

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 25th July, 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): Serjeant-at-Arms, I am informed that we now have quorum. So, you may stop the Bell.

Clerk, proceed to call the first Order.

PAPER LAID

The Speaker (Hon. Kingi): The Chairperson of the Standing Committee on Finance and Budget, or any Member of the Committee, please, proceed.

REPORT ON THE EQUALIZATION FUND (ADMINISTRATION) BILL (SENATE BILLS NO. 14 OF 2023)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 25th July, 2023.

Report of the Standing Committee on Finance and Budget on the Equalisation Fund (Administration) Bill (Senate Bills No.14 of 2023).

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I beg to lay.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No. 53 (1). Is anybody holding brief for Sen. Faki? That Statement is dropped.

KUZOROTA KWA MIUNDOMBINU NA
HUDUMA KATIKA BIMA TOWERS MOMBASA

(Statement dropped)

Is there anybody holding brief for Sen. Cherarkey? That Statement is dropped.

ALLEGED BREACH OF CUSTOMER DATA AT THE
NAIVAS SUPERMARKET

(Statement dropped)

Statements pursuant to Standing Order No. 56 (1)(b)
The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries, please proceed. That Statement is dropped.

ACTIVITIES OF THE STANDING COMMITTEE ON
AGRICULTURE, LIVESTOCK AND FISHERIES

(Statement dropped)

The Chairperson, Standing Committee on Devolution and Intergovernmental Relations, please, proceed.

ACTIVITIES OF THE STANDING COMMITTEE ON
DEVOLUTION AND INTERGOVERNMENTAL RELATIONS

Sen. Abass: Mr. Speaker, Sir, I wish to present to the Senate the activities of the Standing Committee on Devolution and Intergovernmental Relations for the period, 1st April to 30th June, 2023, pursuant to Standing Order No.56.

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Hon. Speaker, I rise pursuant to Standing Order No. 56(1)(b), I make a Statement on the activities of Standing Committee. During the reporting period, the Committee has carried out various activities pertaining to its mandates. As a snapshot, the Committee has transacted the following legislative business-

(a) The Committee considered and tabled its report on the County Budget Bills (Senate Bill No. 3 of 2023). The Bill is at Second Reading stage in the Senate.

(b) The Committee considered three legislative proposals, which were referred to for pre-publication and scrutiny.

(c) The Committee considered nine Statements, which were sought from the Committee. Of the nine Statements, the Committee has considered six leaving three Statements pending before the Committee.

(d) The Committee is continuing with its consideration of two Petitions committed to the Committee.

The Committee has considered the following matters on its own volitions-

(a) Consideration of Petitions on the expansion and refurbishment of Kajiado Municipality Market, which we are about to conclude.

(b) Consideration of a request from the Senate by Sen. Chute concerning the acquisition and distribution of relief food supplies by the County Government of Marsabit and neighbouring counties, which we have concluded and strongly recommend the County Public Accounts Committee (CPAC) to delve deeper into the issue. There are some issues, which have not been cleared very well.

(c) Consideration of legislative proposals to amend the Intergovernmental Relations Act to add strength and strengthen inter-governmental relations players within the devolution spheres.

(d) Consideration of legislative proposals to amend the Urban Areas and Cities Act.

(e) Consideration of a legislative proposal by Sen. Chute on County Assembly Services (Amendment) Bill, 2023.

(f) Consideration of a legislative proposal by Sen. Okenyuri on the Office of the County First Lady Spouse Bill, 2023.

(g) Consideration of the County Governments (Amendment) Bill, 2023 as a legislative proposal by Sen. Cherarkey.

(h) Meeting with the Westminster Foundation for Democracy to deliberate on ways to strengthen the capacity of the Committee and county governments.

(i) Issued a Statement on consideration of laws that are clawing back on the devolution after ten years of devolved governance.

(j) Held deliberations with the State Department of Housing and Urban Development to enable the Committee to gain a deeper understanding of the operations and implementations of the second phase of the Kenya Urban Support Programme.

The Committee has had in-depth discussions with the County Assemblies Forum (CAF), the Association of Members of the County Assemblies (AMCA), the Salaries and Remuneration Commission (SRC), the Kenya Revenue Authority (KRA) over the plight of the Members of the County Assembly (MCAs) on their welfare, remuneration and benefits.

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On this matter, the Committee has strongly supported the MCAs and their clamour for better remuneration and enhanced benefits. The Committee learnt from KRA that the 30 per cent tax levied on reimbursement paid to MCAs is a subject of court proceedings and consequently could not be discussed in line with the subsidies rules.

Nevertheless, the SRC undertook to carry out public participation on the proposed changes to the remuneration of MCAs, and to report within 21 days. In addition, concerning the closure of county assemblies, the MCAs in the presence of the media, undertook to resume their duties and service to the citizens of their respective counties. They were grateful for the timely intervention by the Senate in accordance with the provision of Article 96 of the Constitution. The Committee shall come up with a robust report highlighting all the information gathered for the record of this august House.

Hon. Speaker, I am also happy to report that following the Committee's intervention, the county assemblies that had adjourned *sine die* have now resumed their regular sittings. We will continue to collaborate with them on resolving all the long-standing issues.

The Committee did not face major challenges other than the need to increase allocations to committees to enable them to carry out their oversight functions effectively. As you are aware, many of the Committee's planned activities such as county visits could not be carried out due to lack of funds.

In addition, we are also faced with issues of governors, Principal Secretaries and the Controller of Budgets (CoBs), sending junior officers to respond to invitations to appear before the Committee. This is contrary to the procedure of this House, pursuant to Article 125 of the Constitution and Section 18 (1) of the Parliamentary Provisions and Privileges Act, which empowers the House and its Committees to invite someone or anyone to appear before it. All actors in our governments should take note of this constitutionally granted mandate and give invitations issued by the Committees the seriousness they deserve.

Mr. Speaker, Sir, in the last quarter, the Committee plans to do the following-

(a) Work more closely with the State Department of Housing and Urban Development to ensure all 45 counties listed under the programme benefit from the implementation of the Urban Support Programme's second phase and ensure that Mombasa and Nairobi counties are assisted by the State Department in the enhancement of urban development. They are, currently, not being covered.

(b) Finalize all legislative proposals.

(c) To establish the browse systems in Nairobi City County and possibly all other counties within the cities.

(d) Follow up the status of the Siaya County Government following the resolution of the Senate not to impeach the Deputy Governor of Siaya County.

(e) To consider the application of conferment of city status of Eldoret Municipality.

Finally, I wish to appreciate your office, the office of the Senate leadership and the clerks of the Senate for the steadfast support they have accorded the Committee.

I also thank the Members of my Committee. I want to report that we have had over 65 sittings and we have never had any issues of Members not coming. I appreciate

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my Members. We always had quorum. Therefore, I thank all the Members for the support.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): I will allow the Vice-Chairperson, Standing Committee on Agriculture, Livestock and Fisheries to proceed to make his Statement.

Sen. Munyi Mundigi, where were you when I called you out for this Statement?

Sen. Munyi Mundigi: I was not listening, Mr. Speaker, Sir. I apologise.

The Speaker (Hon. Kingi): Proceed.

ACTIVITIES OF THE STANDING COMMITTEES ON
AGRICULTURE, LIVESTOCK AND FISHERIES

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56(1)(b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on Agriculture, Livestock and Fisheries during the second part of the second Session, that is, April to June, 2023.

The Senate Standing Committee on Agriculture, Livestock and Fisheries is established under Standing Order No. 228(3) of the Senate Standing Orders and is mandated to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

During the period under review, the Committee held a total of 28 sittings during which it considered one the legislative proposals, five Bills, 11 Statements, held two public participation and tabled two reports.

During the period under review, the Committee considered the legislative proposal on the Nut and Oil Crops Development Bill, 2023 and gave its approval for the Bill to be published.

During the period under review, the Committee considered the following five Bills-

i. The Tea (Amendment) Bill (Senate Bills No. 1 of 2023)

Mr. Speaker, Sir, the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) was referred to the Committee on 16th February, 2023 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation pursuant to the provisions of Article 118 of the Constitution and Standing Order No. 145(5) of the Senate Standing Orders through written memoranda and also conducted public participation in some of the Tea growing areas.

The Committee is, currently, considering the matrix on submissions from stakeholders which will form the Committee amendments on the Bill, culminating in a report to be tabled in the House.

ii. The Coffee Bill, 2023 (Senate Bills No. 10 of 2023)

Mr. Speaker, Sir, the Coffee Bill, 2023 (Senate Bills No. 10 of 2023) was referred to the Committee on 11th April, 2023 following its introduction in the Senate by way of First Reading.

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The Committee facilitated public participation pursuant to the provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders through written memoranda and conducted public participation in some of the coffee-growing areas.

The Committee has considered the matrix from stakeholders which will form the amendments by the Committee culminating into a report to be tabled in the House.

iii. The Cotton Development and Industry Bill, 2023 (Senate Bills No. 5 of 2023)

Mr. Speaker, Sir, the Cotton Development and Industry Bill, 2023 (Senate Bills No. 5 of 2023) was referred to the Committee on 2nd March, 2023 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation pursuant to the provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders through a written memorandum and conducted public participation in some of the cotton growing areas and tabled its Report on 13th June, 2023.

iv. The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023)

Mr. Speaker, Sir, the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) was referred to the Committee on 19th April, 2023 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation pursuant to the provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders through written memoranda and the Committee tabled its Report on 29th June, 2023.

v. The Agriculture and Food Authority (AFA) (Amendment) Bill, 2023 (Senate Bills No. 13 of 2023)

Mr. Speaker, Sir, the Agriculture and Food Authority (AFA) (Amendment) Bill, 2023 (Senate Bills No. 13 of 2023) was referred to the Committee on 4th May, 2023 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation pursuant to the provisions of Article 118 of the Constitution and Standing Order 145(5) of the Senate Standing Orders through a written memorandum.

The Committee met with the Principal Secretary for the State Department for Crop Development and the Director General, of the Agriculture and Food Authority (AFA) on 18th July, 2023 and a resolution was made to hold a meeting on Thursday, 24th August, 2023 between the Committee and the Cabinet Secretary Ministry of Agriculture and Livestock Development, Cabinet Secretary Ministry of Investments, Trade and Industry and the Chairperson of the Committee on Agriculture, Livestock and Cooperatives at the Council of Governors (COG) to get views on the Bill from all the players in the macadamia value chain and thereafter table the report.

C. STATEMENTS

Mr. Speaker, Sir, during the period under review, 15 Statements were sought from the Committee and the Committee is currently considering them. The Committee has

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received responses and concluded five of the 15 Statements, which have been shared with the Senators.

The Committee invited the Cabinet Secretary, Ministry of Agriculture and Livestock Development to respond to five of the statements that were touching on his Ministry in a Committee meeting on 18th July, 2023. However, the Cabinet Secretary requested for the meeting to be rescheduled to Thursday, 10th August, 2023.

The Statement on the Non-Payment of Dairy Farmers' dues by the New Kenya Cooperative Creameries (KCC) by Sen. Sifuna, has partially been responded to by the Kenya Cooperative Creameries. The Committee is waiting for the response from the Ministry of Cooperatives and Micro, Small, and Medium Enterprises Development

The Statement on the impact of the recent drought on the livestock industry in Kenya by Sen. Seki was responded to but the Senator who had sought the Statement raised concerns about the response from the Ministry of Agriculture and Livestock Development which the Committee will handle by inviting the Cabinet Secretary and the Governors from the ASAL counties to a committee meeting to deliberate the supplementary issues that arose.

The Committee is yet to receive responses on the following statements:

Statement on the status of the distribution of subsidized fertilisers in Laikipia County by Sen. Kinyua and a Statement on the operationalisation of the Commodities Fund by Sen. Cherarkey.

D. PETITIONS

Mr. Speaker, Sir, the Committee considered one Petition; the Petition on the Ethics and Anti-Corruption Commission (EACC) graft investigation on the West Kano Irrigation Scheme. The Committee has been able to meet with the petitioner, the Chairperson of the EACC, and the Governor of Kisumu County.

The Committee is scheduled to meet the Cabinet Secretary for Ministry of Water, Sanitation and Irrigation on 20th July, 2023 and the leadership of the West Kano Farmers' Co-operative Society on 25th July, 2023.

The Committee will consider and adopt the report once it has met with the Cabinet Secretary Ministry for Water, Sanitation and Irrigation and the leadership of the cooperative.

E. STAKEHOLDER ENGAGEMENTS

Mr. Speaker Sir, the Committee attended the Tea Summit in Kericho on 6th and 7th July, 2023, organised by the Office of the Deputy President. The Conference aimed to identify and act on key enablers in the tea value chain. This arose from the decision of the Government to reform the tea sector and seeing the need to upscale all food and cash crop farming.

Mr. Speaker Sir, the Committee conducted public participation on both the Tea (Amendment) Bill, 2023 and Coffee Bill, 2023, in Bomet, Kericho, Bungoma, Kirinyaga,

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Embu and Nyeri counties. Further, the Committee conducted public participation on the Cotton Bill in Kitui and Busia counties.

In conclusion, I wish to thank your office and that of the Clerk of the Senate for the continuous support accorded to the Committee to enable it meet its mandate. Lastly, I thank the Members of the Committee for their commitment, diligence and contributions during the Committee activities.

Thank you.

The Speaker (Hon. Kingi): Chairperson, Standing Committee on Education, proceed.

