

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 14th November, 2024

Afternoon Sitting

*The House met in the Senate Chamber,
Parliament Buildings at 2.33 p.m.*

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum? Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): Hon. Senators, we do have quorum now so we will proceed with the days' business. Clerk, kindly proceed to call the first Order.

QUESTIONS AND STATEMENTS

STATEMENTS

PLIGHT OF STATELESS CHILDREN BORN TO KENYAN PARENTS ABROAD

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.53 (1). Is Sen. Miraj here? That statement is dropped.

(Statement dropped)

Proceed, Sen. Kathuri.

DELAYED TRANSITION OF NHIF STAFF TO SHA

He is not in the House. That statement is dropped.

(Statement dropped)

Proceed, Sen. Korir.

IMPLEMENTATION OF THE NATIONAL
TREE PLANTING INITIATIVE

He is not also in the House. That Statement is dropped.

(Statement dropped)

Proceed, Sen. Dullo.

SURGE IN HERDERS ATTACK AND LIVESTOCK
THEFT IN ISIOLO COUNTY

She is not in the House. That statement is dropped.

(Statement dropped)

Proceed, Sen. Wakoli.

STATUS OF REMITTANCES TO BUNGOMA COUNTY
GOVERNMENT EMPLOYEES' PENSION SCHEME

(Loud consultations)

Sen. Wafula: Thank you, Mr. Speaker, Sir. I request to be protected from the noise.

The Speaker (Hon. Kingi): Order, Hon. Senators. May the Senator for Bungoma County be heard in silence.

Sen. Wafula: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the status of remittances to the Bungoma County government employees' pension scheme from 2022 to date.

In the Statement, the committee should-

(1) State the providers of pension scheme services to employees of Bungoma County Government.

(2) Explain whether staff join on voluntary basis or it is mandatory to all employees of the county.

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(3) Provide a report of all employees covered by the scheme, the amount deducted from their salary per month, and whether the said deductions are remitted to the scheme by the county, stating the number of beneficiaries of the scheme from the year 2022 to date.

(4) Provide financial statements showing the remittances of employee contributions by Bungoma County Government for the financial years 2022/2023 and 2023/2024, indicating when the last payment was made.

I thank you.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.56 (1) (a), the Chairperson Standing Committee on Education.

THE STATE OF THE NATION ON MATTERS REGARDING
JSS, HIGHER EDUCATION FUNDING MODEL AND CBC

Sen. Joe Nyutu: Mr. Speaker, Sir, I rise pursuant to Standing Order No.56 (1) (a) to make a statement relating to a matter for which the Committee on Education is responsible.

During the Motion on the current state of the nation, the Senate directed the Standing Committee on Education to liaise with the Minister of Education and other stakeholders with a view to resolving the concerns raised regarding Junior Secondary School (JSS) education, the new funding model for university education, and the acceptability of Competence-Based Curriculum (CBC).

Mr. Speaker, Sir, the new university funding model was launched in 2023, following the recommendation of the Presidential Working Party on Education Reforms (PWPER). It seeks to address challenges encountered by public universities and technical and vocational education institutions due to massive enrolment and inadequate funding.

Mr. Speaker, Sir, the model is applied to students who qualified for placement through Kenya Universities and Colleges Central Placement Service (KUCCPS) in universities and Technical and Vocational Education Training (TVET) institutions. It provides for variable scholarship and loan funding based on a means-testing tool and prioritizes a student's financial need and separates placement from funding.

The Committee on Education is currently inquiring into the implementation of this model and has consequently held a meeting with the key actors in its implementation. These actors include-

- (a) Universities Fund (UF) that grants scholarships to students.
- (b) Higher Education Loans Board (HELB) that extends loans to students.
- (c) KUCCPS that oversees the placement of students into higher learning institutions.

During the meeting with the aforementioned stakeholders, the committee made preliminary observations on different challenges facing the implementation of the model and requested the Minister of Education to expeditiously address them. These challenges included-

- (a) Disparities to resource allocation from the use of Means-Testing Instrument (MTI) used to determine students' level of need. The committee observed that the approach used risk, underestimating the true financial needs of students who face

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compounded challenges, thereby potentially excluding them from necessary financial support.

(b) Discrepancy in funding: The university students are supposed to obtain an average of 60 per cent Government scholarship and a Government loan at an average of 33 per cent, with the household contribution being seven per cent.

On the other hand, the funding for TVET education is through Government scholarship of 50 per cent and a loan of 30 per cent, while household contribution accounts for 20 per cent. This policy is on enhancing technical and vocational training to equip the youth with the relevant skills for the 21st Century.

