



The SENATE

Weekly

Issue No. 0052

County Assembly financial autonomy Bill sails through House

Senators conclude debate on a Bill that is expected to grant financial independence to county assemblies and the power to exercise their mandate without interference from County Governors.



Senator Edwin Sifuna



Majority Leader Aaron Cheruiyot



Senator Kathuri Murungi



Senator Dan Maanzo

County Assemblies have received an early Christmas gift after the House concluded debate on the County Public Finance Laws (Amendment) Bill, 2023, on Tuesday.

If enacted, the proposed law will grant MCAs the long sought-after financial autonomy.

This is expected to grant county assemblies the power to exercise their mandate without intimidation, blackmail and threats they say usually emanate from County Governors.

A total of 28 Senators, who contributed to the debate on the Bill, welcomed the proposed law arguing that as people with the power to oversight the county executives, MCAs should not be at the whims of the executive in terms of money for operations of the Assemblies and even salaries.

“One of the ways in which county assemblies are weakened is by the very basic fact that for them to get salaries, something that is constitutionally and statutory guaranteed, MCAs have to sing to the tunes of the executives,” said Majority Leader Aaron Cheruiyot, when moving the Bill.

“It is unfortunate. In fact, as a Senate, we owe them an apology for having taken long to free them from that kind of slavery.”

The Majority Leader went on: “We need to conclude the process on this Bill before we break for the long recess in December, grant our county governments the financial autonomy that they have been yearning for too long.”

The Bill, sponsored by Senator Kathuri, intends to provide a channel through which monies allocated to the county as-

semblies is disbursed when need arises without relying on county treasuries.

The Bill amends the Public Finance Management (PFM) Act to establish the County Assembly Service Fund that will give county assemblies direct access to monies in the fund.

This will ensure the legislative arm of county governments, just like the national legislature, can effectively discharge their constitutionally guaranteed duties free of County Executives interference.

The Fund will be used to defray administrative expenses of county assembly for acquisition of proper maintenance of building grounds and other assets of the county assembly, pay salaries and any other purposes provided for in the constitution and any other written law.

The Fund will also provide for all received savings and accruals. At the end

of each financial year, the balance of the fund shall be passed on to the County Assembly Services Fund and managed in accordance with all the provisions of the Constitution.

The Bill further provides that the Appropriations Bill for a respective county shall be accompanied by a schedule setting for the county’s monthly disbursement to the fund from the County Revenue Fund (CRF).

Each financial year, a county government entity holding appropriated money that was withdrawn from the county exchequer account or the County Assembly Service Fund, but has not spent it, shall repay the unspent money to the county exchequer account or the County Assembly Service Fund.

The clerk of a county assembly may in writing, authorise a member of staff to

incur expenditure for the efficient management of the county assembly.

Seconding the Bill, Senator Edwin Sifuna supported said its enactment will enhance the capacity of the county assemblies to oversight the county executive.

“The situation as it is right now is that county assemblies are extremely constrained in their oversight responsibilities because of the current obtaining situation,” he said, adding that passing legislation that frees the assemblies across the country to properly function, especially in their supervisory roles, makes him

proud

“There will now be an Authority to Incur Expense (AIE) holder at the county assemblies to incur expenditure for the efficient management of the county assembly. This is something that is to be supported.”

Senator Kathuri said MCAs cannot perform if they rely on the county Executives to give them money to carry out oversight role or run the administration of the County Assemblies.

“We want to treat the 47 county assemblies the way the national Government treats both Houses of Parliament.

He told the House that in his interaction with MCAs and discovered that most of the time they are not even able to do the oversight work because they need resources to move around the county.” But most of the time there is no money in the county assemblies. When they do requisition for money to move around, they are not able to get that.”

Senator Dan Maanzo revealed that many county assemblies have to look for the Governor or the systems of the governor to get their monies released leading to delays in service delivery.

He said the proposed law will cure the

problem as the county assemblies will be independent, monitor their own budget, make their own plans and oversight the governors.

“MCAs have been reduced to beggars. They are with the people on the ground. Most of them spend their nights at the village. The law will make the MCAs more effective, strengthened, powerful and able to deliver services to the people. Hence, this is a law which is like revolution. It is going to change devolution and make it better.”

County Revenue Stalemate persists as Committee harden positions

County Governments could be in a long wait before they know the amount in equitable shareable revenue they will receive in the 2024/25 financial year.

The Mediation Committee established by both Houses of Parliament to agree on an acceptable version of the Division of Revenue (Amendment) Bill, 2024, has made little progress and there is every likelihood that a deal is far off.

Senator Mohamed Faki, who is a Member of the Mediation Committee, told the House on Thursday that the mediation is being hampered by the question surrounding the Road Maintenance Levy Fund (RMLF).

“Members of the National Assembly in the Committee are of the firm opinion that we could not discuss the Bill before the Road Maintenance Levy Fund (RMLF) cases that have been filed in court are withdrawn,” said Senator Faki.

The Senator was briefing the House on the progress of the Mediation Committee on the Division of Revenue (Amendment) Bill, 2024.

Last September, the High Court suspended the Sh10.5 billion collected under the RMLF pending the determination of a case filed by Council of Governors who are challenging the use of the money by the Kenya Roads Board to construct roads in counties.

In particular, the CoG are questioning the National Assembly decision to exclude county governments from benefiting from the Road Maintenance Levy Fund (RMLF).

The court order temporarily halts the removal of Sh10.5 Billion in conditional grants allocated to counties for the 2024-2025 financial year.

The Court also suspended the decision by the National Assembly to remove county governments as beneficiaries of the RMLF in this financial year.

“We informed the Members of the National Assembly that the case is not in our hands, neither do we have any



Senator Mohamed Faki briefed the House.

leverage or control over the Council of Governors (CoG),” he said, adding that counties are suffering.

“Many have been unable to pay salaries while others have resorted to short-term loans from their bankers. This will also add to the cost of doing business in those counties. The earlier we are able to resolve this stalemate, the better.”

