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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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Wednesday, 13th November 2024

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Members, we now have the quorum to transact business.

COMMUNICATION FROM THE CHAIR

COMMITTAL OF DIFFERENT PROVISIONS OF THE BUSINESS LAWS
(AMENDMENT) BILL 2024 TO VARIOUS DEPARTMENTAL COMMITTEES

(Several Members walked into the Chamber)

Hon. Speaker: Hon. Members on your feet, take your seats.

Hon. Members, I have a communication to make on the committal of different provisions of the Business Laws (Amendment) Bill 2024 to various Departmental Committees. The Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024), sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, was read for the First Time during today's morning Sitting. The Bill seeks to amend nine Acts of Parliament: the Banking Act Cap.488; the Central Bank Act Cap.499; the Microfinance Act Cap.493C; the Standards Act Cap.496; the Kenya Accreditation Service Act Cap.496A; the Scrap Metal Act Cap.503; the Special Economic Zones Act Cap.517A; the Kenya Industrial Research and Development Institute Act Cap.511A and the National Electronic Single Window System Act Cap.485D.

Standing Order 127(1) provides that a Bill, having been read a First Time, shall stand committed to the relevant Departmental Committee without Question put. Despite the said provisions, Standing Order 127 (1A) provides—

(1A) 'Safe for a Finance Bill, the Speaker may refer various provisions of a Bill proposing to amend more than one Statute in its principal provisions to the relevant Departmental Committees in accordance with their mandates.'

Hon. Members, I, therefore, direct that the various provisions of the Bill stand committed to the Departmental Committees for consideration and public participation as follows—

1. The Departmental Committee on Finance and National Planning will deal with the provisions of the Bill relating to:
 - (a) The Banking Act Cap.488;
 - (b) The Central Bank Act Cap.491; and
 - (c) The Microfinance Act Cap.493C.

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2. The Departmental Committee on Trade Industry and Cooperatives will deal with the provisions of the Bill relating to:
 - (a) The Standards Act Cap.496;
 - (b) The Kenya Accreditation Service Act Cap.496A;
 - (c) The Scrap Metal Act Cap.503;
 - (d) The Special Economic Zones Act Cap.517A;
 - (e) The Kenya Industrial Research and Development Institute Act Cap.511A; and
 - (f) The National Electronic Single Window System Act Cap.485D.

I further direct that the lead committee on this Bill, for the purpose of consolidating the portions, is the Departmental Committee on Finance and National Planning. The two committees should move expeditiously to undertake public participation in their respective portions of the Bill. Thereafter, the lead Committee is expected to table a consolidated report in the House prior to the commencement of the Second Reading.

Thank you.

Next Order.

MESSAGES

NOMINATION OF PERSONS FOR APPOINTMENT TO CONSTITUTIONAL COMMISSIONS AND OTHER STATE OFFICES

Hon. Speaker: Hon. Members, I have a Message from His Excellency the President on the nomination of persons for appointment to constitutional commissions and other state offices.

Pursuant to the provision of Standing Order 42(1), I wish to report to the House that I have received five messages from His Excellency the President on the nomination of persons to the following State offices.

1. The Chairperson and the members of the Board of the Independent Policing Oversight Authority (IPOA).
2. The Chairperson and the members of the Commission on Administration of Justice (CAJ)
3. The Chairperson and the members of the Salaries and Remuneration Commission (SRC).
4. The Chairperson and a Member of the National Gender and Equality Commission (NGEC)
5. The Second Deputy Governor of the Central Bank of Kenya (CBK).

In the first Message, the President conveys that in the exercise of the power conferred under Section 11(5) of the Independent Policing Oversight Authority Act, 2011, as read together with Section 3 and 5 of the Public Appointments Parliamentary Approval Act, 2011, he nominates:

1. Mr Ahmed Issack, CBS, as the Chairperson of the Board of IPOA
2. The following are members of the IPOA Board—
 - (a) Ms Ann Wanjiku Mwangi;
 - (b) Dr Micah Onyiego Nyakego;
 - (c) Mr Boniface Kipkemoi Samati;
 - (d) Dr Annette Mbogoh;
 - (e) Hon. John Muchiri Nyaga;
 - (f) Mr Kenwilliams Nyakomitah; and,
 - (g) Ms Jackline Lukalo Mwenesi.

In the Second Message, His Excellency the President conveys that, in the exercise of powers conferred by Article 250 of the Constitution and Section 11(6) of the Commission on Administrative Justice Act, 2011, as read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates the following persons for appointment to the respective offices in the Commission on Administrative Justice:

1. Mr Charles Orinda Dulo, Chairperson;
2. Hon. Charles Njagua Kanyi, Member; and,
3. Ms Dorothy Jemator Kimengech, Member.

In the Third Message, His Excellency the President conveys that, in the exercise of powers conferred by Articles 230 and 250 of the Constitution and Section 7(10) of the Salaries and Remuneration Commission Act, 2011, as read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates:

1. Mr. Sammy Chepkwony as the Chairperson of the Salaries and Remuneration Commission; and,
2. The following as members of the Salaries and Remuneration Commission to represent various institutions as indicated—
 - (a) Ms Jane Gatakaa Njage, a nominee of the Teachers Service Commission (TSC);
 - (b) Maj. Gen. (Rtd) Martin Kizito Ong'oyi, CBS, a nominee of the Defence Council;
 - (c) Mr Mohamed Aden Abdi, a nominee of the Senate on behalf of County Governments;
 - (d) Dr Gilda Odera, nominee of the Federation of Kenya Employers (FKE);
 - (e) Dr Geoffrey Apollo Omondi, nominee of the Central Organization of Trade Unions (COTU); and,
 - (f) Mr Leonid Ashindu, a nominee of the Association of Professional Societies in East Africa (APSEA).

In the Fourth Message, His Excellency the President conveys that, in the exercise of powers conferred by Article 250 of the Constitution and Section 11(6) of the National Gender & Equality Commission Act, 2012 as read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he has nominated Hon. Rehema Dida Jaldesa and Mr Michael Mbithuka Nzomo (PWD) for appointment as the Chairperson, and member of the National Gender and Equality Commission, respectively.

In the Fifth Message, His Excellency the President conveys that, in the exercise of powers conferred by Section 13B of the Central Bank of Kenya Act (CAP 491), as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates Mr. Gerald Nyaoma Arita to the position of Deputy Governor of the Central Bank of Kenya.

His Excellency the President now, therefore, seeks the approval of the House on the nominees for appointment to the aforementioned positions. Standing Order 45 provides that upon receipt of notification of nomination for appointments; such nomination shall stand committed to the relevant Departmental Committee of the House for consideration.

In this regard, I hereby refer the Messages from His Excellency the President, together with the Curriculum Vitae, the Reports of the respective Selection Panels, and that of the Public Service Commission, for the case of the nominee to the position of Deputy Governor of the Central Bank, and other testimonials of the nominees to the respective Departmental Committees as follows:

S/No.	Nomination	Departmental Committee
1.	Chairperson & Members of the Board of the Independent Policing Oversight Authority	Administration & Internal Security
2.	Chairperson & Members of the Commission on Administrative Justice	Justice & Legal Affairs
3.	Chairperson & Members of the Salaries & Remuneration Commission	Labour
4.	Chairperson & Member of the National Gender and Equality Commission	Social Protection
5.	Deputy Governor of the Central Bank of Kenya	Finance & National Planning (Joint consideration with the counterpart Committee of the Senate)

Noting the need to expeditiously conclude the approval hearings and given the calendar of the House, I direct the Committees to immediately commence the approval processes, notify the nominees and the general public of the time and place for holding the approval hearings, and thereafter, upon conclusion, Table their respective reports on or before 26th November 2024, to enable the House to consider the matter within the statutory timelines.

I thank you.

Next Order.

PAPERS

Leader of the Majority Party.

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

Reports of the Auditor-General and Financial Statements for the year ended 30th June 2024, and the certificates therein in respect of:

1. Affordable Housing Finance Project (IBRD Credit No.8958-KE) – National Assembly;
2. Kenya Symbiocity Programme – SIDA No.51110060 – Council of Governors;
3. ADB-Africa Climate Summit Project – The National Treasury;
4. Eastern Africa Regional Transport, Trade and Development Facilitation (IDA Credit No.5638-KE) – Kenya Revenue Authority;
5. Technical Support Programme (Financing Agreements No. KE/FED/2009/021421, No. KE/FED/023-733 and No. KE/FED/037-941) – National Treasury;
6. Micro Finance Sector Support Credit Project (Credit No. CKE 3004 01E and CKE 6010 01E) – National Treasury; and,
7. National Information Platform for Food Security and Nutrition Project (Credit No. Food/2017/393-022) – Kenya National Bureau of Statistics.

Thank you, Hon. Speaker. I beg to lay.

Hon. Speaker: Thank you.

The Chairperson of the Departmental Committee on Labour, Hon. Karemba.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Speaker. I beg to lay the following paper on the Table:

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Report of the Departmental Committee on Labour on its consideration of the Salaries and Remuneration Commission Bill (National Assembly Bill No.21 of 2024). Thank you, Hon. Speaker.

Hon. Speaker: Next is the Chairperson of the Departmental Committee on Education, Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): It is the Member for Luanda.

Hon. Speaker: Hon. Maungu. Is he your Vice?

Hon. Dick Oyugi (Luanda, DAP-K): Hon. Speaker, I beg to lay the following papers on the Table:

Reports of the Departmental Committee on Education on its consideration of:

1. The Universities (Amendment) Bill (National Assembly Bill No.38 of 2023).
2. The Basic Education (Amendment) Bill (National Assembly Bill No.59 of 2023);
3. The Universities (Amendment) (No.3) Bill (National Assembly Bill No.64 of 2023);
4. The Universities (Amendment) (No.5) Bill (National Assembly Bill No.79 of 2023); and,
5. The Universities (Amendment) Bill (National Assembly Bill No.16 of 2024).

Thank you.

Hon. Speaker: Thank you, Hon. Dick.

Leader of the Majority Party, is the Cabinet Secretary for the Ministry of Roads and Transport coming this afternoon?

(Hon. Kimani Ichung'wah spoke off the record)

Okay. Before we get there, let us go to Order No.8.

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

Hon. Speaker: Yes, Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, I do not know whose mistake it is. I was in the Table Office a few minutes ago, and I confirm that we have not had the opportunity to have copies of the responses that the Cabinet Secretary is coming to give. We need to read, understand and be in a good position to ask rejoinder questions. Is it possible to facilitate that through your office so that we can look at the responses before the Cabinet Secretary takes the podium?

Hon. Speaker: Hon. Oundo, we can deal with that on a need basis. Once the Cabinet Secretary answers certain questions, the questioner can raise a supplementary relating to the adequacy of the answer. But if you need a written answer, the Clerk will facilitate. You can see the Clerk-at-the-Table.

(Loud consultations)

(Several Members stood on the aisle)

Order, Hon. Members. Members, on their feet, take your seats.

Clerk-at-the-Table, call out Order No.8

MOTION

APPROVAL OF THE MEDIATED VERSION OF THE NATIONAL RATING BILL
(National Assembly Bill No.55 of 2022)

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the National Rating Bill (National Assembly Bill No.55 of 2022), laid on the Table of the House on Tuesday, 5th November 2024, and approves the Mediated version of the National Rating Bill (National Assembly Bill No.55 of 2022).

(Moved by Hon. Josses Lelmengit on 7.11.2024)

(Debate concluded on 7.11.2024)

(Question put and agreed to)

Hon. Speaker: We will go back to questions. Hon. Namuar, you indicated that you are dropping your request for a statement, right?

Hon. Joseph Emathe (Turkana Central, UDA): I am well guided, Hon. Speaker.

Hon. Speaker: Okay. Leader of the Majority Party, Hon. Namuar tells me that the statement he requested was adequately dealt with by the visit of His Excellency the President to his county. So, he has dropped it. Thank you for saving our time and acknowledging that your issues have been addressed.

Let us go to questions now. Can you bring in the Cabinet Secretary? Hon. Namuar.

Hon. Joseph Emathe (Turkana Central, UDA): Thank you, Hon. Speaker. I have a pending statement that has not been resolved to date.

Hon. Speaker: See the Clerks-at-the-Table or the Table Office so that it can be put on the Order Paper tomorrow.

Hon. Joseph Emathe (Turkana Central, UDA): Hon. Speaker, you made a ruling regarding the Kenya Wildlife Services (KWS) issue with fishermen at Sibiloi. You resolved that we form a multi-sectoral committee to look into the issue. The issue was brought up in June, but nothing has been processed yet.

Hon. Speaker: Hon. Namuar, I advise you to see the Clerks-at-the-Table so that they can bring my attention to the issue you are raising.

QUESTIONS AND STATEMENTS

Leader of the Majority Party, can you bring in the Cabinet Secretary? Hon. Members, the Cabinet Secretary for Roads and Transport is in the House to respond to your questions. Clerks-at-the-Table, I have received communication from two Members, Hon. Daniel Kiili Karitho and Hon. Paul Musyimi Nzengu, to defer their Questions. Skip them when we reach them.

(Hon. Davis Chirchir was ushered into the House)

Hon. Chirchir, welcome to the House. As always, the questioner asks their question, and I will allow one joyrider to each question.

ORDINARY QUESTIONS

Hon. Speaker: Question 167/2023, Member for Baringo Central, Joshua Kandie. Joshua Kandie is not in the House.

(A Member spoke off the record)

You cannot stand in for him unless there is a written request to the Speaker.

(Questions 167/2023 deferred)

Member for Kinango, Hon. Gonzi Rai, go ahead.

Question 178/2023

DEMOLITION OF MACKINNON ROAD
TRADING CENTRE BUILDINGS

Hon. Gonzi Rai (Kinango, PAA): Hon. Speaker, I rise to ask the Cabinet Secretary for Roads and Transport the following question.

Hon. Speaker: Sorry, hold right there. I skipped one page. We have two Questions by Private Notice. The first one is by Wakili Muriu.

QUESTIONS BY PRIVATE NOTICE

QPN 013/2024

STATUS NEGOTIATIONS FOR A CONCESSION AGREEMENT
BETWEEN THE GOVERNMENT AND THE ADANI GROUP

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Speaker, I rise to ask the Cabinet Secretary for Roads and Transport the following Question.

Could the Cabinet Secretary-

- (a) Provide the current status of any negotiations for a concession agreement between the Government and the Adani Group regarding the management of Jomo Kenyatta International Airport (JKIA)
- (b) State the details of any consultations and public participation engagements undertaken by the Ministry of Roads and Transport regarding this matter in line with Article 10 of the Constitution.
- (c) Clarify whether there is full compliance with the provisions of Article 10(2) of the Constitution on the Principles of Governance, including, but not limited to, upholding good governance, integrity, transparency and accountability in the discussions on the proposed transfer of management of JKIA.
- (d) Confirm that in accordance with the provisions of Article 35 of the Constitution, publishing and publication of all information relating to the proposed agreement between the Government and Adani Group was affected.

Thank you, Hon. Speaker.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr David Chirchir): Thank you, Hon. Speaker. Hon. Members, I am happy to be in the House this afternoon to respond to various questions. Let me be quick and specific to Hon. Wakili Muriu's question on the current status of any negotiations for a concession agreement.

I want to confirm that all engagements between the Government of Kenya and Adani were suspended by a court order issued on 9th September 2024 in HCJR/E199/2024 Kenya Human Rights Commission (KNCHR) and the Law Society of Kenya (LSK), Kenya Airports Authority (KAA) and four others. The Court issued a conservatory order prohibiting any person from implementing or acting on the privately initiated proposal for the development and operation of JKIA by Adan Holdings Limited pending the Court's hearing and determination of this application. Therefore, no concession agreement has been executed between the Government of Kenya and Adani.

As I answer the following questions, I seek the Hon. Members to appreciate the process of concessioning a Private Initiated Proposal (PIP). We just stopped midway through the process of developing and signing the concession agreement. We are going through the court process and using that as a public participation process to ensure that we provide all the information and ensure that all Kenyans are fully apprised of this new investment platform that will bring in foreign investments and help us to grow some of our infrastructure that we need to develop.

The second question required me to state the details of any consultation and public participation and the engagements that have been undertaken. By the time we got to the halt, we had a stakeholder engagement programme. We already had a formal engagement with the Kenya Airports Authority (KAA) senior management stakeholders on 15th August 2024 at the JKIA Head Office Boardroom, which was properly scheduled. We had stakeholder engagement meetings with the KAA and JKIA section heads on 19th August 2024 at the JKIA Carriage Rooftop Conference Room.

Additionally, we had a JKIA staff engagement meeting held on 20th August 2024 at the JKIA Presidential Pavilion. We have also held engagements with the Kenya Aviation Workers Union (KAWU) stakeholders; the meeting was held on 20th August 2024 at the JKIA Conference Room. We also held a stakeholders' engagement meeting with the Kenya Civil Aviation Authority (KCAA) on 26th August 2024 at KCAA Headquarters. We also had engagements with the Kenya Airways stakeholders' engagement meeting held on 26th August 2024 at Kenya Airways Headquarters Pride Centre, Embakasi. We had an engagement with JKIA concessionaires, retailers and all business owners' engagements in a meeting held on 28th August 2024 at Eka Hotel. We engaged with Kenya Associations of Air Operators in a meeting held on 29th August 2024 at Four Points by Sheraton Nairobi Airport. Finally, we had engagement meetings with the JKIA airline air operators, ground handlers, the Government of Kenya agencies and cargo handlers on 30th August 2024 at Emara ole-Sereni.

The public participation plan was to be developed. However, this process has been put on hold following the conservatory orders issued by the honourable Court in judicial review case number HCJR/E199-2024, which has, in turn, suspended the implementation of the proposed project.

On the clarification on whether there is full compliance with the provisions of Article 10(2) of the Constitution on the principles of governance, including but not limited to upholding good governance, integrity, transparency, and accountability in the discussions on the proposed transfer of management of JKIA, there has been full compliance until we stopped the concession through a PIP process. It is not like the Public Procurement and Disposal System (PPDA). It is a whole process. I want to confirm compliance with Article 10(2) of the Constitution, strict adherence to the Public-Private Partnership Act, and guidelines issued by the Public-Private Partnership Directorate and Committee.

Good governance, integrity, transparency and accountability have been adhered to through due diligence. In our due diligence, we found out that up to the time when we got the orders, Adani Holdings Limited has not been debarred in any country, has not been engaged in acts of corruption, is not insolvent, is tax compliant in all jurisdictions in which it has local tax

presence, it has not a default on the payment of social security and employment benefits and none of its directors or officers have convicted of any criminal offence related to professional conduct within five years preceding the submission of the proposal and have not otherwise been disqualified pursuant to administrative suspension or debarment proceedings.

Furthermore, numerous government agencies have evaluated and analysed the PIP, including the Public Private Partnership Directorate, the National Treasury and the Transaction Advisor and duly qualified. Therefore, the process of considering the proposal by Adani Holdings Limited at the point we reached was rigorous. We strictly followed the due process set by the law.