ACTIVITIES OF THE STANDING COMMITTEE ON EDUCATION

Sen. Joe Nyutu: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56(1)(b) to make a Statement relating to the activities of the Standing Committee on Education for the period between 1st April 2023, to 30th June, 2023.

The Standing Committee on Education is established under Standing Order No.228(3) of the Senate Standing Orders and is mandated consider all matters relating to education and training.

During the period under review, the Committee held 16 sittings during which it considered two Bills, nine Statements, two public petitions and tabled two reports.

Mr. Speaker, Sir, during the reporting period, the Committee considered the following two Senate Bills.

(a) The Learners with Disability Bill 2023 (Senate Bills No.4 of 2023).

This Bill was referred to the Committee on 7th March, 2023. The Committee consequently facilitated public participation and prepared its report, which was subsequently tabled in the Senate on 3rd May, 2023. The Bill is currently at the Committee of the Whole House stage.

(b) The Kenyan Sign Language Bill, 2023 (Senate Bills No.6 of 2023).

This Bill was referred to the Committee on 22nd March, 2023 following its introduction in the Senate by way of First Reading.

The Committee facilitated public participation and engaged interested members of the public and stakeholders pursuant to the provisions of Article 118 of the Constitution and Standing Order No.145(5). Thereafter, the Committee prepared its report, which was laid on the table of the Senate on Tuesday, 20th June, 2023.

Mr. Speaker, Sir, during the period under review, two Petitions were committed to the Committee for consideration.

a) Petition regarding the 1997 to 2007 retired teachers' claim.

This Petition was reported in the Senate on 8th March, 2023. The petitioners prayed that the Senate investigates the reason why the Teachers Service Commission (TSC) and the Pensions Department at the National Treasury have not paid the retired teachers their pension claims.

During its consideration, the Committee identified various stakeholders and scheduled meetings to deliberate on the issues raised in the Petition. During the deliberations, the Committee received information relevant to the issues raised in the

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Petition. Regrettably, the Cabinet Secretary, National Treasury and Economic Planning, who is a key stakeholder in the issues raised in the Petition, has not appeared before the Committee despite four invitations from the Committee.

Mr. Speaker, Sir, the Committee observed that this continued to occasion delay in its conclusion of consideration of the Petition in light of provided timelines. Consequently, the Committee resolved to summon the Cabinet Secretary pursuant to Article 125 of the Constitution and Sections 18 and 20 of the Parliamentary Powers and Privileges Act, 2017. Nonetheless, the Cabinet Secretary did not honour the summons.

At its meeting held on 29th June, 2023, the Committee imposed a fine of Kshs500,000 pursuant to Section 19(1) of the Parliamentary Powers and Privileges Act, 2017. The Cabinet Secretary has appealed against the fine. However, the Committee upheld the fine and further, issued a second summon for the Cabinet Secretary to appear before the Committee on Thursday, 28th July, 2023.

- b) Petition regarding salary arrears for P1 teachers with ‘A’ Level academic qualifications from 1996 to 2010.

Mr. Speaker, Sir, this Petition was reported on 23rd May, 2023 and consequently referred to the Committee for consideration. The petitioners’ prayer to the Senate is that the National Treasury factors in their salary arrears from 1996 to 2010 for P1 ‘A’ Level teachers.

At its sitting held on 29th June, 2023, the Committee considered the Petition and resolved to invite the petitioners to a meeting of the Committee to provide further information. The meeting with the petitioners was held on 20th July, 2023. The Committee is scheduled to meet other stakeholders, prepare its report and table it in the House and respond to the petitioners as stipulated by the Standing Orders.

Mr. Speaker Sir, during the period under review, nine Statements were sought from the Committee. In its consideration, the Committee sought reports and responses from the Ministry of Education, TSC, National Government departments and other relevant State agencies.

The Committee has since considered and concluded two of these Statements, and resolved to conduct an inquiry into the issues raised in four others. A comprehensive report has been attached herewith for ease of perusal.

Mr. Speaker, Sir, the Committee has also scheduled a meeting with the Cabinet Secretary for the Ministry of Education to deliberate on the issues raised in these Statements. All the Senators who sought responses will be invited.

However, the Committee regrets delays in considering the Statements sought occasioned by-

- (a) Quorum hitches partly because of clashing Committee meeting schedules.
- (b) Access and provision of sufficient information and data by the Executive and other Government agencies.
- (c) Frequent postponement of meetings by Government agencies.

Mr. Speaker Sir, during the period under review, the Committee conducted one county oversight visit in Uasin Gishu County as part of its inquiry into the implementation status of the Sector Policy on Learners and Trainees with Disability.

The Committee resolved to undertake this inquiry after the consideration of the Learners with Disabilities Bill, 2023 and the Kenyan Sign Language Bill, 2023. Further, during consideration of the Statements sought on:

(a) The transfer of the only special needs teacher at Ngano Primary School in Ol-Jororok, Nyandarua County, by Sen. George Mbugua, MP.

(b) The closure of Kabarnet School for the Deaf by Sen. Hamida Kibwana, MP.

(c) The failure by the Ministry of Education to release capitation funds for Special schools by Sen. (Prof.) Margaret Kamar, EGH, MP.

(d) Status of funding for special needs schools in the counties by Sen. George Mbugua, MP.

Mr. Speaker Sir, in conclusion, I wish to thank your office and the Office of the Clerk of the Senate for the continuous support accorded to the Committee in executing its mandate. Lastly, I thank the Members of the Committee for their diligence and contributions during Committee activities.

Thank you.

The Speaker (Hon. Kingi): Hon. Senators, I will allow limited interventions on these three Statements under Standing Order No.56. I will allow two Senators; one from the Opposition and one from the Government side. Each will speak for not more than three minutes.

Sen. Wambua, please, proceed.

Sen. Wambua: Mr. Speaker, Sir, I will be brief. I want to comment on the first two Statements. The first one was from the Committee on Devolution and Intergovernmental Relations.

I am happy to note that the Committee on Devolution and Intergovernmental Relations is engaging on matters to do with the Kenya Urban Support Programme (KUSP). That is a huge programme funded by the World Bank (WB) in 45 counties and 59 municipalities. I urge the Committee to go beyond scratching the surface in regards to the monies that have been expended in rolling out that programme.

I know there is a conflict between that Committee and the Committee on Roads, Transportation and Housing because the KUSP also deals with infrastructure issues. Therefore, the two committees need to agree on which committee will pursue which line to ensure that monies expended are properly used and there are results.

Mr. Speaker, Sir, the second issue is on the closure of county assemblies. The Committee should have told us exactly which assemblies have closed and which ones have resumed. While at it, it will be important for the Committee to note that the closure is not necessarily as a consequence of issues of Members of the County Assembly (MCAs) because as late as yesterday, the County Assembly of Makueni adjourned indefinitely on account of the arrest of their Speaker.

There are issues that the Committee on Devolution and Intergovernmental Relations will need to look into and make sure that we unlock whatever issues that are clogging the systems in the county assemblies.

Due to time, I want to comment on the Statement from the Committee on Agriculture, Livestock and Fisheries. For purposes of disclosure, I sit in that Committee.

There is lethargy in all the committees. I am even ashamed. Chairpersons of committees must pull up their socks when it comes to processing of Senate business.

There is a Statement that I sought last year in November. I am told that the Cabinet Secretary will be appearing next month to respond to that Statement. When we begin to transact Senate business casually – the Deputy Speaker and Chairperson of the Liaison Committee is here – then we will be losing it. The business of the Senate takes place in committees. Therefore, Chairpersons of committees need to fast-track processing of Statements.

Lastly, I thank---

(Sen. Wambua's microphone was switched off)

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

Sen. Kathuri: Mr. Speaker, Sir, if I comment on the performance of the Chairs, I will lose my minutes. So, let me spare that.

(Laughter)

I want to comment on the Statement by the Committee on Devolution and Intergovernmental Relations. I expected a comprehensive report on the closure of county assemblies, not just a line to tell us that they are working on it. This is because devolution can never work without the county assemblies. That is where actual business is transacted and they oversight the county executives.

I will discuss with the Chair, so that he brings a comprehensive report on every county assembly. We also need to know whether they met the County Assemblies Forum (CAF) or individual county assembly leaderships, so that we know whether in this session, county assemblies will be working in order to protect devolution.

The other comment is on the Statement by the Committee on Agriculture, Livestock and Fisheries where, through the Office of the Deputy President, we had a successful National Coffee Conference in Meru County. That is where the Committee that is looking at the Coffee Bill will get a lot of information on amendments that will give a lot of input on the Bill. I hope the Committee captured all the issues that were raised by the stakeholders, so that we get a rich Coffee Bill that will be prosecuted in this House.

Mr. Speaker, Sir, another one is the Tea Bill where we also had another conference in Kericho County on tea issues. I am happy that the Committee on Agriculture, Livestock and Fisheries was well coordinated at that time. They also participated in the Conference.

Finally, Vice Chairperson of Committee on Agriculture, Livestock and Fisheries, I do not know whether you have handled macadamia issues. Remember there was a regulation through the Ministry of Investment, Trade and Industry that farmers should sell their macadamia in shells without crushing or processing them. That is another issue that is awaited for by the farmers across the country.

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If I may make a brief comment on the Chairs, I am happy that they have processed Bills. The performance on Bills is so good, but when it comes to the Statements, something needs to be done. I agree with you and we have discussed.

They are saying that Cabinet Secretaries are not appearing as they should. We discussed about Statements and whether we should allow Principal Secretaries (PSs) to appear before the committees.

We have more than 400 Statements that have not been responded to. My Statements which have not been responded to are now four.

I thank those committees for their Statements. I also thank the Committee on Agriculture, Livestock and Fisheries, because I have no issues on it---

(Sen. Kathuri's microphone was switched off)

The Speaker (Hon. Kingi): Senator, I am sorry but your time is up.

Before I allow the Clerk to call the next Order, allow me to make the following communications.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM NGURUKI DAY SECONDARY SCHOOL, THARAKA NITHI COUNTY

The Speaker (Hon. Kingi): Hon. Senators, in the Public Gallery this afternoon, we have 62 students accompanied by four teachers from Nguruki Day Secondary School in Tharaka Nithi County, who are in the Senate on an education tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them, and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

(Applause)

VISITING DELEGATION FROM KAMVIU MIXED DAY SECONDARY SCHOOL, EMBU COUNTY

The Speaker (Hon. Kingi): Hon. Senators, also in the Public Gallery this afternoon, we have 43 students accompanied by four teachers from Kamviu Mixed Day Secondary School in Embu County, who are in the Senate on an educational tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them, and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

(Applause)

I will allow the Senator for Embu County to make welcoming remarks under one minute. I will also allow the Senator for Tharaka Nithi under one minute to say--- Is he present?

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(An hon. Senator spoke off record)

We will allow the Deputy Speaker to extend some words of welcome under one minute in that order.

Sen. Munyi Mundigi: Bw. Spika, nawakaribisha wanafunzi wa Kamviu Secondary School kuja kujifunza na kuona yale tunatenda hapa. Seneti ni “*Upper House*” na natumai mtakuwa Maseneta, Wabunge au Maspika wa kesho.

Tunawaomba mtie bidii masomoni na mjiapushe na dawa za kulevya, pombe na mambo mengine ambayo hayafai. Mkiwa shuleni, nawaomba mtii wazazi na walimu wenu.

Tunashukuru Kaunti ya Embu kwa kuwa kati ya kaunti 47, ni Embu pekee ambako hakukuwa na maandamano kwa sababu ya umoja. Mkirudi nyumbani, jueni kwamba Serikali ya Kenya Kwanza inaendelea vizuri.

The Speaker (Hon. Kingi): Deputy Speaker, please, proceed.

Sen. Kathuri: Bw. Spika, vile vile nitazungumza kwa Kiswahili.

Napongeza walimu, wanafunzi na wazazi wa Nguruki Day Secondary School katika Kaunti ya Tharaka Nithi. Tharaka Nithi ni kaunti jirani. Zamani ilikuwa katika Meru kisha tukagawanya na kuweka mipaka ya Meru na Tharaka Nithi. Ninachukua fursa hii kuwakaribisha katika Bunge la Seneti. Waendeleo kwenye masomo yao vizuri na nidhamu na kusikiza yale wanafunzwa na waalimu.

Wale Maseneta wako hapa walipitia kwa hizo shule. Hata kama ni *day secondary school*, zote zina waalimu sawia. Nawatakia mema. Wajikaze kwani mwaka huu kuna mtihani.

Tutaangalia sana Nguruki *Day Mixed School* iko number ngapi kwenye Kaunti ya Tharaka Nithi. Kwa niaba ya Seneta wa Tharaka Nithi nawatakia kila la heri wakirudi kwao nyumbani.

SUBSTANTIATION OF FACTS FOLLOWING INTERVENTIONS,
PURSUANT TO STANDING ORDER NO. 105 (1)

The Speaker (Hon. Kingi): Before we proceed to the next order, allow me to make this communication.

*(Sen. Chimera walked into the Chamber
while the Speaker was on his feet)*

Sen. Chimera you are out of order.

Hon. Senators, as you may recall, at the sitting of the Senate held on Tuesday, 18th July, 2023, the Temporary Speaker then, Sen. Veronica Maina, MP, directed Sen. Samson Cherarkey, MP, Sen. Daniel Maanzo, MP and Sen. Beth Syeng’o, MP to substantiate utterances made in the course of debate, following interventions, pursuant to Standing Order No. 105 (1).

