

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th May, 2024

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): Hon. Senators, I am informed that we now have quorum. Clerk, kindly proceed to call the first Order.

PETITIONS

The Speaker (Hon. Kingi): Chairperson, Standing Committee on National Security, Defence and Foreign Relations, kindly proceed.

REPORT ON PETITION: ALLEGED RAMPANT
LIVESTOCK THEFT IN KAJIADO COUNTY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations, I beg to lay the following petitions reports on the Table of the Senate, today, 15th May, 2024-

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Report of the Standing Committee on National Security, Defence and Foreign Relations on a petition to the Senate by the residents of Kajiado East and West sub-counties concerning the alleged rampant livestock theft in the region and within Kajiado County in general.

REPORT ON PETITION: NON-FULFILLMENT OF A
COURT ORDER AND DECREE MADE IN 2011

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, this is the report of the Standing Committee on National Security, Defence and Foreign Relations on a petition to the Senate by Mr. Isaiah Ochanda, an employee of the former Department of Defence, concerning the non-fulfilment of a court order and decree made in 2011, against the Ministry of Defence and the Attorney-General, and the non-payment of Disability Pension from 1996 to date.

REPORT ON PETITION: PERSISTENT INSECURITY
IN SAMBURU CENTRAL SUB-COUNTY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, this is the report of the Standing Committee on National Security, Defence and Foreign Relations on a petition to the Senate by residents of Samburu County, concerning persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Divisions of Samburu Central Sub County.

I thank you.

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

The Speaker (Hon. Kingi): Let us go to the next Order.

PAPERS LAID

REPORT ON ELGEYO-MARAKWET COUNTY
ASSEMBLY RESOLUTION ON MEASURES TO CURB
BANDITRY IN KERIO VALLEY

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 15th May, 2024-

Report of the Standing Committee on National Security, Defence and Foreign Relations on the Elgeyo-Marakwet County Assembly resolution on measures to curb banditry in Kerio Valley.

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REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS ENTITIES

The Senate Majority Leader (Sen. Cheruiyot): Further to that, I also beg to lay the following Papers as well-

Report of the Auditor-General on Financial Statements of Thika Municipality for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kikuyu Municipality for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kiambu County Jiinue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of County Assembly of Embu Car Loan and Mortgage (Members) Schemed Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Trans Nzoia County Public Service Board for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kakamega Municipality for the year ended 30th June, 2023.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Let us go to the next Order.

NOTICE OF MOTION

ADOPTION OF REPORT ON ALLEGED IRREGULARITIES
IN PROCUREMENT OF LONG-LASTING
INSECTICIDE TREATED NETS

The Speaker (Hon. Kingi): Let us have the Chairperson of the Standing Committee on Health or any Member of that committee.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate adopts the report of the Standing on Health on the inquiry into alleged irregularities in the procurement of long-lasting insecticide treated nets at the Kenya Medical Supplies Authority (KEMSA), laid on the Table of the Senate on Wednesday, 8th May, 2024.

COMMUNICATIONS FROM THE CHAIR**SUBMISSION OF REPORTS ON IMPLEMENTATION
OF BUDGETS TO SENATORS BY THE CoB**

The Speaker (Hon. Kingi): Hon. Senators, before I allow the Clerk to call the next order, allow me to make the following Communication.

Hon. Senators, as you may recall, at the sitting of the Senate held on Tuesday 19th March, 2024, the Senate Majority Leader, Sen. Aaron Cheruiyot MP, rose on a point of order seeking the intervention of the Speaker on the submission to Parliament by the Controller of budget (CoB) of the reports on the implementation budgets of the national and county governments.

In the point of order, the Senate Majority Leader highlighted that from previous practice, quarterly reports on implementation of the budgets of the national and county governments submitted to Parliament by the CoB were made available to Senators in their designated pigeon holes.

The Senator further stated that in the recent past, he noted a deviation from the established practice expressing concern that the lack of submission of the reports by the CoB was hindering the Senators' ability to effectively fulfill their oversight function. To this end, the Senate Majority Leader sought the guidance of the Speaker to require the CoB to resume submission of the quarterly reports to the Senate.

(Sen. (Dr.) Murango consulted loudly)

Sen. (Dr.) Murango, the Chair must be heard in silence.

To this end, the Senate Majority Leader sought the guidance of the Speaker to require the CoB to resume submission of the quarterly reports to the Senate and reinstatement of the practice of making the reports available in the Senators pigeon holes.

Hon. Senators, the point of order raised by the Senate Majority Leader was supported by the Senator for Kisii County, Sen. Richard Onyonka, MP and the Senator for Narok County, Sen. Ledama Olekina, MP, who expressed concern that vital information on the reports of the CoB was available in the media before submission of the reports to the Senate. The Senators further highlighted concern about potential misrepresentation of the reports by the CoB in the media.

Upon listening to the contributions made by the Senators on the point of order raised by the Senate Majority Leader, I directed that the CoB appears before the Senate on Wednesday 27th March, 2024 to respond to the concerns raised by the Senators on the matter and to give an undertaking on the submission of the reports to the Senate.

Hon. Senators, Article 228(6) of the Constitution requires the CoB to submit to each House of Parliament a report on the implementation of the budgets of the national and county Governments. I have perused the report on Papers Laid in the Senate to ascertain whether the CoB has been adhering to the provisions of the Constitution referred to herein above and to establish that the reports on the budget performance for county and national governments have been submitted to the Senate.

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- From the report, the CoB has submitted the following-
- (1) Annual County Government's Budget Implementation Report for the Financial Year 2021/2022 first half.
 - (2) Annual National Government's Budget implementation Review Report for the Financial Year 2021/2022.
 - (3) County Governments' Budget Implementation Review Report for the Financial Year 2021/2022, first nine months.
 - (4) County Governments' Budget Implementation Review Report for the Financial Year 2021/2022, first quarter.
 - (5) Annual County Governments' Budget Implementation Review Report for the Financial Year 2021/2022.
 - (6) County Governments' Budget Implementation Review Report for the First Quarter of the Financial Year 2022/2023.
 - (7) National Government's Budget Implementation Review Report for The First Quarter of the Financial Year 2022/2023.
 - (8) National Government's Budget Implementation Review Report for the Financial Year 2021/2022.
 - (9) National Government's Budget Implementation Review Report for the first half of the Financial Year 2022/2023.
 - (10) County Governments' Budget Implementation Review Report for the first half of the Financial Year 2022/2023.
 - (11) National Government's Budget Implementation Review Report for the first nine months, May 2023.
 - (12) County Governments' Budget Implementation Review Report for the first nine months of May 2023.
 - (13) National Government's Budget Implementation Review Report for the Financial Year 2022/2023.
 - (14) Annual County Governments' Budget Implementation Review Report for the Financial Year 2022/2023.
 - (15) National Government's Budget Implementation Review Report for the first three months of the Financial Year 2023/2024.
 - (16) National Government's Budget Implementation Review Report for the first six months for the Financial Year 2023/2024.
 - (17) The County Governments' Budget Implementation Review Report for the first half of the Financial Year 2023/2024.

These reports were tabled before the Senate on diverse dates between the 6th October, 2022 and 5th March, 2024 and subsequently, referred to Standing Committee on Finance and Budget. The reports are available for circulation to all hon. Senators through the Senate journals office.

Hon. Senators, that being the case, the matter of the appearance of the CoB before the Senate therefore does not arise. The matter rests there.

I have the following further Communication to make. I will allow hon. Senators to walk in and take their seats before I make this Communication.

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(Several Senators walked into the Chamber)

The Senate Majority Leader, you cannot rise on a point of order at this juncture. Please proceed to seek your clarification.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I thank you for your Communication before the House. I respect it, but greatly feel that it falls far way below the expectation of the House in the sense that, it addresses only part of what was raised. However, there are other issues not addressed in your Communication. Maybe you can guide the House.

Mr. Speaker, Sir, a reading of Article 228 (6) is not only plain. In law, they speak of the letter and the spirit. While the letter speaks of four months quarterly, the spirit, which is indeed what led to Members intervening that afternoon, has been that these reports were sent on a month by month basis.

There is a history to this. I was a Member of the Committee on Finance and Budget at that time when we had a meeting with the then CoB. We agreed that for Senators to perform their oversight duties prudently, then it is important that a Senator is furnished with the monthly reports on a month by month performance of their county. Out of that meeting, they began sending those reports to our pigeon holes. Therefore, I do not think that has been sufficiently addressed. The reason I had requested that you ask her to come here is so that she understands the history of how we arrived at that decision.

In fact, we had grown that conversation to a level where we said, apart from just dropping it in our pigeon holes, we live in the 21st century, a digital age, I submit my official email address to be furnished with that report.

By the time this Senate made that resolution, that was the eventual decision and the finding of the House. Therefore, I felt it was important for this current CoB to come before us, so that she appreciates the history. Unfortunately, your letter addresses the letter of the law, but not the spirit of it.

Therefore, I agree with your ruling. I do not challenge it, but plead with you that through other means, you find ways of communicating with her so that she appreciates why it is important for Senators to have month on month reports on what their governors are doing with the finances that are being sent to their specific counties. That makes you a better Senator so that, you do not speculate or rumor monger, but do things which you know are accurate and verified from Government reports.

If that can be addressed, then I feel that the point of order will have been sufficiently dispensed with.

I humbly submit.

The Speaker (Hon. Kingi): Thank you, the Senate Majority Leader. As far as the Constitution goes, the CoB has discharged her constitutional obligation. However, I hear you, that beyond the constitutional requirements, there was an agreement between the Senate and the CoB. They sat and agreed that, instead of these reports being transmitted quarterly, they be transmitted monthly.

We do not need to summon the Controller of Budget (COB) before Plenary to achieve that. It will be done administratively through the office of the Clerk. The office of the Clerk is now obligated that whenever these reports are received, other than

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committing them to the Standing Committee on Finance, they must be made available to all senators by depositing the same in the pigeonholes. This way, they can read and see the performance of their counties.

Clerk, going forward, you may have to engage the office of the CoB to submit monthly reports. I believe that can be done administratively without having to summon the CoB to appear before the plenary. Let us rest this matter there.

(Several Senators walked into the Chamber)

Hon. Senators, take your seats. I need to make this communication.

SUBSTANTIATION BY SEN. CHERARKEY
ON FACILITATION OF THE DEPUTY
GOVERNOR OF SIAYA COUNTY

The Speaker (Hon. Kingi): Hon. Senators, as you may recall, at the sitting of the Senate held yesterday, Tuesday, 14th May, 2024, I directed Sen. Samson Cherarkey, MP to substantiate utterances made in the course of debate, following a point of order raised by the Senator for Siaya County, Sen. (Dr.) Oburu Oginga, MP, pursuant to Standing Order No.105(1).

Standing Order No.105 provides, and I quote-

(1) “A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order No.121 (Disorderly conduct), unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Hon. Senators, in the point of order raised by Sen. (Dr.) Oburu Oginga, MP, Sen. Samson Cherarkey, MP, was required to substantiate the claim that --- “For example, we have seen that the deputy governor of Siaya County cannot access his office. He does not have a vehicle, fuel or any resources allocated---”

Sen. Samson Cherarkey, MP, was not able to substantiate his statements as required pursuant to Standing Order 105(1), and subsequently requested by the Speaker to provide the evidence at the next sitting day in accordance with standing Order No.105 (2). Having acceded to the request, I directed that the Senator substantiates the allegations at the next sitting day.

Pursuant to Standing Order No.105 (2), I now invite Sen. Samson Cherarkey, MP to forthwith substantiate the claims, as raised in the point of order by Sen. (Dr.) Oburu Oginga, MP, failure to which, the Senator shall be deemed to be disorderly within the meaning of Standing Order No.121. In the absence of such substantiation, the Senator will be required to withdraw the statements and apologise to the Senate.

I thank you.

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Senator for Nandi, you may proceed to substantiate.

Sen. Cherarkey: Mr. Speaker, Sir, thank you for allowing me to---I do not know whether I can table my phone because I have a Petition electronically. It is an official letter from the Deputy Governor of Siaya, Dr. William Oduol, to the Clerk of the Senate, indicating that he cannot access his office, he does not have utility car and security officers. The Petition has been sent through the Clerk of the Senate of the Republic of Kenya, requesting the intervention of the Senate.

Mr. Speaker, Sir, what I was saying yesterday is already in a Petition and in a letter to the Committee on Devolution and the Clerk of the Senate. The official Petition that I have has also been shared to you through the Committee on Devolution.

I beg to table my phone--- sorry, I know somebody can disappear with my phone, yet it is a high security gadget. There are dangerous things that if Sen. Maanzo sees them, the world might come to an end.

