

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 24th April, 2024

Morning Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

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

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

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Serjeant-at-Arms, kindly ring the Quorum Bell for a further 10 minutes.

(The Quorum Bell was rung)

(Several Senators stood in their places and consulted loudly)

Hon. Senators, kindly take your seats. We now have quorum.

(Loud consultations)

Order, hon. Senators. Sen. Gataya Mo Fire.

(The hon. Senators resumed their seats)

Clerk, proceed to call the first Order.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

QUESTIONS AND STATEMENTS

QUESTIONS

Hon. Senators, at the Senate Business Committee (SBC) yesterday, the indication was that we were expecting two Cabinet Secretaries this morning for purposes of responding to Questions posed by hon. Senators.

During the day, yesterday, the Cabinet Secretary for Gender, Culture and Arts called and informed me that she would not be able to attend to this session. Having read through her letter at the SBC, where she had indicated that she will be going to State House to brief His Excellency the President on matters touching on her Ministry, we indicated that she could go brief His Excellency the President at 9.00 a.m., and maybe appear before us at 11.00 a.m.

However, she called me indicating that immediately after briefing His Excellency the President, she is supposed to proceed to the airport to catch a flight on official duties. I found that very reasonable and due to that reason, she is not here today for purposes of responding to Question No.025 by the Senator for Kirinyaga County, Sen. (Dr.) Murango, who, in fact, is not in the House.

The Question is, therefore, deferred.

Question No.025

ESTABLISHMENT OF A PUBLIC LIBRARY IN KIRINYAGA COUNTY

(Question deferred)

Hon. Senators, as far as Question Nos.37 and 40 are concerned, we had no indication whatsoever, when we sat as the SBC, whether the Hon. Prime Cabinet Secretary would not be present for purposes of responding to those two Questions. Therefore, we were expecting the Prime Cabinet Secretary to come to this House today for purposes of responding to those two Questions. However, yesterday at 4.00 p.m., a letter was received by the Clerk of the Senate, indicating that the Prime Cabinet Secretary will not be in a position to appear before the Senate for purposes of responding to those two Questions.

Hon. Senators, I find the conduct of the Prime Cabinet Secretary unacceptable. Having gone through the letter, there is no emergency. The reason given there is one that the Prime Cabinet Secretary knew long before that he would be undertaking the assignment indicated in that letter. Courtesy demands that he ought to have indicated the same to the Senate long before the SBC sat to schedule these Questions.

Hon. Senators, as far as Questions are concerned, we have no Cabinet Secretary today for purposes of responding to any of those Questions that had been slated. Therefore, we will proceed with other business indicated in the Order Paper, unless the Senate Majority Leader has something to share with the Senate.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Kindly proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this is a grave matter. The fact that the Cabinet Secretary called you is not sufficient. She might have called you on matters to do with Kilifi County, but not with the Senate. She has not been invited here to come and meet the Speaker.

Much as you extended the courtesy of receiving her call, she needs to know that this House is terribly disappointed with her conduct. Hon. Aisha Jumwa, a long serving parliamentarian, who has been here for over 10 years, knows very well that if there is a conflict of diaries between the Executive and appearance in Parliament, the Legislature takes precedence.

I know President William Ruto well. If any Cabinet Secretary tells him that they cannot make it to his meeting because they are scheduled to appear before Parliament, he can never recall that Cabinet Secretary to appear either in the Cabinet meeting or an official briefing at the expense of the representatives of the people.

The behaviour by Hon. Aisha Jumwa is something that I find quite astounding. While other Cabinet Secretaries have been before this House three to five times, the Prime Cabinet Secretary and herself have never set foot in the Senate.

Mr. Speaker, Sir, with your guidance, I am willing to be persuaded by colleagues who you may grant opportunity to say a thing or two about the conduct of these two Cabinet Secretaries. Let us be bound by the collective reasoning of the House because it is not proper.

I have seen the letter from the Office of the Prime Cabinet Secretary. There is an officer by the name Joseph N. Busiega. These are people who do not need to be in public offices. I am not excusing the Prime Cabinet Secretary.

By the time you write a letter at 3.57 p.m. for a meeting that is supposed to happen the following morning at 9.00 a.m., are you normal? Do you know what you are doing in that public office? That should not be entertained and I cannot allow Parliament to be treated like this.

Mr. Speaker, Sir, we have to register our disappointment with both Cabinet Secretaries in the strongest terms possible, including the amendment we have just done to the Powers and Privileges Act. Unfortunately, the amendment is yet to become official law of the land because it still has to go through the National Assembly.

If it were me, I would issue summonses to both Cabinet Secretaries. First of all, we need to establish whether they recognize that Parliament is bicameral. I am sure they have appeared before our colleagues in the National Assembly. Therefore, I do not get what the spite about the Senate is and what their motivation might be.

There is nothing that Members are begging for. They are coming to respond to issues from the representatives of the people. These are Questions Kenyans are asking the Cabinet Secretary through their elected representatives in this House.

Mr. Speaker, Sir, I would like to be guided by colleagues in their consideration of this matter, so that we make a decision jointly as a House on what to do. We have to make a decision on the number of times a Cabinet Secretary can skip an appearance together with the maximum number they need to exhaust for postponement.

The other day we issued directives on standards of a letter that one can write to Parliament. You should not just state that you cannot appear without a suggestion of when you are available next or even a credible reason you are not appearing.

Mr. Speaker, Sir, without appearing to be lamenting, I humbly request that we take a decision as a House on what to do with these two Cabinet Secretaries.

I thank you.

The Speaker (Hon. Kingi): Sen. Sifuna, proceed.

Sen. Sifuna: Mr. Speaker, Sir, you caught me confirming the law on whether this House can impose the same sort of sanctions that we have seen imposed by committees on witnesses who fail to appear. I have said enough about Hon. Aisha Jumwa and I have no more to say.

As a legislator, you have advised us on more than one occasion that this cannot be a House of lamentations. We need to proceed and impose a fine in accordance with the law for non-appearance of the Cabinet Secretary, Hon. Aisha Jumwa.

As for my brother, the Prime Cabinet Secretary in charge of Foreign and Diaspora Affairs, Hon. Musalia Mudavadi, whom I have never seen in this House since these rules were promulgated, I am looking at the number of times he has been invited here.

In fact, I have the privilege of sitting in the SBC. I remember one time he wrote a letter to this House saying that you cannot summon a Cabinet Secretary if there is only one Question to answer. He added that we should wait until there is enough material for him to appear before this House. I remember the direction we took as the SBC. We said it could be the most critical Question in the country at the moment.

I thank some of the Cabinet Secretaries who have appeared here. Last week, the Cabinet Secretary for Defence, Hon. Aden Duale, appeared to answer one Question on the reopening of Uhuru Park and he left everybody here satisfied. The people of Nairobi City County are happy because the park is now open.

Mr. Speaker, Sir, we should not be told such stories. Since you have directed that we should not be a House of lamentations, I want the fate that befalls Hon. Aisha Jumwa to befall the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, so that he feels the pinch.

I request that we expedite the changes that we made to the Parliamentary Powers and Privileges Act. The enhanced fine might dissuade some people from failing to appear before the Senate.

Mr. Speaker, Sir, it has been a very difficult night here in Nairobi City County. We were trying to coordinate responses to incidents of flooding across the City. I am sure this is a matter that all are aware of. Even though we did not get much sleep, we woke up in time to get here this morning because we have critical Questions to answer.

If you look at the range of Questions and the discussion we were to have here, especially on arrests, detention and deportation of Kenyans in diaspora, these are critical matters.

I have a critical case that has been going on even before the elections. One of our key supporters from Western Kenya, Prof. Ruth Oniang'os son, was arrested in the United States of America (USA) during the crackdown on the opioid epidemic.

He is a qualified pharmacist. That young man has languished in jail at an undisclosed location. We are unable to get any information on his whereabouts and whether he is okay.

It would have been a nice opportunity for the Cabinet Secretary, who comes from that very same county where that young man comes from, to give answers to the family of that young boy.

Mr. Speaker, Sir, I express my disappointment. However, I want us to proceed in line with the law; impose those fines and issues summonses. If they fail to appear, other consequences can follow.

I thank you.

The Speaker (Hon. Kingi): Sen. Mungatana, you may have the Floor.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I rise in defence of the Cabinet Secretary in charge of Foreign and Diaspora Affairs. The hon. Musalia Mudavadi was before our Sessional Committee on Delegated Legislation two days ago. He came on time and waited. We had to wait for quorum and thus, he went back to his office. He later came back, appeared before us and tackled every question that we put before him.

I am very surprised that today his behaviour is totally different from what he displayed at the committee. I know that we were able to find a way forward for the very heavy issue that we were tackling there.

Mr. Speaker, Sir, having said all that, the issue I was trying to drive at is that there are some Cabinet Secretaries who have defied this House, but there are those who have been very cooperative. The question is, are we speaking with records and facts?

Mr. Speaker, Sir, I have a recollection of your ruling guiding that we should not be people to lament on issues. Instead, we should act, the way Sen. Sifuna has proposed. However, the way you actually guided is not what the hon. Senator is proposing. You said that a proper Motion should be brought for us to censure the offenders.

My take is that nothing stops the Senate Majority Leader from originating a letter when he is giving his weekly statements. Instead of just talking of how many questions and statements we have done and what the committees have done, he should also state the Cabinet Secretaries who never turned up so that we have a proper record. Then when we move as a House, we are all in agreement that this particular Cabinet Secretary did not turn up, so that we can have a track and then pass a unanimous vote.

Mr. Speaker, Sir, talking without really putting the facts on the table will not be helpful. So, I urge action from the side of the Senate Majority Leader. He should be mentioning these things when he is doing that weekly report and show the Cabinet Secretaries who failed to turn up.

We can then note, and at the appropriate time, either him or the Senate Minority Leader can bring a proper unanimous Motion, where we will be referring to a record of absenteeism and failure to exercise duty.

As I sit down, I urge the Cabinet Secretary in charge of Foreign and Diaspora Affairs to note that the Question Sen. (Dr) Khalwale is asking about deaths of people working in the Gulf States is very relevant, especially for those of us who come from the Coast. There are many people who go to the Gulf States to work from all the six counties, including Tana River.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

We have people who have suffered there. I have particular cases I would have wanted to interrogate. I ask the Cabinet Secretary that when it comes to matters of life and death, he should prioritise and come here as soon as possible to answer to this Question.

I thank you.

The Speaker (Hon. Kingi): The Senate Majority Leader, what is your intervention?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I have a further update. The Cabinet Secretary for Gender and Affirmative Action insists that, probably there must have been a miscommunication between you and her. She says that the request she made was that she would wish not to be the first to appear and that she appears later than between 11.00 a.m. and 12.00 noon. Therefore, she finds the fact that it is still 10.00 a.m. pre-mature for us to pass judgment that she is not appearing. She has said that she is finishing up the briefing and will be here by midday.

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

The Senate Majority Leader (Sen. Cheruiyot): I am on a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): The Senate Majority Leader, proceed and conclude.

The Senate Majority Leader (Sen. Cheruiyot): I have concluded. I have nothing useful to add because it is on your direction for us to know. When we made the decision at the SBC yesterday, the letter indicated that she appears at 11.00 a.m.

The only adjustment she made was for her to come at 12.00 noon. Therefore, I stand guided up to there. I have seen copy of the letter where we had told her to come at 11.00 a.m.

The Speaker (Hon. Kingi): Hon. Senators, let us make progress. I know the House is extremely disappointed. You are unhappy with the conduct of the Cabinet Secretaries not just today, but for the many times that they have opted not to respect invitations from this House.

If we proceed and I give each one of you a chance, the story will be the same; expressing disappointment and displeasure at the conduct of these Cabinet Secretaries.

Now that we have an indication that the hon. Aisha Jumwa will appear in this House at noon, we will proceed under Standing Order No.45 (2) to rearrange the sequence of today's Order Paper, so that we proceed with other business as indicated in the Order Paper. Then when she appears at noon, we will proceed to give her an opportunity to respond to the Questions that had been directed to her.

As far as the Prime Cabinet Secretary is concerned, if the House or anyone of you is persuaded that his non-appearance and the reason given for that non-appearance is unreasonable, then you can invoke Standing Order No.51(d). Otherwise, if it is lamenting, you have done enough. You need to proceed to act on this matter. Next Wednesday, I will not be surprised if we go through the same motion of lamenting.

The Senate Majority Leader and the Senate Minority Leader, you need to put this matter to rest. We cannot allow one or two hours of hon. Senators lamenting every Wednesday morning. It is either you bite or when a Cabinet Secretary does not appear,

we just proceed, for we can no longer use our precious time to lament. So, to the two leaders, you need to lay this matter to rest.

Sen. Sifuna: Mr. Speaker, Sir, I seek your clarification on whether the options of this House are limited to the provisions of Standing Order No.51(d). Why is the option of the fines and other penalties that are available to the committee not available to this House as a whole?

Censure Motion is a longer route. At the Committee on Energy, my Chairperson, Sen. Wamatinga, fines people liberally for failing to appear. I do not know why this is not an action we can take this morning for the failure to appear by the Cabinet Secretary because we are not satisfied by the explanation he has given.

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise for clarification, not to doubt or challenge your direction. However, you cannot douse the responsibility of 51(d) to the House. This House has a Leader of Majority. He was the first to state that we be guided by the decision of this House on the failure of the Prime Cabinet Secretary to appear. The clarification I am looking for is two pronouncements from you.

The first one is that you direct the Leader of Majority, on our behalf, to present a Motion of Censure against the Cabinet Secretary. The second one is for you to read from the same page with the Chairpersons of all our committees, led by the Senator for Kiambu and Nyeri counties. They have been fining governors. You should pronounce a fine against the responsible Cabinet Secretary.

