power as Parliament. I would like to quote it verbatim. It says-

"No person or body, other than Parliament, has the power to make provision, having the force of law in Kenya, except under the authority conferred by this Constitution or by legislation"

This is because we create other statutory bodies that then make regulations. However, there is something that is being reminded to us as a House. Each time we seek to consider matters and make decisions by way of resolution or whatever way, we are the only institution that can make provisions that have the force of law.

Therefore, when we make recommendations in a committee report, we should be fully aware that whatever decision we reach as a House---

For example, once we conclude debate on this particular Report, it is expected that it is the resolution of the people of Kenya through their representatives. Therefore, when we make recommendations, they should have the full force of law. I say that because I have taken time to read. Perhaps, this is more on the Secretariat, but also Members. This is because as Members of committees, you are not illiterate people. You are literate and fully aware of what each English word means.

I do not appreciate the fact that the language of many of our reports, not just this particular one, continues to be, "the Committee recommends" "the Committee did this."

That is pale and opaque. We are the only institution that can make provision with the force of law.

It is my sincere hope that each time we bring Committee reports to this House, we shall have more far-reaching recommendations. I hope the Secretariat and Members are listening. We should make a decision and say that the Senate or particular committee instructs the Directorate of Criminal Investigations (DCI) to do the following.

When you recommend to somebody, they can choose to ignore your recommendations. I do not appreciate this language that our committees continue to use in our reports yet they are well elaborate recommendations. If you read the name of the officers, for example, who looked the other way, there is clear act of omission on the part of the county security team in Kilifi County. All those officers are listed. However, what is the recommendation of the Committee? Let me get that particular part and read it because I had marked it out:

“The Committee recommends that the National Police Service (NPS) Commission should severely sanction security officers whose acts of commission or omission aided or abetted the Shakahoula tragedy within 30 days of adoption of this Report by the Senate. This shall include the following 11 officers - Joseph Kemboi, Charles Kamau, or Solomon Odera, Agbaso Guracha, and others”.

However, I do not appreciate the fact that we appear to be giving suggestions.

Sen. Mungatana, you carried out an investigation and you have established for us in the report. Anybody reading this Report appreciates that what you are saying is true. That, there was an act of omission on the part of these particular officers.

I do not see a reason why, as a House of Parliament, we cannot make the necessary final recommendations. Despite the fact that as Parliament, we may not have the powers to prosecute, this is a matter that we should conclude on and send the file directly to the Directorate of Public Prosecution (DPP). If there are any further details that need to be tied down, that is their business. It is my belief that as Parliament, we need to act.

Sen. Mungatana, you have said that NPS should sanction, yet earlier in the Report you have shown us that the only punishment being given to them is a transfer. This is what I want us to reflect on deeply and think about each time we make these recommendations.

Senators listened to me this morning state that there is no institution in this country, not even the Cabinet has the power that we as legislators have. Each time we deal with matters as serious as this, let us interact and think about it. The same can be said about what has been recommended to the Directorate of Criminal Investigation (DCI) to investigate.

It should read: “It is the finding of this Committee that this and this--.” Then we direct the necessary institutions to do whatever is needed. I think I have made myself clear on that point. I said this because this is the work of the Secretariat. I have been in Parliament long enough to know how committee reports are done. It is generated by the Secretariat. They do the typing, but even we as Members, we cannot absolve ourselves of the blame. We come, sit down and read through.

Many times when I served as a Committee Member, I would correct and say, “please, remove this. Change from this language to the other.” There is the presence of

mind needed on us as Members that we need to appreciate when we are looking into these operations.

As a way of concluding, I appreciate that this Committee is recommending a relook into this law. It is a 1968 law that governs the registration of societies and they are guiding us on what we need to do. Let us face it, Members; so long as we continue to register churches and religious organizations under societies, there is very little that you can do to Mackenzies and the rest of the people who behave that way.

We must set up the office of registrar of religious organizations, someone properly trained in the field of region. We are not short of men and women in this country who have the competence and we have the legal backing. We cannot fold our hands, sit down pretty in our loud silence and say, “oh! you know, religion is a sensitive topic. You cannot legislate or direct people on what to do.”

See what that *laissez-faire* look at things has led us to as a country. We are told close to 500 Kenyans have died. It will be a dereliction of duty if after the passage of this Committee Report, and at the end of our term as House, we will not have had a relook of this law.

Sen. Mungatana, as part of the exit nature of this Report, I believe that as you finally sit down as a Committee, you will draft the amendment to these Societies Act and bring it for us to consider. Set up this office. Nothing stops you from doing that. That way, we shall give direction to Kenya to know there are experts who can guide people; who can listen and say, “if you want to set up a Muslim religious institution, these are the standards that we shall expect from you.” Thus, we shall stop this issue.

You have captured it in your Report about cells that are being set up. Many people believe that these are places where young people are being trained about terrorist activities.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, I can see Sen. Mungatana is on a point of order.

The Senate Majority Leader (Sen. Cheruiyot): Yes, no problem.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I wanted to inform my very good Senate Majority Leader that we have gone ahead not just to bring an amendment, but to propose a whole new legislation which we have attached to this Report. That legislation seeks to balance between the Constitutional freedom of worship and public sector safety concerns.

I want the Senate Majority Leader to rest assured that we are on course. We are thinking in the same direction.

I thank you.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Sen. Mungatana. Please bring that Bill so that we can prioritize it because this is a very grave matter.

Lastly, this is something we may need to think about later. There are so many Mackenzies that continue to ply their trade across this country. Sen. Mungatana, I remember one evening bumping into your Committee at Kisumu Airport. Sen. Shakila Abdalla informed me that you guys had come from a gentleman from Vihiga who calls himself John Pesa. You narrated the very grave scenes that you guys witnessed. In fact, I could tell that the Senators who had gone on that particular trip were actually disturbed deep down in their hearts because of the things that they saw; men and women who had

been tied down. Some of them had not fed for days and some had lost their sense of consciousness.

