

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Tuesday, 17th October, 2023**

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

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

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

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

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

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

(The Quorum Bell was rung)

Serjeant-at-Arms, I am informed that we do have Quorum now, kindly stop the Bell.

Clerk, proceed to call the first Order, please.

COMMUNICATION FROM THE CHAIR**CONSERVATORY ORDERS ALLOWING SEN. ORWOBA
TO RESUME DUTY AS SENATOR**

The Speaker (Hon. Kingi): Hon. Senators, I have the following Communication to make-

As you may recall, on Tuesday, 3rd October, 2023, Sen. Oketch Gicheru, MP, the Senator for Migori County, rose on a point of order seeking the direction of the Speaker as to whether Sen. Orwoba, MP, was in order to sit in and participate in the proceedings of the Senate; the said Senator having been suspended by the Senate.

Other Senators, including Sen. (Dr.) Khalwale, the Senate Majority Whip; Sen. Cherarkey, the Senator for Nandi County; Sen. Osotsi, the Senator for Vihiga County;

Sen. Mungatana MGH, the Senator for Tana River County; Sen. Madzayo and Sen. Kathuri made contributions to the point of order raised by Sen. Oketch Gicheru.

Hon. Senators, by way of background, you will recall that on the 2nd August, 2023, the Committee of Powers and Privileges commenced an inquiry, on its own Motion, into the conduct of Sen. Orwoba.

The Committee sought to make a determination on whether the conduct of the Senator, in relation to the publication of allegations by the Senator on the Senate Business WhatsApp group, constituted a breach of privilege, and if the conduct was found to be a breach of privilege, appropriate recommendations be made in accordance with the Parliamentary Powers and Privileges Act and the Senate Standing Orders.

Hon. Senators, as the Committee of Powers and Privileges was settling down to investigate the matter, Sen. Orwoba, on 4th August, 2023, filed a petition in the High Court in Nairobi, being Nairobi High Court Petition No. E283 of 2023 against the Attorney General, the Clerk of the Senate, the Speaker of the Senate, the Senate Committee on Powers and Privileges and the Senate of the Republic of Kenya.

In her petition, the Senator sought conservatory orders barring the Senate Committee of Powers and Privileges from proceeding with the inquiry into her conduct. The court, while certifying the matter as urgent, declined to grant the conservatory orders sought and instead ordered that application be served and be mentioned on 21st September, 2023, to confirm compliance and for further directions.

The Committee therefore proceeded with the inquiry as per the law. It concluded its inquiry and tabled a report before the Senate thereon on 9th, August, 2023, upon which a Motion for the consideration of the Report of the Committee was debated in the following terms-

THAT, the Senate adopt the report of the Committee on Powers and Privileges on the inquiry, on its own Motion, into the conduct of Sen. Orwoba, and to establish if the conduct constituted a breach of Parliamentary privilege laid on the Table of the Senate on Wednesday, 9th August, 2023.

You will recall that debate on the Motion commenced on the 10th August, 2023, and on the 20th September, 2023, the Senate, by resolution, adopted the Report of the Committee of Powers and Privileges. The recommendations adopted by the Senate on the matter were as follows-

(1) Pursuant to Section 17(3)(g) of the Parliamentary Powers and Privileges Act, 2017, the Senator be suspended from the House for the remainder of the Second Session of the Thirteenth Parliament.

(2) Pursuant to Section 17(3)(d) of the Parliamentary Powers and Privileges Act, 2017, Restriction of Access to the Precincts of Parliament as defined in Section 3 of the Powers and Privileges Act, 2017, and Standing Order No.2 of the Senate Standing Orders and withholding the use or enjoyment of any specified facility provided to Members by Parliament to be applied to the Senator for the remainder of the Second Session of the Thirteenth Parliament.

(3) On resumption of the Senate Sitting for the Third Session, the Senator, while at the Bar, apologises to the Senate, hon. Senators, the Clerk of the Senate and Secretariat of Parliament before being admitted to the Senate pursuant to Section 17(3)(c) of the Parliamentary Powers and Privileges Act, 2017.

(*Sen. Wafula walked into the Chamber*)

Sen. Wafula, you may take your seat. This is fairly long.

(*Sen. Wafula took his seat*)

This resolution of the House was communicated to the Senator *vide* a letter Ref. No. SEN/RESOLS/24/2023(01), dated 20th September, 2023, and was under implementation by the Senate.

Hon. Senators, on the 28th September, 2023, Sen. Orwoba again filed a judicial review Application No. E008 of 2023 in Machakos High Court, against the Clerk of the Senate, the Speaker of the Senate, the Senate Committee on Powers and Privileges, and the Senate of the Republic of Kenya.

The Senator sought leave to apply for judicial review orders to quash the recommendations of the Committee of Powers and Privileges and the resolution of the Senate made on the 20th September, 2023.

The Senator further sought orders to restrain the respondents referred to herein above from implementing the recommendations of the Report of the Committee of Powers and Privileges as adopted by the Senate on 20th September, 2023.

The Senator also sought orders to compel the respondents to give effect to Articles 10, 27, 31, 33, 36, 47, 50 and 117 of the Constitution of Kenya.

Hon. Senators, kindly, walk in and take your seats.

(*Several Senators walked into the Chamber*)

On the 20th September, 2023, the matter was heard *ex parte* before the High Court Judge at Machakos, and the following orders were issued pending hearing and determination of the substantive judicial review application-

(1) THAT, leave be and is hereby granted to the *ex parte* applicant to apply for an order of *certiorari* to bring into this court and quash the recommendations by the fourth respondent, dated 9th August, 2023, tabled and laid on the Table of the House on the 20th September, 2023, and debated and adopted as a resolution of the fifth respondent purporting to-

(a) suspend the *ex parte* applicant from the service of the Senate for the remainder of the second Session of the Thirteenth Parliament from the date of adoption of the impugned report of the fifth respondent;

(b) bar the *ex parte* applicant from the Parliament precincts for the remainder of the Second Session of the Thirteenth Parliament from the date of adoption of the Report by the fifth respondent being 20th September 2023;

(c) on resumption to offer an apology to the second, third, fourth and fifth respondents.

(2) Leave be and is hereby granted to the *ex-parte* applicant to apply for and an order of prohibition directed at the respondents in particular the second, third, fourth and fifth respondents prohibiting and restraining them from implementing the Report of the fourth respondent dated 9th August, 2023, tabled and laid on the Table of the House on

the 20th September, 2023, debated and adopted as a resolution of the fifth respondent purporting to-

(a) suspend the *ex parte* applicant from the service of the Senate for the remainder of the Second Session of the Thirteenth Parliament the date of adoption of the impugned report of the fifth respondent;

(b) bar the *ex parte* applicant from the Assembly precincts for the remainder of the Second Session of the Thirteenth Parliament from the date of adoption of the Report by the fifth respondent being 20th September 2023;

(c) on resumption to offer an apology to the second, third, fourth and fifth respondents.

(3) Leave be and is hereby granted to the *ex parte* applicant to apply for an order of *mandamus* compelling the respondents to comply with and give effect to articles 10, 27, 31, 33, 36, 47, 50 and 107 of the Constitution of Kenya.

(4) THAT *ex parte* applicant is directed to file the substantive Notice of Motion application within the next 14 days, and serve all the respondents within the same within 48 hours of being filed.

(5) THAT, the leave granted will operate as a stay of the suspension of the *ex parte* applicant, barring the *ex parte* applicant from the Parliament precincts for the remainder of the Second Session of the Thirteenth Parliament from the date of adoption of the Report by the fifth respondent being 20th September, 2023 and requirement that on assumption of duty to offer an apology to the second, third, fourth and fifth respondent pending the hearing and determination of the substantive judicial review application, given the fact that she stands to lose her parliamentary seat, if absent for eight sittings of the House, as provided for under Article 103 of the Constitution, 2010.

(6) THAT this matter be mentioned on the 25th October for further directions.

Hon. Senators, kindly walk in and take your seats.

(Hon. Senators walked into the Chamber)

On 29th September, 2023, the Office of the Clerk, through the Directorate of Litigation and Compliance Services, was served with the aforementioned orders together with the pleadings on behalf of the Clerk of the Senate, the Speaker of the Senate, the Committee on Powers and Privileges and the Senate of the Republic of Kenya.

This matter was brought to the attention of the Senate Business Committee (SBC) at its 24th meeting held on Tuesday, 3rd October, 2023. Upon extensive deliberation on the matter, the Committee resolved to oppose the Petition and the Judicial Review Application by Sen. Orwoba, MP, on the following grounds:

(a) THAT due process was followed while undertaking the inquiry into the misconduct of Sen. Gloria Orwoba by the Senate Committee on Powers and Privileges and that the Senate did not breach any provisions of the Constitution or any other law in adopting the Report, and

(b) THAT the actions by Sen. Gloria Orwoba of filing multiple cases against the respondents on the same subject matter in Nairobi High Court Constitutional Petition No. E283 of 2023 (Gloria Orwoba – vs - AG, Clerk of the Senate and 3 others) and also another suit in Machakos High Court, Judicial Review Application No. E283 of 2023

(Gloria Orwoba- vs - AG, Clerk of the Senate and 3 others) is an abuse of the court process.

I wish to inform hon. Senators that the Senate and other respondents have already made an application seeking to vacate these conservatory orders. The same is coming up for hearing on 23rd October, 2023.

Hon. Senators, that being the case, I will now address myself to the issues raised in the point of order by Sen. Oketch Gicheru and supported by a number of Senators.

The issues up for consideration are:

(a) Whether, under the doctrine of separation of powers, the court can interfere by way of injunction with an ongoing process that is being undertaken by the Senate.

(b) Whether, under the doctrine of separation of powers, the court has the power to review, vary or set aside a decision on a matter that has been determined conclusively by the Senate.

(c) Whether the Senate is obligated to comply with the conservatory orders issued by the court staying the decision of the Senate to suspend Sen. Gloria Orwoba.

Hon. Senators, the issue as to whether the court can interfere by way of an injunction with an ongoing Senate process that is being undertaken by the Senate is not new. The same has arisen before in this Parliament and previous Speakers of both Houses and even the courts have pronounced themselves on the same.

On 17th October, 2019, rising on a point of order, Sen. Mwaruma, MP and Sen. M. Kajwang', MP, sought the Speaker's intervention to stop further proceedings of the Senate in the matter of the removal from office, by way of impeachment, of Hon. Granton Samboja, the then Governor of Taita-Taveta County, alleging that the matter was active in court.

On 23rd October, 2019, after the Senate was served with the court order barring the Senate from considering the resolution of the County Assembly of Taita-Taveta, to remove from office Governor Granton Samboja, then Governor of Taita-Taveta County, Hon. Sen. (Prof.) Kithure Kindiki, sitting as Speaker ruled that the courts cannot injunct or curtail Parliament from carrying out its constitutional responsibility. He noted that and I quote:

“There are at least three jurisprudential reasons why injunction of Parliament by courts is not constitutionally and legally tenable.

First, courts injuncting Parliament is a frontal and deadly attack on the substratum of the hallowed legal doctrine of separation of powers, the bedrock upon which our constitutional order is raised.

Secondly, trying to curtail Parliament's constitutional responsibilities undermines the *sui generis* stature of Parliament as the constitutional organ that is directly elected by the people and thereby exercises the sovereign will of the people.

Thirdly, attempts to injunct Parliament is inimical to the desirable levels of institutional comity and cordial relations among the branches of Government and is in itself tantamount to subversion of the Constitution.”

Hon. Sen. (Prof.) Kindiki further ruled that the courts of law cannot and shall not stop or attempt to prevent Parliament from undertaking its constitutional mandate. Neither can the Judiciary compel any action to be undertaken by Parliament. He further ruled that any injunction interfering with the work of Parliament has no effect on Parliament in exercise of its constitutional functions, and that such court orders have no

effect on the National Assembly or the Senate or on any of their committees, respectively.

On the basis of this Ruling, the Special Committee on the removal from office of Governor Samboja proceeded to consider the Resolution of the County Assembly of Taita-Taveta to impeach the said Governor and tabled its Report before the Senate.

On 12th November, 2008, while the National Assembly was considering a Bill to amend the Constitution, Hon. Olago, Member for Kisumu Town West, rose on a point of order, and tabled copies of pleadings and a conservatory order in Judicial Review Petition No. 689 of 2008 (Samuel Mutua Kivuitu and 22 others – vs - The Attorney-General). The said order sought to restrain the Government of Kenya from taking or commencing any executive or legislative action or process to disband or abolish the Electoral Commission of Kenya (ECK) and or remove its members from office.

The Hon Member sought a ruling from the Chair on whether the court order amounted to a derogation from the constitutional principle of separation of powers by the Judiciary. He argued that the ruling of the High Court contravened Section 30 of the former Constitution and amounted to a subjugation of Parliament by the Judiciary. He therefore sought a ruling from the Chair in this regard.

On 27th November, 2008, Speaker Marende delivered his ruling where he stated that I quote:

“It has been stated that next only to the privilege and immunity of free speech within the House, the most important privilege of this House is the right of the House to regulate its own procedure, free from intervention by the Executive or the courts. The House retains the right to be the sole judge of the lawfulness of its own proceedings. Accordingly, Parliament cannot be stopped or prevented from performing its legislative function. Any person or authority purporting to do so, would be acting in vain.”

Honourable Senators, apart from the rulings made by my predecessors cited herein above, the courts have also pronounced themselves on this issue. The Supreme Court, in the matter of the Speaker of the Senate & Another – vs – Attorney General & 4 Others, Reference No.2 of 2013 while considering a request from the Senate for an advisory opinion pursuant to Article 163(6) of the Constitution on whether the Division of Revenue Bill was also subject to deliberation by the Senate, pronounced itself on the doctrine of separation of powers.

The Supreme Court cautioned against undue interference with ongoing processes in other arms of Government and stated that the court will not question each and every procedural infraction that may occur in either of the Houses of Parliament. That the Supreme Court emphasized that the courts cannot supervise the workings of Parliament and the institutional comity between the three arms of government must not be endangered by unwarranted intrusions into the workings of one arm by the other.

Hon. Senators, kindly, take your seats.

(Hon. Senators walked into the Chamber)

Hon. Senators, in the case of Mwangi wa Iria & 2 Others – vs - Speaker, Muranga County Assembly & 3 Others, Petition No.458 of 2015 Nairobi, Governor Mwangi wa Iria made an application seeking to restrain the Speaker of the Senate and the Senate from considering the Resolution from the County Assembly of Murang’a, of the removal of the

Governor from office. At the time of hearing the said application by Governor Mwangi wa Iria, the Senate Special Committee constituted to consider the charges and investigate the matter of removal from office of the Governor had held its first meeting on 28th October, 2015, and was scheduled to hold another meeting with the parties concerned including the Governor and the County Assembly of Murang'a on 3rd November, 2015.

In a ruling delivered on 3rd November, 2015, the Learned Justice Onguto (deceased), declined to issue any conservatory orders. In his application, the Governor had alleged that his constitutional rights had been infringed by the County Assembly, that there was no public participation by the County Assembly and that the County Assembly of Murang'a had not followed the correct procedure in impeaching him. Delivering his ruling on the application made by the Governor, the learned judge had the following to say-

“I take cognizance of the fact that the Senate is truly, what I may call, the impeachment court. The Senate is expected not only to investigate the nexus of the allegations to the first petitioner. The Senate must also interrogate the entire process as it takes through the county assembly. I have seen no law that restrains the Senate from returning a verdict that the process was not conducted as detailed under the Constitution or any law.”

The learned judge in making reference to the case of Martin Nyaga Wambora and 32 others – vs - the County Assembly of Embu, Constitutional Petition No.7 and 8 of 2015 at Embu (consolidated), noted with approval, the position as restated in the Supreme Court of India in State of Rajasthan – vs - Union of India (1977) 3 SCC 592, where the judge observed as follows-

“This Court has never abandoned its constitutional function as the final judge of the constitutionality of all acts purported to be done under the authority of the Constitution. It has not refused to determine questions either of fact or law so long as it has found itself possessed of the power to do it and the cause of justice to be capable of being vindicated by its actions. However, the court cannot assume unto itself powers the Constitution lodges elsewhere or undertake tasks entrusted by the Constitution to other departments of State which may be better equipped to perform them. These discharged duties of all guardians of the Constitution include the duty not to transgress the limitations of their own constitutionally circumscribed powers by trespassing into what is properly the domain of other constitutional organs”

Hon. Senators, it is therefore clear that the courts, save for justifiable instances, should not interfere with an ongoing process before Parliament as clearly demonstrated by the aforementioned court decisions and rulings, which I fully agree with.

