



MUSOLINO | DESSEL

July 20, 2023

Via Electronic Mail:

Her Excellency Mrs. Rachel Ruto
First Lady of the Republic of Kenya
Office of the First Lady, the State House
Nairobi, Kenya

Re: Kenyan Victims of 1998 U.S. Embassy Bombing

Dear First Lady Ruto,

I am writing to request a meeting with you on behalf of thousands of Kenyans, including hundreds who are clients of my law firm.

For 24 years my Washington D.C. law firm and I have had the honor of representing hundreds of the thousands of Kenyan victims of the August 7, 1998, Nairobi embassy bombing. Many of these innocent Kenyan women and men were blinded, widowed, and orphaned in the attack, and, with the exception of a very few uniquely situated by their embassy employment, have endured nearly a quarter of a century without redress for their suffering and losses.

Last year my law firm obtained judgments of approximately \$56 billion on behalf of 351 Kenyans against Al Qaeda, and I have proposed legislation in the U.S. Congress which utilizes those judgments to make all Kenyan victims eligible to participate in the U.S. Victims Compensation Fund. On June 29, 2023, the Kenyan Senate unanimously passed a bill creating an ad hoc committee to advance our proposed budget neutral U.S. legislation, among other things. A copy of the successful Kenyan bill is attached. Attached please also find a short summary outlining both the years of our U.S. litigation and our current U.S. legislative efforts. For convenience, I haven't included voluminous attachments but would be happy to do so if you prefer, and I will also forward you our more detailed Opening Report to the *ad hoc* committee.

As you may know, U.S. First Lady Dr. Jill Biden visited the Nairobi memorial to the victims in February of this year. I strongly believe that your voice in advance of the 25th Commemoration will inform the U.S. Congress of the need for their prompt legislative action in support of its Kenyan friends and allies.

I would be happy to meet with you in Nairobi at any time from August 10 to the end of the month.

Sincerely,

Philip M. Musolino

This material is distributed by Philip M. Musolino and Musolino & Dessel, PLLC on behalf of the Designated Victims of the 1998 Embassy Bombings. Additional information is available at the U.S. Department of Justice (FARA).

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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

ORDER PAPER

NOTICE OF MOTION – ESTABLISHMENT OF AN AD HOC COMMITTEE

ON THE COMPENSATION TO THE KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES OF AMERICA EMBASSY IN NAIROBI (Sen. Agnes Kavindu Muthama, MP)

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of function for a community or individual that often exceeds their capacity to cope using existing resources;

FURTHER AWARE THAT, such was the case with the 1998 US Embassy Bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within a two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 5000 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves to establish an Ad Hoc committee to –

- (i) engage the Ministry of Foreign and Diaspora Affairs to advance friendship and co-operation between the United States of America and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act;
- (ii) coordinate with the Ministry of Foreign and Diaspora Affairs in the engagement of victims, their personal representatives, the United States of America government and other stakeholders at home and abroad to pursue and accomplish the compensation of victims and families of the victims of Kenyan nationals; and,
- (iii) coordinate with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

and submit a report to the House within 90 days with effect from 3rd July, 2023;

AND FURTHER THAT, the following Senators be appointed to serve in the Ad Hoc committee –

1. Sen. Agnes Kavindu Muthama, MP;
2. Sen. Daniel Maanzo, MP;
3. Sen. Alexander Mundigi, MP;
4. Sen. Beatrice Ogolla, MP;
5. Sen. Johnes Mwaruma, MP;
6. Sen. Mohamed Said Chute, MP;
7. Sen. Jackson Mandago, MP;
8. Sen. William Cheptumo, MP; and,
9. Sen. Peris Tobiko, MP.

