

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 2<sup>nd</sup> July, 2013

*The Senate met at the Kenyatta International  
Conference Centre at 2.30 p.m.*

*[The Speaker (Hon. Ethuro) in the Chair]*

### PRAYERS

**Sen. Orengo:** On a point of order, Mr. Speaker, Sir. Did you see what Sen. Musila did while the Speaker's retinue was in procession? He just joined and became part of the procession. He did not even wait for you to take your Seat. Is that in order for somebody who has been a Deputy Speaker?

*(Sen. Musila stood up in his place)*

**The Speaker** (Hon. Ethuro): Sen. Musila, are you standing there to confirm what Sen. Orengo is suggesting?

**Sen. Musila:** Mr. Speaker, Sir, I was in the process of approaching the Chair on an important matter. Yes, I did actually follow way behind the Speaker's procession. I came in to ensure that there is a quorum.

So, Mr. Speaker, Sir, if I made any mistake, I apologize.

### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Ethuro): Order, Hon. Senators! Could we confirm if we have a quorum?

**The Clerk of the Senate** (Mr. Nyegenye): Mr. Speaker, Sir, we have 20 Senators in the House. Yes, we have a quorum.

**Sen. Orengo:** I need your direction, Mr. Speaker, Sir---

**The Speaker** (Hon. Ethuro): Order, Sen. Orengo. Even if you need my direction, it is not for you to speak whenever you want to speak.

**An hon. Senator:** He is out of order!

**The Speaker** (Hon. Ethuro): If you really believe the Chair is giving a ruling on such a mundane matter, then you must also follow the serious ones of seeking the Chair's permission to speak. You do not just jump from your seat and walk to the microphone.

(Laughter)

So, do you still wish to proceed?

**Sen. Orendo:** Mr. Speaker, Sir, I apologize. I just wanted to know from the Chair when you are in procession and you have not taken your seat, could any Member join the procession? Sen. Musila came nearly as part of your procession. He was at the tail end of your procession. I am saying this because next time I can decide to be ahead, in the middle or at the tail end of your procession. I just need clarity on this.

**The Speaker** (Hon. Ethuro): I did not think it would acquire such significance. However, since you have confirmed that you may take advantage of that loophole in the future and, maybe, with different outcomes, first, I want to confirm, of course, that during the Speaker's Procession, the Serjeant-At-Arms is leading and everybody is cleared. So, nobody is allowed to be part of the Speaker's Procession. I thought Sen. Musila had actually clarified that he was way behind. That is why I could not determine the distance between the procession and Sen. Musila's arrival. But let everybody note that, that is the correct procedure. Sen. Musila has already apologized. I think we should let the matter rest there.

Next Order.

### COMMUNICATION FROM THE CHAIR

#### RULING ON WHETHER THE SENATE SHOULD PROCEED WITH THE COUNTY ALLOCATION OF REVENUE BILL, 2013

**The Speaker** (Hon. Ethuro): Hon. Senators, as you will recall, on Thursday, 27<sup>th</sup> June, 2013, Sen. (Dr.) Khalwale rose on a point of order under Standing Order No.158(5) seeking the directions of the Chair on the disposal of the County Allocation of Revenue Bill, Senate Bill No.1 of 2013. Sen. (Dr.) Khalwale sought directions from the Chair on, among other things, the procedure and timelines for the introduction, consideration and passage of the County Allocation of Revenue Bill, 2013, by the Senate. He stated that his concern was necessitated by the contested process by which the Division of Revenue Bill, 2013, had been transacted, leading to the request by the Senate for an Advisory Opinion from the Supreme Court in Reference No.2 of 2013.

Sen. (Dr.) Khalwale sought direction from the Speaker on the following matters:-

1. Whether it was possible to proceed on the County Allocation of Revenue Bill, 2013, while the constitutionality of the Division of Revenue Act, 2013, on which it was predicated remains contested by the Senate in the Supreme Court; and, if so, whether proceeding in that manner on the County Allocation of Revenue Bill, 2013, would amount to *sub judice*.

2. If the Senate were to choose to proceed with the Bill, whether it should proceed on the basis of the figure of Kshs210 billion as passed by the National Assembly or Kshs258 billion as passed by the Senate.

3. The effect of not proceeding with the County Allocation of Revenue Bill, 2013.

Sen. Murkomen, supporting Dr. Khalwale's request for directions, observed that there was need for careful and consultative reflection on the matter so that if the Senate chose to proceed with the introduction and consideration of the County Allocation of Revenue Bill, 2013, then the Supreme Court would not interpret this as acquiescing to the actions of the National Assembly.

For the record, hon. Senators, permit me to refresh your memory on how the present matter came to be. You will recall that:-

The Division of Revenue Bill, National Assembly Bill No.1 of 2013, was published by the National Assembly on 29<sup>th</sup> April, 2013, as a Bill originating in the National Assembly.

By a letter dated 3<sup>rd</sup> May, 2013, addressed to the Speaker of the Senate, the Speaker of the National Assembly forwarded a copy of the Bill to the Senate and observed in the letter that "by virtue of Standing Order 233(4) of the National Assembly Standing Orders and Standing Order 158(4) of the Senate Standing Orders, it would appear that both the National Assembly and the Senate have, in their own rules, already made a determination

that the Division of Revenue Bill is, for purposes of Article 110(1)(c) and 2(b) of the Constitution, firstly a Bill concerning county governments and, secondly, an ordinary Bill. The question contemplated under Article 110(3) of the Constitution, therefore, need not arise in respect of the Bill.

Pursuant to Article 110(3) of the Constitution and Standing Orders No.16 and 122 of the Senate and National Assembly respectively, by a letter dated 9<sup>th</sup> May, 2013, to the Speaker of the National Assembly, I concurred with the Speaker of the National Assembly that the Division of Revenue Bill, 2013, was a Bill concerning counties and further that it was an ordinary Bill within the meaning of Article 110(2) of the Constitution.

By a letter dated 13<sup>th</sup> May, 2013, the Clerk of the National Assembly forwarded to the Clerk of the Senate the following documents:-

(a) A certified copy of the Division of Revenue Bill, 2013, as passed by the National Assembly on 9<sup>th</sup> May, 2013, and;

(b) A message from the National Assembly to the Senate duly signed by the Speaker of the National Assembly seeking the concurrence of the Senate to the Bill as passed by the National Assembly.

Pursuant to Standing Order No.40(4), at the sitting of the Senate held on Tuesday, 14<sup>th</sup> May, 2013, I reported the message from the National Assembly to the Senate and at the morning sitting of the Senate held on Wednesday, 15<sup>th</sup> May, 2013, the Division of Revenue Bill was read a First Time in the Senate and committed to the Standing Committee on Finance, Commerce and Economic Affairs. The Bill was thereafter read a Second Time, considered in the Committee of the Whole and passed by the Senate, with amendments, on the 23<sup>rd</sup> May, 2013.

After the passage of the Bill by the Senate, by a letter dated 24<sup>th</sup> May, 2013, to the Clerk of the National Assembly, the Clerk of the Senate forwarded the following documents to the National Assembly:-

(a) A certified copy of the Division of Revenue Bill, 2013, as passed by the National Assembly on 9<sup>th</sup> May, 2013, and as further passed by the Senate on 23<sup>rd</sup> May, 2013.

(b) A Message from the Senate to the National Assembly requesting concurrence of the National Assembly to the amendments made by the Senate.

At its sitting held on Thursday, 6<sup>th</sup> June, 2013, the National Assembly purported to ignore or reject the amendments passed by the Senate and to resolve, in departure from the provisions of the Constitution, that the Bill be referred to the President for assent without reference to the mediation process.

By a letter dated 7<sup>th</sup> June, 2013, I brought to the attention of the President the unconstitutionality of the action taken by the National Assembly and requested the President, pursuant to Article 115(1)(b) of the Constitution, to refer the Bill back to Parliament for reconsideration by Parliament in the manner provided for by the Constitution.

The Bill as passed by the National Assembly was assented to and published on 11<sup>th</sup> June, 2013 and was stated as coming into force on the same day. However, on 17<sup>th</sup> June, 2013, a corrigenda was published in the Kenya Gazette by which the date of assent was amended to read “10<sup>th</sup> June, 2013” while the date of commencement was amended to read “25<sup>th</sup> June, 2013.”

Hon. Senators, as you are aware, it is these events that led to the Senate seeking the advisory opinion of the Supreme Court in terms of Article 163(6) of the Constitution.

Hon. Senators, the importance of the matters canvassed by Sen. (Dr.) Khalwale cannot be gainsaid. The sharing of the revenues of the Republic of Kenya, both vertically and horizontally, is, as we have previously observed, at the core of the devolved government system that we have created. The implementation of the Constitution in this regard is, therefore, a matter not merely about outcomes, but also about processes. The outcomes speak to the amount of money to be allocated to the two levels of government while the processes speak to the procedure as set out in the Constitution.

The central point which must not be lost in this matter is that the objections which have led the Senate to seek an advisory opinion from the Supreme Court in relation to the Division of Revenue Bill, 2013, are not only about the amount of money allocated to the counties as those bent on diverting public attention and misrepresenting the issues on this matter have contended. This is not about Kshs210 billion or Kshs258 billion; or for that matter, any other amount. Even more importantly, this is not and has never been, as has been misrepresented by a number of commentators, about ego trips and supremacy battles. These distortions need to stop.

Hon. Senators, the big question, the only question, is whether or not in accordance with our Constitution, the allocation of revenue as between the national Government and the county governments require the participation and agreement of the two Houses of Parliament; or whether, under the Constitution, it is a matter solely for one House. This is a fundamental constitutional question that must not be buried in subterfuge or conundrum. This is the basic question that the Senate has placed before the Supreme Court for its opinion. This is the basic question that the Supreme Court will advise upon.

Hon. Senators, when the National Assembly held a different view than our own and determined that the Division of Revenue Bill was a matter solely for the National Assembly to determine, the only recourse for the Senate as a law abiding organ of the Republic was to obtain a dispassionate arbitration from the legitimate constitutional body ordained for that purpose, namely, the Supreme Court.

The Questions raised by Sen. (Dr.) Khalwale are, therefore, of the first importance if the Senate is to remain on the right side of the Constitution. We must determine whether, when we believe the Constitution has been flouted and while we await the adjudication of the matter by the Supreme Court, we can legitimately proceed on the basis of the very instruments whose constitutionality we consent. Does proceeding in that matter prejudice our position? Is it *sub judice*?

Hon. Senators, pursuant to Standing Order No.90(2) a matter is *sub judice* when it refers to active criminal or civil proceedings and the discussion of such a matter is likely to prejudice its fair determination. However, the Standing Orders also provide at Standing Order No.90(5) that:-

“Notwithstanding this Standing Order, the Speaker may allow reference to any matter before the Senate or a Committee.”

In the instant matter, I think that our Legal Counsel on record at the Supreme Court has fairly framed the issues in respect to which the Supreme Court’s advice is being sought. The Supreme Court is also the highest court in our land. I think there would be no basis to form a view that at reading or not reading the County Allocation of Revenue Bill, 2013, a First Time or, indeed, proceeding with its transaction, would affect the fair determination by the Supreme Court as to the question as to whether or not the Division of Revenue Bill, 2013, is under the Constitution a matter for one or for both Houses to deal with.

Hon. Senators, I also do not think, in all fairness, by the fact that the Senate proceeds in one way or another, in this matter, because of the practical exigencies confronting us, can lead to any conclusion by the Supreme Court that we have abandoned the fundamental constitutional questions that we have placed before them; or that we have not acquiesced in the unconstitutional conduct we have reported to them. Therefore, the Senate must proceed in this matter in the fashion of what good lawyers like to call “on without prejudice basis.”

An important jurisprudential question that has been brought to the fore by the concerns of Sen. (Dr.) Khalwale relates to the status of unconstitutional law. What is a responsible organ of State or, for that matter, a citizen to do when he or she has to confront a law which they believe to be clearly unconstitutional? How is Article 3 of the Constitution obligating every person to “respect, uphold and defend the Constitution” to be vindicated? What about Article 73 of the Constitution placing certain responsibilities of leadership on all State Officers?

In the present matter, I am clear that the course of action adopted by the Senate is the responsible one for a State organ like ourselves. We have proceeded to court and we are prepared for the outcome of the matter, such as it may be. Whatever may be our views on the Division of Revenue Bill, 2013, the moment that it was assented to, it became, regrettably, until the Supreme Court strikes it down, one of the fixtures of the

Laws of Kenya, going by the name and style of the Division of Revenue Act, No.31 of 2013.

Sen. (Dr.) Khalwale suggested that to proceed, to the Supreme Court, having processed, or while seized of the County Allocation of Revenue Bill predicated on a Division of Revenue Act that we are contesting, is to go to court with unclean hands. On the contrary, it may be argued with justification that to go to court contesting conduct we claim to be unconstitutional and unlawful while, at the same time as the Senate ourselves, failing to abide by the provisions of Article 218 of the Constitution and our own Standing Order No.158(5), which requires that a County Allocation of Revenue Bill be introduced in the Senate not later than seven days following the enactment of the Annual Division of Revenue Bill, would be to proceed to court with unclean hands. Far from being complicit in the alleged unconstitutional conduct of the National Assembly, the Senate in proceeding with the County Allocation of Revenue Bill, 2013 will show that for its part, it has done everything in accordance with the law.

