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NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Thursday, 29th February 2024

The House met at 2.30 p.m.

[The Deputy Speaker (Hon. Gladys Boss) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: It seems like we do not have quorum. I, therefore, direct that the Quorum Bell be rung for ten minutes.

(The Quorum Bell was rung)

We may stop the Quorum Bell. Hon. Members, first Order.

PETITION

ENACTMENT OF LEGISLATION ON DEVELOPMENT OF IRRIGATION INFRASTRUCTURE

Hon. Deputy Speaker: Hon. Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member.

In this regard, Hon. Members, I wish to report to the House that my Office has received a Petition from Hon. Boniface Gatobu of P.O. Box 18812-00100, Nairobi on behalf of the Shining Hope for Communities (SHOFCO), a Non-Governmental Organization that supports poor communities living in urban and rural areas regarding enactment of legislation on irrigation infrastructure.

The Petitioner states that according to the Kenya Economic Survey of 2022 by the Kenya National Bureau of Statistics, the Agricultural sector contributed 22.4 per cent of Kenya's Gross Domestic Product (GDP).

The Petitioner further states that the Kenya Kwanza Manifesto appreciated the significance of the agricultural sector, and has committed to inject Ksh250 billion over the next five years to boost the sector. In addition, he notes that two-thirds of Kenya's land mass require irrigation, and that, only 4 per cent is irrigated.

The Petitioner notes that to address the above stated problem, the Government proposes shifting focus from large dams to households or community water projects with emphasis on harvesting and recycling.

Hon. Members, the Petitioner thus prays that this House intervenes to amend the Irrigation Act (No.14 of 2019), the Kenya Roads Board Act (No.7 of 1999) and the Road Maintenance Levy Fund Act (No.9 of 1993) with a view to:

1. Changing the 'Road Maintenance Levy Fund' to 'Infrastructure Development and Maintenance Levy Fund' and provide that part of the Fund shall be employed to develop irrigation infrastructure in all parts of Kenya; and,

2. Providing that the National Irrigation Authority shall be allocated funds from the 'Infrastructure Development and Maintenance Levy Fund' which shall be allocated equally to all the 290 Constituencies to fund and develop various irrigation projects in the Country.

Hon. Members, having established that the matter raised in the Petition is well within the authority of this House, and further that the matters raised in the Petition are not pending before any Court of Law, Constitutional or legal body, I hereby, commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I, thank you.

Before I allow a few Members to weigh in, allow me to welcome students who are seated in the Public Gallery. They are: Kinjo Girls' Secondary School, Central Imenti Constituency, Meru County and Rukanga Secondary School, Mwea Constituency, Kirinyaga County.

(Applause)

I will give an opportunity to Hon. Mary Maingi, Member for Mwea and Hon. Moses Kirima, Member for Central Imenti to welcome the two schools on behalf of the National Assembly.

Thank you.

(Hon. Opiyo Wandayi spoke off the record)

I will allow you to comment on the Petition. Let us allow the Members to welcome the schools.

Hon. Mary Maingi (Mwea, UDA): Thank you, Hon. Deputy Speaker for giving me this chance to welcome students of Rukanga Secondary School to this Honorable House. After touring this House, I hope that you will work hard in your studies and aspire to return to this House as Members of Parliament in the near future. I wish you success in your studies, the best in every move that you will make in your lives, and a safe journey back home.

Thank you, Hon. Deputy Speaker.

(Applause)

Hon. Deputy Speaker: Hon. Moses Kirima.

Hon. Moses Kirima (Central Imenti, UDA): Thank you, Hon. Deputy Speaker.

First and foremost, I would like to take this opportunity to welcome the students from Kinjo Girls' Secondary School to the National Assembly, and at the same time inform this Honorable Assembly that Kinjo Girls' is one of the best Girls' School in Central Imenti. It is a good school which has been doing well in the constituency, and has made the people of Central Imenti proud as it is a very disciplined Girls' School. I congratulate the School for its performance in the last examinations. I also congratulate the school principal, who made the whole constituency proud. We wish them well and journey mercies as they travel back home. I have just learned of breaking news about a road accident on the Meru-Nairobi Road, which they will be using as they travel back home. It was a terrible accident involving students who were going for the mid-term break. I wish the ones who are with us today God's guidance and mercy on their safari back home.

Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: I will allow one last person, Hon. Dorothy Ikiara, Nominated Member. I know that is your home village.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Deputy Speaker. I wish to join the Member for Central Imenti, Hon. Moses Kirima, and all Members seated here this afternoon to welcome the students from Kinjo Girls, which is a prestigious school in Central Imenti Constituency. All the students in the Chamber this afternoon, in both the Speaker's and Public Galleries, should feel that they are in a House of honour. We want to take this opportunity to tell you to work extra hard so that one day, one time, God willing, you will also be seated here as Members of this honourable House.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Leader of the Minority Party and Member for Ugunja, I know you wanted to weigh in on the Petition.

Hon. Opiyo Wandayi (Ugunja, ODM): Yes, I also welcome the students to the august House. Hon. Deputy Speaker, the Petition that you have just read has been signed off by Hon. Gatobu, who was once a Member here. We served with him in the 11th Parliament. If I am not wrong, he used to be the Member for Buuri. He has since been very active in SHOFKO, an organisation which is well known, especially to urban dwellers who live in informal and other rural settlements. Shining Hope for Communities has done tremendous work in terms of alleviating the suffering of those who are not well-endowed.

During the National Dialogue Committee (NADCO), SHOFKO was one of the organisations that appeared before us with very progressive recommendations. It is, therefore, against this background that I wish to support that Petition. I agree with them that the legislation they are calling for is timely. It is overdue, if I may say so. We need a legal framework where such organisations can operate freely to help our people in this part of the world. Governments cannot do everything. They struggle even to provide basic services. We must encourage and support private entities that come out voluntarily to support poor Kenyan citizens. That Petition is very timely. I wish the relevant Committee would expedite its processing for us to have a way forward.

Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Emmanuel Wangwe, Member for Navakholo.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Speaker. I wish to join my colleague, the Leader of the Minority Party, in saying that indeed the Petition is timely but I would want to support it with some proposals. As the Committee looks into it, let it not just look at the issues of raising revenues of the NIB alone. The NIB alone might not be good enough to offer the kind of irrigation schemes that might be required in the whole country. They should also consider that there are some shareable positions, the way it has been suggested. The NIB may not apply to urban setups. So, we support the Petition but also make proposals that let it be considered across the entire country.

With those remarks, I support.

Hon. Deputy Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. In principle, I support the Petition but vehemently oppose the mode proposed by Hon. Gatobu, who is a former Member of this House. In his Petition, he is proposing the unthinkable, just like governors imagined just a few weeks ago and proposed to change the Road Maintenance Levy Fund to an infrastructure maintenance levy fund. The proposal that we take money collected from motorists for road maintenance to irrigate our farms is untenable.

The question of irrigation is noble. I completely support the Petition in terms of the government allocating more money to irrigation, except in terms of how to raise the money. I know he was running for some seat in Meru County on a Jubilee ticket. So, he may not have had time to interact with the Kenya Kwanza Manifesto. He may not be aware that in the Kenya

Kwanza Manifesto, what was proposed in terms of irrigation is to finance irrigation projects through public private partnerships (PPP).

I urge the Public Petitions Committee or whichever Committee you will designate this petition to consider the Kenya Kwanza manifesto proposal on PPP in the funding of huge infrastructural developments in irrigation. We must tell everybody, from governors to Hon. Gatobu and any other person with the imagination or the thought that they can touch the Road Maintenance Levy that, that is a no-go zone. Nobody should even imagine that you can touch that Levy.

(Applause)

We have invested massively in road infrastructure in this country. In the last 10 years, we invested in what are called low-volume seal roads – those roads without a maintenance fund. In another five years, there will be no roads. That is why we must never allow anybody, including those governors who have dreams about this money. This money, if anything, is being levied on motorists. The best that Hon. Gatobu would have proposed is that part of this fund go towards drainage infrastructure for roads, directing that water to irrigation projects in small dams. You cannot touch the Road Maintenance Levy Fund. We shall not allow so. I know I have 100 per cent support from all these Members. The Road Maintenance Levy fund is a no-go zone.

I rest my case, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. I know Members have a lot to say on this Petition. I will give opportunity to the Member for Mombasa County, Hon. Zamzam Chimba, as the last person.

Hon. Zamzam Mohammed (Mombasa County, ODM): To do what?

Hon. Deputy Speaker: Oh, you did not request.

Hon. Zamzam Mohammed (Mombasa County, ODM): No, the Leader of the Majority Party has cleared everything. I do not support that Petition. No one should touch such funds. Some of us do not have farms. As much as I am not a representative of a constituency, I have to protect my colleagues. The funds that are meant to be used on roads should remain there.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay, we can move to the next order. We will have a chance to ventilate this matter during the Public Petitions Committee meetings.

PAPERS

Hon. Deputy Speaker: Leader of the Majority Party.

*(Hon. Hon. Kimani Ichung'wah consulted
with Hon. Naomi Waqo)*

I think he is very consumed with the Petition.

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Annual Report and audited financial statements for the Financial Year 2022/2023 of the Teachers Service Commission;
2. Reports of the Auditor-General and financial statements for the year ended 30th June 2023 and the certificates therein in respect of—
 - (a) State Department for Correctional Services;
 - (b) State Department for Trade;

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- (c) State Department for Higher Education and Research;
- (d) State Department for Technical, Vocational Education and Training;
- (e) State Department for Interior and Citizen Services;
- (f) State Department for Foreign Affairs;
- (g) State Department for Post Training and Skills Development;
- (h) State Department for Social Protection and Senior Citizen Affairs;
- (i) State Department for Crop Development;
- (j) State Department for Early Learning and Basic Education;
- (k) Receiver of Revenue Statements, State Department for Mining;
- (l) State Offices House Mortgage Scheme Fund, State Department for Housing and Urban Development;
- (m) Independent Electoral and Boundaries Commission Staff Mortgage and Car Loan Scheme;
- (n) Office of the Controller of Budget Staff Mortgage Scheme;
- (o) National Land Commission Housing Scheme Fund;
- (p) Office of the Controller of Budget;
- (q) North Eastern National Polytechnic;
- (r) The Executive Office of the Deputy President;
- (s) National Security Telecommunications Services;
- (t) Veterinary Services Development Fund;
- (u) Ministry of Health;
- (v) Coffee Cherry Advance Revolving Fund;
- (w) National Cohesion and Integration Commission;
- (x) Ministry of Foreign Affairs;
- (y) Kenya Space Agency; and
- (z) Government Clearing Agency Fund

Thank you, Hon. Deputy Speaker. I lay.

Hon. Deputy Speaker: Thank you. Next is the Chairperson of the Departmental Committee on Transport and Infrastructure.

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Reports of the Departmental Committee on Transport and Infrastructure on:

- (a) Its consideration of the National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No. 36 of 2023).
- (b) Attendance to the International Civil Aviation Organisation (ICAO) Implementation Support Symposium 2023 Conference held from 30th May to 1st June 2023 in Seoul, South Korea.
- (c) A study visit to France from 18th to 22nd June 2023.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is the Chairperson of the Public Debt and Privatisation Committee.

Hon. Abdi Shurie (Balambala, JP): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Public Debt and Privatisation Committee on its Consideration of the 2024 Medium-Term Debt Management Strategy

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next order.

NOTICES OF MOTIONS

Hon. Deputy Speaker: Chairperson of the Public Debt and Privatisation Committee.

ADOPTION OF REPORT ON THE 2024 MEDIUM-TERM
DEBT MANAGEMENT STRATEGY

Hon. Abdi Shurie (Balambala, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the 2024 Medium-Term Debt Management Strategy, laid on the Table of the House on Thursday, 29th February 2024 and, pursuant to the provisions of Section 15(4) of the Public Finance Management Act, 2012 and Standing Order 232A(7) and (8) approves the 2024 Medium-Term Debt Management Strategy and makes the policy and financial resolutions contained in the Report.

Hon. Deputy Speaker: Member for Alego Usonga, Hon. Atandi.

SUPPORTING AND PROMOTING LOCAL FERTILISER
MANUFACTURING INDUSTRIES

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, aware that the Fertiliser and Animal Foodstuff Act, 2015 provides for the regulation of fertiliser importation in the country; further aware that, the Fertilizer and Animal Foodstuffs Board regulates the fertiliser and animal foodstuffs industry including the manufacture and production of fertilisers; noting that, the country currently relies heavily on imported fertiliser due to inadequate local production capacity; further noting that, the low local production leads to high costs for farmers, reducing their profits and results in an unhealthy reliance on imported fertiliser; concerned that, this scenario threatens the country's food security in case of supply disruptions and discourages local production; recognising that local fertiliser production could lead to improved fertiliser quality, increased crop yields and a reduction in environmental harm caused by the use of substandard fertilisers; recalling that the country has the potential to produce fertiliser that could meet the country's domestic demand and also supply the regional market; further recognising that there is need for the Government to work with local producers to develop high quality fertiliser tailored to the needs of Kenyan farmers and crops; now therefore, this House resolves that the National Government through the Ministry of Agriculture and Livestock Development, supports and promotes local fertiliser manufacturing industries by investing in research and development to bolster the domestic fertiliser manufacturing sector.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Before we move to the next Order, allow me to recognise the presence of students from the following schools in the Public Gallery:

1. Mirira Secondary School from Kiharu Constituency, Muranga County; and,
2. St. Joseph's the Worker High School Mang'u from Gatundu North Constituency, Kiambu County.