In fact, this position was further demonstrated by the hon. judge in Petition No. E283 of 2023, Nairobi filed by Sen. Orwoba where the judge declined to grant the Senator conservatory orders against the Senate Committee of Powers and Privileges.

Aware that the Senate was discharging its constitutional mandate, the court refrained from interfering with the inquiry that was being undertaken by the Powers and Privileges Committee.

On the issue as to whether under the doctrine of separation of powers, the court has the power to review, vary or set aside a decision on a matter determined conclusively by Parliament, again, this issue is not new. It has arisen before and has been addressed by Speakers of Parliament and the courts themselves.

In the ruling by hon. Sen. (Prof.) Kindiki that I have referred to herein before, while addressing himself to the doctrine of separation of powers, the hon. Deputy Speaker stated as follows:

“In the spirit of the concept of checks and balances, which in itself is an offshoot of the separation of powers doctrine, our constitutional design ensures that the Judiciary is empowered to scrutinize legislation and other outputs of Parliament *ipso facto* to ensure that the Constitution and the law have been complied with. Thus, the unfettered, but solemn privilege of Parliament to proceed unhindered by the Judiciary and the Executive is moderated by the reality that the Executive can veto legislation and courts of law in the exercise of their judicial authority under the Constitution retain a residual power to declare in justifiable instances, any legislation or other output of Parliament illegal, unlawful or unconstitutional.”

In this ruling, the former Deputy Speaker appreciated the fact that the Judiciary may, in justifiable instances, review, set aside or vary a final determination of Parliament.

In the matter of the Speaker of the Senate and Another – vs- the Attorney General and four others, Reference No. 2 of 2013 already referred to herein above, the Supreme Court stated that-

“Parliament must operate under the Constitution which is the supreme law of the land. If Parliament violates the procedural requirements of the supreme law of the land, it is for the courts of law, not least the Supreme Court, to assert the authority and supremacy of the Constitution.

It would be different if the procedure in question was not constitutionally mandated. This court would be averse to questioning parliamentary procedures that are formulated by the Houses to regulate their internal workings as long as the same does not breach the Constitution. By rendering this opinion, the court does not violate the doctrine of separation of powers. It is simply performing its solemn duty under the Constitution and the Supreme Court Act.”

Another matter that clearly demonstrated that the decisions of Parliament are subject to review by the courts was the matter of James Opiyo Wandayi – vs - Kenya National Assembly and two others, i.e. Judicial Review Application No. 258 of 2016.

In this matter, on 31st March 2016, the Speaker of the National Assembly ordered hon. Opiyo Wandayi to withdraw from the Chambers pursuant to Standing Order No.107 of the National Assembly Standing Orders for gross disorderly conduct while attending a joint sitting of Parliament during the State of the Nation Address by the then Head of State.

The hon. Member refused to comply with the Speaker’s order. The Speaker consequently invoked Standing Order No.111 of the National Assembly Standing Orders and ordered that the Hon. Member be removed from the Chamber by force.

The National Assembly’s then Standing Order No.111 provided that hon. Members once removed from the Chamber by force would thereupon, without question put, be suspended from the service of the House for the remainder of the Session. The sitting in question being in March 2016, meant that the hon. Member would have been suspended up to February 2017.

Just like Sen. Orwoba, hon. Wandayi subsequently filed a judicial review application in the High Court challenging his suspension from the service of the House for the remainder of the Session. He obtained orders staying his suspension from the

service of the House pending the hearing and determination of the judicial review application.

Upon service of the said court order, the Speaker of the National Assembly complied with the same and allowed hon. Wandayi to access the National Assembly, pending the hearing and determination of the judicial review application. This is exactly the same position the Senate finds itself in today.

Sen. Orwoba, having been suspended pursuant to the resolution of the Senate, moved to court by way of a judicial review and obtained conservatory orders against that suspension.

The upshot of these court decisions and rulings made by my predecessors is that the courts have constitutional power to review, vary or set aside decisions of Parliament if such decisions are found to have violated the Constitution or any other written law.

Hon. Senators, having considered this matter after taking into account previous rulings of Speakers of Parliament and court decisions, it is my ruling that whereas the Senate is dissatisfied with the conservatory order obtained by Sen. Orwoba, the Senate shall comply with the said order, while reserving its right to vigorously defend its position in court to demonstrate that it accorded the hon. Senator due process and that it did not breach the Constitution, or any other law, in arriving at its decision to suspend the hon. Senator.

I so rule.

I thank you. Next Order.

PETITIONS

REPORT ON PETITION: ALLEGED FRAUD BY FIRST CHOICE RECRUITMENT AND CONSULTANCY AGENCY

Sen. Mbugua: Mr. Speaker, Sir, Pursuant to Standing Order No.238, I wish to table the report of the Standing Committee of the Labour and Social welfare on the Petition by Mr. Kimutai Kirui and other residents of Uasin Gishu County, concerning alleged fraud by a First Choice Recruitment and Consultancy agency.

The Petitioners, Mr. Kimutai Kirui and Mr. Cleophas Arap Koech, representing an estimated 5,000 young people, were drawing the attention of the Senate to the matter regarding the agency.

The petitioners indicated that First Choice Recruitment and Consultancy Agency Limited based in Eldoret -

(1) Obtained money from an estimated 5,000 youth to facilitate their placement for jobs and studies abroad, during the period before the start of the 2022 World Cup.

(2) However, the agency failed to facilitate the said jobs and studies placement, leaving the youth and their families vulnerable and desperate, with the initial hopes of securing employment and study placement dwindling.

(3) The agency had influenced the efforts of the affected youth to seek redress through the relevant agencies, such as the police and the County Commissioner, hence making it difficult and unsuccessful.

(4) The victims continue to face profiling, threats, intimidation, mocking and ridicule with some facing arrests without due process or charges levelled against them.

Mr. Speaker, Sir, the Committee held a siting with the management of First Choice Recruitment and Consultancy Agency Limited. The Committee also held meetings with the Ministry of Labour and Social Protection, the Ministry of Health, the National Employment Authority (NEA), the Commissioner of Insurance, the Inspector General of Police, the Data Protection Commissioner among others.

The Committee also met leaders who had been adversely mentioned in the Petition. This includes the former Governor and current Senator of Uasin Gishu County, Sen. Jackson Mandago MP; the former Cabinet Secretary, Ministry of Labour and Social Protection and the current Cabinet Secretary for Cooperatives and Micro and Small Enterprise, Hon. Simon Chelugui; and, renowned business man, Mr. David Lagat, who is also based in Uasin Gishu County.

The general observations of the Committee are –

(1) The Petition brought out levels of desperation among the citizens, since majority of the victims of the Agency were unemployed and under employed youth, aged between 25 and 35 years across Uasin Gishu County and its environs.

The youths were desperately searching for improved livelihoods and had to sell property like land, motorbikes and take loans in order to fund their travel abroad.

(2) The victims' dealings with the agency had resulted into even greater risk of loss of livelihoods, broken friendship and relationships, accrued debts and ill health, including depression and suicide.

(3) The agency convinced the citizens by involving prominent business people, local leaders and politicians. The Committee has learned that the Agency is now involving pastors and other religious leaders.

(4) There is laxity in the implementation and enforcement of the law by the relevant authorities, who include the Ministry of Labour and Social Protection, who despite being aware of the dealings of the Agency, has not crossed or pronounced itself publicly. The NEA, as the major regulatory agency, has also been very silent on the matter.

(5) There were reports of collusion of the security agencies with the Agency, as victims reported of being intimidated and threatened by the police in Uasin Gishu. The Inspector General of Police, even after meeting the Committee, has not made much progress and still reports that the matter is under investigation. The Agency is still operating even without having the requisite licenses and approvals.

Mr. Speaker, Sir, the Committee recommends that:

(1) First Choice Recruitment and Consultancy Agency Limited to refund all the petitioners through bankers' cheques only within one month of tabling of this Report.

(2) The Assets Recovery Agency repossess the properties owned by First Choice Recruitment and Consultancy Agency Limited, Ms. Judy Jepchirchir and Ms. Faith Wariga Gichuhi, in the event that they do not refund all the monies owed to the petitioners and the use the funds to refund the petitioners.

(3) The bank accounts of First Choice Recruitment Agency Limited, Ms. Judy Jepchirchir and Ms. Faith Wariga Gichuhi, be frozen by the relevant authorities until the monies owed to the victims are fully recovered.

(4) That the passports of the directors of First Choice Recruitment and Consultancy Agency Limited, be held by the Directorate of Criminal Investigations (DCI).

(5) Ms. Judy Jepchirchir and Ms. Faith Wariga Gichuhi and other directors of First Choice Recruitment and Consultancy Agency Limited, be barred from registering, operating or managing any other recruitment agency or company upon tabling of this Report.

(6) The Board of NEA be disbanded and reconstituted upon tabling of this Report.

(7) The Ministry of Labour and Social Protection and the NEA to issue a public notice in at least two local dailies with nationwide circulation, directing First Choice Recruitment and Consultancy Agency Limited to cease its recruitment operations with immediate effect.

(8) The Ministry of Labour and Social Protection, to cease any further operations, recruitment and placement by similar recruitment agencies that the public has raised concerns about upon tabling of this Report;

(9) The Ministry of Labour and Social Protection and the NEA to strongly enforce the existing measures and ensure agencies adhere to the laid down regulations.

(10) The Commission on Administrative Justice (CAJ) and Ethics and Anti-Corruption Commission (EACC), investigate the involvement of political leaders and business people and the conduct of State and public officers with regard to First Choice Recruitment and Consultancy Agency Limited and report to the Senate within three months upon tabling of this Report.

(11) The Office of the Director of Public Prosecutions (DPP) and the Office of the Inspector General of Police finalise the investigations on the possible illegalities by First Choice Recruitment and Consultancy Agency Limited; and institute criminal proceedings against First Choice Recruitment and Consultancy Agency Limited and others if found culpable and report to the Senate within three months of tabling the Report.

Mr. Speaker Sir, the Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their input and contributions on the matter.

Further, the Committee is indebted to the Offices of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this Report. The Committee also wishes to recognise the commitment and dedication of the staff of the Committee that made the work of the Committee and the production of this Report possible.

Mr. Speaker Sir, it is now my pleasant duty, pursuant to Standing Order No.238(2), to table the Report of the Standing Committee on Labour and Social Welfare on the Petition by Mr. Kimutai Kirui and other residents of Uasin Gishu County, concerning alleged fraud by First Choice Recruitment and Consultancy Agency Ltd.

(Applause)

The Speaker (Hon. Kingi): Sen. Mbugua, I am told you have another report to lay.

Sen. Mbugua: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Okay, proceed before Sen. Lomenen takes the Floor.

REPORT ON PETITION: UNFAIR TERMS OF SERVICE AND DELAY IN
INTERNSHIP POSTING FOR STAFF UNDER THE UHC PROGRAMME;
AND UNFAIR TREATMENT OF CHERP STAFF

Sen. Mbugua: Mr. Speaker, Sir, pursuant to Standing Order No.238, I wish to table the report of the Standing Committee on Labour and Social Welfare on the Petition presented to the Senate on 22nd March, 2023 by Sen. Samson Cherarkey, MP, the Senator for Nandi County, on behalf of the Health Sector Unions Associations and Societies.

The Health Sector Unions Associations and Societies had referred to the Standing Committee on Labour and Social Welfare concerning unfair terms and conditions for the Universal Health Coverage (UHC) staff and delay in internship posting, conjoined with the Petition on unfair treatment of health workers employed under UHC Programme. The programme was to expire after three years in May, 2023 and the staff were to earn a consolidated salary lower than their counterparts despite working in the same environment.

Further, they are subject to discriminatory terms like inadequate on non-existent risk allowance. The petitioners also raised issues concerning the delayed posting for internships particularly for clinical officers since December, 2022.

While processing the above Petition, the Committee was seized of the Petition on unfair treatment of the Covid Health Emergency Response Project (CHERP) health workers signed by Sen. Cherarkey, MP on 13th July, 2023. The Petition draws the attention of the Senate to the fact that the Ministry of Health (MoH) failed to renew the contracts for the health workers employed to fight the Covid-19 Pandemic across the country under the CHERP project.

The Committee observed that there exists disparities in service between the UHC staff and other health workers. However, it also became clear that the policy interventions are in place and had been in operation with the possibility of inadequate resources likely to slow down their benefits. In terms of legislation, the Committee believes the ongoing operationalization of several health policies is the way to sustainable intervention for persistent recurring concerns related to health workers.

The Committee further believes that by operationalizing the National Internship Coordination Committee as defined in the policy for health sector professionals 2020 and the Internship Policy Guidelines 2022 will give clarity to management of the health sector internship programmes.

Mr. Speaker, Sir, the Committee recommends that:-

(1) The Council of Governors (CoG) to prioritize health workers under the UHC programme, CHERP, and other health workers who have served before on contractual terms while recruiting health workers on permanent and pensionable terms within six months of tabling of this Report; and,

(2) the Ministry of Health (MoH) in collaboration with the multi-agency task force, prioritizes and finalizes the modalities of the UHC staff transition from contractual to permanent and pensionable within six months of tabling of this report.

Mr. Speaker, Sir, the Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I wish to express my gratitude to my colleagues for their input and contributions on the matter.

Further, the Committee is indebted to the offices of the Speaker and the Clerk of the Senate for facilitating all the action that led to production of this Report. The Committee also wishes to recognize the commitment and dedication of the staff of the Committee who facilitated the production of this report.

It is now my pleasant duty pursuant to Standing Order No. 238 (2) to table the report of the Standing Committee on Labor and Social Welfare on the Petition concerning the unfair terms and conditions by Universal Health Coverage (UHC) Staff and delayed posting of interns and unfair treatment of the Covid Health Emergency Response Project (CHERP) staff beyond the pandemic.

I hereby lay the documents on the table.

(Sen. Mbugua laid the documents on the Table)

INSECURITY IN TURKANA COUNTY

Sen. Lomenen: Thank you Mr. Speaker, Sir, for this opportunity. I submit a Petition to the Senate concerning the state of insecurity in Turkana County. I, the undersigned citizen of the Republic of Kenya and resident of Turkana County do hereby authorize the Senator for Turkana County, Sen. James Ekomwa Lomenen, MP, to present this Petition to the Senate on my behalf and on behalf of the residents of Turkana County.

Mr. Speaker, Sir, I hereby draw the attention of the Senate to the following:

(1) Turkana Community has a long history of enduring inter-community raids, a challenge that has persisted for generations. The rise of terrorism and commercialized banditry that can be traced back to the disarmament of the National Police Reservists (NPRs) which left a security vacuum and created an opportunity for certain individuals to exploit the situation.

(2) That, insecurity primarily occurs within Turkana County's internal borders; specifically, within Samburu, Baringo, and West Pokot counties. The perpetrators have capitalized on the security gaps to engage in acts of terror and banditry for personal gain such as selling stolen livestock to illicit markets.

(3) Land boundary disputes and expansion, cattle rustling business, competition for livestock pasture and water, retaliatory raids, political incitement and facilitation of bandits, ethnic distrust, hatred and disarmament of NPRs are the major factors contributing to the ongoing insecurity in Turkana County internal orders.

(4) We have made the best efforts to have these matters addressed by the relevant authorities, all of which have failed to give a satisfactory response.

(5) None of these issues raised in this Petition is pending in any court of law, constitutional or any other legal body.

I petition this Senate concerning the Senate insecurity in Turkana County whereby your humble petitioner prays that the Senate urgently intervenes in this matter with a view to:

(a) facilitate peaceful dialogue involving impartial mediators and traditional leaders in negotiations between communities involved in land disputes to find lasting solutions;

(b) initiate land mapping and registration processes to clarify ownership and boundaries to help reduce ambiguity and help prevent future conflicts;

(c) enhance law enforcement efforts against cattle rustling activities by increased patrols, intelligence gathering and collaboration between security agencies;

(d) promote the use of modern technology such as livestock tagging or branding to facilitate identification and recovery of stolen livestock;

(e) educate communities on the negative consequences of cattle rustling both in terms of lives lost and economic impact;

(f) develop sustainable resource management plans that ensure equitable access to pasture and water sources for all the communities;

(g) establish community-based conflict resolutions and mediation committees to address grievances and conflicts promptly;

(h) consider rearming National Police Reservists (NPRs) selecting under strict supervision and accountability mechanisms. Ensure they are adequately trained and controlled; and,

(i) approve allocation of more resources to security agencies operating in Turkana County to improve their effectiveness in combating insecurity.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 238(1), I direct that the Petition be committed to the Standing Committee on Devolution and Intergovernmental Relations.

In terms of Standing Order No. 238(2), the Committee is required in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

(The Petition was committed to the Standing Committee on Devolution and Intergovernmental Relations)

Clerk, next Order.

Senator for Nandi, what is your intervention?