On the confirmation that in accordance with the provision of Article 35 of the Constitution concerning publishing and publication of all information relating to the proposal and agreements between the Government and Adani Holding Limited, let me confirm that all relevant information concerning the said project has been disclosed to almost all the stakeholders. As I said, we continue to use the court process as a public participation process because the documents are out there. The documents were submitted to the Senate when they requested them. Disclosure of information is also being undertaken within the ambit of the existing case filed in Court.

Hon. Speaker and Hon. Members, that is the response to the provision of information under Article 35 of the Constitution.

Hon. Speaker, I am done with the Question on the Adani Holdings Limited.

Hon. Speaker: Hon. Muriu.

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Speaker, I am extremely surprised by the Cabinet Secretary's assertion that Adani Group has no corruption case anywhere in the world, and that they have been tax-compliant in any jurisdiction where taxes are paid. I want to submit documents in this House showing that Adani Group has been barred from doing business in Australia and India, purely, for the same reason we are talking about. Therefore, the facts asserted by the Cabinet Secretary are not correct. He might need to get proper details.

However, this matter is before court, and we cannot discuss it in detail. I just want the Cabinet Secretary to give factual information. For purposes of the record, I will submit Papers in this House.

Thank you, Hon. Temporary Speaker.

Hon. Speaker: We will look at those papers.

Hon. Gladys Boss (Uasin Gishu County, UDA): Hon. Speaker, with your permission.

Hon. Speaker: Yes, Hon. Deputy Speaker.

Hon. Gladys Boss (Uasin Gishu, UDA): Thank you, Hon. Speaker. To guide this House, it is very important for Hon. Members to prove assertions they make in this House. The only way to get correct information is for the Ministry of Foreign and Diaspora Affairs to write to those countries and receive confirmation that the allegations made are indeed true. This is because we are setting precedence in this country of scaring away Public-Private Partnership (PPP) investors. As a country, we do not have money. So, the only other way we can fund infrastructure programmes is through PPPs.

As leaders, we cannot be the ones scaring away investors. You should give a timeline within which to confirm information to the public through the official channels and not by rumour-mongering and statements.

Hon. Speaker: Pass your documents to the Clerks-at-the-Table so that I can look at them.

Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. First, I want Hon. Muriu to table the documents and not WhatsApp messages. I can see him google on his phone. We cannot treat this House as if we are...

Hon. Speaker: Order, Leader of the Majority Party. As a matter of fact, Hon. Muriu, you said that you have Papers.

Hon. Kimani Ichung'wah (Kikuyu, UDA): To table.

Hon. Speaker: I can see you taking your phone to the Clerks-at-the-Table. So, which Papers are you tabling? What is on your phone can be printed.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Speaker. They are electronic documents. We are in the information age, and I only need to print and give them to the Clerks-at-the-Table.

Hon. Speaker: That is precisely what I have said.

Hon. Wakili Edward Muriu (Gatanga, UDA): Yes, I have the report. Transparency is also important, as we talk about the benefits of PPP. This issue...

Hon. Speaker: Order, Hon. Muriu. You are now making a speech. I just told you that if you have electronic documents, go to the Table Office, print them, and table them for Hon. Members to look at. It will not be at your cost but the cost of Parliament.

Hon. Wakili Edward Muriu (Gatanga, UDA): Most obliged, Hon. Speaker.

Hon. Speaker: Yes, Leader of Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I beg we redact that from the *Hansard*. Hon. Muriu said that he has documents to Table, and clearly, he has none. I told him there is a difference between discussing matters at Kirwara Market and in this House. You have to debate with facts but not how you debate in the market places.

Many times, we tend to make political statements for the gallery. You know you are on national television and want to be quoted in the evening news that you have evidence, and yet, you have not tabled. It must be on the *Hansard* and records of this House that Hon. Muriu did not table evidence of Adani Group being debarred from doing business in Australia and the other countries he named.

Back to my question to the Cabinet Secretary. This is what I wish Hon. Muriu dwelt on. The question on the minds of Kenyans is that the Adani Group was said to have initiated a PIP. Kenyans want to know if investors from other parts of the world made such proposals. Did KAA consider them together with those of the Adani Group? Kenyans are asking whether there was transparency and openness in how KAA and the Ministry dealt with the Adani Group. I was hoping Hon. Muriu would take the Cabinet Secretary to task to explain to Kenyans what measures were taken and whether there were prior PIPs from other countries or airline management companies in the world.

Hon. Speaker: Ask your question.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I want the Cabinet Secretary to tell us whether other PIPs were considered together with the one for the Adani Group. What we hear from the media is what many people quote. We want to hear from him if other PIPs were also considered. We also want to hear about the Adani Group case in court. Can he tell us how far it has gone in terms of engagement? Had it moved to a point where you were discussing a concession? Or are you considering the PIP from them?

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, let me direct my question to the Cabinet Secretary. We passed the Public-Private Partnership Act, which has very clear steps to be taken before implementing a PPP. You can be gracious enough to tell us whether all the steps proposed in the Act were followed to the letter, to the point of almost signing the agreement. Was the law followed?

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. Hon. Ichung'wah has asked whether we had another PIP with respect to the JKIA. We did not have any other PIP or PPP with respect to the JKIA concession. Hon. Members, to run a PIP, you need to do a feasibility study, which is a serious submission. It is not a piece of letter. It is a very well-done piece of work after looking at the proposal's scope and what needs to be done.

With respect to the question by Hon. Oundo, as I said, the PPP process is articulated from the time you submit. It goes through due process in line with the PPP Act. This includes approval by the PPP committee, project development phase, feasibility study approval, evaluation process, procurement of a technical assistant and PPP committee consideration and approval of the negotiated outcome. At the time when it went to court, we were drafting and negotiating a concession agreement; looking at some of the technical issues like the return on equity, debt equity ratio, value for money and so on and so forth. That is where we were, but like I said we had also gone through the due process and we were about to finalise the public engagement. That is when we got the orders and like I indicated, we are using this time to ensure that we communicate and provide information to Kenyans.

Hon. Speaker: Thank you. Yes, Hon. Basil.

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Speaker. My supplementary is tied to what Hon. Oundo asked. Can the Cabinet Secretary tell us whether JKIA was operating at a loss for it to be considered for privatisation?

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Members. With respect to JKIA, in its audited accounts, it makes a profit of Ksh4 billion annually. As we are aware, we have over utilised JKIA, and therefore, we need a new airport. In terms of the traffic and investments we receive at JKIA, it is in the tune of Ksh200 billion. So, when you are talking about an investment of Ksh200 billion and your bottom line is Ksh4 billion and the fiscal headroom for an asset which is 100 per cent owned by government requires that kind of investment, the only route to go is the PPP, where we bring in foreign investment.

Hon. Speaker: Thank you. Yes, Hon. Mwenje. I want to move to the next question.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. Mine is a quick one, in light of this transaction with Adani perhaps the Cabinet Secretary can just explain to us what happened with the deal that existed with Kenya Airways and JKIA. We got the feeling that it was dying but we have never gotten a comprehensive report on what happened with that specific transaction.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. Let me just remind the House that that Bill was withdrawn by this House.

Hon. Speaker: Thank you. We will go to the next question. Hon. Muriu, these papers have got no authentication. There is no indication where they are coming from, and for now I will disallow them. If you find a way to have them authenticated as to their source, content veracity and accuracy, then we will deal with it.

Next question, Hon. Mark Mwenje. Yes, Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Speaker, Hon. Muriu has made a serious claim against an investor seeking opportunity to invest in our constrained economy. It is not a light matter. Under Standing Order No.91, if you cannot duly substantiate the claims you make then that claim must be expunged from the records and the maker of that unsubstantiated statement must withdraw and apologise.

I am saying this because I have information that while Hon. Muriu is saying Adani company cannot engage in any investment in this country, as we speak they are engaged in big infrastructural projects, including in New South Wales, Australia. Mega projects, bigger than this one here. We cannot have a situation where we, as leaders, of a country, operating in this difficult economic environment throw rumours about entities which should be investing in our country under the PPP platform. The idea that is that we do not have our money to do everything in terms of development you want to do, and so, we invite people who can invest and benefit the public as we move along. Even if it were to be said that this company had a problem in some country as leaders it can only alert us to secure our deal and to secure our national interest better, not to exclude. So, this rumour mongering, I wanted to request you that having been confirmed... It is very unfortunate that Hon. Muriu, who is a prominent senior lawyer can come before this august House with newspaper cuttings whose motive you never know, from Wa Munyoro...

Hon. Speaker: I do not know what Wa Munyoro is. You have made your point.

Peter Kaluma (Homa Bay Town, ODM): They need to be expunged.

Hon. Speaker: I have already directed that the documents as they are and from advice from the Clerk-at-the-Table, are inadmissible. We will go to the next question. Hon. Muriu I have told you what to do if you want to be believed. Hon. Mark Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. Before I ask my question...

Hon. Speaker: I have moved to the next question.

Hon. TJ Kajwang' (Ruaraka, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: On the same issue? Okay, Hon. TJ Kajwang'.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, you know...

Hon. Speaker: Can you mute your microphone, Hon. Mwenje?

Hon. TJ Kajwang' (Ruaraka, ODM): The Member for Homa Bay Town is my law partner and I always do not disagree with him on very serious issues. But as a ranking Member, as I am and I heard that from the Deputy Speaker, is it in order that Members of this House should talk down other Members on issues which are substantial, which are being spoken both outside and inside? To refer that Members are rumour mongering whether it is a newspaper... Even newspapers are allowed in Speaker's wisdom. The Speaker may allow certain information including newspaper reports. That is what I know. I was just wondering, for the decency of debate in this House and for the respect that Members have on each other, a gentleman such as Hon. Wakili... Should a whole presiding officer face him and tell him that he is rumour mongering when actually he is stating issues which are both passionate in this House and outside? That is the context of my...

Hon. Speaker: Thank you, Hon. TJ. I have already given direction on the matter and Hon. Wakili Muriu being a senior lawyer, knows what to do with his documents.

QPN 14/2024

DELAY IN DISBURSEMENT OF ROAD MAINTENANCE
LEVY TO KeRRA FOR NAIROBI CITY COUNTY

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. I rise to ask the 14th question by Private Notice of this year.

- (a) Could the Cabinet Secretary one provide a comprehensive report on the amount disbursed to KeRRA for the Financial Year 2023/2024 as of September 2024 for Nairobi County and the measure being taken to address the delay.

(b) Give reasons for the delay in full disbursements of the road maintenance levy funding during the financial year 2023/2024 for Nairobi City County to KeRRA.

As the Cabinet Secretary rises to answer, we had requested last time to expand this question not just to apply to Nairobi City County but to the entire country as well, with your indulgence.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Hon. Speaker, allow me not to repeat the question, but to respond that KeRRA received a total of Ksh42,101,040 per constituency, countrywide, under the 22 per cent RMLF, that is the Road Maintenance Levy Fund, financing for the financial year 2023/24, including 17 constituencies in Nairobi County. When you compute what was received and disbursed to Nairobi, it totals to Ksh 715,717,680 for that 22 per cent Royal Maintenance Levy Fund (RMLF). Hon. Speaker and Members, the amount however, falls short of the initial budgeted amount of Ksh44,522,070 per constituency as earlier guided by Kenya Roads Board as ceiling for the Financial Year 2023/2024. The variance arose due to actual RMLF collection falling short of the projected amounts by a margin of 5.4 per cent per constituency which total to Ksh 2,421,030 and of course the shortfall is due to the amount of petroleum products that were consumed in the country. I have shown a table that details the disbursement received in the reporting year 23/24 and how we twained that money and the shortfall that I have talked about.

Similarly, under the 10 per cent RMLF funding, the Authority received Ksh17,107,109 per constituency, against a budgeted amount of Ksh20,237,304 which was based on KRB ceiling provided for the year. The total amount received for the financial year under the 10 per cent RMLF was, therefore, Ksh290,820,853 against the expected funding of Ksh344,034,168 representing a variance of 15.5 per cent Hon. Members. In respect to the table that basically articulate that 10 per cent RMLF funding, I have shown that in the table where we are basically showing the 10 per cent RMLF that was released at Ksh17,107,109 for each constituency.

In respect to the second question, the Kenya Roads Board collects the Road Maintenance Levy on a continuous basis and disburses to the recipient agencies through the Ministry. The disbursement for the various agencies were done in a timely manner and I wish to clarify that KeRRA disbursed funds to the regional office based on what was received or what is received. The funds for Nairobi City County and all other constituencies were, therefore, remitted and will continue to be remitted promptly.

I thank you, Hon. Speaker and Hon. Members.

Hon. Speaker: Hon. Mark Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker and the Cabinet Secretary for his response. My follow-up is basically that these amounts for KeRRA have consistently been reducing. The fact that our committee went to the ground and budgeted even for these savings that were going to occur, then how can the Cabinet Secretary guarantee that this will not repeat itself in the subsequent financial years especially considering that the reduction that occurred and the notice that came out gravely affected projects that were going. It also affected contracts which had already been committed to certain projects. That means there are incomplete works as a result of the reduction of funds caused by the revised ceilings.

I Thank you, Hon. Speaker.

Hon. Speaker: Hon. Oluoch, the Member for Mathare. Give him a microphone.

Hon. Antony Oluoch (Mathare, ODM): Thank you, Hon. Speaker. Let me make this follow up question to the Cabinet Secretary. What is the legal mechanism by which a ceiling which has already been committed to constituencies, work plans already done and already some activities and advertisements have been undertaken? How can the Roads Levy Fund based on alleged reduced earnings then tell constituencies that they will not undertake these processes? I have a case in my constituency where based on the savings that are now unremitted, we did a

road up to 80 per cent and is now at a standstill. Is there a legal mechanism by which you can be able to fall back and say that these were your ceilings, but we have now not collected enough? I think the Cabinet Secretary should be able to come clean to avoid putting constituencies' roads that have been done to a certain extent to be left undone as white elephants.

Thank you.

Hon. Speaker: Hon. Dr. Mutunga.

Hon (Dr.) John K. Mutunga (Tigania West, UDA): Thank you Hon Speaker. My supplementary question is on the same money committed to pay for contracts that have already been issued. I have a case in my constituency where a road was estimated to be done at Ksh4,000,000 and only Ksh3,000,000 was available. I went back to the apportionment of the money and the decisions made when the reductions were done. Did the Ministry not consider that committed money is already incurring a debt and, therefore, make provisions for this even as the reductions were to go on? Was that considered?

Hon. Speaker: Thank you. Let us have Hon. (Dr) Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, I think this issue of the 22 per cent and 10 per cent is now becoming a thorn in the flesh. Once the works are complete, assuming the entire disbursement was done, there is what we call savings. I ask the Cabinet Secretary to clarify, up to date the so-called savings have not been remitted to the regional offices to enable us undertake and enable the Constituencies Roads Committee (CRC) to undertake the other remaining works on the various roads. When is the savings going to be remitted to the regional offices to enable them complete the ongoing roads?

Hon. Speaker: Yes Hon. Nyenze. Let us take one more from Hon. Edith, you answer and then we move on to the next question.

Hon. Edith Nyenze (Kitui West, WDM): Thank you. Mine is a supplementary question on the KeRRA roads again. There was an advertisement which was done on the 22 per cent and also 10 per cent roads about two weeks ago. After it was withdrawn and the advertisement was suspended, the advertisement, which had gone out did not have the names of the constituencies. They did not even give us, as the Members of Parliament the amount allocated. In some instances, you have a road which touch two constituencies and so you cannot tell if it belongs to your constituency or to the neighbouring one. My question is, why was this advert suspended? Thank you.

Hon. Speaker: Yes Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): The supplementary question with respect to the works that have been advertised and on account of projected revenues were not met because of the shortfall on the 22 per cent RMLF collection, which comes through the fuel collection. Hon. Members, I met the Committee on Roads and Transport last week and this question was alive. What we have done is to compute the savings on the actual contracts achieved vis-a-vis the budget that was allocated to every road. My team which is here with me is computing the savings to be able to address the shortfall and, therefore, mitigate the challenge that the Members face over projects that have been advertised.

The KeRRA Board met yesterday and approved additional amounts due to the shortfall, which will be disbursed shortly. That will address the shortfall challenges that arise when budgeting is not properly done. We will need to look at the estimates of what we should be able to collect on the RMLF due to the volume of petroleum that the country will consume, and ensure that we do not run into this challenge.

With regard to the shortfall or whether the RMLF amount is reducing, in the subsequent responses, you will see the RMLF progressively growing from the Financial Year 2019/2020 to Financial Year 2022/2023.

In regard to the challenge of overestimating the revenues and going out to tender for roads on estimates that may not be achieved, we will work very closely with the Energy and Petroleum Regulatory Authority (EPRA) that will give us the estimates for the petroleum products that will be consumed, so that we do not get into that situation. But as I said, the KeRRA Board met yesterday and approved additional funds to cover the shortfall based on the savings. This will mitigate that challenge.

With respect to Hon. Edith Nyenze's concern of the suspended advertisements which had gone out, we will re-advertise by next week. That is what I have been advised. Therefore, we will be able to address that challenge. I will get more details in the course of this meeting and if that response is not satisfactory, I will further address the issue.

Thank you.

Hon. Speaker: Hon. Kandie.

ORDINARY QUESTIONS

Question 167/2023

CRITERIA USED BY THE KENYA ROADS BOARD TO ALLOCATE FUNDS TO CONSTITUENCIES

Hon. Joshua Kandie (Baringo Central, UDA): Hon. Speaker, I rise to ask the Cabinet Secretary for Roads and Transport the following question.

Could the Cabinet Secretary—

- (a) Explain the criteria used by the Kenya Roads Board to determine the amount of funds to allocate to each constituency?
- (b) Provide a detailed analysis of monies that the Kenya Roads Board has disbursed to all the 290 constituencies from 2019 to 2023?
- (c) Provide a comprehensive list of roads in each of the 47 counties that the Kenya Roads Board has allocated monies to in the recent past?

Thank you, Hon. Speaker.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. Thank you for the Question, Hon. Joshua Kandie.

Hon. Members, Section 6 of the Kenya Roads Board Act No.7 of 1999 lays out how the RMLF is allocated to road agencies. More specifically, Sections 6(2)(d)(1) and (2) of the Kenya Roads Board Act No.7 of 1999 stipulates the following allocations to constituencies. An allocation of 22 per cent which shall be deposited into a special bank account called the Constituency Roads Fund Account to be maintained by every constituency. It is allocated equally to all constituencies in the country and is to be administered by KeRRA.

Another 10 per cent allocation is set aside for the development and maintenance of link roads between constituencies, as was mentioned by Hon. Edith Nyenze, and to serve as Government counterpart funds in funding works on rural roads. That allocation is also administered by KeRRA. The said per centum shall be equally distributed to all the constituencies like the 22 per cent where KeRRA has the mandate.

Each constituency received RMLF funds in the last four financial years as shown in that table. With respect to the 22 per cent allocation, each constituency received Ksh21,564,277 for Financial Year 2019/2020. In Financial Year 2020/2021, each constituency received Ksh22,642,491. In Financial Year 2021/2022, each constituency received Ksh25,319,331. In Financial Year 2022/2023, each constituency received Ksh42,598,809 under the 22 per cent allocation.