On behalf of the Rt. Hon. Speaker, myself and the Members of the National Assembly, I welcome you to the National Assembly. Thank you.

(Applause)

Next Order.

QUESTIONS AND STATEMENTS

REQUEST FOR STATEMENTS

Hon. Deputy Speaker: Hon. Speaker, at this juncture, allow me to re-order the order of Questions and Statements. I will start with a request for Statement from Hon. Omboko Milemba, Member for Emuhaya Constituency.

DELAY IN ESTABLISHMENT OF BOARD OF TRUSTEES OF THE PUBLIC SERVICE SUPERANNUATION SCHEME

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Deputy Speaker, pursuant to the provisions of Standing Order 44 (2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding delays in establishing the Board of Trustees of the Public Service Superannuation Scheme.

The Scheme is established by the Public Service Superannuation Scheme Act, 2012. It is operated and managed by a Board of Trustees composed of six persons – three appointed by the Cabinet Secretary for National Treasury and Economic Planning and three other persons nominated by the Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET) and Union of Kenya Civil Servants in accordance with section 10 (1) (g) of the Public Service Superannuation Scheme Act, 2012. The Board of Trustees ensures that every member of the Scheme receives their retirement benefits as and when they become due.

The tenure of the current Board of Trustees expired on 1st December 2022, which triggered fresh nomination as per Section 13(1) of the Public Service Superannuation Scheme PSSS Act, 2012. However, until now, the Cabinet Secretary has not nominated the Trustees with respect to Section 10(1)(g) despite the submission of the names by KUPPET, KNUT and the Kenya Civil Servants Union. Additionally, over 156 retired teachers and civil servants have not received their retirement benefits under Section 28 of the the Board of Trustees of the Public Service Superannuation Scheme Act, 2012 due to the absence of a new Board of Trustees to administer the Fund.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on the following:

1. Why has it taken inordinately long for the nominees submitted by KUPPET, KNUT and the Kenya Civil Servants to be appointed to the Board of Trustees in accordance with Section 10 (1) (g) of the Public Service Superannuation Scheme Act?
2. When can the retired teachers and civil servants expect to receive their retirement benefits?
3. Could the ministry provide a report on the status of money belonging to civil servants and teachers from 1st December 2022 to-date, including the remunerations for the Board of Trustees of the Public Service Superannuation Scheme Secretariat?

Hon. Deputy Speaker, I wish to add that this is the biggest pension scheme in the country currently. Over Ksh140 billion has been raised in less than four years. Some employees in this particular scheme are earning as high as Ksh13 million per month. It is worth noting that

the Principal Secretary (PS) of the National Treasury wrote to the organisations asking them to nominate names of three people for him to choose one from amongst them, contrary to what the Act stipulates. The Act provides that the organizations should nominate only one person. He wants to micromanage the oversight of the Board of Trustees from these particular organisations.

Lastly, I wish to indicate that we should be wary and protect this Scheme jealously. We are aware of what happened to the National Social Security Fund (NSSF) because of the colossal sums of money they were holding.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Kitutu Masaba, Hon. Clive Gisairo.

DEMISE OF INSPECTOR WALTER NYANKIEYA
NYAMATO WHILE ON DUTY IN USA

Hon. Clive Gisairo (Kitutu Masaba, ODM): Hon. Deputy Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the delayed release of the autopsy report of the late Inspector Walter Nyankieya Nyamato (Service No.2008070300), who was found dead in his hotel room in Washington DC, United State of America (USA) on 13th February 2024.

The late Inspector Walter Nyankieya Nyamato is claimed to have been part of an advance team of officers from the National Police Service (NPS) that was headed to the Republic of Haiti for a reconnaissance mission ahead of the deployment of Kenya Police to the multinational security support mission in Haiti, to which Kenya is a party. Unfortunately, the officer was found dead in his hotel room on the morning of Tuesday, 13th February 2024 and the cause of his death remains unknown until today.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on the following:

1. Under what circumstances did the NPS dispatch officers from the Kenya Police Service (NPS), including the late Inspector Walter Nyamato, to the Republic of Haiti despite a High Court Order barring the Government from deploying Kenyan police officers to the said nation?
2. Why has it taken inordinately long for the autopsy report on the cause of death of the late Inspector Walter Nyamato to be provided to the family?
3. When should the family expect to receive the autopsy report and have the body of their loved one repatriated for a decent send-off in order to find a closure on the loss of their loved one?

Thank you, Hon. Deputy Speaker.

(Hon. Opiyo Wandayi spoke off the record)

Hon. Deputy Speaker: Leader of the Minority Party, before I allow you to weigh in on this statement request, allow me to welcome students from Mount Kenya University, Parklands Campus, from Starehe Constituency, Nairobi County. They are invited here by Hon. Ruweida. Hon. Ruweida, you will have a chance to welcome them after the Leader of the Minority Party speaks.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Deputy Speaker, for indulging me. The Statement that has been sought by the very able Member for Kitutu Masaba, my good friend, Clive Gisairo, raises a number of very weighty issues.

First and foremost, it is close to one month or there about since this officer was reported to have died in Washington DC. Since his death, there have been conflicting statements. A statement from the police was suggesting that this officer had gone for some training in the USA but the family of the deceased officer was categorical that he was part of a mission that had been sent to Haiti. The family is now helpless. Four weeks down the road, they have not been told what killed their kin. They have also not been told when to expect the body of their kin. However, more fundamentally, if indeed it is true that this officer was part of a mission to Haiti, who authorised that mission against the court order? The court ruled that any police mission to Haiti remains unconstitutional until certain conditions are met under the law and the Constitution.

I, therefore, ask that the Chairman of the relevant Committee to compel the concerned Cabinet Secretary to come and tell the whole country, in addition to the family, how this helpless officer found himself thousands of miles away and was allowed to die a solitary death while on a mission that remains unclear to date. Is this how we treat our police officers? Why should we use them and later on send them to some unknown missions? The officer is dead. The family is agonising, but we have remained quiet.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

Hon. Temporary Speaker, this is a very serious matter. In fact, I would have suggested that this statement request is treated differently. You should compel the Cabinet Secretary responsible for the National Police Service to come here and explain to this House how a struggling officer from the great land of Omugusii died abroad. Why are you mistreating officers from the land of *Omugusii*?

Hon. George Murugara (Tharaka, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Member, what is your point of order? Leader of the Minority Party, just take your seat. There is a point of order.

Hon. George Murugara (Tharaka, UDA): I rise under Standing Order 1. Ordinarily, this House does not entertain comments on statements because there is the risk of preempting the answers we are likely to get. It also leads one towards making political statements that may be unsubstantiated. The practice of the House is that once a statement is requested for, a response is given and after that one can comment. The direction that the Leader of the Minority Party is taking is not the trajectory of the House.

The Temporary Speaker (Hon. Omboko Milemba): Thank you for that intervention. Leader of Minority Party, it was expected that you would make a very short comment on this matter. Ordinarily, as he has put it, we do not debate requests for Statements. Please, conclude.

Hon. Opiyo Wandayi (Ugunja, ODM): I was indulged in a special way by the Deputy Speaker. Hon. Murugara, relax. According to Chinua Achebe, when dry bones are mentioned, old women feel jittery. Hon. Murugara, what is itching you when a son of the *Omugusii* is dead? He died in the USA and nobody is telling the family what killed him or what took him there.

The Temporary Speaker (Hon. Omboko Milemba): You need to conclude so that we do not encourage debate on this matter.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Temporary Speaker.

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Leader of Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, we are a House of record. I just took the liberty to have a glimpse of the statement sought by Hon. Clive. I want to agree with Hon. Murugara that, indeed, we should not take advantage of such an unfortunate incident as the passing on of an officer who has diligently served our country, and a father to a very young family. This officer was only about 38 years old. He served this country diligently and rose to the point of being a personal assistant to the Deputy Inspector-General in charge of the Administration Police, Mr Gabow.

Hon. Temporary Speaker, this Statement, as much as it was approved, is laden with very dangerous innuendos, all designed to do what you have seen the Leader of the Minority Party do, which is to use it as an opportunity to issue out unfortunate and otherwise very irresponsible political statements. When somebody claims...

(Hon. Opiyo Wandayi spoke off record)

The Temporary Speaker (Hon. Omboko Milemba): The Leader of the Majority Party is on a point of order.

Hon. Kimani Ichung'wah (Kikuyu, UDA): If you read the Statement by Hon. Clive, and I want to believe the late Walter Nyamato was his constituent, it did not have the decency to convey condolences to the family of the late Walter Nyamato. Let me take this opportunity, on behalf of the National Assembly and the great people of Kenya who were being served by Officer Walter Nyamato, to express our heartfelt and sincere condolences to his family. The Statement avers that Inspector Walter Nyamato...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Leader of the Majority Party, you will have to conclude in a short while, but I will still give you the microphone so that we do not exacerbate debate on this Statement. Proceed for one minute.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I was saying that the Statement averred that the National Police Service dispatched officers, including the late Inspector Walter Yamato, to the Republic of Haiti despite a High Court order. The person seeking the Statement, Hon. Clive, knows for a fact, just like the Leader of the Minority Party, that this officer's unfortunate death happened in his hotel room in the United States of America. There is a difference between the United States of America, Washington DC, and Haiti. I know they may not have the geography of the world, but I have been to Washington DC with the Leader of the Minority Party. I know he knows where Washington DC is. Hon. Clive might not have been to Washington DC and, therefore, might imagine Washington DC in the United States and Haiti are one and the same place, and is a village in Nyamira. It is not. It is not.

(Hon. Opiyo Wandayi spoke off record)

The Temporary Speaker (Hon. Omboko Milemba): He is on a point of order.

Hon. Kimani Ichung'wah (Kikuyu, UDA): So, Hon. Temporary Speaker, I just wanted you to direct that the Leader of the Minority Party and Hon. Clive must not take advantage of the unfortunate passing on of a diligent and committed patriotic officer of our country to play very cheap politics and dance on the grave of a dead officer. It is unfortunate and sad.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Like the substantive Speaker would put it, let the chips lie where they fell. Therefore, that Statement be directed to the relevant committee and we shall have a chance to speak on it when it is back to the House.

Next is a Statement by Hon. Eric Muchangi.

DELAYED PAYMENT TO COFFEE AND DAIRY FARMERS
BY COOPERATIVES IN EMBU COUNTY

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. Pursuant to the provisions of Standing Order 44 (2)...

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Order, students of Alliance.

(Laughter)

Proceed, Hon. Muchangi.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you. Pursuant to the provisions of Standing Order 44(2)(C), I wish to request for a statement from the Chairperson of the Department of Committee on Trade, Industry and Cooperatives regarding the delay in remunerating dairy and coffee farmers in Embu County.

Hon. Temporary Speaker, it is regrettable to note that for two consecutive harvest seasons, farmers have diligently delivered their coffee produce to the New Planters Cooperative Union and dairy farmers have supplied milk to the New Kenya Cooperative Creameries (New KCC) without receiving rightful compensation in return.

It is important to highlight that the Government had pledged prompt payment to coffee farmers at the rate of Ksh80 per kilogramme of cherry delivered to the New Planters Cooperative Union. The delay in payment to the dairy farmers has created an environment where farmers are unable to procure essential resources for their farms or provide proper feed for their livestock, resulting in a decline in production in the dairy sector. It is imperative to note that the First Supplementary Budget for the Financial Year 2022/23 passed in this House allocated money to the Coffee Cherry Advance Revolving Fund, but the funds are yet to be disbursed.

Hon. Temporary Speaker, it is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on the following:

1. What immediate measures are being enacted to ensure the expedited disbursement of payments to both the coffee farmers and dairy farmers and ensure that future payments are prompt?
2. How does the Ministry plan to fulfil its commitment to grant coffee farmers access to the promised Ksh80 per kilogramme of cherry, given the allocation provided in the budget?
3. What are the cooperatives reforms being implemented by the Ministry to ensure that cooperatives genuinely serve the best interests of our farmers?

Hon. Temporary Speaker, I make this Statement as a leader who comes from an area where we have very many coffee growers. And if there is a lot that is unhappy, it is the coffee and dairy farmers. This April, we will go to the third season and shockingly, our farmers have not been paid for the first and the second seasons. This does not amuse our people.

Additionally, if there is a Ministry that has disappointed our farmers, it is the Ministry of Co-operatives and Micro, Small and Medium Enterprises (MSMEs) Development. You can imagine in the month of January, the dairy farmers delivered their milk to the New KCC. We are now going to March and they have not yet received their money. The expectation is that a

cow will give out milk after feeding on dairy meal. Where do they get the money to buy the dairy meal if they do not get money from the coffee and milk?

Hon. Temporary Speaker, as I make this Statement, I would passionately appeal to you to call upon this Committee to ensure that our farmers, especially in Embu County and Runyenjes Constituency where I serve, get their dues because they have worked hard for them.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well, the Statement is referred to the Committee on Trade, Industry and Cooperatives.

The next Statement is from Hon. Melly, Chairperson of the Committee on Education.

STATEMENTS

PROGRESS REPORT ON UNIVERSITIES AND COLLEGES PLACEMENT APPLICATION PROCESS

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to respond to a question which was raised by Hon. Oundo. The substantive Speaker directed yesterday that this response be brought up this afternoon because it is a matter of national concern. I also want to point out that the Cabinet Secretary was in the House yesterday and he discussed some of the issues bedevilling the e-Citizen payment affecting the KUCCPS students. I have a response from the Cabinet Secretary on the placement application to universities and colleges.