(c) Financial ambiguities and debt crisis in universities: Whereas the funding streams for universities include student financing, research funding, capital infrastructure grants and free for service activities like consultancy, there are concerns that universities may face ambiguous financial allocations, potentially leading to reduced funding.

(d) Data protection: The Committee raised concerns about the legality of obtaining information on applicants from various government agencies.

During the engagements, it became evident that data-sharing agreements had not yet been executed. Moreover, applicants had not provided explicit consent for their data to be collected and processed even through the MTI to determine a student's level of financial need was already in operation.

Mr. Speaker, Sir, the committee has also held engagements with non-state actors in order to acquaint itself with the challenges facing the new university funding model and the implementation of the CBC.

With the foregoing, the committee is scheduled to hold a retreat during the long recess, bringing together both State and non-State actors, to comprehensively deliberate on the issues related to the implementation of JSS education, the new university funding model and the acceptability of CBC.

The committee will prepare its report, which will be tabled in the House for consideration.

I thank you.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.57(1). The Senate Majority Leader, please proceed.

(Sen. Chimera consulted Sen. Cheruiyot)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, there are young men in this House who mislead elders.

My apologies.

BUSINESS FOR THE WEEK COMMENCING,
TUESDAY, 19TH NOVEMBER, 2024

Mr. Speaker, Sir, I rise pursuant to Standing Order No.57(1), to hereby present the Business of the Senate for the week commencing Tuesday, 19th of November, 2024. The status of legislative business before the Senate is as follows-

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We have 58 Bills that are pending conclusion, of which 40 are at the second reading stage, while 18 are the Committee of the Whole stage. There are 29 Motions and 26 Petitions pending conclusion before the various standing committees, whereby, 19 of such, are already due for reporting. They are way past the statutory period. There are 441 Statements before the committees pursuant to Standing Order No.53 (1).

There is also crucial business awaiting consideration by the Senate, including the Mediation Committee reports on Division of Revenue Amendment Bill (National Assembly Bill No.38) and County Government's Additional Allocation Bill.

Mr. Speaker, Sir, I do not see the Chairperson of the Senate Standing Committee on Budget and Finance. However, this is such an important mediation exercise such that any minute Sen. Roba walks into the House, the circumstances would warrant him to give an update to the House on the status of the mediation.

Previously, more than ten years ago, we have not held mediation exercise for such a long time. Now we are in November without a determination of what is the actual shareable revenue to our counties is. The longest I can remember is about September.

Mr. Speaker, Sir, I hope Sen. Roba, the Vice-Chairperson or any Member of the Mediation Committee in the Senate Standing Committee on Budget and Finance will find time in the course of today to bring the House up to speed on what is the status of the mediation exercise, so that we make an informed decision.

As Senators retire for the weekend, I am sure citizens will confront many of them. As you know, the favourite excuse that the governors give these days is, "I would have done this, but the Senator has not brought the necessary tools for working." So, I plead with your kind indulgence, later after I am done, if there is a Member of the Committee, to kindly bring the House up to speed.

Hon. Senators, you will also note that Part IV of the Calendar of the third Session will conclude on Thursday, the 5th of December. This implies that the Senate has approximately 11 sittings from today to conclude on the business that is before us. At an appropriate time, I will make a proposal to SBC on the business to prioritise before the conclusion of the sittings of the third Session.

It will be unfair, if we go on recess without concluding on certain key legislation that this House has transacted and moved extremely well, that we are almost either at the Committee of the Whole stage or concluding on debate of those particular Bills. I would rather that we conclude on them so that they are with our sister House, even as we begin our recess programme, knowing well that we have done what we are duty-bound to do.

Mr. Speaker, Sir, in the meantime, I would like to implore the movers of business listed in the Order Paper to prioritise presence in the Chamber so that they can prosecute their business. Many times, people propose business, be it Statements, Petitions or Motions, but at the time of calling on them to transact that business before the House, they are hardly available. That is not a practice that we want to encourage.

I like how you say it, "statement dropped". That is how it should be. Perhaps the only thing we may need to add is: "Dropped for how long?" Is it three months or six months, so that people can learn to be in the House when they propose business.

On Tuesday, the 19th of November, 2024, the SBC will meet to consider the business for that week. The tentative business for that day will include any business that we will not have concluded today at the rise of the House.

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The tentative business for meeting for the morning sitting on Wednesday 20th will include businesses that will not have been responded to.