Therefore, this tells you that there are so many such Mackenzies' that are out there in our various counties. As a House, even as we conclude on this particular Report and resolutions that have been so ably captured, even after doing that legislation that Sen. Mungatana has promised us that we shall do, perhaps part of the powers that we must give to that office that we set up is to initiate closure and prosecution of people who continue to do those kind of practices.

While seated at Kisumu Airport, we were actually informed that, that gentleman Mr. John Pesa has been in this practice for over 30 years; people know and they have come to accept this as if it is just a normal practice. We also know many others.

Mr. Deputy Speaker, Sir, we watch videos nowadays. In fact, Sen. Mungatana, part of the other problem are these frequency licenses that we give to these people who continue to ply their illegal trade even over and above their domiciled charges.

Without the frequency that this Mackenzie had, perhaps he would not have reached the number of people that he reached out to. However, because he could reach to them on their TVs and their radios, that is why many people were confused. The ordinary Kenyans in the village believe that by the time you see somebody coming to the television and is able to explain things, they believe this is somebody who is properly checked. They imagine that we are such a civilized nation and there are systems that check such practices. Abuse of frequencies is something that we must equally address.

Public frequencies are national assets that we should not be dishing out to criminals. The Communications Authority of Kenya (CAK) must be put on notice to check on the people that have been given frequencies to run radio and TV stations, what they are using them to do.

If Mackenzie could use this frequency to mislead people and kill them, believe you me, even terrorists can get the frequencies, use the same and run training. They can misinform and train our young people in a bad way and do a greater harm to this country.

It is my submission before this House, this morning as I come to conclude on this particular matter, that even the issue of frequencies and how they are used is something that we must have a look at. This is so that if you are found to be using the frequency and bandwidths that have been allocated to you to mislead people or swindle people out of their hard-earned currency, we punish you.

When all is said and done, I appreciate the work of this particular Committee and I celebrate them. I was a bit concerned earlier in the sitting when the points of orders were raised and Sen. (Dr.) Khalwale who today has appreciated the work of this Committee; the only part I did not agree with Sen. (Dr.) Khalwale is that he said: "Some people are saying". He should have actually said, I was the one who raised that particular point of order and said these people had gone this way and I thought about their conduct.

However, I believe in the conduct of our colleagues who serve in this particular Committee and they have given us such a wonderful report. I hope when we conclude on it, we shall follow it up.

Sen. Mungatana, I like the annexure you attached. It has days showing the periods within which a particular thing needs to be done. I know I have said I am concluding many times, but there are many things that keep coming to my mind. We have had this debate about the Implementation Committee. The argument of those of us that agreed

with the dissolution of Senate's Implementation Committee is that we said it is the work of every committee to implement its own work. Therefore, you do not need one committee whose job is just to wait for others to do their work and follow through.

Now, the question we must ask ourselves as I go to sit, is; what about *Ad hoc* Committees? Who follows through with the implementation of *Ad hoc* Committees? Since, for the other Committees, it is okay and that argument holds, in as much as there are people who still strongly feel that we need to have a Senate Implementation Committee. However, what about the *Ad hoc* Committees? That is something that we need to resolve. With those many remarks, I support this Report.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you, Senate Majority Leader. The *Ad hoc* Committees actually belongs to the Liaison Committee. They are born in the Liaison Committee. The Liaison Committee finances the *Ad hoc* committees. To make sure that the money given by Liaison Committee is properly utilised, they should report back to that committee, so that we know that the money we gave them is doing the work.

However, with this one, I am happy because Members appreciate the work. At least, this gives you a clean bill of health. However, you should report back to us and the Liaison Committee, at some point in the Report.

Senator Faki, who do you want to inform?

Sen. Faki: Mr. Deputy Speaker, Sir, in line with the suggestion by the Senate Majority Leader, maybe we could involve the different committees. For instance, recommendations that touch on security be referred to the National Security Committee, legal recommendations be referred to the Justice Legal and Human Rights Committee (JLAHR), and the rest will follow through. Just like we did with the Report on a dam.

A Hon. Senator: Solai Dam.

Sen. Faki: Yes, Solai Dam report. I thank you.

The Deputy Speaker (Sen. Kathuri): That is fair enough, but to satisfy the Liaison Committee that you have concluded your work, they need the whole Report from the *Ad hoc* Committee, and then they can give recommendations to the various standing committees. Do you have a problem reporting to the Liaison Committee?

Am with you also on the standing committees---

Sen. Faki: Mr. Deputy Speaker, Sir, the committee was born in this House. Now that the Report has been made to this House, it may be resolved that we take it back to the Liaison Committee, then the Liaison Committee will involve the different committees. I have no problem with your suggestion.

The Deputy Speaker (Sen. Kathuri): Yes, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I agree with what Sen. Faki is saying. Maybe this is part of the improvement to the nature of how we do our reports. I took some time to explain that particular point. In conclusion, because they have done a very good matrix, this needs to be done in a certain number of days.

You could include that particular comment now to cater for what Sen. Faki is saying. That on security, its respective committee should monitor. This applies to the rest of the committees.

I thank you.

The Deputy Speaker (Sen. Kathuri): Maybe for future reference, when our children and grandchildren shall be reading this Report, they will never tell where Sen. Mungatana was serving. The secretary should note that this is the Senator for Tana River County. All these names are just blank.