Hon. Temporary Speaker, you will allow me to read because this is a Statement from the Cabinet Secretary. The Kenya Universities and Colleges Central Placement Service (KUCCPS) opened its portal on 7th February 2024 for the 2023 Kenya Certificate of Secondary Education (KCSE) class and other eligible persons to apply for placements to various programmes in universities and colleges. The programme levels are degree, diploma, certificate and artisan. The KUCCPS undertook a nationwide mobilisation of applicants through universities, and Technical Vocational Education and Training (TVET) institutions at the various Huduma Centres. As at 28th of February, 2024...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Chairman, I am told your Statement is very long and I cannot see Hon. (Dr) Oundo in the House. Paraphrase it as much as possible.

Hon. Julius Melly (Tinderet, UDA): Yes, I will paraphrase it.

Hon. Temporary Speaker, the gist of the matter is that there has been a crisis, especially among students. They are not having a smooth application flow in programmes and payments to the KUCCPS platform.

The Cabinet Secretary wish to report that KUCCPS successfully integrated the Government payment gateway into its placement system, the eCitizen platform. It is supported by the Pesa-Flow and works as follows in the case of application to KUCCPS. Applicants log into the KUCCPS. It has given long details on how the students will apply; you will allow me to skip that section because I will hand over the document to Hon. (Dr) Oundo.

Let me go straight to the challenges faced by students and how the Ministry has tried to rectify them. The key challenge has been the delays in the payment submission process. The KUCCPS has isolated the payment platform as a cause of intermittent services because of the following reasons. The cause of the delay is as follows:

1. Lack of completely real time push of payment notification from the Pesa flow to the KUCCPS database to enable the applicants complete the application. The result is a deadlock at the payment point, thus having a ripple effect on the other

states such as inputting programme code. That has been a real problem for the delay.

2. Errors in payment notification, especially on Pesa Flow side. Some users have reported errors such as unusual payment amounts, for example Ksh20, unknown beneficiaries from the KUCCPS. There is also a case where someone was prompted to pay US\$403.

Hon. Temporary Speaker, to address the challenges experienced by the applicants with regard to payments, the following remedial actions have been undertaken —

1. Joint Technical Team - A joint technical team led by the Principal Secretary, State Department of Information Communication and Technology (ICT) Digital Economy, was constituted to identify the problems and continuously monitor the process and intervene as may be necessary. The team has representation from KUCCPS, Konza Technopolis Development Authority, the ICT Authority, the Directorate of E-citizen and the Ministry of Information, Communication and Digital Economy.
2. Review of the resources - The joint technical team undertook a thorough review of the resources allocated to the application system. The KUCCPS internet bandwidth was doubled to ensure maximum speeds. It was also recommended that KUCCPS placement application be hosted at Konza Technopolis to scale up the server space.
3. Unlocking delayed payment - eCitizen was to provide the file of all the payments made for KUCCPS to enable the unlocking of the yet to be validated payments. Until 26th February, 2024, KUCCPS unlocked 4,286 payments transactions that have been made via the E-Citizen platform.
4. Provision of self-service code - The self-service code is USSD code *22# that applicants can use to confirm or push their payments to effect on the platform. The same has been communicated to the public.

Hon. Temporary Speaker, the Cabinet Secretary dealt with this yesterday, but as directed by you, I have brought this Statement to the House.

The Temporary Speaker (Hon. Omboko Milemba): Thank you for bringing the Statement to the House on time. Yes, Hon. Member. Do you want to weigh in on this? You have the microphone.

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Temporary Speaker. I want to thank the Chairman of the Departmental Committee on Education for that Statement on challenges the students are undergoing in terms of applying for university allocations through KUCCPS.

My only problem as an expert in ICT, with over 15 years of experience dealing with online application is that it is not normal in this era and age of digital technology, that we create a system without testing the issue of bandwidth, connectivity and the number of users. Such that it works when it is rolled. I also have a student who is supposed to apply through KUCCPS to join first year. We have even tried waking up at midnight, at 4.00 a.m. for purposes of trying to apply, but it has been difficult. I am wondering if we are in Nairobi and we cannot apply, then you can see the challenges somebody in Turkana or Mandera has.

We need to get serious. The technology is there. We have had inventions to date. We even have cloud computing that can facilitate us in terms of giving the entire bandwidth and servers that we need for the students to apply.

This House needs to be assured that from today, students can apply for the courses online without further delay. The time for the application should not be more than 10 minutes. We should save the students from waking up at midnight or 4.00 a.m. to see whether there is a space to apply. It is a pity to the ICT industry and professionals like me, when you create a

system and roll it out without proper testing. This House needs the assurance that we can now tell our students to apply without any challenges. The system should be seamless.

The Temporary Speaker (Hon. Omboko Milemba): Hon. K.J.

Hon. John Kiarie (Dagoretti South, UDA): Thank you very much, Hon. Temporary Speaker. I appreciate this opportunity.

First, I want to appreciate Hon. Melly and the Departmental Committee on Education for expeditiously answering to an issue that is of national concern.

We have to identify the two issues here. One, that squarely falls on the administration in the Ministry and the second one, that is purely a systems issue that has to do with technologies and the teething problems in a technology. What is necessary is for the Ministry to be extremely forthright because, systems are just like infrastructural installations. For example, a road can only take up so much traffic at any given time. That is the same with bandwidth. If you have a conduit or a channel that is digital, it is only able to carry so much traffic at any given time. If systems are crowded, clustered or jammed, the Ministry just needs to admit that there is a capacity issue that can be addressed technically.

Hon. Temporary Speaker, I also wanted to ride on the Statement that has been presented to bring up the issue that is also facing KUCCPS, lower cadres of education, secondary and primary school. It also has a technological element to it. The Chairman is aware that our students are normally registered on the National Education Management Information System (NEMIS), and for you to be boarded onto NEMIS, you are required to have a birth certificate and registered at school. All of us in this House know that there are families upon families that have never collected their birth certificates. When we appropriate money in Parliament, we normally take into account the entire student component. Where does the money for capitation that is allocated to children who do not have birth certificates and are not registered under the NEMIS go? The Ministry claims the entire allocation, however, they only disburse capitation to children who are on-boarded to the NEMIS platform. If you go to schools, you may find that three-quarters of the students are not on-boarded to the NEMIS platform. Where does the remainder of the money that is allocated to children who are not registered under the NEMIS go? That is a question that we, as the budgeting House, should get an answer to.

The Temporary Speaker (Hon. Omboko Milemba): I think we can conclude on this and move to the next Statement by the Chairperson of the Departmental Committee on Transport and Infrastructure, you have a response to a request for Statement by the Member for Kajiado North.

STATUS OF LAUNCHED ROAD PROJECTS IN KAJIADO NORTH CONSTITUENCY

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. On Thursday, 7th December 2023...

The Temporary Speaker (Hon. Omboko Milemba): Is the Member in the House?

Hon. George Kariuki (Ndia, UDA): Yes, he is.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Proceed.

Hon. George Kariuki (Ndia, UDA): On Thursday, 7th December 2023, the Member for Kajiado North, Hon. Onesmus Ngogoyo, requested for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of launched road projects in Kajiado North Constituency.

Just to give a background of the matter, in the request, Hon. Ngogoyo indicated that on 23rd April 2023, His Excellency the President launched road projects traversing Kajiado North and Kajiado West constituencies that had stalled during the previous regime for upgrading to bitumen standards. These projects included:

1. Ongata Rongai–Gataka–Embulbul Road.
2. Co-operative College (Karen) – Matasia–Nkoroi Road.
3. Ongata Rongai–Nazarene University–Rimpa Road.
4. JN (C58) – Lewis Academy – Kahara Market Road.

In the Statement, Hon. Ngogoyo sought to establish, among other things:

1. The status of upgrading to bitumen standards of the roads.
2. The expected date of completion of the roads considering that most sections are now impassable.
3. Measures the Ministry is taking to ensure that the contractor is paid for the 40 per cent portion of the road that has been completed.

The Committee has since received a response from the Ministry of Roads and Transport, which I now wish to read.

1. The Ministry has clarified that the upgrading to bitumen standards of Ongata Rongai– Gataka–Embulbul, Co-operative College (Karen)– Matasia–Nkoroi, Ongata Rongai–Nazarene University – Rimpa and JN (C58)–Lewis Academy– Kahara Market roads is 58 per cent done.
2. This comprises 22 kilometres of tarmac achieved out of the contracted 65 kilometres of roads. The contracted project cost is Ksh2,749,366,467.47 and the contractor is M/s China Civil Engineering Construction Corporation. The following link roads are complete to tarmac level:
 - (a) Olkeri–Gataka Road.
 - (b) Ongata Rongai– Embulbul Road.
 - (c) Kwamai–Chapchap Road.
 - (d) Matasia–Kandisi Road.
3. The project commenced on 27th June 2018 for a period of 36 months but faced significant delays in completion due to several reasons. These include:
 - (a) The need to realign a section of the Olkeri– Gataka Road to accommodate the construction of the Standard Gauge Railway (SGR). This led to the new design traversing through a gazetted forest thus requiring additional approval for road construction. The Kenya Railways Corporation is at an advanced stage of obtaining the requisite approvals to allow the completion of the road.
 - (b) Delays in power line relocation. There have been delays in the relocation of power lines within the road corridor for a majority of the road. However, the contractor has worked around the poles where possible.
 - (c) Pending land acquisition. Work is yet to commence at the section of the road that was realigned along the Matasia–Kandisi Road due to pending land acquisition following the construction of the SGR. Discussions concerning this acquisition are at an advanced stage.
 - (d) The limited road corridor in most sections has resulted in challenges in accommodating non-motorised traffic thus causing delays in heavily populated sections of the project.
 - (e) Financial constraints facing the contractor leading to challenges in undertaking the project as per the contractual timelines.
4. With regard to the measures taken by the Ministry of Roads and Transport to pay the contractor for the completed works, the Ministry submitted that the contractor served a notice to downscale works at the project citing irregular payment of dues. However, the Ministry states that it is actively engaging the contractor to resume full operations at the project with the undertaking that the

settlement of all pending dues shall be prioritised alongside others facing similar challenges countrywide. The outstanding amount currently owed to the contractor is Ksh505 million.

5. Additionally, the Ministry has given an assurance that the road shall be completed as soon as the financial distress facing the project is resolved, noting the ongoing interventions by the Government on settlement of pending bills. Bearing this in mind, the completion date will be revised taking into account outstanding volume of work and shall be communicated accordingly.
6. In the interim, the Ministry, through the Kenya Rural Roads Authority (KeRRA), has put in place measures to maintain the sections affected by the El Nino rains as soon as the weather permits, to ensure accessibility and motorability of the said road sections.

I advise Hon. Ngogoyo to liaise with KeRRA to help identify the sections that require urgent intervention.

7. In conclusion, the Ministry states that the Government is engaging with development partners to provide alternative funding for pending bills that have accrued over the years leading to delays or stalling of road projects. Further, the Ministry envisages that this shall be finalised in good time to facilitate the completion of all affected projects, including the Ongata Rongai–Gataka–Embulbul, Co-operative College (Karen)–Matasia–Nkoroi, Ongata Rongai–Nazarene University–Rimpa and JN (C58)–Lewis Academy–Kahara Market road Projects.

We note that the issues raised by Hon. Ngogoyo are replicated across the country. Further, we note that roads are key enablers of the economy.

The Departmental Committee on Transport and Infrastructure is imploring this honourable House to support the request for allocation of an additional Ksh150 billion to the State Department of Roads in the 2024/2025 Financial Year for payment of pending bills. Additionally, the department requires an additional Ksh258 billion in the next two financial years. That is 2024/2025 and 2025/2026, to enable the Ministry of Roads, Transport and Public Works to complete all ongoing road projects within two years, as stated in the Budget Policy Statement (BPS).

I submit. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Before we get a rebut from the Member of Parliament for Kajiado North, let me welcome Hon. Captain Ruweida to welcome the students of Mt. Kenya University if they are still in the House.

Hon. Ruweida Mohamed (Lamu East, JP): Asante sana, Mheshimiwa Spika wa Muda, kwa kunipatia nafasi hii ili nikaribishe wanafunzi wa Chuo Kikuu cha Mt. Kenya, Parklands Law Campus. Wamekuja na kiongozi wao, Bw. Swabir, ambaye ni mwanafunzi kutoka Lamu Mashariki. Watu wanasema watu wa eneo la Lamu Mashariki hawasomi. Hata hivyo, watu wamesoma, ingawa si wengi.

Ninachukua nafasi hii niwaambie wanafunzi wa Lamu Mashariki kwamba watu wamekuwa wakisema anga ndio kikomo, lakini saa hii wanasema anga sio kikomo. Nafasi zipo. Wakitaka kusoma, wasome. Saa hii kuna *bursary* na wafadhili wengi. Kuna wafadhili wengi ambao husaidia wanaosoma sheria au udaktari. Vilevile, ninachukua nafasi hii niwakaribishe wanafunzi hawa na niwaambie nafasi hizi za Bunge ni zenu. Someni kwa bidii. Nyinyi ndio viongozi wa kesho na leo. Hamko mbali. Nyinyi pia mtakuwa katika Bunge hili wakati mmoja. Kila la heri. Nimefurahia sana. Karibuni sana katika Bunge hili.