Senator Faki pleaded with Speaker Amason Kingi to engage Speaker Moses Wetangula so that the National Assembly could soften their position.

“We were ready to sit down on the issue of whether we could reduce the Sh400.1 billion to a figure acceptable to the National Assembly. However, they said we could not discuss the issue of quantum before resolving the RMLF case that is in the courts.”

The Division of Revenue Act, 2024, allocates Sh400.1 billion to counties



Finance and Budget Committee during a session with the Management of Unclaimed Assets Authority in Parliament Buildings.



Senator Ali Roba, chair Finance Committee, shares a word with Senator Tabitha Mutinda, vice chair, and Senator Boni Khalwale.

which was agreed earlier in the year between the two Houses.

The withdrawal of the Finance Bill, 2024, forced the National Treasury to institute austerity measures. It was projected the withdrawal of the Bill will cause a Sh346 shortfall in revenue collection.

President William Ruto refused to sign the County Allocation of Revenue Bill, 2024 and returned it to the Senate, with recommendations to reduce the total figure due to counties by Sh20 billion, to Sh380 billion.

The National Treasury drafted the Division of Revenue (Amendment) Bill to comply with the President’s directive, hence kick-starting the stalemate between the two Houses.

During the Tuesday meeting, the Parliamentary Budget Office presented an analysis of revenue collection trends

and County-level income generation.

The data was meant to provide a clearer understanding of the financial landscape but it failed to sway either side. Members were also taken through the legal requirements and repercussions by the Parliamentary legal team.

The National Assembly urged the Senators to engage the Council of Governors (CoG) to resolve RMLF legal disputes that could complicate negotiations.

Senator Roba, the head of the Senate team, however, rejected the suggestion emphasising the need for the mediation process to remain independent of external legal battles.

“It will be an exercise in futility to expect the Senate to convene any meeting with the Council of Governors to discuss politics of the National Assembly and the Council of Governors, that is a sad reality,” declared Senator Roba.

Speaker Kingi directs speedy conclusion of House Business



Speaker Amason Kingi is received by Deputy Clerk Mohamed Ali at the meeting of East Africa Speakers' Bureau at a Nairobi Hotel.



Speaker Amason Kingi confers with National Assembly Speaker Moses Wetangula, Hon Anita Among, Speaker of Ugandan Parliament and Hon Joseph Ntikirutimana, the Speaker of the East African Legislative Parliament on the sidelines of the EAC Speakers Bureau in Nairobi.



Speaker Kingi delivers his remarks during the EAC Speakers Bureau meeting.

Speaker Amason Kingi has directed the Majority Leader and Minority Leader to liaise with the Chairpersons of Committees to do all that is necessary to expedite and ensure pending legislative business is completed before the end of the third session.

The Speaker also spoke directly to Senators urging them to redouble their collective efforts in a bid to conclude the

business of the Senate by the close of the Session in December, 2024.

"The resumption of the regular sittings in this last part brings with it a certain degree of urgency to conclude the legislative agenda of the Senate," Speaker Kingi said, in his communication to the House on Tuesday, as he welcomed Senators back after a 10-day break.

The House took a break on October 31

and resumed last Tuesday, November 12 for is the final leg of regular sittings before the end of the third session of the 13th Parliament.

In accordance with the Calendar of the Senate for the Regular Sittings, Part IV began on Tuesday, November 12, 2024 and concluded at the rise of the Senate on Thursday, December 5, 2024, before the lawmakers undertake the

long December/January Recess.

"I urge that we redouble our collective efforts in a bid to conclude the business of the Senate by the close of the Session in December, 2024," he said, even as he directed the offices of the Majority Leader, the Minority Leader and Committee Chairpersons to do all that is necessary within the Standing Orders to expedite pending legislative business.

Seneta Okenyuri ataka majibu kuhusu mauaji ya wanawake yanayoripotiwa nchini



Seneta Esther Okenyuri

Seneta Esther Okenyuri amewasili-sha ombi la Kauli Bungeni akiita-ka Kamati ya Usalama wa Kitaifa, Ulinzi na Uhusiano wa Kigeni kufanya uchunguzi na kuwasilisha taarifa kuhusiana na ongezeko la kutisha la visa vya mauaji ya wanawake na hali inayotati-

za ya kukamatwa kiholela na kutekwa nyara kwa vijana nchini Kenya.

Seneta Okenyuri aliwaambia Mase-neta wenzake kwamba, katika kipindi cha siku 90 pekee, nchi imeshuhudia vifo vya kusikitisha vya wanawake 97 kutokana na ukatili. Mwenendo huo mbaya wa mauaji ya wanawake kulin-gana na Seneta huyo umefikia viwango vya mgogoro, uharibifu wa familia na jamii na kudhoofisha muundo wa kijamii na hivyo kutaka uchunguzi na hatua za haraka za Bunge la Seneti.

“Ni muhimu kuimarisha mifumo ya kisheria na mifumo ya utekelezaji ili kuwalinda wanawake na kuwawajibisha wahalifu,” alikariri Seneta Okenyuri.

“Aidha, kuna taarifa za kutisha za kutekwa nyara kwa vijana ambazo sa-wia zinahuzunisha huku vijana wengi wakitoweka chini ya hali zisizoeleweka na mara nyingi hutokeza matokeo ya kuhuzunisha. Huu sio tu uhalifu dhidi

ya watu binafsi bali ni shambulio kwa mustakabali wa taifa letu,” alisisitiza Ki-ongozi huyo.

Kadhalika, Seneta huyo ameitaka Kamati hiyo inyoongozwa na Seneta William Cheptumo kuipa Seneti ripoti kuhusu hatua za haraka zilizochukuliwa kuchunguza kwa kina visa vya maua-ji ya wanawake na madai ya kutekwa nyara kwa vijana mbali na kuelezea mikakati ya kina ambayo imebuniwa ili kushughulikia sababu kuu za ukatili na ukosefu wa usalama unaowasumbua wanawake na vijana na kuhakikisha ku-tojirudia kwa hali iyo hiyo.