That is my observation as the Chair. I am not debating. Next is the Senate Deputy Minority Leader, Sen. Wambua.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. Allow me to use part of my time to also comment on the issue raised by Sen. Cheruiyot and Sen. Faki. There is a reason why *Ad hoc* committees are created. They are created on the understanding that the issues they will be dealing with are too weighty and too involving for parent committees to resolve within a reasonable time.

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

[The Temporary Speaker (Abdul Haji) in the Chair]

Mr. Temporary Speaker, Sir, protect me from the outgoing speaker. I thank you.

If the committees are created to handle work, that the House is convicted cannot be effectively handled by the parent committees, then it will be wrong to create an avenue for *Ad hoc* committees to also begin to generate work for the parent committees because where will we stop?

It is a debate that we can have and agree on the best way forward. There was a suggestion at some point that we seriously relook at the establishment of the Implementation Committee that did not come to pass. However, that is a debate for another day. Today, I want to congratulate the team, led by Sen. Mungatana for coming up with such a comprehensive Report.

I am happy to note that, in fact, this is the first one and it should be a requirement that at the conclusion of their business, *Ad hoc* committees should come up with draft proposals for legislation. They are given latitude and facilitation to undertake their work. I am happy to note that the Committee has come up with a Draft Religious Organisations Bill. I am looking forward to contributing to that Bill when tabled in the House.

I am also torn between preaching and debating the Report. I will strike a balance between the two. The things we are dealing with today are not exclusively physical, they are spiritual issues. If you look at the title of the Report, when they started they were dealing with 95 bodies, at the conclusion we have 429 bodies. This is a huge number of people. The agony of it is that these people do not come from one region but from all over the country. It would be impossible for this Committee that has concluded its work to state the exact number of people killed and buried in Shakahola. To date, some people are still missing.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, a moment. Sen. Faki, what is your point of information? Sen. Wambua, would you want to be informed by the Senator for Mombasa, Sen. Faki?

Sen. Wambua: Mr. Temporary Speaker, Sir, he can inform me.

Sen. Faki: Mr. Temporary Speaker, Sir, we will need clarification from the membership of the Committee on the issue of 95 and 429 bodies. When the resolution to form the Committee was made, at the time, the people mentioned were 95. This is why

the heading of the Report is 'Shakahola *Ad hoc* Committee investigating the 95 people who were mentioned initially as the victims of the Shakahola massacre.

During the investigation, it came to light that 425 or more people had died. As we were writing our report, exhumations were still being done and bodies were being discovered from the site. The 95 deaths was the initial number we had when the resolution was being made in the House and the Report has to capture this.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wambua, do you find that information helpful? I did not find it helpful.

Sen. Wambua: Mr. Temporary Speaker, Sir, it is not useful at all. He is repeating what I said. When the Committee started, they were dealing with 95 exhumations, by the time they were concluding there were 429 bodies exhumed. From that day to date, there could be more.

I will mix two issues. When apostle Paul was writing a letter to his spiritual son Timothy in the Book of 2nd Timothy 3:2-

"You should know this, Timothy, that in the last days, there will be very difficult times. People will love only themselves and their money. They will be boastful and proud, scoffing at God, disobedient to their parents, and ungrateful."

He continues to warn him in 2nd Timothy 4:3 that-

"A time will come; the people will not put up with sound doctrine. Instead, to suit their own desires, they will gather around them a great number of teachers to say what their itching ears would want to hear."

Mr. Temporary Speaker, Sir, it will be remembered that in the process of exhuming bodies from Shakahola and rescuing of innocent people that were lined up for massacre, there were some who were crying out that they should be left to die because they were ready to meet Jesus. They had been totally and completely brainwashed to believe that his world is to their home and that they belong elsewhere.

The thing that I find very difficult to deal with as a practicing Christian is how to put the Mackenzie's of this world in the same sentence with my Bishop, Rev. Abraham Mulwa of the Africa Inland Church. I ask my Bishop to forgive me seeing that I can compare them as though I am comparing apples to apples. Something needs to be done and something must be done.

I have looked at the recommendations of this Committee very carefully from 135 and I have made three or four observations. I will be very brief on this one. There is a recommendation to probe the Kilifi County Security Committee and that responsibility is given to the DCI. My question is; when these people were dying wherever they were dying and being buried at Shakahola, the DCI was present. It has officers all over the country.

The DCI is a member of the Kilifi County Security Committee as is the National Police Service (NPS), the National Intelligence Service (NIS) and the County Commissioner. When we asked the DCI to investigate the Committee, are we asking the DCI to investigate themselves? What will happen if they find that the County Security Committee is culpable? What judgement are they likely to pass?

Mr. Temporary Speaker, Sir, I will build my case and conclude in two minutes. Allow me to go to the operationalisation of the National Forensic Laboratory. A very important recommendation has been made. I have had an opportunity to visit the Forensic Laboratory in Muthaiga. When I was taken round the facility, I was told that it is a state-

of-the-art facility only comparable to I think another one in South Africa. I was informed that we could investigate and conclude on any forensic issue, not just in Kenya but also in this region through that facility.

Mr. Temporary Speaker, Sir, we are telling the Cabinet Secretary to make sure that facility is operational. Somewhere within the same recommendations or the debate around the Shakahola happenings and on the Floor of this House, the character of the Cabinet Secretary has been brought to question, especially in his role of stopping witnesses from appearing before this Committee.

If that be the case, how then is it expected for the Cabinet Secretary to fast-track the operationalization of a facility that is meant to bring closure to a matter when he has personally brought in hurdles?

There are also recommendations to strengthen the Witness Protection Agency (WPA). This is open-ended, but the officers responsible for that would be the same Cabinet Secretary, the DCI and the National Intelligence Services (NIS).

