

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 23<sup>rd</sup> May, 2023**

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

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

### PRAYER

DETERMINATION OF QUORUM AT  
COMMENCEMENT OF SITTING

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

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

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

*(The Quorum Bell was rung)*

**The Speaker** (Hon. Kingi): I am informed that we now have the prerequisite Quorum. Hon. Senators, kindly take your seats so that we proceed with the business of the day.

Clerk, kindly proceed to read the first Order.

### COMMUNICATIONS FROM THE CHAIR

WELCOME TO HON. SENATORS TO PART III  
OF THE SECOND SESSION

**The Speaker** (Hon. Kingi): Hon. Senators, I take this opportunity to welcome you back from the short recess. I hope you have had time to meet with your constituents, friends and families over the past two weeks. Part Three of the Senate Calendar commences today and will run until the rise of the Senate on Thursday, 29<sup>th</sup> June, 2023.

Hon. Senators, as we commence this part of the Senate Calendar, it is expected that the Standing Committee on Finance and Budget will table a report on the County

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Allocation of Revenue Bill, 2023. Passage of this Bill will be followed by the introduction of the County Governments Additional Allocation Bill and the respective cash disbursement schedules.

These are crucial financial instruments that by their nature allocate funds to county governments. In addition, the passage of these instruments facilitates county governments to prepare their respective budgets in time for the next financial year that begins on the 1<sup>st</sup> of July. I, therefore, urge all Hon. Senators to be available in the Senate to consider and pass these legislative and financial instruments.

Other business before the Senate includes 26 Bills, of which 21 are at the Second Reading stage; five are at the Committee of the Whole Stage; 15 Petitions are pending before Select Committees and 24 pending Motions. In addition, there are a number of Questions and Statements filed under the schedule in the Order Paper appropriately.

I take this opportunity to urge standing committees to prioritize processing of legislative business and table reports, as required by the Standing Orders.

Hon. Senators, you will recall that just before we proceeded on recess, we began implementation of the procedure on Questions in the Senate. Two Sittings were held on 23<sup>rd</sup> April, 2023 and 3<sup>rd</sup> May, 2023, where Cabinet Secretaries appeared before the Senate to respond to Questions.

As is expected at the beginning of most new processes, there will be a number of teething challenges and so, we have faced a number, which continue to be addressed by the Senate Business Committee to iron them out. One of the major decisions that the Committee has made and, therefore, necessitates a Communication to the Senate is the requirement to have only three Cabinet Secretaries at any one sitting.

This measure will ensure that there is adequate time for the Senate to interrogate the responses from Cabinet Secretaries. This measure will be implemented from tomorrow, Wednesday, 24<sup>th</sup> May, 2023, during the Morning Sitting.

As we progress, we will continue to learn and make the necessary adjustments to improve on procedure for Questions. I also appeal to Hon. Senators to continue familiarizing themselves with the framework on questions as well as the attendant guidelines.

Hon. Senators, during the recess, the Senate leadership held candid and constructive deliberations on the processing of legislative business in the Senate and resolved to work harmoniously in the discharge of our constitutional mandates.

Focus will, therefore, be given to business scheduled in the Order Paper as the number of Bills and Motions are critical to the operations of county governments. This will sustain healthy and robust debate and the differing opinions and perspectives that will form amendments to Bills and impact on Government policy.

On the other hand, and in accordance with the Communication issued before the Senate proceeded on recess, the Chair will not hesitate to drop any business for which the respective Member is not available in the House. These measures are necessary to ensure that the legislative agenda of the Senate remains on track. I implore you, hon. Senators, to work closely with the Senate leadership in delivering on the aspirations of the people of Kenya.

Hon. Senators, in conclusion, I take this opportunity to impress upon each one of us to rededicate ourselves to the execution of our constitutional mandate and service to our great country. I also wish to state that my office, office of the Senate Leadership and the Secretariat are always at your disposal to facilitate you do your work.

Hon. Senators, I wish you fruitful deliberations and every success during this session.

I thank you.

VISITING DELEGATIONS FROM THE  
PARLIAMENT OF ZIMBABWE

**The Speaker** (Hon. Kingi): Hon. Senators, I do have a further Communication to make. I would like to acknowledge the presence in the Speaker's Gallery, this afternoon, of a visiting delegation from the Parliament of Zimbabwe. The delegation comprises Members of the Committee on Peace and Security and staff who are on a benchmarking visit.

I request each Member of the delegation to stand when called out, so that they may be acknowledged in the Senate tradition.

Hon. Sen. (Dr.) Parirenyatwa David	-	Chairperson;
Hon. Sen. Chimbudzi Alice	-	Member;
Hon. Sen. Khumalo Nomalanga	-	Member;
Hon. Sen. Komichi Morgen	-	Member;
Hon. Sen. Chief Makumbe	-	Member;
Hon. Sen. Mathuthu Themba	-	Member;
Hon. Sen. Mohadi Tambudzai	-	Member;
Ms. Faith Manhivi	-	Committee Clerk; and,
Ms. Tapiwa Sukuta	-	Researcher.

Hon. Senators, on behalf of the Senate and my own behalf, I extend a warm welcome and wish them a fruitful visit.

I thank you.

Again, I wish to acknowledge the presence in the Speaker's Gallery, this afternoon, of a visiting delegation from Parliament of Zimbabwe. The delegation is undertaking a benchmarking visit to the Centre for Parliamentary studies and later participate in the Third Annual Parliamentary Symposium to be held in Naivasha Nakuru County from 26<sup>th</sup> to 27<sup>th</sup> May, 2023.

I request each Member of the delegation to stand when called out, so that they may be acknowledged in the Senate tradition.

Mr. Kennedy Mugove Chokuda	-	Clerk of Parliament;
Mrs. Nomasonto Audrey Sunga	-	Deputy Clerk of Parliament
Mr. Stewart Jailos	-	Chief Director, Human Resources and Administration
Mr. Nesbert Samu	-	Chief Director, Parliamentary Programmes

Ms. Gladys Pise - Counsel to Parliament;  
Mr. Asha Jenje - Director, Clerk's Office

Hon. Senators, on behalf of the Senate and my own behalf, I extend a warm welcome to the delegation and wish them a fruitful visit.

I will allow the Majority Whip, on behalf of the Government side, to make very brief welcoming remarks. Then after, I will allow the Minority Leader to also make his very brief welcoming remarks.

Proceed in that order.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. It is indeed a privilege and makes us very happy that such a high-profile delegation from our sister country, Zimbabwe, has come visiting to this Senate.

As the leaders from Zimbabwe might know, we share a lot in common in the sense that we both became republics after fighting it out with the colonialists. We remember fondly what was then called Rhodesia. Today, it has been changed to Zimbabwe. We remember how we use to go to Blantyre and now that has changed to the Africa name.

Dear colleagues from the southern part of Africa, in Kenya, we did not adopt that procedure of changing all our names. Maybe if you had come before us, we would have learnt from you. Congratulations and you are most welcome.

Make sure you have sampled some of the special spots in Nairobi before going back to Zimbabwe. They are indeed there. If you have money to spend, you can choose to go far west. There is a city there called Kakamega, the only African city with bullfighting. Come and enjoy it.

Thank you very much.

**Sen. Madzayo:** I thank you, Mr. Speaker, Sir. Now that you have given a chance to the bullfighter, who is the Majority Whip, to represent the Majority Side, allow me to also give a chance to my Minority Whip, Sen. Ledama Olekina, to come forth. I donate my time to him.

**The Speaker** (Hon. Kingi): Proceed, Sen. Ledama Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. On behalf of the Minority Side, I wish to extend a warm welcome. I join you in welcoming the distinguished Senators and Members of staff from the Parliament of Zimbabwe.

Zimbabwe is a country that most of us have read a lot about. It has taught us a lot in terms of leadership, from the worst to the best, in terms of the changes which each African country is going through. Some of us are very happy to see Zimbabwe during the spring period because of the beautiful flowers all over.

There are some beautiful pictures that were taken and we were told that was an African country. You see how clean it is and would like to emulate. We have a lot to share as brothers and do hope that one day this African continent will become one country, so that we can take pride of all the resources that we have.

I am happy because I am speaking to leaders like us. One of the big challenges that we are going through as a country is on the issue of the Gross Domestic Product

(GDP); debt to GDP ratio to each of the Africa countries. It is about time that we all think and look inside our hearts and ask ourselves tough questions.

Why is it that every time when we travel and go to the West, we see countries that are clean, where citizens come together to be able to build that country, but we in Africa; Kenya and Zimbabwe alike, spend most of our time destroying our country, robbing it and denying citizens who elected us to come here, basic services.

When you go back to Zimbabwe, tell your people in Zimbabwe that in Kenya today, we are asking very tough questions about the future generations. Are we going to leave this African Continent better than we found it or to follow the trajectory of those who came before us and decided to line their pockets?

I welcome you. Enjoy your visit in Kenya.

Thank you very much.

### PETITIONS

**The Speaker** (Hon. Kingi): Is Sen. Thang'wa here? He had a Petition to present. That Petition is deferred.

#### ALLEGED FORGERY, PERJURY AND ILLEGAL LAND ALIENATION OF L.R 12825

*(Petition deferred)*

#### PAYMENT OF SALARY ARREARS OWED TO P1 TEACHERS

Hon. Senators, I hereby report that a Petition has been submitted to the Senate by Ms. Ruth Kabuyu and other P1 teachers concerning salary arrears for P1 teachers with A Level academic qualifications from 1996 to 2010.

As you are aware under Article 119(1) of the Constitution, every person has a right to Petition in Parliament, to consider any matter within its authority including enacting, amending or repealing any legislation.

Hon. Senators, the salient issues raised in the Petition are as follows -

THAT, in July 1996, the then directorate of Personnel Management of the Teachers' Service Commission issued a scheme of service for non-graduate teachers giving the requirements and promotion for non-graduate teachers. The said schemes were implemented by the Commission after which attendant regrading was required.

THAT, in July 1996, then Ministry of Education, Science and Technology through the Chief inspector of schools requested all District Education Officers, Municipal Education Officers and City Director of Education to submit the name of trained primary school teachers P1 with A Level academic qualifications country wide to the Ministry.

THAT, thereafter, the Ministry proceeded to grade untrained A Level teacher, who had attended a two weeks' programme at Kagumo and Bondo Teachers Training

Colleges to secondary schools (S1), locking other A-Levels primary school teachers P1, who had not attended the course.

This resulted to complaints by the primary school teachers, P1 A-Level trained teachers.

THAT, another group of approved teachers ATSIIV were also promoted in the year 1996. The then scheme of service for non-graduate teachers stipulated that the existing secondary school teachers, that is, S1 promoted to primary school teachers P1, were to convert to approved Teachers IV, while teachers with diploma certificates to convert to diploma teachers. Additionally, in July 2010, the primary school teachers, P1, were also promoted, but were not issued with promotion letters.

THAT, the teachers were promoted in the year 1996 and are yet to receive their salary arrears since the date of promotion, which is contrary to standard labour practices.

THAT, the Petitioners have made efforts to have this matter addressed by relevant authorities, and all of which have failed to give a satisfactory response.

The Petitions, therefore, pray to the Senate that it intervenes in this matter, with a view to recommending to the National Treasury and Economic Planning to factor in budget, to enable payment of salary arrears to the teachers.

Hon. Senators, pursuant to Standing Order No.237, I shall allow comments, observations and clarifications in relation to the Petition for not more than 30 minutes.

Hon. Senators, you may walk in.

*(Several Senators walked into the Chamber)*

Sen. Maanzo.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to comment on this important Petition.

The Constitution is clear that any Kenyan, who thinks that there is an unresolved matter, can bring it to Parliament, which includes Senate. These teachers have walked a long journey. They have been trying to make these claims over a long time. They have gone to different Government departments and not found the necessary assistance they were looking for. I believe the Committee dealing with education, and the Senate as a whole, has the power given to it by the Constitution to resolve this matter.

Mr. Speaker, Sir, there have been many issues to do with teachers, yet teachers are very important; from the nursery school teacher, the primary school teacher to the secondary school teacher. At that time, there was rationalization of the P1 and S1 grades.

We have many teachers who became graduates. They pursued degrees privately and have now qualified. Unfortunately, the salary is not commensurate to what the teacher is qualified for. A scheme of service for all these teachers can be polished and reconsidered through public participation and by consulting the relevant bodies dealing with teachers, like the Kenya National Union of Teachers (KNUT), other stakeholders in the education sector and experts in the area of remuneration.

People dealing with expertise, the Petitioners together with other interested Kenyans, will have an opportunity to approach the Committee when this Petition will be

presented, so that they channel their input to the Committee, for us to serve Kenyans better.

Mr. Speaker, Sir, all teachers should be treated fairly. The Constitution requires that there is fair and equal treatment to every Kenyan, so that whatever they have worked for, can be paid to them in order to continue with the good work of educating the country.

I am a product of kind teachers in Makueni. I believe a teacher is so important. We leave them with our children, where they polish and teach them to be better Kenyans. They also teach them the National and the East African Anthem. It is through the hands of many teachers that these students proceed to high school, universities and even end up in this Senate.

Mr. Speaker, Sir, I pray and support that these teachers be given what is rightful to them.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Okenyuri, you may proceed.

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir. I also rise to support this Petition by one Ms. Ruth W. Kabui. It is many years down the line for these teachers to be compensated. From 1996 to 2010 is a long time. There must have been many attempts to intervene on behalf of these teachers.

The other time, we were discussing about teachers who had marked exams and were yet to be compensated, while the students who performed well reported in schools, and life definitely moved on as usual. While I share their frustrations, we need to accord not just teachers, but other professionals who volunteer their service to this country.

Mr. Speaker, Sir, such might demoralize other young people who aspire to join these professions. I am a product of the teachers from my village in Kenya. It is because of the efforts that those teachers put that I can now represent other young people who aspire to be leaders of this country to come to this honourable House.

I join other Senators in supporting this Petition, which deserves attention.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Boy.

**Sen. Boy:** Asante sana, Bw. Spika, kwa kunipa fursa hii. Hii *Petition* imekuja wakati mzuri sana, kwa sababu, kule Kwale Kaunti yangu nina kesi nyingi za walimu kama hawa ambao hawajalipwa pesa zao. Ni jambo la kusikitisha sana haswa kwa walimu.

Walimu wamesomesha wanafunzi na wanafunzi wakafaulu. Lakini utakuta kwamba walimu mpaka leo wanalia wakitaka kulipwa pesa zao. Sijui shida iko wapi? Nina kesi karibu tano za walimu. Walimu wawili wameshafariiki. Kuna mwingine juzi alipata ajali. Shida iko wapi katika Serikali. Kwa nini hii Tume ya Teachers Service Commission (TSC) hailipi?

Naunga sana hii *Petition* ambayo imeletwa wakati huu. Lazima sisi Maseneta tuhakikishe na tusimame imara ili hao walimu walipwe kwa wakati wake. Hiyo Kamati utakayoagiza ichunguze, ifanye kwa haraka sana kwa sababu, *it is all over*. Jambo hili haliathiri Kaunti ya Kwale peke yake. Hata Mombasa na Kilifi, walimu wananung'unika kwa sababu ya pesa zao. Asante.