Huku hayo yakijiri, Seneta David Wa-fula Wakoli ametaka kufahamishwa hali ya kutumwa kwa pesa kwenye mpango wa pensheni wa wafanyakazi wa Serika-li ya Kaunti ya Bungoma kuanzia mwa-ka 2022 hadi sasa.

Seneta Wakoli akiwasilisha ombi, ameitaka Kamati ya Leba na Ustawi wa

Jamii kuwaweka wazi watoa huduma za pensheni kwa wafanyakazi wa Serikali ya Kaunti ya Bungoma na kueleza ikiwa wafanyakazi wanajiunga kwa hiari au ni suala la lazima kwa wafanyakazi wote wa Kaunti.

Aidha Seneta huyo aliitaka Kama-ti hiyo inayoongozwa na Seneta Julius Murgor kutoa ripoti ya wafanyakazi wote wanaohusishwa na mpango huo, pesa zinazotoweka kutoka kwa mishahara yao kila mwezi na iwapo pesa hizo zina-tumwa kwa mpango huo na Kaunti huku ikitaja idadi ya wale ambao wamenu-faika na mpango huo kuanzia mwaka 2022 hadi sasa.

Kadhalika Seneta ameitaka Kama-ti hiyo kuweka wazi taarifa za kifedha zinazoonesha uwasilishaji wa michango ya wafanyakazi na Serikali ya Kaunti ya Bungoma kwenye Mwaka wa Fedha wa 2022/2023 na 2023/2024, ikionesha ni lini malipo ya mwisho yalifanywa.

Mamlaka Yakanusha ripoti za kupotea kwa fedha

Mamlaka ya Mali ya Kifedha Isiyodaiwa imekanusha ta-arifa za kupotea kwa pesa au matumizi mabaya ya pesa kwenye mam-laka hiyo.

Kaimu Afisa Mkuu Mtendaji wa Mamlaka hiyo Caroline Chirchir ali-ambia Kamati ya Fedha na Bajeti kuwa mamlaka hiyo haijashuhudia kupotea wala matumizi mabaya ya fedha kufukia sasa akiwahakikishia Maseneta na Wak-anya kijumla kuwa kila kitu ki shwari.

Alifichua kuwa Mamlaka hiyo imeji-tolea kulinda rasilimali za umma ilizok-abidhiwa kwa uwazi na uwajibikaji.

Alisema Mamlaka hiyo imeweka na kutekeleza mikakati mbali mbali ya ukaguzi inayohakikisha uendeshaji ka-bambe wa shughuli na kuziba mianya ya kupotea kwa fedha za umma.

“Mamlaka huendeleza mazungumzo ya mara kwa mara na wamiliki kupitia vikao mbalimbali,” alikariri Bi. Chirchir.

Aliambia Kamati hiyo inayoongozwa na Seneta Ali Roba kuwa mapendekezo ya msamaha wa adhabu sasa yameain-ishwa katika Sheria ya Mali Zisizodai-wa na kuruhusu utaratibu wa wamiliki kufuata na kurejesha mali zilizotambu-liwa bila kuogopa adhabu kali kama il-ivyoainishwa katika kifungu cha 33 cha Sheria ya Mali Zisizodaiwa.

Aliongeza kuwa Mamlaka hiyo tayari imewaidhinisha mawakili kuwafungulia mashtaka wenye mali ambazo hazijadai-wa ili kurejesha mali iliyobainika.

Kadhalika alifichua kuwa, Mamla-ka yake kwa ushirikiano na Hazina ya



Kaimu Afisa Mkuu Mtendaji wa Unclaimed Financial Assets Authority (UFAA) Caroline Chirchir akiwa mbele ya Kamati ya Fedha na Bajeti.

Kitaifa imeandaa rasimu ya Sera ya Kitaifa Kamili kuhusu mali zisizodai-wa ambayo inajumuisha mikakati zaidi ya uzingatiji miongoni mwa mengine majukwaa ya uhamasishaji endelevu ili kuwahamasisha wamiliki kuhusu uzingatiji wa sheria.

Mamlaka hiyo ilialikwa kwenye Ka-mati ya Fedha na Bajeti kujibu maswali katika ombi la Kauli lililowasilishwa na Seneta Gloria Orwoba.

Wanachama wa Kamati hiyo wali-kubaliana kwa kauli moja kuandaa ki-kao kingine na Mamlaka hiyo kabla ya kuandaa ripoti rasmi.

Wakati uo huo, Kamati hiyo iliandaa kikao cha kukagua mawasilisho ya ush-iriki wa umma yaliyopokelewa kuhusu mapendekezo ya marekebisho ya Sheria ya Usimamizi wa Fedha za Umma.

Kikao hicho kilihusu Mswada wa Marekebisho ya Usimamizi wa Fedha za Umma ambao unalenga kurahisisha mi-

chakato ya bajeti na kuimarisha nidha-mu ya fedha miongoni mwa Serikali za Kaunti.

Wadau waliowasilisha maoni yao kwenye Kamati hiyo miongoni mwao, Hazina ya Kitaifa, Tume ya Ugavi wa Mapato (CRA), Baraza la Magavana (CoG), Jukwaa la Mabunge ya Kaunti (CAF) na Bunge la Kaunti ya Makueni walikubaliana kikamilifu na mapende-kezo ya marekebisho ya mswada huo yanayofafanua wazi muda wa kuwasili-sha na kupitishwa kwa Mswada wa Fed-ha wa Kaunti.

Wakati wa kikao hicho, Kamati ili-baini kuwa marekebisho ya Kifungu cha 129 cha Sheria ya Usimamizi wa Fed-ha za Umma kinachotaka Mswada wa Fedha wa Kaunti kuwasilishwa pamoja na Mswada wa Ugawaji wa Mapato na stakabadhi zingine za bajeti yatarahisi-sha utekelezaji wa bajeti.

Muunganisho huo kwa mujibu wa Ka-mati utahakikisha kuwa stakabadhi zote za bajeti na fedha zinaratibiwa, kukuza bajeti zenye uwiano na kuzingatia sera za fedha kama ilivyoainishwa katika Sheria ya Usimamizi wa Fedha za Umma.