Hon. Senators, the upshot of the foregoing is that the responsible thing for the Senate to do is to proceed with the disposal of the County Allocation of Revenue Bill, 2013 in the manner set out in the Senate Standing Orders pending the decision of the Supreme Court. The question of the statutory instrument to be proceeded upon, whether it shall be that by the National Assembly or that by the Senate is an important, but not a fatal one. The County Allocation of Revenue Bill, 2013, as hon. Senators are aware, was first published on 7<sup>th</sup> May, 2013 in the name of Sen. (Prof.) Kithure Kindiki, the Senate Majority Leader. The figures in the Bill are neither those in the disputed Division of Revenue Act, 2013, nor those in the Division of Revenue Bill as passed by the Senate. The Bill will, therefore, be read a First Time in this form at the instance of the Chairman of the Standing Committee on Finance, Commerce and Economic Affairs.

Hon. Senators, after the First Reading, the Bill shall, in terms of Standing Order No.128(1) stand committed to the Standing Committee on Finance, Commerce and Economic Affairs. Following such committal, under Standing Order No.132(1), the Committee is required to present its report to the Senate within 30 calendar days of such committal. Thereafter, the Bill shall, in accordance with the Standing Orders, be processed through the Senate until the passage and subsequent referral of the Bill to the National Assembly for its concurrence.

Hon. Senators, as this legislative process runs, it is noted that the Supreme Court will give directions in the matter of the advisory opinion tomorrow, Wednesday, 3<sup>rd</sup> July, 2013, where our counsel on record, will no doubt impress on the court the urgency of this matter and the significance of an early determination of it. It is well known that the Bill is in its final form at the Third Reading, may, indeed, will, probably, be in a different form than that in which it was read and will accord with the Division of Revenue Act such as it will have been pronounced by the Supreme Court.

Hon. Senators, I have previously in this Communication stated that this dispute is not only about the quantum of money. It is also, and perhaps more importantly, about compliance with the Constitution, not just in this matter, but also going forward. Recent developments in the National Assembly are underlying this point. As hon. Senators are aware, Article 110(3) of the Constitution provides as follows:-

“Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.”

This provision was the cause of the present dispute. Since then, I am obliged to inform you that the following Bills have been introduced in the National Assembly and read a first time without recourse to the Speaker of the Senate and, therefore, the Senate and is in contravention of Article 110(3) of the Constitution.

The Bills are as follows:-

- (1) The Microfinance (Amendment) Bill, 2013 which was read a First Time on 27<sup>th</sup> June, 2013;
- (2) The Kenya Deposit Insurance (Amendment) Bill, 2013 which was read a First Time on 27<sup>th</sup> June, 2013;
- (3) The Insurance (Amendment) Bill, 2013, which was read a First Time on 27<sup>th</sup> June, 2013;
- (4) The Insurance Motor Vehicle Third Party Risks (Amendment) Bill 2013 which was read a First Time on 27<sup>th</sup> June, 2013;
- (5) The Tax Appeals Tribunal Bill, 2013 which was read a First Time on 27<sup>th</sup> June, 2013;
- (6) The Capital Markets (Amendment) Bill, 2013, which was read a First Time on 27<sup>th</sup> June, 2013;
- (7) The Supplementary Appropriation Bill (No.2) of 2013, which was read a First Time on 26<sup>th</sup> June, 2013; and
- (8) The Appropriation Bill, 2013 which was read a First Time on 22<sup>nd</sup> June, 2013.

Hon. Senators, we are staring at a constitutional crisis. The legislative process as contemplated by Article 110 of the Constitution has broken down. I have brought this matter to the attention of the Speaker of the National Assembly by a letter dated Thursday, 27<sup>th</sup> June, 2013, requesting his early response on the matter.

Hon. Senators, I also wish to confirm that I have written to him on the County Allocation of Revenue Bill and he has concurred. This is evidence, if any was wanting, that to approach this, as a matter of whether Kshs210 billion or Kshs258 billion is to accept to be thrown entirely off-track. What is at stake is a lot bigger. The question is, really whether we have a bicameral Parliament or not, whether the constitutional provisions in relation to the chapter on the Legislature are worth the paper on which they are written. Unless these matters are unequivocally resolved, it is quite clear that the legislative process will remain turbulent.

Hon. Senators, in answer to the request for directions by Sen.(Dr.) Khalwale, I, therefore, direct that the County Allocation of Revenue Bill, 2013 be read a First Time as listed in today's Order Paper and that pending the Supreme Court's advisory opinion, the Bill be proceeded upon in the manner provided for by the Constitution, the laws and Senate Standing Orders.

Let me conclude by reiterating that all the recent events notwithstanding, for our part as the Senate, we shall continue to be guided, and to abide by all the requirements of

the Constitution, the laws and Standing Orders. It is the least that the Constitution as a whole and Article 3(1), in particular, demands of us all.

I thank you.

*(Applause)*

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

**The Speaker** (Hon. Ethuro): What is it, Sen. Billow?

**Sen. Billow:** Mr. Speaker, Sir, I thank you for the guidance you have given us with regard to this very important Bill. You will appreciate that county governments have to function. I am happy that you have indicated that we can go ahead, that it will not be prejudicial to the proceedings of the Supreme Court. I also want to support your arguments that the sooner the Supreme Court resolves this matter, the better. Otherwise, we will have a situation where there will be a constitutional crisis. Personally, I am worried, if, from what you have said, the National Assembly goes ahead and makes laws and forwards those laws to the President and he assents to them the same way that he did with the Division of Revenue Bill, 2013; this House also goes ahead and drafts its own laws and sends them, again, to the President; we will have a crisis because it would mean that the Constitution would have been completely brushed aside.

Mr. Speaker, Sir, I want to congratulate you for taking the effort to write to the Speaker of the National Assembly seeking his immediate response to these matters. It is important that, we, as a House, also take up this matter seriously. It is not a matter about the County Allocation of Revenue Bill, it is about the essence of making laws in a bicameral dispensation that we now have.

Mr. Speaker, Sir, I support your ruling.

**The Speaker** (Hon. Ethuro): Next Order!

### NOTICES OF MOTIONS

**The Speaker** (Hon. Ethuro): Hon. Senators, I see that there are several notices of Motions listed and no hon. Senator is willing to move the first notice.

Proceed, Sen. G.G. Kariuki from Laikipia County.

#### ESTABLISHMENT OF SECURITY ROAD NETWORKS

**Sen. G.G. Kariuki:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, aware that the country is experiencing rampant incidents of insecurity due to factors such as competition for resources, ethnic tension, crime and economic disempowerment; aware that some of the incidents may spread unabated from one county to another as well as across the international borders; concerned that many lives and property are lost, people are displaced and the socio-economic set-up of the affected



communities and individuals is disrupted; cognizant of the fact that poor infrastructure is the main contributing factor inhibiting the containment of insecurity incidents; appreciating the initiatives recently instituted by the Government to mitigate the enormity of the incidents with regard to budgetary allocations and police sector reforms; the Senate urges the Government to urgently institute special road projects by designing and establishing road networks that will facilitate connectivity and mobility of rapid response teams across the security hotspots, including urban informal settlements, arid and semi-arid areas and known disaster zones.

**The Speaker** (Hon. Ethuro): Yes, Sen. Obure.

ESTABLISHMENT OF ONE-STOP PUBLIC  
COMPENSATION CLAIMS BUREAU

**Sen. Obure:** Mr. Speaker, Sir, I beg to give notices of the following Motions:-

THAT, aware that the State and other Government agencies have been the biggest impediment to payment of dues to Kenyans, including retirement benefits, court awards and insurance claims; recognizing that such delays amount to violation of human rights and undue punishment; noting that claimants spend a lot of money and time travelling to Nairobi and other far off destinations pursuing the claims; acknowledging that the purpose of devolution is to take services closer to the people; the Senate urges the National Government to immediately establish a one stop Public Compensation Claims Bureau to enable victims of delays and all future claimants to lodge their claims for immediate verification and subsequent expeditious settlement through the nearest commercial banks and to ensure that legally confirmed dues are settled within six months of the award.

ENACTMENT OF LEGISLATION ON SECURITY  
STRUCTURES AT COUNTY LEVEL

THAT, aware that rampant insecurity has proven to be a major factor undermining development and harmony in all parts of the country over the years; appreciating that the introduction of county governments was aimed at enhancing self reliant and participatory leadership, including enhanced community policing; acknowledging that security management is a major priority for all counties and the devolved governments require necessary tools to efficiently run their areas; realizing that the concentration of policing instruments and powers in the National Police Service's high command centrally in Nairobi is likely to undermine the

county governments' security provision obligations; the Senate urges the National Government to take urgent and immediate steps to enact legislation to make all security officials in every county answerable to the respective governors and their executive committees.

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

## STATEMENTS

### CRITERIA FOR DETERMINING MARGINALISED COUNTIES TO BENEFIT FROM EQUALISATION FUND

**The Speaker** (Hon. Ethuro): Sen. Musila.

**Sen. Musila:** Mr. Speaker, Sir, with your indulgence, I stand here on a matter that I raised on the Floor of the Senate on 14<sup>th</sup> May, 2013 regarding the Equalisation Fund.

On 21<sup>st</sup> May, 2013, a Communication from the Chair directed that the Departmental Committee on Devolved Government responds to the matter in two weeks time.

Again, on 17<sup>th</sup> June, 2013, I reminded the House of your Communication that the matter be reported by the Committee in two week's time.

However, as of 17<sup>th</sup> June, 2013, it had not been done. On that day, because the Chair was out of the country, two colleagues hon. Senators, Sen. Nabwala and Sen. Wangari gave an undertaking, on behalf of the Committee, that in two week's time they would be in a position to lay the report on the matter on the Table of this House.

Mr. Speaker, Sir, today, 2<sup>nd</sup> July, 2013, to the best of my knowledge, no report has been laid with regard to the matter that I had raised and which is very important because it concerns the allocation of revenue under the Equalisation Fund to marginalized counties. Could I seek your further direction on this matter because it has taken a very long time?

**The Speaker** (Hon. Ethuro): Sen. Musila, indeed, the whole House is concerned about the delay. I do not know what the Chair of the Committee has to say.

**Sen. Murkomen:** Mr. Speaker, Sir, I have not had a chance to consult with the Vice-Chair because I was out of the country. However, how does such information get to committee chairs if they are not in the House at a particular time? There must be institutional mechanisms that ensure we get such questions formally, so that we transmit the same to the necessary institutions. Be that as it may, if you allow me, in another one hour, I will consult the Vice-Chair and get the correct position then get back to the House. Sen. Musila thinks tomorrow will be the best time to address the matter after I consult the Vice-Chairman.

**The Speaker** (Hon. Ethuro): Sen. Murkomen, let us get your feedback tomorrow afternoon. But on the matter you raised in terms of communication of

information, we need to find a way of communicating various issues to committee chairs. But on this matter----

*(Sen. Musila consulted Sen. Murkomen)*

Order, Sen. Musila! You stood to seek my direction. I am now giving it and it seems you are not interested. You are even engaging the Chairman of the Committee on Devolved Government and tomorrow he might come and say he did not hear because, just like last time, he was “busy”.

**Sen. Musila:** My apologies, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. Murkomen, even if you were out of the country this time round, that was just a reminder. There was the initial period of May when this matter was first raised. The Committee should have been seized of the matter by then. However, by the time that the Committee was being reminded, two Senators volunteered to inform the Chair. Anyway, you are here now and I hope there will be no excuses from tomorrow.

So, that will be brought tomorrow afternoon. Let us bring this matter to a close.

## BILL

### *First Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL

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

## MOTION

#### ESTABLISHMENT OF SELECT COMMITTEE TO INQUIRE INTO EXISTING LEGISLATION AFFECTING FUNCTIONS OF COUNTY GOVERNMENTS

THAT, knowing that Section 17 of the Sixth Schedule to the Constitution requires the national Government to restructure the system of administration commonly known as the “Provincial Administration” to accord with and respect the system of devolved government established in the Constitution; noting that the provincial administration continues to operate in circumstances that have affected the exercise of certain functions and operations of the county governments; appreciating the doubts about the constitutionality of offices linked with the provincial administration, including provincial, regional and county commissioners as established and deemed to be part of the national government; the Senate resolves to establish a select committee comprising the following Senators to inquire into all existing legislation that may undermine the

authority, mandate and functions of the county governments and draft appropriate legislation by Parliament-

1. Sen. James Orengo
2. Sen. Beth Mugo
3. Sen. Moses Wetang'ula
4. Sen. (Prof.) Kindiki Kithure
5. Sen. Murkomen Kipchumba
6. Sen. Amos Wako
7. Sen. Hassan Omar
8. Sen. Judith Sijeny
9. Sen. Kiraitu Murungi
10. Sen. Otieno Kajwang
11. Sen. (Dr.) Agnes Zani
12. Sen. Dullo Fatuma
13. Sen. David Musila
14. Sen. Lesuuda Naisula
15. Sen. (Dr.) Boni Khalwale

*(Sen. Orengo on 13.6.2013)*

*(Resumption of Debate interrupted on 26.6.2013)*

**The Speaker** (Hon. Ethuro): Hon. Senators, the last time we debated this Motion, we reached the stage of voting on the amendment which had been proposed by Sen. Wako. To refresh your memory, the amendment was that the Motion be amended by inserting the following names immediately after the name of Sen. Dr. Bonny Khalwale.