(Laughter)

I proceed to table the document on Petition in soft copy. I thank you.

The Speaker (Hon. Kingi): Senator for Nandi, in 20 minutes, make a hard copy, then bring it, and table it in hard copy.

Next Order.

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

Hon. Senators, at this juncture, you will allow me to re-arrange the sequence of today's Order Paper pursuant to Standing Order No.45(2). I am doing this for the convenience of the House. We will proceed immediately with Order No.8. Thereafter, we will move to Orders No.10 and No.11 before resuming the normal flow of business as contained in today's Order Paper.

Clerk, you may proceed to call that Order.

BILL

Second Reading

THE MATERNAL, NEWBORN AND CHILD HEALTH BILL (SENATE BILLS NO.17 OF 2023)

(Sen. Ogola on 16.4.2024)

(Resumption of debate interrupted on 8.5.2024)

The Speaker (Hon. Kingi): Sergeant-at-Arms, ring the Division Bell for one minute.

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(The Division Bell was rung)

Serjeant-at-Arms, kindly proceed to close the Door and draw the Bars.

(The Door was closed and Bars drawn)

Order, Hon. Senators. Kindly take your seats so that I can put the question.

Sen. Madzayo and Ledama, kindly take your seats.

Order Hon. Senators. Take your seats. I will proceed to put the question.

Now, hon. Senators, voting shall be done electronically. So, at this juncture, I will ask you to pull out your cards from the delegate unit. Sergeant-at- Arms, just go around and pick unattended cards.

Sergeant at Arms, are we done?

Good, Hon. Senators, you may now log back into the delegate unit and proceed to vote.

(Electronic voting in progress)

Hon. Senators, vote. Some of you are not voting.

Can you vote, Hon. Senators? Whoever has a problem with the system will be assisted.

Clerk, can we get to know the ones who had difficulties in voting?

Hon. Senators, those who had difficulties, kindly proceed to the Dispatch Box and cast your vote.

Second Reading

THE MATERNAL, NEWBORN, AND CHILD HEALTH
BILL (SENATE BILLS NO.17 OF 2023)

DIVISION

ELECTRONIC VOTING

*(Question that the Maternal, Newborn, and Child Health Bill
(Senate Bills No.17 of 2023), be read a Second Time put, and the Senate proceeded to
vote by county Delegation)*

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County, Sen. Boy, Kwale County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Lomenen, Turkana County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mariam Omar, Mandera County;

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Sen. Mungatana, MGH, Tana River County; Sen. Murgor, West Pokot County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Olekina, Narok County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; and, Sen. Wambua, Kitui County.

NOES: Nil.

The Speaker (Hon. Kingi): Order! Hon. Senators. Sen. (Dr.) Khalwale, please, resume your seat. Hon. Senators, the results of that Division are in and are as follows-

AYES: 25

NOES: 0

ABSENTION: Nil.

The "Ayes" have it.

(Question carried by 25 votes to Nil)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

The Speaker (Hon. Kingi): Serjeant-at-Arms, you may now open the doors and draw the Bar.

Next Order, Clerk.

COMMITTEE OF THE WHOLE

(Order for the Committee Read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Mumma) in the Chair]

THE GAMBLING CONTROL BILL (NATIONAL
ASSEMBLY BILLS NO.70 OF 2023)

The Temporary Chairperson (Sen. Mumma): Hon. Senators, we are now in the Committee of the Whole, and we will be looking at the Gambling Control Bill (National Assembly Bills No.70 of 2023). We also look at the Conflict of Interest Bill (National Assembly Bills No.12 of 2023), and the voting will be done at the end of talking.

Hon. Members, we are now on the Gambling Control Bill (National Assembly Bills No.70 of 2023).

I am informed that Sen. Wakili Sigei has two amendments.

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Clause 10

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move- THAT clause 10 of the Bill be amended by inserting the following new paragraph immediately after paragraph (n)—

(na) in collaboration with the Kenya Revenue Authority, established under section 3 of the Kenya Revenue Authority Act, establish a monitoring system for tax compliance under this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 87

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move - THAT clause 87 of the Bill be amended—

- (a) in subclause (2) by deleting paragraph (e); and
- (b) by deleting subclause (4) and substituting therefor the following new subclause—
(4) A person who contravenes the provisions of this section commits an offense and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Hon. Members, we are now moving to the Conflict of Interest Bill (National Assembly Bills No.12 Of 2023).

THE CONFLICT OF INTEREST BILL (NATIONAL
ASSEMBLY BILLS NO.12 OF 2023)

Clause 3

The Temporary Chairperson (Sen. Mumma): Mover, Sen. Wakili Sigei, proceed to Move.

(Sen. Wakili Sigei consulted with the Clerk-at-the-Table)

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson. I beg to Move that –

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THAT Clause 3 of the Bill be amended in subclause (1) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) enhance public confidence in the integrity of public office and delivery of public services.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 4

(Question that Clause 4 be part of the Bill, proposed)

The Division will be at the end.

Clause 5

The Temporary Chairperson (Sen. Mumma): Sen. Olekina, proceed to Move your amendment.

Sen. Olekina: Madam Temporary Chairperson, I beg to Move –

THAT Clause 5 of the Bill be amended by –

- (a) renumbering the existing clause as subclause (1);
- (b) deleting the words “and the Ethics and Anti-Corruption Commission” appearing immediately after the words “reporting authorities”; and
- (c) inserting the following new subclause immediately after the existing subclause –
 - (2) A reporting authority shall, for the purpose of subsection (1), –
 - (a) oversee the management of conflict of interest for all public officers it is responsible for;
 - (b) promote best practices for the management of conflict of interest; and,
 - (c) conduct public awareness on the management of conflict of interest.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 6

The Temporary Chairperson (Sen. Mumma): Sen. Olekina, proceed.

Sen. Olekina: I beg to Move –

THAT the Bill be amended by deleting Clause 6.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

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Clause 7

The Temporary Chairperson (Sen. Mumma): Sen. Olekina, proceed.

Sen. Olekina: I beg to move –

THAT Clause 7 of the Bill be amended –

- (a) in the marginal note by deleting the words “the Commission” appearing immediately after the words “powers of” and substituting therefor the words “a reporting entity”;
- (b) by deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting entity”; and
- (c) by deleting paragraph (c); and
- (d) by deleting paragraph (d) and substituting therefor the following new paragraph –
- (e) co-operate and collaborate with other public entities or agencies in the management of conflict of interest and enforcement of this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clauses 8 - 10

*(Question, that Clauses 8, 9 and 10
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 11

The Temporary Chairperson (Sen. Mumma): Sen. Olekina, proceed to Move.

Sen. Olekina: Madam Temporary Chairperson, I beg to Move –

THAT the Bill be amended by deleting Clause 11.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 12

(Question, that Clause 12 be part of the Bill proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 13

The Temporary Chairperson (Sen. Mumma): Chairperson Committee on Justice Legal Affairs and Human Rights, proceed to Move the Committee's amendment.

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson. I beg to Move – THAT Clause 13 of the Bill be amended in subclause (1) by deleting the words “interest of the officer or the interests” appearing immediately after the word “to further the” and substituting therefor the words “private interest of the officer or”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 14

(Question, that Clause 14 be part of the Bill proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 15

The Temporary Chairperson (Sen. Mumma): Chairperson Committee on Justice Legal Affairs and Human Rights, proceed to Move the Committee's amendment.

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson. I beg to Move – THAT Clause 15 of the Bill be amended in subclause (1)(b) by deleting the word “offer” appearing immediately after the words “reporting authority any” and substituting therefor the word “acceptance”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

(Loud consultations)

Hon. Senators, can we have silence? Consult in low tones.

Clauses 16 - 18

*(Question, that Clauses 16,17 and 18
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Mumma): Division at the end.

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Clause 19

The Temporary Chairperson (Sen. Mumma): Chairperson Committee on Justice Legal Affairs and Human Rights, proceed to Move the Committee's amendment.

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson---

*(Sen. Wakili Sigei, Sen. Olekina
Consulted the Temporary Chairperson)*

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson. I beg to move-
THAT Clause 19 of the Bill be amended –

- (a) in subclause (1) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”; and
in subclause (2) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.
Sen. Olekina, proceed to move the further amendment to Clause 19.

Sen. Olekina: Madam Temporary Chairperson, I beg to Move –

THAT Clause 19 of the Bill be amended by inserting the following subclause immediately after subclause (2) –

(2A) Despite subsection (2), a public officer may be a party to a contract for the disposal of goods in relation to a computer, a telephone or any other device capable of storing personal information and the computer, telephone or the device was for the exclusive use of the officer.

(Question of the further amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division at the end.

Clause 20

Sen. Olekina: Madam Temporary Chairperson, I beg to move –
THAT, the Bill be amended by deleting Clause 20.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 21 and 22

(Question, that Clauses 21 and 22 be part

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of the Bill, proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 23

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 23.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 24

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, Clause 24 of the Bill be amended in subsection (2) by deleting paragraph
(a).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clauses 25 and 26

*(Question, that Clauses 25 and 26 be part
of the Bill, proposed)*

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 27

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 27

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Further Amendment to Clause 27

Sen. Wakili Sigei: Madam Temporary Chairperson, I beg to move –
THAT, Clause 27 of the Bill be amended in subclause (1) by deleting paragraph
(a) and substituting therefore the following new paragraph –

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(a) Act for or on behalf of any person in connection with any specific proceeding, transaction, negotiation or case in which a reporting authority is a party and with respect to which the former public officer had acted for or provided advice to the reporting authority.

(Question of the further amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Hon. Members, just to notify you that should the first amendment by Sen. Olekina be carried, the second amendment will be dropped.

Sen. Wakili Sigei: Thank you very much, Madam Temporary Chairperson. In light of the proposed amendment by my colleague Sen. Olekina to Clause 27, I beg to withdraw the proposed further amendment and agree with the proposed amendment by Sen. Olekina to delete entirely the provision of Clause 27.

*(Proposed further amendment to Clause 27
by Sen. Wakili Sigei withdrawn)*

Clause 28

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 28

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.
Can the two gentlemen approach the bench?

*(Sen. Olekina and Sen. Wakili Sigei
approached the Temporary Chairperson)*

Clause 29

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 29.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Further Amendment to Clause 29

Sen. Wakili Sigei: Thank you very much, Madam Temporary Chairperson. In light of the proposed amendment by Sen. Olekina to delete entirely the provisions of Clause 29, I beg to move that our earlier proposal be withdrawn and adopt the proposed amendment by Sen. Olekina.

(Proposed further amendment to Clause 29 by Sen. Wakili Sigei withdrawn)

Clause 30

Sen. Olekina: Madam Temporary Chairperson, I beg to move- THAT, Clause 30 of the Bill be amended by,
(a) deleting the heading to Part IV, appearing immediately before clause; (b) by inserting Clause (1) and deleting the words ‘decisions, debate or vote’ appearing immediately after the words ‘from any discussion’ and substituting, therefore, the words ‘or decisions’ and; (c) by deleting subclause (2) and substituting thereof the following new subclause (2), where a public officer recuses himself under subsection (1) the recusal shall be recorded in the minutes of the transactions in question.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 31

Sen. Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 31

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 31A

Sen. Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 31A

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 31B

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 31B

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 32

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 32

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 33

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 33.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.
Sen. Wakili Sigei and Sen. Olekina, please approach the Dispatch Box.

*(Sen. Wakili Sigei and Sen. Olekina approached
the Temporary Chairperson)*

Clause 34

Sen Olekina: Madam Temporary Chairperson, I beg to move-
THAT, the Bill be amended by deleting Clause 34.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

There is a further amendment to Clause 34. Chairperson, Justice Legal Affairs and Human Rights Committee, proceed to move the amendment.

Sen. Wakili Sigei: Thank you, Madam Temporary Chairperson. In line with the proposed amendments by Sen. Olekina, I beg to move-

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THAT, the proposal by the Committee be dropped and adopt the proposal by Sen. Olekina to delete entirely the provisions of Clause 34.

The Temporary Chairperson (Sen. Mumma): The further amendment is dropped.