Standing Order 105 provides, as follows -

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

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

Hon. Senators, the three Senators, were not able to substantiate their statements pursuant to Standing Order No. 105(1), and subsequently requested the Speaker to provide the evidence at the next sitting day in accordance with standing Order No. 105 (2).

Having acceded to the requests, the Speaker, pursuant to the Standing Order, directed that the Senators substantiate their allegations at the next sitting day.

I have reviewed the HANSARD report of the proceedings held on Tuesday, 18th July, 2023, and I have ascertained the remarks that necessitated the Senators to be challenged to substantiate their claims. The sittings of the Senate on Wednesday, 19th June, 2023, adjourned due to lack of quorum.

The particulars of the allegations that require substantiation by the respective Senators are as follows -

(1) Sen. Samson Cherarkey, MP

(a) Sen. David Wakoli Wafula, MP, sought the intervention of the Chair to require Sen. Samson Cherarkey, MP, to substantiate the statement that “Most young men in Nandi County who criticize the Governor in social media, funerals and other public functions are taken to Directorate of Criminal Investigations (DCI)”.

(b) Sen. Moses Kajwang’, MP, sought the intervention of the Chair to require Sen. Samson Cherarkey, MP, to substantiate the statement that “...Some of us who are neighbours know that it was about the border issue and the issue of leaflets from some of the political leaders from Nyanza region.”

(2) Sen. Daniel Maanzo, MP

Sen. Samson Cherarkey, MP, sought the intervention of the Chair to require Sen. Daniel Maanzo, MP, to substantiate the statement that: “What is happening in Sondu is politically instigated”

(3) Sen. Beth Syeng’o, MP

(a) Sen. John Methu, MP, sought the intervention of the Chair to require Sen. Beth Syeng’o, MP to substantiate the statement that:

“Tunajua vizuri sana kwamba sisi wana Azimio tungewachwa tuende kwa barabara kudai haki yetu bila kuingiliwa na polisi au wahuni ambao wanapangwa na Maseneta kama Sen. Cherarkey, basi hakungekuwa na vurugu yoyote ...”

(b) Sen. John Methu, MP, sought the intervention of the Chair to require Sen. Beth Syeng’o, MP to substantiate the statement that:

“Sen. Cherarkey na Sen. Methu wanachochea wananchi ndiposa waonyeshe kwamba sisi ndio tuko na shida.”

Hon. Senators, pursuant to Standing Order No. 105 (2), I now invite the three (3) Senators to forthwith substantiate their claims failure to which, the Senators shall be deemed to be disorderly within the meaning of Standing Order No. 121.

In the absence of such substantiation, the Senators will be required to withdraw the statements and apologize to the Senate. If they fail to heed to the two options, then I will direct them to leave the Chamber for being disorderly.

I will start with Sen. Cherarkey. You will start with the statement from Sen. Wafula, where he sought that you substantiate the following:

“Most young men in Nandi County who criticize the governor in social media, funerals and other public functions are taken to Directorate of Criminal Investigations (DCI)”.

Sen. Cherarkey: Mr. Speaker, Sir, on the second issue, regarding what I said on the Floor of the House about the Sondu border---

The Speaker (Hon. Kingi): Sen. Cherarkey, start with the one by Sen. Wafula.

Sen. Cherarkey: Mr. Speaker, Sir, on that, I request for more time, with your indulgence under Standing Order No.1. We adjourned because of lack of quorum. Can I be allowed more time? I will need your guidance.

The Speaker (Hon. Kingi): I am afraid the Standing Orders talk about the subsequent sitting. You either substantiate now or proceed to withdraw and apologise.

Sen. Cherarkey: Mr. Speaker, Sir, although I said it on a lighter note, I withdraw and apologise on count number one. On the second issue, having discussed the matter further, I thought it not wise to pursue it because we want unity, peace and harmony along the border.

I respectfully, with a lot of humility from the bottom of my heart apologise for the remarks I made that might have been misconstrued against my colleague leaders from the region.

Therefore, I withdraw and apologise to the people of Luo Nyanza. I pray that the region becomes the oasis of peace, tranquillity, unity and diversity. I will be visiting a church in ---

The Speaker (Hon. Kingi): Sen. Cherarkey, you have discharged your duty, kindly proceed to take your seat.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I will be visiting the church in Sondu region to pray with them.

The Speaker (Hon. Kingi): Is Sen. Maanzo present? He is not here. Sen. Beth Syengo, the first challenge for you to substantiate was by Sen. Methu-

“Tunajua vizuri sana kwamba sisi wana Azimio tungewachwa tuende kwa barabara kudai haki yetu bila kuingiliwa na polisi au wahuni ambao wanapangwa na maseneta kama Sen. Cherarkey, basi hakungekuwa na vurugu yoyote “.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. As a result of what is and has been happening, I had no time to look for the evidence I promised. I have been in hiding.

(Laughter)

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The Speaker (Hon. Kingi): Let the Senator be heard in silence. Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Mr. Speaker, Sir, from here, I had to run away to Kitui County. I only came back this morning.

The Speaker (Hon. Kingi): Senator, proceed to substantiate or withdraw and apologise.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I think what I said was at the spur of the moment. I withdraw and apologize.

Thank you.

The Speaker (Hon. Kingi): Proceed with the second limb of the challenge. You were challenged again by Sen. Methu when you said:

“Sen. Cherarkey na Sen. Methu *wanachochea wananchi ndio waonyeshe kwamba sisi ndio tuko na shida.*”

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I would say the same thing. I withdraw and apologize.

The Speaker (Hon. Kingi): Thank you. Sen. Maanzo is not present. Once he makes his way to the Chamber, he will equally be made to either substantiate or apologize.

Now, Senators you remember I had promised to make a Communication of the dress code because we spent a lot of time interrogating points of orders on how we dress as hon. Senators. I will proceed to make that Communication on our dress code.

APPLICATION OF RULE NO. 5 OF THE SPEAKER’S RULES PERTAINING TO DRESS CODE IN THE SENATE

During the Sitting of the Senate held on Thursday 15th June, 2023, the Senator for Migori County, Sen. Oketch Gicheru rose on a point of order pertaining to the manner of dressing by the Senator for Nyandarua County, Sen. John Methu pursuant to Rule No. 5 of the Speaker’s Rules, on the conduct of Senators within the precincts of Parliament.

In the point of order, Sen. Oketch Gicheru sought the intervention of the Speaker as in his opinion, Sen. Methu was adorned in “Something that is not part of the dress code of the Senate.”

The point of order by Sen. Oketch Gicheru was further buttressed by the Senator for Homa Bay County, Sen. Moses Kajwang’, MP who argued that application of Rule No. 5 on the dress code must be done with a degree of restraint on the part of Senators so as not to ridicule the Senate and bring it to disrepute.

In his defence, Sen. Methu argued that besides being a Christian he professes and subscribes to traditional religious faiths and that the hat he adorned was in line with the traditional religious faith of the Agikuyu.

Following the point of order by Sen. Oketch Gicheru, I undertook to make a ruling at a later date on the dress code for Senators acknowledging that a time had come for the Chair to put to rest the boundaries for Rule No. 5 of the Speaker’s Rules on dress code.

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Hon. Senators, the matter of dress code of Senators has surfaced a number of times in the short stint of the 13th Parliament, warranting my hand to render a well-reasoned, considered and final ruling on the matter. I note with concern that the issue of dress-code has been raised as a point of order six times.

I will summarily remind the House of the number of instances that have arisen concerning Senators' choice of dress as follows - which time could have been used to consider more important matters:

On 12th October, 2022 when the Senator for Nyandarua County, Sen. John Methu, rose on a point of order to highlight the attire of Senator for Kisii County, Sen. Richard Onyonka;

During the same sitting, the Senator for Laikipia County, Sen. John Kinyua sought intervention of the Chair concerning the dressing of the Senator for Kiambu County, Sen. Karungo Thang'wa;

On 14th February, 2023, Nominated Senator, Sen. Tabitha Mutinda rose on a point of order objecting the manner in which Nominated Senator, Sen. Gloria Orwoba was dressed and she was supported by several Senators;

During the same sitting, the Senator for Migori County, Sen. Oketch Gicheru rose on a point of order seeking the direction of the Chair on the dressing of Nominated Senator, Sen. Karen Nyamu;

On 2nd March, 2023, the Senator for Mombasa County, Sen. Mwinyihaji Mohamed Faki sought the intervention of the Chair on the dress code of Nominated Senator, Sen. Raphael Chimera;

On 31st May, 2023, Sen. Samson Cherarkey rose on a point of order objecting to the manner in which Sen. Gloria Orwoba was dressed, accusing her of being dressed like a Disc Jockey.

Hon.Senators, Rule No. 5 of the Speakers Rules states as follows:

“Senators are required not to enter the Chamber, Lounge or Dining Room without being properly dressed. This means that a male Senator shall be dressed in a coat, collar, tie, long trousers, socks and shoes, or service uniform, religious attire or such other decent dressing as may be approved by the Speaker from time to time. An equivalent standard shall apply in respect of women Senators who may also wear Kitenge or such other African attire.”

Hon. Senators, the Speaker's Rules are made pursuant to Section 37 of the Parliamentary Powers and Privileges Act, specifically Section 37 (1), (2), and (3), which states as follows: -

(1) The Speaker of either House of Parliament may, from time to time, issue such orders as may be necessary or expedient for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, the orders may provide for-

(a) The admittance of members of the public to the precincts of Parliament or the deduction of any monies due to a Member in respect of refreshments or other facilities made available to Members within the precincts of Parliament;

(b) The appropriate dress code for Members.

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The Code of Conduct regulating the conduct of Members of the respective House of Parliament shall be as set out in the Fourth Schedule.

Further Paragraph 7 of the Fourth Schedule to the Parliamentary Powers and Privileges Act states as follows-

A Member of the House shall uphold the dignity and integrity of the House by-

- (a) promoting respect for the House and its institutions at all times;
- (b) ensuring that the Member's non-parliamentary activities do not interfere with or compromise the Member's official duties or bring the House into disrepute.

The rules regulate the conduct of Senators and govern the admission and conduct of the members of the public and other visitors to Parliament. Breach of the Speaker's Rules results in the matter being referred to the Committee of Powers and Privileges for consideration and action.

Hon. Senators, as I make a determination on this matter, I wish to draw to your attention that as representatives of the people, it is of paramount importance that we project an image that upholds the respect and dignity of the office of a Senator, and the constitutional institution in which we serve.

Let us appreciate that the parliamentary Chamber and committee rooms, including conference rooms are not just places where we assemble to debate. They are symbols of our differences of our democratic governance.

The parliamentary chamber is a citadel where differences of opinion are canvassed, critical decisions affecting the lives of Kenyans are made; laws are passed and resolutions are adopted to shape the future of this country. Therefore, it is only befitting that we treat this Chamber with the reverence it deserves starting with our attire.

Hon. Senators, while the issue of defining the dress code may seem trivial to some of us, it holds great significance in fostering an atmosphere of mutual respect and decorum in protecting the image of Parliament.

A well-defined dress-code ensures that the focus remains on the issues scheduled for debate, as opposed to an individual's choice becoming the debate hence wasting invaluable time that can be used to debate items on our Order Paper.

Despite this, it is also important to strike a balance between upholding respect and dignity, whilst allowing for individual expression. Our attires ought not to be overly restrictive and suppressive in acknowledging the diverse identities of our communities.

Rather it should set reasonable standards that uphold the tenets of professionalism while accommodating cultural and religious diversity.

To achieve this, it is imperative that we adhere to the provisions of Rule No. 5 of the Speaker's Rules on dress code. To Further buttress the provisions of Rule No.5, I direct as follows, notwithstanding previous directives-

- (1) Dressing by Hon. Senators should be modest, appropriate and not ill-fitting.
- (2) Religious attires are allowed based on the Senator's faith.
- (3) The "coat" in Rule No. 5 should be long-sleeved, including that of a Kaunda suit.
- (4) Lady Senators' attire should cover the arms and should be below the knee.

(5) The fabric for all Senators attire should be conventional and decent enough. For avoidance of doubt, jeans, leather, translucent and luminous fabrics and revealing outfits will not be allowed.

Hon. Senators, it is important to note that a dress code alone cannot guarantee the integrity of our debate or the effectiveness of our policies. Ultimately it is the quality of our arguments, the respect we show to one another and the dedication we bring to our work that truly define us as representatives of the people.

A professional attire in our parliamentary Chamber serves as a visible representation of our commitment to mutual respect. We also demonstrate our understanding of the importance of our roles and the gravity of the decisions we make.

Going forward, the Chair expects all hon. Senators to be dressed in formal, professional or otherwise appropriate attire when attending Plenary sittings and to adhere to the requirements of Rule No. 5 of the Speaker's Rules and paragraph seven of the Fourth Schedule of the Parliamentary Powers and Privileges Act when undertaking our constitutional duties.

In conclusion, considering the involving nature of dressing and the importance of the same in enhancing decorum in the Senate, we will commence a review of the Speaker's Rules to take into account the above further guidelines and new developments on the dress code.

Kindly be guided accordingly.

(Applause)

Hon. Senators, I have a further Communication to make. Kindly, let us take our seats.

SUSPENSION OF A SENATOR FROM THE SENATE FOR GROSS DISORDERLY
CONDUCT PURSUANT TO STANDING ORDER NO. 122 OF THE SENATE

The Speaker (Hon. Kingi): Hon. Senators, at 6:30 p.m. on Tuesday, 18th July, 2023, the Speaker interrupted the proceedings and adjourned the Senate pursuant to the Standing Orders.