**The Speaker** (Hon. Kingi): Sen. Osotsi, you may proceed.

**Sen. Osotsi:** Mr. Speaker, Sir, I join the rest of the Members to support this Petition. Teachers go through a lot of problems. The other week, we were discussing a matter involving the non-payment of teachers who marked exams. It had taken long. The issue of P1 teachers affects most of our counties. The Teachers Service Commission (TSC) should take charge and resolve these issues.

I was just discussing with my colleague, Sen. Okiya Omtatah, on the implementation of resolutions of this Petition. We have had many issues touching on teachers, which have been processed either in the National Assembly or here. However, TSC has heard nothing, seen nothing and not acted.

The National Assembly passed a Motion against the Delocalization Policy. However, the TSC has not moved in to resolve that problem of delocalization. I am sure that on this one, the TSC will not move in with speed to deal with this problem of non-payment to the P1 teachers.

Something needs to be done.

The Teachers Service Commission (TSC) keeps saying they are an independent Commission, but this House has the powers to deal with matters concerning the people of Kenya. One of them is issues touching on teachers. The TSC Chief Executive Officer (CEO), Madam Nancy Macharia, is so powerful that you can go to her office and she decides not to see you.

We have gone there so many times. When you go there, you can sit in the waiting room for many hours, but she does not see you. Eventually, she sends her Personal Assistant (PA) to come and see you. It is high time that this country got rid of state officers who behave larger than life, such as Ms. Nancy Macharia.

Mr. Speaker, Sir, I support.

**The Speaker** (Hon. Kingi): Proceed, Sen. Abass.

**Sen. Abass:** Mr. Speaker, Sir, I beg to support the Petition. What is happening at the TSC is an unfortunate situation. Many teachers have a lot of problems. They are the ones who work in every corner of this country. They work in worst conditions in most distant areas, yet they are not given what they deserve. The TSC has become an entity of its own and the CEO is unapproachable. If anybody has a problem, even getting a hearing is an issue.

It is high time we sorted the problems. Teachers are the backbone of this country because they develop all kinds of human resources. Therefore, we need to give attention to various issues that affect them. Even getting their pension these days is a problem. Their salaries are delayed. They are being posted haphazardly without any due consideration.

With few remarks, Mr. Speaker, Sir, I support.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for the opportunity to join the rest of the Senators in support of this Petition by Ms. Ruth Kabui. The issue of teachers retiring and not getting their benefits does not only affect Ruth. I do not know which county she comes from, but I know it is an issue that cuts across all the counties in Kenya.



It is sad to hear and know that from 1996 to date, there are people still waiting for their compensation and retirement benefits. It is sad because we have the Kenya National Union of Teachers (KNUT), which should be mindful of the teachers' welfare.

The Kenya National Union of Post-Primary Education Teachers (KUPPET) and the Retirement Benefits Authority (RBA) are also there. They should be concerned about the retirement benefits of the teachers.

All of us working want to get our benefits when we retire, so that we can continue with life. Those teachers have waited for their benefits from 1996 to date. Those are many years. I am sure majority of them have died while waiting for their benefits. Teachers face a lot of challenges.

It is my prayer and hope that the Committee on Education that will handle this Petition will deal with it urgently. I am sure that with the leadership of the able Chair, Sen. Joe Nyutu, they will deal with it because those teachers must be compensated.

I thank you and support.

**Sen. Olekina:** Mr. Speaker, Sir, this is one of the Petitions that makes me wonder what we do in this country. You have teachers who are educated through training and increase their salaries. However, 27 years after, they are still crying because they are yet to receive their increments. What exactly are we doing? When you read the Petition, you wonder whether we truly represent the people we say we do.

My views are a bit unorthodox when it comes to issues to do with people's welfare. Why is it that whenever we, as leaders, are promised an increment, we all get some form of salary increment every year, which is never delayed or not paid? The day you delay Members of Parliament (MPs) increment is the day they will shut down the country. Why can we not treat well the teachers who educated and gave us wisdom to come here and represent them?

This does not even need to be a Petition. One of my biggest pet peeves when it comes to Petitions is that any member, as provided by the Constitution, can present a Petition to this House, but what happens after? We interrogate the matter, call the people and hand over our findings to the petitioners. How is it going to help them?

Mr. Speaker, Sir, I beseech you to handle this differently. This is another crisis we have, similar to that of former councilors, who served this country diligently. While the current Members of County Assemblies (MCAs) are getting gratuity or pension, they have been forgotten.

Every so often, we talk about the budget, but we know that the Senate does not deal with it. I wish our colleagues in the "Lower House" would, *suo moto*, take on this matter, add that budget there and reduce tea and travel budgets, so that they can pay those teachers. From 1996, that is 27 years ago.

The distinguished Nominated Senator, Sen. Tabitha Mutinda, who is looking at me, was not born then. Look at her now, she is serving in this House and representing those teachers. However, their salary increments have not been paid to date. What exactly are we doing here?

I urge the TSC commissioners, led by my good friend, Ms. Nancy Macharia. It is time you asked yourselves what you are doing in that office. I also request my colleagues in the “Lower House” because we will be talking about the budget.

The only thing in our heads, which is going to divide this country into two, is the Finance Bill because those people are going to be taxed again. The basic salary of a teacher is Kshs27,000 to Kshs30,000. What is that in this country? That is a teacher who made the current occupier of the “house on the hill”.

These are emotive issues. There are things that must separate leaders from followers, and especially we, in this House.

Mr. Speaker, Sir, if you tell me we are going to amend our Standing Orders, so that we can call those commissioners here, I will agree. By the time they walk out of this place, we shall have a resolution.

I dare say that if you look at the budget of the Ministry of Education, some of the teachers who were promoted--- We no longer have P1 teachers. I think it is called Grade 1. If you look at the Ministry’s budget, just like that of the Ministry of Health, you will be shocked about the amount of money they get, yet some of these services are devolved.

Why do we not ask ourselves tough questions? When we talk about amending the Constitution or bringing changes, why do we not devolve education entirely like other countries?

There are jurisdictions where it is the school district that cares about the salaries and benefits of teachers.

We are in a tough year. This year, the cost of sugar will be more than that of a bag of cement. We should fight to increase this little money. It is little compared to the amount of money we waste. We waste money on salaries for Cabinet Administrative Secretaries (CASs) and fight in courts to implement this. If you take the budget of the CASs, you will send the money to these teachers. It is about time that we become our real brothers’ keepers and fight for them.

Mr. Speaker, Sir, the Standing Orders state that the Committee has 60 days to complete the matter. I request that when you give instructions and commit this Petition to the Committee on Education, let them give us a status update.

Earlier on, when we were sitted in the Senate Business Committee, we were happy with the work that the distinguished women Senators, Members of the Kenya Women Parliamentary Association (KEWOPA), are doing. Those are things that have got results and we commend them when they do that. With the support of your office and the secretariat, they went to our prisons and paid fines for petty offenders. That is commendable.

I request Sen. Kibwana, the Chairperson, to take on this issue. Most teachers here are mothers. Take on this issue, walk to Ms. Nancy Njeri Macharia and ensure that they give them the salary arrears. I will be happy if you increase my tax to pay these teachers. However, do not increase my tax to pay some form of housing allowance. If you cannot pay those teachers their increment, how are you going to give them houses?

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu, proceed.

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir, for this opportunity. I rise to support this Petition by Ms. Ruth W. Kabui. As the Committee on Education, we are committed to matters that affect teachers and schools.

Last week, we won a battle we have been fighting for teachers who retired between 1997 and 2003. In this war, we learned that the benefit scheme of the public servants is not contributory. Nonetheless, it has started being contributory now. When it is time to pay teachers or the civil servants' benefits and salaries, money has to be drawn from the Consolidated Fund. Unlike the National Social Security Fund (NSSF) where employees contribute and their money is set aside, the issue of employee benefits has been the problem.

Let me explain it for the benefit of those who may not understand, such as the one Sen. Olekina said was born 27 years ago. These teachers had A-Level qualifications, which was advanced level education. These teachers had taken another examination after the Form Four exam. This was considered as an extra qualification and somebody could train as a P1 teacher after Form Four. Nevertheless, these are people who had chosen to get into an advanced level of education before training as teachers. They sacrificed and went to school for two years to become P1 teachers, unlike the ones who did so after finishing Form Four. That is something that should be respected and that is why these arrears must be paid soonest possible.

I assure this House that my Committee is able and willing to prosecute this matter. Although Sen. Olekina has left, I wanted to assure him that the Committee on Education is able to deal with this matter. We may not have to deal with it through the women parliamentarians in this House.

If anybody was casting aspersions on the ability of the Committee on Education, I assure all and sundry that we are capable. Should we need the help of women parliamentarians, we have them in the Committee. Sen. Kavindu Muthama and Sen. (Prof.) Kamar, an experienced educationist, are Members of the Committee. We are equal to the task and we will prosecute this matter. We will invite the responsible bodies such as the Teachers Service Commission (TSC), the National Treasury and others.

I assure Ms. Kabui that this is a matter that we will deal with, if and when you refer it to us. We will deal with it in the best way.

**The Speaker** (Hon. Kingi): Hon. Senators, the time allocated for intervention to this Petition is well spent. Therefore, pursuant to Standing Order No.238(1), the Petition should be committed to the relevant Standing Committee for its consideration.

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

It is so directed.

ALLEGED FORGERY, PERJURY AND ILLEGAL  
LAND ALIENATION OF L.R. NO.12825

**Sen. Thang'wa:** Thank you, Mr. Speaker, Sir. I wish to present this Petition which has been submitted to the Senate by Mr. Francis Wainaina Njuguna, on behalf of Mbogo's Family Welfare Group of *mbari ya Mbogo*. It concerns historical injustices and illegal alienation of L.R. No.7153/1, 7153/2 and 7153/R, also known as L.R.12825.

As you are aware, under Article 119(1) of the Constitution:

“Every person has a right to petition Parliament to consider any matter within its authority, including to enacting, amend or repeal any legislation.”

The salient issues raised in this Petition are:

THAT, Kasarini Estate Company Limited, occupying the land L.R. No.7153/1, 7153/2 and 7153/R also known as LR128/25, was formed in Britain. The estate occupied the land as a demonstration farm from 1932, while coexisting with the original owner, Mbogo Wainaina family.

THAT, a group of five families with 10 members, allegedly formed Kasarini Farmers' Cooperative Society Limited which was registered on 10<sup>th</sup> July, 1974 in a bid to illegally acquire the Kasarini Estate Company Limited land.

THAT, Kasarini Farmers Cooperative Society Limited certificate was disowned by the commissioners of Cooperative Development, in response to an enquiry by the National Land Commissioner (NLC). Despite the Commissioner of Cooperative Development disowning Kasarini Farmers' Cooperative Society Limited, the Society was issued with a title on the said land on 18<sup>th</sup> December, 1981.

THAT, Kasarini Farmers Cooperative Society Limited have since purported to have bought the land from Kasarini Estate Company Limited, disregarding the ownership of the land by Mbogo Wainaina Family.

THAT, the petitioners have made efforts to have the matter addressed by the National Land Commission (NLC) and other relevant authorities all of which have failed to give a satisfying response.

The petitioner, therefore, prays that the Senate investigates this matter with a view of establishing the rightful owner of the land LR No. 7153/1, 7153/2, 7153/R (also known as LR No. 12825).

I recommend that compensation be rendered to the Mbogo's family for the historical injustices suffered and damages for the said land.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 237, I shall now allow comments, observations or clarifications in relation to the Petition, for not more than 30 minutes.

Sen. Cherarkey, please, proceed.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. From the onset, I support Sen. Thang'wa. Land is an emotive issue. It is not good to disposes anybody land. Dispossession of land should be done within the law.

I believe it has been horrendous for the family. Therefore, as a Senate and as the Chairperson of the Committee on Education has insisted, we have the capacity and ability to address all these issues that have been raised in this Petition.

Mr. Speaker, Sir, it is not news to us that at family or communal level, there will always be land grievances. Therefore, we need to ensure that everybody has a title deed. The Government is commitment to ensure that everybody has a title.

All of us are Africans, unless there are people who are new from Jerusalem. For example, in my community, if you do not own land, you are not a man even if you own other things. So, this is a very important matter that must be dispensed with. Of course, looking at the value, I am not saying not having a title deed superintends what a man should have. However, the bottom line is it gives you identity and sense of belonging.

You have seen what is happening in South and North Rift where there are allegations of burning tea plucking machines. It is because of land. The people from where I come from, in South and North Rift, always have a feeling that they were dispossessed of their land. The ‘youthful’ leaders like Sen. (Dr.) Oburu have the institutional memory of the history of land struggle and it is at the core.

Mr. Speaker, Sir, I know where Sen. Madzayo, and yourself come from, there is still a big challenge in terms of land ownership and possession. Therefore, from where I sit, I congratulate Sen. Thang’wa. This family should be given justice. It is their right.

We should celebrate all Kenyans. A few minutes ago, you read about the Petition by teachers. Now, we have a Petition by a member of public. It shows the confidence that many Kenyans have in the Senate to address these issues.

We have confidence that women from Kenya Women Parliamentary Association (KEWOPA) from Senate can visit a prison, pay fines and give them food. We also have confidence that the Senate can dispense and address an injustice anywhere across this country.

I congratulate Sen. Thang’wa and support this Petition. I hope the family will get justice on this matter.

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

**Sen. Kinyua:** Asante Bw. Spika kwa kunipa fursa hii. Kuanzia mwanzo, ninaunga mkono dua hili ambalo limeletwa na Sen. Thang’wa kwa sababu ya shamba la familia ya Mbogo Wainaina kuchukuliwa.

Mambo ya mashamba katika Jamhuri yetu ya Kenya imekuwa ni donda sugu. Watu wengi wamekuwa wakigandamizwa na wale ambao wanafikiria wako na nguvu kuliko wegine.

Kwa hivyo, ninakubaliana na Sen. Thang’wa ya kwamba, familia ya Mbogo Wainaina imefanya vizuri kuleta taarifa hii. Wamefanya jambo lingine muhimu kwa kusema kwamba wanapatia jukumu Kamati ya Ardhi, Mazingira na Maliasili ambayo iko katika Senenti hii.

Wanauhakika na wanaamini ya kwamba itaweza kutenda haki. Ndiposa kulingana na taarifa yenyewe, wanasema ya kwamba itafute ni nani mwenye shamba lile kamili. Hawasemi ni lao wala ni nani. Hii ni kwa sababu ni watu ambao wanapenda ukweli na wana imani na Kamati ya Seneti ya kwamba itafanya haki.

Bw. Spika, ningependa hii familia ya Mbogo Wainaina itendewe haki na waweze kupewa fidia kwa kugandamizwa. Ni vizuri wakati Kamati hiyo inashughulikia jambo hili, iangalie maswala mengine katika sehemu hiyo ya Kaunti ya Kiambu.

Ukitembea sehemu nyingi za nchi yetu ya Kenya, kuna shida za mashamba ambazo zinafanya watu wauane.

Kwa hivyo, ningependa kuuliza Kamati hiyo, wakati wanashughulikia swala hili, washughulikie hata sehemu zingine. Ukitembea Kaunti ya Laikipia, upande wa Marmanet, watu walifurushwa kutoka mashamba yao na wanapaswa kilipwa fidia.

Ukitembea sehemu za Matanya, vile vile, kuna ile shida. Unapata watu wametolewa katika mashamba yao na wanaishi katika maisha ya uchochole.