When you look at this letter, it is written by the Chief of Staff, Mr. Joseph Busiega. I have never seen in my entire life of Parliament, a situation where a stranger in a Ministry who we do not understand, is addressing the Senate or Parliament for that matter. If for whatever reason the Cabinet Secretary is unable to write this letter, it should have been written by the accounting officer – the Principal Secretary. Who is this fellow?

I know he comes from my home in Malaba, but that is for purposes of doing funerals at home, weddings and all manner of things.

(Laughter)

Mr. Speaker, Sir, for purposes of communication, the Cabinet Secretary must be warned from allowing strangers to address this Senate. A Chief of Staff is a very small thing and he is not an accounting officer. The accounting officer is the Principal Secretary whose appointment was approved by Parliament.

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

Sen. Wambua: Mr. Speaker, Sir, I thank you. We are guided and we will not lament.

There are two issues. Firstly, on the matter raised by Sen. (Dr.) Khalwale on who can address the Senate and who cannot, you will need to protect this House and its committees.

The other thing is that when the Governor for Nairobi City County decided to not appear before the Committee on Roads and Transportation, he sent an acting officer to write to the committee, informing them that he could not attend the meeting.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Secondly, this is likely to happen again and again. You sat as the SBC and agreed that the Cabinet Secretary for Gender, Culture, the Arts and Heritage was supposed to appear at 11.00 a.m. However, if we take what the Senate Majority Leader said and we have no reason to doubt, it now appears that there was further communication from the Cabinet Secretary that she will appear from noon.

Mr. Speaker, Sir, for guidance, how was that communication done? Was it in writing or it was just a conversation and it was agreed that she will come at noon? We do not lament because we want to lament. We lament because we are in trouble.

If we find ourselves in this situation, what do we do? Did she write to say that she will come at noon or did she call and say that she will come at noon? What then will stop the other Cabinet Secretaries from altering the time they will appear by just placing a call to your office of the Office of the Majority Leader and saying, good people, I was supposed to come at 9.00 a.m., but I will be appearing at noon or at 11.00 a.m. The House can do whatever it wants to do and wait for me to appear at noon.

Mr. Speaker, Sir, let us correct this. I thank you.

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

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for giving me this opportunity to comment on this matter. I sit as the Chairperson of the Liaison Committee and all Chairpersons discussed and realized that we have a backlog of Statements and Petitions.

There are about 400 Statements that have not been responded to. The Petitions are more than 20. The Chairpersons are complaining that Cabinet Secretaries are not honouring meetings when they are requested to appear before the committees.

If this trend continues, then the work of the Senate will be paralyzed. For the Senate Majority Leader, if this is the trend, then we should do away with this Question Time, so that we can divert to our usual business. This is because the Senate cannot sit without the Executive. This was the brainchild of the Chief Executive of this Republic when he was elected, none other than the President.

If this issue is not working for the Senate and the National Assembly, then there is no need of having this Question Time by the Cabinet Secretaries.

(Applause)

Let us survive the way we have been surviving, so that Senators can work even on Petitions in this House. I will request Director Njenga Ruge to give you some time, so that you listen to us.

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

Mr. Speaker, Sir, most of the Petitions in this House are brought by citizens. When we stay with Petitions for five or six months without responding to them and they have been brought by some communities who are either oppressed, or because they have issues, this House looks very bad to the public.

That is why we should have a discussion on whether we need the Cabinet Secretaries appearing before this House, whether we should revert to our usual tradition and which system is working for the Senate. This is so that we expedite our work.

Mr. Speaker, Sir, I was reporting that we have more than 400 Statements, which have not been responded to. These statements have been brought to this House by Members, fellow Senators.

When we meet at the Liaison Committee like we will be doing today at 1.00 p.m., we will have no alternative, but to just read figures like how many statements are pending. There are 400. How many Petitions have exceeded 60 days? They are almost 30 Petitions.

Mr. Speaker, Sir, we need to have a candid discussion. We will send the Senate Majority Leader to the House on the Hill to tell the President that we are not doing well in the matter of the appearance of the Cabinet Secretaries.

(Applause)

It is not good for a Cabinet Secretary to call the Speaker on phone that they will not appear or call the Senate Majority Leader. No! These Cabinet Secretaries should do correspondence. The Clerk of the Senate writes directly to the Principal Secretary, communicating anything from the Senate. The same way, only the Principal Secretary should communicate to the Clerk of the Senate. This letter should be null and void because this is what we call in Kiswahili, *madharau*.

(Applause)

Mr. Speaker, Sir, we need the Senate to be treated the way it should be treated. When you see us, we are very honourable people, even out there. However, the way these Cabinet Secretaries are treating us is just like primary or high school boys.

This House should be respected and at no time, as Mr. Speaker, Sir, you have put it, should we come here to wail and cry, but action should be taken. The Senate Majority Leader should not bother calling any Cabinet Secretary to appear here. We will use Standing Order No.51(d) promptly on the one not interested to appear, so that we censure these people.

I thank you, Mr. Speaker, Sir.

(Applause)

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

(Loud consultations)

Sen. Olekina: Thank you, Mr. Speaker, Sir, I was listening to my brother, the Deputy Speaker and I liked what he was saying. The Order Paper belongs to my good

friend, the Senate Majority Leader. Therefore, when we sit here and start lamenting, we are lamenting and pointing a finger at you.

I would not say that you are failing, but other people could conclude that. This House must be respected. When we stood here and some of us argued, we interpreted Article 153 of the Constitution to say that a Cabinet Secretary can only appear before a Committee of the House. They are mandated to appear when invited to do so. However, the Judiciary saw it fit that they also appear before the Plenary.

Now that they are here, it is also the reason we decided to be here. Our side of the House had decided not to attend because we did not want to violate the Constitution. The only thing we ought to do now is to look at the provisions of the laws that gives us powers to punish these individuals who fail to appear.

Section 19 of our Parliamentary Powers and Privileges Act is quite clear that there are consequences when a witness has been invited or summoned to appear, but fails to do so. I do not know why we are lamenting here.

We should just do what we did in the last Parliament. The Majority Leader was seated here when we censured the Cabinet Secretary for Energy then and some consequences followed. You know some people think that we come here to keep talking, but we have a lot of power.

Mr. Speaker, Sir, since you are seated there, you are like the Chair of the Committee. You should be the first one to say that we will now apply Section 19 of our Parliamentary Powers and Privilege Act of this country, so that these people can respect this House.

The other day, we were given credit. They said we are doing better than the National Assembly because we are diligent and know the law, our rights and the powers. We are here as ombudspersons of citizens who have sent us to represent them. I would like to beseech you that we become decisive in our decision-making.

We should send strong messages. When I saw the President saying that he will now ensure that the Cabinet Secretaries appear before the Floor of the House, what does it mean when they fail to appear? I do not want to use slang, but it is as if they are showing him the middle finger, *uta do?*

Mr. Speaker, Sir, this is something that we need to be very serious about. The President and the Speaker have to be respected.

The Speaker (Hon. Kingi): Hon. Senators, let this debate lie there. I have indicated and advised that the recourse you have and that this Senate has, where a Cabinet Secretary fails to appear without any reasonable cause, then you may invoke Standing Order No.51(d). The reasons you are giving, the contributions you are making are so relevant and will give weight to such a motion.

I wish to hear the kind of debate when you are debating that Motion. As we are talking now, at the end of the day, no resolution can be passed as far as the failure of these Cabinet Secretaries is concerned.

Majority Leader and the Minority Leader, take leadership in this matter. As far as what Sen. Sifuna has alluded to, that then can this House sitting at plenary, impose a fine just like a committee? Yes, we can. However, it is the procedure because you need to

pass a resolution. The Speaker cannot impose a fine, but only by this House through a resolution. How do we then proceed as a House?

(Loud consultations)

What Sen. Sifuna has alluded to is very valid. It is something that next Tuesday as we sit as SBC. We will put our heads together, so that we neaten out the procedure on how this House can resolve on imposing a fine to a Cabinet Secretary who has failed to attend. That will be my advice for today.

Hon. Senators, let us now proceed to tackle the other business in our Order Paper as we wait for the Cabinet Secretary for Gender, Culture, the Arts and Heritage at noon. The mode of communication is an issue that has been put forward for determination by Hon. Senators.

Just like in the Senate, the only officer who communicates with other institutions out there, is the Clerk. As far as Ministries are concerned, the only officer that we will accept their communication is either the Principal Secretary or the Cabinet Secretary themselves. Any other letter written by any officer than the Principal Secretary or the Cabinet Secretary will be deemed a no communication.

Clerk, communicate to all Hon. Cabinet Secretaries, that if the Senate receives a letter that has no hand of the Principal Secretary or the Cabinet Secretary, it shall not be deemed to be a communication to the Senate.

Hon. Senators, allow me to invoke Standing Order No.45 to rearrange the Order Paper. Instead of proceeding to discuss Order No.8, which is a Motion by the Hon. Senator for Mombasa, we will proceed to prosecute Order No.9, which is Motion on the status of pending bills in counties.

Clerk, proceed to call that Order.

MOTION

STATUS OF PENDING BILLS IN COUNTIES

AWARE THAT, as at 31st December, 2023, according to the County Governments Budget Implementation Review report for the first half of the financial year 2023/2024, County Governments had accumulated a total of Kshs156.34 billion in pending bills with Nairobi City County accumulating the largest share of Kshs107,037,053,000 followed by Kiambu and Mombasa counties at Kshs5,711,614,412 and Kshs. 3,922,131,877, respectively;

CONCERNED THAT, the accumulated pending bills in counties have significantly affected service providers in the counties leading to closure of businesses, stalling of county projects, adversely affecting economic growth in counties, service delivery and ultimately slowing down the country's economic growth;

FURTHER CONCERNED that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with increased mental

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

NOW THEREFORE, the Senate

1. recommends that all County Governments pay verified pending bills amounting to less than Kshs1 Billion by the end of this financial year and those above Kshs1 billion by the end of the financial year 2024/2025; and

2. Resolves that

i. pursuant to the provisions of Regulation 41(2) & (3) of the Public Finance Management (County Governments) Regulations, 2015, County Governments prioritize payment of pending bills as a first charge on the County Revenue Fund failure to which the subsequent quotas budget releases will not be done;

ii. County Governments shall only pay pending bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;

iii. Supplementary budgets for county governments are prepared in the 3rd d Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; and

iv. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

(Sen. Olekina on 28.3.2024)

(Resumption of debate interrupted on 28.3.2024)

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

Sen. Mwaruma: Bw. Spika, asante kwa kunipa fursa hii ili nichangie huu Hoja hii iliyoletwa na Senata wa Narok, Ledama Olekina, kuhusu malipo ya wanakandarasi ambao wamefanya kazi kwa serikali zetu za kaunti.

Ukiangalia Hoja hii, hali ilivyo katika kaunti zetu ni kwamba kuna wanakandarasi wengi wamefanya kazi lakini hawajalipwa. Hili limepelekea hawa wanakandarasi kufunga biashara zao, wengine kujua na benki nyingi sasa kukataa kuwapa mikopo wakandarasi wanaofanya kazi na serikali za kaunti. Hii imepelekea umaskini mwingi kwa wanakandarasi.

Nakubaliana moja kwa moja ya kwamba ni vyema sheria ifuatwe wakati tunalipa wakandarasi kwa sababu sheria inasema kwamba wakati tumeanza mwaka mpya wa pesa, zile pesa za *pending bills* ziwe za kwanza kulipwa katika pesa zote zitakayoenda kwa serikali za kaunti.

Bw. Spika, ufisadi ndio unaleta ukosefu wa kutolipwa kwa wanakandarasi. Hii ni kwa sababu nchini Kenya kuna jambo ambalo linaitwa asilimia kumi ama watu kutaka hongo ili kupeana kandarasi. Watu wengi katika kaunti zetu huwa wamepata pesa tayari kwa zile kandarasi zimefanyika.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Na wakati wamepata pesa za kaunti badala kulipa wanakandarasi, wanatumia zile pesa ili kupeana zabuni mpya ili wapate asilimia kumi. Hii imepelekea malimbikizi ya pesa ambazo zinatajikana kulipwa wanakandarasi. Pesa hizi ni zaidi ya bilioni mia moja na saba zinazodaiwa Kaunti ya Nairobi. Kiambu ni shilingi bilioni tano nukta saba, Mombasa ni shilingi bilioni tatu nukta tisa na Taita-Taveta ni shilingi bilioni moja nukta mbili.

Jambo la kushangaza ni kwamba hata wakati gatuji zetu zinasema kwamba zimeweka katika bajeti pesa za kulipa wanakandarasi, *pending bills* au muswada unaosubiri haupungui. Taita-Taveta, kwa mfano, mwaka uliopita wa 2022/2023, walilipa shilingi milioni mia tatu hamsini. Lakini badala ya muswada unaosubiri kupungua unaongezeka.

Kwa hivyo, nakubaliana na mapendekezo yaliyoko katika Hoja hii ya kwamba Mdhibiti wa Bajeti aangalie kwa ukaribu bili zilizosalia zinazolipwa na pesa ambazo anapitisha.

Iwapo kaunti haijalipa muswada unaosubiri au bili zilizosalia, wasipewe pesa katika ule mgao uanofuata. Kuna kitu tunaona katika kaunti zetu. Kwa kimombo inaitwa *voided payments*. Mara nyingine Mdhibiti wa Bajeti anapitisha pesa zilipwe kwa wanakandarasi. Lakini, anapitisha malipo, hayalipwi kulingana na vile yamepitishwa, bali yanaenda kufanya mambo tofauti. Nafikiri ni vizuri Mhasibu Mkuu aangalie kwa ukaribu ni kwa nini kuna kuwa na *voided payments*.

Jana kulikuwa na Taarifa ya Seneta wa Kisii akiuliza ni kwa nini kuna kuwa na *voided payments* nyingi. Ni vizuri kuwe na maelezo kamili ni kwa nini Mdhibiti wa Bajeti anapitisha pesa zilipwe kwa malipo aina fulani lakini hayo malipo yanasimamishwa na malipo yanaenda kwa kazi tofauti.

