

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 10<sup>th</sup> November 2021**

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Hon. Members, we actually do not have the required quorum. I, therefore, order that the Quorum Bell be rung for 10 minutes. I hope the Whips, wherever they are, will be able to marshal the numbers quickly.

*(The Quorum Bell was rung)*

**Hon. Deputy Speaker:** Order, Members! We still do not have the required quorum. We are just short of it. So, I will order that the Quorum Bell be rung for another five minutes.

*(Quorum Bell was rung)*

The whips should get one more Member and then we will be set.

*(An Hon. Member walked into the Chamber)*

Now we have quorum. We can now get on with our business.

**PETITIONS**

**Hon. Deputy Speaker:** Under that order, the Member to set us of is Hon. Owen Baya.

**RESTORATION OF LAND BELONGING TO MRS. TERESIA WAMBUI KESI**

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Deputy Speaker.

I, the undersigned, on behalf of the family of Mrs. Teresia Wambui Kesi of Dabaso Ward in Kilifi North Constituency, draw the attention of the House to the following:

THAT, Mrs. Teresia Wambui Kesi was legally granted parcel of land registered as LR.150660 GEDE/KILIFI TITLE NO.CR 32236 by the Government of Kenya in 1987 under a 99-year leasehold arrangement;

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THAT, she later sub-leased it to Esso (Kenya) Limited for a period of 25 years commencing from 1<sup>st</sup> February 1999 at a cost of Kshs1.5 million;

THAT, in 1999, Esso (Kenya) Limited was sold out and had its name changed to Mobil (Kenya) Limited, after which a sale agreement was signed by Mrs. Kesi and the new proprietors, namely Libya Oil (Kenya) Limited, which she assumed was for the existing lease;

THAT, by then, Esso (Kenya) Limited had taken the lease title from her to enable them get approval for constructing a petrol station on the site, and the title deed is still in the custody of Libya Oil (Kenya) Limited which is now referred to as Oil Libya (Kenya) Limited;

THAT, upon realising that she had been short-changed by Libya Oil (Kenya) Limited through reduction of sale price from Kshs7.5 million to Kshs3.8 million and that the land was to be sold to the firm before expiry of the 25 years sub-lease, Mrs. Kesi changed her mind and declined to sell the land;

THAT, despite declining to sign the transfer of lease, she was shocked to later learn from the Mombasa Land Registry that an irregular transfer had already been effected to Libya Oil (Kenya) Limited without her knowledge using a forged signature to the effect that she was the transferor;

THAT, following her complaints, the Registrar at Mombasa Land Registry issued a Notice dated 4<sup>th</sup> May 2017 requiring Oil Libya (Kenya) Limited to have Mrs. Kesi reinstated as the registered owner, but the firm ignored the notice;

THAT, the matter was forwarded to the Director of Public Prosecutions who on 23<sup>rd</sup> March 2021 recommended that the title deed be reinstated to Mrs. Kesi, but the directive has not yet been effected;

THAT, efforts by Mrs. Kesi to address this matter with relevant authorities have borne no fruit; and,

THAT, the issues in respect of which this Petition is made are not pending before any court, or any constitutional or legal body.

NOW THEREFORE, your humble Petitioner prays that the National Assembly, through the Departmental Committee on Lands:

- (i) Establishes the reasons why the Ministry of Lands and Physical Planning has not yet implemented the recommendation from the Director of Public Prosecutions on the matter despite details of the fraudulent land transfer being clear.
- (ii) Invokes the provisions of Section 79 (1) and (2) of the Land Registration Act, 2012, by the Cabinet Secretary for Lands and Physical Planning in order to expunge the fraudulent entry from the records and reinstate the parcel of land registered as L.R. 150660 Gede/Kilifi Title No. CR32236 to Mrs. Teresia Wambui Kesi.
- (iii) Makes any other recommendations it deems appropriate in the circumstances of this Petition.

And your Petitioner will ever pray.

I thank you.

**Hon. Deputy Speaker:** Even as I refer it to the relevant Committee, first, let me give the Member for Mbeere, Hon. Njagagua Muriuki, who is actually represented today by the Member for Tharaka, to put forth his Petition. Then we can give a few Members a chance to raise issues on both petitions. Proceed, Hon. Murugara.

## INTERFERENCE WITH THE REVIVAL OF UNITED INSURANCE COMPANY LIMITED

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Deputy Speaker. Allow me, on behalf of Hon. Muriuki Njagagua, Member of Parliament for Mbeere Constituency, to present this Petition. It is a Petition regarding interferences in the matter of revival of the United Insurance Company Limited.

I, the undersigned, on behalf of concerned shareholders, policyholders and employees of the United Insurance Company Limited and statutory management, draw the attention of the House to the following:

THAT, United Insurance Company Limited (UIC) was incorporated on 28<sup>th</sup> April 1983 as an insurer to carry out all type of insurance business, which business the company undertook until 2004 when its fortunes dwindled;

THAT, in 2005, the Commissioner for Insurance put the company under statutory management and appointed Kenya Reinsurance Corporation (Kenya Re) as a statutory manager to facilitate the company's winding up;

THAT, following an audit of UIC, Kenya Re recommended its liquidation on account that the company was insolvent with an approximate value of Kshs1.2 billion in debt and unsettled claims which it was incapable of settling;

THAT, shareholders disputed the findings by Kenya Re which they accused of being conflicted and subjective because Kenya Re owed UIC about Kshs160 million;

THAT, subsequent to the shareholder's complaint, the court ordered an independent audit and Deloitte Kenya was appointed to conduct the audit;

THAT, contrary to the findings by Kenya Re, the audit by Deloitte established that UIC was indeed solvent by approximately Kshs1.3 billion and, hence, it could be revived;

THAT, following the High Court's nullification of Kenya Re's statutory management, the Commissioner for Insurance appointed Mr. Evanson Munene Waruhiu as the new statutory manager in 2014;

THAT, a subsequent audit conducted by the new statutory manager re-affirmed the findings of Deloitte that UIC was solvent as it was not necessary to liquidate it as previously recommended by Kenya Re;

THAT, on the strength of the positive audit returns by Deloitte and Mr. Evanson Munene Waruhiu, the company's shareholders and the statutory manager agreed on a joint settlement proposal on statutory management to the effect that the company was capable of being revived and its liquidity enhanced through careful partial disposal of its assets;

THAT, a roadmap for reviving the company was developed through a joint proposal on revival strategy for UIC, which was adopted in court and a settlement committee consisting of the receiver manager and the representatives of claimants, service providers, staff and shareholders;

THAT, in January 2021 the Solicitor-General having noted that the company could be revived, advised that the Insurance Regulatory Authority (IRA) facilitates the claims settlement committee to execute its functions as ordered by the court on 8<sup>th</sup> March 2018;

THAT, in total disregard of the revival strategy recommendations by successive statutory managers that the company can be revived, the advisory by the Solicitor-General and the court orders, the IRA has been persistently pursuing the winding up course to liquidate the company;

THAT, in unclear circumstances perceived as frustration of justice on three occasions, three judges to whom relief had been sought have recused themselves at very critical stages of the case, in some instances barely six days to the judgement day;

THAT, the interference by IRA and treachery by the judges has held the matter in abeyance for over 20 years at the expense of shareholders, employees and policy-holders who are suffering since some of them were dependent on the insurance for medical cover;

THAT, continued delay in reviving UIC is a gross violation of the rights of the company's shareholders, policy-holders and employees' rights to a fair hearing; and,

THAT, efforts by the Petitioners to have their plight addressed by the IRA and the courts have not yielded any satisfactory response.

THEREFORE, your humble Petitioners pray for the intervention of this House through the Departmental Committee on Finance and National Planning to:

- (i) Inquire into the circumstances under which the IRA and the Commissioner for Insurance have, for almost 20 years, disregarded the recommendations to revive the United Insurance Company Limited, persistently refused to facilitate the claims settlement committee to execute the joint proposal on revival strategy and persistently pursued winding up clause to liquidate the company;
- (ii) inquire into alleged interference and abuse of office by the successive commissioners of insurance in the matter of the revival of United Insurance Company Limited with a view to recommending appropriate action;
- (iii) inquire into alleged irregular disposal of assets of United Insurance Company Limited particularly, United Tower under unclear circumstances, with a view to reverting the property to the company and recommending prosecution of those found culpable;
- (iv) recommends that the IRA immediately ceases any further winding up proceedings with respect to United Insurance Company Limited and fast-tracks the revival of the company; and,
- (v) recommend any other relief it deems fit in order to safeguard the Petitioner's rights.

And your Petitioners will ever pray.

I thank you.

**Hon. Deputy Speaker:** Very well. It is fair enough. Hon. Njagagua had informed me that he would want his immediate senior and a neighbour at home to present it on his behalf. Let me give four Members a chance to make quick comments. If they do well, I might add two more to deal with both petitions in terms of whatever issues they want to raise. I will follow the list as it is here. So, Hon. Pukose, followed by Hon. Maanzo and then we go in that manner quickly. So, prepare yourselves.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. I support the Petition by the Member for Kilifi North. It is a very sad case where Wambui leased her land to an oil company to do business and later on, they fraudulently forged her signature. It will be very important for the Director of Criminal Investigations (DCI) to be brought into this matter at the earliest opportunity so that those who have engaged in fraudulent activities can be prosecuted. Other matters of similar nature should also be looked into. Hon. Deputy Speaker, on the Petition by Hon. Njagagua...

**Hon. Deputy Speaker:** You can do just that one so that other Members can also get an opportunity.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On the Petition by Hon. Njagagua, we are aware of many insurance companies that have collapsed with peoples' assets and monies. This should set a good example.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The rest of the Membership, please, make up your mind on which Petition you want to speak to. Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Hon. Deputy Speaker, I want to speak to the one by the Hon. Njagagua.

The collapse of United Insurance, among many insurance companies, has led to it being managed by a statutory manager. In many cases, the statutory managers mismanage them into liquidation. In the case of United Insurance Company, it is clear, going by its assets that it was very liquid and in the first place should never have been placed under a statutory manager. The decision was erroneous. I urge the Committee to move very fast and urgently owing to the fact that we are nearing elections so that the company which owes a lot people, including myself, can stabilise and pay the people who lost their money.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Dawood.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. I want to comment on the first Petition by Hon. Owen Baya. It regards Oil Libya.

Our family has been a dealer with Oil Libya for 50 years. I even have a property I have leased to Oil Libya. I was never aware that this kind of thing could happen. What normally happens is that when any oil company leases a station from you, they keep the title for 20 years and pay you every five years. Apparently in this Petition, it looks like the lady, Teresa, was selling the property to Oil Libya. The Committee will do well to see the kind of agreement there was for the sale and if the sale did not go through, establish when the lady signed the transfer forms. I believe, I was not asked to sign transfer forms. In what circumstances did she sign the transfer forms? That would be very important to know.

Thank you.

**Hon. Deputy Speaker:** Hon. Obo Mohamed, Captain.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante Mhe. Naibu Spika kwa kunipatia nafasi nichangie ombi lake Mhe. Baya.

Ni vyema kuangalia kwa kina mambo ya ardhi. Kuna desturi ya Wabunge wengine, sisemi wote, zaidi wa Miji Kenda, ikifika wakati wa uchaguzi, lao kubwa wanataka kuona ardhi gani inamilikiwa na Bajuni au Muarabu ili watume watu waingie hapo au wasaidie kuzuia *court order*. Hawana shida na watu wa bara wakimiliki ardhi. Lakini siasa zao siku zote ukiangalia ni hizo nilizotaja. Huu ni uhasidi. Miji Kenda wanakaa sehemu zingine. Lamu tuna Miji Kenda. Tunawaheshimu na wana ardhi. Ni haki yao wawe nazo kwa sababu ni Wakenya. Lakini badala ya wao kuonyesha maendeleo wamefanya kwa miaka mitano, mambo yao ni kusimama kwa majukwaa. Haki ya Mungu nenda ukaangalie saa hii. Miji Kenda wanapeleka watu wavamie ardhi. *Court order* zinatolewa sana. Siasa yao ni kutumia hiyo. Si sawa. Si sawa kabisa. Ichunguzwe. Wakileta maombi wachunguzwe. Ni mahasidi.

**Hon. Deputy Speaker:** Order! Nampatia Mhe. (Dkr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Jambo la nidhamu, Mhe Naibu Spika. Nataka kujua ikiwa Mhe. Kapteni Ruweida ako na nidhamu kwa kuingea mambo ya kabila fulani akiwashutumua kwa kuingilia mambo ya ardhi ilhali tunaongea juu ya *Petition* inayohusu ardhi ya mama Wambui.

**Hon. Deputy Speaker:** You are out of order, Hon. Captain Obo. You are actually discussing your colleagues without a substantive Motion. It would have been better that way. This is a Petition. You can actually go and participate in the Petition hearing at the Committee. When you make such kind of allegations... You need a substantive Motion.

Hon. Baya.

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Deputy Speaker. The remarks that have been made by Hon. Obo are very unfortunate although I have a lot of respect for her. Such kind of remarks bring a lot of tension in the Coast between the Miji Kenda and other people they have lived comfortably with for many years. Individual instances or idiosyncratic instances should not be construed as one community pitting against the other. The people at the Coast have lived together for many years. Hon. Obo herself has benefited and has been elected by voters from the Miji Kenda. It is very unfortunate that she can come to this Chamber to condemn the representatives of the Miji Kenda people and also condemn the Miji Kenda people who live in Lamu County for... It is very unfortunate. It would be nice if Hon. Obo withdraws those remarks against the Members of Parliament from the Miji Kenda Community and also against the Miji Kenda. It will be in order.