Sen. Ongoro Masha

Sen. Stephen Sang

Sen. Gideon Moi; and,

Sen. Lenny Kivuti.

This is a matter affecting counties. Therefore, we will proceed to vote as counties.

This is Sen. Wako's amendment. Ring the bell for eight minutes.

*(The Division Bell was rung)*

*(Hon. Senators proceeded to vote)*

## **DIVISION**

### **ROLL CALL VOTING**

*(Question of the amendment put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Billow, Mandera County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Hargura, Marsabit County; Sen. Kembi-Gitura, Murang'a County; Sen. Khaniri, Vihiga County; Sen. Kivuti, Embu County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mwakulegwa, Taita-Taveta County; Sen. ole Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County and Sen. Sang, Nandi County.

**Teller of the Ayes:** Sen. Kanainza

**NOES:** Sen. G.G. Kariuki, Laikipia County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Kuti, Isiolo County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County and Sen. Njoroge, Kiambu County.

**Teller of the Noes:** Sen. Mohamud

**The Speaker** (Hon. Ethuro): Order, hon. Senators! We have the results of the Vote.

**AYES:** 20

**NOES:** 8

**ABSENTIONS:** Nil

**The Speaker** (Hon. Ethuro): The Noes have it. Therefore, the amendment is lost.

*(Question of the amendment negated by 20 votes to 8)*

*(Debate on the original Motion resumed)*

**The Speaker** (Hon. Ethuro): I order that the doors be opened. Let us proceed with the Motion in the original form. The Motion has a balance of one hour and 35 minutes.

Since nobody is interested in contributing, I call upon the Mover to reply.

**Sen. Orengo:** Mr. Speaker, Sir, I had listened to the other contributors to this Motion and appreciate the presentations and interventions by the Members who spoke. But I still urge the House to support the Motion. This is because if you take an inventory of the laws which are still in the statute books; some which even emanate from the period before the Second World War, that relate to various forms of legislation that now affect counties, you will find that unless an exercise of this nature is taken to correct any legislation which may undermine the authority of the devolved system of government, the operations of these counties will be extremely difficult.

Mr. Speaker, Sir, I know that under the Constitution and its Schedules, there are various laws which are anticipated for legislation or have been legislated upon. Looking to the future, many laws will be enacted to ensure that the devolved system works efficiently and effectively. But the object of this Motion was to effectively look at legislation which is already in the statute books of the recent past or even during the colonial days. We need to come up with draft legislation for this House to approve for amendment or repeal.

Mr. Speaker, Sir, for example, if you look at the division of responsibilities or allocation of functions, you will find that the county governments will be responsible for control of drugs and pornography, for that matter. If you look at the budgets of some counties, you will see they have allocated a lot of money in that regard. Liquor licensing will be under the counties. But if you look at the legislation that is still in place, those laws still give authority and responsibility to various Government institutions and State offices. This will cause chaos, if not anarchy, between the county assemblies or county governments and those who still hold responsibility over some of these functions.

Mr. Speaker, Sir, again, in the field of agriculture, you will find that in the very statute that relates to agriculture, livestock and animal husbandry, there are responsibilities which have been given to various organs of State or State offices. It is important to take an audit of these various statutes to ensure that the authority and functions of the devolved system of Government is not undermined in any manner.

Mr. Speaker, Sir, I take very positively some of the criticisms that have been made. One of them is that the Committee is too large. But in my view, if this Committee is established it can work in clusters, so that this work is expedited. The other criticism is that there is a Committee on Legal Affairs and a Committee on Devolution which can actually take over these responsibilities. But this was to be an omnibus kind of approach. In the words of my learned friend, Senior Counsel, Sen. Kiraitu Murungi, in his presentation and speech in the House, this was a focused kind of Committee, to look at this legislation in the past.

Mr. Speaker, Sir, some people have found discomfort in this Motion in the sense that there are those who, probably, think that this Motion is just focused on Provincial Administration. They think that, probably, we want to abolish the Provincial Administration. But in my view, this Motion is just geared towards carrying out what is set out in the Constitution, which is to make the Provincial Administration comply with the system of Government that is spelt out in the Constitution. That is, devolution.

Mr. Speaker, Sir, we should look at the police system and ensure that it can work also in compliance with the spirit of devolution. Any attempts being made to make the police an authority that is not under civilian authority, would be rolling back the carpet on the gains that we have made, to make Kenya a truly democratic system of Government. We want to see a situation where governance is felt, not just at the national level, but even on matters of security; that the communities would have responsibilities and rights under the Constitution. Therefore, the fears that some hon. Senators have had over this Motion may be a little unfounded.

Mr. Speaker, Sir, there are already attempts to try and undermine the devolved system of government, either through revenue allocation, under intended amendment of legislation that protects the system of devolution. So, the Senate should be happy and welcome this Motion. In fact, I am taken aback by the resistance to this Motion. If it is read carefully, its intention is to defend the system of government known as devolution. But now from what I can see, our commitment to devolution may also be a little bit questionable, because I have seen a lot more enthusiasm in regard to other Motions. But on this Motion, there is something that I can read between the lines, especially from our

partners in Jubilee. There is something that they are not saying. They are not even willing to contribute to this Motion. I can see that there is---

**Sen. Wamatangi:** On a point of order, Mr. Speaker, Sir. Mr. Speaker, Sir. Is Sen. Orengo in order to impute that Senators from the Jubilee side are not willing and are not committed to devolution when they air their views on this Motion in the House? It is the right of Senators to express their views without any fear that they may be adjudged by any one of us. I think that we have not even gotten to the Motion itself that the Senator has brought to the Floor of the House. Now that he has brought and prosecuted his matter he should convince the House or all Senators across the divide that, indeed, the Motion is good for adoption then we can support him.

**Sen. Orengo:** Mr. Speaker, Sir, I do not know what the point of order was, but I have, at least, succeeded in waking up Sen. Njoroge. Normally on any other Motion, he would be free and be the first to stand up to contribute. Since it is the right of Senators to take a vote, I would like to say that this Motion is a good Motion. If we want to protect devolution, all Senators should support it.

With those few remarks, I beg to support.

**The Speaker** (Hon. Ethuro): Order, hon. Senators. This is a Motion concerning counties and you know the procedure. Therefore, I will put the Question.

## DIVISION

### ROLL CALL VOTING

*(Question put and the Senate proceeded  
to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Bule, Tana River County; Sen. Harguara, Marsabit County; Sen. Khaniri, Vihiga County; Sen. (Prof) Kindiki, Tharaka-Nithi County; Sen.(Prof.) Lesan, Bomet County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Njoroge, Kiambu County; Sen. Nabwala, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County and Sen. Sang, Nandi County.

**Teller of Ayes:** Sen. Kanainza.

**NOES:** Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County and Sen. Mungai, Nakuru County.

**Teller of Noes:** Sen. Mohamud.

**The Speaker** (Mr. Ethuro): Hon. Senators, I wish to announce the results as follows.

**AYES:** 22

**NOES:** 3

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**ABSENTIONS: Nil**

*(Question put and negatived by 22 votes to 3)*

DECLARATION OF ALCOHOL AND  
DRUG ABUSE A NATIONAL DISASTER

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I beg to move:-

THAT, aware that the Government of Kenya recognizes the threat of alcohol and drug abuse; appreciating that the National Authority for Campaign Against Alcohol and Drug Abuse (NACADA) has cautioned on the national trend; noting with concern that alcohol and drug abuse is significantly on the increase; cognizing that information available points to the disastrous outcome of alcohol and substance abuse to health and the economy of our country; the Senate urges the Government to declare alcohol and drug abuse a national disaster.

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

*[The Deputy Speaker (Sen. Kembi-Gitura)  
took the Chair]*

Mr. Deputy Speaker, Sir, the country is crying, the unborn are crying and the new born are crying. The young, old and everybody else in the world is crying. On 9<sup>th</sup> May, 2006 the BBC announced: “Mombasa is seen as the key starting post of international drugs”. In December 2004 in our newspapers, we saw the biggest seizure of drugs worth 1.1 metric tonnes with a value of \$90 million arrested in Malindi. We may not know how the same was disposed of. There have been several headlines on the Akasha family strategies on drug related issues. Just as recently as last week, on 21<sup>st</sup> June, Nigerians were found in possession of drugs worth \$118,000 at the airport. Many newspaper headlines are littered with stories of airport staff being arrested and deaths in Kiambu, Murang’a, Kuria and Mai Mahiu. There are newspaper headline stories of suffering youths in Mombasa and their mothers crying due to the drug menace. Unfortunately, our country is hit with poverty and corruption. Our own location conspired to make Kenya a drug empire.

Mr. Deputy Speaker, Sir, consuming intoxicating substances negatively affects mankind in health, social, economic, political and security spheres. We know that the Government has already put in place legislation on various institutions to provide for the policy, legislation and strategic programmes in an attempt to have remedies. The National Agency for the Campaign against Drug Abuse (NACADA) was established, and its functions were to facilitate, conduct, promote and coordinate research in the process of dissemination of information, but this has not helped. We have had two researches; one in 2007 and as late as 2012 carried out by NACADA. We know the drugs we are looking



for are alcohol, tobacco, narcotics, stimulants, depressants, hallucinogens and *cannabis sativa* in this region.

The situation in Kenya is a major problem because there is easy accessibility to drugs. Kenya is quoted as being the conduit point through which drugs are, not only transported through Nairobi, but some are disembarked here to North America, South America, the eastern world and all destinations in the world. In Kenya, Nairobi, the coast and north eastern parts of the country are some of the areas that are seen to be foresight areas to be looked at in detail as young adults within that very active age of 15 to 25 years has been mauled down by the drug menace. We do not have enough legislation to control the menace. We have the Dangerous Drugs Act, Cap 245 which was under the Ministry of Health that came before the creation of NACADA, the Kenya National Drug Policy of the Ministry of Health of 1994 which recommended amendment of Cap 245, the Tobacco Control Act of 2007 and the Alcohol Control Act of 2010, otherwise referred to as the “Mututho Law”. This Act actually seeks to legalize *chang’aa* by repealing the *Chang’aa* Prohibition Act.

Mr. Deputy Speaker, Sir, the situation is so appalling that if you look at the population of Kenyans in total, you find that nearly 5.4 per cent of Kenyans are addicted to narcotics; *hashish*, 0.3 per cent. Coast and north eastern areas lead in cocaine at 0.6 per cent. The trend is increasing in eastern, Rift Valley and Nairobi. Heroin is at 0.4 per cent of our total population. The coast region leads, followed by Nairobi and Nyanza. Inhalants which are so much used by our youths here, are at 0.7 per cent. Prescription drugs; 0.7 per cent populations addicted to these drugs.

Mr. Deputy Speaker, Sir, having 5 per cent of our population being addicted to alcohol alone is an enormous problem. About 4.5 per cent of our population is addicted to tobacco. We are looking at a population of 42 million people. The people who take *miraa* stand at 1.5 per cent. Those who take *bhang* stand at 0.4 per cent. The trends are not very encouraging. From the ages 15 to 65, nearly 48.3 per cent of Kenyans have tasted alcohol at one time of their lives. Of the 10 to 14 year olds, unfortunately, about 8 per cent of them have already tasted alcohol and 21.7 per cent of Kenyans at one time have tasted tobacco.

I have not considered the passive smokers. You are forced to smoke tobacco because your neighbour is smoking it. Unfortunately so, 4.2 per cent of these people are the 10 to 14 year olds. *Khat* is chewed by 11.3 per cent of Kenyans, *hashish*, 0.3 per cent of Kenyans; this has increased to 0.6 per cent in the last one year. Heroin is at 0.4 per cent. We also have cocaine where about 0.2 per cent of Kenyans are addicted to it.

I tried to look at the data, but found that it was not very comprehensive. The statistics available are not also very comprehensive. We have a lot of statistical problems. However, the information I gather is very worrying. You will allow me to use the provinces as they were since this was the only way to gather information.

Nairobi leads in alcohol use by 36.1 per cent of the targeted population. Western Province is second at 35.7 per cent, followed by Rift Valley, Eastern, Coast, Central and Nyanza provinces. North Eastern is the least at 10.8 per cent. The records we have show that in the consumption of *changa’a*, Western Province leads with 20.3 per cent of all the addicts. The Rift Valley Province follows with 13.8 per cent, followed by Nyanza,

Nairobi, Coast, Eastern and Central at 11.2 per cent. North Eastern Province is nearly zero per cent. This is the same with traditional liquor. Western Province leads with 19.2 per cent followed by the Rift Valley, Central, Coast, Nyanza, Nairobi and North Eastern provinces.

With regard to tobacco, Nairobi leads with 16.7 per cent of all smokers. However, we have users of substances like *kuber* which has come and is affecting about 16 per cent of the Kenyan population. *Shisha* is something that seems to be new, but is already affecting 2.0 per cent of the population. We also have other substances that people do not want to refer to as drugs. These are things like *miraa* and *muguka*. North Eastern Province leads at 38.7 per cent followed by Eastern with 13.0; Coast, 15 per cent; Nairobi 12.8 per cent; Nyanza 4 per cent; Central 4 per cent; and, Western the least with 2.6 per cent.