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Similarly, I have tabulated the receipt amounts under the 10 per cent critical link roads allocations for the four financial years. Like I said, the totals have increased progressively from Ksh31,366,221 in the Financial Year 2019/2020 to Ksh61,961,904 in the Financial Year 2022/2023, which is good progress.

Hon. Members, Section 19(4) of the KRB Act No.7 of 1999 mandates the Board to consolidate the annual roads works programmes submitted to it by roads agencies into an Annual Public Roads Programme (APRP). You will normally see the APRP being approved by the Cabinet Secretaries for Roads and Transport, and for the National Treasury and Planning. The roads funded in each constituency are detailed in the approved APRP for KeRRA for the previous four financial years, which I have attached.

Hon. Speaker, allow me to table the annual roads works programmes as requested.

*(The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir)
laid the documents on the Table)*

These are the annual roads works programme for the years 2019/2020, 2020/2021, 2021/2022, and 2022/2023.

Thank you.

(Loud consultations)

Hon. Speaker: Order, Hon. Members. Order, Hon. Elisha. Before we go to the next question, allow me to acknowledge in the Speaker's Gallery, two very distinguished ladies from the East African Community: The Speaker of the Parliament of Uganda, Hon. Anita Annet Among', also known as "Triple A"; and the Speaker of the Parliament of the United Republic of Tanzania, Dr Tulia Ackson, who is also the President of the Inter-Parliamentary Union (IPU).

(Applause)

The two Speakers and Speakers from other East African Community states, namely, Rwanda, Burundi, the Republic of South Sudan, Somalia, and the Democratic Republic of Congo (DRC), are in Kenya attending a meeting of the Bureau of the Speakers of the East African Community chaired by yours truly. We had a wonderful meeting this morning. We discussed, among other things, the expansion and integration of the people of the East African region in truly fostering free movement of people, goods, and services; moving towards a monetary union; and broadening the integration of our region.

On my behalf and that of Members, I welcome the two Speakers to our Parliament.

(Applause)

Yes, Hon. Millie Odhiambo. You have one minute.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker. On behalf of the IPU delegation in Kenya, I wish to congratulate our President. Kenya played a very significant role in ensuring that she was elected. Also on behalf of the Women of this Parliament, we are very proud when we see women Speakers. We are looking forward to the next Speaker, we do not want to remove you, but the next woman Speaker sitting there.

(Laughter)

We are very happy to have them, and welcome to Kenya. Thank you. Both of them are known to me, and I am very happy to see them.

Hon. Speaker: They are women, alright, but they are Speakers out of their competence, beyond their gender.

(Applause)

Hon. John Kiarie

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I want to thank you for this opportunity, and because you have already welcomed the very esteemed Speakers, I would only want to put it in one word: to congratulate the ladies for being able to ascend not only to the apex of their Parliaments, but also for great leadership in the continent, identifying that the Hon. Tulia Ackson is our Inter Parliamentary Union (IPU) President, and Kenya played a very big role in ensuring that she secured the seat. Hon. Millie Odhiambo and I were her chief campaigners, ensuring that she secured that seat.

Through you, Hon. Speaker, we would just like to request that when you are having the deliberations, you might want to whisper to your counterparts that we have a candidate for the African Union Commission. They might just get the message home that we are looking for that seat, and they might want to support us. Just *kurudisha mkono*, Hon. Speaker.

I truly thank you for this opportunity. *Asante sana*.

Hon. Speaker: For your information, in our bureau meeting, we acknowledged that we have a candidate for the African Union Commission, and we agreed that he is indeed a candidate from the East African region, and shall enjoy the support of the region.

(Applause)

Thank you. We will go back to our questions.

Hon. Joshua Kandie (Baringo Central, UDA): Hon. Speaker, I am satisfied. However, I would...

Hon. Speaker: If you are satisfied, there is no however. Let us go to the next Question. Hon. Gonzi Rai, the Member for Kinango.

Question 178/2023

THE MACKINNON ROAD TRADING CENTRE BUILDINGS

Hon. Gonzi Rai (Kinango, PAA): Hon. Speaker, could the Cabinet Secretary for Roads and Transport:

- (a) Explain why the Kenya National Highways Authority (KeNHA) issued demolition notices against the Mackinnon Road Trading Centre buildings approved by the Kwale County Government in 2020 and constructed away from the Mombasa – Nairobi Highway (A109) road reserve as clearly depicted on the approved map of the Highway?
- (b) Explain why owners of the buildings purportedly earmarked for demolition by KeNHA were not involved prior to the issuance of the demolition notices and clarify whether they shall be compensated before such demolitions if the Ministry plans to expand the Highway?
- (c) Provide copies of updated maps, if any, illustrating the changes done to the road reserve dimensions of the Mombasa-Nairobi Highway (A109)?

Thank you.

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Hon. Speaker: The Cabinet Secretary for Roads and Transport.

The Cabinet Secretary for Roads and Transport (Mr David Chirchir): Thank you, Hon. Speaker and Hon. Gonzi Rai.

On this particular one, Hon. Speaker and Hon. Members, the notices were issued because the buildings were within the road reserves as marked through the road reserves boundary post that was installed in 2018. I have Appendix II, as Hon. Gonzi Rai requested, which shows that we marked the road reserve area. We have a document that I will table to basically confirm that.

The markings were installed under the Project for Rehabilitation of Bajuma Gate-Maji ya Chumvi Road, which was completed on 28th February 2018. Hon. Members and Hon. Speaker, the notices of the encroachment were issued to 58 entities at the Mackinnon Town Trading Centre on 2nd February 2023, and there are no current plans to expand the highway. However, the road reserves have been marked using concrete boundary posts since 2018, and the owners are aware of the boundary.

Hon. Members, the Ministry does not compensate for demolition of structures that are encroaching on the road reserve. Since issuance of the notices, some entities have removed their structures while others continue to encroach. In Appendix II, I have shown one entity where after engaging an Advocate to contest the notice in writing to KENHA, it later demolished the encroaching building and put up a new building that observes the road reserve boundaries. That is also in a document that I wish to table as requested by Hon. Gonzi Rai.

On the third item, a planned and profiled drawing for the project for rehabilitation of Bajuma Gate-Maji ya Chumvi Road, indicating that at the time of design, a section of the building was identified to be within the road reserve, has been provided for ease of reference. I thank you.

Allow me to table the annexure or appendix to basically assist us to appreciate.

Hon. Speaker: Go ahead.

(The Cabinet Secretary for Roads and Transport tabled the document)

The Cabinet Secretary for Roads and Transport (Mr David Chirchir): Thank you.

Hon. Speaker: Hon. Gonzi Rai.

Hon. Gonzi Rai (Kinango, PAA): What the Cabinet Secretary is telling us could have some truth, but the question I am asking is about Mackinnon Road. The allegations about the houses which people removed the structures was in Taru. The road we are talking about is 57 Kilometres, and I am talking about Taru-Uteno Mackinnon Road Trading Centre, where sometimes last year, I took the former for Road Cabinet Secretary for Roads and Transport and he conceded that there were no consultations done with the owners, because the dispute is about the boundary. They are saying they put their signs in 2018, and in 2020, Kwale County issued consent for the approval of the construction.

We have a dispute in this matter and that is why we went to Court. One of the issues that they were supposed to give us was the historical information about that particular area, which has not been done up to now. So, unless the Cabinet Secretary confirms that he will be...

Hon. Speaker: Just ask him a question.

Hon. Gonzi Rai (Kinango, PAA): Can the Cabinet Secretary confirm or give an undertaking of coming to Mackinnon Road to confirm what is on the ground versus what is being said on paper in this House?

Hon. Speaker: Hon. Kenneth Tungule take one more.

Hon. Kenneth Tungule (Ganze, PAA): Thank you very much, Hon. Speaker for this opportunity.

I am asking a question on behalf of the people of Ganze Constituency, and it is in regard to the tarmacking of the road from Bamba to Ganze to Kilifi. This is a road that was launched in 2021, and it was a contract for three years, which elapsed in November this year. But the problem is that the contractor only did 5.6 Kilometres of the 56 Kilometres that he was required to do, and the project has stalled for almost one-and-a-half years.

So, my question to the Cabinet Secretary is, when is the contractor going back to the ground to restart the construction now that the contract period of three years has elapsed, and there is no activity on the ground as of now?

Thank you.

Hon. Speaker: Hon. Julius Taitumu, this is a very narrow question about Mackinnon Road. Just hold on, Cabinet Secretary. Hon. Julius Taitumu.

Hon. Julius M'anaiba (Igembe North, UDA): Hon. Speaker, this is not about Mackinnon Road. I wanted to put a question concerning Kaelo-Kamukunji-Mutuati Road.

On 22nd April 2023, the President visited the area where a road had stalled since 2017. The President commissioned and gave an undertaking that the road should be completed in December 2023, but there is no contractor on site up to now. These things are making this Government unpopular. Cabinet Secretary, what are you doing to make sure that the road is completed? It is almost two years now after the President commissioned it and gave an indication that the road should be completed by the Ministry. Why do we not have a contractor on the road? When will the road be completed?

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary of Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker.

With respect to Mackinnon Road, let me confirm that I can come to the ground because I will be in Mombasa next week. We can visit Mackinnon Road and confirm, that is, if you will be on the ground. We will work with the county government more closely to make sure we do not issue conflicting information. Outside the Chamber, I will liaise with you on when we can meet within the market.

With respect to the two roads, in Kanze and Ahero, we have had a challenge for ongoing projects and starting new projects. Without being general, allow me to reiterate what I said during my confirmation hearing before this House. Pending bills that sit at about Ksh175 billion today are a priority we are working on. That is to ensure we settle all pending bills and get back the contractors to work.

We are grateful to this House for supporting us raise the Ksh7 billion under the RMLF. We are quite advanced in the process of securitisation. It will allow us to get all contractors back to work. In the many Questions that will follow, I know that the concern on contractors vacating works and abandoning sites is something of concern. Even as we work on pending bills and getting contractors back to work in a very short while, I confirm that we also have to be very vigilant on how we bring in new projects. It is one thing to start a project then we are unable to pay bills ten years down the line.

Hon. Members, we will work together more closely in ensuring budget appropriations and the estimates you give us address some directives given by leadership so that together we can ensure that we develop this country equitably. I confirm that. Let me look at the Printed Estimates, particularly with respect to those roads, and see the provisioning on how they have been covered because there were supplementary questions. Even if they have not been covered, I would like to sit down with the two Hon. Members and look at those two roads in light of the fact that there were directives from leadership. We should be able to find a way to accommodate them.

Thank you.

Hon. Speaker: Hon. Ojiambo Oundo.

Question 013/2024

STATUS OF MATAYOS-GANJALA-NAKHASIKO-NANGINA ROAD

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I rise to ask the Cabinet Secretary for Roads and Transport the following Question:

Could the Cabinet Secretary:

- (a) Provide the status of Matayos-Ganjala-Nakhasiko-Nangina Road that was tendered under the 10,000 kilometres Low Volume Sealed Roads (LVSR) and was reported to be under procurement/adjudication/professional opinion as at the commencement of the 2017/2018 Financial Year?
- (b) Provide an update on the proposed Lake Victoria Ring Road Project, particularly the implementation of the Gazette Notice No.2056 of 25th February 2022?

Thank you, Hon. Speaker.

Hon. Speaker: *Waziri.*

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you Hon. Speaker and Hon. Members. Regarding the Question by Hon. (Dr) Oundo with respect to the road in Funyula and Matayos, I wish to state that the Matayos-Ganjala-Nakhasiko-Nangina Road was among the roads tendered in the 2017/2018 Financial Year under the Low Volume Sealed Roads Programme. However, the road failed to attract bidders at that time. Through the KeRRA, the Ministry was consequently unable to proceed with proposed works. The road failed to receive budgetary allocation in subsequent years to date.

However, routine maintenance on the road to ensure it remains motorable is undertaken. As I said in my previous Statement, the Government is currently prioritising completion of ongoing and incomplete projects and settling significant pending bills to contractors from certified road works countrywide. As a result, the Ministry shall prioritise the construction of this important road once the foregoing is achieved and funding is made available for its construction, following which the road shall be tendered afresh. Let me also just request the Member to sit down with us. It does not look fair that a tendered road is subsequently not funded. We can sit down and see how to prioritise that road.

Hon. Members, a list of projects' affected persons was submitted to the National Land Commission (NLC). The gazettelement of notices of intention to acquire private land affected by the project on behalf of the KeNHA was completed through Gazette Notice Number 2054 of 25th February 2022. However, issuance of notices of intention to acquire land from persons affected by projects or PAPs and inspections of the properties for valuation purpose has not been carried out. Through KeNHA, the Ministry is committed to executing the exercise as soon as funds are available. Again, I undertake to follow up and ensure that this is done soonest.

Hon. Speaker: I think it is as clear as that. Do you have a supplementary question?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, it is heartening for the Cabinet Secretary to acknowledge that subsequent regimes have treated and discriminated the people of Matayos Constituency and Funyula Constituency unfairly. It is also encouraging to say that he will look at it. When I saunter into his office, I hope he will not lock me out and make me wait for three hours yet I am supposed to come and give quorum in this House.

I also just want to draw his attention to something. One time on 9th March 2021, the then Cabinet Secretary, Hon. James Macharia, clearly indicated the project would be prioritised in the 2021/2022 Financial Year. It is very unfortunate the goalpost has changed again and that now funds are not available. Nevertheless, I am encouraged by the Statement. I will walk into his office. Hon. Speaker, you are now truly my witness if the doors are not opened. I will come and stand on top of your desk to ensure that he opens his doors for me.

Thank you, Hon. Speaker.

Hon. Speaker: Those were just kind comments. Cabinet Secretary, you do not have to respond. The next is Question 069 of 2024 by the Member for Westlands.

Question 069/2024

DETAILS AND COMPLIANCE OF APPROVED DESIGN
FOR WAIYAKI WAY CONSTRUCTION

Hon. Tim Wanyonyi (Westlands, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Roads and Transport the following Question:

Could the Cabinet Secretary:

- (a) Provide details of the approved design of Waiyaki Way, including the road profiles, all road signages, road lightings, service lanes, and pedestrian walkways and crossings, and clarify whether ongoing construction works on the named road are being carried out in accordance with the approved design?
- (b) State the timelines for completion of the Kangemi and Ndumboini overpasses and restoration of access roads destroyed during construction?
- (c) Explain why there are no footbridges, pedestrian walkways, and road markings on the said road, and further explain why the provided pedestrian crossings are kilometres apart from each other, thereby escalating road accidents on the said road and disadvantaging school-going children, the elderly, persons with disabilities and emergency response teams?
- (d) Explain why the ministry approved the construction of the Westlands roundabout footbridge without incorporating a ramp for persons with disabilities, and state whether there are any plans to have one installed?

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. I also want to thank Hon. Timothy Wanyonyi.

On this particular Question, allow me to go straight to the answer. Let me state that the design details for James Gichuru-Rironi A8 Rehabilitation and Capacity Enhancement Project, Waiyaki Way are as indicated in my response. The design details for James Gichuru-Rironi Road are tabulated as follows: Main Road, 3 Lanes and 25.346 kilometres roadworks programme. We have executed that work. There is no outstanding work on that particular section.

On the second area, which is the lanes on both sides, the right and the left-hand sides, the 38 kilometres programme, we have only executed and worked on 6.384 kilometres. There is an outstanding 31.616 kilometres. There are outstanding works at about 83 per cent, which is still quite significant.

On the feeder road, which is 21.2 kilometres, we have finished works on 11.28 kilometres, and we have 9.92 kilometres to go, that is, 46 per cent of outstanding works. On the interchange slip roads and ramps, which is 20.86 kilometres, we have basically scratched the ground with only 0.2 kilometres. We have 20 kilometres to go, which is 99 per cent of outstanding works.

On Gitaru Falls Clover Interchange, which is 5.594 kilometres, we have done 1.953 kilometres and there is 3.637 kilometres to go, which is 65 per cent of outstanding works.

On the Non-Motorised Transport (NMT) footpath, that is the traffic lanes or walkways to ensure that we are pedestrian-friendly, which is 50.69 kilometres, I want to state that we have not started.

On access to Government facilities, Nairobi School and the Kenya Forestry Research Institute (KEFRI), I want to state that we have not started. However, we have some 4.3 kilometres to do in that section.

Regarding the structures which include bridges, vehicular underpass, pedestrian underpass, pedestrian footbridges, retainer wall, and all the other structures, let me say as follows: we invite Hon. Tim Wanyonyi to join us on Friday. In a meeting regarding working on Waiyaki Way all the way to the airport, that was chaired by the leadership yesterday, we agreed to meet with the Nairobi City County Government on Friday concerning the beautification, particularly how to work on the structures to decongest the Westlands roundabout. We need to complete this work very quickly in agreement with the designs, and also finish the works being done on the sides like restoring the bus stage. The place is very congested.

We will be meeting in my office with the Nairobi City County Government on Friday at 10.00 a.m. So, we are doing a lot of work on the Westlands space, to ensure that we open up and beautify that area because it is currently very congested. Works are also being carried out in accordance with the proposed designs, save for instances where works have not been fitted to site conditions.

On the second Question, the contractor is currently working at Gitaru Interchange as per the developed schedule of priority of works, based on availability of funds. The contractor is, however, not working at full capacity due to delayed payments amounting to Ksh3.3 billion. This is a priority assignment we are undertaking to make sure that all contractors go back to work. Let me confirm that within the two months that I have indicated, we will ensure that the work in Gitaru Interchange is complete. As a matter of fact, after being sworn in as the Cabinet Secretary for Roads and Transport, I received my handover credentials from the then Cabinet Secretary, Kipchumba Murkomen, at that Gitaru Interchange. Therefore, Hon. Wanyonyi, I will ensure that I finish that Interchange.

The project is generally an access control highway with interchanges for vehicular crossing and turning at interchanges situated two to three kilometers. Similarly, there are pedestrian crossing facilities throughout the project at an interval of 500 metres. The designers provided for 23 footbridges and six pedestrian underpasses along the project road. The six pedestrian underpasses are substantially complete and in use as we speak. One footbridge is currently complete and in use while the remaining 22 footbridges will be completed once the contractor resumes work. Like I said, we are working round the clock to make sure that we make the funding available.

The pedestrian footbridge in Westlands was constructed as a replacement for the footbridge previously installed at the St. Mark's Church, slightly up the road. It was demolished to accommodate the viaduct for the Expressway under the Public Private Partnership (PPP) project. On the fourth item, the pedestrian footbridge in Westlands was constructed as a replacement for the footbridge previously installed at St. Marks Church, and like I have said, it was demolished for that viaduct. The Westlands footbridge design could not accommodate a ramp for persons living with disabilities due to lateral constraints caused by limitation of space to the extent of the road reserve, which would have required the Government to acquire additional land for construction of footbridge ramps as leads, wayleaves for relocated water, and power utilities.