Kwa hivyo, kwa sababu Wakenya wanaimani na Seneti, hasa Kamati hii ambayo inaongozwa na Sen. Methu, ninahakika watafuatilia lile jambo kwa kindani ndio hawa ndugu zetu waache kuwa na hii shida na waweze kupewa fidia na kuishi maisha wanayopaswa kuishi.

Bw. Spika, ukitembea sehemu zingine hapa Kenya, tuko na mashamba yetu lakini hatuwezi tukaishi kwa sababu ya kutokuwa na usalama. Kwa hivyo, jambo la mashamba limekuwa donda sugu.

Ukitembea mahali panaitwa Kimanju, Ilipolei na Dol Dol, hiyo ndiyo shida; watu wanapigwa na wanaondolewa. Jambo kubwa, watu wanapofanya hivyo, wanataka kujinyakulia mashamba. Kama vile Sen. Cherarkey alivyosema, wewe ukiwa Mwafrika, huwezi ukaitwa mwanamme kama huna shamba.

Unapata wengine wanatumia nguvu walizonazo kuwagandamiza wengine. Kwa hivyo, Kamati ambayo itashughulikia jambo hili la Ardhi, Mazingira na Maliasili iangalie kwa kindani na walete suluhu la kudumu.

Nashukuru kwa kunipa muda huu.

**The Speaker** (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 238 (1), the Petition should be committed to the relevant Standing Committee for its consideration.

In this case. I direct that the Petition be committed to the Standing Committee on Land, Environment and Natural Resources.

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

Next Order.

## PAPERS LAID

### REPORTS ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

**The Speaker** (Hon. Kingi): Senate Majority Leader, please, proceed.

**Sen. Korir:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 23<sup>rd</sup> May, 2023 -

Report of the Auditor-General on the Financial Statements of Iten Municipality for the year ended 30<sup>th</sup> June, 2020.

Report of the Auditor-General on the Financial Statements of Iten Municipality for the year ended 30<sup>th</sup> June, 2021.

Report of the Auditor General on the Financial Statements of Iten Municipality for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the Makueni County Sand Conservation and Utilization Authority for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the Matungulu Kangundo Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the Municipality of Malindi for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the Mombasa County Alcoholic Drinks Control Fund for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the County Executive of Mombasa for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the County Assembly of Mombasa for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Kirandich Water Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Nakuru Rural Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Nakuru Water and Sanitation Services Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the NAWASSCO Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Eldama Ravine Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Central Rift Valley Water Works Development Agency for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Receiver of Revenue - County Government of Homa Bay for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the County Executive of Homa Bay for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the County Assembly of Homa Bay for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor-General on the Financial Statements of the County Government of Meru Receiver of Revenue for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Meru County Investment and Development Corporation for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Meru Youth Service Board for the year ended 30<sup>th</sup> June, 2022.

Report of the Auditor General on the Financial Statements of the Meru County Assembly Members Car Loan and Housing Scheme Fund for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the Meru Water and Sewerage Services Registered Trustees for the year ended 30<sup>th</sup> June, 2022;

Report of the Auditor General on the Financial Statements of the County Assembly of Meru Staff Car Loan and Housing Scheme Fund for the year ended 30<sup>th</sup> June, 2022; and,

Report of the Auditor General on the Financial Statements of Kisii County Bursaries Fund for the year ended 30<sup>th</sup> June, 2022.

*(Sen. Korir laid the documents on the Table)*

**The Speaker** (Hon. Kingi) Next Order.

Is Sen. Mumma not here? The Notice of Motion is deferred.

### NOTICE OF MOTION

#### REGULATION OF ELECTRONIC CIGARETTES IN KENYA

*(Notice of Motion deferred)*

**The Speaker** (Hon. Kingi) Next Order.

Is Sen. Onyonka not here? Sen. Onyonka had two Statements and both of them are dropped

### QUESTIONS AND STATEMENTS

#### STATEMENTS

##### STATE OF OPERATIONS AT THE KISII TEACHING AND REFERRAL HOSPITAL

*(Statement dropped)*

##### CLOSURE OF NYAMARAMBE HEALTH CENTRE

*(Statement dropped)*

**The Speaker** (Hon. Kingi): Proceed, Sen. Chimera.

**Sen. Chimera:** Thank you, Mr. Speaker, Sir. I have two Statements as well



COMPENSATION FOR RESIDENTS DISPLACED BY  
THE EXPANSION OF UKUNDA AIRSTRIP

**Sen. Chimera:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the compensation of residents displaced for purposes of expansion of Ukunda Airstrip.

In the Statement, the Committee should -

(1) State why the National Land Commission has not compensated residents of Kokwani Village in Ukunda, Kwale County, whose land was acquired by the government for the purposes of expansion of Ukunda Air Strip by the Kenya Airport Authority.

(2) Spell out measures, if any, put in place by the National Land Commission and the Kenya Airport Authority to ensure timely compensation of the residents of Kokwani, stating the timelines for compensation.

BAN OF “DISCO MATANGA” IN KWALE COUNTY

**Sen. Chimera:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on National Security Defense and Foreign Relations regarding the complete ban of night discos during funerals, commonly known as ‘disco *matanga*’ in Kwale County.

In the Statement, the Committee should -

(1) State the reasons for the complete ban of disco *matanga* by the Government in Kwale County without a proper working framework;

(2) Clarify the legal basis for the complete banning of disco *matanga* in Kwale County since January 2022;

(3) Direct the Ministry of Interior and National Administration to develop a practical framework to regulate disco *matangas* without the associated risks; and lastly,

(4) State measures, if any, by the Government that can ensure that the ban is lifted immediately.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Faki, you may proceed.

**Sen. Faki:** Asante Mhe. Spika. Nimesimama kuunga mkono maombi ya taarifa ya Sen. Chimera kuhusiana na Taarifa ya kwanza.

Hili swala la wakaazi wa Ukunda ambao ardhi yao ilichukuliwa kwa sababu ya upanuzi wa uwanja wa ndege wa Ukunda ni swala ambalo limekuwa donda sugu.

Ninakumbuka, tulizuru mahali pale mnamo mwaka 2018 tukiwa na Kamati ya Fedha, ikiongonzwa na Sen. M. Kajwang’. Wahusika pia walikuja katika Bunge hili la Senate kueleza masaibu yanayowapata kwa ucheleweshaji wa kulipwa kwa ile ardhi ambayo ilichukuliwa. Kwa hivyo, ni jambo ambalo limekuwa donda sugu.

Niliona juzi Kiongozi wa Serikali alisema ya kwamba National Land Commission (NLC) wasijihusishe na mambo ya kutathmini ardhi ambazo zinachukuliwa kwa miradi ya Serikali.

Swala hilo ni kwamba tunapita mipaka ya sheria kwa sababu sheria inasema ya kwamba, maswala ya kutathmini, yaani *valuation*, ni swala ambalo litafanywa na NLC.

Ikiwa Rais wa nchi atasema ya kwamba ameikataza NLC wakati sheria inairuhusu NLC ifanye kazi hiyo, ina maana ya kwamba anaingilia kazi za tume huru katika nchi yetu ya Kenya.

Tunaomba NLC iharakishe ulipaji wa watu hawa na sehemu yoyote nyinyine ambayo ardhi imechukuliwa na watu hawajalipwa, walipwe kwa haraka.

Hata hivyo, tunapinga vikali kauli ya Rais kusema ya kwamba NLC hawataweza tena kutathmini ardhi ambazo zinachukuliwa kwa miradi ya Serikali.

Asante, Bw. Spika.

**Sen. Cheptumo:** Thank you, Mr. Speaker, Sir. I also rise to support the Statement by our colleague, Sen. Chimera. The compensation by the Government has been a big challenge in this country. In this particular case, we are talking about compensation for those whose land was taken because of expansion of the Ukunda Airstrip.

Mr. Speaker, Sir, you are also aware that there has been compulsory acquisition of pieces of land by Kenya National Highway Authority (KeNHA), Kenya Rural Roads Authority (KeRRA) and other institutions of Government to build roads, the Express Highway and the SGR. Today, I am told when you go to NLC the unpaid compensation is in billions.

Kenyans suffer because this is their resource and sometimes they even plan to utilize the money that they expect to be compensated by the Government. They indeed suffer because there is no clear provision in the law as to the timelines within which compensation should be done by the Government.

When you acquire land through compulsory acquisition, it means you will have factored in compensation in the budget. I sometimes wonder where the money goes to because at the point of acquiring the land, the money is available for compensation, but after some time, the money disappears and Kenyans suffer.

Those of us who have had a chance of sometimes representing clients in our institutions like law firms, normally come across such issues. It is true that Kenyans are suffering. Even the dams that we have today in many parts of the country, billions are supplied and yet, the owners of the land on which these dams are built are not compensated.

This House should rise to the occasion. We should come up with clear laws that once the Government has acquired land through compulsory acquisition, then within a specified period of time those people should be compensated, so that we do not leave it open for the Government to pay as and when they wish because Kenyans are suffering.

So, I support this. It is an issue that should apply across the country. I am a Member of this Committee. Therefore, when the issue will come to the Committee responsible, we will take it up and perhaps expand it to cover other areas.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Ogola, you have the Floor.

**Sen. Ogola:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Chimera on the compensation of residents displaced by the expansion of Ukunda Airstrip.

As my colleagues have stated, compensation is a thorny issue in this country. When Kenyans aired their views that there should be a NLC that deals with such issues, they expected those challenges would be a thing of the past. However, it is a pity that Kenyans continue to suffer even when there are reasons to compensate them.

With regard to the compensation of the members in Ukunda Airstrip, theirs is not only limited to land, but their properties. We know over time when people are settled on land, they have a number of properties that they have invested in. They have houses they have built on the land. A number of items are categorized as properties. I say this because there is a very big problem in Isiolo County for lack of compensation along the Horn of Africa Gateway Project in Isiolo.

Kenya National Highways Authority (KeNHA) engaged NLC to compensate the affected properties. However, here is a case where the NLC chooses to only compensate the land of the people in Isiolo and leave their houses. This is a pure act of undermining the people of Isiolo.

Coming back to the Statement by Sen. Chimera, I support that the valuation be done accordingly on the people that are affected by the expansion of Ukunda Airstrip. The land to be used for the expansion must be valued properly as per the market rates. As I have said, the property is not only limited to the houses.

In Isiolo, we have a very funny case where a house is destroyed, half of it is compensated and half is left uncompensated. There raises the question of inequality. So, this situation is not only limited to the Ukunda Airstrip.

In Homa Bay where I come from, there is an airstrip called Kabunde that is used in the region. It has been over 10 years chasing compensation by the Kenya Airports Authority (KAA) for the Kabunde Airstrip to be expanded for the use by people of that region.

A number of people in that region have to fly to Kisumu and connect to Homa Bay as far as Migori and Tanzania when we have a functional airstrip although the runway is small and needs expansion.

Mr. Speaker, Sir, the NLC must come out to make proper compensation for Ukunda Airstrip so that people may get what belongs to them.

I support.

**The Speaker** (Hon. Kingi): Sen. Githuku, you may proceed.

**Sen. Githuku:** Asante, Bw. Spika. Nimesimama kuunga mkono Taarifa ya Mhe. Chimera kuhusu watu wa Ukunda kwanza waweze kulipwa ridhaa. Naunga mkono kwamba wakati wowote ambapo Serikali inataka kufanya miradi ni lazima sehemu ambayo imekaliwa na wananchi, ni haki yao kulipwa fidia na Serikali. Kuna sehemu nyingi tofauti tofauti katika Jamhuri yetu ya Kenya ambapo wananchi wameathiriwa na miradi ya Serikali.

Ningetaka kuongea kuhusu watu wangu wa Kauti ya Lamu. Pale Mahali Lamu Port, South Sudan, Ethiopia Transport Corridor (LAPSSET) imekalia, kuna wananchi

wangu pale wameathirika sana na Serikali haijawahi kuwalipa ridhaa. Naungana na wenzangu kwamba huo ni mradi ambao utafaidi Serikali ya Kenya.

Haitakuwa vizuri watu wachache kama watu wangu wa Lamu waumie. Kuna barabara ambayo imekatwa kutoka LAPSSET mahali imekalia hadi Southern Sudan ikipitia Isiolo.

Shirika la NLC liliandikisha wale watu wote waliokuwa wamekalia ile sehemu na wakasema kwamba wamenastahili kulipwa fidia. Tangu siku hiyo waliochukua hayo maoni na kuweza kuwatambua wale watu wote ambao waliathiriwa na mradi huo wa LAPSSET lakini hajawahi kulipwa.

Naungana na wenzangu kusema wale watu pia wanafaa kuingizwa katika orodha ya kuweza kulipwa ridhaa na fidia ili waweze kujinufaisha na maisha yao yaweze kuendelea na waendeleo kujivunia kuwa Wakenya.

Asante, Bw. Spika. Naunga Mkono.

**The Speaker** (Hon. Kingi): Sen. Thangw'a, you may proceed.

**Sen. Thangw'a:** Mr. Speaker, Sir, I rise to support the Statement on the issue of the *disco-matanga*. One of the objects of devolution is for counties to manage their own affairs. That includes cultures, the way of doing things, religion and anything that concerns a society.

I would urge the Committee that will deal with this issue to look into that matter with that consideration in their minds. We need to ask ourselves, why were they banned? In 2018, the same ban on *disco-matangas* was effected in Kilifi County. In 2019, there was another ban of that kind in Homa Bay and now this one in Kwale, I think in 2022.

When the Interior Department was banning these *disco matangas*, they cited unexpected pregnancies among the school-going children. In these events, there are discos, drinking and dancing. It happens all the way to the morning. They gave reasons that it was affecting the 100 per cent transition of students from primary school to secondary because of unwanted pregnancies. As Sen. Chimera said, instead of banning 100 per cent, it should be regulated.

If that is how they feel is the best way to celebrate when sending the departed ones, I do not think that it should be 100 per cent banned. Instead, they should be controlled in terms of time and those to attend.

Where I come from, we might not have this. However, I feel it is my mandate and the mandate of this Senate to defend other people's rights. I remember someone telling me that they even have competitions on who had the biggest *disco matanga* in a certain area when they are paying their last respects to their departed ones.

So, I believe that instead of banning them let the security be enhanced. Let the authorities or the Government come up with measures to reduce these engagements that make the children get unwanted pregnancies. Even the parents can take care of their children. You do not have to let them attend such events.

I support that Statement and believe the Committee will make the right recommendations.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Proceed, Sen. Kibwana.

WITHDRAWAL OF VAT OBLIGATIONS  
ON PETROLEUM PRODUCTS

**Sen. Kibwana:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Finance and Budget, regarding withholding Value Added Tax (VAT) obligations on petroleum products and its impact on businesses.

In the Statement, the Committee should-

(1) State the rationale for the current withholding VAT obligation on petroleum products, stating its impact on the profitability and sustainability of businesses in the petroleum sector.

(2) Provide an analysis of the impact of the 2 per cent withholding VAT on the petroleum industry, particularly in terms of job losses and negative effects on the economy, stating how changes made by the Finance Act (2021) to the Tax Procedures Act (2015) affected the petroleum industries ability to seek exemptions from withholding VAT obligations.

(3) Table evidence that supports the claims that removing the withholding VAT obligation on petroleum products will result in increased revenue from Pay As You Earn (PAYE), corporate tax and other revenues generated for county governments, stating alternative measures that could be considered to ease the financial burden on petroleum businesses.