The information I have shows that initiation into the use of drugs starts at the age of 10 in our country. Tobacco is the most addicting followed by *bhang* and alcohol. Legislation is inadequate. We address what we see in statistics not knowing that we have fewer rehabilitation centres apart from Mathari Hospital that can handle the sick people. It is also important to note that there is also very little money allocated to fight this scourge.

In the last few months after the President took over, hardly a day passes before he raises concern for the whole country to watch out for the menace; the drug and alcohol abuse, indeed, to the extent of ordering that nobody associated with the drug trade should be entertained in this country.

I do not have to go into the nitty-gritty information and on the effects on health and other parameters that I have mentioned. It is all over for us to read. However, the important message for us is that we have lost our Coast, we are losing Nairobi and Western Kenya. The whole country is burning. It is my request that this House passes this Motion so that the Government can see the extent of the scourge and come up with better facilities to fight it before the country burns out and before we lose Kenyans and before drugs take over. Hardly any crime happens without us recognizing that it is not associated with drugs.

The HIV/AIDs scourge kills about 70,000 of our population per year and about 15 per cent of which are drug related. We have now homosexuality coming in and gay sex, all associated with drugs.

I beg to move and ask my friend, Sen. Obure to second this Motion.

**Sen. Obure:** Thank you, Mr. Deputy Speaker, Sir for giving me the opportunity to second this Motion on a subject that is of great concern. I also want to take this opportunity to thank Sen. (Dr.) Machage for being sensitive and for introducing this Motion for debate in this House. We all know that Dr. Machage is a medical doctor. He is still a practicing doctor of high repute. I thank him for bringing this matter to the attention of the Senate and the people of Kenya.

Alcohol and drug abuse is, not only a threat to our country, but also poses serious challenges to our country's development efforts, security and social order. It has endangered the health of victims and compromised their human dignity. It has destroyed homes and separated families. It has destroyed lives and created orphans, widows and

widowers. Alcohol and drug abuse has drained individual and family resources, consumed and wasted wealth leaving behind poverty and misery.

The threat of alcohol and drug abuse is far greater than we realise. It pervades through our country's entire social fabric. This has spread to our schools, institutions, colleges and other institutions of higher learning. This has also spread to other institutions, including security institutions. If you go to the military barracks, you will see evidence at that level. This has spread to our villages and homes. It has spread everywhere and, in fact, it should be recognized as the fastest growing epidemic.

This issue of alcohol and drug abuse is significant. In fact, it is a reflection of the degree of decay in our society. We must all, collectively, take full responsibility and pay the price of its consequences. It is not just enough to blame the victims for lack of self discipline. I feel that we must first appreciate that addiction to alcohol and drugs is a disease like any other that has afflicted mankind. It is, therefore, more important to think about how to assist the victims; those suffering from the disease and more significantly, think about how to prevent the spread of this disease; alcohol and drug abuse. It is most important to think about how to control the spread of that menace.

We know that families, men, children and women are affected. However, the bulk of those affected are the youth. The youth are the most devastated by this menace. Unfortunately, this also happens to be the age group that is most critical to the future development of this nation. Therefore, drug abuse has very deep ramifications on the future of this country. It is a subject that we, as a nation, should think seriously about.

The youth are exposed and, therefore, become more vulnerable than other categories of the population. Owing to abuse of alcohol and drugs, the youth drop out of schools. They go out, but cannot engage in any meaningful activity. Therefore, they become more exposed. They are then tempted to get involved into committing crime so as to sustain their activities. They engage in theft, house breaking and prostitution to sustain the activities they have become used to. At that point, they degenerate to become a security threat. Indeed, they become a liability to the society as a whole. The fight against this menace cannot be left to NACADA, or even to the national Government alone. All the citizens of this country and all people of good-will must wake up to this reality because our nationhood is under serious threat. Let us all join hands to fight this menace. I call upon all the county governments, churches, schools, all other institutions of higher learning, all the communities of this Republic, the society as a whole and friends of Kenya, to join hands in order to fight this menace. We must agree and put in place a comprehensive strategy to control the menace and minimize the impact created by alcohol and drug abuse.

Mr. Deputy Speaker, Sir, we must establish both male and female rehabilitation centres in every county. This is because the few that we have been able to establish are largely male centres. We must also realize that women are affected. We must also stop the entry of supplies of drugs to Kenya. Sen. (Dr.) Machage has rightly pointed that Mombasa Port has become notorious as an entry point for drugs of all kinds from all over the world. In particular, there is a substance called heroin which is very dangerous. We must also stop entry of any similar substances at all our entry points around the country.

Mr. Deputy Speaker, Sir, peddlers of drugs must get stiffer penalties and not the kinds of penalties which exist. We must all be committed to this cause. Otherwise, we will all get consumed and destroyed. We will have no nation to be proud of. The magnitude of the threat is of such a scale that it rightly calls for this menace to be declared a national disaster. I, therefore, want to agree with Sen. (Dr.) Machage, that we really must declare this a national disaster, so that we can focus clearly on its negative impact on our economy and nation as a whole. This will enable us mobilize resources to fight this epidemic, so that the danger posed can be exposed for what it really is. This will also ensure that together, we can institute measures to deal with this devastating menace. I call upon my colleagues in this House and all Kenyans, to wake up to this fact and move and act together to eliminate this serious threat facing this nation.

Mr. Speaker, Sir, with those remarks, I beg to second this Motion.

*(Question proposed)*

**Sen. (Prof.) Lesan:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

Mr. Deputy Speaker, Sir, first and foremost, I wish to thank my colleague, Sen. (Dr.) Machage, for having recognized the very dangers that alcohol and drugs pose to our youth and country at large.

Mr. Deputy Speaker, Sir, from the outset, I want to mention that alcohol and drugs are not categorized as foods. Therefore, they are not essential. This particular type of substance when consumed, targets only specific organs. It targets the nervous system alone unlike different types of food when they are consumed. Therefore, this is one of those things that we must, at all times, condemn.

Mr. Deputy Speaker, Sir, I want to point out specifically the very serious health consequences associated with the consumption of alcohol or drugs. Since I have said that they affect the nervous system, we have consequences such as mental incapacity, insomnia, dementia, delusion, derangement, psychoneurosis and even impotence, as a result of drug or alcohol consumption. There are also concomitant medical consequences such as HIV/AIDS, prostitution, road accidents, suicide, including homicides and domestic violence. These are all consequences of alcohol and drugs.

Mr. Deputy Speaker, Sir, I also come from the medical profession and we have witnessed very sad situations where young individuals or children drop out of the best schools in the land and become zombies, because of the consumption of these substances. Since they form the hopes and investment of their families, when they drop out of schools and become zombies as a consequence of these drugs, it must raise our concerns as to what we should do about this particular killer. These drugs are killing families slowly and surely.

Mr. Deputy Speaker, Sir, we are very fortunate in this country that we do not grow poppy which is the opium plant for heroin, or manufacture any heroin. That is a great fortune. The biggest problem we have is that all heroin consumed here enters through some points in our country. We must do something to make sure that these harmful products do not enter our country. We must deal with this situation.

Mr. Deputy Speaker, Sir, there are two particular categories of individuals that we must deal with when it comes to drugs. The first category of individuals that we need to deal with is the traffickers of this deadly cargo. The traffickers of drugs are the kind of people that we must deal with. To deal with them we must understand their psychology. These are individuals who will stop at nothing until they sell their cargo, irrespective of the damage that would be caused. We must also rise up to the fact that we are endowed with technology and can curtail the entry of these drugs into our country, using the existing technologies. We do know that drugs enter into our country at the moment, not through the conventional means of hand luggage, but through the alimentary canals and sometimes, the reproductive systems of individuals. I believe that Sen. (Dr.) Machage knows about this. We do know that there is a lot of cargo of heroin being carried by individuals in their bodies. Therefore, we must apply technology in our country. We have MRIs and should be able to screen these individuals and actually detect these dangerous drugs before they enter the country.

Mr. Deputy Speaker, Sir, we must also apply the law ruthlessly when it comes to the trafficking of these drugs. Saudi Arabia, a country which has millions of visitors every year, has the least number of drug traffickers entering that country. The reason is very simple. The rules regarding trafficking of drugs in that country are ruthless. If you are arrested with drugs at the airport in Saudi Arabia, in a few minutes, you will be taken outside the airport and some people with machetes will say a few words in Islam and you will be decapitated. If we really need to get rid of these drugs, we must put in place ruthless legislation to be able to deal with this kind of individuals.

Mr. Deputy Speaker, Sir, I think that we must also join the international community in fighting this menace. This is an international phenomenon. Therefore, we must join the international community and ensure that our laws conform to the international laws that deal with this drug menace. Unless we have a very ruthless way of dealing with this, we shall continue to suffer the very serious consequences of drugs in our country.

Mr. Deputy Speaker, Sir, the other lot of people that we need to deal with, of course, is the consumers. We have old consumers who are individuals who are already addicted and hopeless in the society. We must express sympathy with them and set up rehabilitation homes where can actually bring them back to life again. This has been done and continues to be done. We should be able to rescue the young who have already fallen victim to this kind of thing.

Mr. Deputy Speaker, Sir, the next category, of course, are those new consumers who are coming into the market. I think that this is a situation where we have to use the carrot and stick. I think that it is time in this country that we should legalize local brews, so that they are not used underground. We need to manage them. We know that traditional liquor has been there for years and does not cause any problems. So, if we legalize it, the better because we will control it. We can, therefore, control the alcohol content in all the brews because this is happening in many other countries. In those counties, people go out for lunch, have a glass of beer and go to the office perfectly normal. The amount of alcohol in their drinks is so small that it is inconsequential. We can do the same in this country if we care to manage this menace. With the hard drinks

like spirits and wines, we can overprice them so that they are out of reach to many people. The consequence of reaching them is that you will really have to dig deep into your pocket. This will be of benefit to the Exchequer in that we can tax them to the level that it would be difficult to afford them. These are some of things that we can do to salvage the very dangerous situation that we have.

Mr. Deputy Speaker, Sir, we know that famine and floods are dangerous and kill people in this country. Alcohol and drugs do the same. Therefore, I support this Motion that seeks to lump together alcohol and drugs. Let us declare this menace a national disaster. We already have the consequences. This is a major problem in this country and we must deal with it firmly.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support this Motion fully and declare that we should consider alcohol and drugs a very dangerous phenomenon in this country.

**Sen. Okong'o:** Asante sana, Bw. Naibu Spika, kwa kunipa nafasi hii ili nichangie Hoja hii ambayo imeletwa na mhe. Machage ambaye ni daktari mwenye tajiriba kuu.

Bw. Naibu Spika, kwanza kabisa, Hoja hii ya kufanya matumizi ya *drugs* katika nchi hii kuwa janga la kitaifa ni muhimu sana. Madawa ya kulevya yamechangia sana hivi karibuni kwa---

**The Deputy Speaker** (Sen. Kembi-Gitura): You must choose the language that you want to use. You cannot keep interchanging languages.

**Sen. Okong'o:** Asante, Bw. Naibu Spika.

Ningependa kuchangia Hoja hii ambayo imeletwa na Dkt. Machage, mwenye tajiriba kuu katika udaktari. Janga hii la vijana wetu kutumia madawa ya kulevya ni kubwa sana. Hivi majuzi Rais aliamuru kwamba wale watu wote wanaohusika na biashara ya madawa ya kulevya wanafaa kuchukuliwa hatua kali. Ninamshukuru kwa msimamo wake juu ya madawa haya. Inafaa pia janga hili lichukuliwe kama la kitaifa na liidhinishwe katika sheria ili hatua zichukuliwe za kupambana nalo na kuhusisha watu wote, wakiwemo walimu, viongozi wa kisiasa na dini. Janga hili limeharibu maisha ya vijana wetu.

Bw. Naibu Spika, sina mengi kwa sababu nimesikiliza yale yote yaliyosemwa na mhe. Obure alipokuwa akichangia Hoja hii. Ameongea kwa mapana na marefu juu ya janga la madawa ya kulevya. Hivi majuzi tuliona kwenye runinga ekari nyingi za *bhangi* ambazo zimepandwa katika msitu wa Aberdare. Vijana wengi katika Mkoa wa Pwani hawajielewi kwa sababu wameathirika sana na madawa ya kulevya. Ikiwa janga hili litatangazwa kuwa janga la kitaifa, basi tutapambana nalo kikamilifu.

Bw. Naibu Spika, mhe. Lesan amesema kwamba kuna nchi kadhaa ambazo zimeweka mikakati na vikwazo vikali vya kupambana na janga hilli. Kwa mfano, nchi za Uarabuni zimeweka hatua kali dhidi ya kupambana na madawa ya kulevya. Katika nchi zingine adhabu ni kali sana na ndio nilisema kwamba yafaa tuige mfano kama huo ili tuweze kuangalia mambo ya vijana. Pombe ya Kiafrika kama busaa na chang'aa hazikuwa na madhara sana. Hivi majuzi watu ambao wanauza pombe hii wameshikwa na tamaa na kuanza kuweka dawa. Haya madawa yameathiri vijana kote nchini kutoka magharibi, mashariki na kaskazini. Vijana wengi wameathirika sana na pia familia zao zimeathirika.