Sen. Cherarkey: Mr. Speaker, Sir, under your benevolence of Standing Order No. 1, allow me to react to the Report on my Petition. The affected youths were mostly from Nandi County which I represent. Allow me three minutes to comment.

From the onset---

The Speaker (Hon. Kingi): Senator for Nandi, who has permitted you to proceed?

(Laughter)

Sen. Cherarkey: Mr. Speaker, Sir, from your smile and your grace, you look nice, mellow, and ready for my submissions.

The Speaker (Hon. Kingi): Senator for Nandi, I was almost obliged. However, you have messed up that opportunity. There are 23 Statements in the Order Paper today. If we allow any comment on Petitions or Statements, we might not make any progress. However, Senator for Nandi, I will allow you two minutes to speak on that Petition.

Sen. Cherarkey: Mr. Speaker, Sir, I thank your office and the Committee on Labour and Social Welfare, which I am proud of. There were bribery allegations against the Committee, but I am proud that it stood for justice fairness and truth for the over

5,000 young people who were conned across the country, especially within Uasin Gishu and Nandi counties.

The onus is on the Director of Public Prosecution (DPP) and Ethics and Anti-Corruption Commission (EACC) to ensure that any political leader, the directors of First Choice Recruitment and other people involved in conning our young people are prosecuted. Since these amounts to conning the future of this country, they should be prosecuted immediately, their accounts frozen and immediate release of funds to the victims. We were tired of the demonstrations in Uasin Gishu County.

The Committee on Labour and Social Welfare should follow up and make sure the recommendations are implemented. The Board of the National Employment Authority must be disbanded because they exposed many young Kenyans by allowing fraudulent recruitment agencies to take Kenyans for a ride. I thank you on behalf of the great people of Nandi and the 5,000 young people from North Rift who were conned.

We have buried several young people and their parents who have committed suicide. I am grateful and may the good lord continue to bless the Senate. These recommendations must be implemented immediately. The DPP must prosecute all people who were involved, no matter how high or powerful they are.

I thank you.

Sen. Kavindu Muthama: On a point of order, Mr. Speaker, Sir.

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

NOTICE OF MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37

DEMOLITION OF HOMES AND PROPERTIES IN MAVOKO, MACHAKOS COUNTY

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, I beg to give Notice of the following Motion---

(Sen. Githuku and Sen. Mumma consulted loudly)

The Speaker (Hon. Kingi): Senator for Lamu County and Sen. Mumma, there is a reason why there was a distance between the chairs. Kindly maintain the distance.

(Sen. Mumma resumed her seat)

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for protecting me.

I beg to give Notice of the following Motion -

THAT pursuant to Standing Order No.37 the Senate do now adjourn to discuss a definite matter of urgent national importance namely; demolition of homes and properties in Mavoko, Machakos County.

(Applause)

(Several Senators stood up in their places)

The Speaker (Hon. Kingi): Hon. Senators, I am satisfied that the threshold required under Standing No.37(5) has been met. Therefore, I direct that this Motion be moved at 5.30 p.m.

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): We will start with Statements Under Standing Order No.52(1), Senator for Nandi, Sen. Cherarkey, proceed.

STERLING PERFORMANCE BY KELVIN KIPTUM IN THE 2023 CHICAGO MARATHON

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on an issue of general topical concern and national importance namely; Kevin Kiptum shattering Marathon World Record in a staggering and superb performance at the Chicago Marathon on Sunday, 9th October, 2023.

Once again, our sports men and women have brought glory to our country this time through the new prince of marathon legendary maestro Kevin Kiptum who has shattered the world marathon record that was set by his compatriot, King Eliud Kipchoge of 2:01:09 that he set in 2022 at Berlin Marathon.

Kevin Kiptum becomes the first human being to break the 2:01 barrier in competitive running, after shattering the record by 34 seconds by finishing at 2:00:35. This being his third Marathon, the 23-year-old had stormed the 2023 London Marathon which is among the five premium marathons in world at 2:01:25 only 16 seconds shy of Kipchoge's record.

This year's Chicago Marathon provided the perfect stage for him to break the World record thus becoming the first time a world record has been set in Chicago since Moroccan Khalid Khannouchi's exploits of 2:05:42 on October 24, 1999. At the time, Benson Kipruto of Kenya came second in 2:04:02 improving his personal best which he set at the same course last year.

This achievement makes Kevin Kiptum the sixth Kenyan to hold the World Marathon record after Paul Tergat, Patrick Makau, Wilson Kipsang, Dennis Kimetto, and Eliud Kipchoge.

I wish to urge both the majority and minority leaders to finish up on setting time for our world beaters to visit, including – Omanyala, Moraa, and Faith Kipyegon among others – and sometimes address the Senate on their greatest achievements that sometimes go unnoticed.

By doing this, our Athletes who have continued to make us proud as a country at the international arena by flying our flag high always will feel appreciated and will be motivated to achieve even more.

I continue to call upon the Ministry of Sports, Athletics Kenya (AK), and the National Olympics Committee of Kenya (NOCK) to embrace openness and transparency

during team selection for various teams representing Kenya in various competitions across the world – you saw Harambee Stars did well yesterday – and shun the alleged corrupt practices taking place during team and officials’ selection, payment of allowances, kits distribution as well as in addressing athletes welfare.

I also wish to call upon the Anti-Doping Agency of Kenya (ADAK) to enhance its vigilance and eradicate rogue agents and coaches who spoil athletes’ careers and the good name of our Athletes by making them engage in doping unknowingly.

Finally, I wish to congratulate our sportsmen and women for their superb performances in Chicago and Angola.

I wish to applaud the rising *Harambee* Starlets. However, when they arrived, it was judicial notice that no senior ministry official was there except the former Governor of Nairobi City County to wish them well for beating Angola six to one. We wish to assure them of our commitment and support as a House in championing their welfare at all times, as they continue to represent our country by keeping it on the sporting map. Bravo to our sportsmen and women.

Thank you.

The Speaker (Hon. Kingi): Sen. Crystal Asige, you may have the Floor. That statement is dropped.

COMMEMORATION OF THE WORLD SIGHT DAY

(Statement dropped)

Statement Pursuant to Standing Order No. 53(1). Sen. Mumma, you may have the Floor.

MEASURES TO ADDRESS INSECURITY IN TURKANA COUNTY

Sen. Mumma: Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding measures put in place to address insecurity in Turkana County, including cross-border conflicts.

In the Statement, the Committee should -

(1) State measures put in place by the national and Turkana County governments to address insecurity issues arising from cross-border conflicts in the county, particularly between the local community and the Mursi tribe of Ethiopia, Karamojong tribe of Uganda and Toposa tribe of South Sudan, which have had an adverse impact on the development of the county;

(2) Provide an update on the progress of implementation of the framework agreement for the allocation of 9,000 hectares of land for military use between the Turkana County Government and the Ministry of Defence, that would deter criminal activities; and,

(3) Explain the rationale behind the Government's decision to deploy police officers to Haiti while there are inadequate security personnel in Turkana County to effectively deal with the security challenges.

Thank you.

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

ALLEGED POLITICALLY INSTIGATED HARASSMENT OF
EMPLOYEES IN COUNTIES

Sen. Veronica Maina: Thank you, Mr. Speaker, Sir. I have two Statements and the first one is an allegation of politically instigated harassment of employees in counties.

Mr. Speaker, Sir, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare regarding allegations of politically instigated harassment of employees in the counties.

In the Statement, the Committee should -

(1) Clarify whether the allegations of politically-instigated harassment of employees after the inauguration of county governments are true and, if so, outline actions taken to address the issue;

(2) Provide an overview of legal protections and safeguards in place to ensure that employees of county governments are not subjected to harassment or discrimination based on perceived political affiliations; and

(3) Outline any measures put in place to institutionalise professionalism within the public service at the county level of Government to shield them from political influence and guarantee continuity in service provision; and

(4) Provide per-county schedules of staffing levels in each cadre in respective county assemblies and county executives between August 2022 and September 2023, explaining the reasons for any recruitments done and attrition between the two periods.

Thank you.

PROMOTION OF AFRICAN ATTIRE

My next Statement is on the promotion of African Attire. I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the promotion of African attire.

In the Statement, the Committee should explain any initiatives by the Government aimed at encouraging regular wear of African attire in Government offices on Thursdays and Fridays, in alignment with the "Buy Kenya, Build Kenya" campaign that celebrates Kenyan culture and supports local businesses.

Thank you.

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

STATUS OF RECENT EMPLOYMENT OF
SENIOR MANAGERS AT KENHA

Sen. Wafula: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the status of the recent recruitment of senior management officers at the Kenya National Highway Authority (KeNHA).

In the Statement, the Committee should -

(1) Present a comprehensive audit report outlining the procedures employed in the recruitment of 11 Senior Management officers at KeNHA during the interview process that concluded on September 25, 2023, resulting in the hiring of two directors of grade 2 and nine deputy directors of grade 3;

(2) Explain why no applicant has been recruited to fill the position of Deputy Director of Research and Innovation at KeNHA, despite the position having been advertised alongside others whose recruitment has been concluded, giving the status of qualified candidates who had applied for the position and went through an interview;

(3) Furnish the Senate with a report detailing the total number and names of applicants, shortlisted candidates, and the criteria for determining final scores and successful candidates;

(4) Elaborate on the current staff establishment within KeNHA's senior management, with a specific focus on their ethnic composition; and

(5) How did the recruitment process mentioned above address the representation gaps among different ethnic groups in Kenya, as evaluated by the committee?

Mr. Speaker, Sir, may I proceed with the next statement?

The Speaker (Hon. Kingi): Proceed.

HEALTHCARE SERVICES TO BENEFICIARIES OF NHIF

Sen. Wafula: Thank you. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health regarding the status of healthcare services to the beneficiaries of National Health Insurance Fund (NHIF).

In the Statement, the Committee should -

(1) Provide substantiated details that led to the suspension of various health facilities from NHIF funding following an investigative media report that implicated the said health facilities in embezzlement of NHIF funds;

(2) Present a report from NHIF's investigations department conducted during the 90-day suspension period of hospitals suspected of fraud which was effective on 21st June, 2023, specifying which facilities were cleared of charges to resume services while addressing concerns with those under scrutiny;

(3) Disclose whether the suspended health facilities were conducting medically unnecessary procedures including surgeries as a way of illegally inducing demand for their services;

(4) State whether NHIF had any communication to or with the involved health facilities after the lapse of the 90 days on the findings or not; and

(5) Explain why the NHIF is withholding funds for health facilities under investigation even after the facilities delivered services to the clients as approved by the NHIF, explaining the fate of patients who depended on these facilities for specialised treatment and even workers;

(6) State measures, if any, in place to ensure that suppliers of goods and services to the said hospitals are paid, noting that some suppliers have sued these hospitals over delayed payments arising from their suspension.

Thank you.

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, you may have the Floor.

THE DEATH OF MAURINE ACHIENG'
AND HER NEWBORN CHILD

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Health regarding the death of Ms. Maurine Achieng' and her newborn baby at healthcare facilities in Nairobi City County.

In the Statement, the Committee should -

(1) State the circumstances surrounding the unfortunate death of Ms. Maurine Achieng' and her new-born baby, allegedly at the Kenyatta National Hospital (KNH), and Muteithania Nursing Home and Maternity in Kawangware respectively, disclosing a time of arrival at the said Nursing Home, her state at the time of arrival, registration and medical records, the name of the doctor who attended to her and his or her qualifications;

(2) Provide a detailed timeline of events leading up to the referral of Ms. Achieng, from Muteithania Nursing Home and Maternity to the Kenyatta National Hospital and the discovery of the body of her new-born at City Mortuary indicating whether Ms. Achieng' and her new-born received appropriate and timely medical care;

(3) Investigate claims of forgery and alteration of records at the City Mortuary, particularly in the case of Ms. Achieng's new-born's records being altered at least twice, and the subsequent denial of access to the family, disclosing the individual or individuals responsible;

(4) Explain the process of admission of a corpse to the KNH Mortuary indicating whether a thorough examination to declare Ms. Achieng deceased was done by a medical professional at the facility; and lastly,

(5) Disclose the owners of Muteithania Nursing Home and Maternity Centre in Kawangware and their employment status at the KNH.

I thank you.

The Speaker (Hon. Kingi): Senator of Laikipia County, Sen. Kinyua, proceed.

Sen. Kinyua: Mr. Speaker, Sir, I am raising on Standing Order No.55, the Contents of the Request for Statements. Standing Order No.55(1) states -

“The facts on which a request for Statement is based may be set briefly, but extracts from newspapers and other media or quotations from speeches shall not be admissible.”

Mr. Speaker, Sir, I wanted your guidance because as the Senator of Bungoma County was requesting his Statement, he mentioned that the investigation of NHIF by the media House as his basis.

The Speaker (Hon. Kingi): Senator of Laikipia County, you may have a valid point of order but, why did you have to wait until the good Senator concluded his contribution? The Statement has already been committed to a Standing Committee.

However, hon. Members, the point of order by the Senator of Laikipia County is valid. The contents of a Statement are well guided by our Standing Orders, specifically, Standing Order No.55.

You cannot refer to reports in the newspaper. Going forward, hon. Senators, while you are requesting Statements or even making your contribution on the Floor of the House, do not refer to such sources of information.

Yes, Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I hear you, but maybe you need to guide us slightly more. Our understanding is that before you are allowed to read a Statement, the Statement goes through due diligence.

So even in the process of due diligence, the distinguished Senator was not able to convince the Secretariat, the Office of the Clerk that the information he was giving was not based on newspaper reporting and so on, how did the Statement come to be approved?

If that is the case, then the Statement is not properly before the House or the Senator does not give sufficient disclosure that he was basing his Statement on media reports. Therefore, it should be found not to have been properly brought to the House and should collapse.

The Speaker (Hon. Kingi): The Secretariat is duly notified but before I make my ruling, I will allow Sen Sifuna.

Sen. Sifuna: Thank you very much, Mr. Speaker, Sir. I just wanted to lend my understanding of that Standing Order before you make your decision.

In my reading of Standing Order No.55, what is not admissible are extracts and quotations. Those are two very clear things. For instance, I cannot take the version of the Daily Nation Newspaper today and copy-paste something that has been written there. That is an extract or a quotation.

However, if you are relying on a report that is in the media that is not the same as a quotation or indeed an extract. So, we need to be clear on what the Standing Order talks about.

I cannot copy-paste quotations that I have seen in a newspaper and put them in the Statement. No. What they are saying is that they may be set out briefly, but you cannot put the entire quotations of a newspaper or extracts on the Statement.

Otherwise, the request for a Statement itself is fine. Any other interpretation, I believe would result in an absurdity where, for instance, you cannot bring before the Floor of this House, a report that you have seen in the newspaper, for instance, on the demolitions going on in Mavoko, unless you live there yourself,

The Speaker (Hon. Kingi): I thank you.

Hon. Senators, there are safety valves in approving these Statements, and all those safety valves are guided by Standing Order No.55. So again, the Secretariat, as you are processing these Statements from hon. Members, they will be placed before you, raw. kindly, be guided by the contents of Standing Order No.55, which specifies what ought to be contained in the Statement and what ought not to. If we are to adhere to Standing Order No.55, we will not have the kind of points of order we have seen today.

From the Senator who is seeking that Statement to those who are processing these Statements kindly let us all be guided by the contents of Standing Order No.55.

Now, if you heard the observations of Sen. Sifuna, we should not be that rigid in terms of making references. You could refer to information, but Standing Order No.55(g) says, “should not ask whether any statement in a press or of a private individual or an official body had an official government report is accurate.”

I do not think the Member was basing his case on a statement that he stumbled on from the press. His question was not to invite the Committee to probe that particular statement in the press as to whether it is accurate or not. That was not what he sought.

In this regard, the Senator is in order to request that Statement and, that Statement remains committed to the relevant Committee for further probing.

I thank you.

Sen. Thang'wa, you may proceed.

COMPENSATION OF LAND OWNERS
ALONG THE WESTERN BYPASS

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to request for a Statement on the status of compensation by Kenya National Highway Authority (KeNHA) of land owners along the Western Bypass in Kabete.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Department of Roads, Transportation, and Housing regarding the status of compensation by Kenya National Highways Authority, KeNHA of landowners along the Western bypass in Kabete.

In the Statement, the department should -

(1) Indicate when the residents of Kabete sub county will be compensated for their land which was acquired in 2018 for the construction of the Western Bypass;

(2) Elucidate on the procedures followed in the acquisition of the land, as land owners have consistently raised concerns with Kenya National Highway Authority (KENHA) regarding the perceived unlawful acquisition of their property; and

(3) State measures put in place to facilitate compensation based on the valuation report issued by the National Land Commission, as the affected individuals want a re-evaluation done to address the impact of inflation and the current market land prices within their local area.