However, the Authority is cognisant of the need for inclusivity and access for PWDs. In this regard, the Authority is pursuing a possibility of constructing an underpass at Westlands that will cater for the needs of all users, and also ensure that PWDs are fully accommodated.

The KeNHA is in the process of procuring a consultant for the feasibility studies, and detailed designs of Kisian-Busia A2 Road. Proposals are scheduled to open on 15th November 2024.

Thank you.

Hon. Speaker: Hon. Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Hon. Speaker, I thank the Cabinet Secretary for providing the answer although I could hardly hear him from where I seat. There is a lot of echo behind here. Additionally, the microphone that *Waziri* is using is inaudible. I could hardly hear what he was saying. I heard him mention that he would invite me to a meeting, but I do not know which one. Could he repeat that?

I would also like to ask about the Kangemi bridge. Yesterday, I asked the President about it and he said that they have undertaken to complete it. This bridge is an eyesore. It has disconnected Kangemi from Loresho Road, a very critical road. I would like to know if the Cabinet Secretary and the Government have any plans to complete this bridge.

On the ongoing dualling of Limuru Road, around Aga Khan Hospital and Aga Khan Primary School, there was a footbridge for people to cross from one end to the other, especially school children. That footbridge was removed. The road is almost complete, but there are no signs of putting back that bridge. Could the Cabinet Secretary state if there are plans to reinstate that bridge for the safety of school children and people crossing the road at that area?

Hon. Speaker: Cabinet Secretary, let us take Hon. KJ's question.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I thank you for giving me this opportunity. I also thank *Waziri* Chirchir for an attempt to address these issues.

The Cabinet Secretary has talked about the situation in Westlands. He has also given an assurance to the Leader of the Majority Party that the work at Gitaru Bridge shall be completed within two months. Sandwiched between these two constituencies is Dagoretti South Constituency. We have a very precarious situation at Uthiru 87, where the bridge that crosses over Waiyaki Way is now a dangerous spot for motorable traffic, boda boda and people on foot. The accidents that have been happening there are very gory. I hope they have been reported to the Ministry.

My question is this: Is the Ministry, in the interim, having any plans for any mitigation works as we await the mega works to make the bridge motorable so that it can depopulate traffic coming all the way from Karen and Ngong Road? When do we expect to see completion of this bridge at Uthiru 87?

My second question has to do with the works on Naivasha Road, which are also connected to this works at the interchange at Dagoretti Corner and the dualling of Naivasha Road. What plans does the Ministry have on these very critical projects that would help decongest Ngong Road? Traffic that does not have to go into the city can offload onto Naivasha Road and connect to Waiyaki Way.

Hon. Speaker, I truly thank you.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. I wish to ride on that to add to what the Member for Westlands has said. Outer Ring Road has now become one of the most dangerous roads for pedestrians who are crossing. There is also Kangundo Road which is undergoing expansion and Mama Lucy Hospital is on one side. People and children have to cross the road from the other side. What measures will the Ministry be willing to undertake to mitigate the dangers, before they do the footbridges, especially on Kangundo Road? They could consider using Performance Based Contracts (PBC) and put traffic marshals who can help assist the sick people who are crossing to Mama Lucy and some of the children who are crossing to the other side.

For the Outer Ring Road, while the footbridges are there, the lighting is the issue. Vandals vandalise the lights. We have tried to engage KURA and the Ministry to tell them that we have to come up with innovative ways of lighting these bridges using PBC. That will provide some security on those footbridges so that people stop crossing the road at night and end up getting hit.

Hon. Speaker: Can you answer those ones?

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. Hon. Wanyonyi, I indicated that Westlands...

Hon. Speaker: Are you able to hear the Cabinet Secretary now?

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): I indicated, Hon. Speaker and Hon. Members, that there is much we are doing with respect to Westlands roundabout, the matatu congestion, and the challenge with the roadworks which are incomplete. The leadership called us for a meeting yesterday with the county government. We will be having a meeting on Friday, 15th November 2024 to look at how to quickly finish the works that have been planned. You did ask for drawings and I know we have very well-articulated drawings on what we want to do. We need to harmonise with the Nairobi County government on Friday and see how to quickly decongest that place. That will include the beautification and even putting grown trees that we are going to transplant to make sure that we restore Westlands, as it were.

If Hon. Tim Wanyonyi is available on Friday at 10.00 a.m, he can come over for a cup of tea in my office and we will transact the business of the Westlands roundabout and that area.

On the Kangemi Bridge, we need to pay approximately Ksh200 million for that particular project. The China Wu Yi, which is the contractor on this particular road corridor, has a pending bill of Ksh3 billion. This is priority and we are working to ensure that all contractors resume work in all our counties in Kenya.

With respect to Dagoretti South, Gitaru, Uthiru 87, and the Naivasha Interchange challenge, as we do that interchange, there is a lot of work that we are undertaking to open up the city. We have almost closed the Northern Bypass facility. I confirm that we really need to work on opening up the whole of that area as we finish the Gitari Interchange to ensure that the Dagoretti side also benefits. We can spend more time with Hon. KJ to look at the specific programme that we need to work on to ensure that we decongest the city with all the bypasses that we are constructing so that we can have the movement of goods and people facilitated quickly.

With respect to the Naivasha Road Interchange, is that Dagoretti Corner? On the dualling of Naivasha Road, I need to...

(The Cabinet Secretary consulted the Principal Secretaries)

Hon. Mwenje's questions are on the Outering Road. Regarding Mama Lucy Hospital, I agree with *Mheshimiwa*. Let us work on lighting. It is not a big task to work on lighting, marshalling of traffic, and improving how people access the hospital across that wide corridor. We should be able to pay attention to that. I am here with my team and we will work on that. I undertake to reach out to *Mheshimiwa* Mwenje and address that.

Thank you, Hon. Members.

Hon. Speaker: Hon. Malulu Injendi! His Question is deferred.

(Question 070/2024 deferred)

Hon. Stephen Mogaka! His Question is deferred.

(Question 073/2024 deferred)

Question 78/2024

DELAY IN UPGRADING MASENO KOMBEWO ROAD

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TO BITUMEN STANDARD

Hon. Dick Oyugi (Luanda, DAP-K): Thank you, Hon. Speaker, for the opportunity. I rise to ask Question 78/2024 to the Cabinet Secretary for Roads and Transport. Could the Cabinet Secretary:

- (a) Explain reasons for the delays by the contractor in upgrading Maseno-Kombewo Road to bitumen standard given the deplorable and impassable conditions of the 5.1km stretch from Maseno to Opasi in Luanda Constituency?
- (b) State the measures that the Ministry has put in place to ensure that construction of the said road resumes as soon as possible and further state the timelines of its projected completion?

Thank you.

Hon. Speaker: Cabinet Secretary, I am told this Question relates to the same road in Question 142/2024 by Hon. James Nyikal. I will allow him to ask so that you answer them together. Hon. James Nyikal.

Question 142/2024

DELAY IN COMPLETION OF MASENO-KOMBEWA-WANGAROT
-KALANDINI ROAD (RWC 119)

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. I rise to ask Question 142/2024 to the Cabinet Secretary for Roads and Transport.

Could the Cabinet Secretary:

- (a) State the reasons for delay in completion of construction works for upgrading to bitumen standard of Maseno-Kombewa-Wangarot-Kalandini road (RWC 119) since its commencement in 2016?
- (b) State when the Ministry of Roads and Transport intends to commence construction works on the said road as it has stalled and when is it expected to be completed?

This is the same road which starts in Luanda Constituency and ends in my constituency. It has stalled.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you Hon. Speaker, for guiding on Questions 78/2024 and 142/2024. Hon. Members, I acknowledge that the Maseno-Kombewa road project has delayed beyond its completion date of May 2021. This mainly arose out of financial constraints facing the main contractor of the project, Hayer Bishan Singh & Sons Ltd. They commenced work in 2016 and constructed 12 kilometres of tarmac before pulling out of the project.

In the interest of completing the project, the contractor requested approval to assign sections of the works to a suitable assignee. The Ministry granted this request and the works were initially assigned to Ms Agrimac Consortium LLP. They commenced work on 14th February 2019. However, the assignee also faced financial challenges and deserted site after achieving only 2.64 per cent physical progress in eight months.

The project was then sub-contracted to Ms China Railway No.10 Engineering Group Company Limited. They commenced work on 4th December 2019. An additional 12 kilometres were achieved under this sub-contractor. They also slowed progress citing non-payment of certified works. They currently have an outstanding payment in pending bills of Ksh114,858,231. The contractor is currently installing cross-culverts along the 5.1 kilometre

stretch from Maseno to Opassi in Luanda Constituency so as to ensure it remains passable ahead of the main works assigned to Ms China Railway No.10 Engineering Group.

The overall physical progress of works for the entire road project is 68 per cent as at today, with 24 kilometres constructed to bitumen standard. On the second issue, the Ministry has prioritised payment of all pending bills, including those of Ms China Railway No.10 Engineering Group to facilitate full resumption of work at this project.

Towards this end, Hon. Members, the Ministry has paid some Ksh54,975,670 in the current financial year to the contractor. We have received commitment from them on resumption of work as efforts are made to settle the remainder of this payment as soon as possible.

Hon. Members, again, we are working round the clock to raise funds through securitisation. We will come back to this House to get approval to spend that money once we receive it. This will ensure that we get all contractors back to work. Pending bills are a big issue. I want to reiterate again that it is our top priority. We are working on it. In fact, I chaired a meeting at 7.00a.m., this morning to look at timelines. We are beginning to see the end of the runway with respect to how we can resolve this challenge.

Thank you.

Hon. Speaker: Hon. Dick Maungu then Hon. Nyikal.

Hon. Dick Oyugi (Luanda, DAP-K): Thank you, Hon. Speaker, for the opportunity once again. Indeed, what the Cabinet Secretary has captured is true that this road began in 2016. It has been assigned thrice to contractors who vacated site. As you know, a road under construction cannot have normal maintenance. This means that the road is impassable and orphaned.

I wish the Cabinet Secretary would help us understand what remedies they are putting in place to ensure this road is motorable. As we speak, it is true that the contractor, Ms China Railway No.10 Engineering Group Company Limited came back two weeks ago to put culverts. However, the road is impassable and cannot be accessed. This road passes through Luanda Constituency to Seme all the way to Rarieda.

It is a very important corridor for the people of Luanda and the Western Circuit. Could the Cabinet Secretary tell us what strategies he is putting in place to ensure that this road is passable. I am sure he has some emergency funds under the 10 per cent Cabinet Secretary allocation which can cater for this.

Hon. Speaker: Hon. Nyikal

Hon. (Dr) James Nyikal (Seme, ODM): As my colleague has said, since 2016 up to now, this road has been assigned thrice. First, to Hayer Bishan Singh & Sons Ltd, then Ms Agrimac Consortium LLP and now Ms China Railway No.10 Engineering Group Company Limited. Although the Cabinet Secretary is saying Ksh54 million has been paid, the information I have is that the contractor is not going back on site to finish the final five kilometres to Kalandini.

In fact, Hayer Bishan Singh & Sons Ltd got stuck in the first bit on the Hon. Member's side and is now doing culverts. Two months ago, I lost my temper because they are using some hand pulled equipment to construct the road.

Cabinet Secretary, I think you need to take more keen interest. This road connects Luanda at K'Otieno to Mbita and Sori. It is a very major road and has stalled. Since Ksh54 million has been paid, will Ms China Railway No.10 Engineering Group Company Limited go back to work? Is Hayer Bishan Singh & Sons Ltd able to complete the Maseno side?

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker. Hon. Members, I met Ms China Railway No.10 Engineering Group Company Limited and this company has capacity. I wanted to sensitise them on what we are doing to

settle all the pending bills. Hon. Members, we have paid Ksh54.9 million out of the outstanding Ksh114 million. I undertake to meet with the contractor and ensure that this road is made motorable. I will work on this between today and Friday. More importantly, because the contractors are beginning to see hope in what we are doing to pay the pending bills, we ensure that they accelerate work. In spite of the fact that we owe them Ksh3 billion in total on this particular road, having paid the Ksh54.9 million, about 50 per cent of the outstanding of the same amount should be able to get them back to work. I want to confirm to Dr Nyikal that this contractor will get back to work. I will work on that.

Thank you.

Hon. Speaker: Yes, Hon. Kajwang' then Hon. Makali.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, permit me to ride on this. This is the gateway to my rural home. If you come from Luanda, it is the only direct way through Uyoma in Rarieda Constituency, and as you get to Mbita through the ferry. So, it is a very important road which I am interested in. I listened to the Cabinet Secretary and I am sure that he is working on it. But on this concept of assignment, let us now deal with the issue of principal first. Because as you hear, he is saying that there is a contractor who was on that road, then there was a subcontract to which it was assigned. We have had problems with this concept of assignment.

Hon. Speaker: An assignment is not a subcontract.

Hon. TJ Kajwang' (Ruaraka, ODM): Well, it is not, but they understand it in the Ministry of Roads and Transport as a subcontract. It is a contract. Hon. Speaker, the question I am saying that these people who benefit from assignments, who are themselves independent contractors, and the Ministry approves that transaction between the principal contractor and the other, is where the problem is. Because the first person has billed that bill 1 is the most substantial part of the funds which would go into that road. When this other person to whom it is assigned takes the contract, the person basically takes the contract with the terms and conditions, but there is no money with which the whole thing can be done.

So, this is why this second person definitely is not able to complete the road. Could the Cabinet Secretary consider terminating the contract? In terms of principal, when the first contractor failed, Bishan Singh should have terminated that contract and then sought for a new contract in all its terms and conditions.

Hon. Speaker: So, are you challenging the validity of the assignment or the quality of the assignment?

Hon. TJ Kajwang' (Ruaraka, ODM): I am saying that the question in principle is the problem in finishing this road.

Hon. Speaker: Okay.

Hon. TJ Kajwang' (Ruaraka, ODM): Could the Cabinet Secretary consider that instead of going this assignment principal, terminate a contract and then re-advertise it and get new people under the terms and conditions that the Ministry would approve? Thank you.

Hon. Speaker: Hon. Kajwang', if the Members are interested in the road being completed quickly, is an assignment faster than a re-tendering? This is because a re-tendering will take another one year. An assignment is just a legal instrument, which as a good lawyer you know. But anyway, Hon. Makali.

(Hon. TJ Kajwang' spoke off the record)

Okay. Give him the microphone.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, when this debate ensued, it came to my mind that probably going forward, the Ministry should adopt a national policy that this

assignment where a contractor leaves for the other is really the problem that is hindering the completion of roads.

Thank you.

Hon. Speaker: We hear you. Hon. Makali.

Hon. John Makali (Kanduyi, FORD-K): Thank you, Hon. Speaker, for giving me the opportunity to ask this Supplementary Question. There is this road that links Kakamega County and Bungoma County — the Navakholo-Dorofu-Sang’alo-Musikoma Road — that was abandoned way back in 2017. His predecessor, I think, was in this House and assured us that they were going to advertise the road, and it was re-advertised. Can the Cabinet Secretary confirm to this House and the people of Kanduyi that the tendering process as a result of the re-advertisement is now complete? Secondly, when do we expect a contractor on the road so that I cease these endless visits to the Office of the Director-General and the anxiety the people who stay in that particular place are having because that road has remained like that from 2017 and is totally not motorable?

Thank you.

(Hon. (Dr) John K Mutunga spoke off the record)

Hon. Speaker: Mhe. Mutunga, wacha ajibu hizo kwanza.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker and Hon. Members. Let me take the concern on assignment of the road. Let me state that the assignee takes the full responsibility, including providing performance guarantee for the works that have been assigned. Why do we assign, Hon. Members? If we want to go through a re-tendering process, of course we take time, but second and more importantly, you want to maintain the old rates. You know that if a road was awarded in 2017, we assign with the same terms. If we re-tender in 2024, it will come with a cost of today. So, there is merit in assigning where there is a contractor willing to be assigned. Like I said, a company like China Railway No.10 Engineering has the capacity. I indicated that I had a meeting with them last week and I am going to call them again. The outstanding amount of about Ksh50 million is not much. I will make sure we start with making the road motorable.

A case in question, for example, is when we did this road from Kwale to Kinango to facilitate movements of the constituents to Mashujaa Day. We asked the contractor to make the road to be motorable first so that as they upgrade the road to bitumen standard, the road will be in a very good murrum condition. I will undertake to ensure that China Railway No.10 makes this road all the way to Luanda motorable first, and secondly, an assignee with full responsibility and performance being assigned to them, to finish the road now that we have a contractor, I said has capacity. Finally, we are equally working and ensuring that we pay all the pending bills in due course as we work together to support the securitization of the seven shillings.

With respect to Navakholo, Hon. Makali, I am told the tendering process has been completed, an intention of award has been done, and subject to those number of days lapsing, the award should be done by 14th November 2024, which is tomorrow. Again, we will continue to pursue to ensure that we address the challenge that runs across most of the counties particularly through the securitization and ensuring that we pay the pending bills.

Thank you.

Hon. Speaker: Thank you. Hon. Basil.

Question 79/2024

DELAY IN COMPLETION OF MATUU

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EKALAKALA-KIWANDINI AND KYASIONI ROADS

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Speaker. I rise to ask the Cabinet Secretary for Road and Transport Question 79 of 2024. .

Could the Cabinet Secretary—

- (a) Explain why there has been significant delay in the completion of constructing Matuu Ekalakala-Kivandini Road to Kyasioni Road in Yatta Constituency?
- (b) Provide an update on the expected timeline for the term marking of the Katangi to Matuu Road and the Ndalani to Makuyu Road?

Thank you, Hon. Speaker.

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr. Davis Chirchir): Hon. Speaker, the upgrading to bitumen standard and maintenance of Matuu-Ekalakala-Kaguku and Junction A3 Kathulani Junction C439 roads were awarded to Kito Civil Engineering and Company Limited on 24th February 2017 following a competitive tendering process at a tender sum of Ksh1.268 billion and a performance-based routine maintenance of Ksh130,363,027. The contract agreement was signed on 5th May 2017 and the contractor given the commencement order on 21st July 2017. The contract commenced on 19th August 2017 and the works were scheduled to be completed 30 months later which should have been 19th February 2020 with a defect liability period of 12 months.

However, the contractor demobilised and abandoned works forcing the employer to subcontract the works to other contractors. The following is how the project was subcontracted and the progress so far. Eight kilometres of the 40 kilometres on Matuu-Ekalakala-Kaguku section has been subcontracted to Ms Daima Construction Limited to fast-track process. The subcontractor has completed the first seal of the first four kilometres and has done one point seven kilometres for second seal service dressing. So far, he has raised certificate for payment and is awaiting to be paid to continue work. What we do Hon. Members is segment the road into many segments and as you finish the particular section and issue work certificate upon inspection, you are due for payment but that is outstanding in line with the challenge that we have all talked about over and over again with pending bills.