Asante.

The Temporary Speaker (Hon. Omboko Milemba): *Asante sana.*

Let us have the first bite on this coming from the Member of Parliament for Kajiado North.

Hon. Onesmus Ngogoyo (Kajiado North, UDA): Thank you, Hon. Temporary Speaker.

While I appreciate the answer from the Chairman of the Departmental Committee on Transport and Infrastructure and the answer from the Cabinet Secretary, I have two issues to raise after this. The works quoted, and the percentage are correct. I would wish the Chair of the Departmental Committee on Transport and Infrastructure to note this in a very serious way.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Chairman of the Departmental Committee on Transport and Infrastructure, order. A Member is insisting that you listen to what he has to say. Thank you. Proceed.

Hon. Onesmus Ngogoyo (Kajiado North, UDA): I want the Hon. Chairman of the Departmental Committee on Transport and Infrastructure to note that the road has not stalled on all parts because of payments. The Standard Gauge Railway (SGR) passes through our constituency through a gazetted forest. They committed to rebuilding the area not built by the KeRRA. They thus went ahead to compensate the Kenya Forest Service. They have already done it. I would like the Chairman to provide the exact date on which that work will resume; the part that was not meant to be done by KeRRA. Hon. GK, your statement did not quote the exact day. Payment has been made. The contractor was waiting for the payment to be done, which has already been done by Kenya Railways for this specific road.

Lastly, you have mentioned that KeRRA is ready to do the roads damaged by El Nino. Again, KeRRA was to provide an engineer to do the assessment. Because the road is under construction up to date, our ordinary engineer would not have gone on site. Why have you not provided the estimates of the work that was already assessed? Under the circumstances, one would then be sure that KeRRA will do these specific roads, especially at a time when we are on Ngong Forest. Parts of the roads are damaged.

As it is, in the same manner that he has provided this statement, I would want the Chairman to give a date and commit to this House the exact day these assessments are going to materialise. They have already been done, but nothing is on the ground yet.

The Temporary Speaker (Hon. Omboko Milemba): Very well. There being no other interest in that matter, I call upon the Chairman to only speak on two issues. One, do you have the exact date for the resumption of work on those roads? That is what the Hon. Member has said. Secondly, respond to the matter concerning assessment.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. I do not have the exact date. We will, however, liaise with the ministry and support the Hon. Member to get an exact date when the contractor will resume work. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Member, liaise with the Chairman to get the exact date. In the event you do not get it, report to the House accordingly.

Next is the Leader of the Majority Party, on his usual Thursday Statement.

BUSINESS FOR THE WEEK OF 5TH – 9TH MARCH 2024

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker.

Pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Tuesday, 27th February 2024, to prioritise business for consideration during the week.

With regard to business scheduled for Tuesday next week, the House is expected to consider the following Bills at Second Reading, if not concluded today:

- (a) The National Disaster Risk Management Bill, 2023.

- (b) The Natural Resources (Benefit Sharing) Bill (Senate Bill No.6 of 2022).
- (c) The Petitions to Parliament (Procedure) (Amendment) Bill, 2022.
- (d) The Regional Development Authorities Bill, 2023.

Additionally, debate will also be undertaken on the following Motions, some of which are listed on today's Order Paper, should they not be concluded:

- (a) Appointment of Members to the Powers and Privileges Committee.
- (b) Appointment of Members to the Members' Services and Facilities Committee.
- (c) Changes to Committee Membership.
- (d) Report on the consideration of the 2024 Medium-Term Debt Management Strategy, if tabled by the Committee today.
- (e) Report on the compliance to Article 54(2) of the Constitution regarding employment of persons with disabilities in public institutions.
- (f) Report of the Auditor-General on financial statements of selected state corporations.

I wish to remind the House that following the extension of time granted last week, we ought to conclude the consideration of the 2024 Budget Policy Statement before the end of next week. As such, once the Report of the Budget and Appropriations Committee on the BPS is tabled, it will be prioritised for debate in the course of the week.

In accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the Cabinet Secretary for Interior and National Administration is scheduled to appear before the House on the afternoon of Wednesday, 6th March 2024, to respond to the following Questions:

- (a) Question by Private Notice No.004/2024 by the Member for Gilgil, Hon. Martha Wangari, regarding the death of Jasmin Njoki in Gilgil, Nakuru County.
- (b) Question by Private Notice No.005/2024 by the Member for Samburu North, Hon. Eli Letipila, regarding the status of the investigation into the death of Hon. Paul Leshimpiro, MCA for Angata Nanyekie Ward.
- (c) Question by Private Notice No.006/2024 by the Member for Luanda, Hon. CPA Dick Maungu, regarding sporadic attacks in Luanda Constituency.
- (d) Question by Private Notice No.007/2024 by Member for Kirinyaga County, Hon. Njeri Maina, regarding illicit liquor in the country.
- (e) Question No.271/2023 by the Member for Laisamis, Hon. Joseph Lekuton, regarding births and registration offices in Laisamis and Loiyangalani Sub-Counties.
- (f) Question No.343/2023 by the Member for Ruiru, Hon. Simon King'ara, regarding challenges in processing passports and inordinate delays in the issuance of passports.
- (g) Question No.002/2024 by the Member for Matungu, Hon. Oscar Peter Nabulindo, regarding the surge in cases of livestock thefts in the Western Region, and Particularly in Matungu Constituency.
- (h) Question No.003/2024 by the Member for Kinango, Hon. Gonzi Rai, regarding the deployment of the contingent of General Service Unit (GSU) to Kazamoyo Village in Kwale County.
- (i) Question No.005/2024 by the Member for Bahati, Hon. Irene Njoki, regarding the replacement of the vehicle with registration plate No.GKB340J assigned to Deputy County Commissioner, Nakuru North Sub-County.
- (j) Question No.037/2024 by the Member for Isiolo South, Hon. Tubi Budi, regarding the issuance of identification cards to residents of North Eastern and bordering regions.

- (k) Question No.045/2024 by the Member for Fafi, Hon. Yakub Farah, regarding actions taken by the Government to enhance security in Fafi Constituency.
- (l) Question No.048/2024 by the Member for Emuhaya, Hon. Omboko Milemba (yours truly the Chair) regarding the security of non-local teachers in Mandera County; and,
- (m) Question No. 050/2024 by the Member for Kilome, Hon. Thuddues Nzambia, regarding the gazettelement of the Nzai Sub-Location in Makueni Constituency.

Hon. Temporary Speaker, in conclusion, the House Business Committee will reconvene again on Tuesday 5th March 2024 to schedule business for the rest of that week. I now wish to lay this Statement on the Table of the House.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Before we move to the next order, let me acknowledge the presence of Sabasaba Secondary School, Maragua Constituency, Murang'a County, in the House. Do we have any Hon. Members from Murang'a County to welcome the students?

Proceed.

Hon. Peter Kihungi (Kangema, UDA): Thank you, Hon. Temporary Speaker.

I take this opportunity to welcome the students from Sabasaba Secondary School. The area Member of Parliament is engaged in an activity in the constituency. I wish to tell them that they can also become Members of Parliament. It is one of the schools that are doing very well in Murang'a County. I encourage them to learn and aim higher.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very Well, next order.

BILLS

Second Readings

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

(Moved by Hon. Muchangi Karemba on 27.2.2024)

(Resumption of debate interrupted on 28.2.2024 – Afternoon Sitting)

Hon. Kimani Ichungw'ah (Kikuyu, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Leader of the Majority Party?

Hon. Kimani Ichungw'ah (Kikuyu, UDA): Hon. Temporary Speaker, indulge me. I request that we reorder business appearing as Order No.9 to appear as Order No.10, and Order No.10 to appear as Order No.9. The reason for that is that I want Senate Bills No.11 of 2022, the one whose debate is resuming, and No.6 of 2022 to follow each other.

We had a meeting with our colleagues from the Senate this morning on bicameral relations between the two Houses. We intend to process many of their bills that are in this House so that we do not stand accused of sitting on Senate Bills. Therefore, we want to process the Senate Bills ahead of the others if you allow Hon. Temporary Speaker.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Leader of the Majority Party, it is so ordered because the substantive Speaker had already spoken that we need to tackle the Senate Bills fast so that we do not look like a House that is delaying their business.

We are already on the next Order, and the Secunder had eight minutes left to second this Bill.

Hon. Peter Kihungi (Kangema, UDA): Hon. Temporary Speaker, let me continue to second the Bill. I am seconding the rejection of the Employment (Amendment) Bill (Senate Bill No. 11 of 2022) by the Committee.

Hon. Temporary Speaker, the Bill is about the right to disconnect. It says that you cannot engage a worker after their working time. In the explanation of the right to disconnect means, an employee is entitled not to be contacted by the employer during out-of-work hours by the employer's policy. As a committee, we went through the Bill and found out that it is, in a way, discriminatory. It is not concerned about the welfare of the employer, but it is mainly targeting the employee without considering the rights of the employer.

When it talks about disconnection, it states that the employee can only be engaged during an emergency. We wondered how one would be able to contact the employee if he had already disconnected from the employer. Therefore, the Bill does not explain how an employee can be contacted during an emergency because, immediately after work, the employee will have the right to switch off their phone, and the employer cannot contact them. We did not find the areas or avenues under which the employer will be able to explain that there is an emergency and they want the employee to come back and assist them.

The Bill has given only two definitions: out-of-work hours and the right to disconnect. It also talks about emergencies but does not define what it is, and in what instances of emergency an employer can contact an employee. It also talks about compensation whereby an employer has to compensate an employee. However, it does not explain what compensation is. The Bill came from the Senate, and we realise that there was much oversight. Some basic things could have been included during the debate at the Senate, which is very critical.

The Bill states that people working under essential services cannot be allowed to disconnect, but it does not define essential services. We see many gaps in the Bill.

Hon. Temporary Speaker, the Bill only targets those who work during the day and go home. It does not consider some people, like the domestic workers, who stay with the employer throughout. Where is the disconnection? The Bill should cover all employees. It should not target a few and leave others out. The Bill should have clearly indicated at what stage a domestic worker should disconnect from the employer when they are living in the same premises.

Another issue is those who work for 24 hours. They are always in the employment area. Those are some of the gaps that we noticed.

The Bill is biased against the employer because it talks about the employee disconnecting from the employer. However, it does not clarify if the employee is mandated to pick up the call when the employer wants to speak to them during out-of-work hours. The Bill should have also considered that the employee also usually calls the employer. We found some biases in the Bill where the employer is not considered at all.

There are cases where the person who initiated the Bill is considering the working hours. Suppose the worker or the employee is given a target to work on, and they fail to achieve it. The Bill does not consider the employer who gives the target to somebody, but since the person knows that the law protects him and when the time comes to go home, he must do so. That will bring about a lot of indiscipline at work.

The Kenya Kwanza Government agenda is based on the Bottom-up Economic Transformation Agenda (BETA). One of the main agendas is employment. The Bill targets an employer who has more than ten employees. For example, if an employer realizes that he is

about to achieve the 10th employee and then he falls into this trap, which he cannot contact his workers when they have left the office, he will ensure that he does not hire the 10th employee. Therefore, it discourages employers from employing more than ten employees. BETA requires that we legislate laws that create employment and encourage employers to employ more workers. Employers with ten employees should be encouraged to hire the 11th one. Therefore, the Committee observed that the Bill discourages employers who have more than ten employees. There is no scientific calculation or something tangible that explains ten employees.

Anyone can go to court to challenge why the sponsor of the Bill did not consider employers who have two, five, or eight employees but only targeted those with more than 10. It creates the impression that even the Mover of the Bill is trying to avoid falling into that gap. He might have looked at his institution and decided to pick a number that is outside that bracket. This is because there is no scientific explanation. We asked the Mover why he did not think about two, three, or five employees but went for 10. He must have vested interests, whereby he does not want to fall into that gap. Therefore, we agreed that the Bill does not encourage employment.

As a Committee, we agreed that employment is a civil relationship. It should not be given a criminal liability. An employer should not have management issues at the workplace. Employers should not be declared criminals by contacting their employees. The sponsor of the Bill states that if an employer contacts an employee after working hours, he is liable for a fine of Ksh500,000 or imprisonment of one year. That area is highly biased. As a Committee, we rejected this Bill. We request that the Senate be a bit careful when considering some of these Bills. We wonder whether this Bill was discussed at length in the Senate.

Thank you, Hon. Temporary Speaker. I second the Bill.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): Let us have the first bite from Hon. Jackson Kosgei.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. In principle—notwithstanding some gaps in the Bill which I believe can be treated by various laws established while and when we shall look at it in detail—I support the Bill for two reasons. Firstly, employees' right to disconnect helps to protect them against burnout hazards. Secondly, it protects the workers against exploitation where some organisations use them and mistake loyalty to mean a right to infringe on their rights.

The current Prime Minister of Australia, Hon. Antony Norman Albanese, said:

“Someone who is not being paid 24 hours a day should not be penalised if he is not online and available 24 hours a day.”

I am sure there is a reason the word "hours" has been defined. A worker should work for 45 hours a week. Scholars describe the right to disconnect as an entitlement. Employees should not be contacted by the employer during out-of-work hours as per the employer's policy. There must be a policy that guides every employment and creates a workable environment in every organisation. This encourages the right to privacy. Some bosses have telephone goals. They call somebody's wife or husband even at midnight, which causes disunity in families. We need some kind of working relationships that dignify a worker. Simply because one works for you does not negate it.