**Hon. Deputy Speaker:** Hon. Captain Obo, you will have to withdraw that statement. If you have very concrete evidence, you should file a substantive Motion and then discuss it. So, let us have you withdrawing it unconditionally.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Mhe. Naibu Spika, hili ni Jumba la rekodi. Angalia *Petition* zao zote wanaoleta hapa. Ni kuhusu Waarabu wanaoishi *Coast* na wao pia ni Wakenya. Mhe. Naibu Spika, *I will not withdraw*.

**Hon. Deputy Speaker:** Let me tell you, Captain. I am now serving my fourth year as the Deputy Speaker. I have never asked a Member to leave. I really do not want to start with you at all because, one, the kind of Petition I am looking at here, Captain, has something to do with a limited company which is Oil Libya. That cannot be a group or some ethnic community. It is not something that we should play politics about, Hon. Obo. Just withdraw, file a substantive Motion, take your evidence to the Committee when they bring these things. It is the only easiest way to do it. I do not want to break my record. Please, you will have to withdraw.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Mhe. Naibu Spika, nakuheshimu sana. Lakini nikiwithdraw itamaanisha si hivyo wanaofanya akina Owen Baya.

**Hon. Deputy Speaker:** It is not about *kama wanafanya ama hawafanyi*. It is about the procedure you are using to raise that matter. It is the procedure. I do not know whether it is happening or not but as far as I am concerned, if you want to discuss any Member here, you have to have a substantive Motion. It is in the Standing Orders. So, you are not withdrawing the fact that one Member or the other has not done this. You are actually withdrawing because you have raised it. In any case, you are actually giving a sweeping statement about a big group of Members. I do not think you want to go that direction. I do not think you want to go in that direction because in this august House, we respect each other. By the way, you have nothing to lose by withdrawing and apologising. You have nothing to lose. You can go and raise those other issues at the Committee level or you raise them differently, but not in the manner you have done. I am sure you will be very uncomfortable proceeding with this matter. I have just told you to simply withdraw. It is a simple thing. You have nothing to lose but we have decorum of this House to keep. We have decorum to keep. You can imagine if somebody, Hon. Obo, discussed you as an individual, and levelled all sorts of accusations. You would want them to substantiate. You would want them to do that. I do not think you want to do to others what you would not expect them to do to you.

As I have said, I have no evidence one or the other. The only thing is that I cannot accept and I cannot allow you to take an opportunity I have given you to discuss something to issue very wild allegations against your colleagues. I do not think I will accept that.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Sawa.

**Hon. Deputy Speaker:** So, you will have to withdraw. You will have to withdraw. I am not saying that you do not have evidence, but if you have concrete evidence, file a Motion. So, withdraw it.

**Hon. (Ms.) Rueida Obo** (Lamu CWR, JP): Hon. Deputy Speaker, I am sorry, I will not withdraw. *Sheria zichukuliwe lakini hii ni* Petition *na* Petition *zingine wanaleta nyingi nyingi hata sio nzuri. Kuna watu wanaoumia kule. Wakati wa* election *ndio wanafanya hivi vituko.*

*(Loud consultations)*

**An Hon. Member:** On a point of order.

**Hon. Deputy Speaker:** Hon. (Dr.) Wamalwa, you will speak on that but I am giving Hon. Obo the last opportunity to withdraw. Hon. Wamalwa, you can proceed as I give her an opportunity to think through. There is no heroism in this House. You cannot be a hero by castigating a community.

Proceed, Hon. (Dr.) Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. Hon. (Capt.) Ruweida has been picking up very well as a first time Member of Parliament. One of the Standing Orders in place requires that when you speak in Kiswahili, you maintain it and when you speak in English, you retain English. She has been speaking in Kiswahili and mixing it with English. That is not acceptable.

Secondly, this is a House of records and decorum. When the Speaker makes a pronouncement, it has to be followed to the letter. Maybe, she is not aware about the repercussions. We are not here to do populist statements. We must respect our colleagues but if you have evidence, you can file a substantive Motion. That is in order with the traditions of this House. She has been my very good student and I am humbly requesting her to withdraw so that we do not get into problems.

Thank you.

**Hon. Deputy Speaker:** Hon. Obo, so that you can be sure that whatever you have said will be of no consequence, I will, first of all, expunge your entire contribution from the *Hansard*. That is the first order that I am giving. It will not be on record in the first place. However, you will have to apologize and withdraw.

At times, some Hon. Members, who may be fairly new might think that what they say here is of use back at home. It is of no use at all. I am asking you to withdraw. You have nothing to lose and nothing to gain even from what you have said. We will expunge it anyway. Just withdraw and apologize. I have given you quite some opportunity to do that. Just do it because we do not want to waste our time given what is on the Floor now. We have other businesses to deal with.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Mhe. Naibu Spika, sijataja jina la Mbunge yeyote hapa ndani. Nashangaa ni kwa nini napewa hizi hukumu.

**Hon. Deputy Speaker:** It would have been better if you had even mentioned names. It would have even been slightly better. Now you have given a blanket accusation of a community or a community of Members here. That is worse unless you do not know what Miji Kenda means. You know that it is a community. I thought you are from the Coast. I think I am engaging you unnecessarily. Just withdraw or I make my decision. I do not think we need to waste time on that.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Mhe. Naibu Spika, nimesema wazi wazi, siyo wote.

**Hon. Deputy Speaker:** It does not matter. You did not say that. What I have just said is that you need to withdraw. I did not know that you are that difficult. You do not look that difficult. Just withdraw. I do not want to take any step. I will be very reluctant to take any step that I want to take. Please, just withdraw.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Mhe. Naibu Spika, niko tayari kuleta ushahidi.

**Hon. Deputy Speaker:** You will prepare the Motion that will create those evidences that you want to bring. You will have an opportunity but in the meantime, just withdraw. You can then bring your evidence substantively. Just withdraw. Just withdraw.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Siwezi.

**Hon. Deputy Speaker:** Just withdraw, Hon. (Capt.) Obo. Just withdraw, Hon. (Capt.) Obo.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Siwezi kwa sababu niliyosema ni ukweli.

**Hon. Deputy Speaker:** Unfortunately, I have to do something that I have never done before. Hon. (Capt.) Obo, just withdraw. The consequences are not very good.

*(Loud consultations)*

*(Hon. Deputy Speaker consulted with the Clerk-at-the-Table)*

Okay. Hon. (Capt.) Obo, are you going to withdraw or are you not going to withdraw?

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Hon. Deputy Speaker, I withdraw.

**Hon. Deputy Speaker:** Thank you very much. Let us have the last Member on this one. Hon. Kalasinga.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD - K): Thank you, Hon. Deputy Speaker. I want to comment on the Petition on United Insurance Company Limited. It is not good to declare a price of an axe on an insurance that holds money for its shareholders. The Kenya Reinsurance Corporation (Kenya Re) first owes this insurance some money. It is very bad to wind up. Maybe, it was for its own interest. I support the Petition.

Thank you.

**Hon. Deputy Speaker:** Thank you. Next Order!

## PAPERS LAID

**Hon. Deputy Speaker:** The Majority Whip, are you the one placing the Papers before the House?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I beg to lay the following Papers on the Table of the House:

Legal Notice No. 206 of 2021 relating to the Dik Dik Gardens wetland conservation area order, 2021.

Legal Notice No. 207 of 2021 relating to the Ngarelen springs catchment conservation area order, 2021.

Legal Notice No. 208 of 2021 relating to the Kikuyu springs aquifer groundwater conservation area management order, 2021.

Legal Notice No. 209 of 2021 relating to the Lake Kenyatta sub-catchment conservation area order, 2021.



Legal Notice No. 210 of 2021 relating to the Amu Sand-Dunes groundwater conservation area order, 2021.

Legal Notice No. 199 of 2021 relating to the Irrigation (General) Regulations, 2021.

Legal Notice No. 217 of 2021 relating to the Adjustment of Rates for inflation.

Reports of the Auditor-General and Financial Statements of NG-CDF in respect of the following Constituencies for the year ended 30<sup>th</sup> June 2019, and the certificates therein:

- (i) Bomachoge Chache.
- (ii) Lugari.
- (iii) Mumias East.
- (iv) Matayos.
- (v) Teso South.
- (vi) Kimilili.
- (vii) Webuye East.
- (viii) Aldai.
- (ix) Sigor.
- (x) Emgwen.
- (xi) Moiben.
- (xii) Kesses.
- (xiii) Turkana East.
- (xiv) Seme.
- (xv) Ainabkoi.
- (xvi) Mosop.
- (xvii) Cherangany.
- (xviii) Malava.
- (xix) Turkana West.
- (xx) Kamukunji.
- (xxi) Lafey.
- (xxii) Kieni.
- (xxiii) Ganze.
- (xxiv) Butula.
- (xxv) Marakwet West.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Next Order!

## QUESTIONS AND STATEMENTS

### ORDINARY QUESTIONS

**Hon. Deputy Speaker:** Under this particular Order, we will start with the Ordinary Questions and leading us of is the Member for Tharaka.

*(Hon. George Gitonga consulted with Hon. (Ms.) Beatrice Nyaga)*

Member for Tharaka, you will get a little confused if you do not keep social distance protocols. You understand what I am talking about.

**Hon. George Gitonga** (Tharaka, JP): Absolutely, Hon. Deputy Speaker.

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**Hon. Deputy Speaker:** Please proceed.

**Hon. George Gitonga** (Tharaka, JP): Sorry, Hon. Deputy Speaker. I was in a great discussion with my County Woman Representative on extremely serious matters pertaining to Tharaka-Nithi County.

*Question No. 446/2021*

MEASURES TO CURB CORRUPTION IN  
POLICE STATIONS IN THE COUNTRY

**Hon. George Gitonga** (Tharaka, DP): Hon. Deputy Speaker, allow me to ask Question No. 446/2021 directed to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary explain the measures that the Ministry has put in place to curb corruption in police stations across the country, and in particular in Gatunga Police Station in Tharaka North Sub-County of Tharaka Nithi County?
- (ii) What mechanism has the Ministry put in place to ensure that investigations are carried out and action taken against individual police officers, administrators and other cadres of security personnel and management who engage in corruption in the country and in particular, in the said police station?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Administration and National Security.

Next is the Member for Kajiado North, the Hon. the Hon. Manje.

*(Hon. Joseph Manje was not in the Chamber)*

I cannot see him. We will go to the Member for Rongo, the Hon. Abuor.

*Question No. 465/2021*

DETAILS ON ELECTRIFICATION OF PUBLIC EDUCATION  
INSTITUTIONS WITHIN RONGO CONSTITUENCY

**Hon. Paul Abuor** (Rongo, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 465/2021 to the Cabinet Secretary for Energy:

- (i) Could the Cabinet Secretary explain the current status of electrification in public education institutions within Rongo Constituency, giving details on the institutions connected to electricity and stating the timelines within which such institutions without electricity will be connected?
- (ii) Could the Cabinet Secretary explain why contractors awarded contracts for electricity supply in Rongo Constituency delayed in starting their respective works or ended up abandoning the works, thereby stalling completion of electrification projects?
- (iii) Could the Cabinet Secretary provide a progress report on the Last Mile Connectivity Programme in Rongo Constituency, indicating the areas covered and

state timelines within which electrification shall be done in areas currently uncovered?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Energy.

So, we will go to the Member for Kiambaa, Hon. John Njuguna ka Wanjiku.

*Question No. 466/2021*

DETAILS ON BETTING AND GAMING TRANSACTIONS

**Hon. John Njuguna** (Kiambaa, UDA): Thank you, Hon. Deputy Speaker. I am asking Question No. 466/2021 to the Cabinet Secretary for the National Treasury and Planning:

- (i) Could the Cabinet Secretary provide details on ownership and value of transactions of all Paybills and Paybill Numbers registered by Safaricom, Airtel and Telkom Kenya used in betting and gaming activities by major vernacular radio stations, and more particularly by Inooro FM, Kameme FM and Gukena FM?
- (ii) Could the Cabinet Secretary further provide details on the financial statements of the Paybill transactions, inclusive of names of beneficiaries, amounts paid and tax revenue generated within the last one year?
- (iii) What action is the Government taking to address alleged cases of money laundering activities being undertaken through betting activities by the broadcast and radio media in Kenya?

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Finance and National Planning.

Next is the Member for Jomvu, Hon. Twalib Bady.

*Question No. 467/2021*

REASONS FOR BLOCKAGE OF MAGANDA ROAD

**Hon. Bady Twalib** (Jomvu, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 467/2021 to the Cabinet Secretary for Lands:

- (i) Could the Cabinet Secretary explain the reasons behind the sudden blockage of Maganda Road, CR.68111, in Jomvu Constituency despite the road having served the public for over 60 years?
- (ii) Under what circumstances has the blockage been undertaken and a wall erected, notwithstanding the fact that the road lies on public land L.R. No. 3851/VI/MN?
- (iii) Within what timelines shall the erected wall be demolished and the road restored to enable the residents obtain critical access to schools, hospitals, government offices and other social services?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Lands.

So, we will go to the next segment of that Order.

Yes, proceed. I am trying to locate you, Hon. Osotsi.

## POINT OF ORDER

### REPETITION OF QUESTIONS

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Deputy Speaker. This is in reference to the Question by the Member for Kiambaa.