Question Nos. 53, 71, 82, 94, 98, 118, 119, 125 are Statements to the Cabinet Secretary (CS) for Lands, Public Works, Housing and Urban Development by the various Senators. That Minister will be appearing this coming week.

Mr. Speaker, Sir, Question No.125 to the Cabinet Secretary for Youth Affairs, Creative Economy by Sen. Richard Onyonka will be appearing. Hon. Members yesterday expressed great dissatisfaction by the failure by Members of the Cabinet to appear in this House despite business being listed.

I had not thought about this, so members of the Secretariat should not consider that I am being unfair to them. However, I saw the letter after we had SBC. You remember there are Members of Cabinet that were informed that if for one reason or the other, you are unable to appear before the House, the statutory timeline expected by law is at least seven days before the date of appearance. You cannot ambush the Speaker with a letter, minutes to appearance or a day to.

Unfortunately, the letter that I saw was very kind. Even the Minister reading it will simply smile. We were specific that the letter that should go to the Cabinet Secretaries that did not appear to this House should cite both the provisions of the law and the sanctions that can fall on them for failure to appear before this House.

It cannot be that Members take their time to appear and look forward to interacting with Members of the Cabinet who up to a few minutes before their appearance ambush the Speaker with letters for one reason or the other, unless somebody is indisposed like the CS for the Ministry of Health was, this week. You can understand that everybody is a human being and can fall sick. However, for the rest, that is agreeable.

Mr. Speaker, Sir, I will be proposing to the SBC that if Members of Secretariat will do with your help and that of the other leaders, we are more than glad to draft that letter together so that the Cabinet can appreciate the importance of this Session.

There are various Bills that are at the Committee of the Whole stage. They include the Street Vendors, Local Content Bill, Early Childhood, Land Amendment, and Cooperatives Bill, which I hope we can conclude on. There are various Motions as well that are before our committees, which I do hope that we can conclude on.

Mr. Speaker, Sir, lastly, on Thursday the 21st of November, 2024, His Excellency the President Dr. William Samoei Ruto will be making the State of the Nation Address to both Houses of Parliament, in accordance with Article 132(1)(b) of the Constitution.

I am sure you shall be communicating the same as usual to guide us on the necessary procedures and arrangements made for our attendance in the National Assembly Chamber of this annual exercise. I am looking forward to hear on what is the State of the Nation and the concerns that citizens have and a report card to Parliament as a tool of accountability to share what his administration has achieved, so far.

I hereby thank you and lay this Statement on the Table of the Senate.

(Sen. Cheruiyot laid document on the Table)

The Speaker (Hon. Kingi): Next Order.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, you remember there is a request I made---

The Speaker (Hon. Kingi): Sen. Faki, do you have any information that will aid the House?

Sen. Faki: Mr. Speaker, Sir, I have very good information.

The Speaker (Hon. Kingi): Okay, proceed.

PROGRESS REPORT ON THE WORK OF THE MEDIATION
COMMITTEE ON THE DIVISION OF REVENUE BILL

Sen. Faki: Thank you, Mr. Speaker, Sir. We had our first meeting of the Mediation Committee on Thursday last week. We had a morning session, which was very acrimonious, because the Members of the National Assembly were of the opinion that we could not discuss the Division of Revenue Act (DORA) before the Road Maintenance Levy Fund (RMLF) cases that have been filed in court are withdrawn.

We argued for about two hours and adjourned for lunch. When we came back, we were able to agree on a raft of issues that could be considered pending resolution of the mediation. The meeting was then adjourned to Tuesday at 10.00 a.m.

Again, we met on Tuesday. However, the Members of the National Assembly were still of the firm opinion that we could not discuss anything until the RMLF issue is resolved.

On our part led by our Chair, Sen. Ali Roba, we informed the Members of the National Assembly that the case that has been filed is not in our hands, neither do we have any leverage or control over the Council of Governors (CoG). Therefore, issues arose as to whether we could amend DORA or the Appropriations Act.

Additionally, there was the fact that His Excellency the President had sent a memorandum to both Houses of Parliament on the issue of Commission on Revenue Allocation (CARA). Besides, in the memorandum sent to the House, the President is speaking of Kshs380 billion going to the counties, but already we had passed DORA with Kshs400.1 billion.

Our legal counsel advised the committee that DORA is the beginning of all the financial instruments that are made every year. Thus, if any legislation is against DORA, it means that legislation is null and void.

So far, we are at a stalemate because the Members were of the opinion that if we are not going to resolve RMLF, even if we agree at the Mediation Committee, they will not implement or accede to that agreement in their House.