MUSOLINO & DESSEL, PLLC
SUMMARY ON AUGUST 7, 1998, U.S. EMBASSY BOMBING IN NAIROBI KENYA

1. On August 7, 1998, hundreds of Kenyans died, and thousands suffered physical and psychological injuries when the United States Embassy in Nairobi was attacked by Al Qaeda. As the U.S. acknowledged that day, with this Embassy “we gambled and lost.”
2. The lawyers at the Washington, D.C. law firm of Musolino & Dessel, PLLC secured in May 2022 judgments in the aggregate amount of \$56.6 billion against Al Qaeda on behalf of 351 Kenyan Plaintiffs. That judgment was finalized in May 2022.
3. During decades of litigation up to the US Supreme Court, the Firm secured landmark rulings including the following: (a) the attack was directed at the United States and its Embassy and citizens, not at Kenya or its citizens; (b) Form 95’s, which were filed with the U.S. State Department by thousands of Kenyan victims within one year of the bombing, could be used as evidence by U.S. Federal Courts of injuries sustained by the victims; (c) the emotional and psychological damages, including fear and PTSD, were sustained by all victims; (d) a bellwether hearing in which representative victims and experts testified would be applicable to non-testifying plaintiffs; and (e) compensatory damages for each such victim could fairly be calculated at five million dollars (\$5,000,000.00), in addition to punitive damages of one hundred fifty million dollars (\$150,000,000.00).
4. Other Kenyans have similar claims filed over 20 years ago with, but unaddressed by, the U.S. Department of State. Now, only one month before our Ambassador to Kenya will attend the 25th Commemoration of the attack, America’s Kenyan friends, and allies – those who hold judgments and those who don’t – and their families remain uncompensated for their losses.
5. There is a Victim Compensation Fund (the “Fund”) set up by U.S. Congress which has so far distributed \$3 billion to certain victims of terrorist attacks against the U.S. But, because of the way the statute is worded, the Kenyan victims are not eligible to participate in the Fund.
6. Musolino & Dessel, PLLC as FARA Registrant for the Designated Victims of the 1998 Embassy Bombings, with Joseph Szlavik of Scribe Strategies & Advisors, Inc.; Melvin Foote of the Constituency for Africa; and Daniel Ngure, and FARA Registrant Dr. Ramona Tascoe, are lobbying Congress to pass budget-neutral legislation which, among other provisions, changes the wording of the eligibility requirements so that the victims would be included in future distributions. The U.S. team members, including survivor Caroline Muthoka, have engaged in hundreds of contacts with various officials and media in the U.S. in support of the legislation.
7. Musolino & Dessel, PLLC drafted the language of the proposed U.S. legislation, so that it includes a pathway to compensation for all victims, not just the Firm’s judgment holders.
8. President Ruto generally announced his support for the effort during the lead-up to the 2022 Kenyan Presidential Election.

9. By the time of the 25th Commemoration, the U.S. commitment to the victims should be regarded as unfinished business in support of what the U.S. characterizes as its new Africa Policy.
10. From the U.S. foreign policy position, approving the legislation will serve as a concrete example of U.S. support for its friends and allies in Kenya and in East Africa. We strongly believe that this measure will enhance throughout East Africa the U.S. reputation for fairness and trustworthiness. At a time when other nations vigorously challenge our relationships with our friends and allies in Africa, Congress should take this opportunity to affirm our commitment to that critical region and its people.
11. The Kenyan media has been very supportive of the legislation. The Kenyan Diaspora in the U.S. is expected to play an important role in support of the proposed legislation.
12. On February 23, 2023, the Law Firm wrote to the U.S. Office of the First Lady and, noting news reports of the First Lady's upcoming visit to Kenya, asked that the First Lady visit the Peace Memorial in Nairobi. On February 25, 2023, First Lady Dr. Jill Biden paid a solemn visit to the Peace Memorial.
13. On March 30, 2023, Vice President Harris visited the Memorial in Dar Es Salaam, Tanzania.
14. On April 24, 2023, U.S. Secretary of State Blinken issued a statement outlining the importance of Kenya to U.S. foreign policy in Africa.
15. On June 29, 2023, the Kenyan Senate passed by unanimous vote a bill proposing the creation of an ad hoc committee of nine Senators to
 - (i) engage the Ministry of Foreign and Diaspora Affairs to advance friendship and cooperation between the United States of America and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act;
 - (ii) coordinate with the Ministry of Foreign and Diaspora Affairs in the engagement of victims, their personal representatives, the United States of America government, and other stakeholders at home and abroad to pursue and accomplish the compensation of victims and families of the victims of Kenyan nationals; and,
 - (iii) coordinate with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

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