Hili pia limepelekea kuongezeka kwa bili zilizosalia. Hii inaonyesha ya kwamba hakuna huduma zitatolewa katika kaunti zetu. Hivyo basi, hili ni swala la kulivalia njuga. Hili ni swala ambalo kama Seneti, tunatajikana tusimamishe kazi zote ili kuangazia njia tutakayo tumia kuhakikisha ya kwamba pesa zinazopatikana kwa kaunti zinatumika kulipa bili zilizosalia. Na kwamba, zile kaunti ambazo hazitalipa bili zilizosalia kulingana na Kanuni 50(2) (3) ya *Public Finance Management Act Regulations*, kuwe na adhabu ya kutosha.

Jambo lingine ambalo linapelekea kulimbikiza kwa bili zilizosalia ni bajeti ya ziada. Wakati tunatengeneza bajeti katika mwaka wa pesa, kuna pesa zinazotengwa za miradi kadha wa kadha.

Kutengeneza bajeti kunatumia uhusishaji wa wananchi. Wanajua ni miradi gani wanataka ifanyike. Lakini, inafikia mahali kuna kuwa na bajeti za ziada ambazo zinatoa miradi yao. Wananchi hawaelewi ni kwa nini miradi yao haijafanyika.

Mara nyingine, Maseneta wanalaumiwa ya kwamba pesa zinaibwa na hawasemi jambo lolote. Kwa sababu mradi wa wadi fulani ulikuwa katika bajeti lakini mwaka umeisha na ule mradi haujafanyika. Maseneta wanaendele kulaumiwa ya kwamba pesa zinaibwa na hawapigi kelele. Kumbema kuna bajeti ya ziada imefanyika ambayo haijahusisha mwananchi.

Kwa hivyo, hii Hoja inasema ya kwamba wakati bajeti ya ziada inapo tengenezwa, ni vizuri kuwe na uhusishaji wa jamii na wananchi wajue sababu za kuondoa mradi katika bajeti.

Bw. Spika, la mwisho, wakati wa bajeti ya ziada, kama haijahusisha mwananchi, basi Mdhibiti wa Bajeti asipitishhe hiyo bajeti. Nimeona kama kwetu Taita Taveta, wakati wa kuandaa bajeti ya ziada ambayo nafikiri ni ya tatu huu mwaka, pesa za wadi zilikuwa shilingi milioni ishirini. Lakini, zimepunguwa kwa kiasi cha shilingi milioni nane na zikabakia shilingi milioni kumi na mbili. Wananchi hawajui kama kama shilingi milioni nane zimetolewa zikaenda kujenga *Aggregation Centre* ama *industrial park* ambayo wao wenyewe hawajahusishwa.

Nafikiri inatakikana tuchambue maandalizi ya bajeti kama Seneti. Hii ndio kazi ya Seneti ya ndani zaidi ambayo inatakikana ipatie kaunti zetu na wananchi meno ya kuhakikisha kwamba zile pesa wanapata kama ushuru zinatumika vile zilivyo pangiwa. La sivyo, tutakuwa tunapata malimbikizi ya bili zilizosalia, miradi haifanyiki na hatuelewi ni kwa nini, kumbe imetolewa kwa sababu ya bajeti ya ziada ambayo wananchi hawahusishwi na maandalizi yake. Hayo malimbikizi ya bili zilizosalia yanatakikana pia yaharamishwe na watu wafungwe.

Singependa kuongea zaidi ya hapo. Ninaunga mkono hii Hoja iliyoletwa na Sen. Olekina. Ningerai wenzangu wapitishhe Hoja tuangalie utekelezaji wa hayo mapendekezo ambayo yatapelekea kusaidia wananchi wetu wanaofanya kandarasi na serikali za kaunti. Hii italeta maendeleo, huduma na miradi ifanyike vizuri.

Nashukuru sana kwa hii nafasi.

The Speaker (Hon. Kingi): Sen. Wamatinga?

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir, for this opportunity. I also rise to support this Motion by Senator for Narok.

The issue of pending bills cuts across both national Government and county governments. It is a sad affair because the governments at both levels have resorted to borrowing money from unwilling suppliers and contractors. This has seen destruction of small enterprises. These are people who have been committed to supply goods, but wait for years before they can get paid.

As I stand here, I am a proud Nyerian. This is because Nyeri County is one of those counties that has zero pending bills. This came as a result of the Governor, the county assembly and I, as the Senator of Nyeri County, sitting together and agreeing to pay all pending bills to the suppliers and contractors because they are people from Nyeri. They have supplied goods and services. We agreed that before we do any new development, engage in any brick and mortar development, we ensure that we had paid all the pending bills.

Some of us who come from the construction industries have suffered for many years waiting for money that we borrowed from banks before we get paid. This has ended up killing the morale of Kenyan investors and entrepreneurs and advantaging foreign investors who do not need to rely on the Exchequer because they are able to access cheaper loans and get materials from their countries. Local contractors and suppliers have not only been disadvantaged; many companies and industries have been destroyed as a result of the unwillingness of national and county governments to honour pending bills.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Mr. Speaker, Sir, it is not lost to us that we have a huge young population in this country. We talk about access to Government opportunities by the youth, women and Persons with Disabilities (PWDs).

Most of our youth live in urban set-ups. They do not have collateral that is required for them to access financial facilities from financial institutions. Therefore, they end up borrowing money from their relatives and shylocks. At the end of the day, because of non-payment, many young people who hold the future of this country end up not only demoralised. Some of them end up with mental issues because of depression.

It is high time that governors of this country with huge pending bills, such as the Governor of Nairobi City County, the Governor of Kiambu and the rest, paid these pending bills.

We have looked, analysed and interrogated the issue of pending bills. Indeed, counties that have changed governors multiple times have huge pending bills. It is because those who get into office are not prepared to honour pending bills of their predecessors. This has a double-pronged approach.

Mr. Speaker, Sir, we know that corruption is deeply embedded in our procurement systems. People involved in procurement or supply chain management prefer to give new tenders and issue new contracts because they get kickbacks. This is an issue that we must call it the way it is. Indeed, it is a sad affair.

You will find new contracts being issued every financial year for the same services or works, but the previous ones are honoured---

(Sen. Miraj answered her phone call)

The Speaker (Hon. Kingi): Sen. Miraj, kindly go and answer your call out of the Chamber.

(Sen. Miraj walked out of the Chamber)

Sen. Wamatinga: Thank you, Mr Speaker, Sir, for protecting me.

I urge my fellow Senators, let us get into dialogue with our governors. Let us sit down with county assemblies and county executives, so that we can save Kenyans who are being auctioned and dying from depression. We need to save the situation. This can only be done through a concerted effort and us putting mechanisms and measures in place so that there is no new commitment.

No new procurement should be done before pending bills are settled. Failure to do this, will not only ruin the companies, but also see many people losing their property because many contractors and suppliers resort to borrowing money from banks and are required to service the loans.

It is known to everybody that loans and credit facilities in this country are very expensive. A couple of times, when they roll over, you end up losing all the profit that you made in a project.

It is left to us Senators to come up with mechanisms to ensure that counties that owe Kenyans billions of shillings should be paid first. Since suppliers and contractors are

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

known, a mechanism can be put in place through the Integrated Financial Management Information System (IFMIS) to ensure that all pending bills are settled before money is allocated to county governments.

Mr. Speaker, Sir, the law of Kenya is clear. Pending bills should form the first charge before any commitment is made. As it has been said by a Senator on this Floor, many governors come up with supplementary budgets, so that they do not have to go through public participation.

Hon. Senators, our work is to oversight. We have the mandate and power to ensure that county governments honour pending bills. If we do not do this, history will judge us harshly. We will be accused of not protecting Kenyans. We will be accused of not standing up for Kenyans. Most importantly, we will be accused of overseeing death of many Small and Medium Enterprises (SMEs).

Mr. Speaker, Sir, before I sit down. I would like to challenge my fellow Senators. It is time we sought dialogue with our governors. Even though we belong to different political divides or do not have the same political ideology, we should sit down with them for the sake of Kenyans, suppliers and contractors.

I support.

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

Sen. Wambua: Mr Speaker, Sir, I will be brief, but precise. As said by my colleagues, there is no question as to how governors and county governments should treat pending bills. I take the position that the existence of pending bills in any county is a loud testimony of corruption, incompetence and blatant disrespect to the Constitution of Kenya and ordinary legislation.

I say this because we all know that before a Chief Officer (CO) in any county government signs a contract to issue any contract to any contractor or supplier, they must do two things. First, they must confirm in writing that funds for a project are available. Secondly, they must ringfence those funds so that when works are completed, then contractors are paid.

The issue of pending bills running into hundreds of millions should never arise, in the first place. When it does, then the law is clear that payment of any pending bill should become the first charge on the County Revenue Fund (CRF) Account.

Mr. Speaker, Sir, you began in the morning by cautioning us and we take the caution seriously. You said that we should not degenerate into a House of lamentation. I want to urge my colleagues, guided by your directive, and on the strength of this Motion, that after the debate on this Motion, we make a resolution that will have far-reaching consequences to governors and county governments who accumulate pending bills.

I have just consulted Sen. Sifuna. It is actually a shame that Nairobi City County, the seat of power of the National Executive, the seat of power of the National Parliament, and the seat of power of all Executive Offices, has accumulated pending bills amounting to Kshs107 billion.

The annual equitable share to Nairobi City County is Kshs20 billion. What Nairobi City County Executive has done is that they have accumulated pending bills five times their annual equitable share through the Division of Revenue Act.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

As I said, if we are to be seen to be serious - and we must be seen to be serious - then we should not just debate this Motion and go home. We must come up with a resolution on how to deal with this kind of shame. That is the route that county governors think they are clever to use all the time through supplementary budgets to tinker with budgets and do things not captured by the public.

On this Floor of the Senate, I would like to challenge the hon. Members of County Assemblies (MCAs) across this country in the 47 counties. Since this is a matter of primary oversight, they should ensure that every supplementary budget is taken through the entire process of budget making and that there is public participation in any supplementary budget.

This way, we shall minimise the shoddy deals cut through the supplementary budgets. As is the counties and the national Government, we have obligations to banks and financial institutions.

When financial instruments fall due, everything else stops. We have obligations to international banks and financial institutions. Why is it that when we have loans we pay to institutions outside this country, we are willing to starve ourselves to pay those bills? Nonetheless, when it comes to our own local contractors and suppliers, we are willing to tell them to wait for five, six, or 10 years.

We are killing businesses, enterprises and our people. As a House mandated by the law and the Constitution to defend devolution and protect the interest of counties and county governments, pending bills is a matter we cannot debate. We need a strong resolution that will follow up and through to ensure this House's resolution on pending bills is implemented.

With those submissions, I rest my case.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am truly impressed by the industry of the Senator for Narok. If this House could approve the recommendations he has proposed in this Motion, it would be a profound statement on how to solve the problem of pending bills.

Taking over from where the Senator for Kitui County has left, how can we say that this House protects counties and county governments when we have allowed Nairobi City County to owe people who have delivered goods and services a whooping Kshs107 billion? We are failing. When the governor is invited to appear before the House, he shows us the middle finger.

I have chaired one such meeting where we were forced to fine him Kshs500,000. In another meeting chaired by the Senator for Kiambu, a similar punishment was dished out to him. This will require that we take the initiative of the Senator for Narok further so that we achieve what America did after the First World War.

After the First World War, America improved its infrastructure by encouraging local entrepreneurs. They blocked companies from Europe from coming to do business in the United States of America. The money that was used, borrowed, or otherwise by local entrepreneurs opened up the economy of America. To date, America is the biggest economy in the world.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

If we will read from this, then we should push counties to pay entrepreneurs. This will open up the economies of all 47 counties, especially if we add a rider that says contracts must be given to local people in a county unless the expertise for doing a particular project does not exist within that county.

It reminds me that the day before yesterday, on Monday, 22nd April 2024, in Kakamega, thanks to the responsibility this House gave me, I carried out an oversight function at the Kakamega Golf Hotel. I invited all creditors to the County Government of Kakamega to whom pending bills are due to come so that we could workshop together.

We invited the county assembly and the county executive, but they did not come. The documents we were using in that meeting were submitted by the Governor of Kakamega to the Finance and Budget Committee. We wanted the creditors to verify and validate those lists.

The governor saw no sense in coming. Instead, he went and pedalled influence at the police station. The police had the audacity to come and storm the hotel to disperse us. It was a low moment for this House. I have decided to keep the course and allow the people of Kakamega to make their own decisions.

One of the companies presented documents at that great meeting. The old man in his 80s, is one of the most successful people in Kakamega and is owed Kshs250 million. This does not bother the governor.

The recommendation in this Motion is that the Senator of Narok is attempting to say that the particular amount of money owed should be cleared within this financial year. He is starting a conversation. I would like to challenge myself, the Finance and Budget Committee and the entire House to carry this conversation further so that we help all the counties of Kenya.

In Nairobi City County, it would mean that if people were to wait for all the Kshs20 billion we give the county to be given to them, some companies would be paid five years later. We are failing.

I had a sitting with the Controller of Budget (CoB) in her office over this. She requested us to help them. The tragedy of this problem is that if you go to the countryside, many projects have stalled because contractors cannot continue.

In Kakamega County, for example, our first governor started the Bukhungu Stadium, but it has stalled because of pending bills. The construction of the teaching and referral hospital has stalled because of pending bills. Khayega, Shinyalu, and Ikolomani markets have stalled because of pending bills. The Khayega, Shinyalu and Chepsonoi road has stalled due to pending bills.

When we raise these issues, governors are quick to run and say that we want their seats. Who told governors that they have seats? Those seats belong to the people of those respective counties and they have the choice to renew their contract or throw them out so that, more competent people can take over after a cycle of five years.