Mojawapo ya masuala ya msingi am-bayo Mswada huo unashughulikia ni uwiano mbaya kati ya muda wa kuwasil-isha bajeti na muda wa hatua za kuonge-za mapato, pengo la kisheria ambalo kihistoria limesababisha kutokuwepo kwa ufanisi na kutokuwa na uhakika wa kifedha katika kupanga na kutekeleza.

Kwa kurekebisha hitilafu hiyo, Mswada huo utaunda mfumo wa fedha ulioainishwa zaidi, kuiwezesha serikali ya kitaifa na zile za kaunti kuoanisha mi-pango yazo ya kifedha kwa ufanisi zaidi na mikakati ya mapato inayohitajika ku-ziunga mkono.



Seneta Gloria Orwoba anayetaka majibu kuhusu utenda kazi katika Mamlaka ya UFAA

Committee demand accountability in Police compensation



Senator William Cheptumo, the chair National Security Committee, during the meeting with NPSC and stakeholders involved in compensation of police officers.



Mr Eliud Kinuthia, chair NPSC, speaks during the meeting.

The Committee on National Security, Defence and Foreign Relations held a heated session on Thursday to address concern relating to the persistent delays in compensating police officers injured in the line of duty.

The law mandates timely payouts but systemic inefficiencies have left hundreds of officers struggling without financial relief.

At the center of the debate is a petition highlighting that over 800 compensation claims remain unresolved, some dating back more than two years.

Out of the 1,756 claims filed with the National Health Insurance Fund (NHIF) during this period, 819 remain stuck in bureaucratic formalities. The delay has become a glaring issue for officers who risk their lives daily, only to face financial insecurity when injured.

The session brought together representatives from key agencies including the National Police Service Commission, the Directorate of Occupational

Safety and Health Services, the Social Health Authority (SHA) and the Insurance Regulatory Authority (IRA).

However, instead of collaborative problem solving, the hearing exposed deep-seated inter-agency conflicts and a lack of accountability.

Mr Eliud Kinuthia, the Chair of the National Police Service Commission, accused the SHA of breaching its contractual obligations under the Work Injury Benefits Act (WIBA).

Section 26(4) of WIBA, insurers are required to settle claims within 90 days yet officers often wait for years. SHA's insistence on secondary medical assessments described as both unlawful and unnecessary by the Directorate of Occupational Safety and Health Services was singled out as a primary cause of the delays.

The IRA further highlighted an accountability loophole stemming from a 2000 Gazette Notice exempting NHIF from its regulatory oversight. This ex-



Senator Lenku Seki and Senator Tom Ojienda follow proceedings during the meeting.

emption, granted by the Treasury left NHIF's role in handling injury claims largely unchecked, fueling inefficiencies in the compensation process.

Senator William Cheptumo, the chair of the committee, expressed frustration at the failure by the agencies to prioritise the welfare of the injured officers. "The delays are unacceptable," Senator Cheptumo stated, urging swift action to resolve the bottlenecks. The Senators pledged to work closely with all stake-

holders to ensure accountability and improve the compensation system.

Members of the Committee, including Senator Fatuma Dullo, Senator Seki Lenku, Senator Joseph Githuku, Senator Tom Ojienda, Senator Julius Murgor and Senator Abdul Haji emphasised the need for legislative and administrative reforms in the process so as to restore dignity and justice to officers who put their lives on the line.

Authority assures safety of GMO products in Kenya

The National Biosafety Authority (NBA) has assured Senators, and Kenyans in general, of the safety of the genetically Modified Organisms (GMOs) and their derived products in the Country.

Acting chief executive officer Nehemiah Ngetich also outlined several GMOs crops the Authority has approved and those that are pending.

At a meeting with Committee on Agriculture and Livestock Development, Mr Ngetich revealed that the Authority has already approved the commercialisation of Bt Cotton, which has been in cultivation since 2020 and no adverse effects have been noted through the Authority's monitoring and surveillance system.

"Other crops such as Bt maize and virus resistant cassava are at advanced stages of variety testing towards their commercialisation," explained CEO.

He was speaking during the meeting between the Authority and the Committee on the role of the Authority in ensuring safety of GMOs and its products in Kenya.

The two-day engagement was held in Mombasa County and served as a platform for the Committee to gain insights



National Biosafety Authority Acting CEO Nehemiah Ngetich explains to members of the Committee on Agriculture on the role of the Authority.



Agriculture Cabinet Secretary Andrew Karanja speaks during the meeting. Looking on is Senator Kamau Murango, (left), the chair of the Committee on Agriculture.



Senator Enock Wambua speak at the meeting as Senator David Wafula and Beth Syengo listen on.

into the Ministry of Agriculture projects and upcoming initiatives.

Mr Ngetich told the Senators that Kenya has a well-established legal, regulatory and institutional framework which provides for streamlined processes for persons dealing in GMOs and their derived products.

Agriculture Cabinet Secretary Andrew Karanja attended the meeting.

The framework outlines specific application requirements, safety assessment procedures and monitoring mechanisms which align to Kenya's commitment to food safety, environmental protection and the socio-economic wellbeing of its citizens.

The Authority's scope includes; genetically modified plants, genetically modified Animals, animal inputs including veterinary vaccines and genetically modified micro-organisms.

Mr Ngetich disclosed that the law is being reviewed to anchor other emerging biotechnologies into the Biosafety Act - Genome Editing, Stacked Genes, Synthetic Biology and Gene drives.

The Authority has mandate to exercise general supervision and control over the transfer, handling and use of genetically modified organisms (GMOs) with a view of ensuring safety of human and animal health and provision of adequate level of protection of the environment.

"Kenya is a member of the international community and is a signatory to the Cartagena Protocol on Biosafety which is multilateral environmental agreement whose objective is to ensure an adequate level of protection in the safe transfer and handling and use of GMOs," he said.