I have noticed that this Question was asked recently; this is the third time. The first Question was committed to the Departmental Committee on Communication, Information and Innovation. Then the second Question of similar content was committed to the Departmental Committee on Finance and National Planning. Now, my good friend, the Member for Kiambaa, has brought it. I think you will need to give direction because we must have particular timeframes under which a matter is supposed to be addressed in this House so that we do not confuse the Committees and the responding Government agencies. I sit in the Departmental Committee on Communication, Information and Innovation. I am aware that this matter is before us. Again, the same content is being directed to the Departmental Committee on Lands. We need direction, for consistency and efficiency in addressing Questions in this House.

**Hon. Deputy Speaker:** Actually, you may have raised an extremely important concern. Unfortunately, I do not have full details for now. Probably, the first thing is for us to get to know whether the content of Questions previously raised by other Members are the same as for this one done by the Hon. Member for Kiambaa. If that be the case we will, of course, have to take some administrative measures to make sure that the Questions that are asked must not be the same. They could be similar, but cannot be the same. For example, if you are asking a Question about electricity, you could be doing a Question that is similar to the one done by your colleague Member here but it is specific to your case. So, we will want to see what the issues are. Probably, we want to know the three Questions, have a look at them then make a decision on it.

In terms of what you raised about the timelines, that is another genuine concern. I know some of the Committees have a handful and it is a bit difficult for them to process Questions quickly. For example, I note that the Departmental Committee on Administration and National Security has too much on their plate. Sometimes the Departmental Committee on Education and Research and others also have much to work on. So, we will want to see whether it is a question of the fact that the Committees are being slow on it, or that they have too much work. So we will sort out that in due course.

In the meantime, I had not made a decision on what to do with the Question by Manje. I order that it be deferred and be brought another time.

*(Question No. 449/2021 deferred)*

So, will go to the second segment, which is Requests for Statements.

## REQUESTS FOR STATEMENTS

We have two Statement Requests; first is by the Hon. Wilson Sossion, and second by the Hon. Florence Mutua. I hope each of them will be brief so that we can dispense of this quickly. Is Hon. Sossion in the House?

*(Hon. Wilson Sossion was not in the Chamber)*

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I do not seem to see him. It is interesting because he hardly misses Sessions here. But then, we will defer it.

*(Hon. Wilson Sossion's Request for Statement deferred)*

Let us have the Hon. Florence Mutua. I defer it because I consider it an extremely important issue. It touches on the school unrests in the country. We can do that one in the Afternoon because it is something that is urgent. So, we will have Sossion notified so that he can quickly bring that Request for Statement.

*(Hon. Wilson Sossion walked into the Chamber)*

Fortunately, I see him walking in. Proceed, Hon. Florence Mutua.

#### DETAINMENT OF FISH CONSIGNMENT ON TRANSIT TO THE DRC

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Deputy Speaker.

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives regarding detainment of a consignment of fish on transit by Ugandan authorities on 2<sup>nd</sup> and 3<sup>rd</sup> October, 2021.

The Busia-Kenya Cross-Border Fish Market Management Unit is a fish market infrastructure comprising of more than 2,000 small holder traders who source for fish from Lake Turkana, sell to local markets and export the surplus to the Democratic Republic of Congo (DRC). On the 2<sup>nd</sup> and 3<sup>rd</sup> October, 2021, at the Mpondwe Border Point along the Ugandan-DRC border, four trucks loaded with salt fish valued at Kshs.4 million on transit to the DRC were intercepted and detained by authorities. The consignment was later taken to Entebbe Uganda despite complying with all cross-border trade and customs requirements. Additionally, the consignment – although intercepted by Ugandan authorities – was not meant for the Ugandan market, but for the DRC.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on the following:

- (i) What steps is the Cabinet Secretary for Industrialisation, Trade and Enterprise Development taking to ensure that the Busia-Kenya Cross-Border Fish Market Management Unit consignment is secured and released without delay to avert further losses?
- (ii) Could the Ministry consider compensating the traders for the loss of revenue?
- (iii) Considering that this is not the first incident involving fish detainment, could the Ministry urgently engage with our Ugandan counterparts to avert such incidences in future?

Thank you.

**Hon. Deputy Speaker:** Very well. That request is referred to the relevant Departmental Committee on Trade, Industry and Cooperatives.

Next Order.

*(Hon. Caleb Kositany consulted loudly)*

Order, Hon. Caleb Kositany.

## BILLS

### CONSIDERATION OF REPORT AND THIRD READING

#### THE SUGAR BILL

**Hon. Deputy Speaker:** We will not do that now. We will bring back the Motion in the Afternoon Sitting so that we dispense with it.

*(Consideration of Report and Third Reading deferred)*

Let us go to the next Order.

#### *Second Reading*

#### THE EMPLOYMENT (AMENDMENT) (NO.2) BILL

*(Hon. Gideon Keter on 22.9.2021 – Morning Sitting)*

*(Resumption of Debate interrupted on 29.9.2021– Morning Sitting)*

Hon. Members, on this particular one, we have 35 minutes left. I know a number of Members had spoken to this. Members who want to contribute should press the intervention slot so that I know that you did not contribute before and, therefore, want to speak to it. Which Members want to speak to this? Hon. Wanyonyi, do you want to speak to this? Had you not spoken before?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, I was on the Floor when...

**Hon. Deputy Speaker:** Just a minute so that I confirm. Hon. Ombaka had a balance of nine minutes. Is she in the House? Is she interested in further contributing to this? I do not see her so we will proceed with Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, the Bill talks about employment and clearance certificates for those who have been offered opportunities to work in whatever company it is...

**Hon. Deputy Speaker:** Let me confirm first. Were you the one on the Floor of the House or was it Hon. Ombaka? I see that you have a balance of eight minutes, but on which Bill? Actually, it was you who was on the Floor. You have eight minutes and you have taken one minute already.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): No, Hon. Deputy Speaker. You are being unfair to me, but I will take what you are saying.

The Bill stipulates that an employer must get clearance certificates from whoever he intends to employ. As you know, most of the people you see around have turned into rogues. Some of them smoke bang and other things. Therefore, it is only fair that whoever is offered a job gets clearance even if it means getting it from the area chief or other relevant administrative units. We

can see our youth turning into rogues. If we just let it go like that, we will get youths who will cause problems in a company. Therefore, I want to...

*(Loud consultations)*

Hon. Deputy Speaker, protect me from my colleagues who are making noise.

**Hon. Deputy Speaker:** Well, the protection is granted, but you are aware that Members do not make noise. Sometimes they consult in higher decibels. I am sure you have been here long enough to know that. I will protect you from your neighbours.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, I agree that employers must get clearance certificates. Clearance certificates should be affordable. Sometimes getting a clearance certificate is expensive. You can be taken from one place to another. For example, somebody may be all the way in Trans Nzoia and is told to come to Nairobi, but cannot get clearance as is required. It takes so much to get a clearance certificate. I suggest that as we pass this Bill, we make it mandatory that it should take a short period of time for someone to get a clearance certificate so that we deter unemployment and get economic activities running. If people are unemployed, some of them will become crooks and turn to stealing and robbery with violence because they have to live.

With those few remarks, I support the Bill.

**Hon. Deputy Speaker:** Let us have Hon. Yusuf Haji.

**Hon. Yussuf Adan** (Mandera West, EFP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I stand to oppose this Bill. Asking for clearance certificates from people who have never been employed before and have just got a job will further increase corruption channels. How do you expect somebody who has left university, has been tarmacking for many years and has never been employed to get all those papers when an opportunity arises? Those papers cost money and that creates avenues for corruption. As we know, corruption in employment cycles has increased. Bringing in other stringent measures such as asking for clearance certificates will open doors for corruption.

Therefore, I do not support this Bill that asks new employees or people who have just been given opportunities to get clearance certificates.

**Hon. Deputy Speaker:** Let us have Hon. (Dr.) Gogo, Member for Rangwe.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you so much, Hon. Deputy Speaker, for giving me this chance. I rise to support this Bill. Not to belabour what my colleagues have said, it is important for us to have this Bill passed. It is very good. When it comes to seeking clearance from relevant authorities, we want to know the history of the kind of people that we are getting into the job market. Clearance also has an element of integrity in it. We are also interested in the competencies, exposure and experience of the persons we intend to employ. So I support that when employers get into contract with intended employees, they should get clearance from various authorities.

Another thing that I would add my voice to is the question of affordability. Accessing the certificates should also be within the reach of those seeking them. The challenge at times is that our people, especially the young, have to walk up and down seeking clearance from various authorities. They are told to go and come back later yet at times they do not even have transport to move up and down. If the service would be available at the sub-county level, that would help in mitigating the suffering that the jobless or those who intend to move from one job to another go through. We should also make it as workable as possible by reducing the clearance time. We should

have systems that are efficient enough to process the clearances fast enough to take away anxiety from those seeking employment.

Upon granting employment, it is also necessary that employers do background checks. People are normally put on probation. So, it is still important that employers do background checks on employees. In the house labour market, at times we employ people who turn out to be adversaries. Some background check would help in mitigating the many evils that we see happening in our houses. There have also been situations where those employed in the technology sector end up using their knowledge to steal from their employers, especially in the banking sector. We should have a method of doing continuous improvement in the job market through background checks. That way we will have a workforce that is sustainable and that develops itself and that delivers as is required so that our country can move forward.

With those remarks, Hon. Deputy Speaker, I support. Thank you.

**Hon. Deputy Speaker:** Hon. Milemba Omboko.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. I was just consulting with the sponsor of the Bill. I had also had a lot of discussions with him before the Bill came to the House. I support the Bill. The issue of checks should not be a hindrance to young people who want to get employed. Even before you decide whether you are taking somebody on board, you are profiling him either as a criminal or as someone who is unable to do one or two things. The young people do not have the finances required to process most of the requirements that are a prelude to employment. When you go through all those checks, they total to a high sum of money that even a person who want to get employed does not have. How many times do we see many young people get to a point where they cannot even apply for jobs? We should make it easier for them. Those who will not support this Bill will say that we risk having criminals and all sorts of descriptions as new people being employed. But it should be an easy process so that it does not interfere with one's right to get employed after all. It should not hinder anybody from getting employed. The certificates should be free and they should be available locally, either at the county or sub-county level. People can even be employed and background checks done afterwards. The employer has a right to do that.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. Jessica Mbalu) took the Chair]*

As we discuss this, we must look at where we are headed to. Given the curriculum in schools and colleges, the types of jobs will not necessarily be formal as it was in 1963, when we got Independence. Education continuously ceases being the car that will give one a white collar job. Employment will be diverse, given the Competency Based Curriculum (CBC). Somebody will train to become a gardener, while another person will get his employment away from formal employment. The sponsor of this Bill, Hon. Gideon, could also listen to this. We must not structure it to cover all forms of employment. In fact, formal employment is ending. If you count the number of people in formal employment *vis-à-vis* those in informal employment, the latter takes the lead. So we are headed to more self-employment. I therefore think that we should classify the types of jobs that require this assessment. Otherwise, if we make a general law affecting all employment, then we shall possibly be blocking certain areas that do not require this type of law after all.

Thank you, Hon. Temporary Deputy Speaker, for this chance.



**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): The Member for North Imenti, Hon. Dawood Rahim, you are on intervention. What is it about? I know that you have spoken to this Bill.

**Hon. Rahim Dawood** (North Imenti, JP): Hon. Temporary Deputy Speaker, it is not a point of intervention. The previous Speaker had asked us to request for opportunity to contribute by pressing intervention. That is why I did that.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Have you spoken to the Bill?

**Hon. Rahim Dawood** (North Imenti, JP): No. I asked the Clerks-at-the-Table, and they told me that I have not.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Order. Please allow me to confirm. We have a record of those who have contributed. The Clerk confirms that from the record, you have spoken to the Employment (Amendment) (No. 2) Bill (National Assembly Bill No. 79 of 2019).

Let us have the Member for Matayos, Hon. Odanga.

**Hon. Geoffrey Odanga** (Matayos, ODM): Thank you, Hon. Temporary Deputy Speaker. I support this Bill.

At the outset, clearances and checks are critical and important for employment. You cannot just employ people who may not have been of good behavior and respect. For instance, today we are seeing what is happening in schools. The students who are burning school facilities should not be allowed to get employment, unless there is proof that they have been rehabilitated. Therefore, clearances are quite important. The only problem is that they should not be obtained at a very high fee. If there is any fee, it must be minimal or none at all so that access to employment is done freely for our children.

It could also be important to categorise the kind of jobs that will require certain clearances, and the others that may not need them at all. They should also be brought to the local level, like at the county governments and sub county governments, so that they could be easily done. Unlike today, things like certificate of good conduct have to take long because it is centrally done. In the modern time, we are trying to bring everything to the devolved levels.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me now have the Member for Endebess, Hon. Pukose Robert, on the Floor.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this Bill by Hon. Gideon Keter.

Having listened to the Speakers, I realise that we might not be on the same page. Hon. Keter has removed the requirements for anybody seeking employment; that you do not need to seek DCI, EACC and all those nonsense clearances. Before people get employment, they are sent to go and get HELB certificates and all those things. It is something that has made it difficult for those seeking for jobs. Hon. Keter has made easier in that once you have been offered employment, that is now the stage at which you can be able to do your background checks. However, many people have been doing all that when seeking for employment, but where does that money go, for example, in the case of HELB? Does it go back to HELB? For the one that goes to DCI, does it add value?