Witness protection is an important component of any investigation in any country. I have previously said on the Floor of this House and I will repeat it that I am a journalist of long and good standing. The one thing you can never take away from a journalist is our vow to our profession; to never expose our sources of information. A good journalist will go to the grave with their source of information, if they have to.

Mr. Temporary Speaker, Sir, on a matter that has claimed the lives of more than 425 people, we need to protect witnesses and people that provide information. It is so basic and yet so crucial that before you begin any investigations, you start there. This is to ensure that the people who will appear before you and the people who will help you unravel the mysteries are given proper and real protection from abusers of law.

The case I was building was on the recommendations made by the Committee. I began by congratulating them for coming up with a proposed legislation on the registration of religious organization. It is a very good one. If *Ad Hoc* committees – and I am not blaming Sen. Mungatana and his team entirely for this – took the time they have, consumed the resources that they consumed and then all they can do is just make recommendations for further investigations, then, in my considered opinion, that should not be the direction *Ad Hoc* committees should take.

Mr. Temporary Speaker, Sir, my opinion is that, firstly, it must be difficult to form an *Ad Hoc* committee. It should not be that when people want anything, they form an *Ad Hoc* committee. The consideration for the formation of an *Ad Hoc* committee must be serious. Once they are formed, these committees should direct and not recommend.

I say this because if we take recommendations from an *Ad Hoc* committee – and I heard contributions from Members, including the Senate Majority Leader that *Ad Hoc* committees should make recommendations to Standing and Select Committees and investigative agencies.

What is the use of having an *Ad Hoc* committee? The best thing to do for *Ad Hoc* committees is to justify the time and resources. I do support that they should be sufficiently facilitated, including if need be, foreign travel to do comparative studies. If that is achieved - and I know it should be achieved - then *Ad Hoc* committees should make unequivocal directions to agencies of Government.

For example, what stopped this committee from directing that the Cabinet Secretary for Interior and National Administration to appear before the Committee of the

Whole of the Senate to specifically respond to questions around him stopping witnesses from appearing before the committee? A clear directive, but not a recommendation. What would have been difficult for this Committee to direct that the Head of Security in Kilifi County be sacked and prosecuted for negligence of duty, which led to the death of more than 429 people?

Mr. Temporary Speaker, Sir, we have been told from the opening remarks of the report that they are being transferred to other jurisdictions, perhaps to go and continue with the same work. We are beating the purpose of establishing *ad hoc* committees.

With those few remarks, I support the Committee for a job well done. I ask them to consider maybe in the course of the debate of this Committee, if they can be allowed to make their own reports and just two or three directives. Then we give ourselves some teeth to bite as a Senate.

I support.

The Temporary Speaker (Sen. Abdul Haji): Sen. Orwoba, please proceed.

Sen. Orwoba: Mr. Temporary Speaker, Sir, before I go ahead to give my comments on the report that has been submitted by this *Ad Hoc* Committee, I take note. I am a first time Parliamentarian and I am always reminded by senior Members that this is a House of order and procedures. We are guided by Standing Orders and continue to conduct our business within the framework of our Standing Orders and the procedures.

Having said that, it is important for me to point out that it is not proper that we sweep under the carpet the issue of the irregularity that the committee went ahead and engaged in. The *Ad Hoc* Committee that was set up is rooted from the Liaison Committee. The Liaison Committee as I am reminded, is under Select Committees. Under the Select Committees, we are guided by procedures and rules on how to conduct our meetings, how they are chaired and what not.

As a matter of fact, I had to go back and do a refresher course on my Standing Orders. From Standing Order No.197 to 228, you will see how committees conduct committee work, meetings and how all sorts of committee business is conducted. To have a group of Senators travel without the proper procedures and allegedly conduct committee work without the HANSARD---

I am informed that there was no HANSARD secretariat to sit down and document all the meetings and engagements that were being held and the witnesses they were allegedly going to see.

I ask myself because I am a new Senator, if we are a House of oversight, how then can we come and say that pastor Ezekiel or Makenzie or the Cabinet Secretary for Interior and National Administration are out of order, when we cannot follow our Standing Orders? How do we have the moral authority to allegedly table a report?

Mr. Speaker, Sir, as I weigh in on this ---

The Temporary Speaker (Sen. Abdul Haji): One moment, Sen. Orwoba. What is your point of order, Sen. Mungatana?

Sen. Mungatana MGH: Mr. Temporary Speaker, Sir, I had the rare privilege of chairing this Committee. The issue that Sen. Orwoba is raising has been canvassed before this House. In fact, we discussed it and the Speaker gave a ruling on it. Is it in order for her to resurrect the same matter, which the Speaker gave directions on in this House?

Maybe there are many other issues to debate in this report. However, is it proper for her to revisit an issue that has been debated, a direction and ruling given? To resurrect it is a show of bad faith on the part of the Senator. Maybe, you can give us guidance.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Faki?

Sen. Faki: Mr. Temporary Speaker, Sir, I have listened to Sen. Orwoba alleging that the select Committee is under the guidance of the Liaison Committee. Under which Standing Order does it provide that the select Committee is under the guidance of the Liaison Committee?

Number two, I have looked at the Standing Orders that she had alluded to. None of them supports the assertions that she is making before this House. We know she may be a novice Senator, but the mistakes that she is making are not proper.

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, Standing Order Nos.92, 93, 98 and 101 are clear. Sen. Orwoba is debating. In the rules of debate, you are not guided on what to say or not say.

I did not hear her trying to cast aspersion on the report. She is stating the fact that the select committee visited Mavueni without your approval. Let us deal with facts. There was no HANSARD and it is a fact.