Bw. Naibu Spika, mimi naona kwamba sisi viongozi tuko na jukumu kubwa sana kutoa mchango wetu katika kaunti zetu. Kaunti zetu yafaa ziwe na mipango mwafaka haswa kuhusu jambo hili litakapotangazwa kama jangwa la kitaifa.

Mimi sina mengi ya kuchangia na ninaomba kuunga mkono.

**Sen. Kittony:** Mr. Deputy Speaker, Sir, thank you for allowing me to contribute to this Motion. I would like to thank Sen. (Dr.) Machage for bringing this Motion. I am saying this because we serve together in the Committee on Health, Labour and Social Welfare and we have taken this as a priority in the Committee. As I laud the presenter of this Motion, I do believe that all of us in this country, if we are really concerned, then the menace of drugs should have been put to rest when the National Agency for the Campaign against Drug Abuse (NACADA) was formed. I was one of the members who served in NACADA and for some time, it disappeared but now it has resurfaced again. If it could have continued, maybe by now this country could be different. When the HIV/AIDS pandemic came, it was declared as a disaster and now the percentage has gone down. What am I trying to say? As a mother, I am very pained when I see our children going to that extent of becoming garbage because of drugs and yet all of us in this august House come from these areas. Why can we not identify the hotspots? We know what is going on but we do not want to see. We know what is happening. There is a saying that the root of all evil is money. Surely, we do not want to admit that we know what is happening. Do you want to tell me that all of us are so innocent and that we do not know where these drugs come from? We all agree that there is some laxity somewhere within ourselves and we need to ask ourselves that question. We cannot afford, year in, year out, to keep on saying that there is a problem and yet we are the problem.

Mr. Deputy Speaker, Sir, when I was growing, we used to listen to our elders but nowadays, there are so many problems and young people do not listen to their parents. There are too many openings where our children are influenced by foreign behaviour. Kenya is a global village and they watch these ills by reading pornographic materials, television and other media influences. These things influence the behavior of our young people in our country. Even if we condemn this behaviour, I insist that we should be honest and find out what the root cause of the drug menace in this country is. We have the police in this country and they should be able to arrest the culprits. We know the canals and the routes used. So, what happens when they are arrested and not taken to book? If we want to make our country free of all these, then all of us have to come out fighting so that we can clean our society of this menace by acting honestly and in a transparent manner. We should make sure that the future of this country is safe from this menace.

With those few remarks, I beg to support.

**Sen. Elachi:** Mr. Deputy Speaker, Sir, I also stand to support the Motion knowing that for the last 15 years, we have seen many of our people perish because of alcohol. Today, as we talk in our country, I think our moral values have completely been eroded. Indeed, it is sad when you see on television a young man in Dandora talking openly; saying that he knows he will die with the sword and therefore for him to rape is something that he has to do and he can even inform the parent of the lady that he is going

to take his daughter and rape her. If you look at that young man, you wonder whether he is normal or not. It looks like he has taken something and is under some influence.

When the *matatu* business came to this country, we knew that it was an avenue to help young people get employment but we forgot to look within the business and find out how the young people will be motivated. This is a business where a young man believes that today, he will wake up, do one round, get some little money which can buy a small bottle of alcohol, come back and do another round and so on. When you go to Kangemi today, the young people that I used to meet, today they look old because of alcohol. They completely do not know what to do. They have changed completely and now they are the ones who torment their parents. They are the ones who will even go and tell their friends that the mother has a *chama* and she will be receiving Kshs20,000. So, he will tell the friends that they can take the money after the visitors have left. This is how we ended up having small guns coming up.

Therefore, if we want to see our country get back to track, we should not just say that it is a disaster but we also need to look for solutions. We need to ask ourselves whether we have to relook at the National Youth Service (NYS) programme with the aim of bringing it back so that young people can go through it. First of all, this will help them to be patriotic to their country and give them the motivation because they will get new skills. Therefore, these young people should be the first to be tapped on to join the police and other government employment opportunities. This way, we shall be encouraging young people to join NYS and to be patriotic to what they believe in.

The other day there was a young man from Murang'a who said he had been drinking for the last 12 years. A lady from Nairobi decided to go and pick that young man to rehabilitate him so that he can even get married. That is what parents are going through. The young people are supposed to go to university so that they can become resourceful to their parents when they grow old. What has happened is that our mothers are now taking care of the youth. We also need to ask ourselves as parents whether we are to blame because when my mother accepts my 40 year old brother to sleep in her house, it is a challenge. Such acts might also contribute to what we are seeing today.

Mr. Deputy Speaker, as a country, we must look at both sides and ask ourselves whether we have failed as parents. Also, the children have failed the parents because what they are doing is not right and it is not African. We also need to ask ourselves whether we have completely forgotten our culture. Is it because of facebook or internet that we are in this mess? So, we should be asking ourselves what we need to do. The President has talked about it and he is fighting it but all the leaders and even the church must now come. What happens is that we go to church on Sunday but from Monday to Saturday, we go to the clubs and drink. So, when we talk about alcohol we also need to ask ourselves, at what level? If we talk about all types of alcohol, then it means everyone has to start relooking at themselves. We are all facing problems. When you look at Kwanjuguna's on Friday along Waiyaki Way and count the cars around there, what do you expect?

**The Deputy Speaker** (Sen. Kembi-Gitura): What is Kwanjuguna's?

**Sen. Elachi:** Mr. Deputy Speaker, Sir, Kwanjuguna's is a famous club that many of us who do business would love to go on Friday to do business but at the same time



take a glass. I am just giving an example. When you leave Waiyaki Way and enter Westlands, then you meet your 16, 14 or 12 year old children drinking outside Westlands, it means also that those who have accepted that to happen within that environment have to ask themselves questions. When hon. Mututho brought in the law, these are the challenges he had looked at. We are the same people who started abusing and calling Hon. Mututho all manner of names. We need to go back and ask the Government to start whipping clubs. If you find students of between 15 and 16 years in a club, then that club should be shut down. We should not come to the House and fight back for the businesses of these people. It is time we saved our country.

Mr. Deputy Speaker, Sir, if we are not going to be harsh to those who do the business and only be harsh to the young people, I think we will not be saving them. I think we need to start with those who are doing the business.

I beg to support.

**Sen. (Dr.) Kuti:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I stand here to support this very important Motion. I am sure this issue of drug abuse sends chills up the spines of all of us seated here. I am sure, even seated in this House, there are parents or relatives of ours here who either we know or are personally affected by the problem of drug abuse; be it alcohol, heroine, *miraa*, cigarettes or *bhang*. So, it is affecting every home. Everybody in this House has in one way or another suffered from this problem or they know a neighbour who is suffering from this problem. It has broken homes and led to deaths. It is generally a disaster.

I fully support the Motion for the fact that this menace has reached a level of national disaster and should actually be declared so. We need to use the same effort the Government put in combating HIV/AIDS when it was declared a national disaster. That kind of plan is needed to address the issue of drug abuse. When HIV/AIDS became a menace and was declared a national disaster, we not only got support from within, but even from international organizations and bilateral donors. We need a seriously concerted effort to face this challenge because we are losing a whole generation. What Vision 2030 will we be talking about if the people to carry on that vision do not know how the morning starts and how the evening ends? They will simply look at you with drowsy eyes and if you ask them what Vision 2030 is, you just pity them. When you pity that person, you are pitying this country because that is where we are now. It is as bad as that.

Mr. Deputy Speaker, Sir, declaring this menace a national disaster is long overdue. Whether it is in north eastern where *miraa* has denied wives their pleasure or in Central Province where alcohol has made women to go to streets and demonstrate, whether it is heroine at the coast and other urban centres, every corner of this country is reeling from the pain of drug abuse. Therefore, I think we need a concerted effort to address this challenge. I have a son who is 21 years old and he is turning 22 years this month, and every day he goes away and comes back, my heart just throbs. I have to always follow him. I have to ask him where he has been every day. It is my prayer that he goes through this age and grows into an adult who will be useful to this nation. I know this is the concern and pain of every parent in this country.

This morning, I was called by a friend of mine who is a banker. Yesterday, at around 4.00 p.m., together with her husband and her one year old child, she was learning

how to drive at Jamhuri Park, which is an open space, three boys; one of them who looked 10 years, another one 15 years and the last one 17 years old approached this family and all the three of them had guns. They stole everything this family had at gun point. Luckily, they spared the child the mother and the vehicle. But they took phones, money---

*(A Cell phone vibrated in the Chamber)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Talking of phones, is it your phone ringing?

**Sen. (Dr.) Kuti:** Yes, Mr. Deputy Speaker, Sir. I am sorry.

**The Deputy Speaker** (Sen. Kembi-Gitura): You can go on!

**Sen. (Dr.) Kuti:** Mr. Deputy Speaker, Sir, luckily, they left safely. This is the major problem we are in. Those children were looking for that money to go and drink. That money was not for any other use. We have reached a point where you can lose your life for Kshs3,000 because a certain child is experiencing withdrawal symptoms and must get the drugs whether it is through killing or whatever means. So, when we say that it should be declared a national disaster, it is that bad and it is all over.

I am glad that we are at this stage in our country where we have devolution. In fact, the governors and the devolved counties must now focus on this matter so that every county looks at its own challenges as concerns drug abuse and invests heavily in issues of turning around the loss we are making in relation to drug abuse. I support Sen. Elachi on her stand on the National Youth Service (NYS). We should actually take all these young people into the NYS to do roads and bridges, and in turn be paid. In fact, contractors should not be making all these millions of money that they are making. These contracts have turned around to be major businesses by few contractors. Instead of asking the young people to start companies and be awarded contracts, the best thing is to put them into the NYS, pump the money through the NYS and provide the materials and let them work. Their education could even be paid for by the Government after they have gone through this process. The process should be elongated so that those who are joining colleges or universities come directly from the NYS to those colleges or universities. The NYS should be empowered to provide students to the middle level colleges so that our young people are held back from idleness, poverty and the temptation to abuse drugs. I strongly feel that a very well organized NYS scheme will help our young people to do useful work rather than them being wasted away in the villages and urban centres. They in turn become crooks, murderer and make the country unsafe.

With those few remarks, I beg to support.

**Sen. Wamatangi:** Thank you, Mr. Deputy Speaker, Sir. I come from the Kiambu County and, indeed, in this country, it should be the first county to stand and support the idea and the theme of this Motion. If there is any problem that we are having as a county, it is the problem of alcohol abuse by our young people who eventually grow into drinking adults and who also, at the end of the day, grow into drinking parents. As leaders and as a people of a country, we are all facing a problem that must be called a national disaster.

I also want to take the opportunity to congratulate the President of this country because a few weeks ago, he took on a monumental problem that has before been avoided by many by showing his willingness to deal with the question of drug trafficking. We all know that the President ordered that action must be taken to deport all drug traffickers and dealers in this country and thus putting us a step ahead in this world.

Mr. Deputy Speaker, Sir, in the counties we represent, and using my own county as an example, we have had very productive people in the past, but the problem of alcohol abuse and drug addiction has slowly turned our young people into beggars. It has slowly turned them into dependants. What we do as leaders and parents is to continually expend time and resources trying to give remedies that have not delivered results. As I support this Motion, I believe that the ultimate answer to this question is to elevate this problem at the national level, declare it a national disaster and ask the entire country and the Government to rally behind this cause and make sure that we deliver a solution once and for all.

It must be said fully and firmly that the people who deal in drugs or benefit from the sale of illicit brews and alcohol have a way of fighting back. We have seen it before. So, what must follow the debate and passage of this Motion is the determination and firm action to be recommended by this Senate. It is the only way we can ensure that the spirit behind the thoughts of Sen. (Dr.) Machage as he moved this Motion, eventually are realized and become useful to this country.

Mr. Deputy Speaker, Sir, if I recall by name all the young people whom as a leader in this country and my county, I have had to take personal charge of to reform, they are countless. If I could recount the number of homes and rehabilitation centers that I have had to partner with, including with relatives, to make sure that we bring back earlier useful young people who have taken to drug abuse, then I will be telling a long story.

In summary, Mr. Deputy Speaker, Sir, this is a good Motion. I would have proposed – but in consultation with the Mover – that an amendment to this Motion would be good to include or to read that:-

“The Senate urges the Government to declare illicit brews and drug abuse a national disaster.”

This would remove any doubt cast around which form or kind of alcohol we are talking about, because illicit brews are the real problem. So, in consultation with the Mover of this Motion, we would propose that amendment and move it, with your permission, at a time when we take the vote on it such that, then, illicit brews – as also in concurrence with a current instruction and order which has been given by the President – be wiped out, immediately without fail by the authorities; then we would be following it with the full force of the Senate.

So, Mr. Deputy Speaker, Sir, I would propose that we move that amendment---

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you moving an amendment; because you have to give notice to us in writing?

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, it is a very small amendment---

**The Deputy Speaker** (Sen. Kembi-Gitura): But it has to be in writing to the Speaker.

**Sen. Wamatangi:** Okay, Mr. Deputy Speaker, Sir. I will write it; it is a proposal right now. I will write it down and I will request, together with any other amendments that other Senators may want to move, then we will move them together.