The second thing I wish to refer to is that in corporate governance, there is a cliché of professional distance. This is where we exercise it. There is no doubt that there are areas where the relationship between the employer and employees is strong, well connected and caring.

This encourages transformational leadership where staff owns the organisation. You need to have a high level of motivation and other things.

In principle, I wish to support the Bill. However, I agree with Hon. Kihungi that there are very many gaps that need to be looked at.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gitonga Murugara, do you want to speak on this Bill?

Proceed.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I have gone through the Bill as presented by the Senate. I have also gone through the Committee's Report as prepared by the Departmental Committee on Labour.

Having looked at this Bill, the cardinal principle of legality is that you cannot approbate and reprobate at the same time. There is no way you can confer rights upon persons without corresponding obligations to them. I am not sure where this Bill was lifted from, but it is in contravention of employment laws in the country, especially bearing in mind that employment law is civil but not criminal law. It is based on a contract between two persons: an employer and an employee. There are always arguments about whether this contract is at arm's-length. However, provided that it is supported by consideration, it is a valid contract, and the courts hold so.

When you confer a right on the employees to disconnect from their employers, the next question is whether the employers have a right to also disconnect from the employees. It cuts both ways because whatever makes an employer want to connect with an employee outside the working hours may be the same reason that the employee must also connect with the employer. Therefore, one of the reasons I oppose this Bill is because it does not give the right to the employer to disconnect.

Let us move on to the element of disconnection, which this Bill criminalises. It states: A person who contravenes this Section commits an offence and is liable, on conviction, to a fine not exceeding Ksh500,000 or imprisonment for a term not exceeding one year or both. A fine run together with a prison term is disproportionate. You cannot be fined Ksh500,000 and if you fail to pay, you are sent to prison for a year. It has to be commensurate. Therefore, the number of years must be slightly more than what is provided here. This is a contract between two parties such that if one party breaches it, the other party should not be taken to court, convicted, fined or sent to prison. The remedy for breach of civil rights is damages. The employee should be entitled to an action and damages if the employer breaches this provision.

There is an exemption on essential services listed under the Labour Relations Act. Essential services may not necessarily be what we know in common life. There may be a reason why an employer would want to connect with the employee outside working hours to ensure that an element of the contract being executed is performed. Correspondingly, there may be a reason why the employee would want to connect with the employer during outside hours. For example, when one is sick, one has to get a cover, an ambulance or whatever aid that may be necessary.

In contracts of employment, we have working hours. If you work outside those hours of employment, you are entitled to a payment known as overtime. What is the problem with an employer connecting with an employee to work overtime for which there would be a commensurate remuneration? I do not see any, and that is why I oppose this Bill. In essence, this Bill goes towards breaching contracts of employment in both ways. It does not help the modern-day market in employment as per requirements.

The employment market has evolved over a period of time. Beginning with the Communal African Societies where there was no employment, all work was communal and nobody expected any remuneration. From there, we went to the ugly scene of slavery where some people felt that they were entitled to labour without paying for it – exploitation – a load.

We thereafter, moved to another era of master-servant relationship. This is where the employees were tormented by their employers on the basis that they were servants while their employers were masters. Today, we have moved to what we believe is almost an actual situation of labour relations – contracts between parties at arm's length. This is where we find this law coming in to breach that relationship. Which court is going to deal with breach of this particular Section?

Hon. Elijah Kururia (Gatundu North, Independent): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order?

Hon. Elijah Kururia (Gatundu North, Independent): Thank you very much, Hon. Temporary Speaker. I rise pursuant to Standing Order 35.

The Temporary Speaker (Hon. Omboko Milemba): Proceed.

Hon. Elijah Kururia (Gatundu North, Independent): Because of lack of Quorum, we can ask the Mover to reply.

(Laughter)

The Temporary Speaker (Hon. Omboko Milemba): You have not pronounced yourself clearly on the Standing Order that you are raising. You are combining two things there: Mover to reply and Quorum. What are you talking about, Hon. Member?

Hon. Elijah Kururia (Gatundu North, Independent): Hon. Temporary Speaker, I have just consulted with my senior, and he has advised me to revisit the issue later.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Member. You may proceed.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. Hon. Kururia is a young legislator. He is learning how to handle the ropes. Soon he will know the difference between the two, and at what point they are raised.

This is a Bill that has a lot of interest and we can debate on it slightly more, before the Mover is called upon to reply.

The Labour Relations Act is enforced by our employment courts. They are not criminal but civil courts. If anybody breaches this Section, which court is going to be charged with arbitrating between the parties on their rights especially when it comes to criminal justice? Would an aggrieved party go to the Department of Criminal Investigations, the police or the Director of Public Prosecutions to complain where the Director of Public Prosecutions would prefer a criminal case against the offending party or go to the Labour Relations Court, file a civil complaint for the person to be held liable and award damages. This is a Bill which in my estimation has not been properly thought out. It is not in consonance with our employment laws, and needs to be rejected.

I oppose this Bill in totality.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to reject this Bill. I have listened to the Members who have spoken before...

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Chepkonga?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Speaker.

I rise pursuant on Standing Order 83, as read together with Standing Order 95. As you have heard, everybody who stands to contribute, rejects. Would I be in order to request that

you call upon the Mover to reply so that we do not waste a lot of time with rejection? It appears that it has been totally rejected, including by Hon. Elachi. She just opened her mouth, and claimed to reject. We would be wasting our precious time.

The Temporary Speaker (Hon. Omboko Milemba): We have heard you, Hon. Chepkonga, but let us allow Hon. Elachi to finish her contribution and thereafter, I will put the Question as per the mood of the House.

Proceed, Hon. Elachi.

Hon. Beatrice Elachi (Darogetti North, ODM): Thank you, Hon. Temporary Speaker. When you go through the content of the Bill and look at how we manage the laws of employment in this country, and across the world, the person who thought about this seems to have not looked at our Public Service Commission Act. He never specified the cluster of employees. If there are civil servants, you cannot treat them as you wish. The Bill is either talking to a group that we have not seen working in this country or one that is about to come. In this case, you give such regulations knowing very well the moment one goes to an interview and is given a letter of acceptance, then there are rules and regulations of that institution that you abide by as the code of conduct.

I normally say there are five behaviour models for an employee in any workplace. One is trust and secondly, you must learn how to deal with conflict. The others are commitment, accountability and results. When the Bill talks about not working overtime, that the employer cannot even call you out of working hours, what if you, as an employee, have been given an assignment but you have been so slow on it and go beyond working hours? What happens to this person? Will he take advantage and use the same policy to take his employer to court?

When talking about employment, it is the most sensitive thing. That is why any lawyer who walks into court on a matter concerning an employee, the first thing the judge does is give orders to that person to return to work. Then you now come and go through your case. If they find you culpable, yes, you will go home. You are, however, always given orders to return to work. Therefore, that protection is there for any person who is employed in this country. I look at the Senate, and I want to tell them they have to look very critically at the employees in counties. They need a critical law just to get their pension.

How I wish they could bring that to this House. They need a critical law to safeguard them. You find a governor who can just decide today that you should not be there. You would not be employed. You have been employed for 10 years, yet you are thrown out in one second. They now need to bring an employment law for county government workers that can protect them properly. You find county assemblies are even more organised than the Executive side. How I wish that is what they can do for us so that even those on the Executive side can find themselves in proper contract. If I am given a contract of three, four or five years, it should not become a political contract but a contract like any other person who is employed in this country.

For them to bring this to us is very unfortunate. We are not rejecting this because it is a Senate Bill. We are saying you are contravening the laws of employment in the country. They are well stipulated. We have different Articles that take care of that. If you want to amend, then you have to go through all those laws and then bring a very clear amendment. We shall look at it and support it.

We also have to inform the Senate that when talking about employment, please cluster so that we understand. Are you talking about those who are on contract or permanent and pensionable terms? Are you talking about informal? Are you talking about our *dhobi* services? Who are you giving this law to enjoy? The civil servants, our teachers and everyone else can never be a beneficiary of this. If you are a teacher in a boarding school, you already agree with the code of conduct and can be on duty at any given time. Therefore, you will receive calls from your principal, or even from above and beyond to ensure safety of the students is prioritised.

It was unfortunate for a Bill like this to come here. Also, unfortunately, when the Committee went for public participation, what were they doing there? Some people would have also questioned. Even those stakeholders who employ were also supposed to say a few things on this Bill so that both parties can agree on how to do it.

With those few remarks, I beg to reject.

(Hon. Bernard Kitur spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Bernard Kitur, Standing Order 95 also depends on the prerogative of the Speaker to decide on the same. I have already decided. Therefore, Hon. Bernard Kitur, you may proceed, if you want to speak on this.

Hon. Bernard Kitur (Nandi Hills, UDA): Well, Hon. Temporary Speaker, I stand to reject the Employment (Amendment) Bill (Senate Bill No.11 of 2022). First, on the fact that in as far as employees need to be respected by their employers, and that it is also important to have a timeframe of work. When you have a contract between an employer and an employee, it should be stipulated based on time. As far as it is seemingly a progressive Bill towards bringing order to areas of employment, it does not fit the Kenyan model. For instance, you come in at 8.00 a.m. and by 5.00 p.m. you completely disconnect and cannot be able to engage with your employer. We have not reached that point where we operate in a way that when it gets to that stipulated time everything completely disconnects. It is not a practical Bill in itself.

Secondly, some issues had been raised that it will help to reduce exploitation by the employers, which was not very clear. Also, this Bill only affects employers in the private sector but not those in public sector like those working in the Government or teachers, and such kind of jobs. It is not balanced. The aspect of saying that this only applies to organisations that have more than ten employees is also discriminatory. What happens to those who have less? I do not want to belabour much.

On the overview, I stand to reject this Bill. It is a good one, but we are not in that space that we can have such a very tough Bill. I also saw the punitive measures to be taken against those who break the law. As far as this is concerned, they were very punitive to the employers. It needs to be a bit more balanced.

I stand to reject. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Zamzam Chimba.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana, Mhe. Spika wa Muda. Niweze kusema kuwa ijapokuwa nia ya kuleta Mswada huu ilikuwa nzuri, tukiangalia kwa undani, tunaona kuwa utawanyima wengine raha ya kufanya kazi kwa amani. Ninapinga marekebisha katika Mswada ambao umeletwa leo kutoka katika Bunge letu la Seneti. Wafanyikazi katika Taifa hili wameangaliwa vizuri na kuwekewa kanuni, sheria, masharti na mambo yao katika Katiba yetu. Katika kitengo cha ajira, wameangaliwa vizuri sana. Ukiangalia Mswada huu, mwajiri ndiye atalemewa sana. Katika Serikali yetu, tunataka mfanyikazi akiwa na furaha, mwajiri pia awe anafurahia akiangalia kazi yake. Hivi majuzi kule Mombasa, nilienda kuangalia sheria za wafanyikazi wa *Export Processing Zone* (EPZ) na tulielewana kuwa lazima haki za kimsingi za wafanyikazi ziingaliwe. Vile vile, haki ya mwajiri iangaliwe ili kukuwe na *balance*. Hii ni kwa sababu tunataka taifa ambalo linaweza kusonga mbele kwa mwafaka uliyowekwa katika Katiba.

Kama Mama Kaunti wa Mombasa, ningependa kuambia Kamati ya Leba ya Seneti kuwa ninapinga Mswada huu. Sheria ni msumeni; hukata mbele na nyuma. Tukiangalia mwajiriwa, lazima pia tuangalie yule anayemuajiri. Seneti ilete sheria na kanunu nzuri ambazo tutaweza kuzipitisha, kama kuangalia kwamba haki za wafanyikazi zinafuatiliwa. Hii ni kwa sababu kuna watu ambao wameajiriwa katika *contract* ya mwezi mmoja ilhali wamekuwa katika ajira kwa miaka 10. Vitu kama hivyo ndio tunataka Kamati ya Leba iweze kutuletea ili

turekebishe. Kwa mfano, tumepata wengine ambao wako *acting* miaka miwili na nusu sasa. Wanaangaliwa vipi ili waweze kuajiriwa rasmi ili nao wafurahie matunda?

Watuletee sheria ambazo zinaangalia iwapo mwajiriwa katika kampuni anahangaishwa na mkubwa wake kazini; pengine kusumbuliwa kijinsia ama mambo ya ngono na tumepata *cases* nyingi kule. Ninataka nichukue fursa hii nishukuru kampuni ya EPZ ya Mombasa kwa sababu kulikuwa na matatizo, lakini tumekaa nao na kusuluhisha. Wafanyikazi wataangaliwa vizuri. Ujumbe wangu kwa wafanyikazi wa EPZ Mombasa ni kwamba waangalie kazi yao ndio tusifunge kampuni. Kenya inahitaji kujengwa na watu kama hao. Mambo yenu yameangaliwa vizuri. Ni jukumu lenu sasa kuangalia *target* za kazi ambazo mmepewa. Mfanye kazi kwa uadilifu ili kampuni zetu ziweze kuendelea vizuri.

Ahsante sana, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Beatrice Kemei.

Hon. Beatrice Kemei (Kericho County, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to add my voice to the Employment (Amendment) Bill (Senate Bill No.11 of 2022). I believe the owner of the Bill had good intentions, but in my view, it is not a balanced Bill. It is geared towards the employer and there is no much interest in the employees.