(Further amendment to Clause 34 by Sen. Wakili Sigei dropped)

Clause 35

Sen Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 35.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 36

Sen Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 36.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 37

Sen Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 37.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 38

Sen Olekina: Madam Temporary Chairperson, I beg to move- THAT, the Bill be amended by deleting Clause 38.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 39

Sen Olekina: Madam Temporary Chairperson, I beg to move-
THAT, Clause 39 of the Bill be amended-

(a) in subclause (1) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;

(b) in subclause (2) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;

(c) in subclause (2A) by deleting the words “and the Commission” appearing immediately after the words “reporting authority”; and,

(d) in subclause (3) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 40

Sen Olekina: Madam Temporary Chairperson, I beg to move-
THAT, Clause 40 of the Bill be amended-

(a) in subclause (1) by deleting the expression “section 48, the Commission or” appearing immediately after the word “despite” and substituting therefor the expression “section 39”; and

(b) by deleting subclause (2) and substituting therefor the following new subclause –

(2) If the reporting authority declines to commence an investigation, the reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 41

The Temporary Chairperson (Sen. Mumma): Chairperson, Justice Legal Affairs and Human Rights Committee, proceed.

Sen Wakili Sigei: Thank you, Madam Temporary Chairperson, I beg to move-
THAT, Clause 41 of the Bill be amended-

by inserting the following new clause immediately after subclause (2) that should read-

(3) If the Commission or a reporting entity fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

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(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 42

The Temporary Chairperson (Sen. Mumma): Chairperson, Justice Legal Affairs and Human Rights Committee, proceed to move the amendment.

Sen Wakili Sigei: Madam Temporary Chairperson, I beg to move-

THAT, the proposed amendments to Clause 42 be withdrawn.

The Temporary Chairperson (Sen. Mumma): That amendment is withdrawn.

(Proposed amendment to Clause 42 by Sen. Wakili Sigei withdrawn)

The Temporary Chairperson (Sen. Mumma): There is a further amendment to Clause 42. Proceed Sen. Olekina.

Sen Olekina: Madam Temporary Chairperson, I beg to move-

THAT, Clause 42 of the Bill be amended-

(a) by deleting the marginal note and substituting therefor the following new marginal note-

Decision of a reporting authority

(b) in subclause (1) by –

(i) deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting authority”;

(ii) deleting the words “recommend to a public entity to” appearing at the beginning of paragraph (a);

(iii) deleting the words “public entity, appointing authority or the” appearing immediately after the words “recommend to a” paragraph (b); and
(c) by deleting subclause (2).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 43

(Question, that Clause 43 be part of the Bill proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 44

Sen Olekina: Madam Temporary Chairperson, I beg to move-
THAT, Clause 44 of the Bill be amended-
by deleting the introductory clause and substituting therefor the following New Clause –

44. A reporting authority or any other person acting on their behalf shall not, unless required by law, disclose any information that comes to their knowledge in the performance of their duties under this Act, unless the disclosure is in the opinion of the reporting authority or---

The Temporary Chairperson (Sen. Mumma): Are you done?

Sen Olekina: Wait.

The Temporary Chairperson (Sen. Mumma): Do you need water?

(Sen. Olekina consulted with the Temporary Chairperson)

(Loud consultations)

The Temporary Chairperson (Sen. Mumma): Sen. Olekina, would you like to repeat?

Sen. Olekina: Yes, Madam Temporary Chairperson.

The Temporary Chairperson (Sen. Mumma): Proceed.

Clause 44

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT Clause 44 of the Bill be amended by deleting the introductory clause and substituting therefor the following new clause –

44. A reporting authority or any other person acting on their behalf shall not, unless required by law, disclose any information that comes to their knowledge in the performance of their duties under this Act, unless the disclosure is in the opinion of the reporting authority or that other person –

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 45

(Question, that Clause 45 be part of the Bill, proposed)

Division will be at the end.

Clause 46

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 46 and substituting therefor the following new clause –

46. No criminal or civil proceedings shall lie against a reporting entity or any person acting on its behalf for anything done, reported or said in good faith in the exercise of any power or the performance of any function under this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 47

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 47.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 48

(Question, that Clause 48 be part of the Bill, proposed)

Division will be at the end.

Clause 49

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 49.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 50

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT, Clause 50 of the Bill be amended by deleting subclause (1).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 51

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting Clause 51 and substituting therefor the following new clause –

51. The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act and the Leadership and Integrity Act are amended in the manner specified in the Second Schedule.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

First Schedule

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the First Schedule.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Second Schedule

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Second Schedule.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Third Schedule

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT the Bill be amended by deleting the Third Schedule and substituting therefore the following new schedule –

Written	Provision	Amendment
Law		
The Anti- Corruption and Economic	Section 42	Delete

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Crimes

Act, Cap
65.

The Public Officer
Ethics Act,
Cap 185B.

Section 2

Section 3

Delete the definition of the word “public officer” and substitute therefor the following new definition –

“public officer” has the meaning assigned to it under Article 260 of the Constitution

Delete and substitute therefor the following new section –

3. (1) This section determines what on of body is the responsible Commission for a responsible public officer for the purposes of this Act.

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for—

(a) the Cabinet;

(b) Members of the National Assembly;

(c) the Director of Public Prosecutions;

(d) the secretary to the Cabinet;

(e) members of the Judicial Service Commission;

(f) members of commissions and independent offices specified under Chapter Fifteen of the Constitution; and

(g) members of the Ethics and Anti-Corruption Commission and staff of the Commission holding the rank of Deputy Director and above.

(3) The committee of the Senate responsible for the ethics of members is the responsible Commission for senators.

(4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for —

(a) its respective county executive committee;

(b) members of the county assembly; and

(c) members and the secretary of its respective County Public Service Board.

(5) The Public Service Commission is the responsible Commission for –

(a) principal secretaries;

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(b) high commissioners, ambassadors and diplomatic and consular representatives;

(c) public officers in respect of which it exercises appointive and disciplinary control including advisors and personal staff; and

(d) public officers who are officers, employees or members of state corporations that are public bodies.

(6) A County Public Service Board is the responsible Commission for –

(a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and

(b) public officers who are officers, employees or members of state corporations that are public bodies.

(7) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

(8) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(9) A county Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

Cap. 212.

(10) The Teachers Service Commission established under the Teachers Service Commission Act is the responsible Commission for teachers registered under that Act.

(11) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the armed forces.

Cap. 206

(12) The National Intelligence Service Council established under the National

Intelligence Service Act is the responsible Commission for members of the National Intelligence Service established under that Act.

(13) The National Police Service Commission is the responsible Commission for members of the National Police Service.

Cap. 79

(14) The Witness Protection Advisory Board established under the Witness Protection Act is the responsible commission for the members of the Witness Protection Agency established under that Act.

(15) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation.

(16) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

Section 12 Delete

Section 38 Delete and substitute therefor the following new section – Referral for **38.** A responsible Commission may, appropriate pursuant to an investigation conducted Action. under this Act, refer a matter to any other relevant public body to take appropriate action.

The Leadership and Integrity Act, Cap 185C. Section 2(2) Delete.

Section 2(2) Delete

Section 6(3) Delete

Section 6(4) Delete

Section 13(1)(a) Delete and substitute therefor the following new

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paragraph –

(a) demonstrate honesty in the conduct of public affairs.

Section 14	Delete
Section 16	Delete
Section 17	Delete
Section 18	Delete
Section 23	Delete
Section 28	Delete
Section 52	Delete and substitute therefor the following new section -

52. Pursuant to Article 80(c) of the Constitution, the provisions of Chapter Six of the Constitution and this Act shall apply to all public officers as if they were State officers.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

Clause 2

Sen. Olekina: Madam Temporary Chairperson, I beg to move- THAT Clause 2 of the Bill be amended–

- (a) in the definition of the word “conflict of interest” by inserting the words “a discernible” immediately after the words “public official has”
- (b) by deleting the following definition of the word “Commission”
- (c) by deleting the definition of the word “complementary treatment”
- (d) by deleting the definition of the word “gainful employment
- (e) by deleting the definition of the word “registrable interest”
- (f) by deleting the definition of the word “responsible Commission”
- (g) by deleting the definition of the word “significant official dealing” and
- (h) deleting the definition of the word “unexplained assets”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

The Title and Clause 1

(Question, that the Title and Clause 1 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mumma): Division will be at the end.

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Hon. Senators, we are now going to Division. I request the Serjeant-at-Arms to ring the Division Bell for five minutes.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Mumma): Serjeant-at-Arms, you can stop the Bell. We do not have the numbers, so we will report progress.

We will begin with the Gambling Control Bill (National Assembly Bills No. 70/2023). Where is the Senate Majority Leader? Sen. Tabitha Keroche, proceed.

Sen. Tabitha Keroche: Madam Temporary Chairperson, pursuant to Standing Order No.153(1), I beg to move that the Committee of the Whole do report progress on its consideration of the Gambling Control Bill (National Assembly Bills No.70 of 2023) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Mumma): Mover, please move for the Committee to report progress on the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023).

The Senate Majority Leader, proceed.

Sen. Tabitha Keroche: Madam Temporary Chairperson, pursuant to Standing Order No.153(1), I beg to move that the Committee of the Whole do report progress on its consideration of the Conflict of Interest Bill (National Assembly Bills No.12 of 2023) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

(The Bar was undrawn and the Door opened)

PROGRESS REPORTED

THE GAMBLING CONTROL BILL(NATIONAL
ASSEMBLY BILLS NO. 70 OF 2023)

The Deputy Speaker (Sen. Kathuri): Let us report on the progress of the Committee of the Whole on the Gambling Control Bill (National Assembly Bills No.70 of 2023).

Chairperson, proceed.

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Sen. Mumma: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the Gambling Control Bill (National Assembly Bills No.70 of 2023) and seeks leave to sit again tomorrow.

The Deputy Speaker (Sen. Kathuri): Mover, proceed.

Sen. Tabitha Keroche: Mr. Deputy Speaker, Sir, I beg to move that the House agrees with the Committee on the said report.

The Deputy Speaker (Sen. Kathuri): Who is seconding the Motion?

Sen. Tabitha Keroche: I request the Senator for Nandi County, Sen. Cherarkey to second.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Cherarkey: I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Let us go to the next Bill, the Conflict of Interest Bill (National Assembly Bills No.12 of 2023). The Chairperson, proceed to report progress.

THE CONFLICT OF INTEREST BILL (NATIONAL
ASSEMBLY BILLS NO. 12 OF 2023)

Sen. Mumma: Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole has considered the the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023) and seeks leave to sit again tomorrow.

The Deputy Speaker (Sen. Kathuri): Mover, proceed.

Sen. Tabitha Keroche: Mr. Deputy Speaker, Sir, I beg to move that the House agrees with the Committee on the said report.

The Deputy Speaker (Sen. Kathuri): Is Sen. Cherarkey still seconding?

Sen. Tabitha Keroche: Yes.

Sen. Cherarkey: I beg to second.

The Deputy Speaker (Sen. Kathuri): Thank you.

(Question proposed)

(Question put and agreed to)

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

Hon. Senators, we now go back to the Order on Statements. We have several statements--- Before we get to that, there is something Sen. Cherarkey must dispense off before he sits in this Chamber.

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SUBSTANTIATION BY SEN. CHERARKEY
ON FACILITATION OF THE DEPUTY
GOVERNOR OF SIAYA COUNTY

Can you table the relevant document that you have concerning the Deputy Governor of Siaya County?

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, for allowing me and for your indulgence yesterday. I had requested to substantiate as per Standing Order No.105(1)(2).

There is a Petition that was submitted to your office and was received on 7th May, 2024. It backs up my assertions that the Deputy Governor of Siaya, CPA Dr. William Oduol, in his hand and seal, has stated that one, there has been exclusion from Siaya County Executive Committee meetings. Two, which I stated yesterday is the withdrawal of utility car and county security, and then refusing to provide fuel for the official car.

The Deputy Speaker (Sen. Kathuri): What is your point of order because the Senator is trying to substantiate the allegations?

Sen. (Dr.) Oburu: The matter that my friend, Kosgei is trying to substantiate is already before the Committee of Devolution. It is being investigated. Is it in order for a Senator to raise issues and even substantiate what another committee of Parliament is already discussing and use the same documents before that committee to pretend to be substantiating before those matters are thoroughly investigated?

The Deputy Speaker (Sen. Kathuri): Let me guide you, Sen. Cherarkey. It is the prerogative of the Speaker to check and investigate those documents before being tabled. You do not need to explain anything---

Sen. Cherarkey: Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kathuri): Just table the document that you have.

(Loud consultations)

Sen. Cherarkey: I have not even spoken. What is out of order?

The Deputy Speaker (Sen. Kathuri): Order, Sen. Kavindu.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, as I table this document to substantiate my assertions---

The Deputy Speaker (Sen. Kathuri): Just table.

Sen. Cherarkey: I am telling the House that there is no Senator called Kosgei. Number two, why is Sen. (Dr.) Oburu uneasy being the Personal Assistant (PA) to Governor Orengo?