Mr. Speaker, Sir, I hear you. Amen. If we are not firm as Parliament, we will either throw our country into instability like what is happening in West Africa. The outdated way of change of Government is now back in Africa. We are now seeing coup d'etats. The militaries are waiting to see the institution of Parliament ensure that the Constitutions are working and when they give up, they use unconstitutional means.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

With due respect to myself and the Government that I love and serve, how can we be a country where we see nothing wrong with doctors carrying twigs and leaves in the streets when they are supposed to be in hospitals treating people?

How can we be a country where business people make formal presentations that they were forced to deliver fertilizer in a conduit that has resulted in Kenyans being sold fake fertilizer? How can we see nothing wrong with it? We are happy that the Cabinet Secretary for Agriculture, Livestock Development is today sitting pretty in office when he is responsible for the mess of the sale of counterfeit fertilizer.

If the Lord Almighty can speak to the Hon. Cabinet Secretary Linturi, then he should resign at the end of my speech. He is not fit to be a Cabinet Secretary for Agriculture, Livestock and Fisheries. How would you sell fake fertilizer to the same people who voted for you?

(Applause)

Even if we want to get rich quickly, then let us work a little bit harder. You cannot get rich simply by mixing donkey stool---

Hon. Senators: Shame on him! Shame on him!

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

Sen. Kathuri: Mr. Speaker, Sir, we must be very responsible sometimes when prosecuting our debates. I want to know whether Sen. (Dr.) Khalwale has evidence that is incriminating the Cabinet Secretary for Agriculture, Livestock and Fisheries. It is an ongoing investigation. Also, where he sits, he does not sell or supply fertilizer directly to the people of Kenya.

Mr. Speaker, Sir, since the Cabinet Secretary is not before the Floor of this House, Sen. (Dr.) Khalwale should not use the privilege that he has to malign or soil the names of other Kenyans. If he has the evidence, then he should table it to you.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you either substantiate or withdraw that particular statement.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, it was Dr. Martin Luther King who said that, if you are accused of breaking the law when the law you are accused to be breaking is a bad law, then that is the highest respect of the law.

The Deputy Speaker is right, I am out of order. However, the law that makes what I am doing to be out of order is a bad law and, therefore, my defiance to it is the greatest respect of it.

(Applause)

Mr. Speaker, Sir, I, therefore, withdraw those remarks.

(Laughter)

I tell the Deputy Speaker that it is on the way and it is coming. The Senate Committee on Agriculture, Livestock and Fisheries is seized of this matter together with

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

the National Assembly. In fact, this weekend, they are in Kakamega and they are on the case. The report will come and I will be vindicated.

Mr. Speaker, Sir, I say these things because if you go to a place like Kanduyi in Bungoma where Sen. Sifuna comes from, there is this woman who has one hectare of land and she is a *mama mboga*. For her to raise Kshs2,500 out of selling vegetables enough to buy the fertilizer to plant that one hectare, is very tight. When she succeeds and then we short-change them through what we call in Luhya '*mafwenyi*' then it is corruption. It is very unfortunate. I hope in the fullness of time we will serve the people of Kenya.

It is a privilege for all of us wherever we are elected, it does not matter which office you are in. Once you are elected, it is a privilege for you to be there. This is because those people had an option to elect the man or woman you defeated. Tell me who including the President was elected unopposed in this country?

Mr. Speaker, Sir, I support this initiative by Sen. Olekina.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Abdul Haji.

Sen. Abdul Haji: Thank you very much, Mr. Speaker, Sir. I also rise in support of the Motion by Sen. Olekina. It is a good Motion and it is also crucial to acknowledge the adverse effects of the accumulated pending bills.

This has led to the closure of businesses and mental stress to some of the individuals who have done business with county governments. It is also equally important to recognize the diligent efforts of county governments in addressing the issues within their county.

This Motion gives me an opportunity to vilify the governors from the counties of North Eastern as far as the issue of paying pending bills is concerned.

As per the report of the office of the CoB, the County Governments Budget Implementation Review Report that the Senator who moved this Motion was referring to, it is evident that Wajir County by the end of the Financial Year of December 2022, had accumulated a pending bill of Kshs5.4 billion from the previous government.

As per the report, the financial year closing December, 2023, Wajir County has taken their pending bills down from Kshs5.4 billion to Kshs1.6 billion. That is a huge difference.

(Applause)

It is also important to note that as a Senate, we are always known for bashing governors. It is also important to praise them from time to time. Such an example is commendable and it is what we want of all governors.

Mr. Speaker, Sir, my county as well has done a good job in paying their pending bills. Garissa County, at the end of December, 2022, had a pending bill of Kshs1.3 billion. As per the report at the end of December, 2023, Garissa County stands with a pending bill of Kshs600 million. This means that the governor has paid half of the pending bills that he found in the county when he got into office. So, I take this opportunity to commend my Governor for a good job.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Applause)

Mr. Speaker, Sir, we have heard from Senators that the accumulated pending bills of different counties has had adverse effects of the people and businesses in those counties. So, when they do a good job, we have to praise them. However, when they do a bad job, we also have to be harsh and tough and bash them and give them feedback that will make them to change. If they do not change, then the people of those counties should change them.

As far as this Motion is concerned, I support it. However, I would also want the Senator who is moving this Motion to amend some of the wordings of it, so that we do not put all the governors in one basket and give the impression that county governors never do anything good.

From the examples I have given of Wajir and Garissa counties, these are governors who are serving a second term. They have come in after being out for five years and found an exploded pending bill. However, they have done something about it and reduced the amounts.

As far as I am concerned, this Motion should be very harsh on the county governments that have not done anything since they came into office in reducing the amounts of the pending bills. Examples include Nairobi City County, Kiambu, Busia and other counties.

The Mover of the Motion should be able to cluster the notorious counties so that they can be affected by this Motion. If the Mover is agrees to make some of the amendments, then I will fully support this Motion. I thank him for coming up with a very good Motion that will assist the county governments that are suffering from pending bills.

As I said, it is also important that we give positive feedback to the governors who are doing a good job.

Thank you very much, Mr. Speaker, Sir. I support the Motion.

The Speaker (Hon. Kingi): Sen. Abass, proceed.

Sen. Abass: Thank you, Mr. Speaker, Sir. It is a very unfortunate situation today that this very House that is supposed to oversight the counties, has failed the people of Kenya because of the pending bills increasing over the years.

I want to correct my friend and my neighbour, Sen. Abdul Haji, that the Wajir County pending bill is Kshs5.5 billion. However, what is shown in the CoB report is the verified amount of Kshs1.6 billion. I want to put the record on HANSARD that the Wajir County pending bill stands at Kshs5.5 billion.

This country has all the institutions that do oversight. Our experience has been budgets are made and appropriated. It comes to the Parliament and county assemblies and are appropriated. Therefore, there is no reason for us to have pending bills because all this money has already been given to their respective counties. If a county is given Kshs3 or 10 billion, then they must live within their budget.

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

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

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

Mr. Deputy Speaker, Sir, the issue is where the money delays. In that case, according to the Public Finance Management (PFM) Act, the first charge of every financial year must be paid to all monies that are pending. What is happening is negligence on the side of the governors. When a new governor comes in, they make their own commitments, and then keep the previous bills aside, which is not acceptable in this country.

We have many oversight institutions in this country. We have the Director of Criminal Investigation (DCI), Parliament and so many institutions in place. However, unfortunately, children are suffering. People are not able to even take their children to school because they have spent the money.

They applied for a contract, underwent all the process and were awarded. They spent their own money to pay these contractors, suppliers, hardware persons, the *changarawe* people and the people who supply the cement. All these people are now stranded.

Mr. Deputy Speaker, Sir, there are huge pending bills. We want this House to help and work with the CoB so that at least this money is paid to the people with pending bills. Otherwise, as it is, there are people who have gone into depression, are crazy and hungry and whose children are not going to school. This is a disaster. We have no reason as to why we should have pending bill. There is no justification for pending bills.

In my county, we had a sitting with the governor, suppliers and all the contractors. There was an agreement that we should pay the money. However, that does not happen because the budget is limited. However, we are still trying to negotiate with the suppliers to see how best we can pay the money.

One other thing we have discovered is that many of the contracts awarded and claims made, cannot be verified. There are no documentations. Some of them are missing and even fictitious. So, it becomes difficult for us to solve this problem.

As the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations, I am ashamed. Every time I go to a county, the contractors come to me and say, the Senate is not working nor giving us support. It is high time this Senate woke up and supported the public so that people can get their money.

I suggest we stop all the monies for the counties until the pending bills are paid. Otherwise, as it is, people are running bankrupt and robbed in the country.

If the Ethics and Anti-Corruption Commission (EACC) has failed, or they are overwhelmed because of the job they are doing, then we can use other institutions like the DCI to take over these things and come up with a list of the criminals who are stealing public money. So far, we have only seen only one governor that has been taken to court and charged, yet money is looted on a daily basis.

When the Auditor-General gives his report, he says there is money that has not been accounted for, but no action has been taken. It is now time for this House, since we are responsible for overlooking the counties, to wake up and supported the institutions that are doing the oversight, like the EACC, DCIs and all others, so that this menace of corruption can to come to an end.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Thank you, Mr. Deputy Speaker, Sir. I beg to support.

The Deputy Speaker (Sen. Kathuri): Thank you, Sen. Abass. Next is the Deputy Minority Whip, Sen. Sifuna. Sen. Sifuna seems not to be aware of his title because---

Sen. Sifuna: Mr. Deputy Speaker, Sir, before you get to the end of that statement, there is no way of me knowing you are talking about me, when you start by Deputy Minority. It could be Leader or Whip. So, until I heard the last word in your statement, I did not know that you were speaking about me.

Mr. Deputy Speaker, Sir, I am speaking to this House on a very difficult day for the people of Nairobi. As I speak, many of our people are marooned in their homes. I have seen videos and photos of people on rooftops. Some homes and roads have been swept away. As I speak, footbridges in places like Kamukunji, those connecting Kamukunji to Makadara and Embakasi West, have all been swept away because of the rains that are going on.

We have a humanitarian crisis that is unfolding in Mathare Valley, especially at the hospital and Utalii wards. At this particular point in time, we want to acknowledge that the Nairobi City County Government is overwhelmed. We urge the national Government together with all the national emergency services to be mobilized in order to save lives in many areas of the City.

There is a connection between what is happening now and the Motion that is before this House on pending bills. One of the things that break my heart is that every time we discuss problems in counties, Nairobi City County is always at the top of the list in terms of being the worst.

Mr. Deputy Speaker, Sir, if you can remember, just a few weeks ago, we were discussing the question of pending remittances to pension funds, including Local Authorities Pension Fund (LAPFUND) and Local Authorities Provident Trust (LAPTRUST). Three quarters of the money, which was about Kshs48 out of over Kshs60 billion that was owed to the funds, was by Nairobi City County which had the bulk of those unremitted funds.

Just recently, there was a report on the number of teenage pregnancies across the country. Again, it did not surprise me that we were number one on that list. Any time there is a problem across the country and there is ranking, we are always at the top of the worst possible lists. It is not another surprise that as we discuss pending bills, out of Kshs160 billion owed by 47 counties, Nairobi City County has Kshs107 billion.

I thank the Senator for Narok for this Motion because it is meant to save the people of Nairobi City County. The breakdown of Ksh107 billion pending bills contains the following. There is the report of the Auditor-General for the year ending June, 2023. There is an analysis of pending bills which we are speaking about. That is Annexure 2 of the Auditor-General's report.

First, there is a lot that is made about Kshs20 billion that is owed to lawyers in Nairobi City County. Whereas many things have been said about it, we would want there to be an audit process where all these bills are taken through.

There was an attempt by the government of Governor Sakaja when they came in. They brought in taskforce to check whether, indeed, all those bills are payable. I know it was chaired by Senior Counsel Kamotho Waiganjo. There was an intervention by the

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

High Court sitting in Kitale that declared all those processes to be extra-legal because most of these committees were disbanded without ever handing in their final reports to tell us whether those bills are payable or not.

I want to speak as the Senator for Nairobi City County. Sometimes lawyers are all lumped together and many claim that most of these legal bills are fictitious. However, there is a process in the Office of the Auditor-General (OAG) to ascertain what is payable and what is not.

There are many good young lawyers who have done work for Nairobi City County Government. However, they have not been paid at the expense of a few rogue lawyers, especially senior people in the profession who raise ridiculous fee notes for work which is not commensurate to that payment. We need to isolate those cases where we believe work was genuinely done in order to process those payments.

In the same OAG's report, we have a list of stalled development projects in the county. We have over 12 stalled health projects. That includes construction of health facilities at all levels of the healthcare system, which amounts to about Kshs1.4 billion in pending bills. I have given examples on this Floor of construction works that have stalled at our Level 5 Hospitals.

If you go to Mbagathi Hospital, there is a stalled construction project. The contractor abandoned site because of non-payment of bills amounting to Kshs40 million. At Mama Lucy Kibaki Hospital and Mutuini Sub-District Hospital in Dagoretti South, the story is also the same. If you go to Pumwani Maternity Hospital, the premier facility for delivery of children in this country, the situation is the same.

Yesterday I heard the Cabinet Secretary for Health saying that the monies that were owed by the national Government to these facilities under Linda Mama Programme and the National Health Insurance Fund (NHIF) had been paid. She told us to check the accounts today. However, as of yesterday when she had finished speaking, I spoke to the Chief Executive Officers (CEOs) of these facilities and that money has not been seen. I am also going to check with them today to see whether these amounts have been paid because we need these projects to be completed.

One of the conversations that has been going on with the current flooding in the country and Nairobi City County in particular, is the question of garbage. We have a big problem. Garbage has become a serious menace and it is contributing to the situation of flooding. Most of the garbage that remains uncollected in many areas end up in our drainages and people's homes flood.