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

SALE OF TELKOM KENYA TO INFRASTRUCTURE
CORPORATION AFRICA

Sen. Kibwana: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Information, Communication and Technology on the sale of Telkom Kenya to Infrastructure Corporation Africa (ICA) and its implications.

In the Statement, the Committee should -

(1) Disclose the measures taken to ensure that national security is not compromised, given that Telkom assets encompass crucial national security infrastructure, communications, and data systems;

(2) Provide a detailed breakdown of the deal, including how the decision of the sale was reached, stating the valuation criteria and why specific details remain scant and whether public participation was undertaken, giving the particulars of the stakeholders and their views;

(3) Clarify whether the sale of Telkom Kenya to ICA was sanctioned by the National Security Council (NSC), noting that the buyback from Helios was authorized by the NSC, stating whether the privatization law was fully adhered to and disclosing Parliament's role in this transaction; and

(4) Elucidate the financial implications of Telkom's property sales in light of a court decision ordering the government to pay Telkom Kshs11 billion for prime land located along Ngong road, noting that the funds would inadvertently be likened to transferring taxpayer money out of the country.

CHALLENGES FACED BY KENYANS
WITH HEARING IMPAIRMENT

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Health concerning the challenges faced by individuals with hearing impairments, the high cost of hearing aids and the general lack of awareness about early symptoms of hearing loss.

In the Statement, the Committee should -

(1) State measures in place to make hearing aids more affordable for the common *mwananchi* and school-going children with hearing impairment, noting that most insurance policies do not cover these essential devices;

(2) State steps the Ministry of Health and relevant state agencies are taking to engage with insurance companies to include hearing aids and related treatments in their coverage;

(3) State initiatives, if any, taken from the year 2020 to date to raise awareness about the early symptoms of hearing loss, given its hidden nature and the tendency for late diagnosis; and

(4) Apprise the Senate on any multi-sectoral initiatives or partnerships aimed at addressing the challenges related to hearing impairments, including affordability, early diagnosis, and professional training.

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

FINANCIAL STATUS AND OPERATIONS OF
POSTAL CORPORATION OF KENYA

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Information, Communication and Technology on the financial status and operations of the Postal Corporation of Kenya.

In the Statement, the Committee should -

(1) Provide the current financial status of the Postal Corporation of Kenya (Posta), clarifying whether the institution is still able to meet its financial obligations;

(2) State the reasons for the five-month delay in salary disbursement to the staff of Posta and the non-remittance of statutory deductions to National Health Insurance Fund (NHIF) and National Social Security Fund (NSSF);

(3) Disclose the current contractual agreements between Posta and both Government and Private institutions, outlining the terms of the engagements and payment arrangements;

(4) Provide a comprehensive overview of Posta's privatized assets and liabilities, stating the actions taken to recover assets that may have been unlawfully acquired from the Posta Corporation; and

(5) State the position of employees of the Corporation that is said to be facing imminent insolvency, detailing measures put in place by the Government and the Management of Posta to ensure the welfare of the staff is catered for and further, spell out any interventions in place to prevent the Corporation from facing complete insolvency.

ATTACK ON A KENYAN ATHLETE BY
A STRAY DOG IN ARGENTINA

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the attack of a Kenya athlete during the Buenos Aires Marathon in Argentina on Sunday 1st October, 2023.

In the Statement, the Committee should -

(1) Explain the circumstances behind the bizarre stray dog attack in Argentina on Robert Ng'eno, a Kenyan Marathon athlete;

(2) Outline the requirements to be met by a Marathon organiser before athletes and sportsmen and women are allowed to participate in events and whether Athletics Kenya checks and approves the venues before releasing Athletes;

(3) State any actions the Ministry of Youth Affairs, Sports and Arts in collaboration with Athletics Kenya, have taken to ensure the organisers of the event are held responsible for the nearly career-ending attack on the athlete in Argentina;

(4) State whether the athlete has been compensated for making him lose track due to the attack by the dog, stripping him of his human dignity and subjecting him to ridicule which led to him losing the race;

(5) Outline any actions that have been taken against the agent responsible for taking the athletes to this Marathon, and;

(6) Provide a list of all agents and coaches currently operating in Kenya and whether due vetting and licensing was carried out on all of them by the Government.

MEDICAL INSURANCE COVER FOR
NANDI COUNTY STAFF

Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Health regarding the medical insurance cover for Nandi County staff.

In the Statement, the Committee should -

(1) Provide detailed information about the medical insurance service providers procured to provide medical insurance cover for staff of Nandi County from the financial year 2017/2018 to date.

(2) Outline the specific criteria employed in the procurement process for the current medical insurance service provider, explaining why Amana Insurance received a payment of Kshs195 million despite Britam Company being the designated insurance provider.

(3) Provide the medical insurance policy documents for Nandi County Executive staff, highlighting details such as the total number of staff covered, their dependents, and the scope of benefits covering inpatient, outpatient, dental, and optical services, listing

the health facilities and medical professionals such as doctors in the panel associated with the insurance service provider.

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

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

(4) Clarify whether there are any supplementary medical insurance covers for all Nandi county staff, beyond the services provided by the National Hospital Insurance Fund (NHIF).

(5) Disclose the cumulative compensation disbursed for medical insurance cover purposes from the fiscal year 2017/2018 to date, giving a breakdown detailing variations observed in each fiscal year.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. (Prof.) Tom Odhiambo Ojienda.

CIVILIAN DEATHS AND INJURIES CAUSED BY COUNTRY-WIDE DEMONSTRATIONS

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Madam Temporary Speaker, I have two Statements.

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 deaths and injuries on civilians caused by the countrywide demonstrations including cases in Kisumu County.

In the Statement, the Committee should-

(1) Conduct an inquiry into potential violation of the Bill of Rights and Constitution of Kenya during the various demonstrations that occurred in the country, with a particular focus on Kisumu County;

(2) Assess the extent of civilian casualties and injuries resulting from the 2023 demonstrations in Kisumu County and other regions in the country;

(3) Outline strategies implemented by the Government to ensure that loss of lives and infliction of injuries on civilians are prevented from recurring;

(4) Elucidate on the measures established to hold accountable those responsible, including law enforcement officers and other security personnel, through the initiation of criminal proceedings; and, lastly,

(5) State the measures put in place to compensate families of those who lost their lives and those who suffered injuries, due to actions taken by the police and other agents during the demonstrations.

PROMOTION OF FISH FARMING IN KISUMU COUNTY

I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the promotion of fish farming in Kisumu County.

In the Statement, the Committee should -

(1) Outline any programmes the County Government of Kisumu has developed to promote fish farming in Kisumu County, to include the provision of fingerlings, establishment of fish ponds and training of fish farmers and fishmongers;

(2) State measures put in place to support value addition in the fishing industry in Kisumu County, particularly with regard to processing and marketing of fish products;

(3) Disclose details of any local or international partnerships and grants entered into by the county government aimed at boosting the fish industry in Kisumu County; and,

(4) Indicate the budgetary allocation set aside by the county government for the development of fish farming, processing, and marketing fish in the county.

Thank you.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Okenyuri.

SOCIO-ECONOMIC IMPACT OF THE HUSTLER FUND

Sen. Okenyuri: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Finance and Budget on the socio-economic impact of the Hustler Fund.

In the Statement, the Committee should-

(1) State the total amount of money that has been disbursed to borrowers since the launch of the Hustler Fund, indicating the loan uptake in percentage per age group;

(2) State the default rate of the Hustler Fund loans, making comparison to the default rates of loans advanced by commercial banks in Kenya;

(3) Outline the steps the Government has taken to recover the defaulted funds, clarifying whether the Government intends to waive any amounts owed by the most vulnerable youths; and,

(4) Highlight the socio-economic impact of the fund, detailing any documented success stories, particularly from Kisii County.

The Temporary Speaker (Sen. Mumma): We will defer the Statement by Sen. Mundigi. I think he is somewhere else.

STALLED GOVERNMENT IRRIGATION PROJECTS IN EMBU COUNTY

(Statement deferred)

ALLEGED SHORTAGE OF CERTIFIED SEEDS FOR FARMERS

(Statement deferred)

Proceed, Sen. Chute.

HIGH PREVALENCE OF CANCER IN MARSABIT COUNTY

Sen. Chute: Madam Temporary Speaker, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Health regarding the rise of cancer cases in Laisamis and North Horr Constituencies in Marsabit County.

In the Statement, the Committee should-

(1) Clarify the initiation date, overall cost, and completion date of the Kenya Medical Research Institute (KEMRI) research addressing the increase in cancer cases in Laisamis and North Horr Constituencies within Marsabit County.

(2) State whether the report has been published or publicized. If not, explain the reasons behind the decision to refrain from publication.

(3) Identify the factors contributing to the heightened incidences of cases and propose measures for their control.

EXISTENCE OF AI GOAT CENTRE IN AHITI
NDOMBA, KIRINYAGA COUNTY

Madam Temporary Speaker, I rise, pursuant to Standing Order No. 53 (1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the Artificial Insemination(AI) Goat Centre in Ahiti Ndomba in Kirinyaga County.

In the Statement, the Committee should-

(1) Provide clarification on the launch date of the AI Goat Centre in Ahiti Ndomba, including details on the investment cost and the expense associated with semen extraction;

(2) Enumerate the types, names and quantity of goat breeds present at the Centre;

(3) Specify the beneficiaries and counties involved in the operations; and,

(4) Outline the number of individuals employed at the centre and provide details on their composition.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. Mwaruma.

Sen. Chimera: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): What is your point of order, Sen. Chimera?

Sen. Chimera: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No. 228.

Four to five months ago, I made a Statement in this hon. House on the Status of the medical insurance of our Kenya Police officers. Since then, nothing has happened.

That Statement was committed to the Standing Committee on Labour and Social Welfare. I have not received communication from them. I am in the dark in as far as that matter is concerned. I therefore rise pursuant to Standing Order No. 228(i) to seek clarity on that particular Statement. I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Mwaruma, hold on a bit. I ask the Vice Chair of the Committee on Labour and Social Welfare who is present to quickly respond to Sen. Chimera's concern. If you are able that is.

Sen. Mbugua: Thank you, Madam Temporary Speaker. I may not have the response at the moment. I will consult the secretariat and then I will respond accordingly.

The Temporary Speaker (Sen. Mumma): Can the relevant Committee ensure that they provide a response at the next Sitting?

Sen. Mwaruma.

UNDERPAYMENT OF RETIREMENT BENEFITS TO
FORMER EMPLOYEES OF HFCK

Sen. Mwaruma: Thank you, Madam Temporary Speaker, for this opportunity to request for a Statement on payment of retirement benefits for former employees of the Housing Finance Corporation of Kenya (HFCK).

I rise, pursuant to Standing Order No. 53(1), to seek a Statement from the Standing Committee on Finance and Budget regarding the underpayment of retirement benefits to former employees of the Housing Finance Corporation of Kenya (HFCK).

In the Statement, the Committee should -

(1) Confirm if the Housing Finance Corporation of Kenya is cognizant of instances where certain retrenched employees received less compensation than what they were entitled to from the HFCK trustee pension scheme;

(2) Present the methodology employed in computing benefits for retrenched and former workers of the HFCK, from the year 2000 to 2010, clearly outlining the factors such as job group and years of service taken into account;

(3) Identify any disparities in payments, if any, among individuals within the same job group; and

(4) Specify the anticipated timeline for settling the outstanding balance for employees who received insufficient compensation.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna.

ALLEGED GRABBING OF TOM MBOYA SOCIAL HALL IN
MAKADARA CONSTITUENCY

Sen. Sifuna: Thank you, Madam Temporary Speaker.

I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on Labour and Social Welfare, regarding the status of the ownership of the land of Tom Mboya Social Hall in Makadara Constituency.

In the Statement, the Committee should-

(1) State the current holder of the registered title for the land where the Tom Mboya Social Hall is situated;

(2) Explain whether the social hall is still a public facility and if not, state when its ownership changed hands and provide the legal basis for the same;

(3) Clarify the circumstances leading to a private developer fencing off the public facility, preventing public access, outlining the measures implemented to address this situation; and

(4) Present a comprehensive report assessing the current ownership status of all public social amenities and related facilities within Nairobi County.

I thank you, Madam Temporary Speaker.

STATUS OF IMPLEMENTATION OF COURT ORDER MANDATING
REGISTRAR OF TRADE UNIONS TO REGISTER KMU

The Temporary Speaker (Sen. Mumma): Hon. Members, Sen. Crystal Asige's Statement is deferred. She is away officially.

(Statement deferred)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE COUNTY
ASSEMBLY OF MURANGÁ

Hon. Members, I have a communication from the Chair on a visiting delegation from the County Assembly of Murangá. I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation from the County Assembly of Murangá.

The delegation comprises of Serjeant-at-Arms who are on a benchmarking visit with their counterparts in Senate. On behalf of the Senate and on my own behalf, I extend a warm welcome and wish them a fruitful visit.

Thank you very much.

Is the Senator for Murangá present? Can Sen. Kinyua welcome the guests?

Sen. Kinyua: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii. Naungana na wewe kuwakaribisha wageni wetu kutoka Murangá. Nawaambia ya kwamba, Seneta wa kutoka Murangá, Joe Nyutu ni mweredi katika kazi yake na ako kwa shuguli za kiserikali, ndio maana hayuko na sisi hapa.

Pia nawaambia ya kwamba, wamekuja siku nzuri wakati kuna taarifa nyingi na kwa hivyo, watasoma kutoka Seneti. Wakikaa kidogo, wataona kuna Mswada umeletwa na Sen. Kavindu Muthama kuhusu mambo yaliyotendeka Mavoko. Najua wataelewa maneno mengi yanavyoendelezwa katika Seneti yetu.

Nashukuru na nawakaribisha.

The Temporary Speaker (Sen. Mumma): Thank you. I now wish to invite Sen. Omogeni to move a Motion.

NOTICE OF MOTION

EXTENSION OF MANDATE OF THE
NATIONAL DIALOGUE COMMITTEE

Sen. Omogeni: Madam Temporary Speaker, I beg to give Notice of the following Motion-

AWARE THAT the National Dialogue Committee was established by Parliament through a Resolution passed by the National Assembly and the Senate on the 16th August, 2023 and 29th August, 2023 respectively;

FURTHER AWARE that the resolution outlines the mandate of the Committee which includes to facilitate dialogue, consensus building and recommend appropriate constitutional legal and policy reforms on issues of concern to the people of Kenya;

ACKNOWLEDGING THAT since its establishment, the Committee has made tremendous progress in exercise of its mandate and has achieved the following milestones: Formulated and adopted framework agreement; Framed and adopted the statement of issues; Unbundled the issues and agreed on prioritization of issues; Harmonized the unbundled issues; Conducted public participation and stakeholder engagements in line with the requirements of Article 10 of the Constitution; and Examined and analyzed the memoranda that were received from public and stakeholder submissions;

FURTHER COGNIZANT that the Committee presently is in the process of considering the issues for negotiations and recommending appropriate constitutional, legal and policy reforms on each of the framed issues which are: Electoral justice and related matters; Outstanding constitution matters; Fidelity to political parties or coalitions and the law on multiparty democracy; Entrenching the national Government Constituency Development Fund; Entrenching national Government Affirmative Action Fund; Entrenching the Senate Oversight Fund into the Constitution; and Establishment and entrenchment of State Offices;

CONSCIOUS that the Resolution as passed by both Houses of Parliament required the Committee to report to the leadership of Kenya Kwanza and Azimio Coalitions within 60 days from the 29th August, 2023;

RECOGNIZING the need for the Committee to conclude the consideration of the issues for negotiations, the process of making the appropriate constitutional, legal and policy reforms on each of the issues as framed by the Committee and preparation of a report for submissions to the leadership of Kenya Kwanza and Azimio Coalitions and thereafter to Parliament;

NOW, THEREFORE, the Houses of Parliament RESOLVE to extend the mandate of the National Dialogue Committee by a further 30 days from the 28th October, 2023 and consequently, the Committee shall be required to report to the leadership of Kenya Kwanza and Azimio Coalitions on or before 26th November, 2023 and thereafter, submit their report to Parliament.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Next order.

BILLS

First Reading

THE PUBLIC HOLIDAYS (AMENDMENT) BILL,
(SENATE BILLS NO.31 OF 2023)

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

First Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES
(AMENDMENT) BILL (SENATE BILLS NO.37 OF 2023)

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

First Reading

THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL
(SENATE BILLS NO.38 OF 2023)

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

First Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(SENATE BILLS NO.40 OF 2023)

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

First Reading

THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL,
(SENATE BILLS NO.41 OF 2023)

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

First Reading

THE ENERGY (AMENDMENT) BILL
(SENATE BILLS NO.42 OF 2023)

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

The Temporary Speaker (Sen. Mumma): Hon. Senators, I had deferred Sen. Mundigi's Statements. So, I call on him to read his statements now.