I table.

(Sen. Cherarkey laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): What is it again Sen. (Dr.) Oburu?

Sen. (Dr.) Oburu: Mr. Speaker, Sir, Sen. Kosgei is imputing wrong motive on my request on ---

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The Deputy Speaker (Sen. Kathuri): Are you referring to Sen. Cherarkey?

Sen. (Dr.) Oburu: Mr. Deputy Speaker, Sir, is it in order for him to even refer to me as a PA of a Governor? I am the rightful Senator for Siaya elected by an overwhelming majority with more votes than the Governor himself.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, you know you should use the best language possible when referring to your colleague. You would not be happy to be told you are the PA to Governor Sang.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, you know I have tremendous respect for Sen. (Dr.) Oburu. I know he is the substantive Senator of Siaya. My point has been made, but I profusely withdraw and apologise to him. I ask him to stick to the mandate of oversight and not about protecting Governor Orenge.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, let us go to Statements. We will start with the Statement Pursuant to Standing Order No.52(1) by Sen. Hamida Kibwana. That Statement is deferred.

STATEMENTS

APPOINTMENT OF MAJOR GENERAL FATUMA AHMED AS FIRST FEMALE AIR FORCE COMMANDER

(Statement deferred)

Let us move to Statements under Standing Order No.53(1).
Proceed, Sen. Samson Cherarkey.

REPORTED CONFRONTATION BETWEEN OFFICERS OF KDF AND NPS

Sen. Cherarkey: Thank you, Mr. Deputy Speaker. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding reported recent confrontations between the officers from Kenya Defence Forces (KDF) and the National Police Service (NPS).

In the statement, the committee should-

(1) Outline the circumstances that led to the public confrontations between officers from the KDF and the KPS at the Likoni Ferry Terminal in Mombasa County, which was reported on 27th April 2024, and that happened yesterday evening here in Nairobi.

(2) Explain the circumstances and reasons behind the arrest and subsequent detention of KDF officers by the police at Lodwar Police Station in Turkana County reported on 16th April 2024, following an altercation between soldiers from KDF and

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counterparts from NPS, which raised unnecessary public alarm and anxiety to the residents of Lodwar Town, Turkana County.

(3) Assess the level of risk these confrontations between KDF and NPS pose to public safety, especially when such incidents occur in the presence of armed officers of KDF and NPS, as recorded by the public and state investigative capacities of KPS regarding such sensitive incidents.

(4) State the disciplinary actions, if any, that have been taken against the officers of both KDF and NPS, found to have behaved unprofessionally, and state measures being taken to enhance the cooperation and collaboration in multi-agency operations such as those at the Port of Mombasa and across the Republic of Kenya.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, you had two Statements. There is another one to the Standing Committee on Roads and Transportation.

STATUS OF ROADS IN NANDI COUNTY

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Roads and Transportation on the status of road construction in Nandi County.

In the statement, the committee should-

(1) Provide a report on the expenditure of budgetary allocation for roads in Nandi County for Financial Year (FY) 2022/2023 and FY2023/2024, and also explain reasons for declaring reduction in the budget in FY2023/2024 to County of Nandi.

(2) State the total number of roads in Nandi County that have been upgraded to bitumen standards or tarmac from 2019 to date and the kilometers thus upgraded.

(3) Explain when the Kenya Urban Roads Authority (KURA) will commence tarmacking of roads in Nandi Hills, Maraba, Kaptumo, Lesos, Kabiyeet and Kaptel, which had demonstrations the other day;

(iv) State when the construction will begin on the following roads and disclose all the contractors assigned to construct the roads, including maintenance, before they start, indicating the amounts allocated for each road and what is causing the delay.

(a) Kaiboi-Chepterwai-Kapkatembu Road to Kamagut through to Chepsaita to Kamagut. Mr. Deputy Speaker, Sir, you know the President's Aide Faruk Kibet comes from this place.

(b) Chemusua-Chomisia Danger Road, which the residents have been demonstrating for the last two weeks;

(c) Timboroa- Maraba-Kobere Road;

(d) Mugundoi-Nandi Hills Road;

(e) Nandi Hills-Imaki Road;

(f) Lesos, Kesos, Cheptiret through the Moi University, and I know you know Moi University very well;

(g) The reclassification from Chepterit Center to Leone Moi University reclassification.

I thank you.

The Deputy Speaker (Sen. Kathuri): The other Statements by Sen. Veronica Maina, Beatrice Ogola, Sen. Karen Nyamu and Sen. Chrystal Asige are deferred.

LANDSLIDES IN KIGUMO CONSTITUENCY

IMPLEMENTATION OF DLP BY MOE

ROAD INFRASTRUCTURE AND ROAD
SAFETY IN THE COUNTRY

STIP BETWEEN THE USA AND KENYA

(Statements deferred)

We will go to the next Order.
I am again rearranging the business of the day. We now go to Order No. 23.
Clerk, call out Order No. 23.

(Sen. Faki spoke off the record)

Sen. Mohamed Faki, have your seat. I am aware of that Statement which is similar to the Statement of Sen. Miraj. So, in my honest opinion, I have advised that matter be relooked afresh so that we do not---

(Sen. Faki spoke off the record)

It is the same Statement. So, I have given some guidance. That determination will be made by the Table. Do not mind.

(Sen. Faki spoke off the record)

So, let us proceed. That is being worked on, Sen. Mohamed Faki.
Proceed, Sen. Kavindu.

MOTION

ADOPTION OF PROGRESS REPORT OF THE *AD HOC*
COMMITTEE ON 1998 USA EMBASSY BOMBING

THAT, the Senate adopt the progress report of the Ad-Hoc Committee on the compensation of the Kenyan victims of the 1998 bombing of the United States of America Embassy in Nairobi, laid on the Table of the Senate on Thursday, 2nd May 2024.

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(Sen. Kavindu Muthama on 15.5.2024)

(Resumption of debate interrupted 15.5.2024 - Morning Sitting)

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir. At long last, this is the progress report of the *Ad hoc* Committee on the compensation of the Kenyan victims of the 1998 bombing of the U.S. Embassy in Nairobi.

The Senate *Ad hoc* Committee on the compensation of the Kenyan victims of the 1998 bombing of the United States Embassy in Nairobi was established on 29th June, 2023, but held its first meeting on 18th July, 2023. The Committee was able to meet with the victims of the bomb blast tragedy, their lawyers, the next of kin of the deceased victims, and the groups representing various ---

(Loud consultations)

Mr. Deputy Speaker, Sir, can I be heard in silence, please? *Mbona mnapiga kelele sana?*

The Deputy Speaker (Sen. Kathuri): Who are you addressing now, Sen. Kavindu Muthama?

Sen. Kavindu Muthama: I have called you, Deputy Mr. Speaker, Sir so that I can be heard in silence.

The Deputy Speaker (Sen. Kathuri): Prosecute your matter.

Sen. Kavindu Muthama: Yes, but can I be heard in silence, please? The noises around are confusing me.

The Deputy Speaker (Sen. Kathuri): The confusion is reasonable. Proceed.

Sen. Kavindu Muthama: Thank you.

The Committee also attended the victims' prayer day on 5th August, 2023, and on the 25th memorandum of the bomb blast of 7th August, 2023, at the Memorial Park. The Committee met with the Cabinet Secretaries for Health; Labour and Social Protection; Foreign and Diaspora Affairs; and, Interior and National Administration.

The Committee was also able to meet with the National Council for Persons with Disabilities (NCPD). From the interactions with the above stakeholders, the Committee gave the following directions to the ministries-

(1) The Ministry of Health conducts a medical assessment of the surviving victims of the 1998 bombing of the US Embassy in Nairobi, and submits the report of the assessment to the Committee, to assist the committee build its case on compensation of the said victims;

(2) The Ministry of Labour and Social Protection and the NCPD undertake registration for survivors with disabilities;

(3) The Cabinet Secretary in charge of foreign affairs pushes the matter of compensation at the Cabinet level; and,

(4) The Cabinet Secretary for Interior and National Administration develops regulations to operationalise the compensation of the victims from the Terrorist Fund, which was formed in 2012.

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Although the Committee was unable to secure an appointment with the US Embassy in Kenya and the US Congress, Sen. Maanzo and I were able to attend the national prayer breakfast at Washington DC, where we were able to meet various Senators and Congressmen, and put forward our case on the compensation of Kenyan victims of 1998 bombing of the US Embassy in Kenya, chairman of the Committee.

Specifically, we were able to meet with Senator Chris Coons, the Chairperson of the US Senate Foreign Relations subcommittee on African Affairs, and he agreed to the meeting of the two committees to discuss compensation for the Kenyan victims. Senator Coons, as a Chairperson of this very important Committee of the US Senate, is very instrumental in the proposal of the *Ad hoc* Committee in the amending of the Justice for United States Victims of State Sponsored Terrorist Act 34 USC 1120144, which provides for the establishment of the administration of the US Victims of State Sponsored Terrorist Fund, the US VSST Fund, to provide compensation to certain US persons who were injured in acts of terrorists, the state-sponsored terrorists, including Kenya.

Mr. Deputy Speaker, Sir, within the remaining time to the expiry of the mandate of the Committee, it is following up with the following institutions to assist the Kenyan victims in the 1998 bombing of the United States of America Embassy in Nairobi who have not been compensated to date-

(i) The Ministry of Health on the provision of subsidised medical care for the survivors injured during the 1998 bombing in the USA Embassy of Nairobi;

(ii) The Ministry of Labor and Social Welfare on the assessment of the registration of the survivors with disability in the 1998 USA Embassy bombing with the National Council of Persons with Disabilities (NCPD);

(iii) The Cabinet Secretary for Interior and National Administration on the formulation of regulations to implement Section 49 of the Provisions of Terrorist Acts, 2012 which operationalizes the compensation of the victims of the terrorist fund.

Appropriate recommendations shall be made by the Committee on this matter in its final report.

Mr. Deputy Speaker, Sir, in the progress report, the Committee recommends that the Cabinet Secretary in charge of Foreign and Diaspora affairs secures an appointment for the Committee to meet with the Members of the United States of America, State Foreign Relations Sub-committee on African Affairs to discuss the Committee's proposals of amending the "Justice of United States Victims of the States sponsored Terrorists Act".

The Act provides for the establishment and administration of the United States Victims of State Sponsored Terrorist Funds to include Kenyan victims of the 1998 bombing of the US Embassy in Nairobi. The Cabinet Secretary is to provide a bi-monthly update on the progress made in securing the appointment.

The Committee extends its appreciation to parties who volunteered submissions and contributions to the resolutions of this matter. I also wish to express my appreciation to my fellow Senators for their contribution in this matter.

The Committee wishes to thank the office of the Speaker of the Senate, the Office of the Clerk of the Senate, and the Liaison Office for the support extended to the Committee in the execution of its mandate.

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With these many remarks, I wish to move the Motion and request that the House adopts the Progress Report of the *Ad hoc* Committee on the Compensation of the Kenyan Victims of the 1998 Bombing of the United States American Embassy in Nairobi tabled in the Senate on the Thursday, 2nd, May 2022.

I now ask Sen. Manzo to Second.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. We want to thank the House for allowing the *Ad hoc* Committee to resolve issues affecting Kenyans. This is a matter that has been pending before the courts of the United States of America (USA), and the House of Parliament for many years.

When this Committee was set up, it met most victims, and most of them were orphaned children, and the widowed. People have lost their parents, husbands, or wives in this process. This is something Kenyans who were old enough by 1998, 25 years ago, know and remember very well. The biggest challenge for these people is that some are going through medical treatment, and some were flown to the USA for medical treatment. They formed groups and had leadership, so that they could use that to make their claims.

Notable was the late Hon. Kamotho's driver who was on duty and had left his family early in the morning. He had left with little children who were three years old. When this bombing happened, he died there and up to today, his children are waiting for justice. We hope that they, together with many others, will get justice through this House and the Senate and the Congress in America.

Mr. Speaker, what is needed in this particular one is for an amendment to be made in the USA law to include Kenya as one of the states that can be compensated. They need to be compensated from a victim's fund, which is set up by the Ministry of Justice, and which has monies collected from defeated Al Qaeda networks, including frozen accounts in America. Therefore, the money for compensation is available.

For the Kenyans who went for treatment in the USA and those who went to court in the USA, there was a very big challenge as to whether a Kenyan national could sue Al Qaeda on the USA soil. It took 10 years and was rejected at the equivalent of the High Court.