For example, we had a collection centre that was opened at Umoja Innercore. That garbage was not meant to stay there. It was supposed to be collected at Innercore and taken to Dandora Dumping Site. Since September, 2023, the contractors abandoned their work for non-payment and the garbage at Innercore in Umoja has now reached the power lines. That is how high up it has been stacked.

We have illegal dumping sites at places like Likoni Road. If you speak to business people who operate in that area behind Karatasi Brands, they will tell you that there is an illegal dumping site that was opened behind Enterprise Road. All of those business from Enterprise Road coming all the way up to Road C and B are flooded. People are counting

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

serious loses because of non-collection of garbage and dumping of soil on the riverbed in that particular area of Ngong River.

I had a conversation with a young contractor who had come to my office. He had been contracted to collect garbage. After receiving the contract, he went to the suppliers of machinery, that is backhoe loaders and trucks and got a loan to finance the project thinking that he would make some money and pay for the equipment.

By the time the guy was seeing payment, he had to abandon work and his machines were repossessed by the financiers. They were auctioned at a lesser value than he bought them. He was also required to pay for the difference in value of what he took and what they fetched in the market at the auction. We have this phenomenon where if you go for payments in the county governments and do not know somebody to push it for you, then nothing is going to be done. The young man was in tears.

If you have that conversation, allegations are that you cannot be paid a pending bill until you agree to part with 50 per cent of the payment. These are not stories. That is the life of many of the contractors that are in our country particularly in our county.

The Motion that has been brought by the Senator for Narok is timely. He has made some recommendations here. The first one is that the Senate recommends that all county governments pay verified pending bills amounting to less than Kshs1 billion by the end of this financial year and those above Kshs1 billion by the end of Financial Year 2024/2025.

When I hear my counterpart from Nyeri say that they have no pending bills then our friends from Baringo want to impeach their governor because of pending bills of Kshs115 million, I wonder which world is this that Nairobi City County cannot live in. We can also be at zero pending bills.

I support the recommendation. In fact, I have been an advocate of ring-fencing money for pending bills. As you have heard, at the rate we are moving, if Nairobi City County gets Kshs20 billion every year in equitable revenue, it will take us five years doing nothing, but paying pending bills. It will take five years' allocation to get to Kshs100 billion in order to clear our pending bills.

I agree with the recommendation here, that county governments must prioritize payment of pending bills. If those bills were being paid, garbage collectors would be working.

Mr. Deputy Speaker, Sir, I forgot to tell you that if you look at the report of the Auditor-General, for the year ending June, 2023, the number of stalled road projects which are under constructions, including roads and Early Childhood Development Education (ECDE) facilities, are over 50. Some of them include works that would have made the situation with flooding a bit better than it is right now.

We have stalled projects with sports facilities as well amounting to Kshs64 million. These are pending bills owed to people who are supposed to be completing construction of sports stadia in Nairobi.

Mr. Deputy Speaker, Sir, I, therefore, agree with the proposal that county governments must prioritise payment of pending bills as a first charge on the County Revenue Fund (CRF). However, we do not understand why this is not being done even as it is because that is the law. The law is that we pay our debts first before we do anything

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

else. Why is the CoB allowing county governments to continually receive money, when we know it is not going to the payment of these pending bills as a first charge on this CRF as provided for in the law?

I want to make another proposal. This is something that I am sure Sen. Olekina agrees with. There is actually no point for any county government to begin construction or new projects when we have stalled projects.

If you go to Joseph Kang'ethe Grounds in Woodley, there is a social hall that was started by Governor Kidero in 2013. Up to today, from 2013, even though we have had subsequent county governments, none has seen it fit to allocate any resources for the completion of that social hall. Why would a governor upon election, not prioritise completion of projects and then, come up with new projects that are going to again get us into this rut that we are in?

For instance, I have advised my county governor that yes, he had this plan to subdivide Nairobi into four boroughs so that, there can be better management of the City. However, I have told him that he does not need to build new borough offices.

I am sure he understands that, in fact, when we have ward offices for the counties, there is no need for us to build any new offices and yet, we have stalled projects in the health and other critical sectors.

Mr. Deputy Speaker, Sir, there is a proposal that county governments shall only pay pending bills contained in their respective procurement plans, pursuant to regulation 50(2) and (3) of the Public Finance Management County Government Regulations.

This is one of the most abused areas. That county governments will request for funds and give lists to the CoB stating the bills they are going to pay. Then when the money is released to them, they do what the Senator of Taita Taveta was alluding to, the voiding of transactions so that they can then preferentially pay those who they have struck deals with in order to receive something as kickbacks.

Mr. Deputy Speaker, Sir, I am a strong supporter. In fact, if today you tell me that we should ring-fence all the money that comes to Nairobi City County Government. We start paying off suppliers and contractors who are working on our drainages and collect our garbage, I do not think anybody in Nairobi City Nairobi will object.

Mr. Deputy Speaker, Sir, there is a meeting where I had been invited by the Office of the Deputy President today to discuss this thing of the Nairobi rivers. Since I believe in the relationship between the national and county governments being kosher, I thought that it was a misplaced forum for us to discuss matters that are completely devolved.

We have thoughts on how we can improve Nairobi. Those of you who have travelled across the world to places such as Europe, will see that their rivers are paved at--

--

The Deputy Speaker (Sen. Kathuri): Next is Sen. Chute.

Sen. Chute: Asante sana, Bw. Naibu Spika. Namshukuru Seneta wa Narok Kaunti, Sen. Olekina, kwa kuleta shida ambazo kaunti ziko nazo kuhusu madeni ambayo hayajalipwa kwa muda mrefu sana.

Kwa kawaida, serikali za kaunti na Serikali Kuu bado ni serikali ambazo zimechaguliwa na raia wa nchi hii. Pesa ambazo wanatumia ni zile ambazo zimetolewa

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

kama ushuru na raia wa nchi hii. Pesa za kaunti sio pesa ambazo hazina hesabu, ziko na hesabu yake na zinatakiwa kujulikana zimefanya kazi gani.

Bw. Naibu Spika, kuna jambo linalojulikana kama *public participation*. Kabla mradi haujapitishwa katika bunge la kaunti, lazima wananchi waseme mradi wanaotaka na mahali utafanyika. Baada ya wananchi kuamua mradi wanaotaka ufanywe, wanaanza kupanga mpango wa kuanza mchoro kama ni mjengo au barabara.

Halafu, huo mchoro unawekewa bei katika shughuli inayoitwa *quantity survey*. Baada ya gharama ya ujensi huo kujulikana, inapelekwa katika bunge la kaunti na kushughulikiwa ipasavyo. Baadaye, inapitishwa kama mpango ambao umetoka kwa wananchi wa kaunti hiyo.

Baadaye, mambo ya vile kazi itafanyika inatangazwa katika magazeti. Majina ya *contractors* ambao wanafanya hiyo kazi, wanajaza malipo yao na yanapitishwa na wale watu wanaoshughulika na *procurement* ya huo mpango.

Hakuna kitu kitakachofanyika katika nchi hii ama kaunti ambacho kimepita katika Bunge la Kitaifa au la kaunti bila kujulikana hiyo *budget* inapangiwa mradi gani.

Shida iliyo katika kaunti ni kuwa, baada ya *budget* kupitishwa na kujulikana ni *project* gani itafanyika, wakati *contractor* amefanya kazi na ameandike *certificate* yake, inaenda kwa ofisi ya CoB. *Certificate* ikifika huko na pesa ilipwe, hiyo pesa haiendi kwa huyo *contractor*. Hiyo pesa ikitoka kwa CoB, inabadilishwa na inalipwa *contractor* mwingine.

Contractor ambaye *certificate* yake ilifika huko, anakaa akingoja pesa yake ilipwe ilhali pesa yake ilishalipwa katika ofisi ya CoB; *account number* na jina za kampuni ziko huko na pia, jina na sahihi ya mwenye kutayarisha hiyo *certificate* kwa kaunti ziko huko.

Kitu kimoja ambacho kinasababisha *contractors* na *suppliers* katika kaunti kuangamia ni kwamba pesa zao zinakuwa *diverted*. Zinabadilishwa kutoka kwa kampuni yao na zinalipwa kampuni nyingine.

Niko na ushahidi kutoka Ofisi ya CoB. Kwamba, kuna kampuni za *contractors* na *suppliers* katika kaunti ya Marsabit, ambayo nasimamia kama Seneta, ambao kulingana na ofisi ya CoB, wamelipwa.

Nimepewa hizo *documents* kutoka kwa hiyo Ofisi na wale *contractors* wangepaa kulipwa, walisema hawajapata hiyo pesa nilipowauliza.

Bw. Naibu Spika, sababu nyingine inayofanya pesa ya *contractors* na *suppliers* kucheleweshwa ni *Own Source Revenue* (OSR); ule ushuru unaonafaa kukusanywa katika kaunti.

Wakati bajeti inapangwa, wanaongeza kiwango ambacho wanafaa kuokota kiwe zaidi. Hiyo inafanya *suppliers* wa kaunti wakose.

Bw. Naibu wa Spika, shida ya tatu ni wakati bajeti imepitishwa na ushirika wa umma umefanywa, kuna kitu kinachosumbua sana ambacho kinaitwa *supplementary budget*. Kwa mfano, baada ya bajeti kupitishwa kwa kaunti yangu ya Marsabit, yale maendeleo yangefanywa kama ujenzi wa barabara, nyumba, mashule au mahospitali na yalikuwa kwa bajeti, yale yaliyopangwa yanabadilishwa na *supplementary budget* inatengenezwa. Pesa zote zinatolewa kwa hayo maendeleo na zinapelekwa kwa *emergency relief supplies*.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Kaunti kama ya Marsabit, katika *supplementary budget*, pesa ya maendeleo imebadilishwa na ikapelekwa kwa chakula na wakati mwingine, inakuwa shilingi milioni mia sita, saba au nane. Sababu ya hio pesa kubadilishwa kutoka kwa *development fund* na kupelekwa kwa *relief supplies* ni kwa sababu, kwa *relief supplies*, hakuna ile tenda ya kawaida inafanywa sababu ni *emergency supplies procurement system*. Hii ni njia ambayo inafanya ofisi ya gavana kuitisha wakandarasi bila kupitia njia ya tenda ya kawaida.

Bw. Naibu wa Spika, tunaambiwa Maseneta ni watu wanatakikana kusaidia ugatuzi katika nchi hii. Ugatuzi ni lazima ufutwe na maendeleo. Ukiangalia Kaunti zingine na sitataja majina hapa, maendeleo yao ya ujenzini *6 per cent* peke yake. Mimi ni mwanachama wa Kamati ya Ugatuzi na nilishtuka sana kuona makaunti yana *6 per cent*. Kama unatumia *94 per cent* kufanyisha kazi *6 per cent*, kweli ugatuzi bado kufanya kazi. Ninaona ni kama hatufanyi kazi ya ugatuzi vizuri.

Ninamshukuru sana Seneta wa Narok kwa kuleta Hoja hii. Ukitazama kaunti ambazo magavana wao ni Waisilamu, wao husema wanaenda *Hajj* na *Umra*. Pia wao wanasali mara tano kwa siku na wanalipa sadaka na *Zakat*. Lakini, ukiangalia kaunti zao, hizo ndizo kaunti zinarudisha ugatuzi nyuma.

Hizo ndizo kaunti ambazo nina ufidadi mkubwa. Wao wanadai kaunti zao ni *arid* na hazina mvua ya kutosha. Wao hurudisha pesa za kujenga kwa kaunti kwa chakula.

Bw. Naibu wa Spika, ukienda---

Naibu wa Spika (Sen. Kathuri): Samahani kidogo, Sen. Chute. Kuna hoja ya nidhamu kutoka kwa Seneta wa Uasin Gishu.

Sen. Mandago: Bw. Naibu wa Spika, kulingana na Kanuni za Bunge Nambari 105, je, Seneta wa Marsabit ana stakabadhi zozote kuonyesha Muisilamu ama gavana Muisilamu wana uhusiano wowote na ufidadi?

Naibu wa Spika (Sen. Kathuri): Sen. Chute?

Sen. Chute: Bw. Naibu wa Spika, mwenzangu ameteleza kidogo. Sijasema iko dini inaonyesha mwingine ni mkora. Lakini, ninasema wale watu tungeheshimu kama Waisilamu, wanatoa sadaka na wanaenda *Hajj*, wangepaa kuhakikisha kaunti zao zinafanya kazi vilivyo.

Ugatuzi unakufa. Nilienda *manyatta* fulani. Nikaonyeshwa kaburi na nikaambiwa huyu mzee amekufa akidai kaunti. Kuna watu wengi sana wamepotesha maisha yao na siyo kwa sababu ya ugonjwa au shida nyingine. Ni kwa sababu alienda kuomba pesa kwa benki, familia au marafiki zake ili aende kufanya kazi ya kaunti.

Bw. Naibu wa Spika, pesa inakaa miaka tano bila kutolewa au kulipwa. Ninakubaliana na Sen. Olekina. Ningeulizwa leo, maendeleo yoyote yale yasifanywe ili kwanza walipe zile pesa zote au *pending bills* watu wanadai serikali za kaunti na Serikali Kuu. Haijalishi serikali ni gani. Kama ni ya kaunti am ani Serikali Kuu ya Kenya.

Saa hizi ukipatikana na *Kenya Revenue Authority (KRA)* na hujalipa ushuru, unapigwa *penalty*. Sasa, Serikali inakupiga *penalty* na wakati ule Serikali inakataa kulipa raia pesa zao, watalipa hio *penalty* kutoka wapi na watauliza nani?