Any Senator who travels outside of this country must get the permission and approval of the Speaker. Sen. Orwoba is in order to debate unless colleague Senators are trying to introduce new Standing Orders that you need to debate in a certain manner. The rules are clear that as long as you do not impute ---

(Loud Consultations)

Mr. Temporary Speaker, Sir, can you protect me from the shouting?

The Temporary Speaker (Sen. Abdul Haji): Can you conclude?

Sen. Cherarkey: Yes, I am concluding. They are shouting all over.

The Temporary Speaker (Sen. Abdul Haji): Conclude your point.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, maybe there are things they ate in Mavueni that is making them shout.

Standing Order No.101 is very clear on context of speech. Therefore, I request that Sen. Orwoba be protected to debate as she wishes. Even if she wishes to discuss the weather, so be it. The rules of debate are very clear.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Onyonka?

Sen. Onyonka: Mr. Temporary Speaker, Sir, we have no interest in stopping Sen. Orwoba from discussing matters pertaining to what transpired over the Shakahola investigations.

My problem is that this House needs to be left to do its job with integrity and ability without being blackmailed and being put on the spot. There are aspersions and allegations being laid out on this Floor by Sen. Gloria. Hon. Cherarkey thinks, that the reason we went to Kilifi County was to go and "eat", the way he normally likes to "eat".

Sen. Cherarkey, we do not like “eating” as much as you do. We went to Shakahola, let me inform you, to get the information without having it on the HANSARD, for the simple reason that what we wanted to get was information that was validating what we had already tabled in the HANSARD. So, do not mislead Sen. Orwoba to deal with non-issues. Let her deal with the issues of why we got Shakahola.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, what is your point of order?

Sen. Mungatana MGH: Mr. Temporary Speaker, Sir, it is not in my habit to intervene on point of orders because I like to listen to debates and hear what people have to say. However, did you hear Hon. Cherarkey quoting Standing Order Nos. 93, 92, 98 and 101. None of those are relevant to what he is saying?

Mr. Temporary Speaker, Sir, it is not fair to stand up, take the time of this House and talk about things that are not relevant. Earlier in the day, Hon. Sen. Sifuna had raised the question of frivolous points of order.

We request that we who want to listen, be allowed to do so, without interventions that are not adding any value. Guide the young Senator to stick to the issues. They should not try to go back to rulings that have been made in this House.

Mr. Temporary Speaker, Sir, this is a House of order. If someone does not want to listen, they can go and make noise outside, not in the House.

The Temporary Speaker (Sen. Abdul Haji): Thank you. Hon. Senators, I have followed all the points of order. I would like to start by first of all cautioning Sen. Orwoba and refer her to Standing Order No.101(2), that it shall be out of order to introduce an argument which has already been discussed in this House. So, while making your submission, stay away from grey areas, if you are not sure.

Sen. Cherarkey, I will refer you to Standing Order No.120 on irrelevant repetition and quoting of Standing Orders, which were not relevant to your point of Order. You stated several Standing Orders. You should have stuck to the one which was particularly important to your point of order. So, on that one, I will caution you.

Sen. Orwoba, please proceed with your submission.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. I stand guided. Allow me---

The Temporary Speaker (Sen. Abdul Haji): One more thing, Sen. Orwoba, you mentioned that you are still fairly new in understanding the Standing Orders. When a Senate Committee is sent out, it is not necessary that it has to be recorded on HANSARD or that there has to be a secretariat. What is important is what is captured in the report. That is why you are making your submissions now on the report.

Sen. Orwoba: Mr. Temporary Speaker, Sir, I stand guided. Kindly protect me. For the record, let it be noted that all the Standing Orders that I mentioned from 197 to 228, guide us on matters business that is being conducted under select Committees.

Mr. Temporary Speaker, Sir, I find it extremely difficult each and every day when we come to give contributions, particularly us young women Senators, that we keep on getting all this. I have heard Sen. Mungatana MGH, stand up and say, “guide the young Senator.” Some of these terminologies and allusions of discriminating Senators based on their gender and age must stop.

Mr. Speaker, Sir, as I continue to give my submissions---

The Temporary Speaker (Sen. Abdul Haji): Sen. Orwoba, just a moment. Just to understand you, do you have an issue with being called young by Sen. Mungatana? You have been referred to as a young person.

Sen. Orwoba: It is the context in which the Senators used it. It is demeaning, it is downgrading. We are tired. Allow me to continue with my submission.

Sen. Mungatana, MGH: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, what is your point of order?

Sen. Mungatana, MGH: The hon. Sen. Orwoba. Let me just say, the very hon. Sen. Orwoba said in her submissions that 'we young Senators who are novices are learning'. Am I not in order to just refer to her as a young Senator having heard her refer to herself as young?

With due respect, I am pleading with the House, if you have content, let us hear the content. We have sat here. There are so many Senators here who want to hear content. We do not want drama. We just want to hear content.

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I seek your direction on Standing Orders No.1 and No. 98. Under these Standing Orders, there is nowhere it says young or old Senator; it says, Senator.

(Sen. Orwoba consulted loudly)

The context of saying the young Senator is wrong. It is like saying the woman Senator or the old Senator. The Standing Order refers to only a Senator. It does not say the young, old, woman or PwD Senator. Let us follow the Standing Orders.

(Loud consultations)

Some of us will not be intimidated by shouts. I can tell you for free.

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, if I may rule on this. The reference that Sen. Mungatana made was directly picked up from your own comments, Sen. Orwoba.

(Sen. Orwoba consulted loudly)

No! No! Sen. Orwoba when you were making your submissions, you declared that you are a novice and young Senator.

(Sen. Orwoba consulted loudly)

Do not engage the Speaker, Sen. Orwoba. Just listen. The phrase young or youthful is a terminology of fact. You cannot walk away from it. The thing is hon. Senators, we all know of the old adage that says you cannot have your cake and eat it. Being youthful and young cannot only be used to your advantage.