It then went to the Supreme Court, and at the same time, coincidentally, the then ambassador to Kenya, Hon. Prudence Bushnell, had written a book that detailed some of the activities. This provided evidence sufficient enough to allow the Supreme Court of the USA to allow Kenyans to sue Al Qaeda on Kenyan soil. For that matter, over 3, 000 suits have gone through, and are awaiting this amendment, so that they can be compensated. That particular law has a form for the other Kenyans who can be verified that they were in this unfortunate incident, either dead or injured.

Many of these people are alive, going through medication for the last 25 years and going through hospital operations on their own bill. They also go through the removal of glasses from their body, which is done in stages because some of it is stuck in the brains. Most of them live uncertain lives. We met all of them in this Senate and promised to help them.

What is very important now is this amendment to go to the USA. The Chief Cabinet Secretary and the Cabinet Secretary in charge of Foreign and Diaspora Affairs

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have been in touch with this Committee and made their contributions. He has been briefed and has sought a document from this House, which is what we are debating today.

At least he needs a progress report and a report, which they can carry while visiting the USA with the President. They could then make a presentation to the Government of the USA, so that it could also be of help in lobbying for us through the Senate and the Congress. When we got an opportunity, we lobbied with many of them and they are waiting for this amendment, so that they can assist Kenyans. They understood our problem very well. There had been misinformation that all Kenyans had been compensated. It has come from this House and the courts in USA that all Kenyans were not compensated. We are talking of compensation of about Kshs3 trillion. If this amendment is considered during the President's visit to the USA or in the near future, then Kenyans will be compensated. This is not from USA taxpayers' money, but from the people who injured our people. It is sufficient and fair enough that they compensate the victims to give them relief in their lives and a better livelihood.

I plead with this House that we debate this Motion and urgently give a report. I believe that some of the Members of this House, who are traveling with the President, will have acquired enough information to assist him in his trip to the USA. I hope the 6,000 Kenyans who have suffered for many years will find rest and happiness after being assisted by this Senate, the Government of Kenya and that of the USA.

I thank the American Government and their soldiers for having worked hard to destroy the Al Qaeda networks in the world. They saved many more Kenyans all over the world from being destroyed through terrorism. This does not mean that we do not keep watch. Many other groups could arise. This is unfortunate, but it can happen in any country, such as Kenya.

Thank you, Mr. Deputy Speaker, Sir, I Second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): I can see a few Senators have interest. We will start with Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. When we experienced this bomb blast, I was still young and had not joined high school.

We continue to condole and empathize with families who lost their loved ones through this horrendous and tragic terror attack that happened both in Dar es Salaam and Nairobi. Over 274 lives were lost and more than 4,500 injured. The victims of this bomb blast, over the years, have undergone horror and pain because of medication and trauma. I thank the Committee led by Sen. Kavindu Muthama for doing justice and fairness. As I speak, I have one family in Kaplelemet in Nandi Hills Constituency, which lost their loved one who used to work in the next building where the bomb blast happened.

This report is thorough. I now understand why the Committee has always requested an extension of time. I thank your office for ensuring the Committee is facilitated. I also thank Members of the Committee for their commitment. The Senate has risen again as the lead voice for seeking justice, truth and fairness through this Committee. Terrorism continues to hurt the world. Many lives are lost.

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After the incident, the Government took measures to fight terrorism, such as establishing an Anti-Terrorism Unit. I entirely agree with the Committee's recommendation. We have passed the Prevention of Terrorism Act. We already have a Victims' Compensation Fund that should be operationalized to ensure the victims of the bomb blast are compensated. This is the least we can do. They have lost their loved ones, spouses, and children. There is a mother in Kaplelemet in Nandi Hills who cries daily because of the loss of his son.

As the President visits the USA for bilateral engagement, I challenge the Cabinet Secretary for Foreign and Diaspora Affairs, Prime Cabinet Secretary Musalia Mudavadi, to ensure, in his diary, that as the President engages, other stakeholders, including President Joe Biden, to puts this agenda as part of the engagement.

Ambassador Meg Whitman has also been supportive. I request, through your office, for the Clerk to provide a certified copy of this report to the office of the Prime Cabinet Secretary, Hon. Musalia Mudavadi. The USA does not have a problem in compensating Kenyans who lost their loved ones and others who got injured. We should engage the USA in bilateral talks. The issue of compensation for victims of terror is not new. The USA was paid more than USD335 million by the Government of Sudan the other day over the terror attacks of 2000 and the killing of the USA citizens in 2008.

Mr. Deputy Speaker, you remember the famous air crash. I know by that time you were alive. There was a terror attack on Lockerbie, Scotland, involving the Pan Am Flight 103 that was brought down.

At that time, the Libyan Government---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, which year was that?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, it was in the late 1980s. You have been around for some time. I can see my friend Sen. (Dr.) Oburu is nodding. He must be aware of this attack.

The attack was carried out in Lockerbie, Scotland and many USA citizens lost their lives. The Libyan Government paid over USD1.5 billion to the USA to compensate their citizens. We are requesting that these victims and their families be compensated. When the Ethiopian Airline Boeing 737-8 Max crashed, families were compensated. It is a tradition, and this compensation must be given. This is the least we can do.

I thank the Committee for bringing up this issue. The second issue of subsidizing medical coverage is a small matter for the Ministry of Health. There is a verified and certified victims' compensation list. I am happy we have this list. We used to have many fake Internally Displaced Persons (IDPs) list. However, this list has been verified and ascertained. This is a straightforward matter. We must give them subsidized medical coverage. Not only for care, but it is also to give them guidance and counseling because of the trauma. You can imagine the horror they went through because of the bomb blast. Most of the injured Kenyans became disabled. Disability sometimes does not come because you were born with it.

In the last session, I was a temporary Person with Disability (PwD). I thank the Senate for giving me all the support. We request that the Ministry of Labour and Social Protection register all the PwDs and give them the necessary support after registration.

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Finally, I thank the Committee for its recommendation to compensate the victims. I also thank Sen. Kavindu and the *Ad hoc* Committee for their work. I had an issue and requested to come to your Committee because we need more resources to create more select committees. You can see the work of select committees. The resources should be sufficient.

The Joint Services in Parliament have more resources than the Senate yet, during a blackout, we could not purchase fuel for the generator to have the session. Ironically, the Joint Services of Parliament has more resources than the Senate.

In conclusion, this House must be respected. Whenever we are in session, it looks like there is a go-slow from the support services, not from the staff of the Senate, but other services. When you go, there is no food. I can tell you, half of your Members did not eat today because we were told there were many visitors and so Senators had to forego their food.

The other day, we had a blackout. We were told that the Joint Services had disappeared with a key for the generator and fuel. Likewise, when you go to the washrooms, there are no tissue papers, but when the National Assembly is in session, all these things are available.

I want to challenge that we must be respected as a Senate. This report has put the Senate on the moral pedestal of respect in this Republic. We are proud, despite the sabotage and the challenges we face as a House, including insufficient funds to committees and even with the non-provision of support, we continue to soar higher.

Mr. Deputy Speaker, Sir, when Bob Marley was from Jamaica. Rastafarians, like some of us, would say, 'more fire' to him. Unfortunately, he died at the age of 36. When asked if he sold so much to acquire riches in concerts and music that he sang, he asked, "What do you mean by wealth and riches?" He was told in terms of position. He said, the riches there is to have life forever and one love in this world."

Our prayer is in the song of Bob Marley, that we should have one love; whether you are Chinese, African, or American. If we have one love we shall eradicate disasters and the challenge of terrorism in this world. We have one love for all humanity and in the words of Bob Marley, that should always encourage us. I would have sung, but I did not eat well today, but in future, I will sing.

I support and congratulate the committee.

The Deputy Speaker (Sen. Kathuri): Thank you. Proceed, Sen. (Dr.) Oburu.

Sen. (Dr.) Oburu: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I will start by thanking Sen. Kavindu Muthama and the Select Committee, which went through this matter. This is a matter, which is affecting so many Kenyans. In 1998 when Sen. Cherarkey might have been in secondary or primary school, I was already serving my second term in this House.

(Applause)

Mr. Deputy Speaker, Sir, I recall on that day I was travelling home in the morning. I had left very early in the morning from Nairobi and when I arrived in Muhoroni at around 10.00 a.m. I was asked where I had come from. I said I had come

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from Nairobi and they asked me whether I was aware of what had happened in Nairobi. I said I had no idea. I was told that there was a bomb blast that had happened in Nairobi, many people had died and that the American Embassy was blown, the Cooperative Building, which we used to call the Belly Bottom Building had shaken and there were many buildings around which also had problems, including the headquarters of Railways.

Since then, it has been a long time and many things have happened. There is a lot of water under the bridge. I can tell you that all the Americans who were in the American Embassy have been compensated. Some Kenyans who were also in that Embassy have been compensated. The only people who have not been compensated are the innocent Kenyans who were not in the Embassy; those who were walking or in their offices doing their work and those who were travelling using public transport nearby at that time. Some of them died and some were maimed. The kind of damage which was done is that there are a lot of medical expenses, mental care and counselling which is needed for those people.

Mr. Deputy Speaker, Sir, you will wonder why terrorists should bomb Kenya. There is no reason for terrorists to bomb Kenya because Kenya does not involve itself in very high international politics where terrorists find a reason to commit the injustices happening elsewhere in the world.

The terrorists would follow the Americans wherever they are because they know they are being followed for some injustices that happened elsewhere and not in Kenya. Therefore, Kenyans become victims of those injustices. When it comes to compensation, Kenyans have to cry, pass resolutions in the Senate, form some select committees and plead, so that they can be compensated. Kenyans can be compensated from a fund, which is there. That money is there and I understand that this Committee could not even secure appointments to meet the people who are in charge of American affairs within our country. This is serious and we have to call a spade a spade. We should not be mincing words. I thank Sen. Kavindu Muthama as you have feelings for our people.

Mr. Deputy Speaker, Sir, I was the Member of Parliament for Bondo during the time of this incident. A constituent of mine who was working in the American Embassy lost her head and we buried her without her head. We could only recognize the body. This happened to many Kenyans as people were completely maimed. I am speaking with a lot of emotion because I feel so disappointed that a powerful country with so much money and resources cannot provide paltry compensation to the Kenyans who became victims. It is becoming such a big issue that we have to sit here, debate and plead. Please America, why do you not compensate our people and allow us to call this thing, a thing of the past? Let us bury it so that it does not give us those bad memories when we become victims of offences, which we have not committed against anyone. We are clean and we do not commit offences against other countries. If there is any, it is very minimal interaction that we have internationally where people will have reason to come and bomb us.

Mr. Deputy Speaker, Sir, I will not go deeply into all these issues, but I want to conclude by pleading once again to the authorities of the USA, to rethink this issue and find ways and means of calling this, a thing of the past. Let us go into other chapters and continue with our good relationship. This Government has a very good relationship with

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the USA and that should continue without small hitches like this. This is something, which the USA is capable of putting behind their back.

Without further ado, I hope that all of us will support this Report. With those very many remarks, I beg to support the Report.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you.

Proceed, Sen. Chute.

Sen. Chute: Thank you very much, Mr. Deputy Speaker, Sir. Let me also take this opportunity to thank Sen. Kavindu Muthama for chairing this Committee. She has passionately followed this matter up, and sometimes felt like crying. I am also in that Committee, and when the victims came before us to narrate to us what they went through, all the Members who were there cried because it was not something that we could stomach.

Mr. Deputy Speaker, Sir, on 7th August, 1998, I was in Addis Ababa on a business trip. I left my hotel room early morning at around 7.00 a.m. When I came back to the hotel at 1.00 p.m., I switched on the television. The first thing I saw was a bombing in Nairobi and so many people died. It was reported that 212 Kenyans had died that same day and 4,000 others were injured, maimed and suffered. It cannot be narrated by ordinary people, unless you have gone through what they went through.

Article 26 of our Constitution is very clear that every person has a right to life, whether you are an American, Kenyan or any other citizen living in this country. In America when other people die, they say it is collateral damage. Lives are being called collateral damage. The issue that happened that day, it is not something Americans did not know. They had enough intelligence. They knew very well that something would happen soon to the embassy. They did not care because they lost about 56 contractors and American government employees.

Mr. Deputy Speaker, Sir, this issue of calling human beings “collateral damage” must stop. Why are we asking for compensation? The reason is very simple, the American embassy is like the American country itself. When they attacked the embassy, they attacked the Americans. They did not care how many Kenyans would die. There is a programme in Sudan where money was set aside to compensate victims of the bomb blast in both Tanzania and Kenya. Some people were compensated, but Kenyans are not compensated.