Mahali nimetoka, umaskini wa watu uko hali ya juu. Saa hizi kazi yeyote inayofanywa katika Kaunti ya Marsabit, wale wenyeji huko nyumbani hawafanyi hiyo kazi. Ni watu kutoka nje wanakuja kufanya kazi na saa zingine wanaleta chakula ya

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

msaada huko. Ile pesa inabaki huko ni ile ya watu wa kuteremsha hiyo mizigo wanalipwa, peke yake.

Bw. Naibu wa Spika, kama ni shilingi mia mbili, ile pesa inabaki huko, ni shilingi elfu kumi ya kuteremsha hiyo mizigo peke yake na shilingi 199,990,000 inarudi hapa Nairobi. Hata pesa hakuna kwa miji kwa sababu pesa zote zimerudi Nairobi, vile imetumwa kutoka Nairobi, inarudi Nairobi.

Lakini wale watu masikini kidogo wako na milioni moja au mbili; na wamefanya kazi na kaunti, mpaka leo, miaka tano au sita baadaye, hawajapata pesa zao. Ningependa hata Mhe. Rais wetu, akae afikirie raia wake, kwa sababu nchi zingine za Ulaya ama Saudi Arabia, wale wanaopanda ngano huko Saudi Arabia, serikali inawapa msaada. Kama ngano ingekuwa ni shilingi elfu moja, serikali itawapa shilingi mia mbili ili wauze ngano yao, shilingi elfu moja, mia mbili.

Bw. Naibu wa Spika, lakini serikali yetu inaiba kutokwa kwa raia wa Kenya. Raia anapatia serikali deni na serikali hailipi deni. Saa hio serikali ya nchi nyingine inasaidia raia wake na hii ya Kenya inamaliza raia wake.

Sen. Olekina amefanya kazi nzuri sana na ninaunga mkono. Ikiwezekana, tuweke sheria ya kwamba, hakuna maendeleo yatafanyika katika makaunti ama hata kwa nchi, mpaka wale watu wanalia kwa saa hii walipwe pesa zao.

Nikimalizia, ukiangalia makaunti, kuna watu wanafanya kazi kwa niaba ya magavana wa hizo kaunti. Kampuni zingine zikifanya kazi, zinalipwa pesa hata kwa muda wa wiki moja. Wale raia wa kawaida wanaenda kujaza tenda na wakijaza hizo tenda, wanaenda kutafuta pesa zao na hawapati hizo pesa hata kwa miaka kumi.

Hizi kampuni ni kubwa na zinafanya kazi ya milioni mia mbili, tatu au nne. Majina yao yanatakikana yaletwe mbele ya Seneti wafanyiwe uchunguzi. Kuna watu wanaandikisha makampuni leo na kesho yake, wanajaza tenda ya kaunti. Siku ya tatu, anapewa kazi ya milioni mia mbili na baada ya wiki mbili, analipwa pesa.

Bw. Naibu wa Spika, hio pesa baada ya wiki mbili, inatoka kwa hio akaunti na haijulikani mahali inaenda. Inatakikana hata hawa watu wachunguzwe hiyo kazi yao walianza lini na walifanya na kampuni gani na imetoka hiyo akaunti ikaenda akaunti gani.

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

Sen. Ogola: Thank you, Mr. Deputy Speaker, Sir. I support the Motion by my senior, the Senator for Narok, Sen. Olekina.

Pending bills is a very thorny issue in this country. If you look at the copies of the Local Purchase Orders (LPOs) and Local Supply Orders (LSOs) that are given to suppliers or contractors, behind them the regulations are provided that you will not grant work if you do not have that money in your budget. Therefore, with those regulations in place, it was intended that works are given when funds are available.

It then bothers all of us why we continue piling pending bills. Recently, we saw an exchange between a service provider of Nairobi City County and the Governor of Nairobi County. It was purported that there was a request for some down payment of some bill. This could be the reason why we have pending bills in counties. Some are not paid because people who have done such work are not ready to part with some money.

Pending bills have what we call an aging system. If you go through the auditor's report, there is a mention of aging system payment. You wonder why the pending bills that were incurred by county governments or government departments do not respect the aging system that is prescribed for payment of pending bills. Pending bills are also a first charge in our budgets.

Mr. Deputy Speaker, Sir, there has been a historical excuse with counties, especially that some of the pending bills were incurred from the defunct local authorities. I have often referred to this as an excuse because those county governments took over those bills from the defunct local authorities, but we have not seen any effort in paying those bills. So, those bills remain just by design.

The issue of own-source revenue also adds to the pending bills we have in counties because it is used by counties to balance their budgets. At the end of it, we remain with pending bills year in, year out. I have seen several people in my own county distressed, fall sick with some collapsing and others die.

My uncle, Dicklan Opan, was buried unceremoniously because he was owed money by the County Government of Homa Bay and he expected payment because his financiers were also looking for payment. On that particular day when he was expecting that pay which did not come, he just dropped and died. That is the story of so many other people. Many contractors have had their properties being auctioned, are sick in beds or are terminally ill because they have not been paid and so not able to meet their financial obligations.

Mr. Deputy Speaker, Sir, the issue of pending bills results in the withholding of circulation of cash in the economy. Some times back when counties came into place, the counties were very vibrant when funds had been released. When people were paid, you could see money circulating in most of our urban and rural centres. Now, that is a thing of the past.

I support this Motion because the pending bills also put pressure on the scarce resources that we have in our counties because they attract penalties that have to be paid. If they are paid by the counties, it means that there is pressure that is exerted on the resources that we already have.

If you look at the last Auditor General's report, there is a mention of abandoned and incomplete projects all over the country. These were projects that some money had been put in. Unfortunately, counties were supposed to make our people vibrant in their businesses, but the non-payment of these bills has killed many small business people. We have also heard the example of Nyeri County by the Senator for Nyeri.

Our governors and a number of government departments need to learn from Nyeri why a number of counties have pending bills and Nyeri does not. However, as we talk about counties, even the national Government departments as per the Auditor General's report, have huge pending bills led by the Ministry of Roads and Transport, the Ministry of Energy and Petroleum, and even the Ministry of Health.

Incidentally, even Office of the President (OP) has a percentage of pending bills. Our government departments and county governments must meet their obligations so that our people can thrive and the economy of the counties can grow.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

As I wind up, the fact is that we are looking forward to Members of County Assembly (MCAs) providing the first primary oversight over some of these worrying trends. It is also worth noting that some of those MCAs are contractors in the counties.

As we look at the MCAs to provide oversight, some of them are conflicted. The Senate must stamp its feet. Let us keep pending bills as a first charge in the budgets and let our governments meet their obligations.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you.

Hon. Senators, at exactly midday, we will be interrupting the debate to usher in the Cabinet Secretary for Gender, Culture, the Arts and Heritage so that she can answer the questions as it was earlier communicated.

I do not know whether she is around. If she is, then you can---

Sen. Mandago, do you want to use one minute?

Sen. Mandago: Thank you very much, Mr. Deputy Speaker, Sir. I rise to support the Motion by the Senator for Narok, Sen. Ledama Olekina, on the matter of pending bills. I urge this House that as we pass a resolution to this Motion, we instruct the CoB to ensure that the budgets for the Financial Year 2024/2025 for all counties take into account pending bills and that there shall be no funds disbursed to counties until all the pending bills have been paid.

Mr. Deputy Speaker, Sir, the national Government has taken a proactive approach and already has a pending bills verification committee. They have set aside resources to make sure that all historical pending bills in the national government are sorted. Consequently, the county governments must also take cue from what national Government is doing and ensure that all pending bills are paid.

On the matter of diversification of funds---

The Deputy Speaker (Sen. Kathuri): Sen. Mandago, let me interrupt you. You will have some minutes when we resume the same debate.

Sen. Mandago: Thank you, Mr. Deputy Speaker, Sir.

(Interruption of debate on Motion)

The Deputy Speaker (Sen. Kathuri): I want to now usher in the Cabinet Secretary for Gender, Culture, the Arts and Heritage, to answer Question No. 025, from the Senator for Kirinyaga County, Sen. (Dr.) Murango. I was told this has been delegated to Sen. Mutinda.

Do you have the question, Sen. Mutinda? Proceed to ask, but there is a point of order from Sen. Cherarkey.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I rise pursuant to Articles 125 and 153 of the Constitution. Under Article 125, on power to call evidence, this House has the power to request anybody to appear before it. That article points out that this House enjoys the status of the High Court. When you read Article 153 of the Constitution of Kenya, it talks about the decisions of the Cabinet and that they should be in writing and, of course, extrapolated.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

As a legal practitioner and a lawmaker in this House, I have never seen a situation where any entity or person, including the President, can move to the High Court to appear at their own convenient time. I am aware that the Cabinet Secretary should have appeared at 11:00 a.m.

We should reduce this House for just neatness so that we give---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, I think you were not in the House when this matter was---

Sen. Cherarkey: No. I am aware. I am coming to that.

The Deputy Speaker (Sen. Kathuri): So, you should not take us back where we were.

Sen. Cherarkey: No. I am not taking you back. I just need your ruling.

In this House, anything we make is a precedent, and that is my worry. Just give me 30 seconds to come home. Is it a precedent that when a Cabinet secretary or any other witness who has been invited to appear before the Committee of the House, can call the Committee Chairperson or the Speaker and tell them, they will appear at noon?

My concern is the precedent. The moment we allow this to slide and you know it is in the HANSARD---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, now sit down.

Sen. Cherarkey: Can I conclude in 30 seconds only?

The Deputy Speaker (Sen. Kathuri): You have already concluded.

Sen. Cherarkey: So, I need---

The Deputy Speaker (Sen. Kathuri): I have heard you very well, Sen. Cherarkey. This matter was well canvassed and the ruling was made by the Chair. So, let us not waste more time.

So, I ask Sen. Mutinda to ask the question.

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, I do not need any assistance now. Maybe on another matter, but not on this one.

Sen. Mutinda: Thank you, Mr. Deputy Speaker, Sir. Without wasting time, on behalf of the Senator of Kirinyaga County, I will ask the question that he had posed to the Cabinet Secretary.

Before that, allow me to really appreciate Madam Cabinet Secretary for finding time. I know she is always on a busy schedule, but as long as we are here, we can execute.

The first question---

The Deputy Speaker (Sen. Kathuri): Sorry. let us clean up the process.

So, read out the Order.

QUESTIONS AND STATEMENTS

Cabinet Secretary for Gender Culture, the Arts and Heritage, welcome to the Senate. I understand this is your maiden appearance, so feel free. Hon. Senators are very

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

good people, as long as you are here. They were a bit agitated in the morning, but now they are relaxed. So, welcome to the Senate, and feel free to answer the issues that the Senators have.

Proceed.

QUESTIONS

Question No. 025

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. On behalf of the Senator of Kirinyaga County, Sen. (Dr.) James Murango, I beg to ask the Cabinet Secretary the following Question No.025-

- (a) Are there plans by the Government to establish a public library in Kirinyaga County? If so, could the Cabinet Secretary clarify whether budgetary allocations for the same will be made in this Financial Year 2024/2025?
- (b) What actions is the Government taking to ensure the establishment of public libraries in all counties where there is none?

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Thank you, Mr. Deputy Speaker, Sir.

From the onset, I convey my deepest apologies for the late appearance before this honourable House due to circumstances beyond my control. My earlier requests for deferral of my appearance before you were based on exigencies of duty on two occasions and on medical grounds on another occasion.

For each of these requests for deferral, I attached the supporting documents. that notwithstanding, I wish to respond to the question raised by Sen. Mutinda on behalf of the Senator for Kirinyaga, Sen. (Dr.) Murango.

The questions are whether there are plans by the Government to establish a public library in Kirinyaga County, and if so, whether budgetary allocations for the same will be made in the Financial Year 2024/2025.

The second one, is what action is taken by the national Government to ensure establishment of public libraries in all counties where there is none.

My response is as follows. There are no plans to establish libraries in counties since the function of libraries was devolved to county governments as per the 2010 Constitution of Kenya, and in particular, public libraries.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Is that for both two questions, 'A' and 'B'? Sen. Mutinda, do you have any supplementary Question?

Sen. Tabitha Mutinda: Yes, Mr. Deputy Speaker, Sir. On behalf of Sen. (Dr.) Murango.

I am the vice Chairperson of the Committee on Finance and Budget. As a Committee, we have embarked on the issue of libraries, especially the 33 counties where we have Kshs425 million that is still pending to be submitted to these counties. We have employees and staff that have not received their remunerations because of lack of disbursement of these funds.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Madam Cabinet Secretary when you clearly indicate that it is not the function of your Ministry, it leaves a lot to be desired. It is not a fulfilling question from where I sit. We request for a detailed answer because it is a bit shallow.

The 33 counties that are beneficiaries of the libraries are keen on the feedback. To be more specific, we have Kirinyaga and Nairobi City counties, among other counties. Therefore, it is not enough to just summarize; it is not its function because we are one Government.

Your office has a responsibility to ensure that the money reaches 33 counties. Even if there are no plans by the Government to expand, it is good. As the Kenya Kwanza Government, we are honest by agreeing so that we do not give false hopes. As far as those 33 are concerned, what is the status of Kshs425 million?

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, you can proceed to respond.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Mr. Deputy, Speaker, Sir, in responding to the question by Sen. Tabitha Mutinda, my Ministry handed over public libraries to 33 counties. However, there is a need to upgrade the existing services to fit into the envisaged county government status and people's expectations.

Since library is a devolved function, the Ministry did submit a proposal to the IGRTC for onward submission to the Summit for consideration of allocation of a ring-fenced conditional grant to facilitate establishment of libraries in the 14 counties without public libraries.

On the disbursement, Kshs435 million was released to 33 counties which we handed over public libraries to because it is clear that money follows function.

The Deputy Speaker (Sen. Kathuri): My screen here is showing several Senators who want to speak. Since it is the same ranking like the Motion we had, I do not know whether you still want to ask supplementary questions. Sen. Tabitha Mutinda, you were to ask two questions, but you seem to be comfortable with the one you asked.