STATEMENTS

ALLEGED SHORTAGE OF CERTIFIED SEEDS FOR FARMERS

Sen. Mundigi: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries; on the unavailability of certified seeds by authorised seed companies and their distributors leading to an artificial shortage in the market and the attendant increase in prices of the seeds to farmers.

In the Statement, the Committee should-

(1) Explain the reasons for the current shortage in supply of certified seeds of common farm crops such as maize and beans, just at the onset of the October planting season.

(2) State the major seed companies in Kenya and their stock levels of common farm crop seeds for the last six months, providing market price movement of these certified seeds for the last six months.

(3) Indicate Government efforts to control and fight cartel-like activities in the certified seeds supply chain in the country, to protect farmers from exploitation.

STALLED GOVERNMENT IRRIGATION PROJECTS IN EMBU COUNTY

Sen. Mundigi: Madam Temporary Speaker, I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Senate Standing Committee on Agriculture, Livestock and Fisheries regarding stalled irrigation projects that are funded by the National Government in Embu County.

In the Statement, the Committee should –

(1) Explain the reason for stalling of the New Kithimu Irrigation Water Project.

(2) Elaborate how the funds that were allocated for the Project, were utilised vis-a-vis the Bill of Quantities (BQs) for the Project.

(3) State any plans the Ministry of Water, Sanitation and Irrigation has to resume works on the Project and the estimated date of completion.

(4) Outline plans in place to complete similar water projects funded by the national Government in Mbeti South, Ruguru and Ngandori wards.

The Temporary Speaker (Sen. Mumma): Next Order.

MOTION

ADOPTION OF REPORT ON APPLICATION FOR CONFERMENT OF CITY STATUS TO THE MUNICIPALITY OF ELDORET

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the application for conferment of city status to the

Municipality of Eldoret laid on the table of the Senate on Wednesday, September 20, 2023 and pursuant to Section 8(6) of the Urban Areas and Cities Act, 2011 the Senate approves the conferment of City status to the Municipality of Eldoret.

(Sen. Onyonka on 5.10.2023)

(Resumption of debate interrupted on 5.10.2023)

The Temporary Speaker (Sen. Mumma): Sen. Maanzo, proceed.

Sen. Orwoba, proceed?

Did you log in to speak?

Sen. Cherarkey, proceed.

Sen. Cherarkey: Thank you, Madam Temporary Speaker, for the opportunity to contribute to this Motion of making Eldoret a City. The first time the Chairperson of the Standing Committee on Devolution and Inter-Governmental Relations, Sen. Abass, moved for the adoption of the report, I did not have the opportunity to say something.

I laud the Standing Committee on Devolution and Intergovernmental Relations led by Sen. Abass and other Committee Members for this wonderful report. Eldoret is the Capital City of North Rift by all standards and ability. Eldoret is not far from Mosoriot where I come from. It is less than forty kilometres. For us who have lived around that region, the Town has continued to grow. It is high time we have the opportunity of give city status to Eldoret Municipality to become Eldoret City.

You have to note that Eldoret is an agricultural Town. It is now becoming an educational town or soon to be City. You will find there Moi, Mount Kenya and virtually all universities including the University of Eldoret, Chepkoilel. There are also many colleges and international schools within Eldoret Town.

As an agricultural Town, you will see the major practices of agriculture especially on maize. This is where the capital City of maize should be essentially because it is Kitale and Uasin Gishu. I have heard that Eldoret Town is soon to be a city and a capital of National Cereals and Produce Board. We should not be having it here in Nairobi. We should be having it in Eldoret because the main produce is milk and maize.

Madam Temporary Speaker, I want to challenge the management of Eldoret City to ensure that they make it an agricultural town. When we were growing up and agriculture was doing very well, we used to have an Agricultural Finance Corporation (AFC) and Peugeot Centre. In that centre, after selling maize at good prices, our old men and women would just walk to Peugeot and buy cars.

I also want to thank the Government at this point because, unlike in the previous harvest, we have been given Kshs4,000 for 90 kilograms of maize. At least the strategic grain reserve is going to buy one million bags of maize at Kshs4 billion that has been allocated, including other grains, which will cover the whole country, including your county, where you come from.

You have to note that we have almost 40 commercial banks in Eldoret, apart from having Central Bank from that region. I am happy that we have over 40 commercial banks. It means that the Gross Domestic Product (GDP) of Eldoret outside Nairobi City is doing very well. It shows the confidence that investors have with Eldoret City.

Madam Temporary Speaker, there is also an agricultural showground. We are also lucky in that region because we have an international airport, called Eldoret International Airport, and you have used it yourself on several occasions. I know you are also a Member of this Committee and you have been to that airport. I have seen assertions and misnomers that in the Eldoret International Airport, the cargo planes cannot land because there is a short runway; that the runway for big planes like Boeing 787 and 737 cannot land in Eldoret. It is not true. The runway is sufficient. We need to use Eldoret International Airport. When we have a problem at the Jomo Kenyatta International Airport, we should be able to divert our flights to Eldoret International Airport and Kisumu International Airport.

Madam Temporary Speaker, I have noted the presence of the Senator for Siaya, the youthful, Sen. (Dr.) Oburu. We continue to wish him well as he celebrates his 80th birthday. We are proud that he continues to become a repository of wisdom and knowledge in the Senate. We wish him well.

Earlier on, I was asking him whether he has carried the birthday cake and he assured me that it is in the car. So, I hope as he goes for tea, I will be following him to the Senate Lounge to ensure I get also get a bite of the cake of his 80th birthday. I am also informed that he received communion under the Anglican Church and we are proud that he is the Senator for Siaya.

Madam Temporary Speaker, therefore, we need to ensure that we use these airports like JKIA. We should be able to divert flights like the way we are diverting to Mombasa International Airport.

I want to challenge my colleagues in Government and the County Government of Uasin Gishu. Let Eldoret International Airport be known to be a place to transport farm produce and products. Let it also be used to transport milk. Let it also be known that when you want to transport any agricultural products, you will use Eldoret International Airport.

Eldoret International Airport also is an important Airport, though it is underdeveloped. We need the Ministry of Transport to ensure that they put on the map the Eldoret International Airport. Our forefathers thought about it and they ensured that Kisumu International Airport, Mombasa International Airport, Jomo Kenyatta International Airport and Eldoret International Airport function for the benefit of its people.

I know Isiolo International Airport is there. We should get one in Turkana. We saw the incident where Kenya Airways was forced to abort landing in Heathrow and went to another airport. If such an event happens, what should we do? Where will we divert? Will it be to Karenga Airstrip in Kericho which is not fully functional or to somewhere else across the country?

We have an airstrip in Bungoma and we must think as a House in a futuristic manner. We are doing all these things and we would one day want to see Busia and Bondo becoming cities going into the future and many others because they meet the threshold under the Urban and Cities Act it is important.

Eldoret is a city of champions. Nandi, we are the source and Elgeyo-Marakwet is the home of champions. The streets of Eldoret have all the names; it is a cosmopolitan city. We have Ronald Ngala Street and Oginga Odinga Street. I do not know whether Sen. (Dr.) Oburu is aware that we have Oginga Odinga Street in Eldoret.

(Sen. Maanzo consulted with Sen. (Dr.) Oburu)

Sen. Maanzo, can you allow Sen. (Dr.) Oburu to listen. So, it is a city that is called a city of champions. Can you believe, as you walked around Eldoret, you are likely to meet Eliud Kipchoge, the greatest of all times? We also have Kelvin Kiptum, Faith Kipyegon and all these world champions. I am also being whispered to that Moraa or Omanyala might also be living in Eldoret.

My message to all women and ladies across the country is that if you want the DNA of getting good athletes, you should visit Eldoret and get one with a brown jacket. I can imagine the combination of the DNA from Kamba region and Kalenjin. I can tell you it will be one of the eight wonders of the world. So, it is a beautiful city. It is a city that is not dry or wet throughout the year. This is the city of champions.

Madam Temporary Speaker, I want to challenge the County Government of Uasin Gishu. Let us ensure the theme that they level up within the city. It is a city of sports. When a tourist who is keen on sports lands here at JKIA, that tourist will always know that he needs to travel to Eldoret City because the theme is sports. So, when you walk there, there are many things like the arboretum and museum.

Madam Temporary Speaker, I expect the Uasin Gishu museum that we were told about is fast-tracked. Additionally, 80 per cent of the major museums should be about sports because Eldoret is synonymous as city of champions because of sports. Eldoret has a continuous supply of water from Chebara Dam. The Kipkaren Dam and Kesses Dam have ensured that Eldoret has sufficient water.

The only thing I want to challenge the County Government of Uasin Gishu and the County Government of Elgeyo-Marakwet is that as a son of that region, to agree on the benefit that Chebara Community in Elgeyo-Marakwet will get from supplying water through Eldoret Water and Sanitation Company.

So, as we build Two Rivers, Kipkaren dam and many others that will supply water to Eldoret City and even sanitation, they need to ensure corporate social responsibility to Chebara Community in Elgeyo-Marakwet County.

The other reason we should give status to Uasin Gishu or Eldoret City is because the Fifth President of the Republic of Kenya, His Excellency (Dr.) William Ruto, comes from the region. It is partly to honour to him. It is not that Eldoret is special than other towns. Other towns like Vihiga and Luanda should be ready because we are expecting to see them grow to cities. Nonetheless, this a great honour because the Fifth President of the Republic of Kenya, His Excellency (Dr.) William Ruto comes from the region.

I will also be organizing Kapsabet, and Sen. (Dr.) Oburu knows Kapsabet very well even more than me. We should also get a city status. However, I am happy because it is coming to my region. Apart from President William Ruto, yours truly comes from that region.

In conclusion, the eighth reason is the issue of hospitals. Outside Nairobi City County where we have the Kenyatta National Hospital (KNH), we have Moi Teaching and Referral Hospital (MTRH) in Eldoret. There is an intention to expand it to 200 acres near the Eldoret Airport.

Madam Temporary Speaker, can you believe Eldoret City has a health facility or hospital after every 100 meters? We have Top Hill, Reale, St. Luke, MTRH, Uasin Gishu

District Hospital and many others. I know Sen. Maanzo knows this. When you go to India, there are cities that are only known because of the hospitals. Apart from Eldoret being an educational city, it can also be a hospital city.

Outside Nairobi City County, there are so many hospitals in Eldoret. I do not think there is a town outside Nairobi City that has as many hospitals as Eldoret. MTRH is serving the entire Rift Valley and parts of Nyanza and Western regions. When I went to Eldoret, I had an engagement with the Chief Executive Officer (CEO) my brother, Mr. Wilson Arwasa. He is doing a tremendous job and the quality of service is very good.

Nandi County is the biggest beneficiary. The health system in Kapsabet Referral Hospital in Nandi County has collapsed. The only things they are giving out are for reproductive health. They do not give out anything else. Most of the time, we end up ambulating most of our patients to MTRH. Dr. Arwasa has done a lot. They have a programme where they waive some of the bills that most poor Kenyans cannot afford.

I challenge colleagues that even as we bill on MTRH, we can only ease pressure through you, Madam Temporary Speaker and Sen. (Dr.) Oburu, by ensuring that the Jaramogi Oginga Odinga Referral Hospital in Kisumu County is functional. We need to ensure we get proper funding so that we can ease the pressure on MTRH. Makueni County needs to ease pressure on KNH and Coast General Hospital too. We must have at least 10 referral hospitals to ease the demand.

Since I know that Sen. Kavindu Muthama's people are beneficiaries of the KNH, we can ensure that Machakos County gets a referral hospital going into the future. We need to ensure we have proper funding. I commit to the House and beg my colleagues---

Madam Temporary Speaker, before I forget since I have about five minutes, you led us when we had the Devolution Conference in Eldoret. You saw the hospitality of the people of Eldoret and the hotels there. They are two or three stars. We might not have five-star hotels, but they shall work around it. However, Members were comfortable. I met the Senate Minority Leader around Eldoret deepening and widening the devolution agenda. He was comfortable with the hospitality of that area.

I appeal that we should give Eldoret a chance. Let us get Busia, Kilifi, Bondo, Kapsabet, Makueni and Wote coming. I saw a story about Thwake Dam. We need to finish this dam, so that we can ensure Wote becomes a city because of the constant water supply.

With those many remarks, I thank the committee and your office for facilitating them. Let us make Eldoret a city of champions.

I support the Motion.

The Temporary Speaker (Sen. Mumma): Proceed, Sen. (Dr.) Oburu.

Sen. (Dr.) Oburu: Thank you, Madam Temporary Speaker, for the opportunity. I would like to start by supporting this Motion. I also want to declare that I am a member of the Standing Committee on Devolution and Intergovernmental Relations. I also declare that I was part of the team that went to assess the status of Eldoret and confirmed that it actually deserves to be a city.

I have a very long history with Eldoret starting from the 1970s. I used to stay in Eldoret as a trader. I was in the coffee trading business. We used to get coffee from Uganda and sell it to the Kenya Planters Cooperative Union (KPCU). Some people were calling it "*magendo*," but for us, it was very good business. My headquarters was Eldoret. I used to stay in a hotel called Mahindi.

Madam Temporary Speaker, in those days Eldoret was a small town---

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

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise on Standing Order No.105. Did you hear the Senator of Siaya County confess to the criminal offence of corruption and further tell the House that he was actually a beneficiary of the proceeds of corruption of Chepkube coffee? Could he substantiate, and if he so cares, declare how much he made and surrender it to the farmers of Busia-Uganda and Busia- Kenya who lost millions of shillings?

Failure to do this, he should do the honourable thing; resign and surrender to the nearest police station, preferably the Parliamentary police station.

Madam Temporary Speaker, he is a criminal in his own words. People died out of gunshots and poverty.

The Temporary Speaker (Sen. Mumma): Order, Sen. (Dr.) Khalwale! I think Sen. (Dr.) Oburu said that some called it *magendo*. I do not know whether he admitted to any responsibility.

Sen. (Dr.) Oburu, you can clarify.

Sen. (Dr.) Oburu: Madam Temporary Speaker, I am not sure, but I think Sen. (Dr.) Khalwale is quite aware that we were doing business. We do not know who died. Really, it was not within my knowledge. I was doing business based in Eldoret. I also want to state that I am not a criminal and I will not be. I have never even written a statement in a police station. My record is very clear and what Sen. (Dr.) Khalwale has stated is completely out of step with what I was saying.

Eldoret at that time was a very small town. Years later, when I visited the town, I found that it was a center for transforming agriculture in what we call value addition. Eldoret had factories that were processing cotton and produced very high-quality clothes. There was one known as Raymonds and another one was known as Rivatex.

There are many other things that are in Eldoret now. First, Eldoret is a terminal for the Kenya Pipeline, which gives the possibility for Uganda to easily transport their oil from Mombasa County to their country without damaging our roads. It also has a railway terminal with a railway station, which facilitates business. I also know for a fact that Eldoret Airport used to operate very optimally and economically when it was handling cargo. It was used to handle cargo from Dubai and other Middle East countries. This business was stopped because of suspicion by the Government that it was losing revenue from it. They thought there was some illegal business going on. These issues have been sorted out.

Madam Temporary Speaker, when we were in Eldoret with you, the first plane carrying cargo landed. The cargo handling section is being revived. The airport will start handling cargo like fresh flowers exports to the Middle East airports, which will bring in foreign currency to Kenya improving the status of our farmers and helping the economy of the country.

Sen. Cherarkey referred to the hospitals in Eldoret. People from my area go to Eldoret for specialized treatment. Eldoret has efficient hospitals including the Moi Teaching and Referral Hospital. They are good for some diseases like cancer. People go to Eldoret because they get better treatment. Eldoret has more than 50 hospitals that are functional and serve the people.

It is also a fact that Eldoret is the city of champions. It is not just the champions from Uasin Gishu County, but champions from Nandi, Elgeyo-Marakwet and other counties. We found that they have good stadiums. Sports are coming to Kenya in 2027. The African Cup of Nations (AFCON) will be hosted by the East African Countries of Uganda, Tanzania, and Kenya. In Uganda, they will be held in three towns. It is also the same in Tanzania where Dar es Salaam and two other towns will host. In Kenya, two of them will be held here in Nairobi and another one in Eldoret. The Government should rethink this. Though Eldoret is a city of champions, it is mainly the champions in running and not football.

The champions of football come from Kisumu County. This is where you have the fans. Nairobi County should host one, Eldoret one and Kisumu another one. Why should Kisumu and Kakamega County, which are the homes of football, miss any of this and concentrate everything in Nairobi County and Eldoret? This needs to be reviewed.