Parliamentarians also have the Kenya Young Parliamentarian Association (KYPA), which I am sure you subscribe to. So, the terminology of facts still remains that you are a Member who is youthful; young or novice as Sen. Faki put it. So, do not take offence with that terminology.

Please proceed.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. I am guided by the old Senator. As you said, I am guided not to talk about whether or not it was against our Standing Orders.

My message is that we should continue to hold our Standing Orders high and remember that even as we are sent out there, there are procedures. We must follow them so that when we are tabling any report here, it can be taken with the seriousness that it deserves and we will not be suspicious of anything.

Having said that, there are two things that have come out. In the report, there is a whole section that talks about cults, the definition of cults and all that. However, I have not seen a recommendation where the committee says that we will legislate around the illegality of cults.

As I have said before, the problem we have is that we have no legal definition of what constitutes a cult. We also do not have a legal definition of what constitutes occult behaviour.

Recommendation 5.2 of the report states that we must regulate religious institutions. I am Christian, but I ask this, who is going to play God? Who will say, I am God, and I will regulate a denomination like the Seventh Day Adventist and state that from today, they must eat meat? Who is going to say, "I am God, I will regulate the Catholics not to use the rosaries and what not? That is completely insane."

Mr. Temporary Speaker, Sir, I find it very disappointing, that a whole Committee can sit down and decide to regulate religious institutions. Where do you start? Who will act God? Who will decide that the Catholics have ---

Sen. Mungatana, MGH: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, what is your point of order?

Sen. Orwoba: Mr. Temporary Speaker, Sir, I must be protected. Those are frivolous points of order.

The Temporary Speaker (Sen. Abdul Haji): Sen. Orwoba, no, it is not for you to determine.

Sen. Mungatana, MGH: Thank you, Mr. Temporary Speaker, Sir. It is obvious that the hon. Senator who is addressing us has not read the report. She has not understood what self-regulation is or regulation of religious organizations is all about. When talking about regulation of religious organizations, we are not talking about rosaries or telling followers to eat meat or not.

For someone to use words like insane and you are the one who has not understood what we are talking about--- If you do not have content, please allow other Senators who want to debate to debate.

(Loud consultations)

(Sen. Orwoba spoke off record)

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr Temporary Speaker, Sir, I am rising under Standing Order No. 105 read together with Standing Order No.101.

Sen. Orwoba has used terms like it is insane that this Committee would make certain recommendations, which borders on throwing aspersions on the entire Committee. It is improper to take a section of the report or a line that perhaps was a summary. The Committee has provided to this House an entire legislative proposal in that report on ---

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

Sen. Oketch Gicheru: I am on a point of order. What is wrong with the Senator?

Mr. Temporary Speaker, Sir, there is an entire legislative proposal on how to handle the misgivings that we are seeing in the religious institutions. If you have not read this report, how can we even have a dialogue in this House? I beg the Members of the House, that the issue of Shakahola is not a theatre for drama or for some cheap popularity on the Floor of this House, since, there are serious lives that were lost.

I wish hon. Senators would discuss the issues we have raised in a way that can give some families who have not buried their beloved ones, some solace. I plead with Senators not to use this Floor as a theatre of politics and drama when they have a report on their hand with very well detailed stuff.

Sen. Orwoba, there is a whole legislative proposal with regards to what you are quoting. Take your time, go read and come back to the House when you are able to contribute meaningfully.

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

The Temporary Speaker (Sen. Abdul Haji): Sen. Methu, what is your point of order?

Sen. Methu: Thank you very much, Mr. Temporary Speaker, Sir. I do not want to take much of your time, as I know many Senators want to contribute to this Motion.

I rise pursuant to Standing Order No.101 (4) on imputing improper motives on your colleagues. I know Hon. Sen. Mungatana is worked up because they committed a lot of their time and energy trying to look into this issue. However, as it is in the rules of debate, we must be tolerant with each other. You must tolerate my thoughts and my thinking. That is the reason why this report has to be brought to the House, so that we can debate, enrich it and share our thoughts.

Mr. Temporary Speaker, Sir, you must find Sen. Mungatana out of order. First, because of imputing that Sen. Orwoba has not read the report. This is because he has no evidence that she has not read it.

Sen. Cherarkey: Correct!

Sen. Methu: Kindly allow me to just make to my final comment.

The Temporary Speaker (Sen. Abdul Haji): You are protected, Senator.

Sen. Methu: Mr. Temporary Speaker, Sir, you must then also find him out of order to impute that Sen. Orwoba does not have content. He actually said, that "if you do not have content, sit down and allow the other Senators to contribute." You must find the Chairperson of the Select Committee, Sen. Mungatana, out of order. He must withdraw, apologize and take his time.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, you had already made a point of order. Go ahead and make your point of order.

(Loud Consultations)

It is because you mentioned him specifically.

Sen. Mungatana, MGH: Yes, Mr. Temporary Speaker, Sir, So, I have a right of reply.

Sen. Methu has stated that I said that Sen. Orwoba has not read the report. There was a great Member of Parliament (MP), Mr. Jean-Marie Seroney, who when challenged to substantiate, he said, you cannot substantiate the obvious.

Mr. Temporary Speaker, Sir, when someone stands and says regulation of churches means to tell them not to eat meat, if they are Seventh Day Adventist (SDA), that is a person who has not read the report. When you say the Catholics should not use the rosary, that is a person who has not read the report. She is completely out of order because she is misinforming the public using this prime podium to say things that are not in the report.