(4) State interventions put in place to ensure that the Finance Bill (2023) includes an amendment to exempt petroleum products from withholding VAT obligations, stating potential drawbacks, if any, and how this can be addressed.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Proceed, Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. My sister, Sen. Kibwana, has raised an issue of VAT. She is prophesizing because the Finance Bill (2023) is looking to increasing VAT on fuel products from 8 per cent to 16 per cent.

Mr. Speaker, Sir, today, the country is not doing very well economically. There are two issues. It is either we tax or borrow. As I speak, the budget ceiling is around Kshs9.4 trillion. The ceiling that this House voted for - of which I voted against - during the 'handshake' arrangement was Kshs10 trillion. We are looking at a budget of Kshs3.6 trillion. Our public debt is no longer sustainable. Therefore, the fact that VAT has been increased from 8 per cent to 16 per cent is very critical in the growth of the economy. We either choose to go the way countries like Ghana, Ethiopia and other countries who have defaulted went in terms of repayment of international public debt.

Mr. Speaker, Sir, secondly is the issue of fuel subsidy. Who are these people? Many companies, which are well connected, benefited from fuel subsidies. Who are the beneficiaries? I remember we censured the Cabinet Secretary (CS) for Energy during the last Session because of misuse and abuse of fuel subsidy. What we were having is specific petrol stations, selling fuel like it is 'happy hour'; for people who take hard things other than water. They were not in a position to tell us who these people were.

Many companies want to be paid because they gave fuel subsidies. That process was abused.

Mr. Speaker, Sir, for any sane and economic person, the fuel and *unga* subsidy should be removed because it was not sustainable. It behooves all of us that we cannot survive on subsidies. We better subsidize production over consumption. For example, if you talk about food security, we better give farmers in Nyamira subsidized fertilizer to produce more bananas to be consumed in Nairobi as opposed to giving us *unga* that is subsidized.

Mr. Speaker, Sir, with all due respect, this Statement by Sen. Kibwana is not proper. Yes, the Committee will dispense with the matter. However, in my own opinion, fuel subsidy was abused. The international economists and International Monetary Fund (IMF) have said that we cannot live on subsidies. It is like living on *fuliza*; you cannot live on *fuliza* forever.

I would have wished to listen to the comments of Sen. Kibwana when the Finance Bill comes before the Floor of the House. We need to raise our local revenue. If we do not raise it, then we borrow more. If we borrow more, the country will be sold *rejareja* like *mitumba* in some markets. We do not want to buy a loaf of bread at Kshs100 because our currency has been devalued.

Sen. Kibwana is doing very well in many things. However, on this one, I beg to disagree because fuel subsidies has been abused.

The Government, under President William Ruto, has done very well by removing any form of subsidies and cutting down the budget. I hate to reply to these things because I have seen our colleagues from the other side of the isle in ‘disco *matangas*’ I am told it is ‘disco *matanga*.’ My younger brother, Sen. Chimera, is in a better place to describe how ‘disco *matanga*’, birthday parties or baby showers happens.

Mr. Speaker, Sir, in conclusion, we need to be honest to the country. There is misnomer that county’s money was slashed. The new Members many not know that in the Financial Year 2021/2022, we fought here. I remember Sen. Faki and Sen. Omogeni were here. We fought and gave counties Kshs370 billion. We have fought for an increment of an additional Kshs15.3 billion. That is Kshs385 billion. Counties will get conditional grant of Kshs44 billion. Therefore, counties will get Kshs429 billion in both equitable sharable revenue and in conditional grant.

I know when politicians see microphones and media, they decide to be excited simply because they want to please the crowd. However, let us be honest.

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

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

**Sen. Faki:** Mr. Speaker, Sir, the honourable Senator for Nandi is misleading the House in saying that the counties are going to get Kshs425 billion in conditional grants. What the Division of Revenue Act (DORA) says is that the counties are going to share Kshs385.425 billion. There was nothing like Kshs425 billion in the DORA that was passed by this House and assented to by the President, I think three weeks ago.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Cherarkey, are you misleading?

**Sen. Cherarkey:** No, Mr. Speaker, Sir. I am not misleading the House.

**The Speaker** (Hon. Kingi): Are your figures factual?

**Sen. Cherarkey:** Mr. Speaker, Sir, it is as factual as the second coming of Jesus Christ. It is very important. You know, when we are on this forum, we learn. I learn from colleagues and they learn from me. I said very well that the President assented to Kshs385.5 billion, under equitable sharable revenue. However, we passed Kshs44 billion as conditional grants. It totals to Kshs429 billion. It is like having money in Equity Bank and Kenya Commercial Bank (KCB). It is your money.

Mr. Speaker, Sir, Sen. Faki should stop consulting Serjeant-at-Arms and listen keenly. I am making a life changing statement, so that they do not mislead the public in 'disco *matangas*.' It is Kshs429.5 billion that will go to counties.

I beg our colleagues that the HANSARD will bear us witness. We can say other things for political expediency, but facts will remain as stubborn as they are. I want to rest there and hope that when this issue of VAT comes up, we will pass it.

Mr. Speaker, Sir, as you may remember, I also asked a question about fuel subsidies. Yesterday, the Daily Nation reported that Kshs62 billion was lost under the fuel subsidy programme. The person who was making a lot of noise yesterday in Ngong Racecourse was the person who presided over the loss of Kshs62 billion.

Mr. Speaker, Sir, apart from asking about VAT, they should be asking Uhuru Kenyatta and Raila Odinga where Kshs62 billion that was meant for fuel subsidy went. We cannot lie to this country. The era of lies must stop because Kshs62 billion cannot be accounted for.

I support.

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

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru?

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I am rising under Standing Order No.115. Is Sen. Cherarkey, the Senator for Nandi, in order to mention in this House, the high ranking individuals like Hon. Raila Amollo Odinga and the Former President, Hon. Uhuru Muigai Kenyatta, without a substantive Motion?

**Sen. Cherarkey:** Mr. Speaker, Sir, Standing Order No.115 is something else. It speaks about the Senators' bags. So, I do not know whether he has seen Sen. Kibwana's bag anywhere or my sister there---

**The Speaker** (Hon. Kingi): Sen. Cherarkey, just have your seat.

*(Sen. Oketch Gicheru stood up in his place)*

Sen. Oketch Gicheru, have your seat please. Just take your seat. You have made your point under Standing Order No.115, which is not applicable under this instance. Therefore, I proceed to overrule.

*(Applause)*

Sen. Omogeni, proceed.

**Sen. Omogeni:** Mr. Speaker, Sir, I rise to support the Statement that was raised by Sen. Kibwana. However, we should also not allow Sen. Cherarkey to mislead the House.

We all know that the money that was voted for by this House to go to the counties as sharable revenue is Kshs385 billion. The issue of conditional grants is not the issue---

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Can the Senator be heard in silence?

**Sen. Omogeni:** Mr. Speaker, Sir, when we rise here to speak, let us speak being conscious that as a Senate, under Article 96 of the Constitution, we were elected to defend counties and their governments. It is not our business to hold brief for the national Government.

This matter will continue haunting us. I know that where I come from in the County of Nyamira and where Sen. Cherarkey comes from in Nandi County, people who resides in those counties, need medicine in hospitals. This is a devolved function. They also need water in those hospitals.

Mr. Speaker, Sir, when we see our counties being deprived of adequate resources, we must speak about it. If we are behaving badly, we should concede that we have behaved badly.

On the issue of resources, I still maintain that we do not send adequate resources to our counties. That is a shameful thing we, as Senators, do.

Moving on to VAT, I wish Sen. Cherarkey would remember the statements he has made in the past. He is on record having condemned the increase of VAT on fuel.

Being a lawyer, when you say something, you should believe in it. I hate this idea of people voting for us thinking that we are retained politicians because we say something today and we change tomorrow.

The issue of VAT is not a small matter because it has a trickle effect on businesses and that is why Sen. Kibwana wants the Committee to bring that information to the House.

We all know that when you raise VAT on fuel from the current 8 to 16 per cent, there will be a trickle effect to the common *mwananchi*, the so called hustlers. It is sad that we are abandoning hustlers hardly before our first anniversary in office as the United Democratic Alliance (UDA) administration.

The issue of taxation is not something to joke with. Poor taxation measures have brought down governments. We must be conscious about the people who vote for us who are also poor.

I do not mind the increase of taxation to 35 per cent. In fact, I wish the 3 per cent property tax, the one you want to take away from teachers, could be lumped on Members of Parliament (MPs), so that you pay 38 per cent. Maybe that will make us think when we are passing laws touching on taxation.

Bringing a law that is going to increase fuel on *boda boda* is being insensitive. As people who have been elected to speak on behalf of our people---



**Sen. Cherarkey:** On a point of order, Mr. Speaker, Sir. Is it in order for Commissioner, who was my criminal lawyer during my hay days in trenches fighting for democracy, to mislead the House on the Housing Levy Fund yet the Housing Act was passed?

The Housing Levy Fund is only 3 per cent. A sum of Kshs2,500 will also be contributed by the employer and it is capped. Is it in order to listen more to *WhatsApp* gossip as opposed to getting a substantive issue by the learned senior council? He is the only one in this session. Is it in order for him to mislead us?

**Sen. Omogeni:** Mr. Speaker, Sir, I wish Sen. Cherarkey was a good student who listens. He should be a debater who also reads.

If you read the 115 pages of the Finance Bill, you will see that there is a proposal therein to tax Kenyans 3 per cent in the name of housing tax. It is not a matter of gossip tax.

I want to tell Sen. Cherarkey---

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

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

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

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

**Sen. Omogeni:** You know you cannot raise a point of order twice.

**Sen. Cherarkey:** Madam Temporary Speaker, Under Standing Order No.105 on responsibility for statement of fact, is it in order for the only learned senior council in the House to mislead all of us by saying 3 per cent Housing Levy Fund is a tax yet it is a saving? That is a saving that will be paid after 7 years.

He has advised me to read the Finance Bill and I have read it. In fact, I should be the one teaching him. We are talking about 3 per cent Housing Levy Fund, which is a saving. It is not a tax. Is it in order for him to mislead the House as per Standing Order No.105?

**The Temporary Speaker** (Sen. Mumma): Senior Counsel, do you want to respond?

**Sen. Omogeni:** Yes, please.

Madam Temporary Speaker, lawyers are normally poor with figures. Whether you call it a levy or taxation, the thing is that you are raiding Kenyans' incomes by taking away 3 per cent. Whether you call it Housing Levy Fund or whatever you call it, it is still a taxation measure.

I was in Nandi County. I want to tell Sen. Cherarkey to put his ear on the ground and listen to the teachers, the *boda boda* and the hustlers in his county. They will tell you that they do not support this taxation measures.

Madam Temporary Speaker---

*(Sen. Cherarkey spoke off record)*

**The Temporary Speaker** (Sen. Mumma): Order, Sen. Cherarkey! The Senator must be heard in silence.

**Sen. Omogeni:** Madam Temporary Speaker, these taxation proposals are very unpopular with *mwananchi*.

In 2009, the Labour Government in Australia came up with such poor taxation measures and it cost them.

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

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

Mr. Speaker, Sir, I want to caution the UDA administration. You have to be sensitive with the way you deal with Kenyans, especially the people in lower cadre of income. When we pass any taxation, we must be conscious of how it is going to affect the common *mwananchi*.

Mr. Speaker, Sir, I urge the Committee to look into this matter keenly. If this is a matter that affects counties, I do not belong to the school of thought that says that the Senate should never discuss about a Finance Bill even when it has laws that concern counties.

In this particular Finance Bill, there are so many laws that are hidden in there. The Employment Act is there. What they are calling the Housing Levy Fund is hidden there. All those are things that concerns counties. The only way we can reclaim the glory of this House is by demanding that when we have laws---

**Sen. Cherarkey:** Point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Omogeni, do you wish to be informed?

**Sen. Omogeni:** Mr. Speaker, Sir, Sen. Cherarkey has been on his feet twice. On this particular occasion, I wish to disappoint him. I am not willing to be informed by him.

*(Laughter)*

Mr. Speaker, Sir, as a House, let us reflect on our mandate. Let us also look at the history of other Senate Houses all over the world. You have to fight for your space. When the Senate of the United States of America (USA) was put in place, they never used to consider taxation laws. However, they fought and got that space with time. The same with the Senate in Australia.

We are a unique House because we enjoy direct mandate from the people. Sen. Cherarkey was directly elected by the people of Nandi County. It is not like the House of Lords in the United Kingdom (UK) where you get an appointment out of the recognition of the contribution you have made to your country.

We have been elected by the people. How then can we be sitting here as a House that prides itself as being the “Upper” House without seizing an opportunity like the one

that is before us; and demand that the Finance Bill comes before the Senate and we deal with it in a just manner. We do not want our people to be at the mercy of the other House. This is the “Upper” House. We are few, we can debate on issues in a bipartisan manner and make a vote in a manner that does not subject our people to untold suffering.

Mr. Speaker, Sir, I support this Statement. I hope the Committee that will be tasked with this work will do justice to it. We should get this report before the Finance Bill is debated by the other House.

*(The Statement was referred to the relevant Committee)*

**The Speaker** (Hon. Kingi): Clerk, before we move to the next Order, we had deferred Order No.6. We will take that before we proceed to Order No.8.  
Kindly call Order No.6.

### NOTICE OF MOTION

Sen. Mumma, you may have the Floor.

#### REGULATION OF ELECTRONIC CIGARETTES IN KENYA

**Sen. Mumma:** Mr. Speaker, Sir, thank you for granting me this opportunity. I beg to give Notice of the following Motion:

THAT, AWARE THAT Section 68(1)(b) of the Health Act, 2017 provides for interventions by the National Government to reduce the use of tobacco and other addictive substances and to counter exposure of children and others to tobacco smoke, and Section 32 of the Tobacco Control Act, 2007 provides for the right of every person to a smoke free environment including the protection from exposure to second-hand smoke;

CONCERNED THAT, while the Tobacco Control Act, defines key terms and covers topics including, but not limited to, restrictions on public smoking, tobacco advertising, promotion and sponsorship, and packaging and labelling of tobacco products, Section 2 of the Act does not contemplate non tobacco products and, therefore lacks restrictions on the use, advertising, promotion and sponsorship, or packaging and labelling of synthetic nicotine in the form of *e*-cigarettes resulting in the increase in popularity and consumption of *e*-cigarettes among the youth including minor children;

NOW THEREFORE, the Senate resolves that the Ministry of Health (MOH) should urgently convene an all-inclusive stakeholder forum to:

(1) Develop a national policy regulating e-cigarettes and all related elements, including vape pens, e-liquids, flavours and their marketing and advertising in mainstream media as well as social media; and

(2) Establish rules to govern the production, sale, advertising and consumption of synthetic nicotine, and control the illicit trade of counterfeit products.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Clerk, call Order No.8. I know that the Committee had requested for a referral. However, just for the purpose of the record, I thought we would call it, defer and then proceed.

## BILL

### *Second Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO.16 OF 2023)

The Committee had requested for deferral of that Bill. Therefore, it stands deferred.

*(Bill deferred)*

Proceed to the next Order, please.

## COMMITTEE OF THE WHOLE

#### THE EQUALIZATION FUND APPROPRIATION BILL (SENATE BILLS NO.3 OF 2023)

**The Speaker** (Hon. Kingi): Again, the Committee had requested that this particular order be deferred to tomorrow so it is so deferred.