As is the established tradition, the Speaker's Procession, consisting of the Speaker, who at that time was Sen. Veronica Maina, a Member of the Speaker's Panel, the Serjeant-at-Arms, the Clerk-at-the-Table and a police officer from the Parliament Police Station, exited the Senate Chamber, on its way to the Speaker's Office.

On the walkway from the Senate Chamber, just outside the Senate Lounge, the Senator for Nairobi City County, Sen. Edwin Sifuna, MP, was heard shouting, "Shame! Shame! Shame!" at the Speaker's Procession. However, the Procession proceeded to the Speaker's Office in the usual manner.

Subsequently, Sen. Veronica Maina, MP, retreated to the Senate Lounge whereupon she engaged Sen. Edwin Sifuna, MP, on why he was shouting at the Speaker's Procession.

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It is at this point that a verbal altercation between the two Senators ensued. Officers of the Serjeant-at-Arms and a number of Senators who were in the room intervened in a bid to calm down the two Senators and defuse the engagement, which would have otherwise resulted in an unpleasant physical exchange.

You will recall that on 28th February, 2023, the Speaker issued a Communication expressing deep concern at the state of affairs in the conduct of the proceedings of the Senate in the few sittings that followed the commencement of the Second Session on 14th of the same month.

I highlighted that a number of Senators had exhibited outright abuse of privilege and that there was need to maintain decorum and order in the Senate.

I also highlighted and appealed to hon. Senators to utilize other avenues for addressing grievances, instead of resorting to outright disorder, in the event that one is not pleased with the directives of the Speaker or the Chair.

In that Communication, I ordered that a recurrence of the kind of disorder that was witnessed in the Senate at that time would not be tolerated. I also gave the assurance of the Chair and the entire Speaker's Panel, that incidents of disorder would be dealt with firmly and without fear or favour.

Hon. Senators, a report on what transpired on Tuesday, 18th July, 2023, between the time when the Speaker's Procession exited the Chamber and when the two Senators left the precincts of Parliament, was submitted to my office by the Serjeant-at-Arms.

Upon interrogating the report, I have made a determination that the actions of the Senator for Nairobi City County, Sen. Edwin Sifuna, MP, in shouting as he did at the procession of the Speaker amounted to a disruption or an attempt to disrupt the Speaker's Procession and constitute gross disorderly conduct pursuant to Standing Order No. 122 (1) (k).

Standing Order No. 122 (1) highlights the instances in which a Senator displays gross disorderly conduct, which includes if he or she disrupts or attempts to disrupt the Speaker's Procession. The sanctions for the conduct of such Senator are provided under Standing Order No. 122 (2) which states as follows -

“The Speaker may call a Senator whose conduct is grossly disorderly to order, and shall order the Senator to withdraw immediately from the precincts of Parliament -

(a) on the first occasion, for a maximum of three sitting days, including the sitting day of suspension; and,

(b) on the second or subsequent occasion during the same session, for a minimum of seven sitting days and a maximum of twenty-one sitting days, including the day of suspension.”

From the foregoing, and this being the first occasion for Sen. Edwin Sifuna, MP, to be grossly disorderly under Standing Order 122 during the said session, I direct that the Senator for Nairobi City County, Sen. Edwin Sifuna, MP, withdraws immediately from the precincts of Parliament for a maximum of three sitting days, including today.

The Senator shall not be allowed to access the precincts of Parliament, including the offices, Committee rooms, the lounges and dining halls for whatever reason, during the suspension.

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I also direct the Serjeant-at-Arms to ensure compliance with the directive for the stated duration. For the avoidance of doubt, the period of suspension shall lapse at midnight on Thursday, 27th July, 2023.

I refer all hon. Senators to the Communication from the Chair of 28th February, 2023, and urge that we maintain order and decorum in the Chamber and in Committees.

It is so directed.

(Sen. Sifuna walked out of the Chamber)

(Sen. Osotsi and Sen. Wambua stood in their places)

The Speaker (Hon. Kingi): Sen. Osotsi and Sen. Wambua, you have been here long enough. You cannot rise on points of order. You can do better than that.

(Sen. Wambua spoke off record)

Proceed, Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, you have done well in providing guidance on the matter of behaviour of Senators while in the Chamber or within the precincts of Parliament.

I stand to be guided by the Clerks-at-the-Table on whether reference to declare Members to be grossly out of order is applicable outside a sitting of the House either Plenary or at the Committee of the Whole, so that we do not end up with a situation where if I have a confrontation with the Senate Majority Leader - I pray that we do not have one - outside the sitting of the Senate, in Plenary or Committee, then that matter invites a decision of the Speaker to throw out a Senator.

Mr. Speaker, Sir, I could be wrong, but my reading of the Standing Orders is that disorderly conduct is applicable in only two instances. It is either in Committees or Plenary. What happened to the Member of the Speaker's Panel when she was leaving, was after the sitting had been adjourned.

The Speaker (Hon. Kingi): Sen. Wambua, just take your seat. I thought you were seeking clarification. However, you have taken the time to give a lecture. Let me take you directly to Standing Order No. 122 (2) as read together with Standing Order No. 122 (1) (k). It states that -

“A Senator commits an act of gross disorderly conduct if the Senator-
(b) disrupts or attempts to disrupt the Speaker's Procession;”

The Speaker's Procession starts from the Office up to the Chamber. If you disrupt it in between there, then you will have committed an act of disorderly conduct.

That is exactly what the Senator for Nairobi did. He shouted at the procession when it was passing by the lounge. That is why he was held to be out of order. I hope that clarification suffices.

(Sen. Wambua stood in his place)

The Speaker (Hon. Kingi): Sen. Wambua, just have your seat. Proceed, Sen. Crystal Asige.

Sen. Crystal Asige: Mr. Speaker, Sir, thank you for the Communication that you have provided to us regarding the incident between Sen. Veronica Maina and Sen. Sifuna.

As a point of information, I was sitting with Sen. Sifuna inside the Senate Lounge that day. We were opposite each other.

He was having a cup of tea once after a particular sitting was adjourned at 6.30 p.m. He came in and he sat opposite me. He was speaking to me about his disappointment that he was unable to contribute to the Motion that was brought by Sen. Munyi Mundigi on that day. He was fired up. Indeed, it was very true. He was more than disappointed. He was a bit frustrated; I would say. He was expressing to me his frustration.

Through your Communication as I have understood it, you have said that he stood outside of the Senate Lounge and proceeded to shout at the procession. As a point of information, he was not outside the Lounge, he was seated inside the Lounge opposite me, drinking a cup of tea. I was there.

The Speaker (Hon. Kingi): Sen. Crystal Asige, kindly have your seat.

Sen. Crystal Asige: Mr. Speaker, Sir, it is an information that he was screaming “shame” at the point that he was unable to contribute---

The Speaker (Hon. Kingi): For the first time, Sen. Crystal Asige, take your seat. For the second time, take your seat.

(Sen. Crystal Asige took her seat)

I do not need any information. I have ruled. Therefore, any information now is of no use. If you look at my ruling, I did not say Sen. Sifuna came out of the Lounge and shouted. Sen. Crystal Asige, take a copy of that ruling and read it. We are going to rest that matter there.

Clerk, proceed to call the next order.

(The Clerk-at-the -Table Consulted the Chair)

(Sen. Beth Syengo consulted loudly)

Sen. Beth Syengo, if you proceed in that manner, I will throw you out of this House.

Sen. Osotsi, you may speak.

Sen. Osotsi: Mr. Speaker, Sir, I do not intend to discuss your ruling but I would like to go on record because, you have recounted the evidence that you were given by the Serjeant-at-Arms. I state that I was in the Members Lounge with many other Members including a senior Member, Sen. Mungatana and we saw what happened.

Sen. Veronica Maina approached Sen. Sifuna and threatened to beat him up.

(Senators consulted loudly)

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Mr. Speaker, Sir, when an action is taken, it should be both ways.

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

Hon. Senators, when I am reading rulings please be attentive. I said, there were two instances. The first time was the official procession when the Senator who was leading the procession as the Temporary Speaker then, it is that point that the shouting of “shame, shame” happened. Sen. Veronica Maina proceeded to take the Mace to where it was supposed to be taken. After, making sure that the Mace is safe, she came back. Get your facts right.

Hon. Senators, we are going to rest that matter there.

Hon. Senators, we started with Statements under Standing Order No. 53(1), the two Senators whose statements were dropped have since approached me. That is; Sen. Faki and Sen. Cherarkey. They have given me very valid reason why they were not in when the matter was called. I will therefore allow Sen. Faki and Sen. Cherarkey to proceed to request for their statements.

Sen. Faki, you may have the Floor.

(Sen. Orwoba spoke off record)

Sen. Orwoba, please, can you be orderly please.

Sen. Faki, please proceed.

STATEMENTS

SIKU YA KIMATAIFA YA LUGHA YA KISWAHILI DUNIANI

Sen. Faki: Bw. Spika, nimesimama kuambatana na Kifungu cha 52 (1), cha Kanuni za Kudumu za Seneti kutoa Kauli kuhusu siku ya Kimataifa ya Lugha ya Kiswahili iliyoathimishwa mnamo Tarehe 7 Julai, 2023.

Bw. Spika, Kiswahili ni Lugha ambayo inatumika na zaidi ya watu milioni 200 katika Bara la Afrika. Hii ndiyo lugha inayokuwa na kusambaa kwa kasi zaidi ulimwenguni, ikizingatiwa kuwa mataifa ya Uchina na Japan yameanza kufunza lugha hii nchini mwao. Afrika Kusini pia ni taifa ambalo lugha hii imeanza kufunzwa. Moja ya maazimio ya Umoja wa Afrika ni kwamba siku moja lugha yetu hii ndiyo itakayo kuwa lugha rasmi ya Bara la Afrika.

Bw. Spika, Mwaka huu wa 2023 maadhimisho rasmi ya siku ya Kiswahili duniani yalifanyika Jijini Kampala, Uganda, na yaliongozwa na Baraza la Lugha ya Kiswahili la Afrika Mashariki; kwa kiingereza, East Africa Swahili Council. Ni Jambo la kutia moyo kuwa nchi ya Uganda imekubali kukifanya Kiswahili kuwa lugha rasmi nchini humo.

Habari kama hizi ni zakutia moyo ikitambulika kwamba Kiswahili ni lugha inayotumika Kenya, Tanzania, Rwanda, Burundi na Mashariki mwa Congo (DRC) kwa wingi. Mataifa yote haya ni Nchi za Jumuiya ya Afrika Mashariki.

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Nchini Kenya, sherehe hizi ziliadhimishwa na jamii ya Waswahili katika eneo la Mama Ngina Water Front, Kaunti ya Mombasa. Maeneo haya ni baadhi ya turathi za Waswahili na mahali hapa tangu zamani palijulikana kama Mzimle.

Bw. Spika, wakati maadhimisho haya yakifanyika, inapaswa tuzingatie hatua tulizopiga katika kuendeleza lugha ya Kiswahili. Hapa Seneti tumeweza kufasiri Kanuni zetu za Kudumu kwa lugha ya Kiswahili lakini bado zipo hatua nyingi zinazofaa kupigwa ili tuwe na matumizi ya Kiswahili katika Seneti. Kwa mfano, bado hatuweza kufasiri Miswada ya Sheria, Ardhihali na ripoti za kamati kwa lugha ya Kiswahili.

Hatua hii itasaidia pakubwa kuwapa ufahamu Wananchi ambao wanafuatilia maswala Bungeni. Natumai tutafikia hatua ya kuwa na Miswada ya Sheria iliyo chapishwa kwa lugha ya Kiswahili kabla ya mwisho wa muhula wa Bunge hili.

Bw. Spika, katika nyanja nyingine hatua pia zimepigwa kuhusu matumizi ya lugha ya Kiswahili. Hivi Majuzi Mahakama Kuu hapa Nairobi, ilisikiliza kesi ya kwanza iliyo wasilishwa kwa lugha ya Kiswahili na Wakili Kinyanjui. Wakili huyu alisisitiza kuendesha kesi yake kwa lugha ya Kiswahili jambo lililimpa mshangao Wakili wa upande wa Utetezi. Hii ni hatua kubwa kwa sababu wananchi wengi wanapokuwa Mahakamani hawaelewi kesi zao zinavyoendeshwa na hivyo basi kusababisha wao kukosa Mahakamani.

Lugha ni kati ya mambo ya tamaduni ambazo zinatambuliwa Kikatiba. Lakini ukiangalia bajeti zinazo tengwa kwa huduma hii, utapata kwamba ni haba sana kiasi ambacho Kaunti zetu hazina chochote ambacho wanaweza kujivunia katika nyanja hii. Naona ipo haja kutenga rasilimali za kutosha ili kuimarisha maswala ya kiasli na tamaduni zetu katika Kaunti zetu.

Jamii na hasa wazee wa jamii ya Waswahili wanaitaka Serikali ya Kitaifa iwarudishie Mama Ngina Waterfront iliyo Jijini Mombasa ambalo ni turathi ya Waswahili ili waipae turathi hiyo jina lake asili ambalo ni Mzimle.

Bw. Spika, wakati tunapigania kurejeshwa kwa turathi zetu kutoka kwa Wakolini, ni aibu kwamba hapa nchini Kenya zile turathi ambazo zimechukuliwa na Serikali ya Kitaifa hazijawezwa kuregeshwa katika Kaunti zetu.