Kenya has approved the National Biotechnology Development Policy in 2006, enacted the Biosafety Act in 2009 and has so far published four Biosafety Regulations namely; the Biosafety (Contained use) Regulations, 2011; the Biosafety (Environmental Release) Regulations, 2011; the Biosafety (Import, Export, and Transit) Regulations, 2011; and the Biosafety (Labelling) Regulations, 2012.

House to toughen penalties for summon defiance



Senator Samson Cherarkey



Senator Richard Onyonkah

Senator Samson Cherarkey is calling for amendment to Article 125 of the Constitution and the Parliamentary Powers and Privileges Act to provide for higher penalties for those who defy parliamentary summons.

He also wants further legislative interventions to be developed to empower the Senate to be conferred with original jurisdiction to initiate impeachment of a county governor for gross violation of the law and failure to comply with accountability frameworks provided under the law.

Making a personal statement on the floor, the lawmaker expressed dismay on an emerging trend where some governors have consistently failed to honour invitations by committees.

“In so doing, they request for postponement of meetings without justifiable reasons. The frequent request for postponement of meetings has greatly derailed the effective discharge of committees’ mandates, thus negatively impacting on the oversight mandate of the Senate.”

He cited the case of Kisii Governor Simba Arati who has on three invitations

in the current calendar year failed to appear before the County Public Accounts Committee (CPAC).

In all the instances, the Governor cited foreign travel without the reason as to why he is traveling outside the country.

Governor of Isiolo Abdi Guyo has failed to appear before various committees, specifically the Committee on Devolution and Intergovernmental Relations.

The Governor only sends written responses without communication on his non-appearance.

“The prevalent disobedience of committee invitations amounts to the contempt of the Senate authority, which enjoys the quasi-judicial mechanism of status of the High Court. If unchecked, it will negatively erode the confidence bestowed on the House by the great people of Kenya,” he said.

He said that whereas committees have applied Sections 18 and 19 of the Parliamentary Powers and Privileges Act to compel witnesses to appear, the penalties imposed by the Act are not deterrent enough.

Senator Richard Onyonkah said he

will support the amendments.

“Let us be honest and ask ourselves what happens to a governor who deliberately decides they will not appear before the committees of this House?” he asked, cautioning the House against allowing the precedent where governors unilaterally come up with flimsy excuses and justification on why they cannot appear.

“We need to interrogate their books publicly so that their voters and citizens can know whether they have been doing a good job. Their refusal is unconscionable and unacceptable.”

Citing the Senate’s role in oversight, representation and legislation. Senator William Cheptumo called on Governors to closely work with the Senate because Senators are champions of devolution.

“The resources they get pass through this House. We are surprised that some of them give flimsy reasons such as being away or engaged elsewhere,” he said, adding:

“They need to know that when they are invited to the Senate, it should be priority number one and no other engagements. They need to work for the people

and we need to follow up on what they are doing because that is our mandate.”

Similar sentiments were expressed by Senator Sheikh Abbas who said it is the mandate of the Senate to summon Governors.

“They must appear to answer questions on whatever is happening in their counties even if they are called a hundred times. We struggle hard to get more money to go to the counties by fighting for their rights, but unfortunately, they see Senators as unfriendly.”

Supporting the Statement, Senator Enock Wambua expressed concern that the country is facing a crisis of governance noting that the country has experienced impeachment proceedings against governors and their deputies.

“In the history of this country and region, two years into a Government, a Deputy President has been impeached. We must admit that there is a problem and a crisis of governance.”

He said governors have become so emboldened that they think they own counties and what they say is law. “To save the image of this House, lessons must be sent to governors that we mean business.”

Uproar in House over abductions



Senator Joe Nyutu



Senator Miraj Abdulahi and Senator Wakili Sigei



Senator Okiya Omtatah



Senator Beatrice Ogola

Senator Esther Okenyuri has requested the Committee on National Security, Defence and Foreign Relations to furnish the House with a report on the steps being taken to investigate the incidences of femicide and the alleged abductions across the country.

The lawmaker says the rising incidences of femicide and the troubling trend of arbitrary arrests and abductions of youths are on the rise.

She wants the Committee to outline strategies that have been developed to address the root causes of such violence and insecurity affecting women and youth and to ensure non-recurrence of the same.

In the last 90 days alone, the country has witnessed the tragic deaths of 97 women due to violence.

“This trend of femicide has reached crisis levels, devastating families and communities and undermining our societal fabric. It demands immediate investigation and action by this House,” she says in her request for the Statement.

“It is imperative to strengthen legal frameworks and enforcement mechanisms to protect our women and hold perpetrators accountable.”

She also expressed alarm over reports of youth abductions, which, she said, are equally distressing as many young people disappear under mysterious circumstances, often resulting in tragic out-

comes.

“This is not just a crime against individuals, but an assault on our nation’s future.”

Senator Joe Nyutu supported the Statement arguing that the country must fight back the abductions and instances where hooded police officers execute arrests.

“This is a matter that should concern every Kenyan of goodwill and wants to see a country that has a developing democracy. Anybody given power in this country must exercise it in the right way and for the benefit of Kenyans,” he said, adding that Police officers are trained to execute arrests in broad daylight.

Senator Miraj Abdulahi warned against attempts to link the government to the abductions. “Once a disappearance case is reported, we should not be in a hurry to conclude that the government is involved. Such thinking undermines investigative bodies from doing their work,” she said.

Senator Beatrice Ogola said all Kenyans must, on humanitarian grounds, be concerned about the recent killings, especially of young girls.

She observed that most of the deaths seem to be executed by people who are known to the victims. “We are called upon everybody, including family members, to be on the lookout. Let us discuss with our young sisters and young girls

on how to go about some relationships and also share with everybody that even when people disagree, there is always a way in which we can sort out most of the issues.”

Deputy Minority leader Enock Wambua welcomed the statement saying that time has come for Kenyans to demand real justice for the people that are being killed and abducted.

“The demand goes to the Government of the day,” he said.