Another 12 kilometres Hon. Members of the 40 kilometres of work has been subcontracted to Ms Uso Ngiro Contractors Limited. The contractor is working from zero kilometre to ten kilometres junction C439 on Kyasioni section in accordance to provision of Clause 4.1 of the condition of the contract. The subcontractor has completed the first seal service dressing for the first four kilometres of his section.

On 30th July 2021, Ms. Seafair Construction Company was subcontracted 12 kilometres of Matuu Ekalakala road section from kilometre eight to kilometre 20. The subcontractor has completed the first and second milestones up to the second seal service dressing. On 14th October 2021, Ms Kito Civil Engineering Company Limited was instructed to reinstate the road section from 12 kilometres to 16 kilometres to its original state before he abandoned work. After completion of the reinstatement, Ms Kito was then allowed to complete the road section on 12th November 2021 up to a black top or tarmac as per the contract. The main purpose of this process was to fast-track the work progress. The contractor has managed to complete four kilometres of the black top on the first seal dressing.

On 7th December 2021, Lethal Supplies and General Traders Limited was awarded the subcontract for eight-kilometre Ekalakala- to Kaguku section. Currently he is ongoing with earthworks and he has managed to complete about 2.5 kilometres of top subgrade. The subcontractor has also done a cross culvert within the first two kilometres.

To date, 79 months, 26.3 per cent of the contract has elapsed against an overall progress of approximately 54.3 per cent. Currently, Hon. Speaker and Members, there are no plans for

tarmacking Katangi to Matuu Road and the Ndalani to Makuyu Road due to insufficient budgetary allocation. However, there are plans for routine maintenance and spot improvement. The allocation for CP Murang'a Kisiki, Ndalani, Sophia Road in the Financial Year 2024/2025 is Ksh6,816,949 and for Matuu-Kathiuni-Igombe-Katangi Road is Ksh12,268,999 respectively. Those are the amounts which are available for maintenance in the Printed Estimates of 2024/2025.

Thank you.

Hon. Speaker: Thank you. Give Hon. Basil the microphone

Hon. Robert Basil (Yatta, WDM): Thank you Hon. Cabinet Secretary for the response. If you look at the road from Matuu to Ekalakala, there are too many potholes, yet the road has never been completed. Did the engineers do poor quality supervision on the road?

There are several murram heaps that have been left between Kivandini to Kyasioni Road, making motorists not to use it.

They skipped Bembani to Kivingoni Market, that section which is within Yatta Constituency. Actually, my constituents have been asking why it was skipped and too many local suppliers were never paid. We request the Cabinet Secretary to look into that and respond.

Thank you.

Hon. Speaker: Thank you. The Women Representative for Tharaka-Nithi County. Give her the microphone.

Hon. Susan Ngugi (Tharaka-Nithi County): Thank you, Hon. Speaker. My question goes to an issue that is so disturbing. This issue is disturbing the people of Tharaka-Nithi County, the neighbouring counties, the entire country and the world which is the killer Nithi Bridge. Hardly does a month pass without the people of Tharaka-Nithi and the entire country burying their relatives from accidents on the Nithi killer bridge. Many have been disabled by the killer bridge. Could the Cabinet Secretary tell us what action the Ministry has undertaken or is undertaking towards redesigning, rerouting or reducing the accidents at the Nithi Bridge black spot?

Thank you.

Hon. Speaker: Thank you. Let me give people who have not asked a question. Hon. (Dr) Mutunga, proceed.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Speaker. I have several roads in Tigania West and none of them has works going on. I do not want to speak about St. Anne-Kagaene-Miomponi Road because I want a meeting with the Cabinet Secretary. My desperation is that the capture of this road has always been avoided. I would like the Cabinet Secretary to know that I have written, talked to the heads of the institutions and they do not capture this road. During the last state visit, Kenya Rural Roads Authority (KeRRA) in its wisdom, scrapped the tarmacking of one road because of the potholes and fear that the Head of State will pass on that road. Up to now, there is no cent allocated on that road. It is not in the books.

There is another road from Kianjai to Isiolo.

Hon. Speaker: You are making a speech. Ask a question.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): I would like the Cabinet Secretary to tell us. When he was at the Ministry of Energy, he had a very clear way of rationalising. We would like to know whether this rationalisation formula is going to be operated on or rather utilised in the Ministry of Roads and Transport because what we have is total discrepancy in terms of allocation of resources on the roads. You realise that some constituencies have no roads, while others have got seven or eight roads. There is a problem in this country and we need that problem solved. What is the promise of the Cabinet Secretary?

Again, there is a road that I...

Hon. Speaker: Order, Hon. Mutunga. You cannot ask all those questions.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, let me explain this particular one.

Hon. Speaker: Let him finish.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, there is a road which I forced ITS upgrading. I went to the National Roads Board Convention and pushed for movement of a road from KeRRA to Kenya National Highways Authority (KeNHA). That road has not yet been gazetted for three years in a row. I would like to know why the road has not been gazetted as of now.

Hon. Speaker: Hon. Ruweida, proceed. Hon. Members, please be fair to the Cabinet Secretary. He has come with answers on questions that were asked. You are now springing questions from every part of the country. But go ahead.

Hon. Ruweida Mohamed (Lamu East, JP): Ahsante, Mhe. Spika. Ni vile sisi ni wawakilishi wa wananchi na wakituona tuko hapa leo lakini hatujauliza maswali yanayowahusu, tukirudi katika maeneo bunge yetu, tutakuwa na shida.

Mwanzo, ningependa kumpongeza Waziri kwa vile yeye ni mungwana sana. Tunapoenda ofisini mwake, huwa tunapokelewa vizuri. Ninataka Waziri ajue kuwa Lamu Mashariki ndio eneo bunge pekee Kenya ambalo halina hata inchi moja ya barabara ya lami. Eneo Bunge la Lamu Mashariki lina barabara tatu. Mojawapo ni barabara ya Mtangawanda-Kizingitini ambayo mnaijua. Ninaomba mtueleze mikakati ya ujenzi wa barabara hiyo imefikia wapi angalau tuwe na barabara ya lami.

Barabara ya pili ni ya Hindi-Kiunga ambayo ni kilomita kama 120. Barabara hiyo haipitiki wakati huu kwa sababu ya wahalifu wanaoweka *Improvised Explosive Devices (IEDs)* kwenye barabara hiyo. Barabara hiyo imefungwa kabisa kwa sasa. Wadi mbili katika Lamu Mashariki hazipitiki. Lazima upitie baharini kwenye *boat* na wakati mwingine, bahari ni shida sana.

Kwa hivyo, ninamuomba Waziri afikirie Lamu Mashariki na kutengeneza hata sehemu ndogo tu ya barabara ya lami ili eneo bunge hilo lifunguke. Ninasikia pesa imepewa Mchina. Kama *security* ni shida, *the Kenya Defence Forces (KDF)* wako tayari, wanafanya kazi vizuri na wanapeana *security*. Kwa hivyo, wafanyikazi wa *Ministry* wapewe *KDF* waeneze usalama ili barabara ifunguke.

Hon. Speaker: Ahsante sana.

(Hon. Ruweida Mohamed spoke off the record)

Give her the microphone.

Hon. Ruweida Mohamed (Lamu East, JP): Mhe. Spika, Lamu Mashariki ina mazingira tofauti. Maeneo yetu sio yale wanabara mnaita *landmass*. Kwetu ni *watermass*. Tunahitaji *seawalls*, yaani zile kuta za bahari. Kuna kijiji kinachoitwa Bwajumwali ambacho karibu kibebwe na maji. Watoto pia wanabebwa na maji. Kijiji hicho kilijengwa kikiwa kidogo. *Contractor* hakumaliza ujenzi na akakimbia. Mambo hayo pia yako katika *Ministry* yako. Kwa hivyo, tafadhali yaangalie.

Ahsante, Mhe. Spika.

Hon. Speaker: Hon. Gichimu, Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. The people of Gichugu, who I represent, find themselves in a situation akin to Hon. Basil's. The Cabinet Secretary has already given an elaborate plan on how to revive the construction of the stalled roads. With regard to the roads that have already been contracted, are you able to see to it that they are also motorable by grading and putting murrum on them? When roads are scheduled for tarmacking through the KeRRA funds, those roads are omitted because they have already been contracted for tarmacking. That is an area that you need to talk to the contractor about. If

you purpose to implement the plans soon, why not talk to the contractors to go back on site and have an agreement with them that in five or 10 years, or whatever period, you will be able to start paying them? This is so that they can resume work and our constituencies can benefit from roads that have stalled for many years.

Thank you.

Hon. Speaker: Hon. Mishi Mboko. Cabinet Secretary, these are general questions. Therefore, you should give a general policy direction.

Hon. Mishi Mboko (Likoni, ODM): Ahsante, Mhe. Spika. Ningependa kumpongeza Waziri na kumuuliza swali kuhusu Kivukio cha Feri cha Mtongwe ambacho kilisitisha kuwapa huduma wakaazi wa Likoni. Hivi sasa, tukiangalia Kivuko cha Likoni, kumekuwa na msongamano mkubwa sana na hatari kubwa sana za ajali. Tutakuwa na michezo ya *East African Legislative Assembly (EALA)* hivi karibuni katika Mombasa. Ninamuuliza Waziri, ni mikakati gani ambayo tutaweka ili tupunguze ule msongamano? Hii ni kwa sababu Kivukio cha Feri cha Mtongwe kilikuwa kinapunguza msongamano wa abiria. Kile kivukio cha kuelea tunachokiita kwa lugha ya Kiingereza “floating bridge” pia kilikuwa kinasaidia. Hivyo vyote vimeondolewa na hivi sasa, kumekuwa na msongamano mbaya sana unaoleta athari za ajali nyingi.

Swali la mwisho ni kuhusu Barabara ya Dongo Kundu. Tunaishukuru Serikali kwa kung’ang’ana kutengeneza barabara hiyo. Imebaki hatua kidogo sana ili ifunguliwe rasmi na Mhe. Rais (Dkt.) William Ruto. Lakini kuna hatari katika barabara hiyo kwa sababu ya mwanya ulioachwa wazi. Juzi tumempoteza kijana ambaye alitumbukia baharini na kupoteza maisha yake kwa sababu barabara hiyo iko juu na chini ni bahari. Tunamuomba Waziri aangalie swala hilo ili barabara hiyo imalizwe, Rais aifungue rasmi, na hatari kwa wale wanaoitumia barabara hiyo izingatiwe.

Ahsante sana, Mhe. Waziri.

Hon. Speaker: Hon. Millie

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker. I was not going to ask a question because I thought that the Cabinet Secretary was responding to specific questions. Nonetheless, because I can see that the questions are also taking on a policy direction...

Hon. Speaker: They are *ejusdem generis*.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you. I appreciate you, Hon. Speaker, because having served in the House, you understand that Members have needs in the constituencies.

I want to ask a question which is similar to what the Member for Gichugu has raised. Mine is a policy issue. When the construction of a road commences and then stops because of lack of funds, resumption of works should not be at the charity of the Cabinet Secretary. It should be a policy in the Ministry that funds must be allocated. Currently, only two or three kilometres of construction remain on the Sindo-Mbita Road. I was there last week. You can spend almost one hour on that road because they messed it up. We cannot delegate the construction to the KURA, but when this young man called Morara wants to attack, he goes to my constituency. He went to Hon. Caroli’s side of Suba, but because Hon. Caroli is still relatively new, he was attacking me and saying, “Hon. Millie, what are you doing?” I am not the one constructing those roads; it is the national Government.

We are not allocating money for routine maintenance. What is the Ministry’s policy? If you do not have a policy, can you come up with one for the regular maintenance of roads? This is so that it is not dependent on the charity of a given cabinet secretary, but it is given that funds must be allocated. Even if I wanted to fund the construction of that road, I cannot do anything, yet only a small portion remains that KeRRA can handle.

Hon. Speaker: Hon. Bedzimba. Cabinet Secretary, you will compress all these questions into a policy direction.

Hon. Rashid Bedzimba (Kisauni, ODM): Ahsante sana, Mhe. Spika, kwa kunipatia fursa ya kuuliza swali la ziada. Je, Waziri ana ufahamu wa barabara katika Eneo Bunge la Kisauni ambayo imeanza Kiembeni kupitia Mwakirunge kwenda Rabai? Mhe. Rais alikuja kuanzisha rasmi ujenzi wa barabara hiyo inayojengwa na KeRRA. Alipoondoka, matingatinga yote yaliondoka yakamfuata. Je, Waziri ana habari hizo? Ana mipango gani ya kuendeleza ujenzi wa barabara hiyo badala ya kumwekea aibu Mhe. Rais?

Hon. Speaker: Let us have the answers to those questions.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Thank you, Hon. Speaker and Hon. Members. Hon. Millie has summarised it very well that we should have a policy framework to deal with roads which have been contracted to ensure that we allocate funds, so that the construction of those roads does not stall, even for purposes of motorability.

I want to state that I will work very closely with the House to ensure that when we come up with our budgets, we give priority to ongoing projects, and we do some parity and equitable distribution of resources. With the kind of data that is available on roads, we should be able to do that together.

With respect to the challenge that we have had for a long time on pending bills, we have received great support from this House on the Ksh7 additional Road Maintenance Levy (RML) and which I have confirmed that we are fairly advanced in securitising to ensure that we raise Ksh175 billion. This will enable us get all contractors back to work. More importantly, as we do that and because you can have sight of the entire runway on this particular project, we will push the contractors to make the roads motorable.

Talking of roads like Sindo-Mbita, I want to confirm to you, Hon. Millie, that that particular road construction works will not stop. We are working on it. We are raising the funds to pay all the contractors. We had a pending bill on that road of about Ksh540 million on certificate issued but there was only an allocation of Ksh270 million. Having paid the full amount, you can see the contractor with a balance of Ksh300 million but I have equally had a meeting with the Civil Engineering Construction Company. It is the same company that did the road from Kwale-Kinango and I can assure you that because of what we are doing on securitisation, many contractors are seeing some hope and we are able to get a number of them back to work. Construction on a road like Sindo-Mbita is on our list. Hon. Members should pick one road out of the many that would have its construction unstopped.

Hon. Gichumu, with respect to Gichugu, we would like to maintain it. We are seeking to ensure that the contractors make the roads motorable. Traditionally, the contractors should provide a road for users during construction. They cannot construct roads leaving heaps of soil then abandon works because of non-payment and leave the roads unmotorable. It is an agenda. I gave the example of Kinango-Kwale where we made the road using murrum. This is so that as they work on the tarmacking albeit the challenge of pending bills and payments, road users cannot face any challenges.

Hon. John Mutunga, I confirm that we are going to address the various challenges of the road programmes in the country. We have built a good data base that can help us work together with the House to ensure that we have a very amicable way of allocating funds to ongoing projects and roads across the country with some level of equity.

Thank you, Hon. Ruweida and Members for congratulating me. I want to confirm that we will work closely together. Mtangawanda Road to Kizingitini will be tendered next week.

(Applause)

There is a lot of tendering happening next week. I mentioned Tigania West for Hon. John. With respect to the Tharaka Nithi Bridge, we are all concerned and paying a lot of attention to it. We have installed a lot of bumps or humps on the road. We have installed signage and we will continue to improve. We have separated the up-link traffic from the down link traffic. We are in the process of finalising the re-design for the new bridge which is currently ongoing which we will allocate funds. You are aware that the leadership at every level has made commitment to correcting Nithi Bridge. We do not like the name “Killer Bridge”. We should get it back to Nithi Bridge and so we are paying attention to that.

On the Matuu-Ekalakala Road, it has many potholes and is complicated. We have to assign or give it out to many contractors. I want to confirm that we will work on the potholes. We will make the road motorable and with the four to five contractors on site, the issue of pending bills and fundraising is going to be done through securitisation. We are going to pay attention and ensure that this small section can be handled with Kito Civil and Engineering Company Ltd, Uaso Ngiro Contractors Ltd, among others.

We removed the floating bridge in Mtongwe because it had its own challenges. We know the challenges we are facing with Likoni Ferry but luckily Hon. Mishi Mboko, we are finalising the Dongo Kundu-Kibundani Road which is almost finished. We are about to seek a date for official commissioning of that road. We will work together with the leadership. I was in Mombasa last week and we had a session with the Governor of Mombasa, Hon. Abdulswamad. We want to work together to see how to decongest Likoni Ferry and how to provide some land around the ferry as a holding ground. Kenya Railways leased out land to some investors. We are working to address that small challenge.

Hon. Members, allow us to work for another maximum of three months to sort out the pending bills through securitisation of the Ksh7. I thank the House, Hon. Speaker and the Members for the support we have received in the securitisation process. This will go a long way in sorting out the pending bills which amount to Ksh174 billion today. We can get all the contractors back to work. We will be more cautious to ensure that we do not get into that situation by assigning new projects where there is no revenue, investments or cash flow to support maturing work certificates.

Hon. Members, thank you for your support. I will continue to receive you to address the specific roads in the various counties in this great country. I will continue to receive you in my office as I continue to learn. I am 90 days in office today and I was asking myself what I will say come the 100th day. We will continue to work together nonetheless.

Hon. Speaker: Hon. Members, we have done three hours on Question time. I want the Question by Hon. Sarah Korere to be the last for today. I invite the Cabinet Secretary to be back here in two weeks to answer the remaining questions. Hon. Sarah Korere, kindly ask your Question.

Hon. Malulu, your question will come after two weeks including all the Members whose Questions are on the Order Paper. We also have Bills to deal with. We have extorted sufficient material from the Cabinet Secretary today. He will be back here in two weeks.

Before Hon. Sarah Korere asks the Question, tomorrow we have a *Kamukunji* at 11:00 a.m. All the Members are urged to attend.

Cabinet Secretary, as you get to answer the last question, remember to remain engaged with Mbaraki Club for EALA Games. Hon. Sarah Korere.

Question 127/2024

DELAY IN COMPLETION OF CONSTRUCTION WORKS ON
DOLDOL-NANYUKI ROAD IN LAIKIPIA NORTH CONSTITUENCY

Hon. Sarah Korere (Laikipia North, JP): Thank you, Hon. Speaker.

I rise to ask the Cabinet Secretary for Roads, Transport and Public Works the following Question.

Could the Cabinet Secretary:

- (a) State the reasons for delay in completion of construction works on Doldol-Nanyuki road in Laikipia North Constituency?
- (b) State when the Ministry intends to complete construction works?
- (c) Provide details of the outstanding payments, if any, to the contractor on the scope of works for construction of the said road?

Hon. Speaker: Cabinet Secretary.

The Cabinet Secretary for Roads and Transport (Mr Davis Chirchir): Hon. Speaker, let me go straight to acknowledging delay in completion of the said Doldol-Nanyuki Road in Laikipia Constituency caused by non-performance by the contractor who was engaged to do the works. Shibli Enterprise Limited has been slow in the process. We have had several meetings to engage him to expedite the works. I had a meeting about this with Hon. Sarah Korere. We are working on ensuring that we accelerate that work and even provide enough funds to address the pending bill on this road. Two management meetings have been held with the contractor. They were asked to go back to site and resume works.