I want to quote again for the satisfaction of Sen. Methu, that we cannot substantiate the obvious.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, as you rule, I agree that every Member has a right to rise on a point of order. Is it in order for the Sen. Mungatana to assert that there are Members of the Senate who do not have content or have not read the report? Does he have a readometer to know who has read to which level?

In conclusion, the reason this report was brought before the Floor of the House, with a lot of tremendous respect, was for us to debate on it. If the Committee felt that some of us would not give an opinion of what they did, then what is the reason for having this debate? Sen. Mungatana, should be ruled totally out of order. He cannot cast aspersions. He has said, 'we have the prime platform.' You can imagine Kenyans will now believe that Sen. Orwoba does not have content yet we know that she is one of the finest Senators in this House.

Mr. Temporary Speaker, Sir, you must protect your Members. We do not want the Senator to be harassed on the streets because Sen. Mungatana, has said something. She is one of the best and finest that we have.

(Sen. Madzayo and Sen. Oketch Gicheru spoke off record)

The Temporary Speaker (Sen. Abdul Haji): Sen. Madzayo and Sen. Oketch Gicheru, you cannot direct the Chair.

Sen. Cherarkey: Correct. They should be thrown out!

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, I would like to refer you to Standing Order No.101(3). This is specifically for Sen. Orwoba while you are making a submission. It states that-

"It shall be out of order to use offensive or insulting language, whether in respect of Senators or other persons."

As you are making your submission, try to use parliamentary language and avoid attracting this point of order---

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir---

The Temporary Speaker (Sen. Abdul Haji): Just one moment, Sen. Orwoba. I also refer you all to Standing Order No.101(4). It states-

“No Senator shall impute improper motive to any other senator or to a member of the National Assembly except upon a specific substantive Motion of which at least three days’ notice has been given calling in question the conduct of that Senator or Member of the Assembly”.

Kindly be guided by these Standing Orders.

You have five minutes Sen. Orwoba.

Sen. Orwoba: Mr. Temporary Speaker, Sir, I have read the report in depth. I have been waiting to contribute to this Motion since Wednesday. On Thursday, I sat here until 6.30 p.m., the time for adjournment of the Senate. Yesterday, I was also waiting for my chance to contribute. I can see that the clerk at the table has put the light on, yet my time was interrupted.

In recommendation 502 on page 155–

"The committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023, to provide a legislative framework for regulating religious organisations."

Who will play God? Who will be the regulator of these religious institutions? This person must be higher and more significant than religious institutions. Essentially, this person must be God. I am specially elected to represent women.

The Temporary Speaker (Sen. Abdul Haji): Sen. Orwoba, which page did you read?

Sen. Orwoba: Mr. Temporary Speaker, Sir, I read page 155, paragraph 502. I can reread the recommendation.

"The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023, to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offenses and penalties for non-compliance among others." I went to St. George’s Girls’ Secondary School and know what I am doing here. Who will play God? I do not want to go further on this.

There is another recommendation for cleansing social media. There is a directive to the Communication Authority of Kenya to regulate the licenses being given. The moment we regulate licenses of religious institutions means regulating music because we do not want certain stations to be granted licenses to play reggae. Who knows what we think about reggae?

The moment we start talking about religious institutions being treated in a particular manner, like acquiring licenses to spread the gospel and recruiting followers of Jesus Christ, when will you stop? This will mean that we will also regulate other content.

The Chair of the Committee should be tolerant of our divergent views. He understands that regulating religious institutions would mean something other than regulating the basic nitty gritty. What will you regulate, if not the activities of the religious institutions? It would be best if you held their activities.

The Shakahola incident happened because of cults. We have not legally defined a cult or made it illegal to explain specific actions as cultic actions. Instead of regulating religious institutions, give us recommendations on how we will define cults and cultic practices so that anyone who is seen doing a certain activity can be pointed out as a cult. This illegality can lead to arrest. Telling us that you will regulate religious institutions and use Parliamentary language in the process does not make it proper. Perhaps, if the Senate *Ad Hoc* Committee was not too quick to---

(Sen. Orwoba's microphone went off)

The Temporary Speaker (Sen. Abdul Haji): I will add you one more minute to conclude.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. They should not have been too quick to start poking holes on other things. I have heard that the Cabinet Secretary was apparently an impediment in so many things.

They could have come and talked to us, religious people, who actually understand what it means. We could have weighed in and given them all these things that we think could help in the report.

I do not support this report. I still stand that this is a House of procedures, which must be followed. No Senator is bigger than another Senator. He could be older and I could be younger, but the Standing Orders and the procedures are there for all of us.

I beg not to support this report.

The Temporary Speaker (Sen. Abdul Haji): Sen. Madzayo, you have the Floor.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika wa Muda. Nisamehe kidogo, hali yangu ya afya kidogo iko na tatizo kwa hivyo sauti yangu haiko sawa. Nina mafua ya mvua ya *El Nino* na kadhalika.

Kwanza, natoa kongole kwa kamati yetu ambayo tulituma kwenda kufanya hii kazi ya kuchunguza maafa yaliyotokea huko Shakahola katika Kaunti yangu ya Kilifi, ninayowakilisha katika Seneti.

Kamati hii ilifanya kazi ngumu sana. Kazi ya kusikitisha lakini ilikuwa ni sharti waifanye kulingana na yale maafa yaliyotokea. Nampa kongole aliyekuwa Mwenyekiti, Sen. Mungatana na kamati yake kwa kazi waliyoifanya.

Jambo la pili, mimi kama Seneta wa Kilifi, vile nivyoifanya kazi katika mahakama ya Kenya na Kiongozi wa Walio Wachache katika Seneti hii, nakemea sana wale watu waliokataa kuhojiwa na kamati hii. Katika kazi ngumu iliyofanyika, kuna watu waliotakiwa kuhojiwa na hii kamati. Lakini wengine wao waliambiwa wasiende na wengine, wakajipa shughuli ili wasiweze kufika mbele ya kamati hii.