“The number of killings happening must scare everyone. If the intention of the killers was to scare this nation, then it is getting scared. Hardly a day passes before we hear reports of people killed, bodies recovered and people disappearing. Something must be done.”

Senator Sheikh Abbas said the national security is going out of hand.

“It is high time that the security officers took charge of the security of this country,” he said.

There are so many foreigners who have made Kenya a heaven, enjoying and doing things in their own way. There are so many people who ran away from their countries and are hiding in this country. They are investing in this country with money looted from other countries. It is high time we audited the people in Kenya so that we can be safe. As it is, we keep on hearing of people being killed and disappearing every day

and we do not know who is doing it.

Senator Eddy Oketch said abductions are happening at two levels.

One is within structured authorities of governance and two, outside those structures.

“If there is a force in dealing with the issues of abductions within the structure of security, there will be an equal response to those who are doing it outside the structure,” he said.

He said there is a need to ensure that the abductions that happen within the security infrastructure are dealt with once and for all.”

Senator Okiya Omtatah suggested that police officers could be accomplices in the abductions.

He said there is no case where abductees have been guaranteed security or the Government security apparatus summoning them to a de-briefing to try and identify where and why they were being held.

“That points to collusion by the police in the ongoing abductions,” he said.

“If the national Government is not taking action to debrief those who have been abducted and released, to establish where exactly they were being held, or determine who was holding them, then the only conclusion you can draw is that the security forces have failed in their mandate. For lack of a better word, they are complicit in the abductions.”

Senate to investigate TUK Staff Retirement Scheme

A petitioner has asked the Senate to investigate the assets of the Technical University of Kenya (TUK) Staff Retirement Benefits Scheme and contributions owed to members in a bid to ensure that the kitty is safeguarded.

This is after the industry regulator, Retirement Benefits Authority (RBA), successfully applied in the High Court and was granted an order to liquidate the scheme.

Mr Fred Saweja and other employees of the University, say in the Petition which was submitted to the House by Speaker Amason Kingi, that the Scheme owes its members billions of shillings that remain unaccounted for, supporting the claim that it may have been undertaking fraudulent operations.

“The Technical University of Kenya has failed to protect its members, stakeholders, and assets due to lack of efficient and effective oversight of affairs of the university,” says the Petitioners.

They plead with the Senate to help them with the option of transferring members to other schemes, where possible, to ensure the continuation of the pension contributions, investigate the circumstances that led to the poor finan-



Senator Julius Murgor speaks during a past meeting of the Committee on Delegated Legislation. He will lead investigation into the operations of TUK staff retirement benefits scheme.

cial performance of the scheme and its subsequent insolvency are addressed, and that the responsible persons are held accountable.

“The Senate should formulate legislative interventions aimed at preventing similar occurrences in retirement schemes in the country.”

The RBA obtained a High Court order on July 5, 2024 to wind up and liquidate the pension scheme which resulted in approximately 2,000 scheme members at risk of losing their lifelong

savings accrued from years of work and potentially downgrading them to a life of poverty in their later years.

RBA, which is mandated to regulate the pensions sub-sector in Kenya, petitioned the High Court in 2017 in the matter of insolvency of the Technical University of Kenya Staff Retirement Benefits Scheme case number HCIP/14/2017 to protect the scheme’s members from losing their retirement savings.

Members of the scheme say they

have made efforts to address the matter with the university management, the university council, the RBA and the Ministry of Education, all of which have been unsuccessful.

The Speaker Committed the Petition to the Committee on Labour and Social Welfare for consideration.

The Committee, which is chaired by Senator Julius Murgor, is required to table its report in the Senate for debate within 60 calendar days after the reading of the prayer.

This Week in History

Debate on the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill



Senator Hassan Omar

On November 19, 2015, the House debated the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill, 2015.

The Bill which was sponsored by Mpombasa Senator Hassan Omar was to implement Article 43 of the Constitution on Economic and Social Rights, which relates to standard of health and health care services, accessibility and adequacy of housing and reasonable standards of sanitation. The issue of food and quality of food, water, social security and education. In his moving notes, Senator Omar said Senators appreciated that Article 43 is one of the most fundamental gains of our new Constitution, 2010. Article 174(f) states that one of the objects of the devolution of government is: “to promote social and economic development and provision of proximate, easily accessible services throughout Kenya.” Therefore, this Bill intends to reposition devolution in terms of psyche of county governments. One of the speakers raised similar concerns that partly inspired the Bill; where the governors think that the only development they can do is to lay cabros and do a few other things here and there, but not make the lives of our people better.”



Senator Henry Ndiema said:

“We all know for many years; this country has been crafting development visions but what have we realised so far? Those are just statements. There is some progress with regard to electricity connection to schools. How do we measure all the promises we have been making to our people in the various policy statements and plans? This Bill is a vehicle with which we shall drive towards the realisation of Vision 2030. There are very important issues that must be tackled on the issue of statistics. We should ensure that we have up-to-date statistics of the welfare and economy of our people. Currently, statistics are centralized. They are based on national figures. We have since devolved, but it seems that the Kenya National Bureau of Statistics (KNBS) has not devolved. We cannot tell the economic statistics parameters of each county.”



Senator Mutahi Kagwe said:

“An English writer once said: ‘The most able must provide the least requirement for the least able’. What the Bill proposes to do is to create a framework where we, as a nation, can focus and think through how to take care of those who are not as able as others. It is actually enlightened self-interest that we do so. Even if you are as healthy as it can be, even if you visit the most expensive hospitals in our nation, even if you see the most experienced and famous doctors in our nation as long as the neighbourhood in which you live in is full of sick individuals, you will never be healthy yourself.”



Senator Moses Wetangula said:

“If public resources were protected to realise that what belongs to the public belongs to the people of Kenya and not individuals who literally, through their offices, have moved from rags to riches, from Lazarus of the Bible sitting under the tables of the rich man to pick crumbs, to the rich man himself within a year or two. Now a new Lazarus has to go under the table. With all this, we then need an obligation to ask ourselves: If the resources of this country were put to good use, would we still be having abject poverty as a national narrative? Could we still be having deprivation in our midst?”