I can see Sen. Mungatana again. Sen. Boy Juma. Is it on this?

(Sen. Boy Spoke off record)

Kindly log out so that I can see those interested to ask supplementary questions. Sen. Osotsi, kindly proceed.

Clerk, kindly clear the screen.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I concur with the Sen. Tabitha Mutinda that the Cabinet Secretary is not giving this House sufficient information regarding this question.

We know that library services are devolved. Though devolved, library services are one of the functions which have not been fully transferred to the counties. The only attempt that was done was to release over Kshs400 million as conditional grants, but it is largely not transferred.

As she rightly said, money should follow functions. So, she needs to give a comprehensive response to this question and not just for Kirinyaga, but other counties as well.

We are having a scenario where for functions which are devolved, when you look at it moneywise, most of them are still being managed at the national level. Every time Cabinet Secretaries come here, they say this is a devolved function, yet the money is still held up in the Ministry.

The Cabinet Secretary, whom I served with in the National Assembly, must give this House the details around provision of library services and monies that the national Government is controlling on this because conditional grants that was given was too little too late.

This House deserves a proper and detailed answer from the Cabinet Secretary.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, please proceed.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Mr. Deputy Speaker, Sir, as I said earlier, it is true that money follows functions. According to my Ministry, monies were transferred to the fullest to all the 33 counties because library services are devolved. That is the whole truth. We do not hold any monies for the 33 libraries. That is Kshs423 million.

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Mandago.

Sen. Mandago: Mr. Deputy Speaker, Sir, library services are a devolved function. I served in a county that had a library. However, libraries were not constructed in all the counties.

It is the feeling of this House that we should have at least a library in every county. The only remedy to that is to ask for conditional allocation for development of those libraries, just the way some counties were given funds to develop county assemblies and county headquarters. Otherwise, as it is, the function is devolved. The Cabinet Secretary should just shoot straight to the answer instead of so many sentences and still lying on the same thing.

My supplementary question to the Cabinet Secretary is this. If you say that libraries were devolved, how come that the only national library in Nairobi in Upper Hill was retained by the national Government? After this sitting, you should go and gazette the transfer of that library to Nairobi City County.

As for the other libraries, unless we do conditional allocation of grants for development, then the Cabinet Secretary will have nothing else to do. Since Cabinet Secretaries are not responsible for allocation of resources, we cannot say that she remains with a lot of money in the Ministry. We should ask the National Assembly to address that matter.

The Deputy Speaker (Sen. Kathuri): We will pick a few more questions before the Cabinet Secretary responds. I think it will save some time.

Sen. Mwaruma, you may proceed.

Sen. Mwaruma: Asante, Bw. Naibu wa Spika, kwa kunipa fursa hii ili niulize swali la ziada kwa Waziri Aisha Jumwa. Kwanza, nimpa kongole kwa sababu hii ni mara yake ya kwanza kuja katika Seneti. Tunakutakia mema katika utendakazi wako katika hii Wizara.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Nilikuwa na swali kuhusu wafanyikazi wa maktaba. Kabla ya huduma za maktaba kugatuliwa, kuna pesa zilizotolewa za kuongeza mishahara ya wafanyikazi wa maktaba. Pesa hizo hazikutumika kuwapandisha vyeo na kubadilisha mishahara ya watu wanaofanya kazi katika maktaba.

Wale wafanyikazi waligatuliwa wakati maktaba ziligatuliwa, pesa iliyotengwa haikutumika kuwapandisha vyeo. Swali langu ni, je, sijui kama mkurugenzi wa maktaba yuko hapo - hawa wafanyikazi watapata pesa zao? Watapandishwa vyeo? Wengi wao wamefanya kazi kwa miaka 15 bila kupandishwa vyeo. Wakati wao wakupandishwa vyeo ulipofika maktaba yaligatuliwa na pesa ziliyotengwa hazieleweki zilipoenda.

Niko na Kauli ambayo niliwasilisha hapa Bungeni lakini sijapata jibu. Waziri anaweza kuchukua fursa hii kulijibu swali hili.

The Deputy Speaker (Sen. Kathuri): Waziri, jibu yale maswali mawili ili tuendelee.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Asante, Bw. Naibu Spika. Nitaanza na swali la Seneta wa Taita Taveta. Mkurugenzi wa maktaba hayuko, yuko pwani katika warsha---

The Deputy Speaker (Sen. Kathuri): Waziri, usisumbuke kwani tulikuwa tunahitaji Waziri na sio mkurugenzi wa maktaba. Waziri kama yuko anajibu kila swali.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Asante, Bw. Naibu Spika. Masuala ya pesa ya mishahara ya wafanyikazi wa maktaba ni kwamba tulipeana bajeti inayosimamia wafanyikazi hawa kwenye kaunti 33 ambazo zina maktaba. Haya ndio maelezo ambayo naweza kupeana kufikia sasa.

Sen. Mandago asked why the National Library or Maktaba Kuu is still withheld at the national level. This is the practice in other devolved countries, such as the United Kingdom. Each country has a national library to serve as a repository of national reference material and issue the International Standard Book Number (ISBN).

Thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Olekina, proceed.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I will begin by appreciating the candidness of the Cabinet Secretary. The Cabinet Secretary went straight to the point and said there were no plans. I wish she had read her entire response; it would have made sense.

In her entire response, she has given mitigating factors for how this problem can be resolved. Before I ask my supplementary question, for the purpose of the HANSARD, and given that this question was asked by a colleague who is not here, I am getting a response that says that the libraries are devolved and the Ministry has no plan to remit.

One of my requests is that since the Cabinet Secretary took time to write a detailed response when anyone listens to it, they will see that even if the function has been devolved, efforts are being made.

Having said that, my question to the Cabinet Secretary concerns the issue of culture and heritage. Is the Ministry planning to set up culture and heritage centres across the 47 counties?

I was the first person to build a library in Narok County. Later on, it was passed on to the Ministry. In Narok County, we had a national museum centre. Are there any

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

plans to build and fund this? During each financial year, can the Cabinet Secretary tell us the money planned to be invested in such ventures?

When I read the headline, it said, 'Ministry of Gender, Culture, the Arts and Heritage' but when I went to the Constitution, library services were devolved.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, proceed.

Sen. Sifuna: Bw. Naibu Spika, wanasema kuwa, mgala muue na haki umpe. Nimefurahia sana kusikia Waziri mmoja wa Serikali hii akikiri kwamba kuna mambo ambayo ni ya ugatuzi na Serikali Kuu haifai kuhusika na masuala yale haihusu Serikali Kuu. Ni Waziri wa kwanza katika Serikali hii ya Kenya Kwanza ambaye nimesikia akisema hayo. Imenishangaza kwa njia nzuri kwani mara nyingi kunaletwa Miswada hapa Bungeni ambayo siyo kazi ya Serikali Kuu.

Hata hivyo, pale mwisho amejikanganya. Kama ni kweli hizi *libraries* zimegatuliwa ama zinafaa kusimamiwa na serikali za kaunti, *library* ambayo iko kwenye Kaunti ya Nairobi pale Upper Hill inafaa kuwa ikisimamiwa na Kaunti.

Jibu ambalo Mhe. Waziri amelitoa halijaniridhisha. Alivyosema kuwa kunahitaji pahali pa kuweka stakabadhi muhimu za serikali ambazo ni za kihistoria, ndio maana tuna ile *National Archives* ili kuweka zile stakabadhi za serikali ambazo zinaweza tumika kama *references* wakati ambapo masuala ya kitaifa yanajadiliwa.

Mimi bado sijaridhika. Jinsi ambavyo Waziri amekiri kwamba huduma za maktaba zimegatuliwa, ile maktaba iliyoko Upper Hill iwekwe chini ya Kaunti ya Nairobi. Kama anaamini kile anachosema atuhakikishie na ahakikishie watu wa Nairobi kwamba wiki hii maktaba ile itawekwa kwenye mikono ya serikali ya Kaunti ya Nairobi.

Bw. Naibu Spika, nashukuru.

The Deputy Speaker (Sen. Kathuri): Bi. Waziri, unayo maswali mawili. One from Sen. Olekina and the other one from the Senator for Nairobi County, Sen. Sifuna.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Thank you, Mr. Deputy Speaker, Sir. I would like to respond to the Senator for Narok, Sen. Olekina. We shall revert to the question on cultural centres.

(Sen. Olekina spoke off record)

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Asante, Bw. Naibu Spika.

The Deputy Speaker (Sen. Kathuri): Bi. Waziri, malizia jibu.

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Bw. Naibu Spika, nimemaliza.

The Deputy Speaker (Sen. Kathuri): Respond to the other question from the Senator for Nairobi. Sen. Olekina, the Cabinet Secretary will give you a comprehensive report on the cultural issues.

Sen. Sifuna, your answer was given, but you said you are not satisfied. Can you satisfy Sen. Sifuna on his question about the Nairobi County Library?

The Cabinet Secretary for Gender, Culture, the Arts and Heritage (Hon. Aisha Jumwa): Asante sana, Bw. Naibu Spika.

Mhe. Seneta wa Nairobi, Sen. Sifuna sisi pia wakati mwingine tunaelewa majukumu ya Serikali Kuu na serikali za ugatuzi. Ukweli ni ukweli na hauwezi kubadilika. Kwa hivyo, hivyo ndivyo ilivyo.

Kwa maktaba kuu ambayo ofisi yangu iko pale kama Waziri wa Jinsia, Utamaduni, Sanaa na Urithi, nataka niseme ya kwamba tumekuwa na mazungumzo ya kutosha na ya kina pamoja na Baraza la Magavana na tuna makubaliano ambayo tunaenda kuafikiana. Hii ni kwa sababu ya yale niliyotangulia kuyasema, kwamba, maktaba kuu za kitaifa zinahifadhi kumbukumbu nyingi za masuala ya kitaifa.

Kwa hivyo, tuko na maktaba tatu, sio Maktaba Kuu pekee yake. Hapa Nairobi tuko na Maktaba Kuu, Maktaba ya Buruburu na ya Nakuru Kaunti ambazo bado ziko katika mikono ya Serikali kuu chini ya Wizara hii ya Jinsia, Utamaduni, Sanaa na Urithi.

Kwa hivyo, mazungumzo bado yanaendelea. Leo siwezi nikakupa jibu mwafaka ya kwamba wiki ijayo tutaenda kuwachilia huduma hii muhimu iwe katika mikono ya serikali ya Kaunti ya Nairobi. Lakini, punde tu tutakapo afikiana, labda nitarudi hapa kuwapa ripoti kamili.

Asante.

The Deputy Speaker (Sen. Kathuri): Hiyo ni sawa.

Proceed, Sen. Abass.

Sen. Abass: Thank you, Mr. Deputy Speaker, Sir. I want to ask the Cabinet Secretary a question.

As she has rightly said, the function of the library is devolved, but it has not been followed to satisfaction.

As the Chair of Committee on Devolution and Intergovernmental Relations, the employees have been experiencing salary problems. It is only in this financial year that the funds were released, but they were partly released.

Mr. Deputy Speaker, Sir, before I ask the Cabinet Secretary the question, the situation in the libraries is pathetic. Most of the libraries in the counties are not well equipped and they are poorly staffed.

The functions are devolved, but the counties do not have the funding for those libraries. The books are not there and it is the right of every Kenyan to acquire knowledge from those libraries. Is there any plan for the National Library to release books or to keep those libraries? This is because most of the staff have not even reported up to now, especially in my place. I am asking the Cabinet Secretary whether all the staff have been released to the county government or they are still remaining in the national Government.

In the past, we used to have mobile libraries. In my place, we used to use camels to take the books to far-fetched pastoral areas. However, that thing is not there anymore. What are the plans for the establishment of mobile libraries? Are the mobile libraries still devolved and are they still there? Additionally, are there plans to release more librarians to the counties?

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Kinyua.

Sen. Kinyua: Asante, Bw. Naibu Spika. Nimemsikia Waziri akisema ya kwamba kuna maktaba ambazo ni za kitaifa na akazitaja ni takriban tatu.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Nauliza, je, zile zengine zilizoko kwa gatuji zetu, wanazisaidia vipi kama Serikali kuu? Kitambo, maktaba hizi zilikuwepo lakini zilikuwa zinapata usaidizi kutoka kwa Serikali kuu. Je, tayari Serikali kuu imeleta hela katika kaunti zetu ama bado ziko katika Serikali kuu?

Asante, Bw. Naibu Spika.

The Deputy Speaker (Sen. Kathuri): Waziri, endelea.

The Cabinet Secretary for Gender, Culture and Arts and Heritage (Hon. Aisha Jumwa): Asante sana, Bw. Naibu Spika. Kwa kweli nimejieleza sana kuhusu ugatuzi wa maktaba, kwamba tumegatua masuala ya maktaba. Sisi kama Serikali kuu tulifanya jukumu letu. Baada ya kugatua hizi maktaba kwa gatuji tulizozipeleka, tulipeleka kila kitu, ikiwemo wafanyakazi na bajeti.

Kwa hivyo, suala la ni vipi Serikali ya kitaifa inasaidia, nafikiri jukumu hilo sasa ni lenu nyinyi Wabunge. Mna sauti kubwa kuhakikisha ya kwamba mnaweka pesa zaidi kuenda kwa kaunti, katika kumana *libraries* kule mashinani.

Asante sana, Bw. Naibu Spika.

The Deputy Speaker (Sen. Kathuri): Sen. Mwaruma, you have approached me that you are not satisfied with your Question. Which part are you not comfortable with?

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I am not satisfied by the response given by the Cabinet Secretary about the money for promotions of the employees working for the Kenya National Library Services (KNLS).

This is a question that came from a union that represents the employees working for KNLS. They indicated that there was money that was released to the department in the Ministry in charge of KNLS, which was meant to promote the employees. That money was released before the unbundling of library services.