Mr. Deputy Speaker, Sir, I beg to support.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Liza.

**Sen. Chelule:** Asante Sana, Bw. Naibu Spika, kwa kunipa nafasi hii ili nichangie Hoja iliyoletwa hapa na Seneta (Dkt.) Machage kuhusu madawa ya kulevya na pombe. Ninaposimama hapa, nasimama kama mama; najua wamama wengi sana wameumia kwa sababu watoto wao wamepotea katika mambo ya ulevi na madawa ya kulevya. Ninaposimama, nasimama kwa niaba ya wale wamama walioumia; nasimama pia kwa niaba ya wale wamama waliopoteza mabwana zao; nasimama pia kwa niaba ya wale watoto waliopoteza wazazi wao kwa sababu ya shida ambazo wazazi hao wanapitia. Inatakikana sisi wote tuchukue jukumu hili kama viongozi wa Kenya pamoja na wazazi wote.

Bw. Naibu Spika, ningependa kuchukua nafasi hii kusema kwamba kwa wazazi ambao hawana njia ya kutatua shida za watoto wao. Kile kitu kinachotakikana kiangaliwe na Serikali yetu ni kiini cha mambo haya; ni nini inaanzisha mambo haya mpaka inafikia kiwango kwamba watoto wanaamua kuvuta bangi, kunywa pombe na kuishi maisha yaliyozoroteka? Kwa hivyo, ni lazima Serikali ichukue jukumu la kuchunguza kiini cha tatizo hili.

Tunajua kwamba kuna watu wengi sana wanaofaidika kutokana na kazi ya kuuza pombe na madawa ya kulevya, na pengine watoto wao hawahusiki katika kuvuta bangi ama kunywa pombe hizo. Inatakikana tuchunguze mahali shida hii inaanzia na kiini cha shida hii kiko wapi. Ningependa kuchukua nafasi hii kuwahimiza na kuwaomba wazazi – mimi nikiwa mmoja wao – tuchunguze na tuchukue jukumu hili pamoja kama wazazi; na Serikali pia ichukue jukumu hili.

Bw. Naibu Spika, nimefurahi sana jinsi Serikali imeweza kuchukua jukumu hili. Juzi, watu wawili walishikwa katika uwanja wa Ndege na ilikuwa ni maajabu sana kujua kwamba kumbe watu wanaweza kubeba madawa hayo ya kulevya hata katika miili yao. Naipongeza Serikali kwa sababu iliweza kufanya kazi yake vilivyo.

Bw. Naibu Spika, nataka kumuunga mkono Sen. Elachi na wenzangu walioongea kabla yangu, kwa kusema kwamba lazima tuwe na vyo vinyavyoweza kuwasajili watoto wetu baada ya kumaliza kidato cha nne. Lazima tuangalie ni nini watoto wetu watahusika nayo katika maisha yao baada ya shule.

Kwa hivyo, Bw. Naibu Spika, nimesimama kusema yes kwa Hoja hii kwa sababu hii ni shida katika nchi yetu na kama viongozi, yatakikana tuwe tayari kuangalia jinsi tutaweza kuitatua shida hii. Naunga mkono Hoja iliyoletwa hapa na Sen. (Dkt.) Machage.

Asante sana, Bw. Naibu Spika.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny.

**Sen. Sijeny:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion. I fully support the Motion because we have seen how things have gone from bad to worse within our society. This monster we complain about; insecurity, this is where it really and truly all begins. Two weeks ago, I went to

talk to some women in some slums within Nairobi, and there were young men aged 14, 15 or 16, and they confessed to me openly that they have guns. To them, those are toys and it is not a big deal. Of course, they were not scared because I was alone. They did not even care whether you will arrest them, because they say that they will still come out. They obviously looked like they were drunk on some substance; not only alcohol, but also drugs; what we call--- I do not know; I cannot say it in Swahili.

What is of great concern is that this drug issue has even penetrated our primary and secondary schools. You will find that there are some evil people, when they are selling those snacks and sweets, they coat them with drugs. This is how our children get addicted from a very early or tender age. It is something the Government should really take heed of and control.

Mr. Deputy Speaker, Sir, you will find that within the universities, students are not able to complete their education because they are abusing drugs and alcohol. After the parents have spent so much money, we have seen so many children, including even children of great leaders of this nation, who have been spoilt by drugs. When I was a little younger, I saw the late Shariff Nassir mourn his son, whom he really loved and adored, who died because of the effects of drugs. This is just one of them; many others go unreported. All we know is that they have died, and these deaths could have been controlled and these people would have really contributed to our nation.

Mr. Deputy Speaker, Sir, within the home situation, many homes are ruined and many families have been made to become poor. We have seen spouses who, once they started abusing drugs and alcohol, they sell their matrimonial properties without even caring how the children are going to be educated or where they are going to live. You will just find auctioneers at your doorstep and you are thrown out, just because of the effects of abusing drugs and alcohol.

Mr. Deputy Speaker, Sir, when all these young men and women go to abuse alcohol and drugs, that means, as the previous speakers have said, that the workforce within the country is reduced. You do not find people who can graduate because some of them – and we have seen young ladies who, when they go to the universities after you have really molded and protected your daughter and son – are captured by these drug barons and are forced to either do the trade or partake in the drugs. That makes them lose their working capacity and the end result is poverty. The poverty level increases, they are not able to work, we lose economically, socially and they become a mess. You cannot go anywhere with them; some parents have to hire nannies to take care of their children because they have become of unsound mind due to the effects of drugs. This is very rampant. If you look at the statistics, this phenomenon is rising.

Mr. Deputy Speaker, Sir, should the Government declare this menace a disaster, then it will be able to control even the media. Some of them expose the children or the society too much. You will find open drug taking in high schools and universities; and they could be moderated so that, at least, even if you have to screen that, show it during the times when most adults are awake, and not small children who think that drinking alcohol is good; that you can drink, feel dizzy, be happy and life goes on; because as the previous speakers have stated, they end up becoming drunk adults from childhood.

Mr. Deputy Speaker, Sir, I wish to stop with that, beg to support this Motion and urge the Government to declare it a national disaster and take the necessary action to save our country.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Prof.) Anyang'Nyong'o.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I join my colleagues in congratulating *Mzee* Machage for introducing this very important Motion.

Mr. Deputy Speaker, Sir, I would like to go further and ask the Government not just to declare this drug issue a national disaster, but to take very drastic actions to stop the problem of drug abuse and illicit brews in this country. But we must also look at the supply side, not just the demand side. How did this drug menace get into this country? Where does heroine and the other drugs come from? Where do they really come from? They do not come from the villages. If you look at drug trafficking, Kenya is a transit route for drugs coming from Asia and then to Europe.

Mr. Deputy Speaker, Sir, in 1993/1994 or 1994/1995, I was the Chairman of the Public Investments Committee and I was approached by somebody – I will not mention the name--- Let me be precise; Kenyan soldiers were going to Yugoslavia for peace keeping and one soldier who had been dropped from the trip was very angry. He came to me and said that he was part of the anti-narcotics team in the army, and they were in North Eastern Province where they were monitoring drug trafficking from Ethiopia and Somalia into Kenya and that they were being given heavy support by the Americans. Whenever Kenyan peace keeping forces went out, the anti-narcotics team was to be part of the contingent because they wanted to make sure that our soldiers were not penetrated by drugs abroad, but he was stopped. He came to see me just to spill the beans, and he said: "Look, we are trying to fight this thing, but this thing is being perpetuated from very high quarters." This will not stop until the perpetration stops. The drug lords are prepared to pay security officers a lot of money every week to be protected."

He even gave me number plates of secretaries in town who are being used by people to facilitate drug trafficking. This is a problem in our system which we should not be shy to talk about.

Once people in authority break laws, everybody downstream will break the laws including children who end up having guns. As Sen. Sijeny was saying, a family was gang-held at Jamhuri Park. Where do these gangs come from? They do not suddenly come from Kawangware. They come from somewhere. Therefore, drug trafficking is also a very big thing in this country. We must stop drug trafficking from the source and this is not an easy thing.

When I was told about this, I did not do anything about it because I did not want my neck chopped off. In fact, the person who told me said that I should be very careful. Several years later, I can talk about it because the people who were in power then are no longer there. The person warned me that this is a very sensitive issue. Since then, I have been reading a lot about drug trafficking. In fact, there was a big article in *Newsweek*, not too long ago which was talking about the various routes that drugs are being trafficked. The article was talking about the drug lords of Colombia and tracing their connections to Mombasa, Nigeria, Senegal, Morocco and then into Europe. As a transit point, we have

become victims of this issue. That is as far as heroine and cocaine are concerned. Those are the ones that are finishing people.

In places like the Netherlands, *marijuana* has been legalized and controlled. When I was growing up, one of my grandfathers used to grow *marijuana* at the back of his *abila*. In the evening, he would smoke it and talk to his ancestors. He lived up to 90 years and nothing bad happened to him. That is when *marijuana* was used in a controlled way. *Marijuana* is not a very serious drug. The ones that are very serious are cocaine, heroine and the *vuta pumsis* that are used on the streets. These ones kill people almost instantly.

Let me come to illicit brews. When I go to my village, I see young men aged between 15 and 16 who appear as if they are 45 or 50 years old because of drinking *chang'aa*. Their lips have turned to be as red as anything. You then wonder where they will go. Not too far from my house, there is a brewery. A woman brews alcohol there. She has been doing it for long until one day the Administration policemen from my house came out and caned a few of them. After that, they became very careful not to make noise. The assistant chief knows about the brewery in that home and yet does nothing about it because he is paid. So, if the assistant chief is paid by the owner of the *chang'aa* brewery, what will you do?

Our challenges in the devolved government are; how will we overhaul the local government administration at the local level to make sure that the assistant chiefs do their work. In the old days when Sen. G.G. Kariuki was Minister for Provincial Administration and Internal Security, assistant chiefs were honest people. They responded to Government orders but now they do not. They are now emperors to themselves. If you go to Maseno or Kombewa to report a crime and ask for the police, if you are a Minister, the police will come in a lot of demonstration like in cars among other things and make a lot of noise.

However, when you go back one week later, you will find that nothing happened and that was just a demonstration. In fact, the brewers know that when the police come in their Jeeps and put them inside, they will come out. There is a fee regarding when one is picked up and how they will come out. Life goes on as if nothing has happened. I hope that when we are quoting this as a national disaster, we are also saying that we will overhaul the system when things are happening the way they are.

It is very painful, as Sen. Sijeny said and we should not deceive ourselves because what happens to children in the village also happens to our children. When children go on holiday and meet a fellow talking in a *shenzi* way, a different way, and because children admire funny things, they want to know how he has come to talk like that. If they get to know that the fellow talks like that because of taking *chang'aa*, then they will go and taste and your child becomes messed up. Let us not think that this is the other person's problem. However, let us deal with the supply side first before we start dealing with the demand side.

Like Marx once said, philosophers have described the world in various ways. The thing, however, is to change it. We can sit here and talk about the miseries of drug abuse in various ways but the final responsibility is to change this so that we do not have the menace forever.

I beg to support.

**Sen. Gertude:** Kwanza, ningependa kukushukuru, Bw. Naibu Spika. Nimesimama kwa muda mrefu hadi nikakata tamaa. Asante kwa kunipa nafasi hii. Ningependa kumshukuru Bw. Machage kwa kutuletea Hoja ambayo inanigusa mimi kama mama kutoka Pwani.

Waswahili walisema isifuye mvua imenyea. Wakati mvua inaponyesha nyingi, sehemu zingine huwa na mafuriko. Mafuriko ya mihadarati yamekuwa swala sugu sana. Kitu ambacho kinachonishangaza ni kwamba kuna wakati tuliposikia kuhusu Artur Margaryan. Kuna wakati akina mama wa Mombasa waliandamana na hata tukasema tutavua nguo ili tupatiwe majina ya walanguzi wa madawa ya kulevya. Watu hao walitajwa na mpaka leo, hatujaelewa vile mambo hayo yalinyamazishwa.

Nina imani kwamba Serikali inawajua walanguzi wa dawa ya kulevya. Ikiwa haiwajui, hili litakuwa jambo la kushangaza sana. Watoto wetu Mombasa wanakufa; watoto wetu Mombasa wametufikisha mahali ambapo tuna hofu kwamba katika mwaka wa 2030, hatutakuwa na vijana wa kiume. Leo hii, wasichana wetu wanaachwa na waume wao kwa sababu ya mihadarati. Vijana wameoza na kudorora. Wao sio tegemeo. Kama dada yangu Elachi alivyosema, tunafaa kuanza mafunzo ya madawa haya katika chuo kikuu. Lakini mimi naona tukianzia mafunzo hayo katika vyuo vikuu, tutakuwa tumechelewa. *Curriculum* inafaa kuanzia shule ya msingi. Utumizi wa dawa hizi unaanza katika shule za msingi.