*(Committee of the Whole deferred)*

Next Order.

## BILLS

### *Second Reading*

#### THE PROMPT PAYMENT BILL (SENATE BILLS NO.8 OF 2022)

*(Sen. Mariam Omar on 16.2.23)*

*(Resumption of debate interrupted on 12.4.2023  
– Afternoon Sitting)*

Sen. Cherarkey, you may have the Floor.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. From the onset, the Prompt Payment Bill is a very straight forward Bill.

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

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

Madam Temporary Speaker, for sometime, I have sat in the Public Accounts Committee (CPAC). In fact, the National Treasury even went ahead and invoked Article 225 because of many pending bills. If my memory serves me right, there are almost Kshs120 billion pending bills in counties. The Ministry of Roads and Transportation, a national Government entity, owes close to Kshs1 trillion in pending bills.

This issue of pending bills is eating our people. Contractors in our villages and counties are suffering; be it the ones who did the Early Childhood and Development Education (ECDE) classes, polytechnics structures, or anything in terms of service and goods delivery; some have been auctioned. Some are treating ailments such as pressure and diabetics that came because of not being paid. You even saw a video doing rounds on social media, where an old man had removed his clothes in protest because he has not been paid.

Madam Temporary Speaker, I am sorry to say this, but devolution has brought misery, pain, anguish and gnashing of teeth by many Kenyan contractors. For example, Nandi County owes its contractors close to Kshs1 billion. All contractors in Nandi County are suffering.

Having sat in CPAC, virtually all counties are guilty and I wonder what the Council of Governors (CoG) always discuss. The sad reality is that these are young people who took a Local Supply Order (LSO), or a Local Purchase Order (LPO) to get project financing from a bank and credit societies. They are young people, women and People With Disability (PWD). Can you believe there are people who counties still owe since the onset of devolution in 2013/2014?

Madam Temporary Speaker, the National Treasury, at some point, tried to do special audit on pending bills. It also went ahead and threatened counties that if they do not pay the pending bills, they will invoke Article 225 on suspension of funds. It is sad.

Madam Temporary Speaker, I was building the background. I, therefore, thank Sen. Omar, one of my Members of the CPAC, a renowned accountant and a well-established finance expert, for coming up with this timely Bill.

I encourage Sen. Mariam Omar that this is one of the things that will leave an indelible mark in the legislative process in the history of Parliament of the Republic of Kenya and among the Commonwealth countries.

Madam Temporary Speaker, the issue of no written contract for 90 days, is realistic. For example, some companies during the COVID-19 era, that supplied pharmaceuticals and there was no written contract. This law has provided that within 90 days, there must be payment upon of completion of works, invoice and in line with Public Procurement and Disposal Act, among other procurement regulations.

There is the Public Procurement Oversight Authority (PPOA) that looks into disputes. We have a lot of complaints where award of tender is involved in a lot of recourse. Therefore, they must follow the law in terms of procurement process.

Madam Temporary Speaker, we have argued this; why would counties and national Government procure without having the money? Where is the procurement plan? In Integrated Financial and Management Information System (IFMIS), we need to amend the Public Finance Management Act (PFM) Act and look into the regulations. Why would I tell you to supply water to this Chamber, if I do not have the money?

There was a proposal by Government then, to display the people that have been awarded contracts. Why not come up with a law both nationally and at county level, to not spend what you do not have.

Madam Temporary Speaker, you are senior learned colleague in this profession. You are aware that you cannot sell what you do not have. For example, there is a principle. We must bite the bullet and agree that in the procurement plan, in IFMIS, we can only spend when we have money.

I am aware counties are being owed almost Kshs90 billion in terms of disbursement. I have seen the Equalization Fund and the county allocation disbursement. For example, when counties receive Kshs90 billion, I do not find it a problem since they can now implement their procurement plan.

One of the shocking things in the audit queries is late Exchequer releases. The problem is we are heading to the end to this financial year and the National Treasury opens IFMIS up to midnight. I do not know why. I have never understood why National Treasury behaves like night runners in terms of opening IFMIS. Night running is not a bad thing. I can see the Senator from Homa Bay smiling excitedly when I mentioned night runners. Young people call people who become more active at night *Usiku Sacco*.

So, I do not know why IFMIS is open up to the last day, then you expect counties to spend and that is how corruption is bred.

You remember the former ambassador said that corruption is budgeted for in Kenya. At that time, he put it at a figure of Kshs700 billion. There is no money in the National Treasury. There is service and a pending bill. Where is this money? You go to a county; you get statutory deduction but no remission. Where is the money? It is corruption.

I want at this point to thank our national leader, His Excellency Dr. William Ruto for deciding to fight corruption head on. For example, the clean-up that happened in the Kenya Medical Supplies Agency (KEMSA) will assist in ensuring that we get timely disbursement of drugs. Therefore, I commend him.

I expected Sen. Oketch Gicheru to comment and laud the President for the efforts of fighting corruption. At the end of the day, we need to be honest and truthful men.

When something good is done, you say it. When something is not properly done, you do oversight and you question.

Private entities cut across counties. The Bill also says a procuring entity shall pay a supplier by the prescribed payment date. That will assist because we are looking at about Kshs120 billion and, of course, the supplier will be put in a position to be able to supply.

Madam Temporary Speaker, I am running through to allow colleagues to also contribute. In Financial Year 2013/2014 a person constructed a cattle dip in Nandi with Bill of Quantities (BQ) of Kshs500,000. I do not know whether it makes economic sense to pay the person the same amount in 2023. We must make it painful so that people who make procurement decisions do not do it haphazardly for the convenience or to get kickbacks. We must put the interest rate.

Madam Temporary Speaker, the Chairperson of the Committee on Education just walked in when we were talking about the Petition by teachers. I want to inform the House that the process of paying those teachers is underway. The 2500 teachers that moved to Nakuru High Court in 2008 will be paid. Does it make sense to pay that teacher of 1997, Kshs27,000 now? The issue of interest will ensure fairness.

I want to laud Sen. Mariam Omar. Let us talk about interest, contractual and legal obligations. If I am supposed to be paid in Siaya County, I am not saying I should be paid for any service in Siaya County, where my brother, the youthful Senator, Sen. Odinga---

For example, If I am owed by my former colleague and my good friend, Sen. Orengo, the law says, so long as legal contractual obligations have been made. If I was to be paid by 1<sup>st</sup> and you end up paying me on the 5<sup>th</sup>, we should charge an interest so that governors take these things seriously.

Clause 9 states that-

“A person who wishes to enter into a contract for the supply of goods, works or services with a national or county government entity shall make a declaration to the Declaration of pending payments to the accounting officer of the entity on any pending payments owed to a small or micro enterprise”

This is where bottom-up comes in. We said during the campaigns that we start down going up. That is the intention. That is why we are trying to tailor-make the Hustler Fund.

I just wanted to give a snapshot. This is a straightforward Bill.

People are saying we are introducing new taxes in the Finance Bill. We must get those taxes. I highly doubt if somebody who wants Kshs500,000 is a hustler. We are requesting to improve the capital base of 3 per cent, that is Kshs15,000.

We need money to provide services to that person in the village, the *Mama Mboga* and *Bodaboda*.

With all due respect to my senior counsel, I have heard him say something about the people in Nandi, I confirm to this House, that the people in Nandi are supporting the Finance Bill as it is because they want resources.

I have attended functions and I do not know whether our colleagues get similar requests. A *mwananchi* will stand and say: “Senator, we need a road, a hospital, drugs or water.” Where is the money to finance that project?

It is through taxation.

We need to be honest with ourselves and have an honest conversation. For a country to move forward, taxes must be paid. However, we should ensure those taxes work for our people. The President has said as much, that even if he is given Kshs1, he shall protect it to ensure it gives value for money. I agree with that.

Secondly, I talked here and I received many points of orders. There was Kshs62 billion. As I talk today, almost Kshs1 trillion was given through tax exemptions, tax abandonments and tax evasions by the previous Government. I do not want to say who because if I say, it will land me into problems.

A leading bank - and I do not want to say my relation with that bank - was given a tax exemption of Kshs300 million. We should be ensuring we do not give anybody a tax exemption. Let us ensure we collect tax. I do not know whether my good friend, Sen. Oketch Gicheru had been born then; when President Kibaki took over in 2002, the tax was less than Kshs300 billion.

By the time he was leaving office, 10 years later, because of just saying; “*kulipa ushuru ni kujitegemea*”, he had raised it more than Kshs1 trillion. He sealed tax loopholes, tax exemptions and did not allow fake things like the illegal importation of sugar.

Madam Temporary Speaker, you have seen the President and the Government have cracked the whip and people are in court on the issue of Kenya Bureau of Standards (KEBS). I was talking to a friend who told me that he put that sugar into tea and it turned black yet it was the normal tea.

That is how we ensure accountability. For example, somebody somewhere failed. Even on the issue of edible oils, towards the end or mid last year, there were allegations that edible oils had been produced. They did not meet consumption standards. Could it be the reason why we have increased cases of cancer and lifestyle diseases?

The bottom line of the submissions that I am making is that even as we do this, we must ensure that these contractors are paid on time, but they also pay tax. Senators should pay tax.

As a Senator, I do not have a problem of paying Kshs2,500 meant for the Housing Levy Fund because it is a savings and not a tax. After seven years, I can still get my money and do whatever I want with it or give it to my daughter or son to continue with it because that is the honourable thing to do.

They say there are two things in life we are sure of, either death or payment of tax. We are pushing for this Bill to be passed as is. Therefore, let the people who are going to be beneficiaries pay the tax in order to keep our economy running.

I heard today women being lauded. I watched that in my bedroom when you went to Langata Women Prison with KEWOPA. This one has shown that women Senators, not only deal with humanitarian issues, but also with serious legislative matters. That should be put on record.



If someone was listening to the Senate and thought that women Senators can only donate to Langata Women Prison, then this has proven that women can be trailblazers. I continue to ensure there is gender parity. I am looking forward to when we will have a 50:50 per cent representation, both in the National Assembly and the Senate.

I want to ask women Senators that I do not mind tagging along next time and make sure I stand in between all of you so that I feel the warmth, the comfort and be part of the process of doing good for this community.

I thank Sen. Mariam Omar and wish her well. I hope this Bill comes to fruition.

I thank you.

**The Temporary Speaker** (Sen. Mumma): Thank you, Sen. Cherarkey. We can promise you to join us, but I do not know about the warmth.

Proceed, Sen. Chimera.

**Sen. Chimera:** Thank you, Madam Temporary Speaker, for this opportunity to contribute to this very fundamental Bill. From the onset, I congratulate Sen. Mariam Omar for such a wonderful piece of legislation. Also allow me to express my sincere apologies for missing out on your visit to the Langata Women's Prison. I am sure as my colleague Sen. Cherarkey has put forth, that was a very fantastic and an amazing job. Keep it up, women colleagues in this House.

Before devolution came into place, it was difficult for any ordinary Kenyan to get a National Government tender, but shockingly enough, payment was guaranteed. When we got the 2010 Constitution and we started rolling out devolution, it became very easy for a Kenyan young man and woman to get a tender. However, it became very difficult for that young man and woman to be paid.

Governors have rogue to an extent that they pick whom they want to pay. We have cases of governors playing politics with these tenders. A young man gets a tender and approaches a lending institution - a microfinance or an individual like Sen. Oketch Gicheru since he has money from the server story - and he is unable to get payment in good time---

The young man has loans to service. Fortunately, or unfortunately, he gets auctioned. We have lost people. People have lost their lives because of going through depression and stress out of chasing for payments.

The same issue of delay in payments has been promoting corruption in country governments. You cannot be paid without having to part with some small money so that your payment is guaranteed.

I want to thank Sen. Mariam Omar for this particular Bill because we are now able to cure that mischief. For the first time, I want to appeal to our governors, counties and the CoG that now they do not have any reason to delay payment for our entrepreneurs.

Devolution came to spur development and to create millionaires out of many hustlers out there and these hustlers depend on county governments. It was very difficult back in the day to get government contracts and services because you had to know someone and all the money was centralized in Nairobi. Right now, it is a sad situation

where we have all the money in Migori, Kwale and Homa Bay counties and yet you cannot secure payment, unless you know someone.

I want to thank my colleague, Sen. Mariam Omar, for introducing very punitive measures, most specifically in Section 10 whereby, in case of a delay in that payment, that particular officer is liable on conviction to a fine not exceeding Kshs5 million, or imprisonment of a term not exceeding five years.

This is a good starting point. For the first time, we will have procuring officers in county governments being told to stick to the law. They must ensure that our people who have been validly contracted and have offered services, get value for their money.

Madam Temporary Speaker, I will not say much. Much has been said by my colleague Sen. Cherarkey. I want to underscore the importance of this Bill that for the first time we are cushioning Kenyans from unnecessary delays and unnecessary political gimmicks such that when you did not support a particular governor, you cannot get your payment until you play and dance to their political rhythm.

I want in a special way to recognize a few counties that have been outstanding in processing their payments. The County Government of Kwale. It is in the public domain that contractors in Kwale are paid in very good time. There are no issues with payments. I believe that perhaps those people in Kwale County led by our able Governor, Fatma Achani saw ahead of this Bill.

They now have a legal framework to do better. If we were paying our suppliers on time and there was no legal framework around it and the Bill came before the House, I can only imagine what more we could do as the Kwale county Government.

I commend Sen. Mariam Omar and I wish to support this particular Bill. I also hope and pray it comes to fruition.

I thank you.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Ogola.

**Sen. Ogola:** Madam Temporary Speaker, I congratulate Sen. Miriam Omar from the onset for this Bill. It is important and ethical that when people offer services, they get their payment on time.

It is important to note that the LPOs given to contractors and suppliers state behind that works are given when the payments are available. It is provided by the budgets in our governments.

It is sometimes unfortunate just like the speakers before me have stated, that our counties were supposed to be development centres for everyone. They were supposed to give equitable growth to all; the youth and women by doing business in our counties as provided in the law.

It is very clear that 30 per cent of works and supplies are supposed to be given to youth and women to empower them so that we have an empowered society; a society which looks after their youth and women. At the onset all these cadres were very excited that for once we had a society which was thinking about everyone.

Once these works are done we do not see why the payments cannot be made on time. Most of our people in their growth levels get resources from the lending institutions such as banks which expect payment.

It is an unfortunate situation that in our counties, we have seen personalities who were thriving getting sick and depressed because of the lending institutions that want money from them. These are people who have worked for the governments.

As this Prompt Payment Bill takes effect, it is important that payments are done for works and supplies provided. There have been ghost works paid in our counties. We have procurement and payments done by the IFMIS.

You find a situation where works have been done and the same works have been used to get funds from the Controller of Budget (CoB). In some instances, these monies are released and are not paid out to our people. Payments must also be done for works and supplies provided.

I have a pathetic case from Homa Bay County where I come from. Transformers were procured for the county and were taken to different locations. However, they are not active. Whoever was given the work was paid, but the people of this county are not benefitting from these transformers. These payments must be done to works and supplies that have been carried out.

Every Kenyan who works or invests must get their payment back because it is an investment. A number of these are the businesses that take care of our people. They make supplies and perform these works because it is a business. They also use the proceeds to take care of their families.