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

Sen. Cherarkey: Madam Temporary Speaker, I rise under the Standing Order on the responsibility for statement of fact. Is my good brother, Sen. (Dr.) Oburu, is aware that when Rivatex and other organisations based in Eldoret had football clubs that used to play in the Kenya Premier League. Is it in order for him to insinuate that we are runners but not classify whether we are night runners or normal runners? Is it in order to state that Eldoret only belongs to athletes, yet I can introduce him to several football clubs based in Eldoret?

Sen (Dr.) Oburu: Madam Temporary Speaker, the whole country knows that most of these champions in running come from Eldoret. However, we also know that most of the famous footballers come from Nyanza. If it is only taken to Eldoret, the stadium will be half empty. This is a diversion. I did not say Eldoret should not have the games.

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

Sen. (Dr.) Khalwale: Madam Temporary Speaker, Members of this House are not allowed to mislead the public or state falsehoods on the Floor. Did you hear the Senator for Siaya County say that footballers come from Nyanza?

Sen (Dr.) Oburu: Madam Temporary Speaker, I said Kakamega and Kisumu Counties.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, may I remind him that Elijah Lidonde was not from Nyanza; he was from Ikolomani. Joe Kadenge was not from Nyanza; he was from Hamisi.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Khalwale, Sen. (Dr.) Oburu has conceded that they come from Nyanza and Western.

Sen (Dr.) Oburu: Madam Temporary Speaker, I said from the beginning that the upcoming football games should be played in Kakamega or Kisumu Counties, but not be concentrated in Eldoret and Nairobi County alone. The famous footballers come from Nyanza and the Western region. I should be allowed to continue. I do not know why Sen. (Dr.) Khalwale and Sen. Cherarkey enjoy interrupting me and trying to divert my thoughts.

Eldoret has magnificent hotels. I thought there was only a Sirikwa Hotel because after Mahindi Hotel I used to go to Sirikwa. However, I have gone there now and there are others that are equally good. They are not high class, but they are comfortable. The first time we stayed in the Red Cross hotel, the other time when we were with you, I enjoyed golf in Eldoret. I am a golfer and I stayed in a hotel with a golf course. This hotel has some unique features. There is a river that meanders around the golf course. It is clean and not like the Nairobi River. This is a good feature that the County Government of Uasin Gishu is taking care of the environment. We want that river to be clean so that people can use the water for consumption.

I do not want to state anything more. Nonetheless, when we went for public participation, we found some opposition from within the county. Some people opposed the conferment of Eldoret Municipality to city status. They were opposing it because they thought the city would take their agricultural land. We convinced them that the city would bring quality to their land. First, it will attract more industries, which will transform their land. Secondly, modern cities do not expand exponentially, but upwards. So, the many high-rise buildings that will be built in Eldoret will not necessarily consume their land.

However, when it consumes their land, the value of land will go up. The farmers are going to benefit even more if they sell that land to the city. They have very little to worry about because either way, they will gain from Eldoret obtaining city status.

Madam Temporary Speaker, I can see the light is almost going off. I do not want to consume all my time. I would like to end there and urge the House to support Eldoret getting the city status because it is going to be a service to all people. It is not only the people of Eldoret and of that region, but it will be economic asset for the whole country of Kenya.

With those few remarks, Sen. Cherarkey, we are not supporting because the President comes from there, although, that is also a plus. We are supporting it because it deserves city status.

The Temporary Speaker (Sen. Mumma): Sen. (Prof.) Kamar, you may have the Floor.

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker for giving me the opportunity to support this Motion. I congratulate the Standing Committee on Devolution and Intergovernmental Relations for a job well done.

I say so because I happen to have become a friend to the Committee on the last day of their tour of Eldoret City to be. I was very impressed by the detailed manner with which the Committee was raising issues. I was also impressed by the interaction between our Committee and the public. It was a public participation *per excellence*. People were given opportunities and not restrained.

Madam Temporary Speaker, in fact, I was so impressed that the Chairperson of your Committee, because you are part of that Committee, wanted to hear divergent views. As the Vice-Chairperson, you also insisted on the same. If there was anybody with a divergent view, you wanted that so that you could understand exactly where people were coming from.

I congratulate the Committee and thank them for doing a very good and thorough public participation that other Committees can learn from. It was very impressive.

Eldoret is a place that we have all waited to see become a city. We tried as much as possible to bring this forward. When I was the Senator for Uasin Gishu, we tried when the case for Nakuru was on. There are quite a number of things that the Committees then said that we needed to clear on the ground.

Uasin Gishu is a very unique county. It is the former White Islands and the grain basket of the country. It sits between Nakuru and Trans Nzoia, which is actually the belt for food production. It is no wonder the whole belt became the White Highlands. This is because, even the colonisers realised that this was a very attractive area for investment in grains and all sorts of things. That is how they landed in the White Highlands.

Madam Temporary Speaker, as it has been said by my colleagues, a lot can be said about Eldoret as an upcoming city. You saw it yourself with the Committee. You saw the provision of a lot of amenities in that city. Being a city in the middle of the grain basket of the nation, the price of food is lower than in most of the other places. This has attracted a lot of institutions. In fact, before the shake up in the secondary school education, all universities in Kenya had campuses in Eldoret, including the University of Nairobi. This is because it was very easy to start an institution in the town. Why? There is cheap food and continuous supply of water.

I assure this House - I think I mentioned this during the Devolution Conference - that you can actually drink water in Eldoret off the tap. This is water that is purified in the hills of Elgeyo-Marakwet at source. As it comes down the hills, it is pure.

The amenities in Eldoret are extremely attractive. Of course, another colleague talked about the hospitals. We have plenty of hospitals. In fact, the hospitals in Eldoret town are not serving Uasin Gishu only, but the Western Kenya region, which covers Western, Nyanza and North Rift. Not just that, it also covers Eastern Uganda. Many patients are brought in from Eastern Uganda to Eldoret town which is about to be conferred to the city status.

Again, it is a very attractive place to invest in such amenities because of it is a very good environment. In fact, if you read the climatology books, somewhere not far from Eldoret, has the most stable climate in the world.

I discovered this myself in the Roberts Library in Toronto when I was doing my Doctor of Philosophy (PhD); that the most stable climate is within Uasin Gishu, to the North of Eldoret Town. Thus, the stability of that place is very good. I am saying this not to just market Eldoret, but to invite you all who would like to invest there.

Madam Temporary Speaker, we are currently hosting the County Executive Committee Members (CECMs) of Trans Nzoia, Elgeyo-Marakwet and Nandi counties within the same town. It is a very welcoming town and the people are very friendly. You have seen them for yourself.

We were there before for the Senate *Mashinani* and recently for the Devolution Conference. These are people who are extremely hospitable. It is a nice place to be. I really support this Motion that it gets the conferment of city status.

Yes, industrialisation started in Eldoret way back. We had the Rift Valley Textiles Company (Rivatex) and the Raymonds that used to export blankets, bedsheets and curtains. We know that they are revived now. Of course, Raymonds was rebranded as Ken Knit. Rivatex is back on its feet and running.

A good number of companies have come to process food products. We have people who are processing and exporting vegetables. We export flowers, vegetables and fruits such as avocados, and passions.

It is true that quite a bit is not being exported through the international airport in Eldoret because of that runway issue. However, we look forward to that being done, so that cargo planes do not just bring goods and are not able to take their goods out of the city. We know that is on course as we were also informed.

I was lucky to be with this Committee on that day because that is the day that the Cabinet Secretary for Investments, Trade and Industry landed when the Committee was right on the spot. She promised to have a half-an-acre extension to allow take off of heavy flights that can carry cargo to Eldoret.

Madam Temporary Speaker, Eldoret is the destination, not only for Uasin Gishu County, but for all of us. It is also a destination for other international flights and that will be good.

I want to disagree with Sen. Cherakey that we only have two-star or three-star hotels. We have Eka Hotel and Boma Inn Hotel, which are good four and five-star Hotels. There are very many new ones that are coming up now. We believe that accommodation will never be a problem in Eldoret as a city. So, it is true that a lot of things are coming up. There are others that need improvement and they are going to be improved.

During the Devolution Conference, we all went to the arboretum, which is the latest entrance of what was presented to the Committee by the *Ad Hoc* Committee. I am very proud of the arboretum because every Senator who planted a tree has his or her name labelled.

I have gone back there three times to make sure that the labels that were done are still on. So, this House is part of that city. It was a very nice idea from our Secretariat. This is because they went ahead of Governors who were frantically looking for labels for themselves, while all trees that were planted by Senators were labelled. So, you are part of this city that is about to be born. I am sure when we do our prayer walk in that park, we will remember each one of you in the future. Very soon, some of us will be old and will be going around with our grandchildren and blessing you. So, Eldoret has been transformed and it is ready for that.

Also, this is a city of very young people because of the number of institutions that we have. These calls for a lot of attention to youth amenities and facilities.

We are very happy that the Kipchoge Stadium is about to be completed. There was a promise made, in this House last week by the Cabinet Secretary for Sports, Youth Affairs and the Arts that they are going to complete that facility. So, these are the facilities that we need, not just for the city, but for the youthful population that is in the city. They will have a park to walk to and a complete sports complex where they can have all kinds of sports, including swimming and so forth.

So, it is not only going to be a facility for our athletic champions, but also all other sports, including football. They have a very nice football pitch in the same place. We know that very soon residents of Uasin Gishu will be competing with AFC Leopards and Gor Mahia. We are yet to know the name we will call ours, but it will be there.

On the other hand, we also have realized that youth from other corners of the country are now training for athletics, which is very good. Athletic tourism is the best

thing. We have seen an influx of our youth, not only those who have come for training. We also welcome those who want to just come in for sports tourism. This is one of the things that will be done when our stadium is complete.

I support this Motion and ask Members of this Senate to endorse this because it is the future. We need to free a few of our towns to be cities, so that we can accommodate more people and allow for more investment.

I want to assure Members that Eldoret is open for investment. That is one city that anybody can invest in. If you go there, you will see for yourselves that it is a proper cosmopolitan city and anybody can invest.

I would like to thank the Committees that were involved. I would also like to thank my Governor, Hon. Chelilim, for receiving you and going through the whole process with you as you were auditing the requirements for the city status.

I also thank the *Ad Hoc* Committee for a presentation that was well done. It made it good for us, as the residents of Uasin Gishu, to be considered by the Senate. I thank them and sincerely wish them well.

As we go into the city status, I inform the Governor and his team that this is when the walk starts. It is one thing to qualify to be a city and it is another to be maintained as a city. They have to maintain the status of a city that they have been given. They must make sure that planning continues. This is because what brings down cities is having no plan, for example, when an industrial park is mixed with residential areas or when hotels are mixed with hospitals.

So, I ask my Governor to go ahead and reorganize where there is a need for reorganization. This is because he assured us that if there is reorganization, he is going to do it. We want a clear plan so that the planning of our cities is very clear.

We have been to cities where one whole street takes care of a specific kind of service. This is where we should be going as a country, so that we are not mixed up.

Finally, I thank the Committee that was chaired by Sen. Abbas and you, Madam Temporary Speaker, as the Vice Chairperson. You did a wonderful job. God bless you.

I support you.

The Temporary Speaker (Sen. Mumma): Sen. Joe Nyutu, please proceed.

Sen. Joe Nyutu: Thank you, Madam Temporary Speaker, for this opportunity for me to also air my views or support this report on the conferment of city status to Eldoret Municipality.

Right from the onset, I support this Motion. I have gone through this report and seen that Eldoret Municipality satisfies all the conditions required for a city or a town to be promoted to a city.

I happen to come from a community where boys undergo rites of passage. This reminds me, when you come of age, nobody should come between you and the coveted rite of passage.

[The Temporary Speaker (Sen. Mumma) left the Chair]

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

Some of us had to go for long, trying to convince our parents that we were of age. I say this because Eldoret Municipality, having satisfied these requirements, did not need to wait any longer.

It is very important for a town to be promoted to the next level. I am a Member of the Senate Standing Committee on Health. I remember us visiting Kisumu City. When we talked to those who operate Jaramogi Oginga Teaching and Referral Hospital (JOTRH), they told us that the major challenge that they have is that that hospital is a county hospital, but then it serves---

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, I am sorry to interrupt you. There was an earlier direction from the Speaker that the House would adjourn at 5.30 p.m., in order to proceed with the Motion that was being moved by Sen. Kavindu Muthama. I will now request and call upon Sen. Kavindu Muthama to move the Motion.

Sen. Joe Nyutu, when we resume, you will have 18 minutes to finish what you were contributing.

Sen. Kavindu Muthama, you have 10 minutes to move your Motion.

MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 37

DEMOLITION OF HOMES AND PROPERTIES IN MAVOKO, MACHAKOS COUNTY

Sen. Kavindu Muthama: Madam Temporary Speaker, I beg to move-

THAT, pursuant to Standing Order No. 37, the Senate do adjourn to discuss the definite matter of urgent national importance, namely, demolition of houses and properties in Mavoko, Machakos County.

In line with Article 43 of the Constitution, shelter is a basic need. The Mavoko Portland residents were never issued with a notice of demolition and/or relocation plan or place. The leadership of Machakos County; the Governor, Senator and area Members of Parliament (MPs) were never consulted on this issue. After the lapse of lease, they would have had a consideration to give back the local community, as is their ancestral land. Generations have been brought up there.

The said residents approached the Government for regularisation of the said land. It is unfair to demolish their properties without notice or relocation. As the Senator of Machakos County, I deeply condemn this act. This is because, during the campaigns, the present Government promised relocation of citizens who reside on public land. I wonder what changed.

The other day, the President told us it is a win-win situation. I request the Government to quickly come up with a relocation and compensation plan for the affected residents on the public amenities; schools, hospitals and religious institutions. Can the Government have an agreement with the county government and settle the issue in terms of payments and title deeds? We have seen this before with Waitiki Farm in Likoni, where the county and the Government paid Kshs1.2 billion to the national Government to save the residents.

The former President, Uhuru Kenyatta, issued 1,400 title deeds to the residents who were already living in Waitiki Farm on a lease of 99 years. Why can the same not be reciprocated to our people who have lived in Portland for so long?

As we speak, by morning, we had 3,500---

*(The Temporary Speaker (Sen. Veronica Maina)
consulted with Sen. Osotsi)*

Madam Temporary Speaker, I will wait for Sen. Osotsi to finish with you so that you can pay attention.

By morning, 3,500 estimated houses, eight churches and four schools were already down. The demolitions are still on and we do not know if they will continue up to tomorrow. This is unfair and inhumane. Those children are out, not going to school and *El-Nino* is here with us. Those people are outside not knowing where they will go.

Where was the Government by the time these people bought this land, were allocated, given plans for building, paid, contacted National Environment Management Authority (NEMA), brought up the buildings and they got in to live? Why did they not intervene that time?

Madam Temporary Speaker, I ask Sen. Sifuna to second.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, please proceed.

Sen. Sifuna: Madam Temporary Speaker, first, let me say that a few hours ago, I was part of a delegation of the leadership of Azimio Coalition led by the Right Hon. Raila Amollo Odinga, His Excellency Kalonzo Musyoka and the Governor of Machakos County who tried to visit the victims of demolitions in Athi River.

To our surprise, we were met with a cordon of police complete with water cannons and anti-riot gear. It was quite surprising for us because as far as I understand, this is something that is of great interest to all Kenyans. At the very minimum, we, as the leadership of the country, should be allowed to visit that place to see for ourselves so that we can assess the extent of the humanitarian crisis that is unfolding right under our noses.

Much has been said about this matter in the court of public opinion and especially on social media. People are alluding to court decisions that have firmly decided that the land belongs to East African Portland Cooperation. In fact, that is not the position. The matter that has precipitated the current action was a ruling by the High Court sitting in Machakos County that basically threw out the case that had been filed by the land-owning company that had sued Portland. The reason given by the Judge is that the plaintiff had been unable to effect personal service on some of the respondents in the case.

Therefore, it is not true that a definitive determination has been made on the ownership of the land in Machakos County. We are not here to argue the legality or the title of who owns what. Whether it is a question that it is public land, owned by Portland or by these individuals, is another case altogether.

What we want to address in this Motion is the inhumane suffering that has been precipitated by this action. At the end of the day, our Constitution and the law require that there has to be a humane way to resettle people.

Madam Temporary Speaker, I am sure you are familiar with our own evictions and resettlement guidelines of 2009 that require that before certain actions are taken, such

as the ones we have seen in Mavoko, 90 days' notice has to be issued in the Kenya Gazette.