Kenyans have gone through a lot of suffering. Anybody seeking employment must get a DCI clearance, and after you have done all that, you still do not get the job. What Hon. Keter is doing is that those who have gotten offer for the job, your employer can now do the background checks on you to establish whether you have any criminal problem; if you owe HELB and if they

can give your name to HELB so that you can start being deducted; if you owe *Fuliza* money and whatever, so that some money can be deducted. I think this is progressive.

We need to also look for a way of making Kenyans get their national IDs in a very simple way. Currently, many youths have not been able to register as voters because the processing of their national IDs is so tedious and complicated. When you go there, somebody asks you for your totem. The younger generation do not even know which clan they belong to – their animal totems and those kind of things – even the one asking you does not know his or her totem and do not even know which clan he belongs to. Why subject Kenyans to those difficult things? It is a high time we improve technology. People should be able to access and get IDs in a very simple way, where you are able to log in to a computer, process your ID cards and even birth certificates in a simpler way so that many Kenyans can access the necessary services. When somebody reaches 18 years and has completed school, you can now start the process of getting an ID. The process of getting an ID takes almost one to three years in some places. In Endebess, there are people who applied for their IDs in 2019 and up to today, they have not been issued. You can imagine the challenges they are going through in terms of looking for employment and accessing HELB, if they are university students.

Hon. Keter's Bill is progressive and needs to be supported by the House; that should be able to make it simpler for many Kenyans, especially the youth, to access employment.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Tharaka, Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you very much, Hon. Temporary Deputy Speaker.

I rise to support the proposed amendment. I have carefully gone through the draft Bill. Hon. Gideon Keter is seeking to streamline the requirements when it comes to the process of getting employment. Notably, the job seekers are young persons who possibly do not have income, as most of them maybe from low backgrounds where income is a problem. The net effect is that as they go to do the interviews, they are required to carry multitudes of clearance certificates for which huge payments have been made to the Government so that they could obtain the said certificates.

The problem we have in the country is multitudes of taxation. Everybody, including one who is not employed, is paying taxes. The monies we pay towards clearance certificates are forms of taxation so that the Government can raise revenue. I think this is the wrong way of raising revenue and, in my view, the process that have been proposed here is what is acceptable to the country for the good of the people.

One, those who go for interviews need not carry any clearance certificate where payment is required. It means you simply carry documents that you got from inception, including school leaving certificates, birth certificates and other simple documents as such. However, because of track record especially as societies change, when an employer intends to offer a contract of employment to an employee, it now becomes important to conduct background checks. This is also where those certificates that require payment are now to be produced; and because employment is being offered and there are many ways of obtaining these, including advancing the money to the intended employees, the employees can then produce the certificates to show that they have good conduct, that they have not been corrupt, they have not failed to pay their loans or failed to comply with any other statutory requirement. That is what would be a good law.

I, therefore, support the proposed amendment.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You, therefore, support the proposed amendment.

Hon. Members, the debate on The Employment (Amendment)(No.2) Bill (National Assembly) Bill (No. 79 of 2019) had a balance of 35 minutes. The time for the Mover to reply is supposed to be at 11.00 a.m. Hon. Members, the time being 11.00 a.m., and having completed our 35 minutes of debate on the same, I, therefore, call upon the Mover to reply.

**Hon. Gideon Keter** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to reply and thank Members for supporting the Employment (Amendment) Bill, 2019 and for having the best interest of the youth at heart.

As Members may recall, before the introduction of this Amendment Bill, job seekers were tasked with the responsibility of running criminal background checks on themselves so as to secure a mere job interview. However, a cure has now come through this Amendment Bill whereby an employer shall no longer perceive you as a criminal before you apply for a job. The solution to all these bottlenecks is that an employer will no longer ask you to produce clearance documents from Kenya Revenue Authority (KRA), Director of Criminal Investigation (DCI), Higher Education Loans Board (HELB), Credit Reference Bureau (CRB) and Ethics and Anti-Corruption Commission (EACC) until or unless an offer of employment is in the offing.

I have noted that Members have shown great interest in this Bill. As it moves to the next stage, be rest assured that your suggestions and recommendations will be given utmost consideration. Allow me to add a few remarks before I conclude. Job seeking should not be an adventure where you must prove that you are not a criminal or have not engaged in any crime in the past. This country is not graduating criminals from universities and colleges every year. These young men and women are more than ready to offer their skills and knowledge for the advancement of this nation's greatness.

Public funded institutions should never be cash cows. From research done by the Parliamentary Budget Office, these institutions have been collecting over Kshs750 million every year from job seekers. This is a clear indication that for many years, they have been taking advantage of job seekers, mostly graduates but no single cent has been sent directly to youth empowerment programmes. Sadly, for example, there is nothing to show that these monies have been sent to HELB to boost its kitty.

Hon. Temporary Deputy Speaker, we should pick some of the best practices from other countries that have relieved their graduates from this financial burden. For example, in the United Kingdom (UK), it is only when you become successful in an interview and you are offered a job that your employer is required to carry out a series of employment checks depending on the type of job you will be undertaking. In the United States of America (USA), states like Iowa, Kansas, Kentucky, Louisiana, Massachusetts, and Vermont have enacted laws that expressly prohibit employers from requiring applicants to pay for their own background checks. In Iowa, for example, the law makes employers responsible for paying for criminal history checks by running through the Division of Criminal Investigation (DCI). In Louisiana, employers are required to cover expenses for criminal background checks, other searches and checks made on applicants or existing employees.

Hon. Members, in conclusion, let us, first, give the graduates jobs then we ask for these documents. Let them earn money first to afford paying for these documents, if they must. The young men and women should not be punished for looking for jobs. Job seeking is ever a daunting task in this country. Let us not make it unbearable by adding an extra financial burden for people who are already penniless. Let these institutions do background checks if they want to but that

should never be tied to job seeking. No one should be denied a job because someone suspects them of being criminals. If KRA or HELB have a problem with an individual, they should go after them independently without interfering with employment prospects.

With those remarks, I reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You reply, thank you. Hon. Members, the Bill has been moved, debated and eventually debate has been replied to. However, the House is not properly constituted for us to put the Question. I, therefore, order that the Question on the Employment (Amendment) Bill (National Assembly Bill No.79 of 2019) be deferred.

Next Order!

*(Putting of the Question deferred)*

*Second Reading*

THE PENSIONS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Didmus Barasa moving the Second Reading.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Pensions (Amendment) Bill (National Assembly Bill No.26 of 2020) be read a Second Time.

Hon. Temporary Deputy Speaker, the main objective of this Bill is to ensure that retirees get their pensions in time and failure by the pension schemes to remit their funds in time constitutes a criminal offence. Pensioners should get their pensions within a period of not less than 90 days so that they can carry on with their businesses. Thousands of Kenyans have suffered in the hands of pensions schemes. They have travelled every day to pension schemes' offices seeking to be paid their pensions but to no avail. These delays have resulted in mushrooming of cartels operating within the corridors of pension scheme offices fleecing pensioners of the little savings they have put in retirement schemes. When someone contributes some money into a pension scheme, the contribution is his or her savings. Denying that person an opportunity to get that money is not only criminal but is also inhuman. This Bill seeks to cure that problem and ensure that there are no more delays.

We have certain professionals who are not allowed to engage in private business when they are actively employed, especially by Government. Their hope is that after retirement they will become consultants and run their private entities, of course, majorly funded by their pension lump sum. Withholding such payments is denying many Kenyans opportunity to be employed. Once you allow someone to set up a private business, he should be able to employ one or two Kenyans to assist him in running such business.

Therefore, this Bill seeks to ensure that Kenyans who want to establish and run business empires after retirement and offer employment opportunities to thousands of Kenyans will have the opportunity to do so. This is because they will be able to access their lump sum pension payment when they are still energetic. We all know that 90 per cent of pensioners have chased their lump sum payment without success. Some have even died before they were paid their money. Some have plunged into depression because they could not get their money. This Bill seeks to remedy the problem of delays so far experienced by pensioners as they pursue their pension.

This Bill seeks to ensure that pension schemes engage in meticulous planning so that a year before individuals retire, pension schemes begin to put their houses in order to ensure that monies for pension lump sums and monthly payments are available. This is because they will be fully aware that any delays occasioned by them will not only be criminal but punishable. Moreover, the Bill seeks to make it very clear that pension scheme trustees should begin to look for pensioners' money to ensure that it is available to the owners upon retirement.

Hon. Temporary Deputy Speaker, there is a reason as to why the Pensions Act was enacted. There is also a reason as to why Kenyan men and women felt that when people are actively employed, they need to save some money somewhere so as to access it upon retirement and use it to ensure that life continues even after retirement. The objectives are not being achieved because of the delays occasioned by pension schemes in releasing the money to its rightful owners. Therefore, this Bill seeks to ensure that the objective for which the Pensions Act was enacted is achieved. It seeks to ensure that the objective that the men and women of this country had in mind while setting up pension schemes – to ensure that employees save some money and access it upon retirement – is achieved.

Once this Bill is approved by this House and enacted into law, the cartels that comprise of people who operate within corridors of pension scheme offices to fleece retirees of their pension savings will have no business but to go home because pensioners will be getting their lump sum payments within 90 days after retirement. There will be no further delays. A pensioner will not sell his property to bribe a particular officer operating within the corridors of a pension scheme office for them to access their pension. This Bill will also ensure that jobs are created. As pensioners get their money, engineers will operate their own firms as doctors open clinics and consultancies, *etcetera*, thus creating more jobs. Currently, such professionals are unable to do so because some are bedridden, having been thrown into depression. Majority of them have grown older. Some have died before actualising their dream business – something they had planned to do upon retirement. This Bill will ensure that the purpose for which pension schemes were established is met so that people can continue transiting from employment life into private business life.

As Members are aware, majority of Kenyans suffering from various diseases use medical insurance covers provided by the organisations they work for but upon retirement, they never enjoy such privileges. They are required to use their pensions to procure medication. Once the insurance scheme benefit is terminated, you no longer enjoy that privilege. As you go home, you are left in God's hands. People say that a doctor treats and God heals. However, for a doctor to treat you, you must pay them. If pension schemes delay to release retirees' pension lump sum and monthly payments, these people lose their lives soon after retirement due to medical complications. This Bill seeks to ensure that the purpose of pension schemes continue to be met promptly.

Once this Bill is approved by this House, Kenyan retirees will start to sing the National Anthem with a new meaning. The National Anthem is a prayer but Kenyans who have retired no longer enjoy the benefits contained in that song because of delays occasioned by pension scheme trustees in releasing lump sum pension. I ask the Members of this House to approve this Bill. There is none of us in this House who has never come across a suffering Kenyan who is chasing after his or her pension to no avail. The reason why this House exists is to make life easy for Kenyans. Part of our role entails mitigating some of the grey areas in our laws such as having Kenyans access their pension within 90 days after retirement. There is nothing that is hard. There is no magic that will be applied by pension scheme trustees to ensure that they get this money. It is just a matter of proper planning. They need to know how many of their members are retiring within a given year

so that they can make a budgetary allocation to offload the deficit where pension money has been used to buy shares or make investment in some real estate ventures.

If need be, a pension scheme should sell off such properties to ensure that pensioners' money is available within 90 days. This law has been in existence but because it has not been punitive in dealing with delays in payments, officers of pension schemes have been tendering this crucial service to Kenyans with laxity. The approval of this Bill will make pension scheme officers more proactive in terms of ensuring that funds are available and paid to pensioners within 90 days of one's retirement. Failure to do so will amount to committing a criminal offence and responsible officers will be liable to prosecution. Even as I move Seconding Reading, Members have an opportunity to improve and enrich the Bill through amendments.

I will be happy to tap into the wisdom of the Members of this House during the Committee of the whole House, in terms of proposed amendments, to ensure that no Kenyan continues to suffer in the hands of pension schemes. No retired Kenyan workers should lead difficult lives because they cannot access their pension. All Kenyans who have plans of using their lump sum and monthly pension payments to set up private businesses will have opportunity to do so without any further delay.

With those very many remarks, I beg to move and ask Hon. David ole Sankok to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Sankok for seconding.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to second this important Bill. I am sure all the Members of this House will support this Bill because its time has come. In our respective constituencies, we are being disturbed by pensioners who are using so much money to follow up their pension payments. It is only the *Tanga Tanga* wing of Parliament that is usually very active in this House when it comes to Bills that target the lives of the common *mwanaanchi*, especially the hustlers.

**Hon. Martin Owino** (Ndhiwa, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Sankok. Please, resume your seat. There is a point of order from Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I really respect Hon. Sankok. This Bill is very important. Is he in order to bring *Tanga Tanga* business into this House? Can he stop?

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. I confirm that we have no wing by the name of *Tanga Tanga* in this House. We are all MPs. Please, let us be relevant to the business before the House and avoid street definitions.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, before I was rudely interrupted, I was going to remind Members that we have just completed debate on a very important Bill brought to the House by Hon. Gideon Keter – the Bill which seeks to protect jobless youths from using so much money on Certificates of Good Conduct. We have heard that almost Kshs750 million is used by our youths annually to prove that they are not criminals. Our universities produce graduate engineers and doctors, among others professionals; not criminals. Hon. Keter is also from the same political persuasion with Hon. Didimus Barasa. I also had the National Hospital Insurance Fund (NHIF) Bill, providing for provision of assisted devices for persons with disability. All those are vulnerable members of our society we have nicknamed “hustlers.”