First, I want to reject the Bill because I believe the relationship, in terms of output, between the employer and employee is important. When it states that the working hours should not exceed what is there, it is simply providing that the employer has no say when the time is over yet they sometimes work beyond the stipulated hours. This implies that the relationship between the employee and the employer will be very mechanical. This Bill is not clear when it states that it will only be in cases of emergencies. Which are these emergencies? They are not specified.

It does not take into consideration those employees who have to work beyond the working hours, for example, teachers working in boarding schools. They have to take care of students throughout. Does it mean that when the time is over, these teachers have to go home? Who will stay with the students to check on their issues and take care of them?

Therefore, I reject this Bill as it is not the right one. They have to look for another way out. I am just wondering what happens when an employee has an emergency while at home. Are they not supposed to contact the employer? If employees have to be only contacted during working hours, does it mean that they are not supposed to engage the employer when they have an emergency? This Bill will not make life easy for the employer and the employee. I reject it in the strongest terms possible.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Lilian Siyoi. Is she in the House? Given that she is not in, can we have Hon. Wilberforce Oundo?

Hon. (Dr) Ojjambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. When I perused through the Employment (Amendment) Bill (Senate Bill No.11 of 2022), it reminded me of a similar Bill that came from the Senate in the last term sponsored by the current Governor of Muranga County. It left me wondering. Under Article 96, the Chapter on legislation, the Senate is bestowed with a very heavy load; to protect the interest of the counties and ensure devolution works. It also reminded me that in the Constitution, the Senate participates in law making, and fully in matters to do with revenue distribution between the two levels of Government.

I was perplexed, astonished and apprehensive about how a whole Senate wastes valuable time to debate and pass this Bill. If I were not in Parliament, I would say what we used to tell students when we were in the lecture halls. Since this is Parliament and there is parliamentary language, let me say from the onset that I reject this Bill in totality. It is something that should not have been allowed to see the Floor of Parliament.

Yesterday, we stalled here for a long time trying to look for ways and means to ensure that valuable parliamentary time is not expended to discuss this Bill. I reject this on three strong grounds.

One, the issue of labour relationships in this country is very big and demanding that the issue of contacting an employee after the so-called working hours does not rank anywhere in the order of priority. For a teacher teaching in Mandera, it is not a priority to them that the deputy or the student calls or not. For the workers in Industrial Area, it is not a priority what time they can be contacted by the plant operator or plant manager in an industry. It is not a priority to an unemployed person. This is not a priority in labour relationship. To the underpaid person who is hanging on to the job that he has, this is not a priority. The priority is job security, improved working conditions, better pay and the ability to improve so that they can move to the next level. I would have wished that any amendment to the Employment Act were directed towards that line. But directing us on mundane and unproductive issues is a terrible waste of national resources.

Secondly, I am told the sponsor of the Bill is a young person unlike the old folk like us here. I thought young people have weaned themselves of this retrogressive and outdated mentality that working hours are fixed. We have seen the Kenya Kwanza Government and Uhuru Kenyatta government push towards digital economy, and we practised during Corona time where there were no fixed working hours. All that is required is delivery. All that is measurable is output.

We operate consultancies. We operate other things. I never at any time request anybody I am working with to be on his desk from 8:00 a.m. to 5:00 p.m. All that I am looking for is the delivery of service. All that I am looking for is the output. Many Kenyans of the youthful age are working at home and their output and income far much exceeds those people who slug themselves from morning to evening on a desk job.

Hon. Temporary Speaker, we go all over our constituencies telling our young people that the white collar jobs are no longer there. The jobs where people would go to their desks, get a swinging chair, tea in a flask with biscuits, and a flower vase with a telephone extension on their desks are long gone. We are telling them to create their own time to work at their free time to make sure they put food on the table and meet their bills.

If this Bill ever becomes a law, we would go back 10 steps more than the two steps we have made to erase this mentality that I must work a certain time. It simply means if, for example, we are here in Parliament and we have those extended working hours where we leave here at midnight or so, and you get home hungry, your house help will not cook for you because it is beyond working hours. You will sleep yawning, and in the morning you may not be able to deliver. Even when you go to bed you may turn the whole night unable to sleep or do what appertain to sleeping.

It also means Members of Parliament who are here will not call their Fund Account Managers beyond 5:00 p.m. because they will say it is beyond working hours. Hon. Cherargei's Bill says that I should not pick your call or he will contemptuously disconnect. *Atadunga* contemptuously and you will do nothing. It means that you will not call your doctor when you suddenly fall sick because he will say that it is beyond working hours. It means when there is an emergency, the Ministry of Health will not call a nurse who is off duty to come and render services because it is off working hours regardless of the fact that those are essential services under Section 18 of the Employment Act.

It is unnecessary legislation. It is something that should not have found its way here. These are the kind of Bills that we should just kill and go back to the Constitution and the Standing Orders so that we do not have any reference to any other places.

I would have wanted to take all the time to lecture on the issue of labour productivity. Kenya is said to have a comparatively low labour productivity. You bring this kind of a Bill

then all the time *tutakuwa tunapiga sherehe* as from 5:15 p.m. until the second day without producing anything.

I must thank the Committee. They were courageous enough to reject it in totality. I oppose and say that the Members of the National Assembly have more pressing issues to deal with in this country. Let us reject in totality. I oppose this Bill.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Samwel Chepkonga, do you want to speak on this?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support the recommendation that is contained in the Committee's Report, dated 6th December 2023. I heard Hon. (Prof) Oundo claim that this Bill was sponsored in the Senate by a young person. That is very unfortunate. In fact, the import of this Bill has unintended consequence of suppressing the rights of the youth. It is not helping the youth in any way.

Secondly, I have gone through the report and I am surprised that this Bill came to this House all the way from the Senate despite rejections by the Public Service Commission and Central Organisation of Trade Unions (COTU), which represents workers, as well as the Federation of Kenya Employers (FKE). So, the question that you ask is: whose interest is this Bill intended to serve? If it has been rejected by the employers and employees, whose interest is this Bill intended to serve? It is not intended to serve any interest of the worker in the marketplace. In fact, this Bill is in contravention of the International Labour Organisation (ILO) convention. It goes against the best international practice. It is in contravention of the ILO in which Kenya itself is a treaty member. If you are a treaty member, you know that the convention has been imported pursuant to Article 2 of the Constitution which says that all conventions in which Kenya is a signatory are laws of this country. If it is conflict with ILO treaty, then we should not even be wasting our time considering it. I should not waste my breath speaking to something that is in contravention of the Constitution. Anything that is unconstitutional should not even be entertained in this House. We should not be wasting the precious time of these Members of Parliament who should be resolving matters that are of concern to the people as required by the Constitution. The only favour that we can do to this proposal is to reject it in totality. We should not waste a lot of time.

I do not want to take too much time. I support the report of the committee to reject this Bill. I thank you, Hon. Temporary Speaker.

Hon. Robert Basil (Yatta, WDM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Member?

Hon. Robert Basil (Yatta, WDM): My point of order was on Hon. Oundo, the *daktari*. He used unparliamentary language, but I also wanted to contribute to this.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Member; it is overtaken by events.

Hon. Robert Basil (Yatta, WDM): I wanted to contribute to this particular Bill.

The Temporary Speaker (Hon. Omboko Milemba): It was overtaken by events.

Hon. Robert Basil (Yatta, WDM): Can I contribute?

The Temporary Speaker (Hon. Omboko Milemba): No. You rose on a point of order.

Hon. Robert Basil (Yatta, WDM): I rose on a point of order but I want to contribute.

The Temporary Speaker (Hon. Omboko Milemba): Order! Take your seat. Let us have Hon. Onyango K'Oyoo.

Hon. James K'Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Bill. I am a Member of the Committee that rejected it. This Bill is not going to add value to the working class or any

serious Kenyan. Employers and employees have a Collective Bargaining Agreement (CBA) where they agree on the working hours, working conditions, salaries, and all that. This Bill will not cure or introduce anything better as an option.

We rejected it because our communication systems are still very faulty. Merciless employers would capitalise on this and fire employees anyhow based on the fact they were reached or were invited through the phone and were not available. We appeal that those who are serious should bring issues or Bills that they have researched and will add value or bring new ideas to drive the country forward. The Senate should be serious. There are many pending issues concerning county governments that they need to deliberate on. I dare plead with my colleagues not to support this Bill because it does not add any value, and we should not argue about it so much. We should not debate it so much. We should reject it in totality just like what the Committee did.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Thuku Kwenya.

Hon. Kwenya Thuku (Kinangop, JP): Thank you very much, Hon. Temporary Speaker, for this opportunity to contribute to this Bill from the Senate. From the outset, I join my colleagues in rejecting it. In a special way, I reprimand the Senate House Business Committee for allowing such a matter to be given precedence to be discussed in the Senate and to be forwarded to the National Assembly. These are some of the things that make Parliament look like a joke.

I have taken time to interrogate who the author and initiator of this Bill is. From my judgement, it was clear that the initiator is a person who has never worked in any reputable organisation. It could as well be he once had a serious disagreement with his former employers. He came up with such a Bill to limit the working hours for employers in the country. So much has changed and I am perturbed that the author of this Bill is a young person who should be well-versed with the dynamics of the world today. Our economy has changed, and we do not have specific working hours. The world has become a global village and when it is morning here, it is night somewhere else. Before I joined Parliament, I was a serious businessman and my staff used to work between 5 p.m. to morning because that is when we would be in touch with our clients and suppliers.

I do not want to say much but I dismiss this kind of thinking. The writing is not even worth the paper it is written on. Therefore, I reject and call upon the Senate House Business Committee to be more serious, and to interrogate the kind of Bills they are passing. This is unconstitutional. As Hon. Chepkonga has said, this issue does not deserve to be in this House. We have better matters to discuss here.

Thank you, Hon. Temporary Speaker for the opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Yes, Hon. Ruku. Are you contributing to this? Hon. Members, as you contribute to this Bill, you must remember that our Standing Orders state that it is not in order to reprimand the Senate for bringing this Bill.

You may proceed.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. With much respect, I rise contrary to what my colleagues have said on this Bill. I would like to support the amendment for various reasons.

One, this Bill gives employees ample time to have their personal space after working hours to enhance their social welfare. We know social welfare is often neglected yet it needs to be enhanced. Kenya is a fast-growing economy compared to other African nations. The more futuristic we become, the better for the Kenyan employees.

Two, this Bill protects employees from exploitation and disciplinary action if they fail to communicate outside the agreed working hours. In fact, it enhances the freedoms and rights of employees. The employees should not be taken advantage of. The Bill also protects the

employees' privacy from abuse and infringement by the employers. We have seen this happening within the employment sector. Employees need protection and to enjoy their privacy.

Three, this Bill will enhance the respect and dignity of the employees, which in the end will increase productivity and strengthen the economy. It will also ensure that there is a seamless promotion of work-life balance, which is critical.

I support this amendment because of the reasons I have given.

The Temporary Speaker (Hon. Omboko Milemba): Before, I give the next person an opportunity to speak, allow me to refer you to Standing Order No.87 (5). It states:

“It shall be out of order for a Member to criticize or call to question, the proceedings in the Senate or the Speaker’s Ruling in the Senate but any debate may be allowed on the structures and roles of the Senate or Parliament.”

Please be guided. Next is Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Thank you very much, Hon. Temporary Speaker. As Hon. Ruku was contributing, I imagined him receiving a message today at 6.00 p.m. about the death or the sickness of one of his staff in the constituency. I wondered whether he was going to call that constituency manager back. Or Hon. Ruku receiving information from one of his staff members that one of his campaigners is unwell or has an emergency. I wondered whether he would call them back or wait until working hours assuming we were to set them up.

Therefore, it is good to think of the ramifications of some of the provisions we make when we come to Parliament. I believe that in employment, working for, with, or under assumes that over time people create relationships, get to like their jobs and learn how they work. I do not imagine that employers or employees would get in touch with each other “after working hours” for fun. As much as many people may have an issue with the employer calling an employee after working hours, I believe that this is a knee-jerk reaction. It is tantamount to summoning a hammer to fight a mosquito. I wish there was a way in which we could leave this to the good sense of the employers and the employees. This is because, the moment we say that there are times when an employer cannot or will not get in touch with an employee, what about emergencies or the times when the employee may have done something that needs to be corrected?

[The Temporary Speaker (Hon. Omboko Milemba) left the Chair]

[The Temporary Speaker (Hon. Farah Maalim) took the Chair]

What about circumstances where work requires that they keep in touch throughout? Unlike what Hon. Oundo said, we are in a world where nowadays people work without seeing each other or where someone working in Europe is working for someone in Africa or Canada. Why would you want to limit their kinds of interactions in cases where they actually may make the work easier or better? I believe that this Bill is ill-guided and will not improve anything in the work environment. On the contrary, it will make the people who are already working lose their jobs. I imagine a situation where someone refuses to pick up calls from their bosses or supervisors and the following morning they are given a letter saying their job is over. Where will this member be? This is why we should leave the realm of policy and working environments as they evolve instead of legislating on matters that we cannot supervise or enforce.

Hon. Temporary Speaker, I oppose.

The Temporary Speaker (Hon. Farah Maalim): Hon. Basil followed by Hon. Lady Lillian.

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Temporary Speaker. I can see my brother, Hon. Wilberforce, smiling. He knows what I am about to say. I join my friend, Hon. Ruku, to fully support this Bill. There is a reason why we have working hours. If we talk of eight working hours, that has to be respected. We have seen a situation where employers abuse workers. We need to protect employees.