Of course, in this particular case, it was not done. This is because hours after the court decision throwing out the case by the land ownership society, the graders were there ready to demolish houses. Every single Government must always worry about the situation of their own people.

As Sen. Kavindu Muthama has alluded to, the current regime is on record having said that the era of forceful evictions and night-time demolitions was going to be a thing of the past once they were sworn in. It is quite shameful that, as we speak, over 3,000 households are without a roof over their head. We have counted at least five churches and three schools as of yesterday.

I have heard Sen. Kavindu Muthama say that, in fact, it is four schools. More than that, the demolitions are ongoing. I can confirm that because I have just come from there, but we were denied access because Police Commander in Charge told us that the exercise will continue for another few days.

Madam Temporary Speaker, we understand the legal tussle might take time and that it might be a complicated case. However, what is not complicated is that people cannot be sleeping outside. As Sen. Kavindu Muthama has said here, we are entering a period where we anticipate heavy rainfall. In fact, we have been warned by Meteorological Department for a long time that we might be experience *El Nino* rains anytime.

What would have been the challenge with the management of Portland giving these people ample time to move out? What is more shocking is that in today's *Daily Nation*, we saw another advertisement by Portland, dealing with a separate portion of land that they own. Somehow, they have taken a different approach in this particular case of that land. They recognise that there are people who are settled on that land, some of whom might even be squatters. However, they have said they are going to give those people priority when that land is advertised for sale.

I am only asking myself why it was impossible for Portland to afford the same opportunity to the people who are in the current situation for the people who were on the land that is now being demolished. They should have been afforded the same opportunity to discuss and see if these people are able to purchase these pieces of land and do regularisation as we saw in that particular advertisement.

Madam Temporary Speaker, for us, we ask for a human face to enforcement of court orders. Let there be a human face when kicking out people from land and destroying their homes. As far as we are concerned, this is a matter that the President himself must speak to. He needs to answer the question on whether he still holds to his promise to Kenyans to make sure that, in fact, such demolitions – especially forceful evictions – are a thing of the past.

I beg to second.

An Hon. Senator: Point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order? I have not even proposed the Question.

(Question proposed)

What is your point of order?

Sen. Cherarkey: Madam Temporary Speaker, I rise under Standing Order No.111 about limitation of debate. Looking at the time and considering that this is a matter most of us would want to contribute to, will I be in order to request that the House agrees with me, that each Senator to speak for a maximum of five minutes so that all of us can get an opportunity?

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, the Standing Order only gives five minutes for each contributor to this debate. So, each Senator will have five minutes to contribute to the current Motion.

Proceed, Sen. Wambua.

Sen. Wambua: Thank you, Madam Temporary Speaker, for the opportunity to contribute to this Motion. From the onset, I remind us that governments all over the world exist for the purposes of protecting lives, property and livelihoods.

What is happening in Mavoko, Athi River today, yesterday and the day before yesterday is a very sorry state of affairs. Some of the property owners of the property that has been brought down are actually third or fourth owners of the land on which they have erected their properties.

Madam Temporary Speaker, the question that the Mover of this Motion has put on the Floor of this House, is that all of us must exercise our minds on as we debate this Motion. Where was the Government when people put up their houses on that land?

Where was the Government when schools were being constructed in this place? Schools are not registered by people, but by Government. How did Government register schools in these areas? How did the Government even make some of these schools examination centres for exams that are supposed to be beginning next week? Where was Government when churches were being built on this land? It is the responsibility of Government to register churches.

Without putting unnecessary emotion into this debate, I think a time has come that people's lives must be held on fire until the truth comes out. What is the urgency in reacquiring this land for the cement factory? Why would we throw out our own people, Kenyan citizens, children and women in the cold at a time like this when the *El Nino* rains have just set in, just because you want land to revert to a cement factory? What is it that the cement factory wants to do with the land today that we could not help and go through a process of reacquiring this land?

Madam Temporary Speaker, I stand here as a leader from that region, but as I speak, let it be known by both sides of the divide, that the people who have suffered and continue to suffer in those demolitions, are not necessarily exclusively from the lower Eastern Region. In fact, we have communities from all over the country who had settled on that land.

These are people who had taken bank loans to construct the buildings, invest in schools and taken years to build churches in those areas. Then overnight, all that investment and property has been flattened. These people are supposed to run to Government for recourse. Unfortunately, it is the Government that is doing this.

(Sen. Wambua's microphone went off)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, your time is up. Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. It is very unfortunate that we are where we are. As we witness a humanitarian crisis unfold in the Gaza, Middle East, purely for the reasons that you know, little did we know that we will also have a humanitarian crisis unfolding here at home in Mavoko.

I want to thank Sen. Kavindu Muthama, the Mover and the Seconder, Sen. Sifuna. Sen. Wambua has spoken maturely. He has raised the issue for us that even as we uphold the rule of law, whereby we are obeying court orders, evictions must be done legally and with a humane face.

Madam Temporary Speaker, what is the big deal? If the courts have agreed that the owner of this property is Portland Cement and people have settled there illegally, let them go away, but let it be done procedurally and with a humane face. That is all we are saying.

Hon. Senators, I remember when I was in this Parliament in 2004, we were faced with a similar problem when 100,000 families had to be evicted from the Mau Forest. In 2011 again when I was in this Parliament, we witnessed thousands of people being evicted from Syokimau and the threat is the same. Business and political people create cartels, con unsuspecting members of the public who buy land which does not belong to these conmen and then as Sen. Wambua has said, they are the second, third and fourth buyers who are the ones who face this brunt.

We must say no. The people of Syokimau were warned repeatedly that they were putting up houses on the flight path to the Jomo Kenyatta International Airport (JKIA). They did not listen. Similarly, the people of Mau Forest, hundreds of thousands were warned that this is an environmental water tower. They did not listen because they thought they were protected by the rich people who gave them that land, or the politicians who sent them there.

Madam Temporary Speaker, I tell our Republic that if we want to lead this country, we must hold each other. The weak should be held by us; the strong ones. We in the Government side should hold hands with those in the opposition side when a matter requires we close ranks.

The people who are perpetrators of this con game must be pursued to the logical conclusion and they are known. As I speak today, Boniface Sunguti Ichingwa, son of Ichingwa from Malinya has sent me a message here – that uncle, while you were away in Malinya, we slept in the rain. He had bought such a land and had put property there. A young person aged around 29, 30 or 31 years old. These are the people we are supposed to protect.

I hope that when the President comes, he has taken step one and complied with a court order. We want to tell him that we are behind him in respecting court orders, but we urge him to prevail upon agencies that manage evictions and unsettlement of people to do it in a humane way.

Madam Temporary Speaker, doing anything else, we either cease to be Kenyans or we become animals. It is a pity that someone registered a primary school on land that did not exist. I have registered 23 secondary schools which I built in Ikolomani. I know the process of registration was rigorous. Who was doing these things unless it is a cartel?

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

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, your time is up. Proceed, Sen. Maanzo.

Sen. Maanzo: Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute on this very important matter. Other than this suit that has been concluded, there is another pending suit which will be determined around the same land in November and I believe the same will not follow.

The truth of the matter is that the moment East Africa Portland Cement Company acquired the land and the lease expired, the mining was over and the land was supposed to revert to the community. The current status is that it has to go back partly co-owned by the County Government of Machakos which is the trustee.

It does not automatically go to the national Government or to the Portland Cement Company. What has happened in this court order is that the Machakos County Government had not been served. Instead of waiting or the Judge giving an opportunity which happens, this ruling was arrived at through technicalities. I also believe that some people were waiting for this.

As soon as that happened, people and agencies were very quick to run and evict instead of waiting for the cries or giving reasonable time for these people to appeal. In case of failure of an appeal, then the matter would have been different.

That notwithstanding, there is something called adverse possession of land. That is why the Constitution and the Fair Administration Act says that you cannot now under the Constitution determine and conclude a matter fully on technicalities. You must hear all the parties. In this case, all the parties have not been heard.

Even the issue of adverse possession of which these people have been here for over 12 years has not been heard and determined. Therefore, whatever has happened is vitiated by politicians. That is very true. Statements have been made by different politicians regarding this land.

There are quite a number of highly connected people involved. The idea is not to give this land to Portland or give it for any other purpose allocated which is the work of the National Lands Commission (NLC). The idea is to grab this land and take it for their personal interest having taken it away from others.

Even if this was to be for industry, the Affordable Housing Project, these people had already done housing. I am aware that Portland Cement have a debt with Kenya Commercial Bank (KCB). Even if it was for a debt with KCB, there should have been notice of 90 days. Upon giving the notice of 90 days, people would have negotiated. Fine, even if the land does not belong to us, can we then raise money and pay KCB, so that now we can know what to do for the land. Can we then pay for the land so that we can occupy it?

For the information of this House, there are many other thousands of acres of land in that area, which are going to be mined and left vacant. So, for all purposes and intent, that still would have covered any purposes the Government or any other agency would have wanted to do in future, but not to evict the people in an inhumane way, destroy their properties and fail to have a human face.

I do not think that is what the Government is. It has a human face. That is why we politicians go to the people, we are their servants and we should hear to their cries. So,

the ones who damaged and destroyed the properties, I am very sure that the Court of Appeal will revisit this. There is going to be a substantive hearing while the houses are down, people have been evicted and churches destroyed.

From what I have seen, even a Mosque which was irregularly constructed on public land without consultation in my village a place called Kathonzweni, the Muslim community who had done that, left the area. Up to today, nobody has touched that Mosque. It is respected. Nobody can just go and destroy it. You must respect places of worship because they are sanctified and all land we are fighting over belongs to God. It does not belong to a particular individual.

I believe we will finally go to the Court of Appeal and I am sure all the parties involved are very busy filing. There is also this other ruling we are waiting for in November, I hope it is also not going to be ruled on technicalities. I am sure the judicial officer dealing with it has seen the outcome of a court decision barely on technicalities, looking merchandized, not usual. Justice must be seen to be done.

Justice cannot be managed through cartels---

(Sen. Maanzo's microphone was switched off)

The Temporary Speaker (Sen. Veronica Maina): Your time up, hon. Senator. Proceed, Sen. Thang'wa.

Sen. Thang'wa: Thank you, Madam Temporary Speaker. I wish this Motion was about going for the criminals who sold land to these unsuspecting residents of Mavoko.

Madam Speaker, I really sympathise with the people of Mavoko, particularly those who lost their property. Nonetheless, being a legal battle, everybody and everyone was fighting for their right.

This legal battle has been going on for nine years between the Cement Company and the residents of that region. For nine years, they were unable to agree on what they were supposed to do in regard to the parcels of land that they bought from cartels, criminals and those who grabbed it.

The said Cement Company has about 900 acres of land just nearby. They were able to discuss with those who bought land from land grabbers. They had agreed. They said, 'As much as we paid the land grabbers, we are going to pay the cement company.' That is why, maybe there was no demolition. The cement company had an agreement with those who bought land from the land-grabbers.

On this issue, instead of being reactive, we should be proactive. There have been billboards that have been put on that land urging Kenyans not to buy land from that area. There was a court case and they believed that land does not belong to a society called Aimi Ma Lukenya Society that was selling land to unsuspecting people.

Let us not be a House that is going to whip emotions. We want to be seen to be fighting for our people, yet we are not. If we were, the County Government of Machakos could have done something.

The representatives of Machakos could have brought that issue to the Senate. In the Senate, we have very nice committees that look into such matters. However, we wait for whoever is demolishing - I do not believe is my Government - till our people lose their property. It was very painful to see a *bodaboda* person saying that he saved money for five years to build a house there, only for it to be demolished.

After the demolishing has happened, we just make noise and then we let the criminals go. The criminals who took this land and sold it to the *bodaboda* person are known. Some of them are in Government and in the police administration.

Today the Directorate of Criminal Investigation (DCI) has summoned so many people to appear before them to give them information. Some of them are Members of Parliament (MP), owners of a society and a former Officer in Charge of Police District (OCPD).

It is sad that people have lost their property and we should condemn that with any possible terms that we can use. However, we should also go for those who conned those people who are losing their properties twice.

There are some leaders of a certain political party that I do not want to mention at this particular time, that are said to have taken this land and they have been fighting whoever in the name of protecting the residents of Mavoko. How come the same people have not even helped these people to appeal this case at the courts of law? At least assist them in every way. You cannot visit them when the demolitions are happening, yet nine years ---

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Sifuna?

Sen. Sifuna: Madam Temporary Speaker, under Standing Order No. 101, on the responsibility for the statements that are being made on the Floor of the House, I think Sen. (Dr.) Khalwale had set the tone by saying that the presentations that were being made on the Floor of this House were immature.

Is it in order for the Senator of Kiambu to make allegations against leaders of a party that he has refused to disclose without making any substantiations of those allegations?

This is a serious matter. Any person who has information that can help people of Mavoko get justice should be speaking with the authority of facts. It is a matter of fact also that there was hardly any period between the time the court case was dismissed and when the demolitions began as Sen. Maanzo has submitted on the Floor. It is as if some people had already anticipated the decision in advance.

Is it in order for Sen. Thang'wa to say that the leadership in Machakos County have done nothing to help the people appeal. You cannot appeal when your house has already been demolished. That is why we usually have a period of 14 days between a judgement and the time action is to be taken to allow for the appeal. However, that has not been the case here. Can he substantiate on those two issues?

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker, I rise again on Standing Order No.105 just like Sen. Sifuna. However, as I appealed this is not a Government or Opposition problem. We have this Motion because there is a humanitarian crisis. Even to ask the Senator of Kiambu to substantiate and to look like he is to blame.

(Sen. Sifuna spoke off record)

Can I make my point, Sir---

The Temporary Speaker (Sen. Veronica Maina): Let him finish, Sen. Sifuna

Sen. (Dr.) Khalwale: Madam Temporary Speaker, if there is need for substantiation the police through a press release have just tabulated the names of the senior officers that the Senator of Kiambu is speaking to. They include the kind of players he is talking about.

Sen. Mumma: Yes, electronic evidence can be tabled in this House.

The Temporary Speaker (Sen. Veronica Maina): Let him finish. Sen. Mumma, allow Sen. (Dr.) Khalwale to finish.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I speak to this document which is now public. They are speaking to the former Deputy Commissioner, former Deputy County Officer, former Officer OCPD Mavoko and former Director Criminal Investigations (DCI)---

The Temporary Speaker (Sen. Veronica Maina): Which document are you reading? Can you give us the title of that document?

Sen. (Dr.) Khalwale: The title is the National Police Service (NPS), Directorate of Criminal Investigations (DCI) dated 17th October, 2023 press release. They are asking all these people who are adversely affected by the humanitarian crisis to go and record statements. They have opened up a desk to register the people and the identities of those who conned them. They have said that starting from---

Madam Temporary Speaker, can I read the names now?

The Temporary Speaker (Sen. Veronica Maina): No, do not read. If it is public knowledge, we have heard your line of argument.

Sen. (Dr.) Khalwale, kindly resume your seat.

Sen. Thang'wa, would you want to add more information as to what you suggested on people you mentioned from other political parties?

What is your point of clarification, Sen. Kavindu Muthama?

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker. I just want to clarify that we, as the Machakos County leadership, did not wait until we came here. For humanitarian grounds, our people are sleeping outside and not only in Machakos County alone. Kenyans in Mavoko are sleeping outside and children are not going to school. Are we supposed to keep quiet as the leadership of Machakos County?

The Governor took lawyers immediately the next day and they went to court to apply for an application of urgency to stop the demolition. They were told to go back and serve all the parties and again go back on Monday just for this demolition to continue. It is unfair and inhumane.

The Temporary Speaker (Sen. Veronica Maina): Clarification is noted Senator.

Sen. Thang'wa would you want to put in additional information based on what you submitted before?

Sen. Thang'wa: Thank you, Madam Temporary Speaker, you can only be asked to substantiate what you have said. You can never be asked to substantiate what you have not said. I have not named any political party, but they have said I have.

I have the right to say that there are people who conned unsuspecting Kenyans and sold them land. Remember as much as I sympathize and feel for them, maybe this Motion is here to protect these criminals. Maybe we are protecting those who sold land to the citizens. We cannot be fighting for our people by pretending. We have to get to the origin of this issue.

As much as I am fighting for them to be given somewhere to stay and be given back their property, I should be fighting for them to get their money from the land grabbers who lied to them.

The Temporary Speaker (Sen. Veronica Maina): Sen. Thang'wa, resume your seat. I will give direction on this matter. The manner and style in which a Senator chooses to adopt in their debate remain their preserve.

Sen. Thang'wa insinuated that the culprits could be people from a certain political party. In Kenya, we have 89 political parties. It would not be correct for anybody to assume which political party the people who are alleged to be culpable belonged to. It is within his rights to pick the nature of the statement that he gives. If he gave names and we sought clarification, this would be a different story. The way he chooses to debate is the preserve of the Senator. We asked for additional information, he did not point to any political party. We shall proceed with the debate. Sen. Osotsi, you have the Floor.