These employees were supposed to be promoted, but because the services were unbundled before they were promoted, the employees do not know what became of the money that was meant to promote them. They have now gone into their counties before they are promoted. They are asking what happens to that money. If at all, they have been promoted---

The Deputy Speaker (Sen. Kathuri): Sen. Mwaruma, let me assist you. You mentioned that you have a statement on this matter. I request that the committee involved to expedite it so that she can have time to reply to it substantively. That is the best way to go.

Which committee did you direct your statement to?

Sen. Mwaruma: The Standing Committee on Labour and Social Welfare.

The Deputy Speaker (Sen. Kathuri): I have directed that they should expedite it.

Sen. Mwaruma: Yes, we would like to know if there are employees that were promoted. We want to get their names and the grade that they were promoted and how their remuneration changed.

Thank, you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): You cannot get such an answer from the Cabinet Secretary at this juncture. So, I have guided you in that manner.

Last but not the least, Sen. Miraj, do you want to give vote of thanks?

Sen. Miraj: Asante, Bw. Naibu Spika. Namkaribisha Bi. Waziri. Najulisha Seneti ya kwamba, katika Kamati yetu ya *Labour and Social Welfare*, tuko na mapendekezo ya Mswada wa usimamizi wa maktaba zetu. Mswada huu umependekezwa na Seneta, Kamishina, Mhe. Joyce Korir.

Baada ya kujulishwa kwamba jukumu hili limegatuliwa kwa gatuji zetu, na hili ni ombi Bi. Waziri, kwa sababu umejieleza vizuri kwamba usimamizi pamoja na raslimali za kusimamia maktaba hizi umeenda katika gatuji, ni muhimu kama Serikali kuu, muweze kuangalia kwa sababu maktaba hizi zimebaki kama mahame. Katika Kaunti ya Mombasa, kuna moja ambayo ni mzee. Hata vitabu vilivyo pale vinakaa kuchoka.

Tusikwepe majukumu kwa kusema kuwa maktaba zimegatuliwa. Tushirikiane na magavana kuona kwamba malengo ya kuwa na maktaba yameafikiwa.

Maktaba zinafaa kuboreshwa. Shughuli zinazoendeshwa katika maktaba hizo ziwe ni za kumfaidi Mkenya. Wengi wataona kuwa majukumu yameenda na kurudi kule. Cha muhimu zaidi kwa mwananchi ni huduma nzuri katika taasisi zetu.

Bw. Naibu wa Spika, kama wengine walivyosema, natoa shukran zangu kwa Bi. Waziri kuweza kufika hapa.

The Deputy Speaker (Sen. Kathuri): Yours was just a comment. I want to close with the Senator for Kilifi, who is also the Senate Minority Leader, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Bw. Naibu wa Spika, nachukua nafasi hii kama Seneta wa Kilifi nikijua kwamba Waziri aliye hapa ni dada kutoka Kilifi. Sikua nimempa kongole. Kama Seneta wa Kilifi, nampa kongole rasmi kwa kuchaguliwa kama Waziri wa Gender, Culture, the Arts and Heritage.

Hio ni nafasi kubwa ambayo watu wa Kilifi walipewa. Namshukuru Mhe. Rais kwa kumchagua dadangu, Hon. Aisha Jumwa. Tumetoka mbali naye. Alikuwa *women representative*, kabla ya kuchaguliwa kama Member of Parliament (MP). Amefanya mambo mengi. Nina uhakika anaweza kazi kwa kuwa alikuwa na ujasiri wakati wa kujibu maswali.

The Deputy Speaker (Sen. Kathuri): Asante Kiongozi wa Wachache.

Bi. Waziri, tunakushukuru sana kwa kufika hapa. Hii Seneti ina watu ambao wamekomaa na hawana mambo mengi. Usiwe na shaka kufika hapa. Hata kama hujaitwa, unafaa kuja kutusalimia.

Heri njema katika kazi unayofanya. Asante.

*(The Cabinet Secretary for Gender, Culture, the Arts and Heritage
Hon. Aisha Jumwa) was ushered out of the Chamber)*

The Deputy Speaker (Sen. Kathuri): Let us go back to the business we had. Sen. Mandago, you can proceed with the Motion on pending bills.

(Resumption of debate on the Motion)

Sen. Mandago: Mr. Deputy Speaker, Sir, I had risen to support the Motion by Sen. Olekina. Of particular interest are pending bills in counties. My submission in this

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

House is that in the budget-making process of Financial Year 2024/2025 by county governments is that---

The Deputy Speaker (Sen. Kathuri): Sen. Mandago, you have 14 minutes.

Sen. Mandago: Thank you.

In the budget-making process of Financial Years 2024/2025 by our county governments, the CoB should ensure that all county government budgets for all pending bills have been verified and ascertained because they are due for payment to the suppliers and contractors in counties.

Mr. Deputy Speaker, Sir, the second matter on the Motion is misappropriation of funds, where funds have been requested for payments to particular services or contractors. However, when funds hit the county accounts, they are diverted to pay for other services that had not been requested for and approved by the CoB.

In this Motion, the CoB should be asked to ensure that all pending bills subsequently in the new budget are paid before any other funds are disbursed to any county.

Mr. Deputy Speaker, Sir, these pending bills have not only killed enterprises, but also employment opportunities that many trained, qualified and able to work young people this country have. The private sector collaborates with Government in creation of employment opportunities. Therefore, county governments can then not become the agents of killing those enterprises and the dreams of young Kenyans.

We need also need to address through this Motion, multi-year projects that run in counties. Due to transition, the new administrations, through supplementary budgets, transfer the monies meant for those projects, stalling them, creating pending bills and wastage of public resources because, those facilities are then not completed for purposes they were intended for.

Mr. Deputy Speaker, Sir, all projects are subject to public participation and budgeting in their establishment. Therefore, when supplementary budgets are being passed, we ask the CoB to ensure that the funds for ongoing project are not transferred to new projects, causing the old projects to stall, therefore, creating wastage of public resources.

In the near future, this House must also address the issue of transitions of county governments. The other day, we were in Nyandarua County accompanying the distinguished Senator for Nyandarua during the County Address.

We found a county headquarter that was started more than 10 years ago. It was not completed because the administration that followed decided to abandon it. It is now that the current Governor is completing projects that, otherwise, should have been completed much earlier. This denies the people of Nyandarua services they would have received.

Mr. Deputy Speaker, Sir, the CoB and her officers must have a keen eye on all supplementary budgets being done by counties, particularly the ones that transfer funds from one project to new projects. The control measures that ensures a project that was not budgeted for should not be introduced in the middle of the financial year, should be enhanced.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

I do not understand how new projects that did not have budgets in the first place, crop up in the middle of the financial year. This is re-budgeting within a budget without approval and public participation, therefore, creating wastage in terms of stalled projects and ballooning the pending bills.

Mr. Deputy Speaker, Sir, the other area that the CoB must be keen on and I think this House must review in terms of the formula for allocation of resources, is the requirement for increase of own source revenue. Majority of counties are not being honest in the capacity and resources available to be generated through own source revenue.

Counties that are honest have suffered the consequences of getting less resources because of that factor of increase in own source revenue. That factor does not have any scientific formula for measuring.

I remember, in the second term, a county would get an increase of Kshs600 million for just increasing revenue by Ksh10, 40, 50 million, compared to what they would have projected. Then, the percentage would look big and they would get additional resources; yet, they have no capacity to raise those resources.

The CoB must interrogate the own source revenue figures being given during the budget making process to ensure that counties are not spending money they will not be able to raise. These pending bills have become a very bad practice in county governments and even the national Government.

Mr. Deputy Speaker, Sir, we thank the President because, in the national Government, resources have been set aside and a pending bills committee is working to ensure that only verifiable and payable pending bills are paid, so that enterprises and business people can go back to business.

Mr. Deputy Speaker, Sir, I wish to agree with the Senator for Marsabit. If you delay paying your taxes, there is a penalty and there is no room for negotiations. Consequently, when the government, either the county or the national delays in paying our suppliers, then the penalty accruing from delayed payments, must also be paid.

It cannot be that it is good when citizens are paying penalties and when the government is supposed to be paying penalties, there is a problem. These business-people have suffered for many years because of not paying their bills. I support they should be given some form of compensation for the delay of their payments.

Mr. Deputy Speaker, Sir, in order to avoid the issue of pending bills, the CoB in approving release of funds, because that is based on certificates and the minutes of receiving goods, services or completion; the date the certificate is received and authorized by the county, should be the time that bill is due and as per the contract clauses. Those contracts or services rendered must be paid for at whatever period of time that is required to be paid within.

This will be the only way we will grow the private sector and create employment. The Government alone cannot address the issue of unemployment. This administration is keen in supporting young people to innovate, particularly in using technology. That is why the national Government has rolled out a vibrant digital economy by establishing and installing all the fibre networks across the country for the internet to be available.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Mr. Deputy Speaker, Sir, when these young innovators come with their platforms where they are able to do business with the Government, it cannot be then that county governments or government agencies are the ones killing innovation by not paying for services rendered by the young people. That will be negating on what the Government is doing in ensuring that our young people take advantage of the digital space and economy to innovate further and earn themselves decent livelihoods.

I, therefore, agree with my colleagues that the CoB is in a better position to ensure that there is prudence and there is no misappropriation of resources. As we conclude debate on this Motion, we should ask the CoB to submit to this House a report of every county on the payments that have been requested and what has been paid for. We can ascertain with certainty, how much of the released funds meant as payment to specific suppliers and contractors have been misappropriated in paying contractors whose payments were not approved by the CoB. Further, what measures the CoB is putting in place to ensure that those whose payments have not been certified for payment are not paid.

Mr. Deputy Speaker, Sir, there is need for integration of the system of the CoB to the Integrated Financial Management Information System (IFMIS), the National Treasury and County Treasuries to enable the CoB to monitor real time, check payments and even stop some payments for suppliers and contractors whose payments have not been approved by the CoB.

In that way, our counties will be, our suppliers will thrive and the private sector will continue creating employment opportunities for many young people in the country. It will also support Government programmes in creating employment.

We shall also have a vibrant private sector that will improve our business environment, attract more investors into this country, the region and our counties; and will be able to do business with counties. We have reached where a few counties whose contract banks can afford to give loans to their suppliers.

Mr. Deputy Speaker, Sir, I, therefore, support this Motion. I also say that the CoB must have a very keen eye in making sure that we do not continue creating pending bills.

I submit, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): The miracle Senator, Karungo Thang'wa Paul.

Sen. Thang'wa: Thank you very much, Mr. Deputy Speaker, Sir, for this opportunity to also weigh in on this issue of pending bills. For sure, we have discussed this issue on numerous occasions on the Floor of this House.

From the onset, it is time for this House to stamp its feet and make sure that we help the county governments reduce these pending bills by coming up with solutions. Sanctions and calling those who are not paying this amount, would do.

Mr. Deputy Speaker, Sir, I was in Kiambu County yesterday leading a delegation of Committee on Health that was led by Sen. Mandago to visit the Kiambu Referral Hospital. At the same time, we happened to interact with the people. We even went to visit the Governor of Kiambu County at his headquarters. It caused a lot of excitement when the Senator was seen handshaking the Governor. It is just like when an uncle used to visit us when we were young.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

We would go to the whole village saying our uncle is here, he has come to see us and he has brought a few presents. However, if you misbehaved, the same uncle would remove his belt and whip you. This is just to tell those who were excited that it was just a visit and I am back at work to ensure I am oversighting the same county governor.

Mr. Deputy Speaker, Sir, some of the issues of pending bills are self-inflicted. The county governments are not paying the workers. That is the wage bill they are talking about. They are saying the wage bill is way high. It is not that the wage bill is high, but because they are not paying workers on time.

We were told yesterday in Kiambu Hospital that the hospital casuals, what we call subordinate staff such as the cleaners and the kitchen people have not been paid by the County Government of Kiambu for the last six months yet somebody is in the hospital working for the patients trying to save lives. I do not know whether we can also call that pending bills.

Do we call it a wage bill that has been delayed or salaries that have not been paid? Having said that, these are parents. Their children are going to school and the County Government of Kiambu is not paying their salaries on time.

When I was in high school, one of the set books that we did was the *Government Inspector*. When the government inspector wanted to visit a certain city, he would announce. After announcing that he was coming, the children were cleaned, they were given good clothes and the mayor prepared his officers.

That is what happened yesterday when the Committee on Health visited Kiambu Referral Hospital. They announced that they were going. So, the patients were cleaned and bedsheets cleaned. We were only shown the best part. I urge the Committee on Health not to announce next time. Do an impromptu visit so that you can see the real picture.

Talk to those people. There was a certain woman who was trying to talk to me, but she was barred from speaking to me because they did not want the Chairman of the Committee on Health to understand a cleaner picture of that hospital from that perspective.

Why do we have pending bills, Mr. Deputy Speaker, Sir? We have them because the governors over-projected their own source revenue. I will be bringing a statement tomorrow, if you allow me because we have to investigate the budgeting process of Kiambu County. We have to understand the wisdom behind over-projecting your own source revenue by over 300 per cent. Kiambu County used to collect about Kshs3 billion, but the current governor with his wisdom and magic thinks he can collect Kshs9 billion within a period of one year.

Since it was put in the budget, what they will do is to overspend what they do not have. That is more pending bills created on top of the Kshs5.7 billion that the county government owes the people of Kiambu.

Mr. Deputy Speaker, Sir, the contractors and Kiambu service providers are suffering. You know the court said that any contractor or anybody who is owed any amount by the county government can auction county properties.

The Deputy Speaker (Sen. Kathuri): Sen. Karungo, you will have your 9 minutes next time. Maybe today afternoon. So, you should be around.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Sen. Thang'wa: Thank you very much, Mr. Deputy Speaker, Sir

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon. Senators, it is now 1 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until today, Wednesday, April 24, at 2.30 p.m.

The Senate rose at 1.00 p.m.