Two, it is important to understand that work-life balance is very important. We have seen employees committing suicide because of stress. This is imposed by employers who do not respect the working hours and the work-life balance. So, it is important we understand this and not just oppose for the sake of it.

Three, I have been hearing many people say this is a Bill proposed by a young person. They need to understand young people also have responsibilities beyond formal employment. Some engage in productivity and contribute to the welfare of their homes. We should not take advantage of that. Some people are saying that life is fast changing. We are in a changing lifestyle. However, it is important to understand that as much as we are in an exponential technological age, workers need to be respected and allowed to work within the specified working hours. Anything beyond that should be subjected to compensation that has to be agreed between an employee and an employer.

Four, it is important to understand that we should not take advantage of unemployment. We know, in Kenya and the rest of the world, the demand for work or the supply of work is limited compared to the people who want to work. So, employers taking advantage of unemployment in countries like Kenya and other countries is unacceptable. We must protect the dignity and respect of employees. They need to work in an environment that is not toxic. They must understand that they are there to work within a specified period. I request my colleagues to understand that the Bill was brought based on reasons that have been observed in line with the current working environment.

With those few remarks, I fully support the Bill.

The Temporary Speaker (Hon. Farah Maalim): Madam Lillian Siyoi.

Hon. Lillian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance to oppose the Bill. I happen to be a member of the Departmental Committee on Labour. As we were going through the Bill, I felt like we had a number of loopholes. One, I feel it is going to promote laziness amongst employees. This is because when I am working and I know that by 5.00 p.m. I am supposed to leave, whether I have completed what I was supposed to do or not, my employer will not call me to ask about any other business until the following day in the morning at 8.00 a.m. when I resume duty.

Second, this Bill is going to make our employees rude and employers lose their powers. I am imagining calling an employee to inquire about something and they disconnect the call because it is past their working hours. I feel that will be very rude of the employee. The employers will not stand that and might even cause more loss of jobs.

Third, I feel this Bill is going to affect our economy. When I am supposed to work and finish my duties by 7.00 p.m. or maybe by 5.00 p.m. but I fail to go home and continue with the duties the following day that would be laxity at work. I want to give a good example of a driver who is probably supposed to take some goods to a certain place. Something like an accident happens along the way and they are not able to reach their destination as their working hours lapse. The driver stops and expects to be paid as they need to get a place to put up and probably feed. I do not agree with this Bill as I feel like there are some amendments that we need to make before we pass it. Passing it as it is will be jeopardising the powers of our employers.

The Temporary Speaker (Hon. Farah Maalim): Hon. Gitonga Murugara.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, I contributed to this one. So, I cannot speak a second time. I am anxiously waiting for the next one which is equally bad.

The Temporary Speaker (Hon. Farah Maalim): Did you book again? Wait until the next Business comes. From the look of things. I do not think there is anybody else. Okay. What is it Hon. Member? Who are you?

(Hon. Joseph Munyoro spoke off the record)

Member for Kigumo, proceed, please.

Hon. Joseph Munyoro (Kigumo, UDA): Thank you, Hon. Temporary Speaker. I stand to oppose the Bill as it has been brought and support the Departmental Committee on Labour for rejecting it in totality. However, I also want to point out that, as some of my colleagues have observed, some very pertinent issues need to be looked at seriously regarding the work-life balance that we keep talking about to our employees. Some employers abuse that trust. Some people work 24 hours a day because once they go home, their employees send them messages through WhatsApp and emails. They have to have a laptop that they take home. It is entirely unfair that we put some of our employees through some very unfair labour practices. So, as much as I oppose this, I think it came from a good intention. I would not put any ill will on the person who moved the Bill.

However, based on our circumstances and where we are, I would think of where I come from, Kigumo, where we are tea and coffee growers. Like someone asked, if we have a driver taking tea leaves to the factory and his shift is over, does he stop the vehicle and disconnect calls? What do we do under those circumstances? Some issues are not critical. You cannot say one is a doctor so they are supposed to be working 24 hours. What do we do about our young people who work in business process outsourcing? Those companies cover the whole world, and they have odd working hours depending on where they are located.

When I see the Senator proposing that we form a committee for any company that has more than 10 employees so that they discuss when one can pick and disconnect calls, I feel that there is an element of nuisance in it. We cannot have companies which employ thousands of employees like Safaricom Limited agreeing on how they will be communicating via SMS, calls, what time to pick calls, when to disconnect calls, and when you are allowed to even abuse your employer. We should reject this Bill.

As much as both the Senate and the National Assembly are law-making Houses, some Bills ought to go through some critical analysis by the House Business Committees, so that if a Bill is found wanting or lacking in some element, we can advise the Mover on how to improve it or help in other ways. This is so that we do not give Committees a lot of work when they could be looking at other important Bills and issues that affect employees.

I reject this Bill in totality and I support the Departmental Committee on Labour for doing the same.

The Temporary Speaker (Hon. Farah Maalim): Hon. Kemei, did you contribute to this Bill? Under the circumstances, it looks like there is no other Member who wants to contribute to this Bill. Can the Mover be called upon to reply?

Hon. Peter Kihungi (Kangema, UDA): Thank you, Hon. Temporary Speaker. First of all, I want to thank all the Members of this House who have contributed to the Bill. They have greatly enriched it.

We have received a lot of information that was overlooked such as how one cannot convert an employment dispute from a civil case to a criminal case. An issue between an employer and an employee is a civil case. Members have clarified that one would seek damages, which is not the case in a criminal case.

The proposer of the Bill may have raised valid concerns but most of the issues that were raised in the Bill are covered in the Employment Act such as the issue of compensation and overtime. Therefore, we do not have to legislate on switching on and off a phone. The proposer of the Bill should develop a policy to guide on those issues without necessarily coming up with new legislation.

As Members have put it, employees' performance is currently not based on working hours but rather on output. We do not put too much emphasis on the number of hours that a person works but on their output.

It has also been confirmed that most institutions that deal with workers have rejected the Bill including the Public Service Commission, the Central Organisation of Trade Unions (COTU-K) which represents workers, and the Federation of Kenya Employers.

Therefore, as I said earlier, the Committee and most Members confirm that we should reject the Bill. Those Members who feel that the Bill is necessary should look for a way to legislate the issues that were raised through a policy framework. We cannot come up with a law of this nature.

Hon. Temporary Speaker, I respond. Thank you.

The Temporary Speaker (Hon. Farah Maalim): I beg to reply.

Hon. Peter Kihungi (Kangema, UDA): I beg to reply, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, I defer the putting of the Question on this Bill to another date.

(Putting of the Question deferred)

Next Order.

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(Senate Bill No.6 of 2022)

The Temporary Speaker (Hon. Farah Maalim): Proceed, Hon. Kemei.

Hon. Beatrice Kemei (Kericho County, UDA): Hon. Temporary Speaker, I rise on behalf of the Chairperson of the Departmental Committee on Environment, Forestry and Mining, and Members who wish that this Bill be deferred to a later date.

The Temporary Speaker (Hon. Farah Maalim): Fair enough. Granted. Order No.9 is also deferred to a later date.

(Bill deferred)

We now move on to Order No.10.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): What is your point of order, Hon. Oundo?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, for neatness and for record purposes, and because Parliament is a House of records, the author or the Mover of the Bill is Hon. Kimani Ichung'wah, the Leader of the Majority Party. Unless my honourable colleague is seeking deferment on behalf...

The Temporary Speaker (Hon. Farah Maalim): She did not move the Bill.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): If she is seeking deferment on behalf of the Mover...

The Temporary Speaker (Hon. Farah Maalim): That is the communication.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): We need it on record for purposes of neatness.

The Temporary Speaker (Hon. Farah Maalim): Fair enough. Next Order!

THE NATIONAL DISASTER RISK MANAGEMENT BILL
(National Assembly Bill No.24 of 2023)

The Temporary Speaker (Hon. Farah Maalim): Where is the Leader of the Majority Party to move this Bill? Do we have any communication from him? Yes, Hon. Murugara, the Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, could we kindly step this Bill down because the Leader of the Majority Party is not in the House to move it? We have other business ahead which we are ready to transact.

The Temporary Speaker (Hon. Farah Maalim): So, your request is that we defer it to another date?

Hon. George Murugara (Tharaka, UDA): My request is that we defer it to a later date.

The Temporary Speaker (Hon. Farah Maalim): Granted. This Bill is also deferred.

(Bill deferred)

Next Order!

THE PETITIONS TO PARLIAMENT (PROCEDURE) (AMENDMENT) BILL
(National Assembly Bill No.51 of 2022)

Hon. David Ochieng' (Ugenya, MDG): Hon. Temporary Speaker, I beg to move that the Petitions to Parliament (Procedure) (Amendment) Bill (National Assembly Bill No.51 of 2022) be now read a Second Time.

Public petitions are one of the very new and novel ways in which our Constitution made it mandatory to ensure that Kenyans participate in parliamentary proceedings. They are able to ensure that their concerns come to the Floor of Parliament. Just like anybody can petition the High Court of Kenya today, any Kenyan can also petition Parliament in whatever manner and form. This process of petitioning Parliament has been ongoing since the Constitution of Kenya, 2010 came to being.

This Bill was proposed to streamline the process in which Kenyans engage with Parliament in terms of petitions. It also seeks to make it easier for Kenyans to petition Parliament and for Parliament to communicate with the rest of the world in as far as petitions are concerned. It also seeks to ensure that petitions do not take too much time once they are brought to Parliament.

Since the promulgation of the Constitution of Kenya, 2010, anybody can petition the High Court or the Supreme Court through a letter. Just a letter can reach anybody in the High Court or the Supreme Court. You do a letter, even a handwritten one because it does not have to be printed, and send it there. They are duty-bound to act on it. The way we have worked around receiving Petitions and the long process of those petitions in Parliament today makes it difficult for Kenyans to engage with Parliament.

This amendment is to ensure that petitioners can approach this Parliament without undue regard to form and formalities, without due regard to very many things they must provide to us. That is why this amendment talks about having a standard form. A petitioner will just go to the website, fill it in and bring it back. We are removing the requirement that a Petitioner must provide so much evidence in a petition to Parliament. The only thing we are saying under

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this new Bill is that a petitioner just needs to tell us whether the matter is pending in any court of law. Do not bring to us the proceedings in a court if a petition is pending in any court of law. Just tell us the case number. That will be sufficient. For now, we ask people to bring the pleadings and the judgment therein. What Parliament requires under this new amendment is telling us the case number of the matter and the court in which matters of the petition are pending. Is it in the commercial or criminal division, and in which part of the country? That will suffice.

Three, some people have been saying that the Clerk should not be the one communicating with Petitioners and that the Public Petitions Committee should communicate to petitioners. You can imagine someone who petitions Parliament about tsetse flies today and maybe the petition is not in the form or manner Parliament requires. Why would a Petition go to the Public Petitions Committee for it to look at whether the petition is eligible? We, as the Procedure and House Rules Committee of this House, think that the Clerk of the Assembly should have some residual powers to summarily deal or communicate with petitioners on matters where petitions do not meet form. For example, where the Petition does not disclose the petitioner. Why would the Clerk take that kind of petition to the Committee? Why go to the Committee if it is very clear to the Clerk that this matter is ongoing in court and what is being given to Parliament is not sufficient?

Therefore, we are retaining the role of the Clerk. Initially, someone proposed that the Committee be the one to communicate to petitioners. All communications that come from Parliament and even Committees, to the Judiciary and the Presidency or the Executive, pass through the Clerk and are done under the hand of the Clerk, and not under the hand of the Committee. Therefore, we are retaining the residual powers of the Clerk to communicate to Petitioners whatever decision we make as a House or Committee.

The matters upon which anybody petitions Parliament are diverse. They are not one or two. They are as wide as the world is. What we are saying is that a petition goes to the Committee once it is processed and allowed to go through. The Committee alone cannot make the final decision on a matter in a petition. Once the Committee sits and deliberates on a petition, the Report of that Committee should be brought back to this House. A petition cannot end at the Committee that may say it looked at the matter and thought a certain position was right to take and then the matter ends there. Whether the Public Petitions Committee approves or investigates, a Petition must be brought back to this House to decide one way or the other.

The hallmark of this amendment is just to make it easier. I want to tell Kenyans not to struggle with very many letters when this amendment passes today. Just go to the website of Parliament or come to Parliament and you will get a standard form that has what one needs to provide—a checklist, a place to sign and contacts, then you submit it. You can submit it online. You do not have to travel to Nairobi if you are in Lodwar or Ugenya. We will receive it, process it normally and get back to you on the address, telephone number or email you provided on that form. As simple as that.

We also want to make it easier for the Speaker of the Assembly to process petitions. That is why we are saying the Speaker should have a secretariat or an office. From here, the Speaker will look at petitions and communicate telling the Petitioner whether their Petition was received and complied with the rules. On the other hand, whether it has been committed to the relevant Committee without the petition going to the Committee that will come back to say it has received the Petition. There should be a proper back-and-forth or a feedback mechanism that helps us do this.