However, they have not heeded the call. Therefore, the employer will seek recourse on the next step of action according to the contract's terms. The scope included the following:

1. Site clearance to include heavy bush clearing, tree and stump removal, evacuation and filling for structures.
2. Culverts and drainage works to include majorly new culvert installation.
3. Grading and gravelling works to include light grading of the whole section and spot gravelling.
4. Road furniture repairs maintenance to include installation of 20 concrete bollards.

The contractor has no outstanding payment. I am sorry I indicated that they had outstanding payment. I think the point was that we discussed the funds allocated to the road with *Mheshimiwa*. *Mheshimiwa*, we need to have another cup of tea.

Regarding the Mbaraki Stadium, I have worked very closely with Hon. Osoro and Hon. Faith Gitau. Today, its progress is 80 per cent complete. We have small challenges with the sitting area and common amenities like toilets and changing rooms.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

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

I confirm that I held a meeting yesterday. We are looking at the NYS moving in to do most of the handwork. The Kenya Power is supporting us in doing most of the lighting. However, I confirm that the places that we will ship asphalt, tartan and tarmac are installed. That will be done on time and the stadium will be ready.

We are also looking at the other gymnasium stadium for indoor games. Yesterday we gave an indicative budget approval to ensure we can run through the coming three weeks and make the facility ready for our Parliament to host the East African Community Inter-Parliamentary Games with a dignity better than we have been hosted in other countries. Hon. Osoro, Hon. Gitau and I are on top of it. I thank you for your support.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. Hon. Sarah Korere, do you have a supplementary?

Hon. Sarah Korere (Laikipia North, JP): Thank you, Hon. Deputy Speaker.

Indeed, I acknowledge that the Cabinet Secretary has taken up the issue. He has called me about the road several times. Cabinet Secretary, I inform you and humbly plead with you that the people of Laikipia North are facing untold suffering because of the status of that road. *Waziri*, bandits shot two people dead just the other day. They suffered serious gunshot wounds. They would have been saved if they had reached Nanyuki in good time. They could not because of the status of that road. It is also clear that Shibli Enterprise Limited does not have the capacity to go back to that site. The earlier you expedite the process of bringing in an alternative person, the better for us.

I think that contract covers 15 kilometres. The KeNHA is taking care of a certain area of the zero kilometre of that road. They brought a company called NexoTech on site. It was to do some emergency works. That contractor reported for three days and disappeared. You then wonder what emergency work means when there is none. Actually, road users took it upon themselves to construct that road using their resources and hands while we know KeNHA gave the contract to a contractor who disappeared.

I have called the Upper Eastern Regional Engineer several times. He confesses to me that the contractor cannot even pick his calls. We are left as lame ducks. We do not know what we are waiting for. Again, Laikipia North is the biggest constituency in our county. It is bigger than Laikipia East Constituency and Laikipia West Constituency combined. There is no road network. The road that connects Timau and Lokusero all the way to the constituency's headquarter at Doldol is completely washed out. That road is under KeNHA in Upper Eastern. *Waziri*, if nothing else, we need some first aid. That road goes through Mukogodo Forest whose history of banditry and insecurity we know. It is a critical security road.

As for the Doldol-Nanyuki Road, I appreciate that even His Excellency the President is very committed to see that road constructed. *Waziri* knows that the people of Laikipia North will for the first time feel their independence if that road is constructed.

Hon. Deputy Speaker: Cabinet Secretary, I will give a chance to the next speaker then we close. Member for Chesumei, you are the one who will say something. Hold on.

Hon. Junet Mohamed (Suna East, ODM): On a point of order.

Hon. Deputy Speaker: Hon. Junet, what is your point of order? We are not taking any more Supplementary Questions. You came in too late. Proceed, Member for Chesumei.

Hon. Paul Biego (Chesumei, UDA): I rise to ask the Cabinet Secretary what the Ministry is doing regarding the contractor assigned to Danger-Chemuswa Road. It has not only stalled. There is no maintenance that has been done ahead of works. The road is not passable or motorable at all. The Uhuru Government launched it back in 2016 but it has not taken off up to now.

The Chepterit–Chepkober-Kaiboi Road under KeNHA has also stalled. Apart from it being stalled, there was maintenance ahead of works on that road. The contractor decided to withdraw the machines midway and say he does not have enough money for that road.

The Baraton–Samok-Amobo Road under the KURA is another concern. It is about eight kilometres. We agreed it would be allocated one kilometre every year. That road has also stalled for the last two years. Now there is no maintenance on the remaining impassable part of the road. Two bridges have caused fatal accidents. Recently, some people lost their lives on the Makonge-Baraton Bridge. It is currently very dangerous and impassable. I do not know what the ministry is doing about it. The Samoh-Kamurguywa Bridge is also among many other such bridges.

Lastly, there is the Kaptel–Chomisia Road. The Government of Kenya allocated funds to it. We had asked for funds when the previous Cabinet Secretary was in office. That took time but funds were recently allocated although works have not started. The only problem was that the road took too long until Kipchabo Tea Estate intervened through a social responsibility

initiative. The road is now motorable but there is an adjacent road which is very bad. We had requested the Regional Director to do something so that we do not waste taxpayers' money but they are saying that their hands are tied. Why should we lose money on the Kaptel-Chomisia Road that has already been fixed when there is an adjacent road that is not good? Please intervene.

Thank you very much.

Hon. Deputy Speaker: Okay. Hon. Cabinet Secretary, those are the last questions.

(Hon. Marianne Kitany spoke off the record)

Hon. Marianne Kitany, Member for Aldai, the substantive Speaker has already ruled that we were taking the last intervention. All other questions will be responded to in two weeks' time. That is when the Cabinet Secretary will come back to the House. That was the agreement.

Proceed Waziri.

The Cabinet Secretary for Roads and Transport (Mr. Davis Chirchir): Thank you, Hon. Deputy Speaker. Since these are substantive questions, allow me to come back with comprehensive answers in two weeks' time.

Regarding Hon. Paul Biego's question, the Danger-Chemuswa, Cheptiret-Kesses – or is it Lessos-Junction Road C36 leading to Moi University, is also with China Railway No.10 Engineering Group. If you take time to look at the appropriation, you will realise that the pending bill on this road is Ksh734.3 million. I have just checked. We only appropriated Ksh91.3 million. Even after paying the Ksh91 million, which we have not paid due to lack of Exchequer issues but which we are still working on, we will still have a deficit of more than Ksh600 million.

We have taken it as a road of interest and we are trying to get the contractor back to the site. That is partly why I had a meeting with this contractor last week. He has undertaken that if we pay him another Ksh300 million, he will resume work and accelerate it. As I said, he is a contractor with means. He has many other contracts across the country. We are working to ensure that in the next few days, he is back at work. We are working on his payments. We want to make sure that we bring down that pending bill ahead of the securitisation funding. We will bring that pending bill down by about 50 per cent and get him back to work.

On the other detailed questions, allow me to come back with detailed answers as we continue to work together. In two weeks, I will probably be reporting how far we are on the securitisation issue. We want to get all the contractors back to work to ensure that, first and foremost, all the roads are motorable so that even when they down their tools, they do not hold us at ransom.

Hon. Members, let me thank the House for the engagement this afternoon and commit that I will do my best to ensure that we provide infrastructure that can support the economy in terms of movement of goods and people in the way modern economies provide infrastructure for their populations.

Thank you.

(Applause)

Hon. Deputy Speaker: Thank you Cabinet Secretary. You may take your leave.

(Hon. Davis Chirchir left the Chamber)

Next Order.

BILL*Second Reading*THE COOPERATIVES BILL,
(National Assembly Bill No.7 of 2024)

Hon. Deputy Speaker: Hon. Osoro, you may proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Deputy Speaker. I beg to move that the Cooperatives Bill (National Assembly Bill No.7 of 2024) be now read a Second Time.

The Bill, as presented before this House, seeks to provide for a legal framework that promotes a sustainable and competitive cooperative sector for socio-economic development in a devolved system of governance. It also seeks to give effect to Article 186 and the Fourth Schedule to the Constitution.

The Bill also seeks to promote uniform norms and standards in the registration, regulation, supervision and management of cooperatives. It seeks to establish a framework for constitution and cooperatives among counties.

This Bill further seeks to establish the Office of the Commissioner for Cooperative Development at the national level and the Office of the County Director for Cooperatives at the county level. It provides for the establishment of the Intergovernmental Cooperatives Relations Technical Forum. The Office of the Commissioner for Cooperative Development will be responsible for the promotion, registration and regulation of cooperatives, and also enabling the Intergovernmental Cooperatives Relations Technical Forum.

This Bill further seeks to introduce the cooperatives' four-tier structure that is composed of:

1. The primary cooperatives;
2. The secondary cooperatives;
3. The cooperative federations; and,
4. Apex cooperative.

The cooperative sector is very critical in the socio-economic development of the country and the realisation of the Government's objective of bringing down the cost of living, eradicating hunger, creating jobs, expanding the tax base, improving foreign exchange and balance and inclusive growth. The significant benefits that have accrued to Kenyans through the cooperatives include employment and wealth creation. Besides the traditional areas of agricultural production, processing and marketing, the strength of cooperatives is currently felt in several areas, including finance, real estate, value addition, education, health and transport. We all see Savings and Credit Co-operatives (SACCOs) and cooperative societies in the matatu industry, mining and several other commercial activities.

Hon. Deputy Speaker, as I move debate on this Bill, it is important to also highlight the content of the Bill as drafted. The Bill has 168 clauses that are divided into 17 Parts and three schedules. Part I of the Bill, which of course comprises Clauses 1 to 5 of the Bill, provides for the preliminary matters including the short title of the Bill. It also provides for the interpretation of the terms used in the Bill and the object of the Act. It also provides for the guiding principles in the implementation and application of the Act.

Part II, which starts from Clause 6 to 18 of the Bill, provides for the establishment of the offices and administration of the Act. It establishes offices in three divisions. Division 1 relates to national Government offices, wherein it establishes the Office of the Commissioner for Cooperative Development and provides for the staff of the Office of the Commissioner. It

also makes provision for a vacancy in the Office of the Commissioner, the functions of the Commissioner, and provides for annual reports by the Commissioner.

Division 2 relates to county government offices. It establishes the Office of the County Director for Cooperatives and provides for the staff of the Office of the County Director for Cooperatives. It also makes provision for the vacancy in the Office of the County Director for Cooperatives, the functions of the County Director for Cooperatives, and provides for the annual reports by the County Director for Cooperatives.

Division 3 establishes the Inter-Governmental Cooperatives Relations Technical Forum and provides for its functions and meetings.

Part III, which starts from Clause 19 to Clause 27 of the Bill, provides for the structure of cooperatives in Kenya. It establishes a four-tier structure which includes, Primary Cooperatives, Secondary Cooperatives, Cooperative Federations and an Apex Cooperative. It sets out the types of primary cooperatives that may be registered and prohibits multiple objects in primary cooperatives. It provides for the objects of Secondary Cooperatives and Cooperative Federations. It provides for registration and subscription to the Apex Cooperative and the role and functions of the Apex Cooperative. This Part provides for the annual reports of the Apex Cooperative and registration, regulation and operations of the Apex Cooperative.

Part IV, covering Clauses 28-43, provides for registration of cooperatives. It includes the procedure for registration, restriction of registration of cooperatives within the same common band and limitation on names of cooperatives. It also provides for the registration of a cooperative and its by-laws and a certificate of registration as evidence of registration. This Part also provides for the requirement to display a cooperative certificate of registration and change of name or loss of the certificate. It further makes provision for the deeming of a cooperative as a body corporate and prohibition against dual registration as well as amendment of by-laws. It provides for the binding effect of the by-laws of a cooperative and for appeals against refusal to register. It further provides for the presumption of the signature by the Commissioner, the protection of cooperative identity and for the protection and restriction on the use of the name "Sacco". It also provides for the mandatory usage of names in certain cooperatives.

Part V runs from Clause 44 to Clause 51. This part provides for the rights and liabilities of members. These include qualification for membership, limitation of holding share capital, exercise of members' rights, limitation of membership to producer cooperatives, voting rights of members, transfer of shares, rights of members and the obligations of a member.

Part VI covers Clauses 52-56. It provides for the duties of cooperatives. It requires every cooperative to have a registered address in Kenya and to keep a copy of the Act and by-laws at its registered office. It also provides for estimates of income and expenditure, accounts and audits and production of books and other documents by cooperatives.

Part VII of the Bill starts from Clause 57 to Clause 66. It provides for governance of cooperatives. It includes provisions on general meetings, special general meetings, presiding at general meetings, the use of physical, virtual or hybrid general meetings and the delegate system of representation. It also provides for membership and powers of the Board, eligibility for the creation of a supervisory board and its duties as well as a nomination committee.

Part VIII covers Clauses 67-68 of the Bill. It outlines the procedures for the amalgamation and division of cooperatives.

Part IX, which covers Clauses 69-80 of the Bill, provides for the rights and obligations of cooperatives. It permits a cooperative to enter into a charge over a member's produce and fine a member for violation of by-laws. It also provides for first charge over debts and assets of a member and first charge over members' shares. This is a very important clause. It also makes provision for an employer's failure to remit the sum deducted from an employee.

Further, it provides for prohibition against attachment of member's shares, the rights of withdrawing from membership and the liability of past and deceased members. It further provides for the transfer of share or interest of deceased members. It also provides for evidence of member's interest in Cooperative and restriction on production of cooperative books.

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

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

Part X, Clauses 81 – 89 of the Bill, provide for how the property and funds of a cooperative are to be applied. It also provides for restriction on giving loans and borrowing as well as investment of a cooperative's funds. It further makes provision for declaration and payment of bonuses, maintenance of a reserve fund and the distribution of net balance. It also provides for investment in non-core activities and companies.

Part XI covers Clauses 90-98 of the Bill and provides for charges by cooperatives. It provides for the creation of charges over cooperative property, compliance of charges with applicable law, registration of charges by the Commissioner and for the register of charges. It also makes provision for the issuance of a certificate of satisfaction of charges and for the requirement for the receiver to give notice of appointment to the Commissioner. It also makes provision for the requirement of a cooperative to keep a copy of instruments of charge at the registered office and for the register of particulars of charges. It further provides for the right of members and creditors to inspect the register of charges.

Part XII, covering Clauses 99-105 of the Bill, provides for inquiry, inspection and surcharges. It provides for the power to surcharge officers of a cooperative, appeal against a surcharge order and the recovery of surcharge. It further provides for the inspection of books of an indebted cooperative, the expenses of

(Technical hitch)

Hon. Temporary Speaker, I hope I am safe.

The Temporary Speaker (Hon. Farah Maalim): Do not worry, you are safe. So far, so good. Do not worry about the thud or what fell. It is not anything that should worry you. Please proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Part XII further provides for inspection of books of an indebted Cooperative, expenses of inquiry and inspection and routine inspection.

Part XIII, covers Clauses 106-117 of the Bill. It provides for the dissolution of cooperatives. This includes the procedure for dissolution, the cancellation of registration, effects of cancellation and it makes provision for the liquidation of a cooperative whose registration is cancelled. It also makes provision for the appointment of a liquidator if such matters arise, the qualification and powers of a liquidator and the making of a liquidation account of cooperatives. It sets out the powers of the Commissioner during liquidation. It further provides for appeals against an order of a liquidator or Commissioner, enforcement of orders and outlines offences relating to liquidation of a Cooperative.

Part XIV covers Clauses 118-123 of the Bill. As I earlier said, the Bill has 168 Clauses. It provides for special powers of the Cooperative Tribunal to set aside certain transactions. It provides for the power of the Cooperative Tribunal to set aside transaction that is under value, power of the Cooperative Tribunal to void preference and provides the meaning of the term 'relevant time' used in Clauses 118 to 123 of the Bill. It also makes further provisions for orders under Clauses 118 to 123 ancillary provisions. It further provides for the power of the

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Cooperative Tribunal to set aside certain extortionate transactions and outlines the circumstances in which floating charge on a cooperative undertaking or property may be invalid.

Part XV, starts from Clauses 124-146 of the Bill. It provides for settlement of disputes. It establishes the Cooperative Tribunal and provides for the appointment of its members. It also sets out the remuneration and term of office for members of the Cooperative Tribunal and the appointments of members of the Tribunal to be by Gazette and when vacancy in the office of Cooperative Tribunal may arise. It further provides for the jurisdiction of the Cooperative Tribunal, registries and sittings and proceedings of the Tribunal.

It also provides for orders by the Tribunal and general offences. It grants unlimited geographical and pecuniary jurisdiction in matters of cooperative disputes. It provides for the quorum and benches of the Tribunal, conflict of interest and voting at the Tribunal. It further provides that the powers of the Chairperson may be exercised by the Vice-Chairperson and appeals to the High Court from the Tribunal. This Part provides for the Chairperson's power to appoint a cooperative assessor at the Tribunal and for its contempt. It also provides for the appointment of a Deputy Registrar of the Tribunal and the right of parties before it. It also provides for the immunity of officers of the Tribunal and for alternative dispute mechanisms.

Part XVI starts from Clauses 147-162 of the Bill and contains general provisions. It provides for procurement and disposal in cooperatives, enforcement of ethics and integrity in cooperatives, cooperative self-regulation, credit information sharing, inter-cooperative borrowing, cooperative capital raising instruments and remuneration to officers and members of a cooperative.

This Part further establishes the Cooperative Development Fund and delegates to the Cabinet Secretary the power to make regulations. It also provides for the powers of the Cabinet Secretary and County Executive Committee Member, other powers of the Commissioner and the County Director for Cooperatives. It outlines offences and prosecution, provides for the distinction of Cooperatives from trade unions and sets out a general penalty for offences.

Part XVII covers Clauses 163-168 and provides for transitional provisions. It proposes the repeal of the Cooperative Societies Act (No.12 of 1997) and the amendment of Public Officer Ethics Regulations, 2003 (LN. 62/2003). It also provides for transition to the Office of the Commissioner and County Director for Cooperatives and the enactment of County Assembly legislations. It provides for the transition of the members and proceeding before the Cooperative Tribunal as well as, the transition of notices, orders, directions and appointments.

Finally, is the Schedules. The First Schedule outlines the procedure of liquidation of cooperatives under Clause 109. The Second Schedule outlines the preferential debts in relation to the payment of debts for a cooperative under liquidation. The Third Schedule outlines offences relating to conduct before and during liquidation and criminal proceedings relating to those offences under Clause 117.

After highlighting what the entire Bill provides for, it is important for Hon. Members to know that Part I of the Bill aims to update the Kenya cooperative sector through introduction and framework. By aligning it to modern social economic and governance structure as envisioned by the Constitution. In so doing, it intends to further social economic development within a developed system.

The core objective of the Bill seeks the establishment at the national level of the Commissioner for Cooperative development and at the county level Directors of Cooperatives, with each office promoting inter-governmental cooperative relations. The legal consistency of this Bill, is rooted in Article 186 of the Constitution and is part of the broader National Cooperative Policy. It intends to harmonise cooperative governance across counties and ensure uniform standards while respecting devolution.