Ningependa kumaliza kwa kutoa rambirambi zangu na za Watu wa Mombasa kwa kumpoteza Prof. Mohamed Abdulaziz ambaye alikuwa Mkufunzi wa Lugha Chuo Kikuu cha Nairobi katika kitengo cha Kiswahili. Almarhum Prof. Abdulaziz ametoa mchango mkubwa katika kufunza Lugha ya Kiswahili na ameacha pengo kubwa hususan kwetu sisi Waswahili Kindakindaki.

Mwenyezi Mungu ailaze roho yake pema peponi.

Asante Bw. Spika, kwa kunipa fursa hii.

The Speaker (Hon. Kingi): Sen. Faki, je una kauli nyingine?

Sen. Faki: Niko na nyingine ya feri.

The Speaker (Hon. Kingi): Proceed.

KUZOROTA KWA HUDUMA ZA FERI KATIKA
KIVUKO CHA LIKONI

Sen. Faki: Bw. Spika, nimesimama chini ya kifungu cha 52(1) cha Kanuni za Kudumu za Seneti kutoa Kauli kuhusu swala la kitaifa kuhusiana na kuzorota huduma za feri katika kivuko cha Likoni.

Mheshimiwa Spika, kivuko cha Likoni kinaunganisha sehemu ya Pwani kusini na kisiwa cha Mombasa. Vile vile, kinaunganisha Kenya na Tanzania kupitia barabara ya Malindi-LungaLunga-Horohoro-Tanga-Bagamoyo. Barabara hii ni ya kimataifa. Kina umuhimu mkubwa kwa maisha ya wanabiashara, sio kwa kaunti za Mombasa na Kwale pekee, bali pia kwa Afrika Mashariki na Afrika kwa jumla.

Hivi karibuni, huduma katika kivuko hicho zimedorora sana. Kumekuwa na msongamano mkubwa wa magari na watu wanaotumia kivuko hicho. Itakumbukwa kwamba hivi karibuni, kulitokea mkasa ambapo bibi mmoja na binti yake walipoteza maisha yao wakati gari lao lilipo tumbukia baharini wakiwa ndani ya *ferry*, iliyowachukua kutoka Likoni Kusini kuja katika kisiwani cha Mombasa.

Mheshimiwa Spika, hadi leo hatujui ni nani anapaswa kuwajibika kwa ajali hiyo. Mnamo mwaka wa 1993, *ferry* la mtongwe lilizama na zaidi ya watu 250 wkapoteza maisha yao. Hadi leo, bado kuna familia zinazosubiri fidia ya wapendwa wao. Mikasa yote hii inaashiria umuhimu wa usalama wa binadamu na mali izingatiwe katika kivuko hicho.

Wiki mbili zilizopita, Halmashauri ya Bandari inayosimamia *ferry* za kivuko hicho, lilifunga daraja ya miguu linalotumiwa na wananchi wengi kuvuka kutoka Likoni kuingia mjini Mombasa. Hii imesababisha msongamano mkubwa katika kivuko hicho cha Likoni. Vile vile, huduma za *ferry* ya Mtongwe zilizoondolewa, hivyo kuwabidi watu wengi kutumia *ferry* ya Likoni ili kuenda kisiwani kwa biashara na ajira.

Mheshimiwa Spika, kuna *ferry* nne ambazo zinazohudumu lakini, mbili peke yake ndizo ambazo zilinunuliwa hivi karibuni. Zingine ni za zamani sana na haziwezi kuhudumu masaa yote bila kupumzishwa. Kutokana na ongezeko la watu katika maeneo ya Likoni, ni muhimu *ferry* hizi ziweze kuwa katika hali nzuri ili wananchi wasitatizike wakati wanatumia kivuko hicho.

Mkurugenzi Mkuu wa Halmashauri ya Bandari, Nahodha William Kipkemboi Ruto, alinukuliwa akisema kwamba ukarabati wa daraja la kuvukia kwa miguu kutoka Likoni hadi kisiwani cha Mombasa utachukua miezi kadhaa kukamilika. Mkurugenzi huyo pia alizindua huduma za kuingiza meli kwa masaa ishirini na nne katika bandari ya Mombasa. Hivyo basi, ina maana kwamba meli zitaweza kutia nanga katika bandari hiyo wakati wowote, kinyume na hapo awali ambapo zilizuliwa wakati wa asubuhi mapema na alasiri kwa sababu daraja la wanaopita kwa miguu huwa limefunguliwa.

Kauli hizi mbili za Mkurugenzi huyo, zimeleta utata kwa sababu iwapo meli zitaingia bandarini masaa ishirini na manne, daraja la wanaopita kwa miguu halitafunguliwa tena. Hii itasababisha msongamano kuendelea katika kivuko cha *ferry* cha Likoni. Nikiongezea, hatujapokea ripoti za mipango ya ununuzi wa *ferry* nyingine katika miaka ya hivi karibuni, hatua ambayo ingesaidia kutatua msongamano wa wananchi katika kivuko hicho.

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Mheshimiwa Spika, hili daraja la miguu lilianzishwa 2020 na liligharimu Serikali karibu Kshs1.4 bilioni. Daraja ni jipya na halina sababu ya kurekebishwa kwa muda mrefu kama vile ilivyopangwa. Itakumbukwa kwamba, daraja la kuvukia kwa miguu kwa wasafiri wanaotembea kutoka Likoni hadi kisiwani lilizinduliwa wakati wa janga la Corona, ili kuondoa msongamano na kurahisisha usafiri. Kwa hivyo, kabla ya kulifunga daraja hili, ni muhimu kwa Halmashauri ya Bandari kuweka mikakati mbadala kupunguza msongamano katika kivuko cha Likoni.

Kuna wawekezaji wanaomiliki vyombo vya usafiri baharini na ambao wako tayari kutoa huduma hizo katika kivuko cha Likoni, lakini Halmashauri ya Bandari imekataa kuwapa kibali cha kutoa huduma hizo. Swala hili lina umuhimu mkubwa sana na naomba Kamati husika kulivalia njuga swala hili, wazuru eneo hili ili wajionee masaibu wanayopata wananchi wa Likoni na wale wanaokwenda nchi jirani ya Tanzania.

Asante, Mheshimiwa Spika kwa kunipa fursa hii.

The Speaker (Hon. Kingi): Sen. Cherarkey.

ALLEGED BREACH OF CUSTOMER DATA AT THE NAIVAS SUPERMARKET

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. My Statement will be in English. My apologies to the people who have gotten used to reading in Swahili.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Information, Communication and Technology concerning reported cases of breach of sensitive personal customer data at the Naivas chain Supermarkets.

In the Statement, the Committee should -

(1) State the measures the retail chain has implemented to protect, prevent, and mitigate breaches involving staff, suppliers, and customer data in the Information, Communication and Technology (ICT) platform from future hacking incidents in the chain.

(2) Provide a comprehensive evaluation of the recent data loss at Naivas Supermarket, specifying the extent to which customer information, such as phone numbers, addresses, and purchasing patterns were exposed to the public.

(3) Establish the extent of culpability of Naivas Supermarket Co. Ltd in the data breach, outlining the specific actions taken by the Office of the Data Protection Commissioner (ODPC) to call the Supermarket chain to account.

(4) Present the cyber security report from the contracted firm investigating the data theft at Naivas, confirming the current safety of customer data held by the supermarket.

(5) State the level of awareness and education conducted by Naivas for its customers, staff, and suppliers regarding their rights and the security of data collected by Naivas Supermarket Company Limited.

I thank you.

The Speaker (Hon. Kingi): Thank you. Hon. Senators, pursuant to Standing Order No. 45(2), I will seek to re-arrange the sequencing of the Order Paper.

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We will defer Orders from No. 8 all the way to Order No. 12. We will start with Order No. 13 all the way to the end.

BILLS

Second Reading

THE KONZA TECHNOPOLIS BILL
(SENATE BILLS NO. 2 OF 2023)

(Bill deferred)

Second Reading

THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 7 OF 2023)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(SENATE BILLS NO. 6 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COTTON INDUSTRY DEVELOPMENT BILL
(SENATE BILLS NO. 5 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you are seeking an intervention, or you are on a point of order? Let us establish what you are doing first.

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Sen. (Dr.) Khalwale: Mr. Speaker, Sir, it is a small reminder, if you could help us. We were looking for the opportunity to comment on these two important Statements. I do not know if you can accommodate us in the limited time that you have.

The Speaker (Hon. Kingi): Very well. I will allow two interventions, starting with yours, then Sen. Mungatana.

(Resumption of debate on Statements)

STATEMENTS

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I laud the Senator for Nandi on the issue he has raised. More people are resorting to using online shopping and transfer of funds and so forth. When the answer comes, could it not limit itself to what Naivas is doing? It should go further and tell us whether Naivas and all other online markets are going to move their technology to the current cutting-edge technologies.

The one we are using is outdated where your card is swiped and you are asked to key in your Personal Identification Number (PIN). It is old. The current one is, you just tap the cash office, pick your shopping and tap when you want to go and pay for your car's parking. All this is done without you having to reveal your PIN.

Mr. Speaker, Sir, if the technology roll-out is not going to accommodate these innovative methods, more people will continue losing their money because of conmen who are online. Let that information include that.

The Speaker (Hon. Kingi): Sen. Mungatana.

Sen. Mungatana, MGH: Bw. Spika, ninashukuru kwa kunipa nafasi hii ili niseme maoni yangu kuhusu Mswada wa Kiswahili ulioletwa na Sen. Faki.

Katika mkutano wa 41 wa United Nations Educational, Scientific and Cultural Organization (UNESCO) tarehe 23 Novemba, ilipitishwa ya kwamba Kiswahili kiwe kinatumika katika mikutano ya kimataifa. Zaidi ni kwamba siku ya Kiswahili ilipitishwa kuwa tarehe saba Julai kila mwaka. Kiswahili kilikuwa lugha ya kwanza ya Kiafrika kutambulika na kupitishwa katika Baraza hilo la Umoja wa Mataifa.

Bw. Spika, kama alivyosema Sen. Faki, tarehe saba Julai ilitawazwa hapa Kenya na Uganda. Hata hivyo, kisichotosha wala hakistahili ni kwamba hatujaona sherehe za kustahi Kiswahili katika kaunti zetu na Serikali Kuu. Tungependa sana Kenya ikuwe mbele kati ya yale mataifa ambayo yanastahi Kiswahili.

Kwa hivyo, ningependa kuchukua nafasi hii kuuliza Serikali Kuu na za kaunti, zipangie vizuri sherehe za siku ya kuadhimisha lugha ya Kiswahili tarehe saba Julai mwaka ujao.

Bw. Spika, katika Bunge la Afrika, wakati mwingine tunasimama na kuzungumza Kiswahili. Kusema kweli, watu wengi hufurahia kwa sababu Kiswahili ni lugha pekee ya Kiafrika ambayo inatambulika katika Pan-African Parliament (PAP).

Tunaomba Kenya iwe mstari wa mbele kupatia lugha ya Kiswahili heshima kama jinsi ilivyoheshimika katika nyanda za Afrika na kote duniani.

The Speaker (Hon. Kingi): Proceed, Sen. Orwoba.

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Sen. Orwoba: Thank you, Mr. Speaker, Sir. I wish to give a few remarks on the data protection on the Statement by Sen. Cherarkey on Naivas.

(Applause)

We are not just looking at data protection. The mined data is used to make money through third party service providers. On top of that, sometimes they use that data to do some analysis and get to know how much one spends. With that information, they can target a person with certain advertisements and coupons. Data mining without my consent is the issue we are looking at.

Mr. Speaker, Sir, I wish to highlight the fact that outside the illegal transactions that are happening with data mining, it is the issue of systematic institutional discrimination to the customers. Through the data mining, certain services are provided to other customers and not others.

Today, I want to talk about that systematic discrimination. It is the same way we have put a dress code and no one has talked to the women about it. No one has told us what is supposed to be worn. That is what we call systematic discrimination. We are going down hard on ensuring that women in this House spend more money to buy clothes that suit the males who sat and decided what we should wear. However, are we getting a budget for the same?

We can go ahead and say women should not wear leather or lace and so on. We have to push back because at one point then, you will tell me that I cannot wear red, but pink lipstick. At one point, the House will dictate how I express myself. That is systematic discrimination and these issues have to be looked into.

Before we go out to talk about the systematic discrimination in *Naivas*, we have it here in the Chamber. This is beginning to look like a patriarchal House where women are not allowed to express themselves. We want to know if we require uniforms.

The Speaker (Hon. Kingi): Sen. Orwoba, take your seat.

Sen. Orwoba: Mr. Speaker, Sir, maybe we need uniforms so as to fit into the male description of what is proper.

The Speaker (Hon. Kingi): Sen. Orwoba, you are totally out of order. I will give you the first caution of the day.

(Sen. Orwoba consulted loudly)

Sen. Orwoba, the Chair is addressing you and I am calling you to order. You rose to make interventions on statements pursuant to Standing Order Nos. 52 and 53. Your last statements have nothing to do with those statements. You are out of order.

Proceed, Sen. Chimera.

Sen. Chimera: Asante, Bw. Spika. Ninachukua fursa hii kumpongeza Seneta wa Kaunti ya Mombasa kwa kauli yake kuhusu kudorora kwa huduma za feri.