State of the Nation: Committee on Health plans a retreat with stakeholders



Senator Joe Nyutu who read the Statement on the floor of the House on behalf of Health Committee chairman, Senator Jackson Mandago (right).

The Committee on Health has scheduled a retreat with stakeholders in the crucial sector following the ongoing deliberation on the state of the nation.

The committee is planning to meet the Ministry of Health, the Council of Governors (CoGs) and the representatives from the medical practitioners, regulatory bodies and unions to deliberate on the challenges facing the implementation of standardisation of human resources policy for health workers across all counties.

In the Motion on the Current State of Nation, the House had directed the Committee to urgently engage the relevant stakeholders in order to expedite and facilitate public participation in the re-enactment of the Social Health Insurance Act, the Digital Health Act and the Primary Health Care Act, in compliance with the judgment of the High Court.

The Committee was also directed to engage with the Cabinet Secretary for Health and the Council of Governors (CoGs) with a view to standardise human resource policy for health workers across all counties.

In a report tabled in the House on Tuesday, the committee, through Senator Joe Nyutu, said only after the retreat the Committee will prepare its report which will be tabled in the House for

consideration.

On the question of the three laws, the Committee said the matter touches on the constitutionality of the laws active in court and has resolved to await the determination of the case as the three Acts are currently in effect and are being implemented.

Mr Joseph Aura, a member of the public filed an application in the high court, challenging the constitutionality of the Social Health Insurance Act, the Primary Health Act and the Digital Health Act.

The respondents to the Petition included the Cabinet Secretary for Ministry of Health, the Social Health Authority (SHA), the National Assembly, the Senate, Council of Governors (CoG), the Attorney General, among others.

The petitioner argued that Sections 26(5), 27(1)(a), 27(4), 38 and 47(3) of the Social Health Insurance Fund Act, 2023 are inconsistent with the Constitution, therefore, null and void.

He further argued that in purporting to confer upon unlicensed, unqualified and arbitrarily appointed community health promoters, the critical responsibility of grassroots primary health care across Kenya's counties, the Primary Health Act, 2023 sabotages the realisation by Kenyans of quality health care, pursuant

to Article 43(1)(a) of the Constitution.

The petitioner further argued that the enactment of the Social Health Insurance Act, 2023, the Primary Health Act, 2023 and the Digital Health Act, 2023, were in contravention of the national Government's role in health matters as prescribed in the Fourth Schedule to the Constitution.

He added that the entire Social Health Insurance Act, 2023, the entire Digital Health Act, 2023, and the entire Primary Health Act, 2023 are all invalid for lack of effective, tangible, and mandatory public participation as prescribed and required under Article 10(2)(b) and 118(b) of the Constitution and are all, therefore, null and void.

On July 12, the High Court delivered the judgment which observed that the entire Social Health Insurance Act, 2023, the entire Digital Health Act, 2023 and the entire Primary Health Act, 2023 are unconstitutional therefore, invalid, null and void.

It suspended the implementation of the laws for 120 days within which time the

The suspension period was to be 120 days and Parliament was expected to undertake sensitisation, adequate, reasonable, sufficient and inclusive public participation and make the necessary

amendments.

Health Cabinet Secretary filed an application in the Court of Appeal seeking an order for stay of execution and of implementation of the judgment of the High Court pending the hearing and determination of the appeal.

The Cabinet Secretary contended that it is not feasible to enact statutes that are already enacted and that the High Court has adjudged a standard of public participation that is not within the contemplation of Articles 10 and 118 of the Constitution.