There are key observations by the Committee during consideration of what arose during the formulation of this Bill on the clarity of the cooperative structure. The Bill introduces a tier structure for cooperatives, which has now primary, secondary, federation, and an apex cooperative. This is to streamline the operations and represent members' interests effectively at different levels.

The question of alignment with devolution also arose from the committee's observation. It emphasises on cooperation between the national and county governments. It makes sure that it aligns with devolved governance structures and principles by empowering counties to participate in cooperative oversight and support.

The observation also was on the enhanced governance and financial management, where the Bill seeks to address governance challenges such as transparency, accountability, which also include the establishment of supervisory boards and nomination committees in cooperatives.

On addressing sectoral challenges, governance and financial resilience, the Bill aims to improve the cooperative governance by embedding principles of transparency and strong financial oversight, thereby protecting members' investment.

Market access and capacity building is also another point. Through clear operational structures, cooperatives will better access markets and resources. Enhanced training for cooperative members and leaders is also prioritised to elevate sector standards.

The other vital point is the economic and social impact of this particular Bill. By empowering the local communities, the Bill is positioned to significantly benefit rural communities, and this is done by strengthening local cooperatives, thus contributing to job creation and economic empowerment at the grassroots.

The long-term sustainability is also a very important virtue and factor in this Bill. The provisions in the Bill, including the development of a cooperative development fund, aims at ensuring that cooperatives remain economically sustainable and environmentally responsible.

As I conclude, it is important to inform and notify Members that the Bill is very crucial for sustainable, competitive cooperative sector aligned with the national cooperative policy. By passing this legislation, the National Assembly will have supported a modern cooperative sector that upholds cooperative principles, strengthens economic inclusion, and fosters unity across Kenya.

I, therefore, wish to request Hon. Members to support the Bill so that we can have a comprehensive legal framework for promotion, management, and regulation of cooperatives in Kenya in a devolved governance structure.

With those remarks, I beg to move and request the substantive Leader of Majority, who is back in the House, to second the Bill.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Leader of Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. Let me begin by thanking the Whip of the Majority Party for moving this Bill on my behalf. I rise to second.

Let me, first, take this opportunity to thank Hon. Marianne Kitany and the Departmental Committee on Trade, Industry and Cooperatives for the immense work they have put. This Bill has 168 clauses, excluding the schedules. Therefore, the Committee did make a lot of effort in considering all these provisions clause by clause, leading to tabling of its Report in this House yesterday. I believe in some of the observations that the Committee has made on this Bill. However, this is an important Bill because it is giving effect to Article 186 and the Fourth Schedule of the Constitution of Kenya, 2010.

I know that Article 186 sets out the respective functions and powers of both the national and county governments. The work of oversight of co-operative societies is given to the county

governments by the Constitution under the Fourth Schedule. However, the national Government also has a big responsibility. Therefore, part of what this Bill is doing is to give effect to the provisions of Article 186 and the Fourth Schedule of the Constitution to ensure that there is uniformity in the standards and norms of how we register co-operatives, and how cooperatives are regulated and supervised. The Bill provides for the management of all co-operatives under a good legal framework. This will ensure that our co-operative societies thrive because they are an important and integral part of the management of our economic affairs, especially at the grassroots level.

Many of us in this House are co-operators. In fact, I had the opportunity to dash to Kitengela over lunch hour to see part of the good work being done by the Parliamentary Co-operative Society (PACOSO). I know that Bunge Cooperative Society is also doing some good work. The PACOSO belongs to Members of Parliament, the lawmakers. I know that many Members are also members of co-operative societies back in the villages, be they producer co-operative societies or consumer co-operative societies. Many of us are members of cooperatives. Indeed, we are confronted severally by constituents who have issues with the management and the running of their co-operative societies. The members of the Trade and Industry Committee, who engaged with this Bill, will tell you that part of the problems that bedevil the coffee sector today is poor management of our co-operative societies in the sector. This Bill seeks to fix management and governance issues in our co-operative societies.

The Constitution of Kenya 2010 has given the responsibility of registering some of these co-operatives but many of them have allowed all manner of people to run co-operative societies and register co-operative societies. We have seen people being swindled of their hard earned savings by societies that purport to be co-operative societies or SACCOs and yet they are not. This is because they have no clear legal frameworks that would tell us how and who to register to manage a co-operative society. There are no governance structures to aid the management of co-operative societies.

This Bill seeks to give effect to all those provisions to ensure that the days of EKEZA SACCO are forgotten. We saw people in Kiambu and across the country being conned by someone calling himself a bishop. He used the church to mobilise people to join a SACCO called EKEZA and eventually took off with their money. The purported cooperative was being sold to people as a savings society. At one point, it was a housing co-operative while at another time it was a land buying co-operative. This Bill is categorising the four tiers of co-operative societies that will be there and stating who will license, who will register, and how cooperatives will be managed. We cannot allow anybody with a collar, calling himself a bishop, to mobilise church goers and tell them to join a purported cooperative for the church. There must be a legal framework that will stipulate how you register that co-operative, how it will be managed and the governance structures that must be adhered to. We have four tiers of co-operative societies, being primary co-operatives, secondary co-operatives, and co-operative federations. We have several cooperatives coming together to form a federation and purporting to be a federation of co-operatives. Equally, we have had officials of small co-operatives come together to form purported confederation of co-operatives only for those officials to swindle the primary co-operatives. It will not be possible for any group of people to do that once this Bill becomes an Act of Parliament and the law becomes operational.

We also have apex cooperatives, on which this Bill goes into great detail. Members of Parliament and Kenyans will read the contents of the Bill and see how they are categorised. Who can be a member of a primary cooperative? Who can join a secondary cooperative? What is the membership of cooperative federations, and even apex cooperative societies?

The Bill also creates offices such as the Office of the Commissioner for Cooperative Development at the national level, but also provides for offices at the county level. That is now clear in this proposed legislation. In the past, it was not clear whether the Commissioner for

Cooperative Development should supervise cooperatives at the county level, or if it was cooperative officers who were seconded to the county governments from the defunct Ministry of Cooperatives, Labour and Social Welfare. Many of them were not even resourced by the county governors. Therefore, they lacked the capacity to even train co-operators on how to run their SACCOS. They were even unable to supervise those cooperatives to adhere to the law as it was before.

Part IV of the Bill provides for the registration of cooperatives. It includes the procedure for registration, restriction of registration of cooperatives within the same common bond, and limitation on names of cooperatives. That is critical. For instance, we have seen what happens with the PACOSO. At times, instead of drawing your cheque to the Parliamentarians Cooperative Society, you draw the cheque in favour of PACOSO. An ingenious person then registers PACOSO Cooperative or PACOSO Society and steals cheques belonging to the Parliamentarians Cooperative Society, which are banked in PACOSO Society. We have seen that. Many Kenyans and cooperative societies have been swindled through such ingenuity of criminal elements. Therefore, there will be limitations even on the names of cooperatives that you can register. You will not be allowed to register a name that is strikingly similar to another name.

That is the kind of regulation that happens in the banking sector, and even in the insurance industry. That prudent financial management is now being brought into the cooperatives sector because the cooperative movement deals with people's finances. Therefore, there must be stringent regulations in terms of registration and who can register. It cannot be that any person can wake up on any day, form a cooperative society, collect money from people in terms of deposits, then three months down the line, they disappear with people's deposits. That will not be possible under this new law.

We have also seen the mushrooming of what were called land-buying cooperatives. People would come together, form land-buying societies, collect money, and buy land in some far-flung corner of the country where land is valueless. I can see some people smiling because they have been victims of some of those swindlers. People buy land that is often overpriced. This Bill provides very stringent measures on how those who register housing cooperatives will manage people's funds. If you want to register a land-buying cooperative, there are stringent measures on how to do so because there will not just be the categorisation of primary and secondary cooperatives, cooperative federations or apex cooperatives. The Bill also breaks down the manner of cooperatives that you can register, right from consumer, producer, housing, and savings and credits cooperatives.

There are also savings and investment cooperatives. In the past, savings and credit cooperatives, which are the SACCOs, were also the savings and investments like those of us who are members of Safaricom SACCO and other SACCOs. I am a member of Mhasibu SACCO. That is because they are professionally managed, and have an investment arm that deals, for instance, in land buying and housing development. Many of the very well and professionally managed cooperatives have their investment arms. It is not possible even to register a cooperative under this law as a savings and investment cooperative.

If you want to deal with just savings and credit, then you can have that. If you are in housing, there are housing cooperatives, producer cooperatives, for instance, for our farmers in the coffee and tea sectors that are producing. Transport cooperatives, in the Matatu and boda sector and Tuk-Tuk that has become very famous now across the country.

In Kitengela today, I saw a whole street full of Tuk-Tuks. We want to organise so that those Tuk-Tuk owners can join cooperatives so that they are able to manage their societies better.

As for the consumer cooperatives, it is important to have consumers form their own cooperatives to access cheaper commodities from producers. I do not want to belabour a lot of

the things that the Mover of the Motion, the Hon. Whip of the Majority Party has stipulated but allow me to mention this. If you look at the rights and liabilities of members under Part 5 of the Bill, Clause 45 of this Bill, it says that a member other than a cooperative shall not hold more than a fifth of the paid-up share capital of any cooperative registered in Kenya.

Hon. Temporary Speaker, when I went through this Bill, it was a very important element of the Bill to me. This is because we have also seen individuals who form cooperative societies and they contribute their own capital. They probably own 30 per cent to 40 per cent of the paid-up capital or the share capital of that cooperative, then they invite other people to own about 60 per cent. But the 60 per cent probably own one share each, but the majority share capital holder becomes like a majority shareholder in a company. And that is not the essence of a cooperative movement. A cooperative movement, co-operators are supposed to be equal, and to have equal votes when they are voting.

We have seen instances where people are able to micromanage the management and governance structures within a cooperative society because of the level of shareholding that they have in terms of the paid-up share capital. It will now not be possible to hold more than a fifth of the paid-up share capital of any cooperative society. If a cooperative society has Ksh100,000 paid-up share capital, then a fifth of that is 20,000 shares.

Therefore, even those of us who are old Members in this House, Hon. Temporary Speaker, and members of Bunge SACCO and PACOSO, we must be careful. Mr. Mwita, who manages our PACOSO SACCO, must ensure that even yourself, Hon. Speaker, who has been in this House for quite some time, you do not subscribe to more share capital beyond a fifth. If that happens, they will be given time to rectify. Therefore, you can allow, either you increase the paid-up share capital of those cooperative societies, or convert part of that paid-up share capital into member deposits, so that no single member holds more than that.

That is the same spirit, in the insurance industry and in the banking sector. People are not allowed to hold beyond, 20 per cent or 25 per cent shareholding in banks and our insurance companies, to ensure that there is proper governance within the finance sector. As I said, the cooperative movement is also part of a very critical finance sector in this country. Therefore, there is need for that restriction.

With those few remarks...

The Temporary Speaker (Hon. Farah Maalim): One second.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Allow me to second, and plead with Members to support this Bill and have it become law. The realisation of this Bill into law will, in a very big way, sort out the myriads of problems that bedevil our transport sector, and more importantly for me, the coffee sector. Without anticipating debate, we will be considering the Coffee Bill in a Committee of the whole House tomorrow afternoon. It would be very good if these two Bills—the Coffee Bill and the Cooperatives Bill—become Acts of Parliament before the end of this year. That would help the governance of our cooperative movement and producers. This Bill will not just affect the tea and coffee sectors. Its impact will extend to the milk sector. I believe even fishermen from Hon. Oundo's Funyula Constituency are co-operators. They need this Bill to become an Act of Parliament to enable them govern their fishing cooperative societies better.

With those remarks, I beg to second.

The Temporary Speaker (Hon. Farah Maalim): Ordinarily, I should have said even camel herders and camel businessmen should get their Bill.

(Question proposed)

Member for Gichugu, you may have the Floor.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Speaker. Let me say that I am one of the Members of the Departmental Committee on Trade, Industry and Cooperatives who have worked very hard to bring this Bill to this level. Actually, it is one of the biggest or most voluminous Bills we have in this House. It has 168 clauses and three detailed schedules. This is all done and sponsored. This is a Government sponsored Bill. That shows this Government is very keen on addressing issues that have bedevilled the cooperative sector in this country.

Let me start by thanking Members of the Committee because we had to sit for very long hours. We have had very many meetings. We have gone clause by clause and considered the numerous summations given or submitted by the public during the public participation that we did across the country. We divided ourselves into various groups. I led the group that went to Mount Kenya. The response by co-operators was very encouraging. They need this law like yesterday.

I also thank the team from the Ministry that the Permanent Secretary for Cooperatives, PS Kilemi, led. Of course, I also thank the Cabinet Secretary who came in. They even used to attend our meetings during consideration of the Bill. That shows the commitment this Government has given in addressing issues of cooperatives in this country.

I am also excited because my coffee farmers in Gichugu Constituency will benefit much from the passage of this Bill. The issues of governing cooperative societies, including dairy cooperative societies, will now be addressed by this Bill.

Going into the meat, this Bill asserts the supremacy of members of cooperatives in making decisions during general meetings of cooperatives. Cooperatives have sometimes operated even without registered offices. It also addresses that. Once we pass this Bill, briefcase cooperatives will be a thing of the past. The Bill requires a registered office where members can access their books of accounts and all the details pertaining a cooperative society. That is a very progressive matter.

The Cooperatives Act being repealed was enacted in 1997. That is 27 years ago. We are living in a very dynamic economic situation, and not every person is straightforward in this space. That is why when this Bill says that proper books of accounts must be kept according to international standards, that will also require cooperative societies to employ professionals to run their affairs as CEOs and other staff running these cooperative societies. The law that we are making also demands that those books of accounts should be audited annually according to international standards. That is a space that most of the cooperative societies have been failing because some have been taken like personal cooperative societies.

Another issue that will be addressed is on the matter of taking loans. This Bill requires that any decision by a cooperative society to take any loan must be approved by members at a general meeting. We have seen very many cooperative societies collapse by just taking loans haphazardly without even consulting the membership. Some cooperatives collapsed because the officials managing them gave out loans to people who were not even members of the cooperative society. There are instances where the cooperative leadership took any amounts of loans they wished. Such loans made most of the cooperative societies collapse.

As a Committee, we also looked at the issue of the Tribunal being addressed by this Bill. It is our feeling, and I believe Members will also support us, that the membership of this Tribunal should be increased to nine so that it can have a quorum of three, and can split into three and move across the country to address all the cases that may come up, in a very effective and fast manner. This will ensure that co-operators are not waiting for their cases to be heard yet some of the cases are very minor. We, therefore, want to make it as easy as possible for the disputes that will arise in the cooperative movement to be sorted. In this case, we have proposed that the chairman should be assisted by two deputies, so that a chairman can head one quorum, one deputy can head another quorum, and the other deputy can head the third one. This is

because there is a requirement that both the chairman and their deputy should be lawyers. How else can we achieve this? Without anticipating debate, this is a proposal that we will be seeking during the Committee of the whole House for the House to agree with us and support.

Hon. Temporary Speaker, since a lot has already been explained by the Mover and the Seconder, let me also allow as many Members who are around to contribute, by pausing at that point. But there is a lot for the co-operators of this country to benefit from of this Bill. This House has been committed about this Bill. There have been outbursts out there that the House, the leadership and the Government are not committed. This is an assertion that this House and the Government at large is committed to sort out all the issues of the co-operators in this country, and we will do it for the benefit of our people and for the progress of the cooperative movement in this country.

Thank you.

The Temporary Speaker (Hon. Farah Maalim): Before I give Hon. Kitany a chance, I would want to give an opportunity to the Deputy Speaker to contribute on that. Hon. Marianne Kitany, pause a little bit. You are undoubtedly next being the Chairperson of the Committee.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you very much, Hon. Temporary Speaker for this opportunity.

Firstly, I want to thank the Departmental Committee on Trade, Industry and Cooperatives, for the immense work it has done together with the Ministry, in making sure that we get this law that is extremely important. This law has covered many areas that have a challenge of governance, management, naming and all the loop holes that existed in the cooperative sector.

However, even as we do this, I will definitely be bringing in amendments to this Bill. Some of the amendments will be to undertake a complete vetting of all the County Commissioners of Cooperatives across the country and all the Ministry staff that have been dealing with cooperatives. As we talk about the problem we have had before, where there was mismanagement of cooperatives, lack of transparency and loss of public money, it could not have been possible without the collusion of those crooks in the cooperative sector. It is a fact that they were colluding with the Ministry officials. Therefore, even if we change the law and we do not change those corrupt officials in the Ministry of Cooperative, Development and Marketing, nothing is going to change. I can say this without fear of contradiction.

We had a crisis in the last three to four years in Uasin Gishu County with the Keiyo Housing Cooperative where a bunch of four persons decided that they had the power to even alienate the building that belonged to Keiyo Cooperative Housing. They were able to do so, continued to collect the rent and mismanage the building. This is all in the full view of the Commissioner of Cooperatives in Uasin Gishu and Elgeyo Markwet counties, because that is where they were domiciled. In fact, I still have the messages that I exchanged with Commissioner Obonyo here in Nairobi because he was part of it.

When we told him that these people had been voted out by the members of the cooperative, he refused to supervise the transfer of the crooked officials that the members had rejected to give room to the new officials that had been elected. It took the intervention of the former Cabinet Secretary, Mr. Chelugui, whom I went to see together with the members of the cooperative. We went to beg him to save their hard-earned investment which was invested as far back as my grandfather. At that time, it was only with the intervention of the Cabinet Secretary and that of the Principal Secretary then, Mr. Kilemi. I do not know if he is still the Principal Secretary. They were the only two who eventually reined in on their rogue commissioners.

Therefore, even if we have a fantastic law...

The Temporary Speaker (Hon. Farah Maalim): Please give a little bit more time to, Hon. Deputy Speaker. What happened? Give her an additional three minutes.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you. Even if we pass a good law but the same crooks are the ones still working in that State Department in the Ministry, nothing is going to change. We must undertake vetting. The way we had a radical surgery of the Judiciary during the time of the new 2010 Constitution is the same way we must undertake vetting of all the officials that deal with the cooperatives.

If you were supervising cooperatives in a certain county and they eventually collapsed from mismanagement, what were you doing as the person who is tasked to do that? It means you colluded. There is no way that any of those cooperate officials could have proceeded without the Ministry officials. Therefore, I will be asking for an amendment so that we can undertake a vetting as part of the process of repealing the old law and coming up with the new law.

The Temporary Speaker (Hon. Farah Maalim): Hon. Mary Kitany.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Speaker.

As I stand to support, allow me to state right from the outset, that these amendments to the Cooperatives Bill could not have come at a better time. I say so because the last time this Bill was ever amended was in 2004, which is about 20 years ago. It was way before the 2010 Constitution was promulgated.