Kuna watoto ambao tumewashuhudia wakila peremende za rangi ya *blue*. Ukiona ulimi wa mtoto ukiwa *blue*, unafaa kujua ni dawa hizo amekula. Serikali inafaa kutia maanani mambo haya. Wanaouza *juices* katika shule na vitu vingine vya kula, wengi ni walanguzi wa madawa ya kulevya. Kitu kinachotutia hofu ni kwamba wengi wanaohusika tunawajua lakini tukiwataja tunaweza kuwa kwa shida. Tarehe 30.12.2011, nilivunjiwa nyumba yangu kwa sababu nilikuwa katika kikundi ambacho kilikuwa kikipinga utumizi wa dawa za kulevya. Nilivunjiwa nyumba na kuharibiwa kila kitu. Ikiwa mihadarati inaingia nchini kupitia bandari ya Mombasa na kuna usalama, inaingia vipi? Ikiwa inaletwa kwa ndege na kuna usalama, inaingia vipi? Nina imani kwamba walanguzi wa madawa ya kulevya ni watu ambao wanafanya kazi katika Serikali katika ngazi za juu. Hili ni swala gumu.

Tulipotazama kipindi cha Jicho Pevu, tuliona kwamba kimeangazia kila kitu kinavyofanyika. Leo, Serikali ikataka kujua Emma yuko aje, hawatakosa kunichunguza na kunijua. Wengine wanawekewa CCTV katika nyumba zao bila kujua. Mimi naamini kwamba Serikali inawajua walanguzi wa madawa ya kulevya lakini haitaki kuchukua hatua.

Sisi kama kina mama, tunafaa kuchukua hatua na kuwa na njia mwafaka za kupambana na madawa ya kulevya. Nashangaa Chinedu atarudishwa bila kuhukumiwa hapa Kenya. Kwa nini kama sisi tunapopatikaka na makosa huko nje, tunahukumiwa huko na huko na kufungwa, kwa nini tunawasafirisha nje?

Naunga mkono.

**Sen. G. G. Kariuki:** Mr. Deputy Speaker, Sir, first, I need to congratulate my friend who brought this Motion to this House.



Mr. Deputy Speaker, Sir, the sentiment and spirit of the Motion are very good, except that, perhaps, we need some amendment, as I heard from one of the Senators, to exclude some areas which might be misunderstood. We all need to ask ourselves several questions. We are speaking here as if this is a very big thing which has just happened. Let us not bury our heads in the sand. Let us come out and say something about it. This matter has been debated in the Lower House for many years back. There were issues between some of the Members of Parliament and their investigators. All these things have been said. The biggest question here is to ask ourselves: How did this problem start?

Mr. Deputy Speaker, Sir, Kenyans should not pretend. When you are sitting in your own house with your children, they see you drinking. They cannot tell you how much you need to drink. They just leave you to drink and you enjoy yourself. Sometimes you become very friendly and other times wild. The children also want to practice exactly what the parents do. If we are talking about alcohol, I think that we all know that the beginning of this problem is the parents. If the Senators, Members of Parliament or people in high authority are seen changing by their children and other people on the streets, they will also change. This is because we keep on saying that things have gone very wrong, but which family is quite secure now? Which family is not having a dispute about the current life? If you look at marriages, you will find that shortly after attending a very big wedding ceremony, that marriage will be completely finished. This is because our society has gone haywire. No one knows the kind of society that we are living in, because we have become misfits.

Mr. Deputy Speaker, Sir, as I said, the sentiment of the Motion is very good and clear, but then let us ask ourselves: Even if you declare it a national disaster, is it not a disaster even today in your own house? If you know that it is a disaster in your own house today, why do you not sort it out in your house first? By the time you declare an issue a national disaster, there is no other thing to go by. It is a disaster and we do not need to declare it so. It is a very big problem in every home. Even if the President, through his own free will, decides to declare it a disaster, what will follow? It is not going to stop those who traffic these drugs from Nigeria, the Far East or India, from passing through this country. Also, you are not going to stop their agents here in Kenya, because you are trained in security matters, you would know that there is no crime of this magnitude that can survive in a country like Kenya, without having the top most officers in the game. For example, why are there frequent road accidents involving *matatus* and so on? It is because some of the law enforcement officers own them. But if they could stand and declare that they are paid by the system to stop crime, they would have stopped it.

Mr. Deputy Speaker, quite a number of families also benefit from illicit brews and drugs. If I am a member of the drug cartels and have my relatives and families who are suffering from economic problems, I will support them using this money. So, let us not sound as if we have found a source of criminality in this country. All the time we have to see whether we are able to deal with a situation like this one. Unless and until the law enforcement officers and politicians in high offices stop collaborating in this kind of business, we will declare this issue a national disaster, but it will be a waste of time.

Mr. Deputy Speaker, Sir, as Sen. (Prof.) Anyang'-Nyong'o has just said, let us hope that we will start changing our lives. Let us hope that the new Constitution will bring something new into our system that will give us some hope. This is because the way things are now, nothing is changing. In four years to come, this Senate will dissolve and we will have another group of people. Maybe I will not be here and I can tell you that the same content of the Motion will be repeated. This is because I do not see how we can solve this problem, unless we restructure our police force and other people who are involved in controlling this crime. Whether you pay them 400 times more than a Member of Parliament and see whether they can be loyal and faithful to their work without expecting to get money from elsewhere, we will talk and talk. Those who are a little bit trained ask several questions on how it started and what the solution can be. But here, my friend – and I respect him a lot – did not have any other word than national disaster. Even if I am asked to look for a better word, I will not find it.

Mr. Deputy Speaker, Sir, if we are talking about alcohol, let us be open and frank. What is the difference between beer and *chang'aa*? The issue is controlling how much *chang'aa* or beer that you want to take, because the effect is the same. Let us be honest. We may come out of here pretending to be very good people and yet, we are drunkards before our kids. Sen. Obure, I think that this matter is beyond just sitting here. If my honourable friend had suggested that we try forming a Committee, like the one that my friend, Sen. Osogo, was seeking, if anybody can amend it---

**The Deputy Speaker** (Sen. Kembi-Gitura): Did you say “Osogo”?

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, it is Sen. James Orengo.

Mr. Deputy Speaker, Sir, I want to give a warning. The moment you start talking about drugs and establish a Committee, that Committee will come out with no report and if there will be a report, nobody will implement it. We are now leaving the problem to the President and the Government to declare it a national disaster. My friend here, myself and others just walk away saying that we have done a big job and we have now left it to the Jubilee Government and the President to deal with the matter. The Jubilee Government cannot deal with this matter alone. This is a national crisis starting from our households to ourselves and everybody in the house. Look at the young boys and girls when they go to night clubs, I do not go to night clubs but I used to when I was younger than I am now, they will tell you that they found honourable so-and-so in a night club enjoying himself or herself. Imagine if your own children asked you whether it is good for those Members to go to those places - When you hear such things, you pity the kind of people found dancing around but here they come and say we have to declare this thing a national disaster. It cannot work.

With those few remarks, I beg to support but with amendments. God Bless.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Melly Isaac.

**Sen. Melly:** Mr. Deputy Speaker, Sir, I also take this opportunity to congratulate Sen. (Dr.) Machage for bringing this Motion. Last weekend, I attended the burial of one of the greatest engineers in Moi University. The circumstances under which he died surround what we are discussing today. He has a first born son who was also a student in Moi University, School of Engineering. This boy has really done everything to ensure that his parents are not comfortable. He has been taken to about three rehabilitation

centres. The last time he was taken to Kisumu. When his father took him there the last time and when he was coming back, he was told that the father was very confused and was driving the vehicle at a high speed. So, he collided with a lorry and died instantly. When we tried to investigate the story, his mother told us that during that time when his father took him to a rehabilitation centre in Kisumu, the father was so stressed and in the morning he said that he would rather die than see what was happening. These are things that we all understand and know.

Mr. Deputy Speaker, Sir, one of the things that we need to address before we come to this issue is the issue of unemployment among the young people. Rising unemployment among young people in this country is the main cause of drug abuse and insecurity. If we have to address this issue once and for all, then we must be willing to provide employment for the young people.

If this Government is serious on this issue, then we need to introduce courses from primary school to college so that the young people are told the truth about the effects of alcohol and drug abuse. Today, we lose people who are supposed to build this great Republic due to drug abuse.

Mr. Deputy Speaker, Sir, young people who are not employed today cannot wait to die. So, they resolve to engage in drugs. That is why I am saying that the main issue is unemployment. In this country, a good number of our young people are poor. They cannot support themselves. Others cannot afford to go to school because their parents cannot afford fees. So, the best they can do is to engage in drug abuse so that they can relieve themselves as a way of dealing with the stress.

There is also the issue of peer pressure. Therefore, if courses are introduced in schools to engage these young people on issues that affect them every day, when they go to secondary school, there should be some topics which are tailored to suit their needs. They are supposed to be informed that the state they are in is delicate and if they want their future to be good, then they must stop drug abuse.

The other issue is the role of the church. Our churches should take up the role of teaching, especially the young people who are addicts of drugs. They should be told that they are the ones to control their lives and it is not the pastor or the parent. The church should come up with good programmes and every Friday, Saturday and Sunday the teachings are introduced to them so that as they make decisions every day, they know the consequences of what will come after.

Lastly, allow me to say that this is what we can do: We should initiate public education campaigns against drug abuse among the youth in our schools; the Government should facilitate development and operation of rehabilitation facilities. The Government should also come up with ways of how to assist and support county governments in developing and implementing policies, laws and plans of action to control drug abuse.

Mr. Deputy Speaker, Sir, in Uasin Gishu County where I come from, 30 days from yesterday, the county government has actually abolished the use of illicit brews and anybody who will be found using the illegal brews will be arrested. We are doing everything to ensure that this is implemented. We are saying this because if young people who are supposed to wake up in the morning to go and serve this great nation to fight poverty, instead go to look for a house that sells illicit brews, then we do not have a

future. I am talking from the perspective of the young people who are supposed to develop this nation and realize the vision of this nation under this Government. Let the county governments come up with programmes and policies on how they can administer this so that as we come up and agree on what the national Government should do; already there should be mechanisms that are working to ensure that our people are given what they need to become responsible citizens of this country.

With those few remarks, I support this Motion.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba.

**Sen. Karaba:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me this chance again to say something about the Motion that is in front of us. This Motion is very important to our country and if the Government can do what we are going to recommend here, then I am sure we will be quite ahead of other countries in the region. More so, where the youth are concerned with regard to abuse of drugs and alcohol, we have had a very sorry state of affairs even when we listen to the radio or we see what is happening on television. When the people are arrested for drinking after hours and put into cells, they find these illicit brews there and they continue drinking them in the cells. This happened in Kiambu the other week. This is a very sorry state of affairs because they have become so desperate to a point where they imagine themselves dead in order to avoid the miseries which are ahead of them.

Mr. Deputy Speaker, Sir, I think the nation has a right to protect its citizens from such misery. We think that the children who are in high schools and even primary schools should be protected from such abuse by people who are informed. These are the people who misuse the young minds at a very tender age. You will find that schools are surrounded by drug dens and alcohol hideouts. To the amazement of the Government, they continue unabated and nothing happens. If you report them to the police, they will be arrested that day and the following day, the same thing continues. This is because we have dangerous cartels in the counties that involve the top most police officers. It goes down to the sub-chief and the local agents who are supposed to report this matter to the chief or the sub-chief. These are very many. So, you wonder if it is possible that something can happen in the village and the DC and or the DO would not get to know that it is happening. This means that there is some cover-up by those people who are in charge of maintaining security to make sure that we have a sound and sober society. These people are not helping us.

To my amazement, as Sen. G.G. Kariuki mentioned, it is not the first time we are having such a Motion. It was discussed in the Tenth Parliament and hon. Mututho came up with his laws and rules. Today, he is not there. Maybe he was voted out because of coming up with very stringent laws on alcohol abuse, but he will go down in history for having come up with a Bill which resulted to many county officers being sacked. In my area, two to three chiefs were sacked because of this. This should have continued unabated. We should have continued with this trend. The Government should have implemented that law so that we continue perpetuating what we thought was good at that time.

Mr. Deputy Speaker, Sir, we also have a problem with the Kenya Bureau of Standards (KeBS). You will realize that when we talk of some alcohol volumes or levels,

some brews are higher than the KeBS standards. They even hide behind the KeBS. They place the bottles which have been certified on the shelves when they know that police officers are around, but they remove them and cheat the Government when the officers are not there. This is something we should think about and see whether we can provide intelligence service to the police officers. In the meantime, they simply arrest an individual and before he or she gets to the police station, they bribe the officers and they are released. There is a lot of corruption which goes on around these illicit brews and it makes it difficult to eradicate this menace.

On our television stations, you will get to see what our society is undergoing. There are several advertisements which advertise several brands of beer all in the name of becoming strong and awake. When the youth get to see these advertisements, they will try to see whether it is possible to take the beer and become strong; for example, *Imara kama Simba*. They want to know whether if they take a brand like *Allsops*, they will behave like lions. That is what happens. The Government has allowed such advertisements to destroy the minds of our youth and that is very serious. As a teacher, most of the problems we solved in schools emanated from abuse and misuse of drugs. I can tell you that unless the Government steps in, the biggest market of drugs is in schools. The moment students are addicted to drugs, they can do anything. They could even destroy property worth millions of shillings and it is up to the parents to reconstruct those properties. This becomes a vicious cycle of poverty. They have to pay for the burnt dormitories, beds and even deaths of some students. So, if the Government is serious, and it can be serious if it means business, it is possible to eradicate some of these things which are happening in our schools.