When we sat in that Committee, we came to know that there are those who died and others who did not die. We are sorry about those who died. However, those who did not die got injuries that are completely unrepairable. These people suffered, were humiliated and lost their jobs. Some lost their mothers and fathers. Some very young children could not survive because they lost parents.

Our people, the Kenyans, suffered both physical and emotional damage. If you were in that Committee, you would be shocked. We cried. We had the Cabinet Secretary for Health, Hon. Nakhumicha before us and the Cabinet Secretary for Foreign and Diaspora Affairs, Hon. Mutua and Hon. Mudavadi. In fact, we visited his office. When Hon. Nakhumicha was there, those people narrated the story of the suffering they went

through. Some people came in crutches. They are walking in crutches up to today, without having been compensated for all those years.

I know our President is going to travel to USA next week. I urge him, on behalf of this House, to tell the Americans that we are not collateral damage. We are human beings like the Americans who were working for that Government. The contractors who were working for that Government were compensated billions of shillings. If we are going to host Americans here and then we suffer because we host them, who will take responsibility? It is the government of the United States of America.

Mr. Deputy Speaker, when you see what is happening today in Gaza, including the bombing that happened in Nairobi, maybe any equipment used is manufactured in America. Look at what is happening in Gaza today, one missile costs millions of shillings. If they set aside even 10 missiles, it can compensate the Kenyans fully; everybody will be paid. However, even if you pay people today, the suffering, torture and stress they went through, cannot be compensated. There is a woman who was working for a bank who lost her job because she was disabled. Earlier on, she was an abled person working for a bank and up to today, she has no earnings and she has suffered heavily.

Mr. Deputy Speaker, if the President goes there, if possible, he needs to tell the Americans that was not our war. It was an American war and we are suffering because of it. Up to today, we are still losing people to Al Shabaab. Why are we losing people to Al Shabaab? We have no quarrel with anybody in Somalia or any Muslim organization. The problem is that there is an issue between the Americans and a certain Muslim community and not everybody, yet we are suffering. We have lost soldiers in Marsabit who are in Somalia. We are losing people in bombing up to 2022. Why are we having these issues?

We have neighbors like Ethiopia, Somalia, Sudan, Uganda and Tanzania, whom we have no problems with. We are not fighting with them. Why are we having this issue? It is because of the double standards of the American government. If they stop using their double standards, you will see them funding countries to fight each other. They brought a problem between Iraq and Iran. They gave the same equipment, the missiles, to Iran.

The Deputy Speaker (Sen. Kathuri): Sen. Chute, if I understood the Mover of this Motion, the USA is very ready to compensate. However, your line of argument is that they are the impeding. I want you not to lose focus with the Mover because she is already negotiating with the Americans, so that they do not get your statement that they are the ones impeding the compensation.

Sen. Chute Thank you, Mr. Deputy Speaker, Sir. We are not begging them. We are demanding them to pay our people. Our people lost their lives, were maimed and tortured, both mentally and physically because of their issues. They had intelligence, but they did not care.

The same thing is happening in Gaza. Thousands of women and children are dying. The ammunitions that the Israelis are using are from America. Let it not be as if we are begging them because we are demanding what is rightfully ours. Our people must be compensated, not just at a lower percentage, but to the maximum.

Mr. Deputy Speaker, Sir, let me end by stating that our President is going to travel. He can use any means possible. Furthermore, we have been having these issues for many years. Some people have died while others are still alive. The compensation that

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will be given should include those who died, those who were maimed and those still having issues today in Kenya. I request the President to put up our case and see how we can have these people compensated as quickly as possible.

Mr. Deputy Speaker, Sir, in conclusion, I beg to support this report. Once again, I thank Sen. Kavindu Muthama for a job well done.

I thank you.

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

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to make my comments on the progress report by the Committee led ably by Sen. Kavindu Muthama. I appreciate the work that the Senator has done so far. I will be very brief.

I appreciate that the Chairperson and Sen. Maanzo met with Senator Coons of the USA and made some progress towards settlement for the victims. They have also explained to us the challenge, which is that the US needs to amend its law, so that Kenya can be included amongst the countries that can be compensated using the terrorists frozen assets. To that end, I congratulate the Chairperson of the *Ad hoc* Committee. I also thank Sen. Maanzo for the efforts they have put so far in doing the work.

I have issues with two Ministries. The first one is the Ministry of Health (MoH). According to what the report tells us on page six, the Committee gave direction to the MoH to conduct medical assessment of the victims of the 1998 US Embassy Bombing in Nairobi and submit a report of assessment to the Committee in order to assist them to build their case on compensation of the said victims.

The first question is whether the MoH carried out the assessment. It appears that despite the directions that were given to them, so far, they have not submitted medical assessments to the committee to enable them build a case for the victims. It would be embarrassing for the President to engage the US government when he goes on this trip to Washington DC, only to be asked what the MoH in Kenya has done. This document is available to them. If they google, they will find that there was a recommendation to the Ministry to carry out assessment on all the victims of the bombing.

All of us agree that the President should put some pressure when he goes on his trip. Here we are asking him to talk about this, yet the Cabinet Secretary for Health has not even given us the assessment for the victims. I want to express my disappointment on that bit because we need to do our part, even as we look forward to the compensation through the efforts of Sen. Kavindu Muthama and her team.

We need to tell the Cabinet Secretary for Health, Hon. Nakhumicha, together with the Permanent Secretary (PS) of the Ministry, to provide the assessment, so that when we deal with this matter at that level, we have the facts. These people were also supposed to provide some treatment to the surviving victims.

When we ask for compensation, we can provide the assessment and show the assistance we have provided in terms of medical care and other things. We are now requesting the US government to give us compensation, yet the MoH has not lived up to the directions.

The other direction that was given by the Committee was that the Ministry of Labour and Social Protection and the National Council for Persons with Disabilities

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(NCPWD) undertake registration of survivors with disabilities. Again, there is no report that has been attached here. From where we sit as the Senate, it is clear that the Ministry has not done registration of the victims.

If the Ministry of Labour and Social Protection has not registered or issued the people affected with certificates of disability, we will be seen to be lagging behind. We are making huge requests, but what have we done as a nation? The MoH and the Ministry of Labour and Social Protection have not done their part.

The Prime Cabinet Secretary, who is also the Cabinet Secretary for Foreign and Diaspora Affairs, is supposed to push the matter of compensation at the Cabinet level. There is no evidence that has been attached here to suggest that the Ministry of Foreign and Diaspora Affairs has actually been putting the necessary pressure at the Cabinet level. /What Hon. Mudavadi should have done is to develop a white paper for consideration at the Cabinet level. If our people are being denied what is rightfully theirs and it is only the Senate that is pushing this matter without the backing of the Ministry of Foreign and Diaspora Affairs at the Cabinet, then I register my disappointment.

The last directions that were given by the Committee, that is (iv), was that the Cabinet Secretary for Interior and National Administration develops regulations to operationalise Compensation of Victims of the Terrorism Fund. Again, those are just regulations. The Compensation for Victims of Terrorism Act was passed after this bomb blast. However, the regulations need to be put in place, so that in the event anything happens in future, we hope it does not, victims can benefit from this Act. Again, Hon. (Prof.) Kindiki has not yet developed regulations as directed by the Senate so that we can put the agenda for the victims of the United States of America (USA) 1998 bomb blast on the table. As we seek the help of the USA so that the victims of the 1998 bombing can be compensated, it is shameful that our own Ministries have not done what they are supposed to do.

It is also shameful that even after the directions from the Senate after it met the victims of the bombing, nothing has happened. Cabinet Secretaries have not done their bit in their various capacities and yet, we are here asking the President to go and push the agenda. I pray that in approving these reports, our comments will be taken into consideration and will also include the fact that we are urging the Ministries of Health and Labor and Social Protection; the National Council for Persons with Disabilities, the Cabinet Secretaries in charge of Foreign and Diaspora Affairs and Interior and National Administration, to do the necessary as directed by the Committee.

Mr. Deputy Speaker, Sir, I have had an opportunity to serve as an assistant Minister of Foreign Affairs in the previous Government administration. It is not very good diplomatically. If you are going to ask for help, for example, if your country has had a disaster of any form, you must tell your potential helpers that you have done this, but still, it has overwhelmed you. Therefore, you need their support in this manner.

Just like when we have disasters such as the 1998 bomb blast, the Ministries of Health, Foreign and Diaspora Affairs, Interior and National Administration and Labor and Social Protection should say, what they have done, but are overwhelmed on the question of compensation. So, they are still asking for more so that they can settle the compensation claims. If this is the way we approach this matter, even those people will

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be sympathetic of us. However, the risk of being ignored is very high if we go and show that actually, we have done nothing as a nation. We need to ask these various Ministries to do what they are supposed to do, so that we do not embarrass ourselves even as we ask the USA to do its part.

With those remarks, I beg to support.

Thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Munyi Mundigi, proceed.

Sen. Munyi Mundigi: Asante Bw. Naibu Spika. Naunga mkono Kamati ya Sen. Kavindu. Mimi ni mmoja wa hiyo Kamati. Tulikuwa watu tisa.

Mambo ya ajabu ni kuwa, kama Kamati, tumekutana na Mawaziri wa *Labor and Social Protection, Health, Interior and National Administration* na hata pia, Mhe. Musalia Mudavadi. Tumetembea hadi mashinani kama vile Machakos na kona zingine.

Ni jambo la kuhuzunisha sana kwa sababu ni miaka 25 tangu hicho kitendo kifanyike. Kama ni ajali au mambo mengine, huwa hayamalizi miaka tatu au nne kama watu hawajafidiwa. Hili ni jambo lililofanywa kwa Serikali ya Kenya na watu wa nje. Ndio maana tunasema ya kwamba, Serikali ya Kenya Kwanza ambayo inafanya kazi na inajali mwananchi, iungane na USA ili hicho kilio cha hao watu kiweze kusikika.

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

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

Bi. Spika wa Muda, tumeona watu wengi waliozaliwa vizuri wakiwa na mikono, macho na pia walilelelwa na kufunzwa vizuri na familia zao. Cha ajabu ni kwamba, wakati tulikutana na hao, wengine hawakuwa na miguu au macho. Wengine wana elimu ya juu lakini kwa sasa, ni maskini hohe hahe. Kwa hivyo, naomba Kamati iweze kusaidika. Wakati Kamati ya watu tisa ilitengenezwa, tulikuwa na mipango ya kwenda USA. Cha ajabu ni kuwa, Kamati ilikosa pesa. Ni watu wawili pekee ndio waliweza kusafiri. Hii ni kama hakuna kitu Kamati inafanya.

Ndio maana tunasema, wale wanaohusika na mambo ya pesa, waongezee Kamati pesa ili ziweze kufanya kazi inayofaa. Juzi, tulikuwa tukisema kaunti zipatiwe Kshs415 bilioni. Lakini, *Members of Parliament (MPs)* walipinga. Naomba Kamati zote ziongezewe pesa ili ziweze kufanya kazi inayofaa kwa sababu tunajua Kamati za *Senate* hazina mambo mengi. Tunataka kusaidia wananchi vijijini, kaunti na Kenya mzima. Kwa hivyo, naunga mkono. Lakini, kama Kamati zingine zinateseka kama Kamati ya *Ad Hoc* kwa sababu ya ukosefu wa pesa ya kufanya kazi, ni aibu sana.

Tumekuwa tukifanya kazi kwa miezi kadhaa bila pesa, tumejitolea tu. Naomba tuongezewe pesa ili Kamati iweze kwenda USA ili tushughulikie vilivyo hawa watu. Pia zile *departments* zote tulizohusisha kama vile *Health, National Administration* na *Labor and Social Protection* ziweze kupewa kitu kidogo.

Naunga mkono.

Asante Bi, Spika wa Muda.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Mundigi. I can hear your very passionate plea for additional budget for the committees.

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Sen. Kavindu Muthama, you can reply.

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker.

I take this opportunity to thank Sen. Maanzo, Sen. Cherarkey, Sen. (Dr.) Oburu, Sen. Chute, Sen. Mungatana and Sen. Mundigi who have been able to contribute to this Motion.

I am very passionate about this Motion and compensation of the victims of the 1998 bomb blast because when you meet them, some are totally blind. They were born seeing just like us, but today, they cannot see and so, they cannot do many things for themselves. They are not even able to work because of the effects of the bomb blast. Others are paralysed on wheelchairs, they cannot even shower on their own. They need help and yet, they have no money or nobody to take care of them.

There is one particular lady whose husband died in the bomb blast and she was also involved in it. She was pregnant and she became totally blind. She has given birth to a daughter who she does not even know how she looks like. As if that was not enough, she was also chased away from her matrimonial home. She lives begging for accommodation. It hurts me when I think of how these people live today. Most of them were working, but cannot work today. The majority of them were sacked because they could not deliver at work. Some worked at a Cooperative Bank and others were teachers. Today, they are jobless and begging for food and even medication.