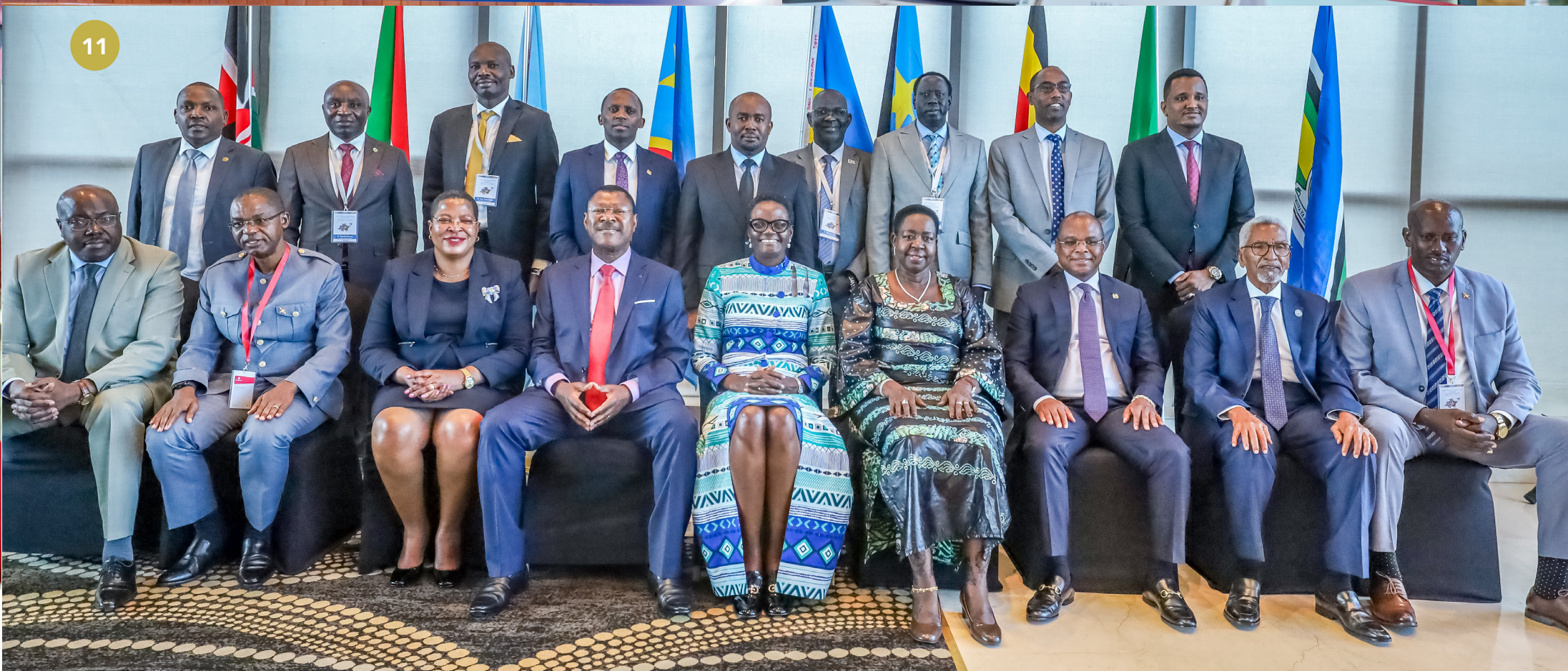
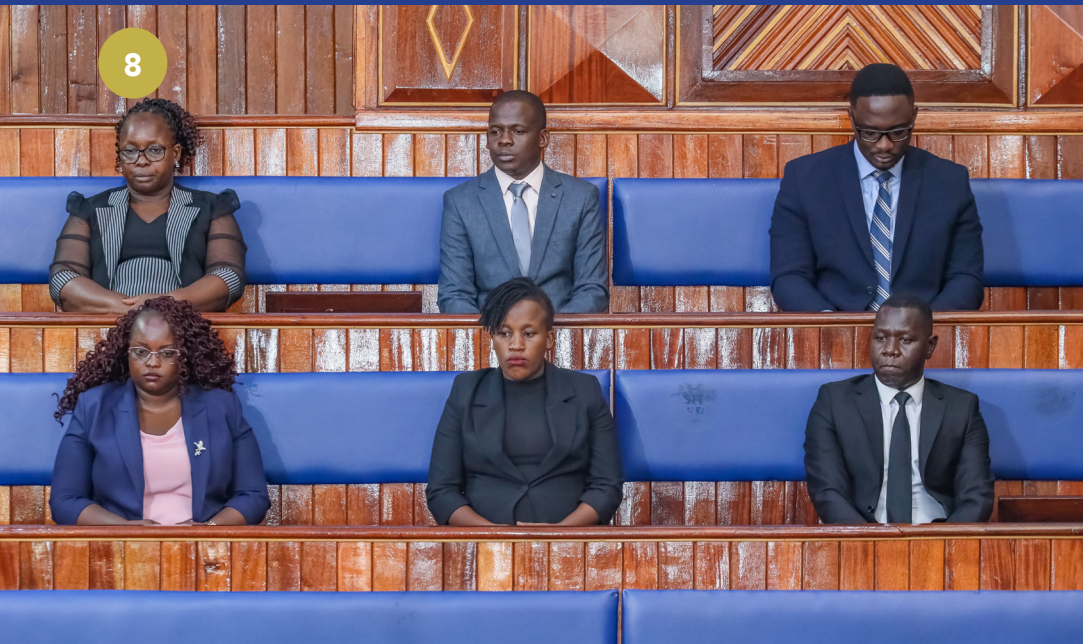
The Cabinet Secretary further argued that the sensitisation of the public, which has been decreed to apply prior to public participation, is akin to civil education which exercise is appropriate in the conduct of a referendum.

The Court of Appeal subsequently granted the stay of judgment of the High Court pending the hearing and determination of the appeal and directed that the file be immediately placed before the President of the Court for directions as to an urgent hearing.

"To date, no directions have been issued on the hearing and determination of the appeal. The Committee resolved to await the determination of the appeal as the three Acts are currently in effect and are being implemented," said Senator Nyutu.



1. Senator Ledama ole Kina acknowledges the rendition of 'happy birthday' song from Senators.
2. Minority Leader Stewart Madzayo, Senator Miraj Abdulahi (left) Senator Tabitha Mutinda (second right) and Senator Karen Nyamu join Senator Ledama ole Kina in cutting the birthday cake.
3. Senator Miraj Abdulahi celebrates the birthday with Senator Ledama ole Kina.
4. Senator Betty Montet celebrates the birthday with Senator ole Kina.
5. Senator Ledama ole Kina shares his birthday cake with Senator Godfrey Osotsi.
6. Senator Ledama ole Kina shares his birthday cake with Senator Karen Nyamu.
7. Senator Ledama ole Kina speaks to his staff in appreciation after they surprised him with a birthday cake.



8. Hansard Officers of Ugandan Parliament follow proceedings of the Senate from the Speaker's Gallery. They were in Kenya Parliament for a benchmarking tour.
9. Hon Ackson Tulia, the Speaker of Tanzanian Parliament speaks during the EAC Speakers' Bureau meeting in Nairobi.
10. Members of the Committee on Delegated Legislation of County Assembly of Tana River follow proceedings of the Senate from the Speaker's Gallery during their tour of Parliament.
11. East African Speakers pose for a group picture with their respective Clerks at the end of the EAC Speakers Bureau meeting in Nairobi.



A PUBLICATION OF THE SENATE

© Copyright 2023

Email: Senate.weekly@parliament.go.ke

Editor: Ibrahim Oruko

Team Leader: Lucianne Limo

Writers

- Otiato Andayi
- Njeri Manga
- Josphat Ngeno
- Derick Luvega
- Stanley Gikore
- Nandemu Barasa

- Juliet Masinde
- Violet Nalianya
- Lemeteki Lorinyu

Hansard: Erick Kipkoech

Photographers:

James Kimiti Nyambura
Job Owaga
Russells Kipngetich

Designed by:

KENYA LITERATURE BUREAU
Publishers and Printers
Belle-Vue Area, KLB Road, Off Popo Road
P. O. Box 30022-00100, GPO Nairobi,
Telephone: +254 (20) 3541196/7,
Mobile: +254 711 318 188/ +254 732 344 599
Email: info@klb.co.ke
Website: www.klb.co.ke