It is unfair that our people would give services to governments and soon after not get payments. We take note of the fact that payments should be done in a way that certification is raised. Once that is done, it is important to honour the certificates according to the agreements made.

I support the Prompt Payment Bill. I hope that once it is enacted it will improve the lives of our people; those in business, who provide services and works to both the county and national Governments.

I support.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Abass

**Sen. Abass:** Thank you, Madam Temporary Speaker. This Bill is very important. I know it was in the 12<sup>th</sup> Parliament, but did not succeed. I am aware that many Kenyans have lost their money investing with the government. There are many people who went into contract with the Government as suppliers and contractors. They have not received their money for the last 10 years or so.

When devolution started, many Kenyans had hopes on doing business with the Government because money had been devolved and was available at the grassroot level. Unfortunately, what happened was unforgivable. Many people who did their contractual work with counties did not get their pay and most of them have lost their businesses while others have closed.

Today, we have many who cannot take their children to school. They have dropped out due to lack of funds. Some of them were millionaires; people with Kshs50 to Kshs100 million have turned to be paupers. They are very poor people. Their children are not able to go to good schools. This is an unfortunate thing.

The money is committed, agreements signed, contractual work done, but no payments have been done. It is not the same money that somebody should have been waiting for because it has already been appropriated. If there is going to be construction of a hospital, laboratory or a road, the money is already there in the budget.

The most unfortunate thing is that the money does not find its way to the people who do the work. It is diverted or misappropriated. The people who misappropriate this money are not prosecuted nor take liability for it.

The Auditors go there and write reports, the matter goes to the Ethics and Anti-Corruption Commission (EACC) who go there and confirm. Some of them are taken to police and reported, but nothing goes on. People in high places of power have caused this country a lot of suffering.

Many accountants have struck deals with contractors. They were taken to court, but were released without any consequence. They are walking scot-free with their money. This county has billions in unpaid bills. Wajir County has pending bills amounting to Kshs5.5 billion. The money was in the budget. Where did the money go? It has been diverted, utilized for other purposes, or pocketed. Unfortunately, no one has been taken to court.

Madam Temporary Speaker, I thank Sen. Mariam Omar for bringing this timely Bill. It gives us a way to develop regulations. The Bill also stipulates that anyone who does construction works in the county and national Government has to account for what they have signed for.

This will save Kenyans. However, we must save Kenyans who are suffering, others are in depression, some have died and others have gone crazy because of frustrations. Somebody loses billions or millions after investing in the Government who are unable to pay them. The money is appropriated in the budget, but I do not know how they change it.

These are criminal cases. It is a high time that things are taken seriously. This Bill will save Kenyans from the suffering they have undergone for the last 10 years. We need to be serious. If you do business with the Government, it must pay the money in time. This country can only develop if we invest in it. I know that people who invest in other places such as Dubai take some of the misappropriated money out of the country. It is an unfortunate situation.

Madam Temporary Speaker, with those few remarks, I beg to support the Bill.

**The Temporary Speaker** (Sen. Mumma): Sen. Beth Syengo, proceed.

**Sen. Beth Syengo:** Asante sana, Bi. Spika wa Muda kwa kunipa fursa hii ya kuchangia Mswada ambao umeletwa na Sen. Mariam Omar. Namshukuru sana kwa kuona mbali na kushughulikia swala ambalo linajenga serikali za ugatuzi na Serikali ya Kitaifa. Madhara ya kuchelewesha malipo kwa wafanyabiashara wadogo na wale waliokomaa ni makubwa.

Ni muhimu huu Mswada kuwa sheria ili kuhakikisha kwamba watu wanaofanya kazi wanalipwa kwa wakati unaostahili. Kama wenzangu walivyosema, wafanyabiashara na wewekezaji wanaokopa fedha kutoka benki na mashirika mengine ya kifedha. Malipo

inapochelewa wao huhangaika sana. Malipo yanafaa kuwafikia wafanyabiashara au wafanyikazi ambayo ametoa huduma kwa Serikali ya Kitaifa au serikali za kaunti.

Malipo hayafai kuwa kama katika kitabu cha Shamba la Wanyama, ambapo kuna wale wanaolipwa na kuna wale ambao wanawekwa wakae wangoje miaka nenda, miaka rudi. Wengi huhangaika na kufa kwa sababu ya shida zinazotokana na kukosa fedha.

Kwa mfano, katika Kaunti yangu, ninajua ndoa iliyovunjika kwa sababu mama aliamua kufanya biashara ili aboreshe maisha yao. Mama huyo aliomba pesa kwenye kikundi cha kukopesha na kuanza biashara. Mwaka ulipopita bila kulipwa, mwanaume alimwambia kuwa aliomba pesa zile ili wawe maskini. Maana mali ya familia itawekwa kwenye mnada. Mabati ya nyumba ilitolewa, baiskeli na sufuria zilichukuliwa. Nyumba ile ilikumbwa na shida tupu, hadi mume na mke wakaachana.

Ikiwa Mswada huu uliopendekezwa na Sen. Mariam Omar utakuwa sheria, itakuwa muhimu kuhakikisha malipo yanafanyika haraka iwezekanavyo ili watu waendeleo kukuwa kibiashara. Isikuwe wachache wanapata malipo, ilhali wengine wanahangaika. Malipo ya haraka itasaidia walio chini; wanarika na wamama kupata fedha kwa kujibidiisha kufanya biashara. Watu wanapohangaika, hata vijana wataogopa kujitosa katika ulingo wa kufanya biashara kwa sababu wameona wenzao waliojaribu biashara wakihangaika.

Naunga mkono Mswada wa Sen. Mariam Omar. Huu Mswada ni muhimu kwetu kama maseneta. Mswada huu unadhihirisha kwamba tunafikiria mambo muhimu yanayoathiri maisha ya wananchi wa Kenya.

Bi. Spika wa Muda, naunga Mswada huu mkono.

**The Temporary Speaker** (Sen. Mumma): Sen. Kisang, proceed.

**Sen. Kisang:** Thank you, Madam Temporary Speaker. From the onset, I support the Bill. I thank Sen. Mariam Omar for coming up with it. The Bill was tabled in the last Parliament. It went through almost all the stages, but it lapsed eventually. I am happy that she has brought it back.

Many of our people, especially the small and medium businessmen who have done businesses both at the county and national Government level were not paid. As one of the Senators has stated, some are depressed, others have died, while others are divorced.

Before you invoice, it means that the entity advertised for a vacancy to supply, to do some work or render some services. You bid and go through the tender process. You are awarded, sign a contract and then you do the job. After completing what you are supposed to do, you invoice. This is where issues arise, especially when there is a transition at the county government. Most of the new governors do not honour what the previous governor had done.

This Bill will liberate our people to do business. Most of the people have given up doing business. I know several people, especially in my county who have suffered the same fate. An old man who was selling petroleum products went into depression. This is just one case. There are many cases where peoples' properties have been sold. Banks have auctioned properties. The business community does not have money to do business; they go to the bank and ask for a facility. Shortly the property that they put as security is

sold because the county government, the cooperation or the national Government department that gave you work have not honoured their part of the bargain.

It is unfortunate and that is why this Bill is timely. What has been put as a fine of Kshs1 million for the person responsible---. There are those who sit on the invoices. If they do not pay, the person in charge can be imprisoned up to five years, fined Kshs1 million or both; this could be imposed.

This is a serious matter. We cannot continue exposing our people who are working hard to earn a living, take their children to school and put food on the table.

As soon as you complete what you are doing for the national Government or county governments, you are taken round in cycles. In some cases, some officials want something to be facilitated before they pay not knowing that people have taken loans in the banks. The margins you get from the investment is way below what you can give out. This is something we need to ask our colleagues to support. We will also ask our colleagues in the other House to speed up passing of the Bill, so that it can be signed into law and our people can at least live decently. It is serious.

Madam Temporary Speaker, I am sure that people are suffering even in the county that you come from.

When governors exit office, the incoming governors should not punish those who were given businesses by the outgoing governors because they will face the same issues. After five or 10 years, when you leave office, your friends who you gave businesses will face the same problems that you exposed those who got businesses from outgoing governors.

It is not a crime to be given work by sitting governors--- What is it?

**The Temporary Speaker** (Sen. Mumma): Sen. Kisang, do you wish to be informed?

**Sen. Kisang:** I do not have a problem because this is a former governor. I do not know if his people have issues.

**The Temporary Speaker** (Sen. Mumma): Sen. Mandago, please, proceed.

**Sen. Mandago:** Madam Temporary Speaker, I just want to inform the Senator for Elgeyo-Marakwet County that governors do not just give business to anybody. It is a procurement process that awards a tender to the lowest responsive bidder. So, the assumption that governors give businesses is not right. I hope the Senator for Elgeyo-Marakwet is informed.

**Sen. Kisang:** Madam Temporary Speaker, I am informed. However, we know very well that a user creates a need. If there is a need, for example, to do a road of hospital or supply medicine, the procurement department advertises then bidders bid.

We should not cheat ourselves. The former Governor of Uasin Gishu County, you will find that most people who got business during your time are closely associated with you. That maybe also be the case in the Executive or the national Government.

Basically, we cannot run away from it. That is why your predecessors have issues in paying---

**Sen. Mandago:** On a point of order, Madam Temporary Speaker. I do not know whether the Senator for Elgeyo-Marakwet can prove that those who got business in Uasin

Gishu County are close to me. Business is put through a proper procurement process. That is casting aspersions on having influenced tenders which I did not do.

**The Temporary Speaker** (Sen. Mumma): Sen. Kisang, unless you are able to substantiate which governors gave which tenders, please, withdraw and apologise.

**Sen. Kisang:** Madam Temporary Speaker, I withdraw for the sake of my good friend. I know he was open. I meant some counties and not his. He was an open governor. That is why he was elected for a second term and then elected as a Senator.

I would like to finalise by saying that this Bill is timely. It is actually overdue because we have those who have already died, depressed or divorced because of the same issues of not being paid.

So, Madam Temporary Speaker, I support and request my colleagues to also support. Let us speed it up so that it goes to the other House so that it is assented to before this session ends.

I submit.

**Sen. Omogeni:** Madam Temporary Speaker, first, I would like to register my appreciation and congratulations to Sen. Mariam Omar for coming up with this Bill, which if enacted, will bring smiles to many contractors who have been subjected to untold suffering in the hands of our counties and the national Government.

Listening to the figures that we owe suppliers, you wonder whether our country can be attractive to any serious business person. If my figures do not mislead me, county governments alone have pending bills of close to Kshs157 billion.

Who can be attracted to do business with such an entity owing Kshs157 billion to people who have either supplied items or services to you through professionals or have participated in developing a county by engaging in a project either building of an Early Childhood Development Education (ECDE) classroom or making a road and you do not pay them?

It is extremely shameful that we, as a country, can be insensitive. It is really a shame. This is not the way you treat investors or entrepreneurs. This is killing enterprises. Unless you are a thief, there is no way you can do business worth this amount of money without borrowing from our banks.

The animals called banks have no mercy at all. If you do not pay or you default, they will auction your assets. When people engage with the counties, they do so believing that once they do business, they will be paid and make some profit in order to grow their businesses.

I thank Sen. Mariam Omar for bringing this Bill. I hope that our brothers and sisters in the National Assembly will see the wisdom behind it. I hope we will not have the shenanigans of telling us this is a Money Bill and therefore it cannot originate from the Senate.

If you are an MP, either of the National Assembly or the Senate, and look at the content of this Bill, you will be out of your senses to oppose it because we want to rescue businesses.

Anywhere in developed economies, whether you go to the United States of America (USA) or Australia, the best person to do business with or the biggest business

partner is always the government. If you have a government that does not recognise that we need to grow businesses, then we will be killing the economy. How are we going to create employment opportunities if we cannot allow businesses to grow?

If you visit countries like China, you will realise that the businesses that they do with Africa are actually small enterprises. However, that is possible because they are able to do business with a disciplined economy, where your word is taken seriously. If you supply goods or provide a service, you will be paid promptly. That way, businesses will grow.

We are going to have a serious problem with employment, unless we recognise, as a country, that the best way to deal with the problem of unemployment is by encouraging enterprises to grow.

If you give somebody business and you pay them promptly, tomorrow they will employ somebody as a messenger. They will buy a vehicle and employ somebody to be a driver. They will grow and start recruiting professionals such as engineers. That way, we will deal with unemployment.

We all think that the UDA Administration or any other government will create employment. It cannot happen. It is us to put in place policies that will make it attractive to do business with the Government and other entities. That way, we will grow businesses.

I plead with Members of the National Assembly. Once we deal with this Bill and it crosses over to the other House, please, let them look at the good content in the Bill and fast track it, so that we save businesses. I have so many people---

In Nyamira, we owe contractors and suppliers more than Kshs1.7 billion. Those people come to our offices thinking that we will perform some magic yet it is a problem that is beyond us.

Madam Temporary Speaker, once we enact this Bill, there will be timelines within which to pay contractors. If you do not pay, you are penalised through interest. This is how we will address this issue.

Sen. Mandago, I am sure Sen. Kisang' is not saying that governors directly award contracts. We know the sweet language that is there in procurement laws. However, there is what we call influence peddling by governors. Not specifically you but there are some governors who are good at peddling influence. They are the ones who determine who gets what contract – their supporters, friends and associates – and those are the only people who get paid. The ones who are not associated with some governors are never paid.

Then we have the problem of transition. For example, maybe the governor who took over from you would say, we will not pay anybody who did business with Sen. Mandago's regime. That is a big problem. Let us be candid and call out governors on this matter. Let them appreciate that governments are successions. When you leave office, you pay the people who were there and did business. That is how you create faith in successive regimes.

Let us have transparency, accountability and fairness in the way we award contracts and how we pay people who have done business for us.



We have built a beautiful house called Bunge Towers. I have worked so hard as a representative in the Parliamentary Service Commission (PSC) and set aside 51 offices for Senators to move to those beautiful offices. However, we are unable to move in because we are also in the thick of things. You can imagine, we are one of those culprits; people who owe suppliers and contractors. So, we are losing money allowing Members of Parliament (MPs) to rent offices simply because we are not able to pay our suppliers on time.

The contractors who are supposed to supply us with furniture are yet to be paid. So, we cannot allow MPs to move to that beautiful building because; we do not have furniture. That building project was started in 2013 but we have been unable to complete it on time because we never pay our contractors on time.

Therefore, this Bill will address issues like what we are seeing with Bunge Tower. It is a shame that we promised MPs that they will occupy the offices by March. It has now passed. March comes, you go to the Government and you are told that there is no money. The supplies are not paid and you again leave it pending.

I support this Bill and hope that going forward, even before this Bill is enacted, we can have this plan in our counties where we appreciate those who have done business with us. Let us have a system where first in, first payment and not the idea of the last in, first paid. Indeed, that is corruption.

I also appeal to the Ethics and Anti-Corruption Commission (EACC), they are sleeping on the job. I hope the new Chairperson; the respected Bishop Oginde, will do things differently. We need to fix the corruption cartels in our counties. Many people get contracts in our counties and supply air or do nothing. Since they are connected with corruption cartels in counties, they are paid. However, those who have done proper work are not paid because of corruption.

Bishop Oginde, fold up your sleeves and start work. We are now into the 12<sup>th</sup> year of devolution, yet we have not seen even one governor – I am not saying all governors are thieves – who has been taken to court, tried and convicted so that he can send a message to others.