We met with the Cabinet Secretary for Health and we requested her to provide medication to these people. I received a message yesterday from one Pamela Ouma requesting me to buy her medication because she is paralysed and she has no medication.

Madam Temporary Speaker, even as we seek the amendment of the law from the Senate and the Congress in America to include Kenyan victims in the victims of the state-sponsored terrorist funds, which is not from the taxpayers of America, but the money collected from terrorists, I enlighten this House that the lawyers in America, whom we met with you when we went for prayers, Mussolini, have already sued for some of these victims, about 351 of them. They have been awarded compensation of US\$56.6 billion. This money could not compensate these people because Kenya is not included in the terrorist-sponsored fund. That is why we are seeking for the Americans to amend the law to include Kenyans; given that Al Qaeda was not fighting Kenya, but America. We took their bullets and they should be the big brothers that we look upon.

America is known for defending human rights. These are humans who need to be compensated. That is their right. America should take up their role and do the right thing. The American Senate and Congress should amend the law and include Kenyans. I am asking our President and the Prime Cabinet Secretary, and Cabinet Secretary for Diaspora and Foreign Affairs Minister, Hon. Musalia Mudavadi, that as he moves to America, they should talk to them. I was requesting if he could take two or three of us with them on board, so that we can lay our Petition before the Committee, who are ready.

Madam Temporary Speaker, you are aware of this. When we went to America, we met Senator Chris Coons who is ready to sit down with the Committee. However, the Cabinet Secretary for Foreign and Diaspora Affairs has not been able to get us an appointment to meet them. We know that this has to be done diplomatically and through the foreign affairs. If it were in my position, I would do anything to make sure that this is

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done. It is not in my position. Therefore, I am asking the President and the Cabinet Secretary for Diaspora and Foreign Affairs to do what is needful. These are our people who sleep hungry and go without medication. I am requesting that what can be done locally be done.

We also have the fund that was formed here in 2012 under the Ministry of Interior and Coordination of National Government. I ask the Cabinet Secretary Hon. (Prof.) Kindiki to organise this fund, so that he can also see what he can do for these victims as we wait for the Americans to compensate our people.

As the Senate, we call these concerned Cabinet Secretaries here to ask them questions; why they have not been concerned about the victims who are our people and yet we are asking Americans to do what is needful. It is our right and theirs. We must do what is needful for these people, so that they can also feel like any other Kenyan. I look forward to the Cabinet Secretary for Foreign and Dispora Affairs and our President doing what is needed for our people.

When I went to America before I came up with this Motion, I met with the lawyers and one of the victims, Caroline Muthoka. They told me whenever they try to advance and reach out to the Senate and the Congress, the lawyers are asked why they fight for them yet the Kenyan Government is quiet on this. I got so mad that I told them once I am back in Kenya, I will do a Motion and they will hear the voice of Kenya speaking and demanding what is rightfully ours. I repeat that Al Qaeda was not fighting Kenya, but America.

America should take their responsibility and compensate Kenyans who are not compensated. They only compensated Kenyans were those who were working inside the American embassy, but not those in the adjacent buildings, who were passing by in buses and cars. We are talking of 6,000 people and 213 are dead. Moreover, those people are not compensated. We are asking America to be the big brother that we look upon. They should amend the law so that our people are compensated.

I submit.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Senator. Your plea has been very passionate ever since you started moving this Motion. I hope it sees the light of day someday, so that the bomb blast victims are compensated. I know our colleagues on the other side of the ocean, the Senate in the US will hear this Motion, even as it gets into the HANSARD.

Pursuant to Standing Order No.84(1), I hereby make a determination that this matter does not affect counties.

(Question put and agreed to)

I will now direct that the Order Paper be reorganized. Call out Order No. 19.

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BILL*Second Reading*THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.2 OF 2023)

Majority Leader, Sen. Aaron Cheruiyot, take the Floor.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker.

I beg to move that the Statutory Instruments (Amendment) Bill, (National Assembly Bill No.2 of 2023) be now read a second time. This is a very important piece of legislation. Brief as it is, it carries with it very important powers of Parliament which have been assumed by other bodies.

Madam Temporary Speaker, on many occasions, I have seen either the Cabinet Secretaries or even state agencies continue to carry on legislations that have the full force of law without consideration of Parliament. This is sometimes even when they have lapsed, without any reference back to the House of Parliament for consideration of the same.

This Bill seeks to cure that anomaly. That is why I like the fact that this Bill is being moved here in Parliament, so that colleagues can have time to debate and share one or two things they think about this process. I have seen on many occasions sometimes newspaper items that erroneously report on the process of consideration of regulations that they have already been approved or not approved, that Parliament has ceded its power by passing a particular Bill.

This is a mother law on all regulations that are supposed to be considered by the Houses of Parliament. Therefore, it is not possible by other subsidiary legislation to take these powers away. Anything that will have the force of law outside there by way of regulation will have to follow the route that will now be dictated by this Bill.

Therefore, the principal object of this amendment Bill is to amend the provisions of the Statutory Instruments Act of 2013, which is to allow the Committee on Delegated Legislation to require the regulation making authority to submit to Parliament a copy of any regulation that ceases to have an effect by operation of law. That is when time lapses, it must come back to both Houses to consider. That is what is being referenced in this Bill.

The amendment further obligates Parliament to notify the general public in two newspapers of wide circulation that a statutory instrument, which ceases to have the effect by operation of law, is a nullity. You must notify the public that this regulation has ceased to operate because of the reasons that have been stated.

Fourthly, as I mentioned, there have been cases where authorities fail to submit regulations to Parliament and such regulations continue to be in force until sometimes Parliament actually either annuls them or recalls those regulations. This Bill will ensure that the regulation making authority submits statutory instruments to Parliament. The

Bill will ensure that nobody exploits the mischief of trying to implement regulations that are null and void, which is the case.

Clause 2 of the Bill more specifically, will be amending Section 11 of the 2013 Act and determines that our Delegated Legislative Committee will require the regulation making authority to submit an instrument to Parliament within seven days of the date of the resolution of the committee. Further, notwithstanding subsections 4 and 5, Parliament may, where a statutory instrument ceases to have effect in accordance with subsection (4), notify the public in two newspapers that the instrument is a nullity.

Before, we did not have that regulation. There was no way of notifying other entities that we had run short of this. Therefore, it was incumbent on the other bodies and the authorities that are handling this Bill to notify the public that these regulations are no longer in force.

How do you report yourself? What Government entities do is that they continue to operate with those regulations. Therefore, that is what we are seeking to cure by ensuring that our Committee on Delegated Legislation can notify the public and say, buyer, beware.

In the sense of the members of the public, that regulation and this on a particular sector or field is no longer operational until Parliament gives further notice. Therefore, in conclusion, the passage of this Bill will ensure transparency and accountability in consideration of statutory instruments.

I urge hon. Senators to support this Bill. It is a very straightforward issue. It has five clauses only. It is not anything that anyone would consider controversial or wish to say a lot about it. Therefore, because I respect Parliament, I love putting it to good use of its time. When a Bill is brief, even in their moving remarks, the Senate Majority Leader also has to be brief. When it is elaborate, I have to be elaborate. I do not see why I should take more time than that to explain the three clauses that exist in this Bill.

With those very many remarks, I beg to move and request the Chairperson of the Justice, Legal Affairs and Human Rights Committee, the Senator of Bomet County, Sen. Hilary Sigei, to second.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sigei?

Sen. Wakili Sigei: I thank you, Madam Temporary Speaker, for giving me the opportunity to second this important Bill that the Senate Majority Leader has moved. As I do that, it is imperative to point out that this Bill is an umbrella to statutory legislations, or rather regulations, which are normally made by either institution and sometimes fail to place them before Parliament for scrutiny. The amendments to the Bill are aimed at very specific aspects of it.

One is to have an opportunity for Parliament to scrutinise such instruments, so that as they are published for purposes of application, by such state organs, state entities or agencies, protection of the public interest is fully taken care of by the Parliament, which is constitutionally mandated to protect the interest of the public. Parliamentary approval and oversight of legislation is a constitutional edict.

The need to have these instruments scrutinised by Parliament is imperative. That is the reason why such regulations, as provided for by the proposed amendments, are to be published by the House. To be very specific as I support this Bill, Clause 2, which

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seeks to amend Section 11 of the Statutory Instruments Act, is giving timelines within which such instruments that have been published by either agencies or Government institutions are to be placed before Parliament.

Parliament is thereafter expected to publish them within seven days after the committee has resolved that it has been placed before the House. Why is this timeline very critical? Previously we have had statutory instruments, which have been applied by various state agencies without the input of the relevant committee of Parliament. By extension, they are devoid of the input of the public because the committee of Parliament is deemed to be a representation of the people.

The seven-day period which is given to Parliament to publish is also to make sure that there is no unnecessary delay in the publication and application of the statutory instruments. By the time they are being published, they are supposed to be utilised to ensure that services to the public are within the relevant regulations. So, the proposed amendment under Subclause 2(5) is long overdue and I fully support it.

Secondly, there is a requirement that a statutory instrument that has ceased to be operational must equally be published and the public is notified. Therefore, any other Government agency that would fail to publish a nullified instrument or regulation is illegal. This is another subsequent provision of this particular statutory instrument Amendment Bill.

The proposed amendment under Clause 3 to Section 12 of the Principal Act is very critical. The Act as it is providing that there is no exemption to orders or regulations that are emanating from courts of law. There are three arms of Government including the Legislature, the Judiciary and the Executive. They are independent of one another. This amendment seeks to protect the regulations and orders that are emanating from courts of law as judicial pronouncements from a requirement that they be subjected to parliamentary scrutiny. If they were to be subjected to parliamentary scrutiny, it definitely would go against the constitutional requirement of independence. So, this amendment is very critical in ensuring that the independence of various arms of Government is safeguarded.

Madam Temporary Speaker, the third and critical aspect in respect of this proposed amendment is the proposed amendment to Clause 18. It requires the Clerk of this House and the National Assembly to ensure that a notice is published in two newspapers of nationwide circulation. The reason why it is important is because once a statutory instrument is published in two newspapers of national or wide circulation, it is seen that the public is notified of such a regulation and, therefore, one will not purport to allege that there is a utilization of statutory instruments that have not been subjected to parliamentary scrutiny.

This publication also applies to those that have been revoked because once they are revoked, a revocation must also be published on the parliamentary website, and this is to notify the public of the action that has been undertaken by Parliament.

Lastly, the proposed amendment seeks to amend Clause 24 of the Principle Act. This is to ensure that those people who are in authority or those people who have been donated have the mandate to make statutory instruments, if and when they fail to do so, the Act provides for a penalty for inaction. Also, the penalties have been enhanced from

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Kshs20,000 to not less than Kshs500,000 and also a period of three years in prison if a person or an institution that has authority has failed to do so. This is done to make sure that people or persons in authority do not enhance the norm that we know accounting officers have of just failing to comply with the law because there is no punitive measure. Enhancing this fine from Kshs20,000 to Kshs500,000, will ensure that the penalty is so punitive that one is not ready to be subjected to the penalty or even to be put in prison for a period of two years for their inability to act as required by the law.

So, I fully support this Bill and ask the Members of this House to support the passage to make sure that whatever statutory instruments that institutions or Government agencies utilize for purposes of service to the public have the scrutiny that is required by law in Parliament and are also fully implemented as per the law.

Madam Temporary Speaker, I support you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Wakili Sigei.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): I now open the Floor for contributions from the Senators.

Sen. Mungatana, you have the Floor.

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker, for allowing me to make my contribution to this Bill.

I support the amendment. I say so because I come from the Committee on Delegated Legislation of the Senate, and in fact, I have the responsibility thereof being the Vice-Chairperson.

This amendment is a reminder of the regulations making agencies. These include Cabinet Secretaries, corporations such as the Communications Authority of Kenya (CAK), and all other regulators who are playing in the space of Government. It is a reminder to them that the law-making process does not belong to the Executive or the authorities that have been set up by law. The law-making process, legislation, and powers belong to the Senate and the National Assembly. When we donate the powers to them for them to make regulations, it is so that they can make those laws that we have made here, the mother laws, effective. This instrument was necessitated by the fact that some of these regulation making agencies would finish with regulations and then forget even to publish to the people.

As the Mover has said, sometimes those regulations have lapsed, but they would continue to apply them, and then the Senate or National Assembly gets to know that a regulation, which is not there, is being applied.