I congratulate Hon. Didmus Barasa because he has come up with a Bill that will save lives. I know the House will support it because it is not from the blues that Hon. Didmus Barasa has come up with a legislative proposal to support the older members of our society, namely; pensioners. Last week I was in his constituency with a contingent of people from Narok. We had visited him because he has eradicated the traditional grass-thatched huts in his constituency and built 5,246 modern houses for any youth who were living in grass-thatched houses called *thingira*. Traditionally, it is where men used to live after circumcision. People who want to get married must move into modern houses so that once they get married, they do not find themselves in houses whose roofs will be leaking. We were there. He is actually fighting for the rights...

**Hon. Godfrey Osotsi** (Nominated, ANC): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): We have a point of order from Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Temporary Deputy Speaker, I have a lot of respect for my colleague, Hon. Sankok. He is one of the good debaters in this House. However, our Standing Orders are very clear on the rule of relevance, especially when a Member is seconding debate on a Bill moved by another Member. You need to be relevant. You need to stick to the facts around that Bill and stop discussing issues which have no direct correlation with what is being discussed.

Is Hon. Sankok in order to digress to issues that have no relevance to the Bill before the House?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, you are reminded about relevance. However, Hon. Osotsi, the Member was trying to congratulate the Mover of the Bill. Let us be limited and stand guided.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I respect Hon. Osotsi so much, but he should also be aware that I was only congratulating Hon. Didmus Barasa. He has done a lot and you know we have to appreciate Members. I know that when he came to this House, there were 42 schools in his constituency – which had mud-walled classrooms. He has since built 19 storey buildings in primary schools. We have to congratulate one of our own when he has done well.

Moving to the Bill, I am aware that many retirees die while chasing their pension. We are in a digital world. In fact, when the Jubilee Government was elected in 2013, it was on the promise that it was digital and not analogue. All of us and many other employees in this country are paid digitally through our bank accounts. I retire and it is digitally known that I have retired from service. My age has always been known and I was receiving my salary without chasing it. The concerned officials know my bank account. Why is my pension not deposited into my bank account within 90 days of my retirement? The pension schemes are very efficient when it comes to chasing members to pay for their pension. They collect our money monthly without delay. However, when it comes to paying pensioners, it becomes a game of chase.

As I second this Bill, I want to be categorical that pensioners are entitled to their money. Pension money is not charity. It is an entitlement. You have contributed to the scheme during your working days and so it is your own money that should be promptly paid back to you. In pension schemes, we have cartels which must be bribed for personal files to be located. Some of them will even ensure that the pensioners have signed all the documents but purport that the files are lost and then along the way, because pensioners retire mostly when they are aging with lifestyle diseases, and our life expectancy being very low at around 54, some of them die before collecting their

money but they have already given all the signatures required. These cartels end up picking this money and praying for their deaths. Cartel members within pension schemes use retirees' money to party and enjoy themselves at the expense of those who die while chasing it. It is like dancing at the graveyard of pensioners who have passed away. When it comes to next of kin, it becomes even more problematic to follow up this money.

This is a very important Bill. I am sure that all the Members of this House have at one time, or on a daily basis, interacted with pensioners who are crying that they have to travel to Nairobi in pursuit of the benefits. You can imagine a pensioner travelling all the way from Turkana County. How much money, in terms of expenses, will they spend? They have to stay in Nairobi for three days or even a week. In order to raise transport money, they have to sell their bulls or pieces of land to chase after pension that will come when they are dead. Some pensioners have gone into depression. Some of them have developed lifestyle diseases like hypertension and diabetes because of the stress of being mishandled in pension offices. We need to digitise the pension payment system. Since workers contribute to pension schemes through banks, pension should be paid to retirees through banks without them having to chase it. This is because workers do not chase banks when they contribute to pension schemes or get paid their salaries. Pensioners should be paid digitally through their banks. They should not go through the hassle of travelling all the way to Nairobi to follow up their pension money.

Hon. Temporary Deputy Speaker, I congratulate Hon. Didmus Barasa for bringing this important Bill to the House. Hon. Wekesa, you are a good man. Thank you very much.

With those remarks, I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The first one to contribute to this debate will be Hon. Martin Owino, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

I thank Hon. Didmus. We may not agree on some issue but this particular one has come at the right time. When somebody is due for pension, it means he has ceased to work. Everybody who is working contributes some money to a pension scheme. That transition is very frustrating when you have your money somewhere and somebody needs more money in order to process it. So, I see this as a very straightforward Bill. I am not sure whether we can also consider coming up with amendment to ensure that one's pension rights are not withheld without any ransom. Any executors who are going to hold people's money should pay that interest.

The reason as to why I also support the crime aspect of it is that it is not only the pensioner who is being punished. When money is withheld, there are so many people behind that money. Sometimes a widow or orphans depend on that money. So, when the salary ceases, the pension should kick in right away to help where it should.

Hon. Temporary Deputy Speaker, Hon. Didmus talked about insurance. In life there are four stages or quarters, if you like. In the first quarter of 25 years, you are very healthy. By God's grace, you are okay and pursuing your education. The second quarter is where you organise your family. The third quarter is where you can enjoy but at the same time that is when all the diseases and disabilities come in. You need to have insurance to access effective health care. So, when somebody withholds your pension money, he actually withholds your life as well. Therefore, he denies the dependants their livelihood.



Since this is a very straightforward Bill, I do not want to belabour the point. There are some pension scheme administration designs which exist to encourage cartels. If this Bill is passed and enacted into law, we should follow it up through to its implementation. How do people access their pension? Do they have to pay those corridor agents to follow up for them or can we have the process digitalised for retirees to automatically receive their pension through their bank accounts? That aspect is missing in all our operations. The Government should move with speed to ensure that this is done.

With those few remarks, I support and thank Hon. Didmus.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Emurua Dikirr.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this Amendment Bill, knowing very well that it is a Bill that touches on pensions and issues that affect the elderly.

We know the people who are retiring are no longer youthful. They are elders who are retiring to go and take care of their homes, property and children. I support this particular Amendment Bill mainly because these are people who are not asking for anything from the Government. They are not beggars. They are not asking the Government to give them what they do not deserve. They are people who shed sweat for this particular money. Pension schemes exist globally to cater for people retiring from active service. Even international law caters for pension schemes. It is known worldwide that workers cannot, on their own, save enough money to cater for their needs while in retirement because of the many issues that we have to deal with in our day-to-day routines. Therefore, pension schemes were introduced to ensure that while you are working, certain amounts of money are deducted from your salary and saved for you in a pension scheme. That is why pension schemes have been recommended internationally.

As a retirement scheme created to ensure the future comfort for those who are working hard today, it is prudent that when these people retire; their money is released with immediate effect. Nobody should be taken round in circles as one seeks his pension. I hope during the Committee of the whole House we can introduce amendments to ensure that as people proceed on retirement, their pension funds are released immediately. They do not have to fill forms requesting to be paid. They should be able to access their pension even through their mobile phones. A person who is due for retirement should fill those forms shortly before leaving office to enable pension scheme administrators to process one's pension so that the money can be released as soon as possible. Once one goes to an automated teller machine, or if they access their bank accounts through their phones, they should be able to withdraw their money instantly. It is not a favour to pay them their pension. I wish to state that I am supporting this particular amendment because of that.

Pension should be merged with a medical cover. You may get your pension after retirement but your medical cover is not assured. Sometimes pension comes when you have so many needs. You may be having children in universities, among other commitments. There should be a way of ensuring that while your employer deducts your pension money, they also deduct an amount for your medical cover during retirement so that you continue to enjoy the benefit of medical cover just like when you were in employment. We have seen so many people who have retired facing myriads of problems. They are admitted in hospitals and hospitals demand big sums of money as deposit before they admit you. Nowadays when you go to hospital, unless you deposit about Kshs100, 000, you will not be attended to even if you are dying. This is true for all medical facilities, be they public or private.

A retiree should not find it hard to access medical attention. These are people who have worked so hard in this nation. The money that was used to build public hospitals and all the other things that we see today was realised through their effort while in public service. They are people who have worked so hard in Government to ensure that these facilities were properly put in place. So, when they are sick, it is not right for them not to access medication in hospitals because they do not have money. Therefore, we should merge pension schemes with medical insurance. I am requesting the Member for Kimilili to ensure that during the Committee of the whole House, he introduces amendments to merge pension schemes with medical insurance schemes for retirees so that employers can deduct monies for both schemes.

Hon. Temporary Deputy Speaker, payment of pensions, like the Mover has proposed, should be immediate. This is not money we are asking the Government to look for. These are monies which are deducted from employees' salaries. The money is in the pension account. It should not be something that will take ages to recover. It is just like insurance money when you insure your motor vehicle or even your life. When you have bought a medical cover, if you fall sick and you go to hospital, you are attended to instantly. You get treated immediately because the money is there. When a motor vehicle is involved in an accident, the time taken to repair it or even have it replaced is usually between one month and three months. Why is it so easy to recover money from an insurance company in respect of a motor vehicle that gets involved in accident, or to have the motor vehicle repaired, and so difficult for someone who has worked so hard for his pension to access it upon retiring? We should strive to make pension schemes as efficient as insurance schemes, which honour their obligations almost instantly.

I would also like to talk about the issue of cash transfers to elderly people. This was a very good scheme that emanated from the people who initiated it. The idea of cash transfers should be part of our laws because even the elderly who have not been working with the Government deserve to have at least something to assist them as they age. They should be able to meet their medical requirements. The main problem that elderly people face is inability to access medical care. Sometimes it is difficult for them to be treated in hospital because they have no money. If the elderly are assured of accessing the medical covers through these small cash transfers, then it will assist them in meeting their medical issues. I support this particular amendment.

Apart from those who are retiring, there are also those who get sacked in the process of their duties. When somebody gets sacked, it should not be hard for them to get their pension because it is their money. It should not look like they are being criminalised for being sacked. The reason for their sacking should have nothing to do with pension. Therefore, when somebody gets sacked, they should be able to access their money within the same 90 days without necessarily looking at those other issues.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for Navakholo, Hon. Wangwe Emmanuel. You have the Floor.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, allow me to thank my very good friend, Hon. Didmus, for thinking about the elderly. Although he is young, he has thought wisely that the future cannot be avoided. We are young today but with time, we will be aging. Hon. Didmus, you have really thought wisely for all of us because we are definitely heading there with time.

At the outset, I support this Bill. It is a good Bill. It is timely and we should all embrace it. I had a discussion with the Member for Emurua Dikirr and we noted two issues. At times some pensioners, by bad luck, reach a certain age and they are expelled from duty. We need to look into

that issue. What happens if in two years to the time of getting pension, a person is retired from employment? Why should that person suffer? We should look at it. When it comes to the Committee of the whole House, we can have an amendment. I am sure Hon. Ngeno is good in that aspect and I will be sharing this with him.

Hon. Temporary Deputy Speaker, we should also look at this: Some people are very young in this Parliament. They came at the age of 28 years but the mother Act says that you can only access pension at the age of 45 years. What are we trying to imply? We should look at it when that time comes but I want appreciate Hon. Didmus.

This amendment Bill has come with very many goodies. First, the pensioners who have retired from the service will now be able to get their pension within 90 days. This is a good thing. Why are we telling people whom we have been paying that we do not have their files? Which files are we looking for? Why have we been paying them? We must push the pension scheme or the National Treasury to pay these people on time and the 90 days being proposed is good enough. As Africans, we would want to make laws that enable us to move from one level to another. It is clear that this person has retired, he is due to be paid and he has been contributing to this scheme. Hon. Didmus, it is now clear that petitioners should be paid within 90 days.

Hon. Temporary Deputy Speaker, this Bill will now awaken the pension schemes. They are on a slumber bed. They will now be able to wake up and walk the automated way. They must embrace Information Technology (IT). An automated pension scheme will now link up the National Treasury Pension Department with pension departments of other Government entities in order to increase efficiency in pension processing. Today, we are in the technology driven world and we can no longer afford to work with the black books and the black recording books. Once this Bill is enacted, the pressure of paying pensioners within 90 days will automatically make these pension schemes to embrace IT.

Another advantage I am reading in this Bill is that the National Treasury shall have to review the number of documentations needed for the processing of pension with a view of making the process easier. It is now not important to start looking at what happened when. When you were receiving this pensioner's money, why did you not ask for information? It is important that the National Treasury comes up with a leaner way of reviewing what a pensioner needs in terms of the documentation process.

Hon. Temporary Deputy Speaker, another advantage which emanates from this Bill is that the National Treasury shall now build the capacity of pension departments in public entities in order to enhance efficiency in processing pension for their employees.

Hon. Temporary Deputy Speaker, we have just passed Hon. Gideon Keter's Bill which looks at enabling our young graduates to be employed. It is important that the National Treasury now builds capacity, both human and technological. Once this Bill is enacted, the human capacity will be needed to enhance and move faster in terms of paying pension to the pensioners. This Bill is good and it is timely. I, therefore, support.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Godfrey Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker, for this very important opportunity to also contribute to this Pensions (Amendment) Bill by Hon. Didmus Barasa.

I want to start by thanking Hon. Didmus for having this very important thought because pensioners are suffering in this country. As you know, the purpose of pension is to sustain a person who has retired and to maintain their standards of living after employment. However, in this

country, as you are aware, pensioners go through a lot. It has been pointed out by some Members that pensioners are suffering from depression and mental health because of delays in payment of their pension.

Hon. Temporary Deputy Speaker, I have listened to many Questions from Members in this House raising the issues of delayed pension for their constituents. I have encountered many cases of old people who retired and have not been paid pension for many years, even in my own county. Some of them are not even able to pay for their drugs and some live in abject poverty. These people served this Government and various organisations diligently but after employment, they are not able to take care of themselves because their pension has not been paid. This Bill is very productive and it will ensure that within 90 days, pensioners are paid their pension in full. I fully support this Bill.