The meeting adjourned without any specific date for the next meeting so that Members of both Houses could consult to get a way forward over this legislation.

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

Mr. Speaker, Sir, I will implore you to speak to your counterpart so that maybe the position that has been taken by the other House could soften. We were ready to sit down on the issue of quantum on whether we could reduce the Kshs400.1 billion to a

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figure acceptable to the National Assembly. However, they said we could not discuss the issue of quantum before resolving the RMLF case that is in the courts.

The Speaker (Hon. Kingi): Thank you. Proceed, the Senator for Nandi.

Sen. Cherarkey: Mr. Speaker, Sir, I rise under Standing Order No.1 to raise two issues - mediation and university funding model. I am kindly requesting if you can give us maybe 15 minutes to ventilate on them.

The Speaker (Hon. Kingi): We will not discuss the progress report that we have just been given by Sen. Faki.

Sen. Cherarkey: Then we can do the university model by the Chair.

The Speaker (Hon. Kingi): Absolutely.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. Let me be the first to have the bite on the cherry. I support the Statement by Sen. Wafula on the issue of Bungoma employees. In most of the audit reports that come to the Senate, almost all counties are beyond 35 per cent in their fiscal responsibility.

In fact, you have been a governor and you will notice that most counties are going beyond 35 per cent in terms of employees' compensation. This crisis is also in Nandi.

Yesterday when the Nandi County Assembly tabled a report on *ad hoc* committee, one of the crises that we are facing is on the issue of employees. Even the current sitting governor has employed his close relatives, among other individuals. They are gobbling a lot of money and which is very unfortunate.

This report has been underscored by the Public Service Commission (PSC) which did a Human Resource (HR) audit in Nandi County. It is very unfortunate that many counties are struggling with this, especially in non-payment of statutory deductions.

The counties are maybe not giving pension for their employees. We have this issue in Nandi and Bungoma counties. I hope with time, we can address it going into the future.

On the issue of university funding model, I thank the President that after the hue and cry, he decided to form a commission to look into it. This is the Presidential Working Party on Education.

Nonetheless, in my own opinion there are many challenges. Some of us who used Higher Education Loans Board (HELB) know that there are many tools we can use to fund university education in this country. I thank the Chair of the Committee on Education, Sen. Joe Nyutu.

My proposal is that we only need to have Band I and II. Band I will be for the people who are vulnerable. There are many yardsticks we can use. For instance, *wazee wa mitaa*, the priest or the sheikh to determine who falls under Band I.

On Band II; this should be parents who are not vulnerable, but are unable to finance the education. We also need to widen this. Remember, you being a senior lawyer in this country, the students who go to Kenya School of Law (KSL) are not able to access the loans from HELB. I know Senior Counsel, Sen. Omogeni, is also aware of this.

The teachers who undergo teachers training programme also cannot access the funding. Hence, this new university funding model will ensure that university education and that of tertiary colleges is well covered.

Going into the future, I think we need to agree as a country to sit and resolve the issue of university funding model by ensuring that it is student-centred funding.

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The Speaker (Hon. Kingi): One minute to go, Senator.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. Although we receive bashing from National Assembly that we should not be discussing such matters, I thought everything concerns counties. These students we are talking about come from counties. Therefore, I think the National Assembly should get busy *ama waende wasikie vibaya na huko kwao*.

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

Sen. Ogola: Mr. Speaker, Sir, I rise to comment on the university funding model. It is also fortunate that the Committee on Education just took us to a very engaging sensitisation with the Sustainable Development Goals (SDGs) caucus. The focus was purely on what we are discussing now. We are very convinced that the Committee on Education will be able to tackle some of the challenges.

The university funding model has real challenges out there. I remember sharing with the Committee on Education and all of us agreed that there are challenges that we must face as a country.

Mr. Speaker, Sir, even as we sit here, I was with some university students yesterday and a number of our university students are not living in the hostels. Those hostels are vacant. They are not vacant because the students cannot use them; no. They are vacant because students cannot afford them. The payment for the hostels, food and fees as is structured in the funding model, are untenable.

What is the main objective of us taking children to school? It is also worth noting that not all bright students that go to universities come from able families. A number of our people will not afford university education with the new university funding model. Therefore, it must be attended to.

Secondly, I must mention the challenges we are having with the Junior Secondary School Education. Right now, there is a rush to build classrooms for Grade 9 students. As a country, are we saying that we are not able to plan for our children? That as they grow from one level to the next, we cannot plan so that we do things in a rush.