Bishop Oginde, you have a very good name, Curriculum Vitae (CV) and reputation. I hope you will deal with the corruption that is rampant in our counties.

With those remarks, I support.

**The Temporary Speaker** (Sen. Mumma): Sen. Mandago, proceed.

**Sen. Mandago:** Thank you, Madam Temporary Speaker. I rise to support this Bill by Sen. Omar.

As my colleagues have said, it is really unfortunate that in this nation, we strive to create enterprises, encourage innovations and encourage young people, women and PWDs – even through provisions of law – to engage in business. On the other hand, we end up killing the same enterprises by failing to pay them on time.

The issue of prompt payments and making sure that services consumed by both levels of Government are timely paid, is a matter that is of urgency and deserves the support of this House. This is because so many lives and livelihoods have been destroyed. Some people have spent 10 or 15 years building their enterprises. One business

engagement with either the county or national Government and whatever they have built over time is destroyed.

Therefore, it is appropriate that this House supports this Bill by Sen. Omar. This is in a bid to make sure that those who deliberately fail to pay suppliers of goods or services, they are reprimanded and should be recommended that they should not even serve in Public Service. Public Service and public servants have become killers of enterprises. They have become reasons for diseases like blood pressure because of failing to perform their duties while drawing salaries.

Therefore, I support this Bill by Sen. Omar, that prompt payment due to suppliers is not a request but is a must that counties and the national Government honour their application. This Bill will cure the habit of the Government spending beyond the budget. Several counties have become mysterious in expanding their budget through supplementary estimates. Therefore, they end up with pending bills without resources in the future to pay. If some counties are to settle pending bills today, probably, the current governors might not have anything else to do other than to pay.

Therefore, this Bill will ensure prompt payment and also address the issue of pending bills in the future. Once passed into law and if it is effectively enforced, it will reduce the number of pending bills. This country has good laws but sometimes, we lack enforcement of the same.

Madam Temporary Speaker, on the issue of delays in payment, this Bill will also address transitional issues. Many businesses suffer during transition both in the national Government and county governments. There is a habit that has been formed that after every five years when there is change of administration, people come and pretend to do audits. The new administration then declares that they will not pay until there is a committee of pending bills.

Those committees do not assess whether the payment is due or not. They are avenues of corruption where people ask the suppliers and the contractors for money so that they are paid. This has been happening in several counties and we have counties where the citizens are going to be petitioning this Senate. They have talked to us and they are willing to provide CCTV footage of officers asking for bribes so that they can make payments for what is due.

That is a habit we should not condone as the Senate. As a House, we should support this Bill so that we can cure most of those challenges that have created debts in enterprises in this country.

Those who make payments, sometimes make assumptions that a supplier is being paid Kshs50 million. They think that the supplier is going to get the Kshs50 million. In that Kshs50 million, there is Value Added Tax (VAT) and a loan from a bank whose interest has outgrown even the profits that have been made. Some of the businesses will be running into losses.

That is why, in this country, it has become extremely difficult for any business enterprise to build serious credit worthiness in terms of doing business. Whenever they get business and there are delays in payments, there are delays in servicing the loans and it also affects their credit rating.

These enterprises have no recourse, even after being pushed to credit unworthiness in Credit Reference Bureau (CRB) and banks, of claiming any form of damage from the procuring entities.

Therefore, I support this Bill. I also support the fact that suppliers who are not paid on time should charge interest on their dues until they are paid. They should also ensure that the procuring entity does not procure anything else until they clear their bills.

Madam Temporary Speaker, I, therefore, beg to submit and support this Bill.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Maanzo

**Sen. Maanzo:** Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute to this very important Bill. The basis has been that quite a number of Kenyans, really suffered especially with the advent of devolution and coming up of new counties when they did works for the counties, for example, constructing roads and buildings.

We have even dealt with a matter here where a contractor had gone to start building a county headquarters and some problems cropped up. Many businessmen went in with a lot of hope when new counties came. Unfortunately, there were so many complications. Many people upon finishing the work, were never paid and in many cases, resorted to extortion by brokers pretending that they will help process the payments.

I am aware of businessmen and women who had done roads for the counties and followed up the money for so long that they eventually gave up. I am aware of people who did works for counties when they had a function that is coming up. The contractor was told to hurry up and that he or she will be paid. However, after the whole matter is done, the contractor was not paid. There were delays in spite of some of them taking loans from banks. The banks ended up auctioning those contractors while they were waiting.

As a result of these, some of them have gone bankrupt and developed diseases like high blood pressure because of going through a lot of stress. Many of them died leaving their families in poverty and unable to claim because of succession issues.

Therefore, this is a very important Bill. However, there are a few things I want to point out as a lawyer. When somebody gets a judgment in court, it is very different from what this Bill is trying to address. There is something called Government Proceedings Act which makes it very difficult for anybody who has a claim against the Government to sue it. Even if you sue and get a judgment, you have to go through a very long process through the Office of the Attorney-General to be compensated. You are totally unable to auction the Government.

That is one of the issues that have been addressed in this. Even when you have judgment against county governments or individuals, this Bill, to me, seems like it is addressing Government's pending bills in general. This is because the others are contracts which people can sort out.

If, for example, an institution had given a contractor the construction of certain buildings like a college or even a university, it will still fall under this category. A lot of times, they enjoy perpetual succession and are suable bodies under the law. This is

because they either operate under an Act of Parliament or they are parastatals. Therefore, it becomes very complicated. At times, these matters delay a lot in court. Sometimes, they are sent to arbitration. After arbitration, the court can award interests.

For avoidance of interests, then somebody would not move fast. When you liken this Bill to that, it has tried to import that process. After court judgment where interests are accruing to these prompt payments, you must pay within a certain time, failure to which certain interests start accruing. You will need a lot of discipline. I believe that during the Third Reading, we can amend this Bill to give it more teeth.

It has teeth and it can bite. However, it needs to bite more so that we push a Government entity to feel fully compelled by law to pay somebody who is clear to have worked for the Government but there is failure to pay.

There is something Sen. Mandago has addressed and as a former governor, he is very experienced. We had very many fraudulent contractors in the counties who would not follow the Bill of Quantities (BQs).

If a road needs culverts, murrum, watering and pressing so that it can be a durable road, someone would wait just before the rains, having colluded with some county officials, to go and grade the road and it would be cleared as if the full BQs was followed. So, in situations like that, you know you need institutions to come in.

You need experts, the Ethics and Anti-Corruption Commission (EACC), to come in handy. In such payments, you will have a justification to delay if there is an investigation going on or a criminal matter which has risen out of it. Therefore, some of the governors when there is a transition, would come and say, sorry we cannot pay this because of a, b, c, d. If we were to pay, this is the real value which was covered. It becomes very complicated for such a contractor to be paid.

So, in the Third Reading, we need to address fraudulent contractors or situations whereby the BQs have not been followed. In the case of a construction of a building, it means the building code has not been followed.

Laws come together to strengthen one affair. Now, we have a building code which has been in existence for many years in many countries. Ours is just coming in as a regulation. All these have to be followed so that the Government makes a real payment. So, once we avoid the fraudulent bit, then a contractor who has faithfully followed the BQs and has worked for the county government or the national Government, surely, must not be frustrated by the Government.

We have a very sad case in Thwake Dam. There are about five sub-contractors whose employees have not been paid for three months. The sub-contractors stopped doing the subcontracts in Thwake Dam.

We did a Bill here for the 2023 Budget which was amended. There was supplementary one which removed about Kshs5 billion funded by the African Development Bank (ADB) for that particular project and took it to other projects.

Within a month or so, the project stalled. Right now, it has stopped awaiting for supplementary budget two which will be done when the National Assembly comes back. By the time it is concluded, the works would have stalled and we will be in breach of contract as a Government.

Thwake Dam is not yet constructed. The same thing is happening in Konza City. So, this law must compel the Government to honour contracts it has with the contractors and sub-contractors especially where there is international funding or outsourced funding although it is subject to the budget process. I have not seen that coming out very strong. Therefore, the Government has a duty to comply with the contract. What happens if there is a failure to comply with a contract?

It is like no-man's land. You find that interest is accruing and the Government is in breach of contract. The matter may go to court and the Government will pay almost double the original amount. Therefore, we need a law which will compel the Government to save funds. There should be no carelessness and negligence in handling of projects.

Therefore, the Prompt Payment Bill is very important. It saves the Government money, it saves time for everybody, it saves businesses and it also helps the economy of the country.

A frustrated businessman, whose bills and money has not been paid, means that they will also not pay others and therefore, the economy will stall. However, once you pay contractors promptly, then they will be able to pay their employees, pay taxes in good time and they will be able to create employment. They will solve so many problems when they are paid promptly. They will also be able to advance their businesses. However, when you kill and crash almost all contractors in the country and especially in the counties, then, what are we doing to the economy of Kenya?

I believe that we have to add a few things during the Third Reading. When we add those things in Third Reading, I believe that this law will become better and contractors and sub-contractors will be paid promptly. The country will save money.

I thank you, Madam Temporary Speaker.

**Sen. Oketch Gicheru:** Thank you Madam Temporary Speaker. First of all, I do note that this Bill not only proposes on how we can have an effective legal tool to promote businesses and cure late payment in county governments but also in the national Government. It means that there is need to cure this issue of late payment with regards to procurement of goods, services and works in both levels of government. To that end, it is a very well-meaning Bill. However, sometimes these well-meaning Bills can also come with some challenges. In the case of this particular Bill, the challenges do outweigh the benefits that we might have.

One, the reason why it will be difficult for me to support this Bill is because when we look at issues like payment in counties and we have seen this time and again, that availability of funds is a very major component of how payments are done to contractors and the people who are offering services. Availability of funds is a function of the Exchequer, which then goes to the issue of revenue collection.

We know that even as we speak right now, we have struggled as a House. I sit in the Committee of Finance and Budget and also in the County Public Investments and Special Funds Committee (CPIC), where we try to hold the National Treasury accountable as much as we can. Sometimes you find pressure that is indeed impossible to deal with; where the National Treasury has had serious Exchequer demands yet they

have not received serious Exchequer receipts to the extent of balancing that out becoming very difficult.

For instance, right now we are aware that money has not been disbursed to counties since March, April and May and yet we are now going to the next financial year. In such a case, availability of funds is a problem. Then if you put a punitive Bill on people who do not have control of this, it becomes a problem.

Madam Temporary Speaker, secondly, this Bill proposes interest rates to be increased on pending bills for these suppliers. You see, for every action, there is a reaction. When you impose something like interest rates on bills that have not been paid, then you are actually increasing bills for that particular Government or procuring entity. For instance, if a particular entity owes a particular service provider "X" and then you impose that interest rate on them for that late payment, which sometimes is out of their control for reasons I have explained like availability of funds, then, it means that that particular interest becomes another pending bill. That is something that we must seriously consider. The moment you bring about expansive levels of interest in things like pending payments, then the Bill ought to have actually thought about how do you fund that interest?

The Bill should also have thought about, how then do you report on that interest? When you look at how interest is done, definitely, you will want the same officer that you are trying to hold accountable at the end of every financial year to do a different report on the interest rates. Do they do this report to the Central Bank of Kenya or do they do it to the National Treasury. This makes it problematic.

Further, if you are to be more adventurous in strict financial terms, you will also go and look at whether this interest is to be compounded or is it going to be simple interest. Then things become just complicated when you think about expanding that issue of interest. That makes it very difficult for me to support the Bill.

Madam Temporary Speaker, additionally, if you are going to impose something like interest on payment that counties or even the national Government is not doing because of other issues like delayed funds, then it goes without saying that you must put an equal equation to the other side, whereby if there is an accelerated payment to a particular service provider, then does it mean that that service provider has to discount the county or the national entity? That must be considered including the kind of interest that is proposed by this Bill.

Madam Temporary Speaker, I also think that the proposed penalties and offenses in Clause 7 of the Bill to the accounting officers is a little bit exorbitant. This is because of the reason that I had said that if the Exchequer does not guarantee availability of funds, then it goes without saying that any accounting officer will also not have control on availability of those funds. Then, how do you account for that lack of control when an accounting officer does not have control on availability? Then, you punish them based on timelines and not on availability of funds. That becomes extremely problematic. We have seen it.

The Public Finance Management (PFM) Act and the County Government Act establish the County Treasury in counties. The head of that treasury is actually supposed

to be the County Executive Committee Member (CECM) for Finance. However, today, you will find that the way IFMIS is coded at the Controller of Budget (CoB), we have somebody called approver one, approver two and those who approve at different levels. It is not strictly exposed to the adherence of who then is the accounting officer. Therefore, in a place where you punish an accounting officer with a bill of Kshs5 million or five year's jail term, yet it was completely out of their control, how then do you account for that kind of officer?

Madam Temporary Speaker, it is critical that before, as a Senate, we think about passing this Bill, we need to look at the progression between this Bill and the Public Procurement and Assets Disposal (PPAD) Act of 2015, which was actually ratified and approved by this Parliament in 2020. I find a lot of what has been proposed by this Bill as having been taken care of by the PPAD Act of 2015.

I just want to help Sen. Mariam Omar in looking at some of the clauses that have come here. I think they are the most substantive clauses. I did not pick all of them but the most substantive ones.

If you look at Clause 4 on prompt payments of accounts; the timelines within which payments have to be made to contractors is set at 60 days.

The period starts from the day of the receipt of the invoice. That is what it is proposing.

Further, goods must be properly certified before payment. However, this is addressed by Regulation 150 of the Public Procurement and Asset Disposal (PPAD) Act of 2019, in exactly the same way.

Clause 5 of what is proposed here on Priority of Payments is also provided for in Regulation 139(1) and (6) of the Public Procurement and Asset Disposal Regulations, 2020.

I have spent time talking about Clause 7 on interest rates. Section 140 of Public Procurement and Asset Disposal Act provides for the same. Nonetheless, with a more scientific method on how to deal with the questions of reporting, computation and funding those interests. So, it already provided for.

Clause 9 on Offences, I think is becoming emotive in the House, because people are talking from the perspective of paying different service providers from an emotive perspective. Clause 9 is a replica of Section 176 (a) and (c) of the PPAD Act whereby it provides for penalty for delay in payment beyond the contractual period.

Madam Temporary Speaker, this Bill is also very innovative around looking at the invoicing system which is a very good idea. It is captured in Clause 6 on the Return on Invoice. However, this one could also be well addressed under the contractual agreement between the supplier and the procurement entity under Dispute Mechanism that is already provided for under PPAD Act.

Lastly, my attention was drawn to Clause 8 on Fair Dealing. I think this is a valid issue. However, on this Fair Dealing, in the Public Procurement Act, there is a regulation that the contract should be provided on the contractual obligations of each party so that each party is held accountable.

While it is emotive that these different service providers must be paid for their services, it is equally important that you equally hold them accountable. This brings me to another point on why I think the Bill would have been more prolific if you had done segmentation of which kind of service providers you are talking about. For instance, a big contractor who is doing roads in our counties or who is working on Standard Gauge Railway (SGR) does not need to be protected to the extent that they are paid for 30 days.

Madam Temporary Speaker, if you are talking about Small Medium-Sized Enterprises (SMEs) or micro enterprises that you segmented on this particular Bill, then you make it possible to have a conversation that is more segmented and more targeted in helping the businesses that are more at risk. By that then, even the idea of bottom up agenda is actually well taken care of.