Mimi ni mkaazi wa Kaunti ya Kwale na mara kwa mara, mimi huvuka feri kwenda Mombasa kufanya shughuli zangu au kurudi Kwale jioni kupumzika. Vile vile, Kaunti hizi mbili za Kwale na Mombasa zinategemea utalii kama kitega uchumi. Ndio

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sababu sisi viongozi wa pwani tuko mstari wa mbele kuhakikisha kwamba Serikali yetu ya Kenya Kwanza inatufungulia anga ili utalii uweze kuboreka.

Bw. Spika, ni jambo la kusikitisha kuona kwamba mtalii anafika Mombasa na akwame pale feri kwa sababu ya msongamano. Hivi majuzi tu katika likizo yetu fupi, mimi mwenyewe nimekwama pale takriban masaa manne. Katika hali ile, nilitangamana na wafanyikazi wa feri na wakanieleza shida yao kubwa zaidi ni nyongeza ya mshahara.

Tumepoteza wawekezaji, biashara na ajira kwa vijana wetu kwa sababu ya msongamano huu. Ninaomba Kamati husika ilivalie njuga swala hili. Isikize vizuri na ifanye uchunguzi wao kwa kina ili tuhakikishe huduma za feri zimeboreshwa.

Vile vile, ninampongeza Sen. Faki kwa ile kauli yake ya Kiswahili. Kiswahili ni lugha ya taifa. Kiswahili kinaleta uwiano na utangamano dunia nzima. Kwa hivyo, ni ombi langu kwamba sisi kama viongozi katika Bunge hili, tuichukue kauli ya Sen. Faki kwa kikamilifu zaidi na tutukuze Kiswahili.

The Speaker (Hon. Kingi): We are going to defer one Statement by Sen. Faki, under his own request.

KUZOROTA KWA MIUNDOMBINU NA HUDUMA
KATIKA BIMA TOWERS MOMBASA

(Statement deferred)

The Speaker (Hon. Kingi): Hon. Senators, we are going to move to Order No.13, the County Licensing (Uniform Procedure) Bill, (Senate Bills No.9 of 2022).

Proceed, Sen. Mariam Omar.

BILL

Second Reading

THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL
(SENATE BILLS NO.9 OF 2022)

Sen. Mariam Omar: Mr. Speaker, Sir, I beg to move that The County Licensing (Uniform Procedure) Bill (Senate Bills No.9 of 2022) be read a Second Time.

Paragraphs 2(d), 4(c), 6(a) and 7(b) of Part 2 of the Fourth Schedule to the Constitution assigns the following functions to county governments—

- (a) county health services, including, in particular, licensing and control of undertakings that sell food to the public;
- (b) cultural activities, public entertainment and public amenities, including liquor licensing;
- (c) animal control and welfare, including licensing of dogs; and,
- (d) trade development and regulations, including trade licenses (excluding regulation of professions).

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Apart from the above specific licensing functions that I have just stated, Part 2 of the Fourth Schedule to the Constitution assigns various functions to county governments. Most of these functions require licensing of various activities and sectors by the county governments.

In operationalizing these various licensing functions, it has become apparent that there are varied procedures in applying for licenses in different counties, which has a negative impact on the ease of doing business in the counties. Therefore, this Bill aims to establish uniform procedures for licensing in counties to ensure certainty in the process and ultimately encourage private sector investment in all counties.

There has also been hue and cry by county licensees of being required to procure licenses in each relevant county for undertaking a single business activity. This has discouraged private sector players from engaging in activities within some counties due to the requirement for multiple licenses, one for each relevant county, when undertaking a single activity across more than one county. This Bill also aims to arrest this issue to ensure that private sector players carry out their business activities seamlessly without unnecessary impediment.

Clauses 3, 4 and 5 of the Bill mandates the County Licensing Authority to adhere to, among others, the following principles and obligations:

- (a) The need to protect consumers, ensure public safety and promote environmental protection.
- (b) Maintenance of public confidence in respective licensing sector.
- (c) Access to information on conditions for issuance of licenses and the procedures.
- (d) Cost-effectiveness in the licensing process.
- (e) Promotion of efficiency and effectiveness in the administration of the licensing processes.
- (f) Fairness and transparency in the licensing process.
- (g) Provision of a mechanism for simultaneous application for more than one license.
- (h) Prevention of multiple licensing procedures.
- (i) Ensuring applicants are accorded an opportunity to make representations and applications for licenses.

The Speaker (Hon. Kingi): Sen. Mariam Omar, I request you to just give me five minutes to acknowledge the presence of some students who are supposed to go back home and then you proceed to conclude. Kindly have a seat.

(Sen. Mariam Omar sat at her place)

(Interruption of debate on the Bill)

COMMUNICATIONS FROM THE CHAIRVISITING DELEGATION FROM WATHINI
PRIMARY SCHOOL, MAKUENI COUNTY

The Speaker (Hon. Kingi): Hon. Senators, in the Public Gallery, we have 33 pupils accompanied by 12 teachers from Wathini Primary School in Makueni County who are in the Senate on an education tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

(Applause)

VISITING DELEGATION FROM OLTUROTO
PRIMARY SCHOOL, KAJIADO COUNTY

The Speaker (Hon. Kingi): Hon. Senators, again in the Public Gallery, we have 35 pupils accompanied by five teachers from Olturoto Primary School in Kajiado County who are in the Senate on an education tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

(Applause)

VISITING DELEGATION FROM GACHAGO
PRIMARY SCHOOL, NAKURU COUNTY

The Speaker (Hon. Kingi): Hon. Senators, also in the Public Gallery, we have 64 pupils accompanied by six teachers from Gachago Primary School in Nakuru County who are in the Senate on an education tour.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

(Applause)

I will allow Sen. Okenyuri under one minute to say a word of welcome.

Sen. Okenyuri: Thank you, Mr. Speaker, Sir, for this opportunity. Allow me to welcome the students who are visiting the Senate this late afternoon. This is where laws are made. I speaking was once a student where you are currently pursuing your studies. This is an affirmation that if you take your academic work seriously, obey your parents, do your work well and believe in God, you can become a Member of Parliament (MP), doctor, teacher, and a good parent also. So, you are at the right place.

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I look forward to most of you copying from the positive aspects displayed by the majority of the Members in the Senate. I wish you well as you go back home. We are proud of the work you and your teachers are doing.

The Speaker (Hon. Kingi): Sen. Mariam Omar, you may proceed.

(Resumption of debate on the Bill)

Sen. Mariam Omar: Mr. Speaker, Sir, Clause 6 of the Bill further mandates the county governments in establishing and administering a licensing regime to —

- (a) Protect the rights of consumers;
- (b) Promote the regulation of developing markets;
- (c) Ensure that the quality of goods and services are of high standards;
- (d) Effectively administer control over risky activities such as activities that threaten the life or health of people, property or the State, public interest or nature and cultural heritage; and,
- (e) Ensure that the licensing fees are not prohibitive and do not hinder the conduct of business.

Mr. Speaker, Sir, Clause 7 of the Bill provides a standard process for the application, renewal, variation and transfer of licenses. It further mandates the county licensing authorities to design and administer an electronic system for the application, renewal, variation or transfer of licenses.

Clause 9 of the Bill also makes provisions for the county licensing authorities to inquire for more information on licenses from applicants.

Clause 8 of the Bill requires county governments when enacting legislation and for the effective administration of the licensing processes, to prescribe procedures for a single application process for more than one license. This will address the issue of multiplicity of the licenses in the counties and contribution to the ease of doing business within the counties.

Clause 10 of the Bill, mandates the county licensing authorities to conduct public participation and undertake a regulatory impact assessment before varying the conditions of a license.

Clause 11 of the Bill, on the other hand, makes provision for the advertisement of applications that are required by law to be advertised.

Clause 12 of the Bill makes provision for withdrawal of the applications. Clause 13 imposes an obligation on county licensing authorities to process license applications within the required timelines set by the county licensing legislation provided that the period does not exceed 28 days.

An application will be deemed to have been allowed after the expiry of the set timelines and the counties will, therefore, be required to strictly adhere to the timelines. This will ensure the license applications are not unduly delayed.

Clauses 14 and 15 of the Bill make provisions for the issuance of licenses with or without conditions and mandates county licensing authorities to notify applicants of their decisions within seven days of making the decisions.

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Under Clause 15 of the Bill, the County Licensing Authority will be required to set out the following information in each license.

- (a) A unique identifier
- (b) Name of the licensing authority
- (c) Name of the licensee
- (d) Nature of the business to which the license relates
- (e) Relief of the relevant licensing legislation authority confirmed by the licensee
- (f) Condition of the license, if any, and
- (g) Starting and expiring of the license

Clause 17 of the Bill makes provision for the starting and expiry dates for licenses. Clauses 18 and 19 of the Bill, on the other hand, makes provision for conditions for licenses and the procedure for their variation and imposes various conditions on all county licensees by requiring them to-

- (a) Provide the service or carry out the business specified in the license.
- (b) Comply with all the applicable laws and conditions of the license.
- (c) Provide licensing authority with the information with respect to any changes in its directorship or shareholding where the licensee is a company.
- (d) Pay such fees as may be prescribed.
- (e) Maintain and where required submit to the licensing authority such information as may be necessary for the continual licensing of the licensee.

Clauses 20 and 21 of the Bill further makes provision for the cancellation of licences and for the application process for the review of decisions of county licensing authorities on licence applications.

Clause 22 of the Bill requires licensees to notify the respective county licensing authorities within 14 days of a change in the licensees' name, directorship, shareholding, address or registered particulars.

Clause 23 of the Bill, on the other hand, mandates county licensing authorities to maintain a licensing register and provides details to be contained in the register. It further provides that the licensing register be accessible for inspection by members of the public.

Clause 24 of the Bill also makes provision for the payment of fees for licenses. It mandates county Governments, guided by the principles set out in the Bill, to formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county.

It also mandates county licensing authorities to be guided by the following principles in setting out fees for issuance of licenses-

- (a) setting of fees be done within the scope of the county licensing authority;
- (b) need to ensure efficiency in the delivery of goods and services;
- (c) accountability;
- (d) public participation;
- (e) avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties;
- (f) cross-subsidization where fees collected for providing a category of goods or services covers the costs incurred in providing goods and services in another category in accordance with existing legislation;

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- (g) adherence to existing policy on the charging and collection of fees;
- (h) avoidance of multiple licensing in a specific sector;
- (i) fixing different fees with respect to the different types of licenses;
- (j) waiver of requirement for fees and prescribe conditions for such waivers;
- (k) the taking into account of the costs incurred in administering the licensing scheme; and
- (l) ensuring that the fees set do not adversely affect competition and investment.

In the following principles that I have just stated, the counties will be able to raise their own source revenue without punishing investors in the counties.

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

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

Mr. Deputy Speaker, Sir, Clauses 25 and 26 of the Bill makes detailed provision for service of notices required under the Bill and allows county licensing authorities to recover license fees owed as a debt in courts.

Clause 27 of the Bill empowers the Cabinet Secretary responsible for matters relating to licensing to make regulations specifically to bring to effect the provisions of the Bill once enacted.

Clause 28 empowers County Assemblies to enact county specific legislation to give further effect to the provisions of the Bill once enacted.

As you noted from my remarks on the Bill, it seeks to establish uniform framework, which will form the basis of licensing processes in all counties. A uniform framework for licensing will guarantee certainty and predictability for business owners trading within counties and is vital to the ease of doing business in counties.

A business environment underpinned by certainty and predictability will boost entrepreneurship, create employment opportunities, reduce the cost of doing business and promote regular and reliable revenue streams for county Governments.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to move and request Sen. Cherarkey to second.

Thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, proceed and second the Bill.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. From the onset, I congratulate Sen. Mariam Omar for this wonderful Bill, the County Licensing Uniform Procedure Bill, 2022.

Devolution continues to be strengthened by legislative and policy interventions that as a Parliament and we, as a Senate, continue to enrich it daily. The genesis of this Bill is well grounded under the Fourth Schedule of the Functions of County Governments.

Under Article 209 on Imposition of Taxes, the national and county Governments, respectively, have been given opportunity to impose taxes. This issue of taxation has

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generated a lot of heat. As you are aware, the Finance Act of 2023 has been suspended by the courts and we are waiting for the ruling.

Mr Deputy Speaker, Sir, there is no way a government, be it the national Government or the county governments can raise revenue without taxation. As I second this Bill, there are two things that are sure in life; tax and death.

I have seen our colleagues saying that they do not want to pay taxes because apparently, the budget must be funded by taxation. Taxes must be raised and that is the principle of public finance.

When you read Article 299 of the Constitution 2010, there is a general selective amnesia by the Minority side to imagine and say that His Excellency President Ruto, the fifth President of the Republic of Kenya, is the one who is introducing tax. For the benefit of the audience, the esteemed guests in your Gallery, when you want to fund a budget, you must tax, and the budget-making process involves passing what we call the Finance Bill.

Article 209 of the Constitution of Kenya gives you the legal basis to raise revenue to finance the Budget. So, it is not the making of the President, it is not the making of Government, it is the making of the Constitution.

I wish my brothers and sisters would be in the House, but because they have their reasons as to why they have walked out, they should be telling Kenyans the truth that the Budget must be financed through the Finance Act.

I am disappointed by the courts of law; I have been told in some quarters that I cannot criticize the Judiciary. We can. There is the principles under Article 10 of the Constitution, on the rule of law, participation of the people, democracy.

Parliament is criticized daily even as we talk. The Executive is criticized daily, both the national Government and county governments. Equally, the Judiciary must also be criticized because they are not law unto themselves and they are not God.