Mr. Deputy Speaker, Sir, my observation has been that when recruiting police recruits to the police service, one has to be between 18 and 25 years. What you will realize is that those who will be recruited are the ones who have been out of school for three to four years, because many leave school at the age of 18 years, and by the time they join the police force or military, they will be 23 years after having been subjected to a lot of abuse. When they are in the military camps or police training schools, they already know how to smoke and abuse drugs. If we are going to have sober men and women in the armed forces in this country, these people should be recruited immediately they complete school at Form Four level when the level of exposure is low.

We also have the problem of peer pressure. When these students finish Form Four, they find their peers in the villages and urban centres. If something could be found for these youth to do, it would be better for us, because when we do not engage the youth at that early age, then they will start thinking of bad things and that is what they will resort to. They will misuse alcohol and drugs. They should be engaged in manual work like road construction. They should be engaged in the counties or into the National Youth Service to do national works like bridge construction and so on.

Lastly, the politicians also misuse the youth when they give them illicit brews and drugs. Let them stop, especially during campaign periods, because that is the time when the market is highest in the country. The politicians must also stop misusing the youth by giving them excessive drugs and alcohol during campaigns so that the poor candidate will

be elected, and this is the same person who will come and say nothing about the illicit brews.

Mr. Deputy Speaker, Sir, I beg to support.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Abdirahman.

**Sen. Abdirahman:** Thank you, Mr. Deputy Speaker, Sir. I also stand to support this very important Motion by Sen. (Dr.) Machage. But before I make my contribution, I want to make one correction, as asserted by an old man who I respect, Sen. G.G. Kariuki. I want to point out that hon. Uhuru Kenyatta is the President of the Republic of Kenya, and not the Jubilee President after the elections. It is important we note that because he is the President of this country irrespective of who voted for him.

(Applause)

Mr. Deputy Speaker, Sir, I want to support the very important bit, which the same honorable Sen. G.G. Kariuki spoke about, that declaring this issue as a national disaster is not sufficient. We will declare it a national disaster, yes; but what next? I kept on thinking after he said that, and I said that, maybe, from a radical position, what will be wrong if we declared the consumption of alcohol and drugs illegal? What shall we lose as people? I mean making it illegal in the sense that we upgrade to stiffer penalties – and we had the “Mututho” law. I tend to think that we may affect the business of East African Breweries and other manufacturers, but as long as we allow the manufacturing of alcohol and we do not have sufficient safeguards, although much has been done even from the “Mututho” law perspective, I think we either turn to religion fully because we have lost our values; we have lost our religion, we have lost our cultural and traditional set ups; we have lost parental guidance and we have lost communal or societal values. We had limits as we grew up, but today there are no limits. Maybe we need to turn to both tradition and religion, because enforcement is a problem.

Many speakers who spoke this afternoon complained about the high level of involvement of people at the upper echelons of this country. When we listened to what the gentlemen were reporting on *Jicho Pevu*; when we look at the huge consignments that we do not know where they end up even after being caught in Mombasa or in other international airports, it makes us to worry. We have destroyed, through the use of drugs and other substances, generations; and we will lose more unless we, as the leadership in this country, seriously think about it.

Mr. Deputy Speaker, Sir, I want to appreciate the efforts that the National Agency for the Campaign against Alcohol and Drug Abuse (NACADA) is undertaking by going to the level of categorizing miraa as a drug. I was really pleased when they did a presentation in Mombasa and they told us that miraa is a drug. I am sure some of my colleagues from the upper eastern may not be happy, particularly those from the miraa growing areas. Maybe an alternative livelihood option for those kinds of people is important. This comes back to the bit on how best our Government is going to plan, as we get rid of drugs and alcohol. What is the other livelihood option we can think of for such communities? We want to take care of everybody, the consumer and the producer.

We would even want miraa to be dealt with. But before that, if we think ahead, we can help the people in upper eastern to do something else. Some of the areas are arid, others are semi arid; some can turn to agriculture, some can keep cattle like us, and that is even going to be better.

Mr. Deputy Speaker, Sir, drug and substance abuse is being discussed in schools. I do not know whether it has been considered in the curriculum, but it is done in a very minimal way. Schools could be one area where we could do this also very well.

Finally, Mr. Deputy Speaker, Sir, the bit I just want to talk about is on unemployment being a contributor to the idle youth who engage in the use of drug and substance abuse because they have nothing else to turn to. We have amounts of money that are allocated through the Youth Enterprise Development Fund (YEDF); well, how much does that help in income generation? It does not engage the youth fully. So, we need a long-term strategy in which we can remove the youth from idleness and hopelessness and give them some productive systems in which they can earn their living, otherwise I stand to support.

Thank you very much, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Hargura.

**Sen. Hargura:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Motion. I also thank Sen. (Dr.) Machage for bringing up this Motion.

As you know, Mr. Deputy Speaker, Sir, we are a country which has its own aspirations; we want to reach somewhere, and that is why we have Vision 2030, and, of course, that vision can only be attained if we have a productive citizenry. But what we are having across the country is not in that direction; especially our youth, who we are relying on. We know each country depends on its youth, but research done indicates that 33 per cent of secondary school students do actually abuse these substances, and the major group is aged between 17 to 19 years. That shows that our youth are becoming unproductive at a very early age. So, these kinds of visions will not be attained, and that is why we have to declare this a national disaster so that the Government takes it seriously and so that we can sort ourselves out, have this situation arrested and have a productive citizenry.

We know very well what is happening right now in the country because it is always in the news. For example, in the central parts of this country, illicit alcohol and spirits abuse is very much the trend and it is affecting the social lives of the people. We know of cases where even the productive systems of the society are affected to an extent that just the other day, it was in the news. Just before the elections, there was a case where a councilor was giving incentives to his people so that they can reproduce and have children. That shows the productive part of that society has been affected so much that even our population growth will be affected, yet what we are relying on is our youth. We have to look at what we are discussing – alcohol and drug abuse. To me, all alcohol is not good and we are seeing its effects already. So, there must be some way of addressing this issue, especially these spirits. Even where I come from, they have become an issue now. They are sold cheaply, they are easily transported in some bottles and those areas

where people are idle, in fact, they are affecting them so much that it is also a problem to us.

Mr. Deputy Speaker, Sir, the other issue is the case of drugs. We have this issue of drugs – things like cocaine and heroine – which, as it was said here, are not locally produced. But we have Kenyans who engage in this trade who actually bring these drugs to this country, which I think is a moral issue. Somebody feels he does not care the route he uses to get rich, even if it is through the lives of others; what matters is what he gets to become rich. So, I think the Government has to be serious. We have been told that this issue has been discussed several times in the last Parliament, but nothing came out of it. I think the Government has to address it for the interest of the future of this country. It is the same Government which is talking of Vision 2030 and, on the other hand, the vision is being derailed by the activities of those individuals. The Government has to take that bold step because I believe the life of an individual is not important when it comes to the lives and interests of a nation. The Government has to take this very seriously. It has to address the issue of drug dealers, both local and international. Recently, the President said that we must take foreigners back to their countries so that they go back and do what they have been doing here. However, we also have our own people doing this. Some of them are in high places. That has to be addressed and dealt with.

The other issue is that of *miraa* which Sen. Abdirahman talked about. This is a serious issue in northern Kenya and the coast because people do not have anything to do. They engage in *miraa* chewing which affects their productivity. That is why development is not feasible. Those who should get involved in development activities are the ones involved in drugs. As you said, as much as it is locally produced, Kenyans dealing with these drugs should find alternative sources of livelihoods. If an area supports *miraa*, it can also support other cash crops. Let them also, in the interest of other Kenyans change their crop production and engage in the production of meaningful crops.

There is also the issue of the creating awareness among the youth. This should be taught right from primary schools at an early age. Right now, it is being taught under Social Ethics. However, it needs to be emphasized and brought to the attention of these children that the path they are taking will affect their future. This should be done in a systematic way. This is a matter of life and death. The one being taught should know that if they take that path, then they will not be of any use to the nation. So, this has to be done at an early age. Punitive measures should also be taken against dealers of these drugs. The Government should commit itself to deal with the dealers especially with regard to drugs that are not produced in Kenya. If those who are bringing in these drugs are dealt with, we will have some hope in our children.

Of late, some people have started abusing prescribed or pharmaceutical drugs. The *blue peremende* being talked about is a drug that is prescribed. When it is given to children, it becomes a case of substance abuse. The Government has to take this very seriously since it has a vision. This vision can only be achieved if the citizenry becomes active and contributes to the activities. It is the responsibility of the Government to ensure that it puts in place measures that will arrest alcohol and drug abuse so that we have a prosperous nation and, therefore, attain Vision 2030.



**Sen. Mungai:** Thank you Mr. Deputy Speaker, Sir for giving me this opportunity to support the Motion which was moved by Sen. (Dr.) Machage.

This Motion could not have come at a better time. We are already talking about a national crisis or a disaster. When our young nation is involved in drinking of illicit brews and taking drugs that are dangerous, then the future of our nation is at stake.

Mr. Deputy Speaker, Sir, many Senators have voiced their concern regarding this particular Motion. I concur with them that this is something that should be acted upon. When I was a young boy, there was an old *mzee* in my village that I respected a lot, but when I saw him, at that tender age, struggling and doing so many funny things, I resolved that I would never taste beer. I have not done that to date. We have an idle population which has been created due to the fact that the village polytechnics that used to be there are not longer functional.

Mr. Deputy Speaker, Sir, we are talking about county governments right now. Some of them have presented budgets that show a lot of lavishness. It is important that the funds that have been set aside for the construction of mansions for governors are used to build village polytechnics that will take care of this idle population.

Mr. Deputy Speaker, Sir, we also have parents who play a very big role in encouraging their children to take alcohol. There are some who encourage their children to take a sip or taste whatever they are taking. By so doing, they end up destroying the lives of those children. I believe that parenthood is supposed to be taken seriously now, so that such acts are limited to the bare minimum.

Mr. Deputy Speaker, Sir, I will be brief because Sen. Murkomen also wants to contribute. I do not want to appear like I am criticizing our churches, but it appears like the main purpose of most of them is to make money. I believe that they are the ones that most parents, because of their busy lives, entrust with the spiritual nourishment of the young minds. So, it is important for them to ensure that they have very strong programmes that will help our children not to get involved in the consumption of alcohol and drug abuse.

Mr. Deputy Speaker, Sir, we also have the National Agency for Campaign against Alcohol and Drug Abuse (NACADA) which has been doing very good work. But the fact that it has existed for very long and instead of seeing a reduction in the consumption of these substances, it has been increasing, it means that NACADA is supposed to also change its tact, so that it can become more effective.

Mr. Deputy Speaker, Sir, as I finish, I want to request the people who are involved in the production of illicit brews and those who bring drugs into our country that it does not matter how much they make from these acts and business, but the money that they make is not blessed. We are working very hard to ensure that the coming generations benefit from our hard work. Unfortunately, the wealth from the illicit trade cannot be passed over to the next generations.

Mr. Deputy Speaker, Sir, with those few remarks, I would urge my constituents that their Senator is against consumption of these illicit brews and drugs in Nakuru County. They should stop it so that we can build a very strong county.

Mr. Deputy Speaker, Sir, I beg to support.

**Sen. Murkomen:** Thank you, Mr. Deputy Speaker, Sir, and thank you Sen. Mungai for sparing some minutes for me. I think the subject that is before us is very important and very critical. The declaration of alcohol and drugs as a national disaster is very important in terms of creating the necessary awareness about this issue and also getting the attention of the world, all the departments of the world including, if need be, tax exemptions in certain areas that can help us deal with alcoholism or tax punishments in terms of alcohol that is causing a lot of harm in our country. In Elgeyo-Marakwet County, we have had so many young people who lost their lives because of drug abuse and alcohol. There was a time there was a company that was selling bottled alcohol to some people in Iten and about five of them died. It is important to note that our county has already declared that alcohol is a serious problem. We have banned all kinds of alcohol in the county. Many people have been arrested but that is not enough. We need concerted efforts considering that this is a function that is also allocated to counties.

It is important that we do our best as a House to ensure that the national Government and the President - and I really want to commend the President for taking a step including the deportation of Chinedu to his own country to show that this is not a safe haven for drug peddlers. We need to continue. I will request the Senators in this House, as a show of solidarity that if you are an alcohol taker, you can go public and say that you have reduced by how many bottles and perhaps subsequently do away with it as a way of showing an example. For example, Sen. Mungai has said that he has never tasted alcohol and he is very healthy. We can do the same to ensure that our country becomes different in the region.

Thank you.

### ADJOURNMENT

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, hon. Members, it is now 6.30 p.m. It is time for the interruption of business. This debate will continue tomorrow morning or whatever day it will be allocated on the Order Paper. There is some 35 minutes left to this debate. I believe that when it is called on the Order Paper, we shall have some more contribution on this very important debate.

Therefore, the House now stands adjourned until tomorrow Wednesday, 3<sup>rd</sup> July, 2013, at 9.00 a.m.

The House rose at 6.30 p.m.