Madam Temporary Speaker, for the Bill to have been more prolific, then perhaps this could be an amendment that I could propose that you have look at the scope of the Bill with regards to where the bulk of the Government spending is.

Today, we know that in the national Government, about 63 per cent of the spending goes to recurrent budget that is mostly employees. In counties, about 70 per cent of the money that is spent there is on employees.

What does this mean? This means that when you look at things like deductions whereby you want to look at pension deductions or any other deductions that are due; the bulk of the pending bills that we are seeing in counties is actually employee deductions. For instance, we know the Local Authorities Pension Trust (LAPTRUST) as well as county pension fund are owed by counties up to Kshs50 billion. You cannot be able to address that with this kind of Bill because that is also a payment ticket. That is why we need to look at the scope of how we expand this.

Therefore, the Bill loses meaning because then you will have more interest put on a small section of total spending of Government *vis-a-vis* where you should actually be targeting and where we are having more interest that accrued outwards.

By the term 'outwards', I mean if we have got a pending bill such as the Kenya Revenue Authority (KRA) deductions and KRA is getting that money from counties in terms of fines and interest. That is what we should be able to cap because the county as well as the national Government will pay for them later. That score---

*(Sen. Tobiko and Sen. Seki consulted loudly)*

**The Temporary Speaker** (Sen. Mumma): Order, Sen. Tobiko and Sen. Seki.

**Sen. Oketch Gicheru:** That score is what I would have really wanted to see dealt with in this Bill.

Lastly, Madam Temporary Speaker, because this is a Bill that looks entirely on general payments, I think there is a concept of exemption whereby some spending can be on operations and contingencies that we do not have control over. An example, right now there is a crisis in the northern part of Kenya where there is serious military spending. Sometimes it requires some immediate military procurement to be done. I also just came from Shakahola in Kilifi, where we need a serious intervention and spending right there.



Sometimes the contractual drawings of those nature may take a whole different turn based on emergency basis. How then do you punish accounting officer based on blatant reasoning around timelines and pure delays of fund?

So, if these were the issues could have been captured in the Bill, I think that then it would have been more holistic. However, in the current format, we ran the danger of a serious implication of the PPAD Act, 2015 approved in 2020.

Therefore, I oppose this Bill not out of any utter disrespect to the kind of intellect under work that my sister Sen. Mariam Omar has put into this Bill. It purely because some of these proposals have got overreaching effects in terms of how effective and efficient our counties can be in managing this kind of procurement processes.

I thank you.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Nyamu.

**Sen. Nyamu:** Thank you, Madam Temporary Speaker. I start by congratulating Sen. Mariam Omar for taking up this issue that has been a real thorn in the flesh in our country for contractors and entrepreneurs. I cannot say it is timely. It is long overdue.

My experience from the County of Nairobi where we have over Kshs60 billion pending bills spanning over a period of 10 years. The issue of pending bills is big business in Nairobi. It has been a thriving field of cartels in Nairobi where they pedal influence. For instance, if you know the governor, then your payment is given priority.

This is a very unfortunate situation because as a Government, we procure service that go to our people and then the people who did the work end up suffering and even facing death; paying the ultimate price for it.

This Bill is going to cure the challenges of Government entities procuring services or works that are not budgeted for. Some of the issues that Sen. Oketch Gicheru has brought up are definitely an eye opener. This just means the Bill needs more work.

The intent of the Bill is what we should work with. Even though we need some amendments, there is dire need for regulation of our pending bills and prompt payments in our counties and also in the national Government.

I support.

**The Temporary Speaker** (Sen. Mumma): Proceed, Sen. Shakilla Abdala

**Sen. Shakilla Abdala:** Asante, Bi. Spika wa Muda. Mimi nasimama kuunga mkono huu Mswada wa Sen. Mariam Omar.

Naunga mkono Mswada huu ikiwa na marekebisho. *I support the Bill with amendments.*

Bi Spika wa Muda, kucheleweshwa kwa malipo za wanaofanya biashara katika nyanja mbalimbali za Serikali ya Kitaifa hadi serikali za kaunti ni shida ambayo inakabili nchi hii. Kuna umuhimu wa kutunga sheria ambayo itakuja kutekelezwa na itakuwa ni kama funzo na kufanya serikali ziwajibike kikamilifu.

Kwanza, mradi wowote ambao unatekelezwa, huwa umefanyiwa bajeti yake. Mradi ukibajetiwa huwa tayari kuna pesa ya kutekeleza mradi huo. Kwa hivyo, hakuna sababu yoyote ya kukosa kumlipa mtekelezaji wa mradi kwa ukosefu wa fedha. Ni lazima mtu akipeana huduma kwa kaunti au Serikali ya Kitaifa apokee malipo yake kwa

muda unaotarajiwa. Kama hatapewa malipo yake basi kuna hatua muhimu zitakazochukuliwa.

Bi Spika wa Muda, hatua kadha zimependekezwa kuchukuliwa katika Mswada huu ili kuzuia matatizo kama hayo. Kwa mfano, Mheshimiwa mwenzangu ameongea kuhusu kutoza faida ikiwa pesa hizo zitacheweleshwa. Tunaweza kurekebisha pendekezo la kutoza faida katika Mswada huu. Tunaweza kupendekeza kwamba pesa zilipwe vile vile bila faida. Tunapendekeza jambo hilo lifanyiwe *amendments*.

Bi Spika wa Muda, ni lazima mtu akipeana huduma alipwe pesa zake kwa wakati unaofaa. Hakuna haja ya kucheleweshwa. Na wale wahusika pia lazima wawajibike. Kwa mfano, katika kaunti, gavana anapotoka ofisini na mwingine kuingia, lazima kuwe na mipangilio kamili ya kufanya *proper handover* ya kusema kwamba, “Haya ndiyo mambo ambayo yamebakishwa na hizi ndizo kazi ninazokukabidhi kuendelea nazo katika shughuli zako za miaka mitano.” Wakifanya hivyo, hakutakuwa na hali ambapo gavana ambaye ameingia ofisini aseme kwamba hayo ni mambo ambayo hayamhusu.

Saa zingine, utakuta miradi imeachwa katikati baada ya kulipiwa pesa nyingi za mlipa kodi. Yule gavana aliyeingia mamlakani huwa hataki kushugulika kulipa ile pesa na pengine ni kitu ambacho ni cha muhimu au ni huduma ambayo wananchi wanahitaji na wameitisha. Utakuta wale viongozi ambao wameingia mamlakani wanakataa kulipa watu waliofanya kazi na serikali ya kaunti.

Kwa hivyo, huu ni Mswada wa maana sana ambao unafaa kupigwa msasa. Mswada huu ukishapigwa msasa kikamilifu kutokana na maoni ya Maseneta, nina hakika huu Mswada utafanya kazi yake nzuri na pia utapunguza zile shida na yale majukumu ambayo yanaachiwa magavana na wenzao ambao wanatoka ofisini.

Bi Spika wa Muda, la muhimu ni kwamba huu Mswada unafaa kupigwa msasa halafu upitishwe na Seneti. Asante.

**The Temporary Speaker** (Sen. Mumma): Sen. Tobiko, you may have the Floor.

**Sen. Tobiko:** Thank you, Madam Temporary Speaker. The intent of this Bill is good. At both levels of Government, the national and county governments across the country, we have experienced a lot of contractors and suppliers of goods and services suffering immeasurable consequences because of delayed payments. I therefore rise to support this Bill with amendments because if we talk about interest on delayed payments, it may become a challenge and untenable. However, the general intent of this Bill is good. It will also bring discipline to the contracting agencies.

Madam Temporary Speaker, with the changes in governments at the county levels; different governments coming in office even after five years, we have seen contractors and suppliers whose payments have been delayed and others have never been paid. People have suffered with bank loans, collateral damage, property has been auctioned by the banks because people take loans in order to supply and deliver these goods and services. We have seen Kenyans who have suffered to an extent of getting sick. Others have lost their lives in other situations because of depression. Family properties have been put into jeopardy because of delayed payments.

This Bill will bring discipline into the whole supply chain. We should have good intentions. When you advertise for goods and services, then you should also be ready to

pay especially because as the Sen. Shakila Abdala has said, these are things that are already in the budget. They have been budgeted for and the various levels of governments must always advertise for what they can pay.

We have also seen county governments or governors who have left a lot of pending bills for the next government. It therefore collapses services at the county levels because the first thing a governor addresses when they come in is to try to sort out pending bills. We must also insist on payments that can only be done after verification that these services and goods were delivered. This is because in this country where corruption has taken root at all levels of government, people have supplied nothing and they come and demand payment. It is important that forensic audits be done. We should make sure that goods and services have been delivered and payments made.

I agree with the Members who have spoken earlier that whereas the intention of the Bill is very good, and will bring discipline into the whole area of procurement, we may not necessarily insist on interest. This is because we have seen counties that have delayed payments due to reasons that are not necessarily of their making but because of delays of allocations from the National Treasury.

Madam Temporary Speaker, I support this Bill. We have also seen situations that this Bill should address. We have encouraged our young people, the women and disabled, to go into business with both national Government and county governments but in the process, they get themselves into a quagmire, which they do not understand. This is a field that has cartels. Nobody respects the 30 per cent allocation of the Access to Government Procurement Opportunities (AGPO) that is meant for the youth, the disabled and women. For our young people to prosper in this field, we must bring discipline into this field.

Madam Temporary Speaker, for women to do business with this Government, this field has to be streamlined. It can only be streamlined if we have prompt payments. Therefore, I support this because it is important that the Government becomes disciplined. It is important that goods are paid for. It is important that we become disciplined in all fields.

We have visited other countries and we have seen the kind of--- Even private entities in this country do pay on delivery. We have seen private entities and enterprises being prompt in their dealings with the public or suppliers.

Madam Temporary Speaker, discipline should be in the public service when it comes to procurement, and I think this law is meant to do exactly that. With a few amendments, it is a good law which we need to support.

I thank you.

**The Temporary Speaker** (Sen. Mumma): I think there is no other contributor. I now call upon the Mover to reply.

**Sen. Mariam Omar:** Thank you, Madam Temporary Speaker, for giving me this opportunity. I thank Senators who have contributed to this Bill. They were 13 in number.

I thank Sen. Cherarkey, Sen. Chimera, Sen. Ogola, Sen. Abbas, Sen. Syengo, Sen. Kisang, Sen. Omogeni, Sen. Mandago, Sen. Maanzo, Sen. Oketch Gicheru, Sen. Nyamu, Sen. Shakila Abdalla and Sen. Tobiko. Thank you very much for that.

Madam Temporary Speaker, Kenyans are behind this Prompt Payment Bill. In other countries like Canada and other parts of the world, they have such laws enacted.

This Bill will solve many problems to do with our business economy. If a county or national Government does business with an individual, they are supposed to be paid immediately. Lack of prompt payment leads to many issues which have been highlighted by Senators.

It may lead to auctioning of properties which may lead to depression and mental health issues. Most people who do business with counties or the national Government are affected because of depression and mental issues. As Senators have said, it may also lead to family breakups and divorce.

Sen. Oketch Gicheru quoted some clauses of the Bill and said it is duplication. Those are Regulations and the Bill supersedes the regulations. Provisions of regulations are not enacted. If this Bill becomes law, people will be disciplined on prompt payment of bills. Again, most Regulations expire with time.

Therefore, this Bill is supposed to be passed, so that citizens engaging in Small and Medium Enterprises (SMEs) can enjoy circulation of money. If you receive money immediately, you can chip in other businesses and that expands our economy.

When it comes to interest rates, if we go by Sen. Oketch Gicheru proposal to remove it, people will not be prompt in paying bills. If there is some pinching somewhere, action will be taken.

There is also the issue of delayed release of funds by the National Treasury. We have pending bills and that is deliberate. It is just deliberate and not because of delay in release of funds by the National Treasury. To avoid deliberate delays, we need some action so that those deliberate actions cease. This Bill will solve many issues. Therefore, it will save the economy.

Some Senators raised issues to do with transition. You will find a governor refusing to pay because that was not their project. They do not want to pay pending bills and just focus on their bills first.

Madam Temporary Speaker, there is need to adopt First In, First Out (FIFO) Strategy. It should not be about who is or who is not in the office. We need to be at the same level with other continents and developing countries.

With that, Madam Temporary Speaker, I beg to reply. I request that pursuant to Standing Order No.66(3), you defer putting of the question to a later date.

I thank you.

**The Temporary Speaker** (Sen. Mumma): The putting of the question is deferred to tomorrow.

*(Putting of the Question on the Bill deferred)*

Let us go to the next Order.

*Second Reading*THE LEARNERS WITH DISABILITIES BILL  
(SENATE BILLS NO.4 OF 2023)

Sen. (Prof.) Kamar is not around. That is deferred.

*(Bill deferred)*

Let us go to the next Order.

*Second Reading*THE EMPLOYMENT (AMENDMENT) BILL  
(SENATE BILLS NO.11 OF 2022)

**The Temporary Speaker** (Sen. Mumma): Sen. Cherarkey is not in the Chamber. The Bill is deferred.

*(Bill deferred)*

*Second Reading*THE AGRICULTURAL AND LIVESTOCK EXTENSION  
SERVICES BILL (SENATE BILLS NO.12 OF 2022)

**The Temporary Speaker** (Sen. Mumma): Next Order. Sen. Mutinda is not in the Chamber. The Bill is deferred.

*(Bill deferred)*

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

**The Temporary Speaker** (Sen. Mumma): Sen. Wambua is not present. The Bill is deferred. Next Order.

*(Bill deferred)*

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

**The Temporary Speaker** (Sen. Mumma): Sen. Crystal Asige is not present. The Bill is deferred.

Next Order.

*(Bill deferred)*

*Second Reading*THE TEA (AMENDMENT) BILL  
(SENATE BILLS NO. 1 OF 2023)

**The Temporary Speaker** (Sen. Mumma): Sen. Wakili Sigei is not present. The Bill is deferred.

Next Order.

*(Bill deferred)*

*Second Reading*THE KONZA TECHNOPOLES BILL  
(SENATE BILLS NO. 2 OF 2023)

**The Temporary Speaker** (Sen. Mumma): Sen. Orwoba is not in the Chamber. The Bill is deferred.

Next Order.

*(Bill deferred)*

**MOTIONS**ADOPTION OF REPORT ON RELOCATION OF NATIONAL  
GOVERNMENT ADMINISTRATIVE SERVICES FROM CHUKA TOWN

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on a Statement sought on the relocation of national Government administrative services from Chuka Town to Kathwana County Headquarters, Tharaka Nithi County laid on the Table of the Senate, on Wednesday 19<sup>th</sup> April, 2023.

**The Temporary Speaker** (Sen. Mumma): Sen. Methu is absent. The Motion is deferred.

*(Motion deferred)*

COMPENSATION TO THE KENYAN VICTIMS OF  
THE 1998 BOMBING OF USA EMBASSY IN NAIROBI

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 that the Ministry of Foreign Affairs:

- (i) Advances friendship and co-operation between the United States 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; and
- (ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

**The Temporary Speaker** (Sen. Mumma): Sen. Kavindu Muthama is not in the Chamber. The Motion is deferred.

*(Motion deferred)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mumma): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Wednesday, 24<sup>th</sup> May, 2023, at 9.30 a.m.

The Senate rose at 6.23 p.m.