Therefore, when you find a whole Judge suspending a Finance Act, you ask yourself the question, how will the Government raise revenue to pay their salaries even for the Judiciary? Many people have accused me saying that I am attacking the Judiciary. I am one of the biggest defenders of the Judiciary. In the last Session when I was the chairperson of the Senate Standing Committee on Justice and Legal Affairs (JLAC). I was one of the chairpersons in the history of this Parliament to call out the Executive then, to increase allocation to the Judiciary.

A few weeks ago I brought a Statement to ask the Salaries and Remuneration Commission (SRC) why they were taking away benefits from the magistrates and judges in this country. So, when they do wrong, we must call them out. When they do the right thing, we must congratulate them. How do you suspend a Finance Act? How will the Government be run? How will the Judiciary be run? How will Parliament be run?

As a country, we are aware that they did suspend the creation of Cabinet Administrative Secretaries (CAS). We are waiting for the court to rule. You and I know that we have several friends who were appointed as CAS. They have suspended everything. They have even suspended the Finance Act.

Sometimes we must be very careful, especially the Judiciary when issuing court orders. If we are not careful, it will reach a point where court orders are just being issued

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like tissue papers. Sorry to say this, but we must be very careful so that we do not run a country where you want to injunct---

You remember in the other financial year, you heard the former President saying that over Kshs310 billion in Government projects had been stopped by court orders and injunctions. How can Kenyans get value for money if you go and injunct?

The principle of Article 209, the President cannot raise taxes alone; it is a constitutional principle. That is why this Bill is very important because we want to create a county licensing law that will allow licensing fees and issuance across the counties.

For example, if you go and buy timber in Elgeyo Marakwet County, you pay tax at Iten; you pay as you enter Baringo County; you pay as you enter Nakuru County; you pay as you enter Nairobi City County and you pay as you enter Mombasa. Is that encouraging means of doing business? No.

That is the issue that business people have been complaining about. On this, I expected the Members of the Minority side to be part of us because these are serious issues.

If I am building, why should I buy stones that are sold in Thika and then I have to pay in Nandi? We should have a license such that, if I have paid in Kiambu County, I do not need to pay in Nairobi City County, all the way to Nandi. This Bill is brilliant. It will engage and allow ease of doing business.

I want to laud and ask the business community, Kenya National Chamber of Commerce led by my good friend the new President, Dr. Erick Ruto, to seize the matter. This is how we encourage ease of doing business because the principle is to ensure that while counties have the power to raise their revenue as per Article 209 of the Constitution, they also have power which is based on this county licensing fee.

Most people who pay a lot of money are people who are starting what we call start-up businesses. These people are either the middle class or the hustlers. This is what Sen. Omar wants to achieve.

We also need customer protection. I have been asking: What is the role of the Consumer Federation of Kenya (COFEK)? What is the role of the Competition Authority of Kenya? I asked this a few years ago with regard to the milk market. You remember there was a dominant milk supplier and seller who had ensured that he killed the milk market in the entire country. Where I come from, in Nandi County, we depend on farming, majorly tea, maize, coffee, sugarcane and milk. We depend on money from these products.

The Competition Authority had allowed this to happen; they had slept on the job. I know that this is an issue in Meru and other parts where most of the milk comes from. When you looked at the milk market share, one company was dominating the milk market.

The Competition Authority of Kenya must do its job. They must protect consumers because the interest is to protect the consumer; to protect the customer.

Whenever there is an increase in fuel prices, Matatu owners and those operating public transport usually transfer that cost to the consumer. So, if you tax on all line value chains, you will get that the people who are selling that product will just transfer the cost and that is the principle and obligation.

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Another point is to ensure information and I have seen one of the aspects is to create digitization under the Bill. Before I move to digitalization, the issue of information is basic under Articles 34 and 35 of the Constitution on the right to information and the right to media which is very critical.

Clause 5(a) to respond to changes in the market; customer preferences and tastes change daily. What your generation used to like is totally different from what your children or the consumer like. Nowadays they prefer Kentucky Fried Chicken (KFC) while Sen. (Dr.) Khalwale used to like *Ingokho* and *Imondo* being made locally. The process of making a chicken which Sen. (Dr.) Khalwale would prefer is where you boil water. With hot water, slaughter a chicken and insert it inside whilst removing the feathers and then cook it properly.

The customer preference of children of today has changed. They are going for fast food, for example, KFC. So, this is responding to the changes in customer preferences and consumerism. This is why we were worried today. I protested what Sen. (Dr.) Khalwale said that some people are data mining and realizing what we prefer.

For example, there is Cambridge Analytica on the case of Donald Trump which they used to know customer preferences.

I will finish in the next five minutes. I am sorry to say this, but social media, for example, Meta and Twitter, which is changing to Twitter X, and Instagram are collecting so much information about the consumers that they use to influence their customer preferences and changes in the market. So, we must bring a license that will adapt to those changes.

Kisumu is a good town for doing business despite the many challenges that it is undergoing. Sen. (Dr.) Khalwale knows a lot about it more than myself although we both neighbour it. We share a place known as Chemilil-Chemase near Mambo Leo.

There was an issue of whether Maseno is in Kisumu or Kakamega County. Those are issues that the Sen. (Dr.) Khalwale and other stakeholders will provide in future.

In regards to licensing procedure on electronic application, you are aware that the Government intends to digitize over 5,000 of its services.

One of the best innovations has been the E-Citizen platform. The services range from National Transport and Safety Authority (NTSA), immigration issues, Huduma Centres and application of the national identification card.

The digitization will allow scanning of licenses to confirm that you have paid for services. For example, if you are from Elgeyo Marakwet or Nandi counties and you have bought tea and you want to transport it, it will be easy because we are heading to a technological era.

I do not need to call Nandi County licensing officer to confirm. If you have bought tea in Chebut and I find it in Nairobi City County, all I need to do is to scan the application to confirm whether your license is valid.

I am happy that the Ministry of Interior and National Administration led by your good friend the former Senator for Tharaka Nithi County and his voter, is keen to digitize over 5,000 services.

We usually see young people in WhatsApp and Facebook. We need to change social media from being a place of insulting leaders to a place that can benefit society.

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One of them is to ensure that since the young people want a paperless generation, let them be given services in a paperless manner. This is the conversation we should have as a country. This is the bipartisan talks that we were talking about. We did not need to go to *maandamano* to bring such Bills to strengthen the devolution.

All of us have been elected to sit in this House with the power that the rest of Kenyans do not have. We are less than 3,000, including Members of County Assembly. We have the power to make, amend and repeal the law and bring policies and legislative interventions. Kenyans do not have that power. Why would we lie to Kenyans that if we go for demonstrations things will change yet there is the Constitution?

I saw the former President saying some things in the media. He is my former party leader when the Deputy Speaker and I used to be in Jubilee Party.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, why are you misleading the House that I was in the Jubilee Party?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, maybe I request for a point of information from you.

The Deputy Speaker (Sen. Kathuri): Proceed, but that is misleading.

Sen. Cherarkey: My apologies, Mr. Deputy Speaker, Sir. I presumed.

Let us not lie to Kenyans. Let all leaders come to Parliament. If you are a parliamentarian sit here and do your job. Do not go and throw stones in the streets and incite the public to destroy property and lives.

I sympathize and empathize with many Kenyans who have lost their lives. I saw the Kenya National Commission on Human Rights (KNCHR) reading a statement on allegations of police brutality and extra-judicial killings yet no one is talking about Kitengela where some people attacked a District County Commissioner's (DCC) office. A police station was also attacked in Nyanza and police officers were injured. However, KNHCR is not talking about them.

Mr. Deputy Speaker, Sir, how can a police officer arrest somebody who is throwing stones, firing a gun or has a machete? Which mathematics will you use to arrest such a person? All of us are human beings. We ask the police to be responsible while enforcing law and order. However, police officers are also our sons, daughters, fathers, mothers, husbands and wives. How can we do a blanket condemnation yet there is an Independent Policing Oversight Authority (IPOA)?

If I have an allegation against the police it should go to IPOA. I am saying this because instead of leaders coming to Parliament to legislate on the County License Uniform Procedure Bill, they are busy lying to Kenyans that if they carry sufurias on their heads the cost of food will come down.

I am happy that, through Government intervention to subsidize fertilizer, we are going to see bumper harvest where I come from. This is what we should be doing. We should do our jobs. Let all of us ensure that we do our jobs---

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Cherarkey. Sen. Wafula, what is your point of order?

Sen. Wafula: Asante, Bw. Naibu Spika kwa nafasi hii. Namuomba samahani ndugu yangu Sen. Cherarkey.

Kulingana na Kanuni za Seneti Nambari 105, yale yanapaswa kujadiliwa ni mambo ya ushuru wa aina nyingi unaotozwa. Sielewi mustakabali wa hoja za ushuru na utupaji wa mawe, sufuria kwenye vichwa, tetesi dhidi ya viongozi wasio hapa na ushuru ambao unalipwa. Sijaona ushuru kwa sufuria wala kwa mambo haya.

Naomba Seneta adhibitishe uhusiano wa viambajengo ambavyo ametaja na mada iliyoletwa na ndugu yangu Seneta.

Asante.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey proceed.

He is simply saying that you stick to the content of the Bill.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, for that point of order.

Sen. Wakoli is picking up unparliamentary procedures. Having picked up from Sen. Wetangula, the current Speaker of the National Assembly.

The Deputy Speaker (Sen. Kathuri): You intentionally went out of topic?

Sen. Cherarkey: No, I did not. In fact, the reason those people---

The red light is on.

The Deputy Speaker (Sen. Kathuri): The microphone is on.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, allow me to dispense that point of order and conclude. The reason our colleagues in the Minority are demonstrating is tax. I was just linking what they are doing *vis-à-vis* what is on the issue of principle of taxation by saying that taxation is not a creation of the President or Government; it is a Constitutional creation. They are lying to people by saying that if you wear a *sufuria* at the *maandamano*, it is because of taxation.

Mr. Deputy Speaker, Sir, that is the link that I was trying to---

(Sen. Cherarkey's microphone went off)

(Sen. Cherarkey spoke off record)

The Deputy Speaker (Sen. Kathuri): I understand you. Give him a few seconds to second.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, with those many remarks, I beg to second.

(Question proposed)

I can see a few Senators are lined up to contribute to this.

Sen. (Dr.) Khalwale, please, proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am so impressed by Sen. Mariam Omar. She is new in the Senate, and unlike many of our colleagues on the Minority side, she seems to have grasped her role of being a Senator and a representative of the people.

I am surprised that the Senator for Bungoma County is finding it difficult to see the nexus between the need for Members of the Opposition to be in this House and this Bill. They should forever be encouraged to come to the House so that we can discuss

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taxation on this platform of Parliament, instead of them discussing taxation disguised as an attempt to lower the cost of living from the streets.

The youth who are in the streets attempting to discuss taxation do not have this platform. I would not mind if members of the public were doing their thing; activists, in the streets, the so-called *maandamano*, while their representatives are here debating with us. I laud the Senator because having gone through this Bill, I realised that it is a clear attempt to strengthen devolution.

Through this Bill, it is clear that if we enact it into law, then county governments will raise their own revenue without necessarily over-relying on sharable revenue from the national Government. Through this Bill, which I support, we will be helping counties to contribute to the growth of the Gross Domestic Product (GDP) of this country. The more a county grows her own source revenue, the more it discovers ways and means of unlocking the economic potential in respective counties, so that it goes towards growing the GDP.

Mr. Deputy Speaker, Sir, many years ago, around about 2002 or 2005 and subsequently up to the time we enacted and promulgated this Constitution, the hope was that the economy of this country would grow faster if we devolved. I, therefore, conclude my appreciation by acknowledging that central to this Bill is an attempt to fight corruption by many agents that benefit from it.

If this Bill becomes law, people like police traffic officers who capitalise on various deferring licenses--- Traders who do not know where the border of this county starts, ends and joins the other one are then harassed by traffic police officers. This Bill will make it easier for police on the issue of taxation.

In a nutshell, the Mover of the Motion hopes that we will establish a standard and uniform procedure for licensing by county governments and any other connected purposes. This is very important because listening to her, the Bill seeks to propose and establish uniform procedures for licensing to ensure certainty in the process and ultimately in private sector players to do business in our counties.

A small illustration of how the lack of this law increases poverty in Kakamega County and how it discourages business people from Kakamega County in participating in business. Look at this young businessman, who gets money for a start-up and he wants to engage in the business of import and export. So, he pays the necessary licenses up to and including import licensing; pays all he pays in Japan, then imports whatever goods he wants. The goods come and land in Mombasa County. This young businessperson has no idea that he would have to speak to the issue of licensing 12 times, yet in Japan he spoke to it only once. Once in Kenya, he is supposed to speak to it 12 different times then gets completely fatigued financially, confused or conned.

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

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

One, the businessman will meet people in the County Government of Mombasa. The moment he satisfies them and their conditions, he has to move from Mombasa

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County, cross into Kwale County and do the same. From Kwale County, he has to go into Taita-Taveta County. Thereafter, he goes to Makueni County and he is still challenged that he has not paid; he is supposed to pay like this. Since the police know the ignorance of the business people, they even tease them and these people part with money at points where they are not supposed to give any money. As if it is not enough, having been tossed around four times, he does not know that he is yet to reach Machakos County. His goods are at Machakos County and it is the same story.