Bw. Spika wa Muda, kamati ya Bunge ni kamati muhimu sana. Ikiwa haswa kamati hiyo imeundwa na Bunge, ni lazima iheshimiwe. Tumeona kwamba kuna watu fulani wenye mamlaka Serikalini, wanawaambia mashahidi fulani wasiweze kufika mbele ya kamati hii. Hili ni jambo ya kusikitisha.

Kule Shakahola, miili mingi ilipatikana ikiwa imetupwa ama imefukiwa huko. Shughuli kubwa sasa ilikuwa ni kuwafukua. Wengi wa wale watu ni watu ambao hawakutoka katika ile sehemu ya Shakahola. Hili lilikuwa na tukio la kusikitisha sana.

Watu hawa walifanyiwa maafa wakiwa mbali na nyumbani mwao. Walikuwa wametoka maeneo kama vile kaunti za Magharibi, kaunti kama Kakamega, vile Sen. (Dr.) Khalwale alivyokubaliana, na pande zote katika nchi ya Kenya.

Ni kama kulikuwa na mipango maalum kwa sababu hawa ni watu ambao waliuliwa huko. Ni jambo la kusikitisha ya kwamba, tuko na Serikali na mpaka wa leo, haikuweza hata kidogo kutambua wale watu waliowaua wengine. Hao watu waliwaua na kusafirisha miili zaidi ya 500 kutokea pande zote za Kenya hadi Kilifi County, Shakahola kuwazika huko. Ni jambo la kusikitisha ya kwamba leo tunasema, tuko na Serikali.

Ni Serikali gani mbayo inaweza kuona maafa ya namna hiyo yakitendeka humu nchini na iwe haijui ama haiwezi sema hao watu waliuawa wapi na ilikuwa namna gani mpaka wakapatikana sehemu za Shakahola. Hilo ni jambo la kusikitisha sana.

Bw. Spika wa Muda, tumekuwa na maafa katika Mkoa wa Pwani, kuanzia Lunga Lunga mpaka Kismayu. Watoto wetu wa kiume wamekuwa wakipotea kutokea manyumbani. Ukienda Old Town saa hizi, kuna wajane wa wasichana wadogo na kina mama. Ukienda maeneo mbalimbali ya Kilifi, kuna wajane wa vijana barubaru waliokuwa wakiishi na wakifanya kazi zao. Mpaka leo, miili hiyo haijapatikana kutoka wapotee katika mikono ya polisi.

Pia miili hii haijapatikana. Ni kumaanisha ya kwamba, uchunguzi ufanywe katika ile miili iliyofukuliwa kiaibu kule Shakahola. Inaweza kuwa watoto wetu waliopotea. Ikiwa ni Mombasa, Kwale, Kilifi, Lamu na Taita Taveta, kwa wale watoto wetu wote waliopotea. Pengine tunajua wengine ni hao walio hapo Shakahola.

Jambo ninalotaka hii kamati iweze kupendekeza au iongeze ni ya kwamba wale wazazi wa Kiislamu na Kikristo waliopoteza watoto wao, wapeane *Deoxyribonucleic acid (DNA)* zao ili zichukuliwe na zipimwe na ile miili iliyohifadhiwa kule Malindi na Dr. Oduor. Ili huyu daktari atambue na aseme kama kuna wale watoto wetu waliopotea. Ili pia tuweze kujua na kuregeshewa ile miili ya watoto wetu ndio tuwazike na tujue kwamba wamepatikana. Sasa tunawazika tukijua hatutawaona tena, kuliko kujua walipotea katika mikono ya polisi na hatukuchukua hatua yeyote sisi wenyewe. Serikali ambayo sisi husema tuko nayo, haikufanya lolote, ilihali, Katiba inasema maisha yanalindwa na Serikali

Bw. Spika wa Muda, vilevile, sisi watu wa Kilifi Kaunti ni watu wakarimu sana. Tumeletewa aibu ya kitaifa ambayo hatujaiona na ndiyo sababu nilikataa kuketi kwa hiyo kamati. Kwa sababu, aibu kama hii imetendeka na vile vigogo vya polisi bado vipo Kilifi.

Bw. Spika wa Muda, ukiniruhusu, ninaweza kukuelekeza ukurasa wa 425 iliyo na wale wakuu wa polisi waliotajwa hapa. Kuna Joseph Kemboi, aliyekuwa *Senior Superintendent of Police*, Charles Kamau Wanguhu, *Assistant Superintendent of Police*, Malindi, Solomon Odera, *Superintendent of Police, Sub-County Police Commander*, Agamso Guracha, *Superintendent of Police, Critical Infrastructure Protection Unit*, Augusto Okumu, *Officer Commanding Station*, Malindi, Hassan Habara, *Officer Commanding Station*, Lango Baya na Calvin Maloa Otieno, *Directorate of Criminal Investigations* – mtu wa mambo ya jinai hapo Malindi.

Pia, kulikua na Daniel Muthusi Muleli, *County Criminal Investigation Officer, Kilifi*. Jacinta Wesonga---

The Temporary Speaker (Sen. Abdul Haji): Sen. Madzayo, sorry for interrupting. The Debate of this report will resume and as the Senate Minority Leader,

you will have a balance of 51 minutes to make your contribution as per our Standing Order No.111(4)(a).

ADJOURNMENT

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, it is now 1.00 p.m. time to adjourn the Senate. The Senate, therefore, stands adjourned until today, Wednesday, 29th November, 2023 at 2.30 p.m.

The Senate rose at 1.00 p.m.