I have noticed this: In Government, since the introduction of performance measurement, many of the Government Departments and Ministries have come up with mission and vision statements that look very attractive but do not correlate with what they do at work. If you visit the website of the Pensions Department in the National Treasury, their mission statement states very clearly that it is “to ensure timely, efficient and effective payment of pension”. But that is not what they do. The performance measurement processes within Government must be reviewed so that whatever they promise to do members of the public, which is in their service charter, must be implemented as promised.

This Bill, as pointed out by the Mover, is going to ensure effective planning of pensions. I agree with that because pensions’ schemes will have to plan to make sure that within 90 days upon retirement or upon one reaching pension payment time, pension will be paid. The second thing this Bill will do is to make it very attractive for people to retire. We see people reaching retirement age but still want to be retained. They look for extension of their contracts while others compete with young people in employment. But if we make it attractive for people to retire, it means we will create space for young unemployed people to be employed. This is very productive.

This Bill is also going to make sure that statutory payments of pensions are made. That is another problem. Employers deduct money but do not remit it to pension schemes. We will ensure we have discipline around pension schemes. We have many cases of retirees and pensioners who have not been paid their money. We remember the case of Teleposta Pensioners. People were retrenched but up to date they have not been paid their pension. What the pension schemes do is to use courts to frustrate pensioners. They go to court and block the whole process and create more misery for pensioners. We have the Kenya Railways Pensioners and even government pensioners who have not been paid to date. This Bill will help with dealing with that matter.

As we look at the Bill, we also need to look at other legislations that will support what Hon. Didmus Barasa has brought. It is high time we looked at amendments to the Public Finance Management Act so that the first charge should be debts and pension so that people are paid their pension before anything else is paid. What is happening in the Government is that they prioritise payment of debts and we know we have a debt problem. That means that issues like pension will be given a back burner but this Bill will ensure that, that is done.

We are aware that in this Parliament in the current financial year, we appropriated money to the National Treasury to purchase the pension management system. We hope that if the system is purchased and implemented we are not going to have cases of files being stolen or a file being lost and pensioners will get their money in time. So, this Bill will put pension schemes and Government on their toes and ensure that our old people, men and women in the villages live decent lives because they will get their pension on time.

We also have to interrogate the role of stakeholders in the pension industry. For example, the Controller of Budget has a role in the whole process of payment of pension. We have to interrogate the role of the Retirement Benefits Authority. As our people suffer, what do these institutions do so that our people do not continue suffering? We did not have to wait for Hon. Didmus Barasa to bring an amendment for us to know that we need to take payment of pension seriously. This is a clear signal to the institutions which are involved in pension management and pension regulations to do their work especially the Retirement Benefits Authority and the Controller of Budget when it comes to public sector pension management.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The nominated Member, Gideon Keter.

**Hon. Gideon Keter** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill and congratulate my colleague for thinking about the elderly and being able to see the symptoms of a failing nation. If someone who has been working for many years and retires but the same country he has been working for does not look at their interest, it is a sign that as a country if we do not cure this one as early as now, it will paint a picture and it will not be attractive to young employees to participate in such schemes.

If we actualise the pension schemes very well and young employee manage to see that if they work very hard, when they retire they can still continue earning their money. It will build a different culture. It will build a culture of hard work, a culture where as a citizen, you will know that hard work pays. We should not subject our elders who have retired to running around offices, coming to Nairobi trying to find out how they will be assisted yet that is a contribution they made. They do not owe anything to the Government; it is their own money.

This has also brought in the issue and I want to ask my colleague if we can introduce a pensions' ombudsman. This is someone who can handle disputes and administration challenges. Someone who can be central and if you have a problem with your scheme you can easily take your issue there and you can be recorded and get an answer rather than citizens across the country coming all the way to Nairobi to find a solution or to knock at office doors but do not get assisted or satisfied.

Something else I would like to ask my colleague to look into as an addition is how to make this a government guarantee and how we can introduce something like pensions' benefit guarantee corporation that will be in charge of the elderly. Right now each Government coming in has plans on how to cushion the elderly by giving them stipends. How can we look at this as something that can be implemented so that we may do away with the current challenges we are facing?

I agree with Hon. Didmus Barasa that this Bill is going to encourage people to retire early. We have a problem as a country where you find someone or who has worked very well but feels that he is not safe when he goes home and feels that he still needs to be added more time. As a country, we have a problem with unemployment. We want members to contribute well to our country and at the end they retire and continue earning.

Hon. Temporary Deputy Speaker, I beg to support. I hope my colleague will look into the amendments I have suggested. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Hon. Wanjiku Njuguna, the Member for Kiambaa, you have the Floor.

**Hon. Wanjiku Njuguna** (Kiambaa, UDA): Thank you, Hon. Temporary Deputy Speaker. I also take this opportunity to congratulate my brother Didmus Barasa for coming up with this amendment Bill.

Pension is a thorn in the flesh of many workers who worked very hard. You are working hard so that when you retire, you will have something to take care of yourself. However, nowadays, regardless of what you do or try to save while you are young so that it can take care of you, you end up dying without achieving whatever you wanted to before you retire.

I support the amendments being proposed in the Pensions (Amendment) Bill to ensure that when you are young and still working, you save a lot of money. You deny yourself some opportunities and other luxuries to save something small so that when you become old and retire, you will have something to take care of yourself. You will have bills to pay and medicines and food to buy. This pension is not helping people do what they are supposed to when they retire.

There is a huge outcry out there. Teachers, police officers and others who have retired within a certain time have not been able to benefit from this pension. You cannot get what you saved or worked for because there are cartels everywhere. That is something that you volunteered to save so that when the day comes, you will benefit from it.

I support that timeframe of 90 days. It is enough time for pension schemes to come up with a procedure that will ensure that immediately one retires, that amount of money assists him or her. It should not assist you when you have died and cannot take care of yourself.

I support the amendment Bill. I hope we will also have an opportunity to further amend it in regards to ensuring that these pensions' schemes will have an insurance scheme so that when you retire, you get something that can benefit you and help you move forward when you are unable to take care of yourself.

In this day and age, there are brokers everywhere. Many people have to use a broker to get what they volunteered to give. They have to, plan, beg and even part with some money so that someone can keep their money for them. I hope that the schemes will come up with a procedure and programme to ensure that within 90 days after you retire, you comfortably receive your money so that you can plan for your retirement and enjoy it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante, Mhe. Naibu Spika wa Muda, kwa kunipa nafasi. Ningependa kuanza kwa kumpongeza Mhe. Didmus Barasa kwa Mswada huu mzuri wa pesa za uzeeni.

Kwa hakika, inapofika siku ya mfanyikazi kustaafu, tumbo huwa linakataa kustaafu. Linataka kula kila siku. Pesa hizo zikichelewa kufika, yule mfanyikazi atakula nini? Tunajua kuwa watu wetu wakipata pesa, wanazitumia wakijua kuwa kuna pensheni yao ambayo itawasaidia kule mbele. Kwa hivyo pesa hizo zikichelewa, jambo hilo linamuumiza yule mfanyikazi na anachukua madeni. Hata hiyo pensheni ikifika, haitumii kwa njia nzuri.

Wale ambao wanachukua pensheni yao wanatoka sehemu mbali mbali kwa mfano, Kiunga, Mkokoni na Tiwayu. Pengine hamjui kule ninakotaja. Ni kule kwenye hiyo pembetatu. Chifu wa huko atakuja Nairobi na kuzunguka kwa maofisi akiambiwa mara barua hii haipo, akaunti hiyo haifai na kadhalika. Atarudi Lamu na kuambiwa kuwa benki hii haifai kwa hivyo afungue akaunti nyingine. Yule Chifu atatumia Ksh2,000 kutoka pale Kiunga mpaka Lamu. Hizo ni pesa za safari ya kuja peke yake, bado hajarudi. Tena, hakuna usafiri wa kila siku. Akitaka kufanya mambo kwa haraka ili aende siku ambayo boti haijafika, itabidi akomboe boti kwa Ksh30,000. Tukisema kuwa kule kwetu kuna shida, watu wanaona ni kama tunataka kulia tu. Njia za usafiri ni ngumu. Vitengo vingi vimekuwa vikipata matatizo. Mojawapo ni wale wanaofuatilia pesa zao za uzeeni.

Tunapaswa tuwakuze wenye kutoa ile pensheni. Tusiwe tu tunalalamika. Sisi hapa tuna jukumu la kuwawezesha. Kwa mfano, kaunti zinakata pesa za uzeeni lakini hazipeleki pesa hizo

kwa wale wa kuwekeza mfuko wa pesa za uzeeni. Ni mbinu gani tutatumia kuhakikisha kuwa pesa hizo zinafika kule? Pia wao wanatatizika. Hawataki kukosa kulipa pesa za uzeeni lakini hawapewi pesa hizo. Sisi hapa katika Bunge tunafaa kuhakikisha kuwa tumeweka sheria ili pesa za uzeeni za kaunti zikatwe na kupelekwa kwa wawekezaji kabla hazijawafikia ndio waweze kulipa kwa muda unaostahilika. Tusiweke tu sheria.

Naunga mkono sheria hii. Ni sheria nzuri na ninajua itasaidia. Lakini hii sheria ikiwepo, tutatafuta mikakati ya kuwasaidia wale wanaotoa zile pesa za uzeeni.

Kusema ukweli, hata pensheni ya Serikali huchelewa sana lakini nawapongeza pia kwa ile kazi wanaofanya. Tunapaswa kuchukua jukumu tukae nao, tusikize matatizo yao ili tujue ni kwa nini wanafanya hivyo. Tusipitisha sheria tu. Huwa tunapitisha sheria zingine kisha hatufuatilizi kujua kuna mikakati gani ya kuzitekeleza. Kwa mfano, tulitunga sheria hapa kuhusu uvuvi na imebidi nimepambana kule Lamu. Sheria iliwekwa tu lakini hawakuenda kuangalia ni mbinu gani ile sheria itasaidia yule mvuvi. Naogopea hivyo kuhusu sheria hii.

Ni kweli wazee wetu wanateseka lakini namuomba Mhe. Didmus Barasa atumie kamati ili ije hapa itueleze kwa nini wanafanya hivyo. Itueleze pia ile mikakati itaweka kuhakikisha kuwa ndani ya siku 90, wawe washalipwa baada ya kupitisha sheria hii.

Asante, Mhe. Naibu Spika wa Muda. Sina mengi zaidi.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Nasri Ibrahim.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD - K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. First and foremost, I thank and congratulate Hon. Barasa for bringing this wonderful Bill which affects everybody in Kenya. For most people, the retirement transition is usually filled with many uncertainties as one parts from a significant activity that affects most of his or her life domain. For others, it means assuming new roles in the society which they would not perform during their working years.

Retirement from work has been associated with many challenges. The challenges range from strained finances, feelings of loss, a need to readjust one's life, dependency, lack of proper medical covers, debilitating illness and even early death. Besides that, most people are plunged into the reality of entering their old age without a proper source of income. For most employees approaching retirement age, the dilemma has always been how to survive the tough economy and what to engage in daily once their working life is over and their main source of livelihood is no longer there.

In Kenya, retirees take a long time before they get their retirement benefits. Others even die before getting their benefits. Those who are lucky to get their benefits may, sometimes, have to use collections which most of the time are expensive to them. The amendment Bill, if passed, will shorten the period within which a public service officer will receive his or her pension benefits upon retirement. Many Government agencies take a long time to submit employees' files to the National Treasury for processing. Some of these agencies, despite the technological era, are still using analogue filing systems. The proposal by the amendment to automate systems will not only fasten the process but also make it easy to retrieve documents by the click of a button.

I therefore support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Hon. Member for Aldai, Hon. Serem Cornelly.

**Hon. Cornelly Serem** (Aldai, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this Motion. First, let me thank my colleague, Hon. Barasa, for this wonderful amendment that will address issues that touch on retirees.

I cannot overemphasise the challenges that retirees go through immediately they retire from their workplaces. Quite a number of retirees go back to their rural areas as soon as they retire. As soon as you hit back to your rural area with no income, definitely, you are faced with one thing: you are faced with death and the challenges that come with stress because you have no income. Somebody who has worked for 40 years and expects to be paid a lump sum and a monthly stipend yet misses the same will die in a short period of time. You have a situation of an employee who has been earning a reasonable income of about Kshs100,000 a month. Then, all over a sudden when you retire, you are told that you will be chasing your retirement benefits for a period of a year, or that you are not even very sure of it.

The proposal by Hon. Barasa that all of us will know that when we retire we have a timeframe of only three months or 90 days before you receive your benefits is the best thing you will ever have for a country. In my opinion, when we get to the Third Reading, I will be proposing amendments that we even reduce the period from 90 days to 30 days. Why should you wait for 90 days for money that you have contributed into a scheme for a period of 40 years? At least, it is an effort. At least there is a timeframe. At least you are certain. You will know that you will be getting your benefits at a particular time.

Before we even discuss the timeframes, it is also good for us to understand the challenges that retirees go through as soon as they retire. In most cases, if you have lived in a city, you will want to transfer your belongings back to the rural area. How will you transfer when all your funds which you actually saved take a long time? It requires you to go and bribe some officials for your money to be given. If you have a teacher working in Moyale or in my Aldai Constituency, asking that teacher from Moyale to come to Nairobi to chase the money that they have saved for their lifetime is, in my view, unfair. I agree that it should be a crime for any scheme to hold money that you have worked hard for, unless all of us are in a different planet. If all of us are in this planet and most of us are in Kenya, we will all understand the challenges that retirees go through.