He now has to arrive in Nairobi City County where he gets the super conmen. Somehow, he has to find his way and his goods transit Nairobi City County and arrive in Kiambu County. They are not done with him. This person who was in a start-up has to wait. Talking his way out of Kiambu County, he goes to Nakuru County then Kericho County, Kisumu County, Vihiga County and eventually, Kakamega County; 12 times. With this law, we are going to harmonise that, so that this businessperson does not go through this kind of summersaulting.

Mr. Temporary Speaker, Sir, I thank the young Senator for this innovation. I specifically discourage the issue of multiple licensing procedures that this Bill attempts.

If we pass this Bill as proposed, we will have clear-cut principles enshrined that will be a game-changer. As I have said, doing business will now be simplified. You do not have to be challenged 12 times before your goods arrive from Japan to reach Kakamega. This Bill will also ensure that there is equity, transparency and accountability in the administration of the licensing procedures.

Finally, this Bill will ensure that the licensing framework is consolidated and requires persons to hold a minimum number of licenses; ideally, one, two or at most, three.

Mr. Temporary Speaker, Sir, I am saying this like am talking to the Majority side alone. Again, I ask, where are the *Azimio* Coalition Party Senators in this House? I say that carefully because on paper, our able Speaker might look like he is a Member of *Azimio* Coalition Party, but he is a *de facto* non-*Azimio* Member. Many Senators in the *Azimio* Coalition are young Senators. I encourage them to take advantage of this platform. The platform of Parliament is very big. It is the highest platform from which you can speak. Instead of wearing a *sufuria* on your head to go and dodge the police, who are trying to discourage you, you can say all the things you want to say in Kawangware and Kibra in this House. It will be on record and stand a chance of becoming law.

My brother, the Senator of Bungoma, I was with you. Sen. Mungatana, you have to proudly tell people you are senior and proudly encourage them to listen to you. Some of the things I see new Members of Parliament doing are unbelievable. I was with the Senator of Bungoma in a function two weeks ago, in Tongeren. I saw and heard a Member of Parliament, begging the Chair of the Committee on Budget in Parliament to give him money, so that he could build a classroom. Sen. Wafula, you know who I am talking about. I was shocked. He told the Chairman of the Committee that because he had graced the occasion, he should help him build two classrooms at Martin Shikuku Primary School. Amazing!

This is the Chairperson of a committee; he is neither the Cabinet Secretary in charge of Finance nor the Head of State from whom you can ask for such. He is your

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colleague. You are supposed to go and sit with him in the Committee and see how you organise the finance. Members of Parliament do not know and need to be guided. The same Member of Parliament was speaking when he controls Kshs140 million from the National Government-Constituencies Development Fund (NG-CDF). He is free to construct eight classrooms if he wishes, be they normal classrooms or storey buildings and avoid the embarrassment of looking up to a man, who is a Chairman of a committee, like he is his senior to provide him with money for development.

Mr. Temporary Speaker, Sir, Clause 6 of the Bill speaks to the obligations that this Bill will give county governments. I am very excited because the principles include the protection of the rights of the consumers of the respective counties. As I said, due to lack of these guidelines and principles, anything goes, including the real and imagined. This Bill will ensure that the quality of goods produced and services delivered are of the highest standard.

Finally, the Bill will ensure that the licensing fees imposed by county governments are not only uniform, but are imposed with respect to the licenses, are not prohibitive and do not hinder the conduct of doing business.

A country like Rwanda where business people and businesses are not hindered are moving faster than us, the giants of this region. There is no reason a Kenyan would want to benchmark on anything in Rwanda. However, I am starting to see committees and even some Cabinet Secretaries going to Kigali in the name of wanting to see how things are done. This should never be the case.

With all due respect, they are our good neighbours and a friendly country. They are very small. You cannot compare Kigali or Rwanda – the Gross Domestic Product (GDP) of Nairobi County is bigger than the GDP of the Republic of Rwanda. Since we are not taking it seriously, we hear people saying that they want to go and benchmark in Rwanda. Benchmark on what? The reason Kigali looks better is because they are managing corruption. They are controlling it.

Here in Nairobi, the Governor of Nairobi has no excuse whatsoever why he should ever delay paying salaries or fail to equip all the health facilities in his county in the name of the National Treasury having not released money. He should never wait because he has the capacity of creating own source revenue in amounts that can even allow him to be the one lending to the national Government.

As we say these things, let it not look like we are trying to reinvent the wheel. There are many places where devolution works well in the world, but the country I love is Belgium. In Belgium, the devolved governments have more money than the Federal Government. The Federal Government relies on the devolved governments to help it to be more efficient. Why would somebody want to be the Governor of Nairobi when they have no idea that they will be controlling an economy bigger than the economy of Rwanda? Therefore, what do you do to unlock that economy? This is the House. We must demand performance from governors, and that performance should go beyond just them showing us how they pay salaries. Devolution was not about creating units as employment bureaus. Devolution was about unlocking the economic potentials of all 47 counties of Kenya.

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One can say these things on and on. However, I am glad that a trend seems to have developed in the last ten years, over the last two elections, where Senators are becoming Governors and Governors are becoming Senators. I hope that with this mosaic, people who leave this House to be governors will be better governors than the governors who go into office without experience of having been in this House, where you have on paper the performance of all 47 counties through which you are able to compare and contrast.

Mr. Temporary Speaker, Sir, with those many remarks, I strongly support this Bill.

Thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Majority Whip.

Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii na mimi nizungumzie Mswada huu. Kwanza kabisa, ninamshukuru Sen. Mariam Omar kwa kuleta Mswada huu unaohusu usawazishaji wa leseni na njia za kutoa leseni katika magatuzi yote 47. Ninampongeza Seneta kwa sababu kazi yake inaonekana kila wakati akileta Mswada yake hapa. Tunampa motisha aendeleo na kazi hii.

Bw. Spika wa Muda, leseni ni muhimu kwa sababu zinampa mtu nafasi ya kufanya biashara bila wasiwasi. Inampa mfanyibiashara yeyote nafasi ya kufanya kazi yake akijua katika vitabu vya Serikali – ya gatuzi ama Serikali kuu – jina na biashara zake zinajulikana kirasmi na anapofanya ile kazi hana wasiwasi.

Sisi kutoka Kaunti ya Tana River ni wakuzaji wa maembe, tikiti maji, pojo na maharagwe. Sisi pia ni wafugaji. Mara nyingi gatuzi letu linatoa mbuzi, ng'ombe na ngamia kwa masoko yetu. Wengi wa wanabiashara wanaokuja kununua wanatoka nje. Wakija, wanakuja na leseni zao kuchukua hii mali kwenda kutafuta soko.

Shida yetu ni kwamba wanabiashara ambao wanakuja kwa gatuzi letu wanasumbuliwa na kutesaka sana. Sisi wenyewe, kama unasafirisha maembe yako kutoka Tana River kwenda kuyauza katika Kaunti ya Kilifi au Mombasa kupitia barabara, sisi pia tunasumbuliwa sana barabarani. Hata kama umekata leseni yako, tunapata shida. Hii ni kwa sababu hakuna usawazishaji wa hizi leseni.

Sheria hii mpya ambayo imekuja italeti hali ya kupumua kwa wafanyibiashara. Hii ni kwa sababu sasa mfanyibiashara akitoka na miraa yake huko Meru, apite Tharaka-Nithi mpaka Tana River anakuwa kuuza, basi safari yake itakuwa nzuri na ya kupendeza zaidi. Ni bora hivyo kuliko kama mambo ya hii leseni yanasumbua vilivyo kwa sasa.

Bw. Spika wa Muda, tunataka Bunge la Seneti lipitishie sheria hii kwa haraka sana. Tunaomba kila Seneta ambaye atasimama apitishie hii sheria kwa haraka sana. Ninasema hivi kwa sababu itakuwa rahisi kwa mfanyibiashara kusafirisha bidhaa hadi sokoni na ile leseni aliyokata kwa kuwa inajulikana na askari wa kaunti na Serikali Kuu.

Kwa sasa, ipo shida na wenzangu wameshazungumzia shida ambazo watu wa biashara wanapata. Sisi kule chini sehemu kama Hewani, Kulesa na Wema, watu wakishatoa matunda shambani, unakuta wafanyibiashara wanakuja pale na wanasema lazima washushe bei ya kununua kwa sababu wamepata shida huko njiani. Kwa mfano,

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pengine wameweka lori ya kwanza, walinunua kwa pesa fulani lakini mara ya pili, wanaanza kulia bei kwa sababu wamesumbuliwa sana barabarani kuhusu leseni.

Wale wanaofanya kazi sokoni ya mifugo pale sokoni, Garsen ama kule juu sehemu za Bangali, wanapata shida sana. Hii ni kwa sababu, kati ya wale wanabiashara ambao wanakuja kunua, wanasema bei lazima ishike kwa sababu ya kusumbuliwa barabarani kuhusu leseni. Hii ndio maana leo ninasimama hapa kusema tuiptishe hii sheria ya kusawazisha taratibu zote za kukata hizi leseni.

Kifungu cha Saba katika hii sheria kinasema kwamba kila gatuzi na kila mamlaka ya kukata leseni inatajikana baada ya hii sheria kupitishwa, miaka mitatu isipite kabla wao hawajaweka hii *system* yote kwa kompyuta.

Mambo ya ufisadi yataisha. Ikiwa mtu atafuata zile taratibu na kukata leseni yake, akija Tana River kununua mifugo au vyakula, akisimamishwa na polisi, ataonyesha tu leseni na amweleze polisi kwamba ashalipia kila kitu wala asisumbuliwe tena na mambo ya pesa.

Ukienda nchi kama Afrika Kusini, hata saa zile unaingia katika lango kuu, sioni mtu akija na kikaratasi pale ama kitabu aandike kuwa wewe jina lako ni nani na leseni yako ni namba ngapi. Mtu anakuja na kitu cha kompyuta na kukiweka karibu na karatasi yako. Kama ni leseni, inaonyesha *automatically* kwamba leseni yako iko sawa, wala hupotezi wakati.

Wakati mwingine, hizo leseni zimebandikwa katika kioo cha gari. Sasa mtu anapofika pale, askari au *kanjo* anaweka ile mashine ya kompyuta na hilo gari linapita bila kupoteza wakati.

Bw. Spika wa Muda, sisi tunataka Kenya pia iendelee. Tunataka wanabiashara wetu waendele. Ikiwa mtu amekata leseni na anapeleka miraa yake Tana River ama kokote kule, haina haja kupoteza wakati. Haina haja polisi kuwashika watu na kuchukua hongo. Muhimu ni kuweka ile leseni kwa gari ama dereva akuwe nayo ili mtu akipita, kifaa cha kompyuta kinasoma na mtu anapita. Kama umebeba mifugo unapita. Hakuna mambo ya kusumbuliwa na kuulizwa karatasi hii au ile, mara polisi anakuita nyuma ya gari au kona fulani akikuambia uongeze maanake hii haitoshi. Huku ni kupotezeana wakati na pesa zinapotea namna hii, huku ufisadi ukizidi kuongezeka kwa sababu ya kukosa sheria ya kusimamia mambo haya.

Kwa hivyo, Bw. Spika wa Muda, nimefurahi sana jinsi hii sheria ilivyotungwa. Hata hivyo, kuna kipengele ambacho ninaona kimekosekana.

Naomba Sen. Mariam Omar aangalie kifungu hicho kwa sababu ufisadi ni jambo kubwa sana. Naomba aangalie jinsi sheria zinavyotungwa kule Afrika Kusini na nchi zingine za Marekani na Ulaya. Ni nini ambacho kitafanywa ili wanabiashara ambao wanazingatia sheria zote waweze kufanya kazi bila kusumbuliwa na askari wa magatuji?

Kuna pengo pia katika Kifungu cha Saba. Hakupeana adhabu kwa *licensing authorities* ambazo zitakataa kufuata sheria. Wamepewa miaka mitatu kuweka habari kwenye kompyuta. Je, miaka mitatu ikiisha bila kufanya hivyo, ni adhabu gani itakayopewa *licensing authorities* ambazo hazitakuwa zimefuata sheria hii ambayo tutapitisha kama Seneti? Hilo ni pengo kubwa sana ambalo tungependa Seneta aangalie ili sheria hii iwe kamilifu.

Kifungu cha 11 cha Mswada huu kinasema kwamba mtu akitaka leseni ya kufanya biashara yoyote, anafaa kutangaza. Watu wanafaa kujua hatua za kufuatwa ikiwa wanataka leseni ya kufanya biashara fulani.

Sen. Beth Syengo: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, nitakukatiza kidogo kwa sababu kuna Hoja ya Nidhamu kutoka kwa Sen. Beth Syengo.

QUORUM

Sen. Beth Syengo: Asante sana, Bw. Spika wa Muda. Hoja yangu ya nidhamu ni kwamba kikao hiki hakina *quorum*.

Sen. Orwoba: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Just a moment. Let me ask the Clerk to confirm if we have quorum.

*(The Temporary Speaker (Sen. Abdul Haji)
consulted the Clerk-at-the-Table)*

We seem not to have the quorum. I, therefore, direct that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, Sen. Mungatana will have a balance of seven minutes when we resume this debate.

ADJOURNMENT

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, there being no quorum and having rung the Bell pursuant to the provisions of Standing Order No. 41(2), the Senate stands adjourned until tomorrow, Wednesday, 26th July, 2023, at 9.30.a.m.

The Senate rose at 5.43 p.m.