The Procedure and House Rules Committee made a couple of amendments to the Bill to make it easier. We are going to modify the amendment that requires Petitioners to include only the case number and the name of the court as I have said. We will maintain the Clerk's role in looking at admissibility and compliance with the rules required. We will also retain the

existing timelines. We cannot have petitioners coming in and petitions staying here for too long. We cannot also limit the time Parliament has to deal with petitions so much. This amendment deals with that. The Clerk is duty-bound to communicate to a Petitioner the time the petition is accepted, processed and the decision of the House on a petition. With this, we believe that it will be easier for Kenyans to engage with this House as far as Petitions are concerned.

Let me conclude by thanking and extending a hand of gratitude to the Office of the Clerk and the Office of the Speaker for ensuring this Bill is processed as quickly as it has been. I beg to move and request my senior, Hon. Murugara, to second.

Thank you.

Hon. George Murugara (Tharaka, UDA): Thank you very much.

I beg to second the Second Reading of the Petitions to Parliament (Procedure) (Amendment) Bill (National Assembly Bill No.51 of 2022). I fully associate with the debate and expressions of the Mover, Hon. Ochieng', and state that it is important that we look at this Act given the constant amendments we have made to our Standing Orders as regards public petitions. We now have a Public Petitions Committee that deals with all Petitions coming from the public, save for designated ones that have to go to relevant technical Committees of the House.

It is also important to state the proposed amendments beginning with a requirement that one has to provide evidence when presenting a petition to Parliament. First, you have to provide your name, address, contact number, physical residence, email address, and telephone number. This is vital for one to be contacted when it becomes necessary to either appear before a Committee or receive the verdict of the Committee.

We also have a proposed amendment that it is important to provide evidence or judgment where matters are pending before a court so that the Committee knows exactly how far the matter has gone and whether it is *sub judice*. Proceedings before a court may be limited in that pleadings may suffice. A judgment or decree of the court may serve the purpose.

We have the proposed amendment on the Clerk of the relevant House conveying the petition to the Committee to ascertain whether a petition meets the requirements. That is extremely important so that, instead of summarily dismissing the Petition where it has an out of merit, let the Committee make that decision.

We have also other provisions introduced so that petitions move with speed. As stated in the proposed amendment, the public will expect an outcome when petitions come here. We have the Committee summarily rejecting a petition where the petition has not met the requirements of the Constitution or there is a pending case in court.

If a petitioner fails to comply with the directions of the Committee given under this Act, again, that particular petition can be rejected. Where the petition meets the relevant requirements, the Committee will forward the petition to the Clerk of the National Assembly who will in turn transmit it to the Speaker for tabling in the House. This is where the Speaker comes over and reads the petition and then commits it to the relevant committee of the House.

We have a new Section V being introduced where every petition shall, upon tabling before the respective House of Parliament, stand referred to the relevant Committee established for the purpose of considering petitions in accordance with the Standing Orders of the House. What Parliament has in mind here is that the National Assembly has a Public Petitions Committee, and this is the Committee being referred to here with exceptions that there are some petitions which may be referred to other committees depending on their nature.

Finally, the Committee will communicate its decision in writing to the petitioner. Again, this is very important because the petitioner is out there awaiting the outcome of the petition and needs to know, through a written communication, what this House has decided on it.

Public petitions are very important modes for citizens in the country bringing their issues to Parliament. While Members of Parliament have avenues including Questions, Motions, Request for Statements, Bills among others modes, members of the public come to Parliament through public petitions. Therefore, it is important, as a House, we streamline the procedure of bringing those petitions here and also emphasise that petitions must be dealt with expeditiously so that citizens can get whatever it is they come here for. There are many pending petitions. The last time we heard that the Public Petitions Committee was swamped with undetermined public petitions. This is why we are saying there needs to be an expeditious method of ensuring that the Committee disposes those petitions.

Hon. Temporary Speaker, with those remarks, I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Farah Maalim): Hon. Kihungi Peter, proceed.

Hon. Peter Kihungi (Kangema, UDA) Thank you, Hon. Temporary Speaker. I stand to support the Amendment by the Committee.

There has been an outcry in Parliament mostly from petitioners whose petitions have been lying at the Public Petitions Committee. This is a wise way where the Committee in charge can assist the Public Petitions Committee by managing the petitions which are brought to determine whether they meet the threshold. By doing this, we will be able to keep the timelines. It is clearly set that the petitioner should be communicated to within 15 days. If we do not have another way of managing the public and seeing how we can offload some of the works that are in the hands of the Public Petitions Committee, we might find ourselves in areas where the general public might feel we are not able to deliver. Therefore, it is extremely important that the Committee determines if a petition meets the threshold by having a format that is easy and well defined for a petitioner to fill all the information that is needed as well as to communicate to the petitioner in time on changes that are required on the petition. Some petitioners do not do their homework. They bring a one-page petition without details. There must be a wider distribution where the petition can be looked at to see if it meets the threshold, the petitioner is kept informed and he is advised on what he should do. If the petitioner fails to work within the timeline, the petition can be done away with. When serious petitioners are advised, they will comply.

Therefore, this is one of the ways that the Committee is working to deliver on petitions. The Public Petitions Committee has been encountering a lot of hurdles in handling some petitions which are not well drafted.

Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Farah Maalim): Hon. (Dr) Oundo Wilberforce.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you Hon. Temporary Speaker for giving me this opportunity to also lend a word on the Petitions to Parliament (Procedure) (Amendment) Bill (National Assembly No.51 of 2022).

As the Mover has eloquently put it, Kenyans come to Parliament as an avenue for the last resort. The substantive Speaker made the same sentiments yesterday. They want answers, solutions to their problems, interventions and help. So, Parliament must make it as easy and accommodative as it can be to allow a Kenyan or a group of Kenyans to petition it, listen to their problems and their cries to make sure their petitions are processed to the logical end.

Looking at what is contained in this Bill, not having read the Committee report, we are a bit apprehensive. But, I have been assured by my neighbour that they have attended to the issues that have been raised in respect of this Bill.

First, we are putting a requirement that a petitioner must attach evidence of efforts to have the matter addressed by a relevant body in sub-section 1(f). I do not know the nature of

the evidence required. I am sure in the course of time the relevant Clerk of the two Houses will develop the mode and type of evidence that needs to be presented here. Let me give a typical scenario. You can be denied access, for example, if there is an issue in any area, whoever is petitioned against can deny access so that there is no evidence at all that you ever submitted that petition. Because it is a constitutional requirement, we should not make it onerous, cumbersome and difficult to present a petition on the demand that there must be evidence that attempts have been made elsewhere. That needs to be relooked at clearly to make it easier.

There is a requirement here that the Clerk of the relevant House shall convey each petition to the relevant committee of the House responsible for ascertaining whether the petition meets the requirements of this Act. I request the Committee to delete that provision. This is because, as much as the committee has a clerk, it might not have the technical competence to determine admissibility of a petition. This should be left in the hands of the Clerks of the two Houses, who can populate their office with technical staff to enable them assess admissibility of a petition to this House.

We must also guard against having a flood of frivolous petitions that would be a terrible waste of public time and resources. Members of the public petition Parliament and not committees. We know that Parliament works through committees, but ultimately the ownership of any decision of Parliament lies on the Floor of the House, the Plenary. I, therefore, request that subsequent amendments, however, small, innocuous and inconsequential they maybe, all the reports of the relevant committees to which a petition is committed, must table a report on the Floor of the House so that the House is seized of the matter and makes a decision. All the petitioners want to hear their petition prosecuted on the Floor of the House so that they know that the matter has been adequately addressed.

Hon. Temporary Speaker, as I conclude, this House—as per the Constitution and Standing Orders— communicates to the members of the public through the Clerk. Clause 5(2) of the Bill says that the committee shall, in writing, notify the petitioner of the decision of the House. We need to change this provision and clearly indicate the Clerk shall, in writing, notify the petitioner of the decision of the House. The amendments will make it easier to present petitions to this House. Since we resumed from recess two weeks ago, we have been grappling with very many petitions that have not been processed. Why is it taking inordinately too long to process them?

I urge the House leadership and Public Petitions Committee that Kenyans are looking upon Parliament not to be a bottleneck in addressing their grievances and problems, but to be a facilitator. For us to do so, the Public Petitions Committee must be brought to order and told that it must process all the petitions, as required in the Standing Orders which is within 60 days. Any delay beyond that, the National Assembly should sanction the Committee to ensure that Kenyans do not petition this House in vain. They should not group Parliament as part of the Judiciary where a simple matter can take 10 to 15 years in the courts without being concluded. We want speedy conclusion of matters. We have enough Members in this National Assembly; 349 Members are enough. We can even have several Public Petitions Committees, so that we expeditiously deal with petitions before us.

With those few remarks, I support the Bill as presented, and based on the Report of the Committee on the intended amendments. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Member for West Mugirango.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Everybody can hear you.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this Bill.

The Temporary Speaker (Hon. Farah Maalim): You are on. Proceed. We can hear you.

Hon. Stephen Mogaka (West Mugirango, JP): Can you hear me?

The Temporary Speaker (Hon. Farah Maalim): If you have a problem with this microphone, you can go to the next one.

Hon. Stephen Mogaka (West Mugirango, JP): This sounds like me. Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this very noble Bill that is before this House. As a practising lawyer, I am happy because we are trying to tidy up the procedures of members of the public approaching this House.

Like the courts of law, the Civil Procedure Act requires that before you approach any court, you must confirm there is no pending matter relating to the same subject before any court of law. I am happy because in these proposed amendments, we are also making a requirement that whoever approaches this House must certify that there is no pendency of such matter before any court of law. If a court has pronounced itself on the same, then a judgement regarding the same subject should be brought before this House, so that it is guided as it navigates on how to resolve that petition.

I am equally happy because the Bill says that anybody who brings a petition to this honourable House shall be required to append evidence. Every petition should be evidence-based. This eliminates mere allegations being brought before this House in the name of petitions. The procedures which are proposed in this Bill will make it easy for so many petitioners, particularly losers of elections, who say they have very brilliant ideas but they cannot prosecute their agenda because they were not elected to this House. This Bill will help us to give every member of the public access to Parliament, notwithstanding that they were not the ones who were declared winners in an election that brought their representative to this House.

Where I come from, many politicians prosecute their grievances in funerals or churches. After we pass this Bill, I will propose a legislation in future. Since we have opened the Floor of the House, I am sure the county assemblies will pick up the queue and adopt these amendments. It will, therefore, negate or obviate the need of people going to church functions, mosques and funerals to prosecute things which can be prosecuted in the various Houses or Chambers of elected Members of Parliament.

With these amendments, this House will now not navigate into matters that are *sub judice*. We will be fully informed, while seized of any petition that this matter is either before a competent court of law or tribunal. Therefore, we will not run into the risk of *sub judice*.

Finally, this Bill tidies up the procedures of petitions in this House. We will help expedite the processing of every public petition. There will be no delay and challenge to any petitioner because the procedures will be clear. I thank the Mover of this Bill who is my senior, Hon. David Ochieng'. He was very articulate and spot on in making the points that deserve to be mentioned whenever a Mover moves a Bill.

I support this Bill and look forward to the day it will be brought for voting. I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, there being no more Members willing to contribute to this Bill, it is only fair we call the Mover to reply. Hon. Ochieng' David, proceed and reply.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Temporary Speaker. I thank the Members who have spoken on this Bill. I request this House to hasten the process of moving it to the next stage, so that Kenyans can access and petition Parliament in a manner that makes it easier not only for the petitioners but also for us, as Parliament, to deal with their petitions. I believe that these amendments are meant to make the work of Parliament easier and resolve Kenyans' issues in a timely manner.

I beg to reply.

The Temporary Speaker (Hon. Farah Maalim): Fair enough. I direct that the Question be put at a later date.

(Putting of the Question deferred)

Next Order.

THE REGIONAL DEVELOPMENT AUTHORITIES BILL
(National Assembly Bill No.7 of 2023)

The Temporary Speaker (Hon. Farah Maalim): Where is the Chairperson of that Committee? He seems not to be in. Under such circumstances, I will defer Order 12 to another date.

(Bill Deferred)

Next Order.

MOTIONS

ADOPTION OF REPORT ON EMPLOYMENT OF PERSONS
WITH DISABILITIES IN PUBLIC INSTITUTIONS

THAT, this House adopts the Report of the Committee on National Cohesion and Equal Opportunity on the Compliance to Article 54(2) of the Constitution regarding Employment of Persons with Disabilities in Public Institutions, laid on the Table of the House on Wednesday, 21st February 2024

The Temporary Speaker (Hon. Farah Maalim): Where is the Chairperson of the Committee on National Cohesion and Equal Opportunity? He seems not in the House. Under the circumstances, I will also defer Order 13 to another date.

(Motion Deferred)

Next Order.

ADOPTION OF REPORT ON THE FINANCIAL STATEMENTS
OF SELECTED STATE CORPORATIONS

THAT, this House adopts the Report of the Public Investments Committee on Commercial Affairs and Energy on its examination of the Reports of the Auditor-General on the Financial Statements of selected State corporations, laid on the Table of the House on Wednesday, 6th December 2023.

The Temporary Speaker (Hon. Farah Maalim): The Chairperson of the Public Investments Committee on Commercial Affairs and Energy. He is not in the Chamber. Under the circumstances, I direct that Order 14 be deferred to another date.

(Motion Deferred)

Hon. Members, we have exhausted the Business on the Order Paper for the day. Under the circumstances, it is only fair that we adjourn the House.

ADJOURNMENT

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, the time being 5.57 p.m., this House stands adjourned until Tuesday, 5th March 2024 at 2.30 p.m.

The House rose at 5.57 p.m.

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