We know that cooperatives is a devolved function. Therefore, there was a requirement that the Bill be amended to conform with the 2010 Constitution. History will not let us down in knowing what has happened to cooperatives in the past. Key examples are the old Kenya Planters Cooperative Union (KPCU). The birth of the new KPCU was as a result of the mismanagement of the former KPCU. Another good example is the Kenya Cooperative Creameries (KCC). At some point, farmers almost lost their incomes and revenues because of the collapsed KCC. The birth of the New KCC is, again, as a result of mismanagement at the cooperative level.

Some of the other notable cooperatives that have had issues are the farmers' cooperatives, more specifically, in the milk, sugar, and coffee sectors. I can give you many examples. The Government will put up about Ksh7 billion to finance cooperatives in the coffee sector because of mismanagement in previous cooperatives. The sugar sector has not been left behind. The Government will put up about Ksh2 billion or Ksh1.7 billion because of mismanagement in cooperatives. This is because there were flaws or issues in the Cooperatives Act, which directors or managers of the cooperatives took advantage of and misused the cooperatives that they had been entrusted with.

The Bill was First Read in April 2024 and committed to the Departmental Committee on Trade, Industry and Cooperatives, pursuant to Standing Order 127. An advertisement was placed in the media for public participation, which was done in eight counties representing the eight regions in our country. It was done in Siaya, Vihiga, Kericho, Mombasa, Machakos, Isiolo and Kirinyaga. We also had submissions from various stakeholders, including the Ministry, the Council of Governors, who had a great interest in this Bill, and many other stakeholders and cooperators. Many cooperators came in to give their views on the Bill.

Many of the proposed amendments to this Bill will go a long way in helping farmers and Kenyans who are cooperators. Some of the amendments are on the transfer of shares, especially when the principal has died. What has been happening is that those shares are transferred to the Agriculture and Food Authority (AFA). The beneficiaries try to follow up on them, but they are unable to get them. The amendments will show how the transfer of shares can happen from the principal to the beneficiaries in case of death, or in case a member wants to exit a cooperative.

Some issues that have come up are that some chairpersons and board members of cooperatives have become permanent members who live there year in, year out. They have

become one and the same with the cooperatives. The amendments will restrict a board member to serving for not more than three years. That will allow vibrancy on those boards.

The other issue is that of auditors. Many times, the board members collude with the auditors to siphon members' money. We have also stipulated that auditors cannot audit those cooperatives forever.

In terms of dividends, we find instances where cooperatives borrow money from banks to pay dividends because they have already misused members' money. We have stipulated that any dividends to be paid out will not come out of the borrowings from a bank. Members will have to give the rights to the board to borrow money for specific reasons. Therefore, that will help us to avoid situations where cooperatives go to banks to borrow money to pay dividends and leave the cooperators with debts.

In terms of the dissolution of cooperatives, we found that after many cooperators have borrowed money and left the cooperatives in great debt, they dissolve the cooperatives without the members knowing. The dissolution of cooperatives has also been dealt with at great length, so that we can have a proper way of dissolving cooperatives. There are many other issues like settlement of disputes, rights of members and an inspection of these cooperatives to ensure that they adhere to their terms and ways of doing things.

First, I would like to thank the Departmental Committee on Trade, Industry and Cooperatives because as you have heard, this Bill is very voluminous with a total of about 168 clauses. This Bill took us many days and nights and we had to stay until the wee hours of the morning trying to go clause by clause of this Bill. The Members of the Departmental Committee on Trade, Industry and Cooperatives were very committed and supportive to this Bill.

The actual assent of this Bill will see a new Kenya and a new way of doing things, especially for the cooperators whose money have always been lost because of mismanagement and people who try and create cooperatives for the sake of swindling unsuspecting Kenyans who join cooperatives not knowing that the real reason why those cooperatives were created was just for the purposes of swindling money from individuals.

Therefore, I would like Members to support this Bill because it will give a new dawn and light to cooperators who are spread across this country. For example, tea farmers in my constituency have formed a factory and their money is running that particular factory.

Once assented to, this Bill will help the farmers to know that their money, which is now running a tea factory, is run above board and their hard-earned cash will be secured.

Other sectors that are going to benefit are not only in the agricultural sector, but all sectors, including the matatu industry, which has cooperatives which will benefit from this new Cooperative Bill and new order that we are putting into it, including sectors like livestock. I know you have mentioned about camels. I think that would be a sector as well. All sectors basically, because if we look at how farmers or Kenyans are saving their earnings nowadays, they do so through cooperatives because they believe in teamwork and putting resources together.

These resources need to be secured. This Bill is sponsored by the Government, and it could not have come at a better time when the Government needs to secure and make Kenyans who are cooperators secure with their hard-earned savings and incomes that they get. Thank you.

I support.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker.

Let me also go on record, I am a Member of the Departmental Committee on Trade, Industry and Cooperatives and I have had the pleasure to process the Bill up to where it is today.

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We are here today to stand in support of the Cooperatives Bill (National Assembly Bill No.7 of 2024). It is important for us to understand that the cooperative movement in this country is as old as this country and the process that leads to this particular Bill, started in the 12th Parliament. I must laud the former Principal Secretary, Ali Noor Ismail, for having mooted this idea, thought about it and indeed, walked through the journey.

We started by passing the National Cooperatives Policy that laid the framework for review of the 1997 Act that was amended in 2014. This now gives you the importance of starting from the very bottom in the legislative making process whereby you start with the policy. The policy will identify policy and legislative gaps that we have to address as we are doing here today. We passed and inaugurated the new Constitution in 2010. Therefore, the old Act had to be renewed, amended or revised to meet emerging issues. With new technology in the market and the ever-expanding scope of the co-operative movement, it became necessary that we truly amend the Act.

I want to tell my colleagues who are here, those who are not here, and Members generally, that the co-operative movement is extremely important. It is built on three or four pillars. One is voluntary membership. Democratic processes is the other. Probably, equality in decision-making is the third. Of course, many of us here have mobilised resources for personal development and to resolve emergencies through the co-operative movement. Therefore, it is important that we continuously strengthen the governance structure of the co-operative movement.

For the record and the public, so that we draw this distinction very clearly, a SACCO, whether a deposit taking one or whatever SACCO, is primarily a co-operative society. It has to start as a co-operative society. That is why this Act says that we need to review and align whenever there is any conflict between this primary Act and the SACCO Societies Regulatory Authority (SASRA) Act. We need to make it very clear and tell members that they are first or primarily co-operators before they become SACCO members.

My colleagues have got through. I do not want to focus on clause by clause because I have interacted with that area and we have made amendments. I do not want to focus on that. Let me just focus on the outcome of public participation. That is why I felt a little let down when the Supreme Court declared that public participation is not mandatory. The Supreme Court declared that we can disregard whatever the people say during public participation. I felt very let down. Since it is the Supreme Court, and I respect the arms of the Government, I have to swallow the bitter pill. In the fullness of time and before it is too late, I hope we will pass the Public Participation Bill to set the framework on how to receive and process public comments. Luckily enough, we made sure there is public participation while preparing this Bill.

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

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Oundo has made a remark that must be expunged from the record of the House. This is to the effect that the Supreme Court stated there is no need to conduct public participation. Could he cite the specific case in which the Supreme Court of the Republic of Kenya made a determination that there is no need for public participation? That dangerous statement must not go into the record of the House.

The Temporary Speaker (Hon. Farah Maalim): I think he meant there is no categorical, legal or constitutional obligation for Members of Parliament to accommodate every aspect of public participation. Public participation is to enrich and inform Members. I presume that he meant so. In any case, we do not have a law on public participation. It is time we had a law. Proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Precisely, Hon. Temporary Speaker.

I did not go to law school, but I attended enough units in law. I can read and interpret any judgment. That is why we, in the Committee, insisted that we must account for whatever comment we were given, be it verbal or a written memorandum. We state when we are accommodating any comment. If we are rejecting a comment or representation, we clearly say that we are rejecting for X, Y, Z reasons. It was for abundance of caution because the decision by the Court of Appeal in respect to the Finance Bill of 2023 was prevailing. For my good friend, I am referring to the Supreme Court ruling on the Finance Bill of 2023. There are four things that came out very clear and the members of the public were categorical and applied their minds to it. The first was registration. Who registers a cooperative society? That became a very robustly debated and conversed issue.

The second was governance issues. How many terms can a director hold? How many years can one remain a director? Can a director remain for life just because they have muscles? When we were in Kericho, during public participation, all the directors were fairly aged senior citizens. When we asked one of the young ladies, she said in their society, traditions and culture cannot allow her to contest against an elder. So, the elders will have to remain directors forever.

The question was, what can we do to remedy this so that we can bring in new blood in the cooperative movement? It became a contentious issue. I do not want to speak on what the Committee has proposed because that is the work of the Chairperson and Vice-Chairperson.

The third issue was on remittance where an employer deducts your money and does not remit or delays to remit. What remedy or recourse does a co-operator have in respect of this matter? What if you expected your shares or deposits to have increased? You go to apply for a loan expecting your employer has been remitting for the last one year. You expect Ksh60,000 or Ksh100,000 deposits, only to be told the last time any deposit or remittance was received was about three years ago. Therefore, your shares and deposit can only warrant you Ksh20,000. This is the case and yet, you have an emergency that requires Ksh50,000. That became a very contentious issue.

The fourth issue was supervision. Who supervises? Who takes remedial action whenever there is a problem? Of course, after all that public participation, there was a residual matter that remained. As we write thesis, proposals and projects in areas of further studies, we need to professionalise this sector. As at the moment, we have no professional body. So, how do we professionalise the sector? That is why we said we deal with what we have now. As we move forward, we will deal with the rest.

I support and beseech my colleagues to also support this Bill. Let us converse with the Committee. Thank you.

The Temporary Speaker (Hon. Farah Maalim): The lady Member for Suba North.

Hon. Millie Odhiambo Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Bill. I want to thank the Committee for coming up with a very comprehensive Bill.

Cooperatives are very helpful and they provide a necessary economic boost, especially for Micro, Small, and Medium-sized Enterprises (MSMEs). These are areas that if people do not pull together, they will not realise much. It borrows largely from the Harambee spirit. For instance, in the fishing industry, it has been helpful. A lot of the fisherfolk are fairly poor or indigent and without pulling together in cooperatives, they may not realise much. Even as we speak, a lot of the fisherfolk do not even own the boats they use. By enhancing cooperatives, they will be able to access the tools of their trade.

I want to agree with the Members who have said that this sector is misused. Many members who have saved within the co-operatives have had their resources misused in the past and hence there is need for enhanced governance within this sector.

Whenever I speak to any Bill, I focus on issues of governance and mainstreaming of other cross-cutting issues and it is within that framework that I have a little bit of concern and

I would want to put this to the Committee. I may not necessarily bring amendments, but I would want the Chairperson of the Committee, who has gracefully stayed this far, just to look at it.

Hon. Kimani Ichung'wah spoke about Article 186 and Schedule 4 of the Constitution that provides the respective functions and powers of the national Government and county governments. What I notice in the architecture of this Bill is that it does not stay true to that because you give a lot of powers to the national Government even in terms of establishment and make the counties subservient to the national Government. It does not take into account what the framers of the Constitution intended when they were coming up with this Constitution. We are still having a very centralised approach when we are coming up with this. Maybe that is something you want to look at.

Another issue of concern is that of the officers cited here such as the county directors. They have no clear qualifications and when we have officers who have no clear qualifications, it becomes very easy to manipulate and those are the people who are dealing with a lot of money and investment. If you have people who do not have clear qualifications, then it means people will use people they can easily manipulate.

The other issue of concern for me is the Inter-Governmental Co-operatives Relations Technical Forum, and you can see that in that forum, we are not very clear about issues of gender inclusion, ethnic inclusion, inclusions of youth as provided in the Constitution or persons with disability. It means we can easily violate the Constitution.

Again, I would want us to re-look at Clause 20. We are talking about the transport sector and other sectors, whether it would also be necessary to include fisheries under primary cooperatives. Perhaps in your response, you can explain why you thought that fisheries does not qualify to be under that.

Hon. Temporary Speaker, under Clause 25, I have a problem with it especially Clause 25(f)(g) that provides that, "they shall provide a shared pool of legal services or accounting and auditing services to its affiliates". Even though it is made subject to the Accounting Act and the Advocates Act, I am just wondering whether this does not then provide or create monopoly and can make it a subject to litigation for discriminatory practices.

Under Clause 124, again on the issues of the establishment of a tribunal, in terms of the architecture, I wish this was given totally to the Judiciary or you find a framework through which the devolved units then set up that mechanism. But again, it still takes that centralised approach. The issue of inclusion of age, disability, ethnic and gender is a problem, but I am happy that you have put a cap where people can serve for up to three years, which is a good governance practice.

Hon. Temporary Speaker, I think one of the things that I also like is Article 146 where the Deputy Registrar shall prepare and maintain a list of persons qualified to serve as the Co-operative Tribunal Annexed Mediators. I was earlier meeting women mediators and I think it is a very good area, but again even in this one, provide the issue of gender inclusion because women mediators or women in Alternative Dispute Resolution were saying that sometimes they are elbowed by the men in that sector. I had actually promised that I would raise it in Parliament. So, I am glad you brought it here.

Finally, as my time is almost up, I want to note Clause 25 again, which provides that they shall lobby the national Government and county governments on co-operative issues. Perhaps if you could consider changing the word 'lobby'. Lobbying is what I did when I worked in the civil society but if you are providing a statutory body, they shall advise the Government. They shall not lobby. If they want to lobby, please include the Cradle here and other human rights organisations. If you are a statutory body, you advise the Government, and you do not lobby.

Finally, Hon. Temporary Speaker, Hon. (Dr) Oundo spoke about the issue of public participation and I know it is something that we will grapple with when we are dealing with

the Public Participation Act. We need to look at Article 1(2) of the Constitution that gives the Kenyan people the opportunity to either -I see my light has not gone up so I have time to read it...

It states:

“The people may exercise their sovereign power either directly or through their democratically elected representatives.”

Perhaps it is too early for me to talk to it, but when we are dealing with the issue of public participation, in good faith, we need to take into account what the public told us, so that it is not an exercise in futility. We need to take into account what the public says. However, we can depart from what the public says, because otherwise then we would have to undertake a referendum. However, under Article 1(2), so long as you still have a situation where we are having representative leadership, then it means that your own people trust that you will do the right thing by them but if they think you cannot do that, then they will send you home when the next election comes. I am pre-empting debate, because when it comes under the public participation law, those are issues that we will canvass.

I like to stand on principle and on values. I do not want to be persuaded by what is trending at the time. It is something we need to look at under that Article of the Constitution, that in good faith, we need to hear the members of the public. For instance, on the issue of the Finance Bill 2024, if we had listened to members of the public, we would not have had what we had then. So, in good faith, I am glad you have said that you listened to members of the public on this. Thank you very much for this good Bill.

The Temporary Speaker (Hon. Farah Maalim): Is the Member at the back there, Hon. Mwalyo? Proceed.

Hon. Joshua Mwalyo (Masinga, Independent): Thank you, Hon. Temporary Speaker, for allowing me to air my views. I am a Member of the Departmental Committee on Trade, Industry and Cooperatives and we have done a good job on this Bill.

One thing which I have seen is going to heal the cooperatives is the time limit for holding office to two years or three terms. People have been taking cooperatives as their own properties. They do not leave the offices. They take big loans and continue to stay in office.

Another thing we have done is that when the directors are elected, they will deposit bonds in the cooperatives where they are being elected. This is so that in case they have defaulted or mismanaged the funds, the bond will pay whatever they have taken and have not accounted for.

Another very important thing is that the Bill has introduced an insurance whereby whoever is taking the loan, in case of demise, the insurance will pay those liabilities and cover the cooperatives so that the cooperatives do not incur losses.

Another thing which is very important is that once a person ceases to be a member of the cooperative, you can only bring your claim before two years elapse. After the two years have elapsed, you cannot bring any claim. The claim will cease and no one will listen to you if this Bill passes. With the surplus money that cooperatives have, they will be able to invest in liquid assets, so that they do not have floating cash that will give people the idea to apply for loans. Even the directors may be tempted, but if the money is in liquid assets, there is no way they can borrow that money.

Another important thing is that a cooperative shall pay dividends only when it has been given that mandate by a general meeting of the members. It is not for the board to decide whether they will pay dividends of Ksh10 or Ksh20. That decision should be sanctioned and passed in an annual general meeting. The Bill has good measures that will curtail people who have been misusing the cooperatives.

Cooperatives keep the little savings that people get from their small incomes in the villages, farms, and from whatever they sell in their areas. The Bill will cure the misuse of

cooperatives by directors who take money and do not pay it back. Once you pay a bond, it will cover the cost of such losses.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Next is the Member for Marakwet West.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this very important Bill. I rise to associate myself with the letter, spirit and intent of this particular piece of legislation.

The management of cooperative societies is a fully devolved function under the Fourth Schedule of our Constitution. In fact, as I was sitting here, someone sent me a message asking why the National Assembly is enacting a legislation on a function that is fully devolved. Thankfully, I had read Article 186(4) of the Constitution which states:

“186(4) For greater certainty, Parliament may legislate for the Republic on any matter.”

I am convinced that we are within the “four corners” of the law to legislate on this particular sector of our society, irrespective of the fact that it is a devolved function. I am satisfied that the House is well-founded and well-placed to enact a law on cooperative societies. Those societies inform the socio-economic prosperity of this country. If we run our societies well, I have no doubt that this country will enjoy economic prosperity.

Looking at the intent of the Bill as per the Long Title, it is very clear that it is meant to establish the Office of the Commissioner for Cooperative Development at the national level of the Government, and the Office of the County Director for Cooperatives in each county government; to provide for promotion, registration and regulation of cooperatives; to provide for inter-governmental cooperative relations; and for connected purposes.

When these societies were devolved under the Fourth Schedule, the county governments never wanted an office to be created at the national level. Now that we have this particular piece of legislation which has given a clear legal framework, it means, therefore, that the county governments shall work closely in consonance with the national Government to ensure that...

Hon. Alice Ng’ang’a (Thika Town, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): What is your point of order, Hon. Alice Ng’ang’a?

Hon. Alice Ng’ang’a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. I rise under Standing Order 35. We need proper quorum because the Bill that we are discussing today is very important and we all need to be here to discuss it. Looking at the mood of the House, I can say we do not have enough numbers.

The Temporary Speaker (Hon. Farah Maalim): Fair enough. You are right, we do not have a Quorum. I direct the Quorum Bell to be rung for ten minutes.

(The Quorum Bell was rung)

(Hon. Elijah Kururia spoke off record)

You cannot rise on a point of order when the Quorum Bell is on. Wait.

(The Quorum Bell was rung)

The Temporary Speaker (Hon. Farah Maalim): Serjeant-at-Arms, you may stop ringing the Quorum Bell. It is already 10 minutes.

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Order, Hon. Members. The Member for Marakwet West will have an additional six minutes when this matter comes up for debate again, hopefully tomorrow in the afternoon.

ADJOURNMENT

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, the time being 7.25 p.m., the House stands adjourned until Thursday, 14th November 2024, at 2.30 p.m.

The House rose at 7.25 p.m.

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