My father worked for this country as a teacher for a period of 42 years. He passed away and my late mother also passed away without receiving a penny. Many families go through the same challenge. Sometimes retirees have no option. They do not know what to do in an event the beneficiary dies. I hope this House will agree with Hon. Barasa that it is unfair for somebody who has worked for a country to be a criminal or an offender when they go home—it is an offence or a crime for one to retire. All of us in this House, one way or the other, will be retiring. As we retire, I hope that we are looking forward to a system whereby, when we retire, we will be given our money when we want or require it. Having pension schemes that make profit every single year and every single month denying you what you have worked hard for is unfair.

So, I support this Motion with a lot of passion. It is for the sake of those who have worked hard for this country and not been paid on time, especially the teachers—the teachers who work so much in the rural areas, teachers who wake up in the morning to make sure that our children get education. They ravage in poverty when they retire just because somebody in Nairobi can sit on their files. We have some crooks which I wish are exposed at some point. That you have to put some money in M-Pesa for your file to move just from the Teachers Service Commission (TSC) to the National Treasury. Why should that be the case yet you have worked so hard and it is your money? You do not share it with anybody. Unless these issues are addressed, we will be having Kenyans suffering every single day without anybody looking into it and assisting our retirees. Maybe those who are sitting with our files do not know that they will also require assistance one day. But we do not want to ask for their assistance. We want a system that works for us.



It is good that we are going to put in place a law that allows timeframes for a beneficiary to be paid on time. All the schemes that will not pay on time should pay a penalty. I agree with *Mheshimiwa* Barasa that the penalty should not only be monetary but also a time in jail so that those who are sitting on our files when we retire should know that there are consequences. Those who are working for this country or any institution should be assured that they will enjoy their benefits when they retire. It is not a crime to retire. It is not wrong to retire. All of us should be encouraged that you do not even have to work for 40 years, until 60 years of age, to retire. One should be volunteering to retire knowing very well that he or she will get their money in advance, invest and enjoy it. It is wrong for system that you work so hard for and spend most of your prime time with to finally have you bribe somebody to pay you—you have to wait for long to be paid; you have to travel from upcountry to Nairobi. Sometimes retirees are robbed by robbers as they lavish in this town looking for money they worked hard for.

I hope that Members of this House will support this Motion unconditionally so that all retirees—teachers, police officers, army officers and anybody that has worked hard for this country—are paid. As we discuss the same, it is sometimes very unfair that you get retirees who worked for this country being paid Kshs2,000 a month. It is a big shame that we have retired councillors that worked so hard for this country not being paid up this moment because there are no systems put in place for them to enjoy their funds when they retire.

As we move to Third Reading, I propose that we make more amendments so that all of us can address issues that touch on retirees. It is a nightmare for our retirees that they face death when they go home just because somebody in Nairobi is sitting on their files. With that, I support this Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The Hon. Member for Kitui West, Edith Nyenze.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to comment on the Pensions (Amendment) Bill from our colleague Hon. Barasa.

Let me say that pensioners really suffer especially because, when they retire, they have been used to getting salaries at the end of the month. They then retire to no money and that is in itself a shock. One has to wait for months or years to get pension. Retirees suffer a lot from stress and embarrassment because those around them expect to be helped, yet they cannot help them. Most of the time, the National Treasury says that delays in payments are because files or the required documents are not put in order to allow them to pay pension. So, I urge both employers and employees to ensure that files are in order, their names are well written and everything that is required for one to be paid pension is prepared in time, so that when time to pay pension comes, files are in order. Since employees know they will retire at a certain time, they should have everything in order because there is a complaint of delayed payment of pension.

Another thing that I want to stress, which should come as an amendment, is that as employees contribute towards their pension, they should also contribute towards their medical cover. When you retire, you are aged and likely to suffer from many diseases. So, you will use most of your money in hospital. It is good to have a medical cover when you retire. Therefore, it is advisable for employers to deduct money for pension and medical cover, so that when one retires, as they get pension, they automatically get medical cover.

This amendment will also come along with pre-retirement training so that pensioners can know how to use their money. When most of them get the provident funds, namely, the lump sum, they use all of it at once and after that, they suffer a lot. It is good to be educated and made aware

of how to use pension, so that when one retires, they do not suffer because of using all the money and having nothing to use for the rest of their life. This calls for pre-retirement training. Employers, together with the Retirement Benefits Authority (RBA), should ensure that retirees go through training to increase their awareness on how to save money. They can buy annuity with the money so that when they get pension, they do not spend all of it and remain with nothing left yet they are used to getting a monthly pay.

This Bill talks about payment within 90 days, but pension should be paid immediately after retiring. You stop getting your salary the following month and you should start getting your pension. If not, I suggest that the people remain on the payroll until their pension is paid. In doing so, it will ensure that the National Treasury pays pension in time. If not so, then after 90 days, I propose that pension attracts an interest.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Trans Nzoia County, Hon. Nangabo Janet.

**Hon. (Ms.) Janet Nangabo** (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Pensions (Amendment) Bill. I thank my colleague, Hon. Didmus Barasa, for coming up with this Bill. When we talk about pension, some of us are victims. I remember when I worked for Telecom Kenya, some of us were retrenched when we were only 46 years. For those who were 50 years, up to now, they have not been paid. Some of them have passed on and others lost their families because they were poor and could not afford to buy a meal.

It is true Hon. Osotsi has touched several entities and the challenges people are facing. I have come to realise that when you are employed, you must give all your details and especially the men. Sometimes they marry many wives and when they want to be given their shares from the pension scheme, it becomes hard. That forces some spouses to go and look for the documents in order to benefit from the scheme. After coming up with this amendment Bill, I am sure it will cure many issues. I want to talk about the Government because I remember when I was still working with the National Social Security Fund (NSSF), they were not implementing dues owed to their staff. I urge Hon. Didmus Barasa to bring further amendments to this Bill so that people can benefit.

Last week, I heard that in Moi University people were contributing their own money, but unfortunately, some of them were retiring and paying bank loans. Their pay slips were showing one is remaining with Kshs600,000 but after going to the bank, it was indicated that they owned loans of Kshs1.6 million. So, as a House, we have issues to deal with so that we can save people who are suffering out there.

Let me also talk about teachers and especially those from my area. Retirees are frustrated and have decided to wake up in the morning and go to drink *chang'aa* and *busaa*. They cannot afford to take their children to school. Imagine someone who was working reaching a point where they cannot sustain their own families. This is bad and I think my colleagues will support this Bill, so that it can help our people.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Well said. Member for Likoni, Hon. Mboko.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Ahsante, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii nami niweze kuchangia Mswada huu wa marekebisho machache ya Mhe. Didmus. Nampatia kongole kwa kuleta Mswada huu ambao utatua tatizo sugu sana.

Kwa hakika, kama Wakenya, tunajua kuwa unapofika miaka 60, unastaafu. Kuna wale ambao hustaafu kabla ya miaka 60 ndiposa kukawa na mikakati ya *scheme* ya pensheni. Lakini, kumekuwa na changamoto nyingi sana. Wakenya wengi wamepata shida sana mikononi mwa maofisa tofauti tofauti katika mradi huu wa pensheni. Kuna ile tunayoita kwa Kiingereza “*Cartels*” ama kundi fulani ambalo linatumia ufisadi katika mambo ya pensheni. Imekuwa kwamba mpaka uhongane ama utoe pesa kadhaa ndiposa uweze kupata pensheni yako kwa wakati unaofaa.

Ndugu yangu Didmus amependekeza siku 60 ambazo ni mwafaka kabisa kwa aliyestaafu aweze kupata pesa za pensheni. Tukiangalia changamoto zinazofanya hizi *scheme* za pensheni kuwa na matatizo, mara nyingi sana tunapata ule uwekezaji wanafanya ni duni ambao hauleti mapato.

Suala jingine ni usimamizi wa hii pensheni. Kuna usimamizi mbaya, ikiwemo ufisadi. Hivyo basi, inakuwa changamoto kupata pesa za kulipa watu pensheni. Pia, kuna waajiri wengine ambao wanakuwa muflis, ama *bankrupt*. Mtu anakosa pesa na anakuwa muflis, hivyo basi wale watu anafaa kuwalipa pensheni wanapitia ugumu sana. Wazee wengi wamehangaika. Wengi wamekufa na huzuni.

Wengi wameshikwa na maradhi sugu kwa sababu ya kukosa pensheni ambayo ingewawezesha kuishi yale maisha waliokuwa wakiishi wakiwa wameajiriwa. Hivyo basi, lazima Wizara ya Fedha iweze kuweka mikakati kambambe ambayo itawezesha mawasiliano kati ya muajiriwa na muajiri kuhusu mambo ya pensheni. Watu wengi pia hawaelewi ni wakati gani wanaweza kupata pesa za pensheni ama njia ya kufuata kuzipata. Pia, kumekuwa na urasimu mwingi. Kwa Kiingereza, urasimu ni *bureaucracy*. Watu wengi wanashindwa kufuatilia urasimu kama huo ili wapate pesa za pensheni.

Lazima tuige kutoka nchi nyingi zilizostawi. Nchi hizo huwa wameweka bima ambayo itawezesha muajiri, akiwa na changamoto za kifedha, kuweza kulipa pensheni. Hata kwa muajiri ambaye amekuwa muflis, atafaidika na bima ile kulipa watu pensheni kwa wakati unaofaa. Tuna mashirika katika Serikali yetu, kwa mfano katika vikosi vya jeshi na polisi, iwapo afisa amefariki akiwa kazini, mjane anapata shida sana kufuatilia pensheni iweze kusaidia wale watoto wadogo ambao hawajafikia umri wa kisheria wa miaka 18. Kwa hivyo, ni lazima hii mikakati iwekwe katika kila sekta ya umma na za kibinafsi ili tusiwe na tashwishi yoyote katika mipango hii.

Kwanza kabisa, zile pesa muajiriwa anafaa kulipa, kama za NSSF na NHIF, ni muhimu sana muajiri alipe kwa wakati unaofaa. Nyakati nyingi unapata muajiri ako na changamoto kulipa pensheni kwa sababu anakosa kulipa zile pesa za lazima. Hii tunaona sana katika sekta ya umma, haswa katika serikali za kaunti. Kaunti nyingi ziko na changamoto kulipa pesa hizi za lazima ambazo zinawezesha waliostaafu kupata pensheni yao kwa wakati unaofaa ili wasaidike.

Sasa hivi, tuna changamoto ya maradhi sugu kama maradhi ya kisukari, saratani na korona. Je, katika hizi skimi za pensheni tumeangazia mambo ya afya? Wakenya wengi ambao wamestaafu wanapata changamoto ya afya na elimu kwa wtaoto na familia yao. Haya ni mambo ambayo lazima yapigwe msasa na sera muafaka ziwekwe na kuambatanishwa na Mswada huu. Tunapopitisha Mswada huu, tujue kwamba ni sera, mikakati, au ni sheria gani zitakuwa sawia kuhakikisha kwamba Wakenya wengi hawatalia tena. Wakenya wengi wamepoteza maisha, wengine wakiamua kujitoa uhai kwa sababu ya kukimbizana wakitafuta pesa zao za pensheni. Imekuwa ni kana kwamba ni paka mshike panya. Unakwenda ofisi kwa ofisi. Ukitoka ofisi hii unaambiwa

upitie ofisi nyingine. Ukitoka huko, unaambiwa utengeze barua fulani. Ukimaliza hii, unatengeza hii. Yaani ni urasimu mwingi.

Nashukuru sana ndugu yangu Mhe. Didmus Barasa. Mambo haya ya uwekezaji wa pesa za pensheni lazima yaangaziwe kitaifa. Iwapo kuna utaratibu wa pensheni lakini inazembea na inaonekana sio ya kusaidia Wakenya walioko humo, lazima Serikali iwe na njia ya kuwaadhibu wasimimamizi wale kwa kosa kama hilo. Mkenya hawezi kuwekeza pesa zake akijua muajiri atawekeza zaidi ili mapato yakija aweze kurudishiwa zile pesa za pensheni, lakini kumbe pesa zile zinatumika kwa kiholela na tunakuwa na changamoto sana katika mambo ya pensheni. Familia nyingi zimeathirika sana na kuporomoka kimaisha. Watu wengi wanalia. Watu wengi wamepoteza uhai wao bila hata kupata pensheni zao.

Mbali na pensheni, ndugu yangu amezungumzia malumbikizi ama *gratuity*. Fedha hizi pia zimekuwa na changamoto. Unaambiwa ukimaliza kandarasi ya uajiri kwa muda fulani, utapata pesa hizo. Lakini unamaliza kandarasi ile na unakaa kwa muda mrefu sana bila kulipwa pesa zile. Pengine mtu amepangia peza zile. Mambo kama haya lazima tuyafuatilie kwa kina kama Wabunge, haswa kwa utekelezaji.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Bonchari, Hon. Oimeke Pavel, you have the Floor.

**Hon. Pavel Oimeke** (Bonchari, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity. First of all, I support the Bill. I also congratulate Hon. Didmus Barasa for coming up with it. We need to be serious in taking care of our elderly. It is very unfortunate that many of our parents and people suffer because of the untimely processing of pensions. I am aware that the Government, especially the National Treasury, is on the spot for not planning well. I am aware that the Government of Kenya changed the retirement age from 55 to 60 years. One of the reasons was to make sure the Government does not honour the liability of making pension payments that were falling due as many people were retiring. I challenge this House that this Bill by Hon. Didmus Barasa needs to be strengthened to give guarantees that the Government will do proper planning to pay pensions when they are due.