Sen. Mumma, your point of order should come when there is someone on the Floor. Allow Sen. Osotsi to begin and then proceed to follow the provisions of the Standing Orders.

(Sen. Mumma spoke off record)

Sen. Mumma, proceed.

Sen. Mumma: Madam Temporary Speaker, Sen. Thang'wa has suggested that this Motion was moved to protect criminals and a political party whose leaders look like they support the victims. If he is speaking in good faith to help resolve this problem, he needs to name the party and the leaders who are protecting the victims. It is bad faith for him to say the Motion is intended to protect the criminals. Could he clarify why he believes that is the case?

The Temporary Speaker (Sen. Veronica Maina): Sen. Mumma, I have given a direction on that matter. The issue that was raised by Sen. Sifuna was about the political party. There was no other issue raised unless the HANSARD would bear a different record.

I request Sen. Osotsi to proceed.

Sen. Osotsi: Madam Temporary Speaker, I will contribute to this Motion of adjournment by supporting it. The Senate is creating a bad precedent. I have observed that Members have brought Motions of adjournment to discuss serious issues. Nonetheless, when the Motion is moved for debate, we do not discuss the substance of the issues in it. We degenerate into our political parties and lose the entire idea of bringing up the Motion of Adjournment.

This is a very serious matter. I disagree with Members who have spoken earlier, particularly the Senate Majority Whip who said that this is not a Government problem. I state here that this is a Government problem. I am saying this because----

The Temporary Speaker (Sen. Veronica Maina): What is your point of clarification, Sen. Kavindu Muthama?

Sen. Kavindu Muthama: Madam Temporary Speaker, I still insist that Sen. Thang'wa should come out clearly and say what he means by the Motion is for protecting criminals. I am not here to protect any criminal. I am here to defend my people of Machakos County.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kavindu Muthama, I have given a direction on that matter. Sen. Thangw'a was responding to the issue of the political party. I gave a guidance that his response was on the political party aspect.

Sen. Osotsi, please proceed.

Sen. Osotsi: Madam Temporary Speaker, that is exactly the point I was putting across. When we have a Motion of Adjournment, we need to act very seriously and responsibly. This is so that we get the results of what we are discussing.

On this particular Motion, this is a very serious matter where hundreds of families are sleeping in the cold. *El nino* is just about to come. They have nowhere to call home. When someone says this is not a Government problem, then we ask, where was the Government when this land was being sold to these people? Where was the Government when schools were being licensed in this area? There is a lot to say about this.

Madam Temporary Speaker, this matter ought to have been taken as an inquiry by this House. Unfortunately, the Chairperson of the Committee that is supposed to be doing an enquiry on this matter is the one who is taking this matter very lightly on this Floor.

In November last year, Hon. Moses Kuria, the former Cabinet Secretary for Trade, Investments and Industry issued a threat that these people were going to be evicted. They wanted to demolish the houses in that land because the Government wants to put up a cargo airport. Why do we need a cargo airport in Mavoko when we have enough land for expansion at the Jomo Kenyatta International Airport (JKIA)? We can put up a cargo airport there.

If you go into the history of this land, it was donated to East Africa Portland Cement by the community to mine under lease. So that they mine and at the end of the mining exercise, the land reverts to the community. They are now getting the land from the community back to East Africa Portland Cement by force.

Madam Temporary Speaker, I request that this matter be handled by an inquiry of this House so that we get to the bottom of it. This is because this matter has been on for some time.

I remember during President Uhuru's Government, there was a similar arrangement to evict the people, but he decided that these people will continue occupying the land. This Government came to power on the basis of protecting hustlers and ensuring that there will be no eviction. However, it is the worst eviction that we have ever witnessed as a country since Independence. This is worse than the Kariobangi one that was done some time back.

This is a very serious matter. I want us, as Senators, not to discuss this matter as if we are protecting our various political parties. We are here to protect matters that affect Kenyans. This is one matter that affect Kenyans.

If you go to that land in Mavoko, you will find every community there. I have my people from Vihiga County who have bought land there. Where was the Government? Why were they issuing titles in that land?

We need the Ministry of Land and the Ministry in charge of ---

(Sen. Osotsi's microphone went off)

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, proceed.

Sen. Orwoba: Thank you, Madam Temporary Speaker. Today, one thing that we all agree on in this House is that we have a systematic problem of land injustices. I have said repeatedly, that Kenya has been built on systematic acts of land grabbing. Once we have acknowledged that, which we all acknowledge, is that these injustices cannot be resolved by protecting fraudsters.

I have heard my colleagues asking where the Government was. I have heard some of them even referencing the former President saying that they continue stay on that land. Protecting fraudsters and criminals who have conned Kenyans.

We now have a Government that has finally acknowledged that we need to right the wrongs and that we need to start from somewhere. The same people are now asking where the Government is. The Government is here to ensure that we are no longer protecting fraudsters.

Innocent Kenyans bought that land without doing due diligence that needed to be done. As legislators, we need to discuss whether we have a lacuna in law, in terms of protecting victims of fraudsters. We are supposed to be discussing how to continue protecting conmen and fraudsters who are grabbing and selling this land to innocent Kenyans.

So, for those of you who are asking where the Government was, that same question should be posed; "Where was the Government?" That Government that was allowing and protecting fraudsters.

Sen. Mumma: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Senator?

Resume your seat, Sen. Orwoba.

Proceed Sen. Mumma

Sen. Mumma: Madam Temporary Speaker, can the hon. Senator tell us who is protecting fraudsters among the people who have spoken?

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, who is protecting fraudsters?

Sen. Orwoba: Madam Temporary Speaker, maybe it is an issue of interpretation or lack of understanding. If we have all agreed that land was grabbed, illegally sold and people settled, why then would we be saying that let us not deal with the issue of land grabbing? That, in itself, is protecting fraudsters because we are trying to say that those people have constantly conned Kenyans and continue to do so. After all, they know that people will come and say that we need to protect the victims.

We have to look into how to protect the victims within the law. Let us discuss Bills on how victims can be protected. As legislators who are law-abiding, we cannot discuss how we are going to continue aiding land grabbers. That is my point, but because of time---

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, do you wish to be informed by Sen. Kavindu Muthama?

Sen. Orwoba: No, Madam Temporary Speaker. I do not wish to be informed.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kavindu Muthama, she does not wish to be informed.

Sen. Orwoba: Madam Temporary Speaker, I applaud the DCI because they have come out without fear of whatever political divide and they have listed those alleged

criminals who are now looking for political favours to be protected in all sorts of forms. I want to say to DCI that those are the people we want to parade out there and make sure we bring back the money they conned our people. If they have property, we take it. In fact, we are supposed to resettle the victims in their houses. That is what we should be discussing today.

As I conclude, we cannot ignore that we have reports that we need to implement. The Ndung'u Report must be implemented. This issue of land grabbing must be dealt with as a whole, beginning with what the President is starting with today.

The Temporary Speaker (Sen. Veronica Maina): Sen. Mumma, proceed.

Sen. Mumma: Thank you, Madam Temporary Speaker, for the opportunity to contribute to this. This Motion came because of the sad pictures of people's houses being brought down. What we are discussing today is an issue of ensuring that this country gets back to law and order. We have court rulings from 2011 in Garissa County on how to deal with evictions. We have a ruling in 2013 on how---

Sen. Cherarkey: On a point of order, Madam Temporary Speaker.

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

Sen. Cherarkey: Madam Temporary Speaker, I rise on Standing Order No.105 on responsibility for statement of fact. Sen. Mumma has indicated that we are here because of the sad pictures that we saw of what is happening in Mavoko. While we know very well that the reason demolitions are happening in Mavoko, in Athi River, where the land belongs to Portland was a case that was adjudicated in a court of law, and there was a court order that was being implemented by a private entity company called Athi River Portland.

Is it in order for her to mislead Kenyans that the reason we are discussing this Motion is because we saw pictures of houses being demolished? Can she be responsible for the statement of the fact that she is saying before the House?

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, let me give a direction on that matter.

(Sen. Osotsi spoke off record)

Hold your horses, Sen. Osotsi.

I have given a direction in this House that the style and the manner in which a Senator chooses to debate their points cannot be the discretion of the other Senator. It is the preserve of the Senator who is debating the issue.

Sen. Osotsi: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, you cannot raise a point of order when there is no Senator on his feet. You know the rules.

Sen. Mumma, please proceed.

Sen. Mumma: Madam Temporary Speaker, the outcry about the manner in which evictions have been done, whether those victims are victims or land grabbers is what brought the attention of this House to the matter that is there. You will check and you will not find a court order that said demolish. There is no such court order.

It is high time as a country we started respecting the rule of law. If that land was grabbed and allocated to people, who registered the schools and the churches? Who gave

the planning permissions? It is not about pointing a finger at the other; the opposition or the Government, it is many people here who have slept on the job.

This House needs to move in a manner that we can even set an inquiry to get to the bottom of this. This is recurring every so often. In 2011, 1,100 families were evicted in Garissa County and the courts found that Government did this wrongly. It also happened in 2013 when the ruling said the Muthurwa evictions were not done properly.

Madam Temporary Speaker, we must not hand over this country to private actors to evict people. A Government that is trying to encourage housing needs to find out how to resolve these issues. I am not here to defend anybody. Anybody who knows any culprit or grabber, regardless of which party they are in, even if it is my Orange Democratic Movement (ODM) party, please name them. That is why we are here.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, pursuant to Standing Order No. 34 (2) (a), I will add an extra ten minutes so that the few Senators who are waiting to debate may most likely have a chance to debate.

Sen. Mumma: Thank you, Madam Temporary Speaker. I believe I have one minute going. As a House, I am pleading. Many departments have slept on the job on this matter. Rather than look at this politically on who is speaking and who is doing what, as a House, we need to be that entity that will be responsible enough to look into this matter objectively. Even if it means we set up a committee to go and find out which department did its job and which one did not, so that we can resolve this thing and stop the next evictions that are going to hurt Kenyans.

The Temporary Speaker (Sen. Veronica Maina): Your time is up, Senator.

Hon. Senators, if you can avoid the point of orders for a few minutes, then a few more would debate.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. We are discussing this adjournment Motion on the evictions that are happening in Machakos County. I have seen allusions that some people have double standards. When it comes to some people, they tell the Government to respect the rule of law while for others they encourage the Government to go for impunity.

I am surprised and perturbed. While I empathise with Kenyans who were innocent purchasers, it is sad that individuals want to encourage the Government to break the law yet at the same time they say the Government should observe the rule of law. In the functions of presidency and President, there is nowhere that says the President can cancel a court order. I have never seen it.

If anybody was genuine in supporting the victims of innocent purchase of land, they should have assisted them in a court of law and not going for press conferences and intimidating the police officers who are implementing the court order. The Government shall follow the rule of law and implement the court order as is.

Secondly, I want to laud the DCI for naming even sitting Members of Parliament and people who served in the former provincial administration or the Ministry of Interior and Coordination of National Government that they are part and parcel of the crime that was committed to innocent purchasers.

I encourage the DCI to fear not as the Bible says. We are challenging the DCI to go for them, however mighty or low they are. The Government shall protect all Kenyans within the law. I, therefore, encourage the Senator to go beyond. I even request this House to form a Committee of Inquiry.

(Sen. Osotsi consulted loudly)

Madam Temporary Speaker, when Sen. Osotsi was speaking, we were patiently listening to him. Why does he want to interrupt me when I am making---

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, he is within his right to request. Resume your sit Sen. Osotsi.

Sen. Cherarkey: Madam Temporary Speaker, I finish my submission. Thank you.

The Temporary Speaker (Sen. Veronica Maina): You know you cannot finish like that Sen. Cherarkey. I am the one in charge of the House.

Sen. Osotsi: Madam Temporary Speaker, I am rising under Standing Order No.105 which my good friend Sen. Cherarkey has misused in this House. It is important for me to rise on this because we are degenerating as a House. When you are discussing a matter, it has become the norm that the easiest way of curtailing debate is to rise under Standing Order No.105.

Sometimes back, about a week ago, when we were discussing a similar Motion of Adjournment with regard to tribal clashes in Sondu, Sen. Cherarkey demanded that I substantiate the sentiments I had expressed that there was some fighting near the border of Nandi and Vihiga County.

Madam Temporary Speaker, this is now the second week and I have been waiting for the Chair to ask me to substantiate. I have never been asked to come and substantiate. I was told to come and substantiate, but nothing happened the next Tuesday.

My point of order is this: The Chair of this House must observe any incidents of misuse of Standing Order No.105, which many Senators here, especially Sen. Cherarkey are used to bringing up.

I decided to bring it up when he was speaking to inform the House that I have been waiting to substantiate the claims I made and the Chair has never asked me to substantiate. Is it in order for Standing Order No.105 to be misused in this House as a way of curtailing democracy, debate and free speech?

The Temporary Speaker (Sen. Veronica Maina): Sen. Osotsi, resume your seat. Let me give you direction on that issue.

Sen. Osotsi, Standing Order No.105 is available to all the Senators in this House to utilize it as a tool for debate and for intervening when there are issues that need to be responded to, and which they feel are now crossing the Standing Order or going out of way. Therefore, it is in order for any Senator, including Sen. Cherarkey, to use Standing Order No.105. However, abuse of that Standing Order should not be allowed.

Nonetheless, if you have been directed to substantiate an issue and you have not had a chance to substantiate that issue, it would be in order for you to even approach the Clerk's desk or the Chair and say that you have pending business that has not been brought in good time. In this regard, I will now direct the Clerk's desk to make sure that the issue of Sondu is substantiated when the next Sitting resumes. Even Sen. Osotsi owes a duty of responsibility to the House to offer that information for anything that may be left out, erroneously or inadvertently by the Chair or the Clerk's desk.

We proceed on with debate. I ask Sen. Miraj.

Sen. Miraj: Asante, Bi. Spika wa Muda. Nasimama kama kiongozi aliyetoka ule mkoa ulioadhirika zaidi na wizi wa mashamba. Nasimama kwa uchungu kwa sababu imekuwa ni tabia. Naunga pia Sen. Orwoba kwa sababu kuna watu mahali wamekaa na wamejipanga ni jinsi gani watakuwa wakiibia Wakenya walalahoi pesa zao kwa kuwauzia mashamba ambayo sio yao.

Ni jambo la kusikitisha sana kuona viongozi wakilumbana katika Taifa la Kenya wakati kuna wananchi ambao wako nje na hawajui watalala wapi. Mimi kama mzazi na kutokana na maswala yale ya *El nino* yamekuwa yakizungumziwa, naona ni bora, hawa waliotolewa katika haya majumba, kupelekwa zile nyumba ambazo wale wametuhumiwa, waliotajwa na DCI leo.

Bi. Spika wa Muda, sisi kama Taifa ni wakati tuchukue mkondo mpya kama Serikali mpya katika Taifa hili. Chini ya Serikali ya Rais William Samoei Ruto tulizungumza maswala ya ardhi yatakuwa maswala ya serikali zilizopita na sio Serikali hii. Tukaongea kutakuwa na mazungumzo na watu kufidiwa. Mimi kama kiongozi, ningependa Bunge hili litenge sheria ya kuona yule atakayepatikana ameuzia mwingine shamba ambalo sio lake, apewe adhabu kali.

Pia ningependa sisi kama Maseneta na viongozi katika taifa hili, tukubaliane ya kwamba ni uchungu kuona kuna watu katika ofisi za Serikali ambao walipiga mihuri ya kuwezesha wale wananchi kujenga maeneo kama yale. Ningependa kando na wale ambao waliwauzia hata wale ambao wako katika ofisi za Serikali hadi sasa, wachukuliwe hatua kali. Wale wote ambao waliwai kufanya kazi katika ofisi za Serikali za Ardhi, wafikiwe kwa sababu kuondoka katika ofisi ya Serikali haimaanishi mkono wa Serikali hautakufata pale ulipo.

Wale waliwatendea dhuluma wananchi wa Taifa la Kenya kwa kusahihisha na kuweka sawa wizi wa ardhi ulioendelea pale Mavoko wafatwe na mkono wa sheria uchukue njia yake.

Asante, Bi. Spika wa Muda.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, we have 18 seconds. Sen. Kavindu Muthama.

Sen. Kavindu Muthama: Thank you, Madam Temporary Speaker. The Committee of Lands, Environment and Natural Resources should move to Mavoko to know what is happening as they speak to those people and see how they can sort out those issues of land.

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

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.40 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday 18th October, 2023, at 9.30 a.m.

The Senate rose at 6.40 p.m.