We have had a very funny situation because this Statutory Instruments Act says that after 10 years, all those regulations must lapse and must go back for re-enactment. Every regulations making agency must come before the Delegated Legislation committees of the National Assembly and the Senate, so that they can justify why they need an extension of those regulations that have expired. However, the regulations making agencies have become a law unto themselves. They forget that we just donated these powers to them. The power to make law is with the National Assembly and the Senate of

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the Republic of Kenya, and that is what the Constitution says. I strongly support this amendment because it is telling them that these powers belong to the Senate and they must do according to the donated powers. They should not try to extend powers that you do not have.

As I conclude, I want to make two quick points. First, regulations making agencies are the Cabinet Secretaries and the statutory bodies that exist there. We encourage them that before they make regulations, before they go publishing, because I know they are listening to me wherever they are, please, come before the Senate Delegated Committee or the National Assembly Delegated Committee. They can go to one and then come to the other.

We say so because, again, that power is not given. Those regulations are donated powers from the Senate and the National Assembly. So, do not rush to the gazette, come for a pre-publication consultation, so that if there is a problem, we will tell that you what you are trying to publish conflicts with the “Mother Act” and the Constitution. Come so that we work together to get efficient working of government. It is never a pleasure for us to reject regulations that you have taken so much time and even expense to gazette. So, I would urge that you come for a pre-publication consultation with the Delegated Legislation committees of both Houses before you gazette.

When you come, there are two things we will require of you. First, we will require the regulations impact assessment report, and second, we will require proof of public participation. Why? Because you have to tell us if it is a regulation for Miraa, who participated in approving. Do not say it is only the farmers. What about the consumers? What about those people who use the roads, who are the stakeholders? Please come so that we talk.

If public participation is insufficient, we will reject those regulations. Even if you have gazetted them, we will degazette them again. You will end up with a zero-sum game. Also, come with the regulations impact assessment report. Those two documents are extremely important, so that you can tell us the impact of the refugee regulations you are proposing, to stakeholders.

We urge all regulations making authorities to come for prepublication scrutiny, so that we can discuss and correct them. Then, when they are exercising the donated power from the Senate and the National Assembly, it can be done in accordance with the law, not the way it has been done in the past, then we have problems.

I want to use this opportunity to talk to the people in the various positions in the Executive and make regulations. They need to remember that this law is reminding them that they are operating on donated power. It is not their power; theirs is to execute what the National Assembly and the Senate have passed. When you are doing these regulations, do them in such a manner that you are in consultation. Do not rush to gazette then we have to annul what you have done.

With those many remarks, I beg to support this Bill.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Sen. Mungatana. Those were the Senators who wished to contribute to this Bill. I invite the Senate Majority Leader to reply.

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The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to reply.

I thank my colleagues who have taken the time to speak on this important Bill. Making their contribution and thoughts on something that I said, though brief, is extremely important to the existence of Parliament as an institution. We take this for granted on many occasions, but it has grave implications if ignored.

Sen. Mungatana, I thank you for your thoughts. Some of the things that you have said are in practice. For example, I know for a fact that our Committee on Delegated Legislation has a meeting tomorrow with the State Department for Housing. This is because, further to the law we passed on affordable housing, there are regulation making powers we gave to the Cabinet Secretary. The State Department is in the state of developing those regulations to govern affordable housing. How do you buy the House and contribute? They have sent the draft to the Committee for their input.

It is also part of the public participation we are talking about. Eventually, when it comes to Parliament, it is already involved as it considers the views of other stakeholders, so Parliament is like an appellate court in this matter. Other stakeholders will come and say, for example, we see the Ministry has proposed the following, but this is what we thought would have been better. Then, Parliament can make the final decision and approve those regulations. Some of the things you are saying are in practice. However, we need to make it the culture. I like that, as I said in my moving note, this is the umbrella law, aligning the Statutory Instruments Act of 2013 to our Constitution and making it alive for people to know that we are in a bicameral legislative environment. There are two Houses of Parliament. There have been instances where regulations are taken to only one House. I have not seen much of that this term, but we have confronted this over the years in the existence of the bicameral Parliament.

I thank my colleagues for taking their time. With those remarks, I beg to reply.

In accordance to Standing Order No.66(3), I beg to request that the putting of question be deferred to another date.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Senator. Putting of the question is deferred to another date as will be scheduled by the Senate Business Committee (SBC).

(Putting of the question on the Bill deferred)

*(The Clerk-at-the-Table consulted
with the Temporary Speaker)*

I will further direct that the Order Paper be rearranged so that we call out Order No.18.

BILL*Second Reading*THE METEOROLOGY BILL
(SENATE BILLS NO.45 OF 2023)

The Temporary Speaker (Sen. Veronica Maina): The Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Madam Temporary Speaker. I beg to move that The Meteorology Bill (Senate Bill No.45 of 2023) be now read a Second Time.

The Meteorology Bill was published in the *Kenya Gazette* Supplement No.172 of 2023. The principal object of the Bill is to put in place a legislative framework to regulate the meteorological services in Kenya and to coordinate and monitor meteorological services. The Bill proposes to establish the Kenya Meteorological Service Authority, which shall be responsible for the provision, regulation, coordination, and management of meteorological services.

This is important because we live in a data-driven society. Before Kenyans make any decision nowadays, they prefer to ask what science says about it. What is the legitimate information and the single source of truth? Nowadays, because of technology, there are many places through which Kenyans can get information and meteorological services. Some are accurate, and some inaccurate. Yet, some of the decisions that our citizens take based on the information they receive have far-reaching implications.

On many occasions, it is important that when these considerations are being made, members of the public know they are getting the information from a credible institution. Forget about the noise you read on Twitter and social media, many Kenyans believe and trust Government institutions. We have credible organizations. You have seen here at the Speaker's Gallery every afternoon people visiting this country from Zambia, Malawi, and other African countries who come to benchmark on Kenyan institutions. This has been a stable democracy for over 60 years. Our institutions have traveled on a journey.

Many African countries, and sometimes I have met Chief Executive Officers (CEOs) and heads of parastatals who tell me that they were in the company of delegations from as far as Southeast Asia and some European countries, who were here to benchmark on how certain institutions work in our country. Do not be fooled by the noise you often read on social media about our country and the things that are not working.

There are reliable and credible Government institutions that many Kenyans go to for information. The Government is an institution that needs to be guarded. This is why, on many occasions, when I read about public officials who have messed up a particular institution, I am firm on the issue. We cannot allow our institutions and their credibility to be watered down.

Many institutions worldwide come to study and understand how we have done a particular issue. Therefore, this is one such institution we are founding. At this point, we

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may not be a benchmark institution for others because it is still new. However, I know for a fact that 10 or 30 years down the line, there will be countries that will come to benchmark from these institutions. This is because ordinarily Kenyans are professionals. When they are granted an opportunity to work in an institution, they do their best.

There are many other reasons we do not succeed in other things. At least I know it is not for the want of good professional work or people of good repute. This Bill provides a legal framework to set up that particular institution so that we know.

Nowadays, we hardly see the weather reports yet you know that growing up Ngwata Francis was almost like a permanent fixture on our television screens and many people would dress the following day depending on the information that he gave on the news. That is not the case anymore because we have come to know that there are changing weather patterns and trends, which unfortunately our meteorological department has not caught up with. Nonetheless, this legislative framework that is being proposed will help us to set up a modern institution, a needs-specific and fit to address that particular issue.

We have severe weather changes and events in Kenya, including the just concluded prolonged drought and the ongoing heavy rainy season. You know how sinusoidal our weather patterns have become. You come from a high drought to another peak of heavy rains and all those in a completely unpredictable season. They have a significant impact on our country's population, economy and the environment. These extreme weather phenomena have led to food and water shortages, loss of lives and property, disruption of critical infrastructure and many other things.

It would be possible, for example, if we had such institutions that are properly funded right now to map out the country and inform people that they need to move out of certain areas because there are projected to be floods, landslides and things like that. If credible institutions speak, Kenyans will listen even though many times Kenyans do not listen.

Madam Temporary Speaker, I was very disappointed when I saw Azimio leaders, including very respected Members of this House going somewhere in Mukuru and telling citizens not to bulge an inch, yet they know that across the road in Mathare, we had lost citizens who were living close to the shores of Nairobi River. They were telling people that the Government should not tell them to move until they give them alternative housing. This is hypocrisy. I can bet, when all those Azimio leaders finished addressing the people of Mukuru, telling them not to move and mislead Kenyans, they got into their cars and drove to Karen to enjoy their beer and *nyama choma*. That is why we need credible institutions such as this, so that when they speak with authority, Kenyans know that they should take seriously the weather warnings they are given and not rely on any politician to speak this or the other way on that particular issue.

The establishment of the Kenya Meteorological Services Authority will ensure that we have accurate and timely weather forecast for severe weather. I have mentioned all the things that will be done. There is nothing deep or further detailed about the Bill other than the usual provisions of an Act of Parliament when you are setting up a new institution.

I will quickly run over the various parts. More importantly, Part I on Clause 1 to 4 of the Bill, provides for those provisions and outlines the purposes and objectives for which I have properly enumerated. It helps Kenya to be part of the global community.

We are members of the global society and there are certain global commitments that we have made as a country, which the passage of this Bill helps us to fulfil. For instance, the Convention of the World Meteorological Organisation and the International Civil Aviation Organisations where we have signed up. As a responsible country, we need to do this, so that we give weather warnings and such information.

Clauses 5 to 8 of the Bill establishes this authority and provides for its functions and powers of the authority, which is to maintain surface, upper air, marine meteorological observation network, establishment and maintenance of integrated information system for exchange of this data across the globe. It also helps in issues such as forecasting, product dissemination and provision of aeronautical and meteorological services for safety, since we are part of the international global community.

Many planes are overflying our airspace. They rely on this data and that is why this institution is important in determining the projected weather patterns for the next few days as the pilots sit to plan their trips and so on, they can get more credible information.

Part III of the Bill, which is Clause 9 to 28, provides for the management of the authority who are the board of directors or representatives. There are qualifications for who is the chairperson of this board and it needs to be somebody who is well educated in these matters. The Chairperson will be appointed by the President and the qualification they need to meet is at least 10 years' experience in the relevant field and hold a degree that is recognized in the Republic of Kenya and does not hold a position that is likely to place that person in an environment of conflict of interest and so forth.

Part IV of the Bill provides for the establishment of a Research and Training Institute. Research is important and it is what informs us where the world is headed. It is possible to build a credible research institution so that these countries that keep on coming to Kenya to learn will come and benchmark and know that Kenya is a standard bearer.

We have a responsibility, being one of the most progressive nations on the continent to come up with world class institutions where the rest of the continent can borrow a leaf from and learn on global practises and so on. That is why we are setting up that research institution. We need to develop the next group or school of professionals who will serve in this particular institution and that is why Clause 29 exists.

Clause 30 provides for financial provisions on how to report audit procedures, issues of liability and so on.

Part VI of the Bill, which is Clauses 41 to 47 provides the provisions relating to offences and penalties on what you are supposed to do and what is the mistake. We have a very interesting media in this country. Their obsession with mundane issues is legendary. You will find that in an entire Bill, of all the things that I have said, they will focus on the fines and somebody will run with a screaming headline that you will now be charged Kshs1 million for wrongly predicting the weather according to a Bill moved by the Senate Majority Leader. You cannot put that past our media, but we have come to

love and live with them as they are. This Bill provides for the penalties because it is an offence to mislead the people of Kenya.

Part VI of the Bill contains transitional provisions on what happens to the meteorological departments, authority and all those things. The saving powers of the institution and so on.

Madam Temporary Speaker, with those many remarks I beg to move and request the Senator for Tana River, Sen. Mungatana to second.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Majority Leader. Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Thank you, Madam Temporary Speaker. I rise to second this very important Bill that is before the Senate today.

Recently the President addressed this nation on cyclone Hidaya that was hitting us at the coast. We were all very worried and all efforts were put to make sure our beloved pastime at the beach was stopped. The marine officials and the security agencies prohibited movement within the beach area for the protection of the people because of the expected destructive force that cyclone Hidaya was bringing to the coast.

Madam Temporary Speaker, we, including the entire counties of Lamu, Tana River, Kilifi, Mombasa down to Kwale were all very worried.

I remember we were on that particular day---

The Temporary Speaker (Sen. Veronica Maina): Sen. Mungatana, you will have a balance of 18 minutes to conclude seconding the Motion when we resume the next sitting, which is tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 16th May, 2024 at 2.30 p.m.

The Senate rose at 6.30 p.m.