Many Kenyans who have retired including civil servants are beneficiaries of pension. Many Kenyans have died as a result of delay in getting their pensions. I do not understand why we should have a pension that is never properly catered for in law. These pensions are not kept. When we come to the Third Reading, I will propose that a proper innovative law is put in place that we have a proper fund that will guarantee payment. Otherwise, the current scenario especially touching on the National Treasury will not help this country.

Many people have died and I want to question: Does the Government have a hand in killing its own people? I do not think that is the objective of the Government. Why should they wait for ten or 20 years to pay the pensioners? Some councilors who retired before the members of county assemblies came in have not been paid. I know teachers who retired 20 to 30 years ago and some of them have not been paid. Therefore, it is very absurd that we have a Government that does not care about its elderly. We are walking on a very dangerous path. Even some of us in this House are going to be affected. Those who are working are going to be affected. Therefore, the limit of three months is too long.

I know of private pension funds where normally, they will set aside funds, and when one retires, when they want to withdraw from a pension scheme, for one reason or another, the law is very clear on how one can be paid. You do not wait for three months. Why is it that the Government

of Kenya has this problem of years and years of non-payment of pension? We have killed many people and I request this House to make sure that this amendment Bill by Hon. Didmus Barasa is strengthened to ensure that our retirees benefit from this Bill.

With those few remarks, I support the Bill, but urge that we make proper amendments to ensure that it serves the country.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, I wish to interrupt the debate on Order No.10 to allow Hon. Abdi Tepo Koropu to lay a Paper.

### PAPER LAID

**Hon. Abdi Tepo** (Isiolo South, KPP): Hon. Temporary Deputy Speaker, I wish to lay the following Paper on the Table of the House.

Report of the Committee on Delegated Legislation on its consideration of the Breast Milk Substitutes (Regulations and Controls) (General) Regulations, 2021, Legal Notice No.184 of 2021.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. You may lay the Paper. This is pursuant to our Order No.5.

On the same, Hon. Member, can you move your Notice of Motion under Order No.6?

### NOTICE OF MOTION

#### BREAST MILK SUBSTITUTES (REGULATION AND CONTROL) REGULATIONS 2021

**Hon. Abdi Tepo** (Isiolo South, KPP): Hon. Temporary Deputy Speaker, I beg to give Notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Breast Milk Substitutes (Regulation and Control) (General) Regulations, 2021, laid on the Table of the House on Wednesday, 10<sup>th</sup> November 2021; and pursuant to the provisions of Section 28(5) of the Breast Milk Substitutes (Regulation and Control) Act, 2012 approves the Breast Milk Substitutes (Regulation and Control) (General) Regulations, 2021 published as Legal Notice No.184 of 2021 with amendments to Regulations 1, 2 and 27(1).

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, we now go back to Order No.10 on the debate. We have the Member for Matuga, Hon. Tandaza Kevin Sawa, on the Floor.

*(Resumption of Debate)*

**Hon. Kassim Tandaza** (Matuga, ANC): Asante sana Naibu Spika wa Muda kwa kunipatia fursa hii ili nichangie Mshwada huu wa pesa za wanaostaafu.

Ni kawaida, na huwa ni furaha wakati mtu ameweza kufanya kazi mpaka akastaafu. Maanake ni katikati huwa kuna changamoto nyingi sana. Lakini, wakati mtu ameweza kufanya kazi, kwa dhaatima na heshima na familia yake mpaka akastaafu, kwanza, ni kumshukuru Mwenyezi Mungu. Lakini, changamoto inayokuja ya kuwa hajui atanzia wapi, ni jambo la kuhuzunisha na ni linachangia katika maswala ya ufisadi. Na ndio maana naunga mkono Mshwada huu ikiwa mimi ni mmoja wa wale huwa nakemea sana swala la ufisadi na kuona ni vipi tunaweza kulipunguza swala hili.

Mtu akifanya kazi anapokea mshahara wake wa halali lakini anajua kwamba atastaafu na inamaanisha kuwa hataweza kupata tena ule mshahara. Hataweza kupata ile ruzuku yake. Inamaanisha aanze kufikiria njia mbadala ya vile ataweza ishi atakapostaafu. Kama tunavyojua, njia mbadala mara nyinyi ukiwa kazini na unapenda kazi yako, basi, watu husema kuwa mtu hula pale pale anapofanyia kazi. Lakini, sio kukula tu, na ndio maana watu wanaanza kufikiria ni vipi wataweza kupora mali, waweza kujijenga mbali na lile pato lao la kawaida. Hii sio siri maana waajiri wa Serikali wanajua. Kwa hivyo, kuwapatia wafanyikazi njia ya kuwa na uhakika wa kuwa hata wakistaafu, bado ile haki yao wataweza kuipata moja kwa moja, ni njia moja ya kupunguza ufisadi katika ofisi zetu za umma na hata za kibinafsi.

Pili, katika swala hili nyeti, nishawahi kufwatwa na wafanyikazi ambao Mwenyezi Mungu ameweza kuwabariki na umri mrefu. Kuna wale ambao walifanya kazi nyakati za *East African Community*, ambapo, hususan, walikuwa katika ile idara ya uchukuzi iliyoitwa *Kenya Cargo Handling* kabla iwe *Customs* na baadae kujumuishwa katika maswala ya utoaji ushuru. La kustaajabisha ni kwamba wale waliofanya kazi nyakati hizo mpaka sasa hawajapata ruzuku zao ilhali walifanya kazi kihalali na kwa moyo moja. La kuhuzunisha ni kuwa wanakuambia hili ni kwa sababu wakati ule walikuwa waariwa wa Kenya lakini idara ikapelekwa Dodoma ama nchi nyingine katika ile iliyokuwa Jumuiya ya Mashariki ya Kati. Wenzao walilipwa kwa wakati ambao unafaa kwa sababu ni watu ambao bado wako hai na wanawasiliana. Lakini, Wakenya waliokuwa Kenya, mpaka sasa bado hawajalipwa.

Swala hili la siku tisini ijapokuwa sheria huwa haiendi nyuma kuanzia pale ulipowekwa kidole, ni maombi yangu kwamba sheria hii tutakapoipitisha hapa Bungeni, kwa sababu wengi tunaiunga mkono kutokana na wale waliotangulia kuzungumza, tuweze kuangazia maswala ya wale waliostaafu kabla ya hii sheria kupitishwa na mpaka sasa bado hawajapata haki yao ili nao waweze kuangaliwa. Ninafikiri itakaposomwa kwa Mara ya Tatu, hayo ni baadhi ya maswali ambayo yanaweza kuongezwa katika vipengele kuona kwamba watu hao wanaweza kupata ruzuku zao.

Katika maswala hayo ya pensheni, kulingana na Mswada huu wa Mhe. Barasa ambaye nampea kongole kwa kufikiria na kuufikisha kwenye Bunge hili, ni lazima pia kuwekwe vikwazo kuhusu hatua itakayochukuliwa kwa muajiri ambaye atakiuka sharia hii, hususan Serikali, kwa sababu ni lazima tukubali kwamba katika maswala haya yote ya pensheni, Serikali ndio hugeuka hizi haki za wafanyaji kazi. Ikiwa baada ya siku tisini mtu hajapata marupurupu au hajalipwa pensheni yake, ni hatua gani itachukuliwa? Katika kuweka sheria, ninafikiri ni bora tuongeze vikwazo wakati wa kuisoma tena. Hii ni kuhakikisha kuwa mtu anashurutishwa. Kwa mfano, wakati mtu atakuja na aambiwe kuwa kitambulisho au picha yake haionekani. Nimepata wazee ambao wanasema wamepata vikwazo kama hivyo ya kwamba wanapeleka kila kitu lakini wanaambiwa kuwa vitambulisho au picha zao zikiangaliwa hazionyeshi ni wao ambao wanadai zile pesa. Vikwazo hivi havina maana.

Hivyo basi, muajiri anapojua kuwa asipolipa katika zile siku zinazohitajika, atahitajika kulipa mara mbili ya vile ambavyo angehitajika kulipa, basi kutakuwa na ushirikiano. Hii ni kwa sababu kutakuwa na majukumu mawili. Yule mwenye kutaka pensheni yake anazitaka kwa sababu ya mahitaji yake na muajiri anataka alipe kwa sababu asipolipa kutakuwa na penati fulani. Yeye pia atapata hasara kutokana na kutolipa. Mheshimiwa Naibu Spika wa Muda, katika swala hili, kawaida mimi huunga tu mkono. Ningependa kuongezea kwamba katika Mswada huu sitaunga tu mkono, bali pia miguu kwa sababu kuna watu wengi kule kwangu Matuga ambao wananiipatia gharama kubwa.

Nikiongezea, katika hii idara ya kulipa pensheni, ingawa sio lazima iwe kwa sharia, ningeomba pia wapatiwe sindikizi ya kuona kuwa ofisi hizi zinasambazwa mashinani. Hii ni kwa sababu changamoto iliyo ni kwamba yeyote ambaye atahitaji kulipwa marupurupu yake ni lazima aje Nairobi. Ile gharama ya kuja Nairobi kwa mtu ambaye alistaafu ni kuu. Ukweli ni kwamba wapo ambao mwenyezi Mungu amewajalia kustaafu wakati mshahara wao ulikuwa chini ya Ksh10,000. Sasa hivi, umepanda hadi ni zaidi ya Ksh100,000. Ikiwa wakati ule alipostaafu mshahara wake ulikuwa ni chini ya Ksh10,000, inamaanisha kuwa pensheni yake haifiki Ksh2,000. Lakini pia yeye analazimika kusafiri kuja Nairobi kutafuta haki yake. Kwa hivyo, ni lazima tuhakikishe kwamba hiyo ofisi ya pensheni inayohusika ina ofisi kule nyanjani pengine katika hizi *Huduma Centres* ili zishughulikie masuala kama haya na kuyafikisha mwisho na sio tu kuchukua stakabadhi labda na kuzituma Nairobi na kisha baadaye watu wanaambiwa kama wenzangu walivyotanguliza kuwa faili ilipotea, *next of kin* bado haonekani au kitambulisho kina vikwazo vidogo vidogo.

Kwa hivyo, Mheshimiwa Naibu Spika wa Muda, naunga mkono Mswada huu na nikimalizia, sio tu mkono lakini pia na miguu na itekelezwe haraka iwezekanavyo.

Asante sana.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Lugha. Unaunga mkono pamoja na mguu?

*(Laughter)*

**The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu):** Kama Lugha inaeleweka, basi ni sawa. Member for Kwana, Hon. Wanyonyi Kevin, you have the Floor.

**Hon. Ferdinand Wanyonyi** (Kwana, FORD-K): Hon. Temporary Deputy Speaker, I support this amendment, but I do not want to do so with my hands and legs as just mentioned by my colleague.

Hon. Temporary Deputy Speaker, I think this is something that we have to handle urgently. As we pass this in the Third Reading, we must ensure that the resolution is implemented to the letter and as soon as possible. We come from various areas of this country and I have been respectfully asked to assist retirees. They come to Nairobi and most of them do not even have any relatives here. They will want to come and stay with you as you assist them to get payment particularly from what we used to call the East African Airways, the East African Community and the East African Railways. It has been very difficult for us to assist as it has been mentioned by my colleague. I want to agree with Hon. Tandaza that photographs on the identity cards of the elderly persons appear different from the persons because the retirees have changed and have different features. So, they are forced to do the documentation repeatedly and have to go all the way. I come from Trans-Nzoia, which is on the Kenya Uganda border, and one has to travel all the way to get the documentation. This is very tedious for the retirees who are honourable members of this country to be tossed left, right and centre.

Secondly, it takes a long time to process the pension. The 90 days are many. So, in the Third Reading, we will amend it to one month. The longer it stays, the more difficult it becomes for the retirees to process their dues. I have had cases where the next of kin fight over the pension. They rather have the retiree die in between so that they can benefit from where they have not sown. That has been the case as witnessed in the recent times.

There is unnecessary documentation for the retirees to process their pension. Some of them have not been paying for the NHIF. They lacked the opportunity and so, what happens to such?

They are vulnerable and sickly. The Member of Parliament must assist in paying the bills whenever they are taken to hospital. They ought to be taught how to use the money. I have heard of a case where an old man of over 60 years got robbed or married a third wife. So, we should assist them on how to use the money once they are paid.

I do not want to take much time, but we have talked about it many times. We want to reduce it to one month and assist the retirees to use the money honourably to prevent those who come to reap where they did not sow, particularly the next of kin. I have had cases where documents are forged by those who are interested.

With those few remarks, I thank Hon. Barasa for having brought this up. We will bring the necessary amendments during the Third Reading.

I support.

The fourth wife comes in... *(inaudible)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Are you still contributing? Is he provoking you? That has not been reported to my desk and so I may not wish to get into your debates, but, please, consult in low tones.

Hon. Members, because of the interest of time, many Members are wishing and willing to contribute to the Pensions (Amendment) Bill, National Assembly Bill, No.26 of 2020. I have Hon. Members for Nyatike, Taita Taveta, Tana River, Chepalungu, Kilome and Kisumu East, among others with requests. However, because of the interest of time and this is a House of rules and procedures, we will have a balance of one hour 35 minutes to debate this Bill. The Members who are ready to contribute can go and prepare.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 1.00 p.m., this House stands adjourned until today at 2.30 p.m.

I thank you.

The House rose at 1.00 p.m.