I will also repeat the same issue I have always repeated here, that JSS is not being handled properly. There are no adequate teachers to handle the nine teaching subjects in our schools. A majority of the schools have a maximum of four subjects being covered against nine subjects. How will our candidates in future compete with other candidates in the region and internationally? The challenges in the JSS must be addressed.

I support.

The Speaker (Hon. Kingi): Sen. Gloria. You have three minutes.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I would like to add my voice on the new university funding model, especially on the issue of determining the level of need. This has caused a lot of conflict because most households have considered that approach not fair. I urge that we clean up this process.

On the issue of TVETs, when you look at the discrepancy on the funding model, you will find TVETs are undermined and yet we have been pushing for these institutions so as to have our youth get plugged into skills like entrepreneurship and others found at TVETs.

However, when you look at how the funding model is put together, it discriminates against those students going to TVETs. If you look at what is happening

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now with the new institutions we put in place like the one that recognizes prior learning, it pushes the TVETs industry. The funding model is cutting out the TVETs students.

Otherwise, how they determine the student's level of need is a big conversation. If we focus on having a fair matrix, then we will not have all the noise that is there, especially on determining who qualifies and who does not qualify for the funding model.

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

Sen. Omogeni: Thank you, Mr. Speaker, Sir. For purposes of record, I would like to alert the Senator for Nandi, Sen. Cherarkey that HELB extends loans to students at the KSL, beginning from the year 2024/2025. I want that to go on record so that the people in Nandi are not misled. There is already an agreement between HELB and KSL.

The issue of loans to universities is a big problem and there are many students from needy families who are being categorized in bands that their parents can never afford. I will give an example. My people in Nyamira are very hardworking and they are farmers. They deal with tea, but at the end of a financial year, having done farming for 12 months, they get a bonus of Kshs60,000. When they send their children to make applications, they are told that they belong to a band where they should raise Kshs80,000.

Let our Cabinet Secretary who is a son of the Omogusii review this funding model for our students. The best model should be what benefited you and I, where we were all eligible to get funding and support from the Government. Then upon graduation, you pay back to the Government.

Mr. Speaker, Sir, I can tell you that for myself if the Government never extended support to me, I would never have gone to school up to the university. As leaders, let us appreciate that because we were assisted, we should also be conscious that those who are coming after us also need help. We live in this country and we know that the people who come from our counties are needy and do not have money.

I plead with the broad-based Government to take into account the interest of students who have expressed inability to meet their school fees.

I support.

The Speaker (Hon. Kingi): Hon. Senators, for the convenience of the House, allow me to re-arrange the sequence of today's Order Paper. We will move to handle Order No. 24 and, thereafter, Order No.27, before resuming the normal flow as contained in today's Order Paper.

BILL

Second Reading

THE ELECTIONS (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.29 OF 2024)

(Sen. Cheruiyot on 07.05.2024)

(Resumption of debate interrupted on 12.11.2024)

The Speaker (Hon. Kingi): At the interruption of debate on this Order, Sen. Tabitha Mutinda was on her feet and she had 16 minutes to finalise her intervention. She is not present to take her 16 minutes. So, the Floor is open to any Senator wishing to contribute to this Bill.

Hon. Senators, I am not seeing any Senator expressing their desire to contribute on this Bill. Therefore, I call upon the Mover to reply.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I appreciate colleague Senators who have taken time to speak to the Elections (Amendment) Bill (No.2) Senate Bills No. 29 of 2024, one of the three NADCO Bills.

I also wish to thank Sen. Okong'o Omogeni who seconded the Bill and the more than 15 Senators who took time to speak to it and share their concerns on our elections management.

The most important thing I would wish to say about this Bill is the fact that you are aware that in the last three election cycles, we have had amendments to the elections management practices manual, a few months to elections and this has caused us many problems. This is because the election managers eventually claim there was no sufficient time for them to prepare well for this process.

Mr. Speaker, Sir, on this one, I appreciate that this amendment is being done close to three years to the next elections and the Independent Electoral and Boundaries Commission (IEBC) will have sufficient time to prepare for the next elections with all the amendments we have made.

We have been told by the managers; those who understand these things better and those who do it, that changes to electoral laws close to elections affects the overall results and compromises the integrity of the votes because the referee was not sufficiently prepared.

Part of the basics of any sport is that the referee needs to properly understand the games governing that particular sport. Therefore, we have given the IEBC ample time to prepare for this. By the way, it may not be known to many, that IEBC themselves appeared before us during the NADCO process. I have not checked the report of the committee. I will look at it before we do the amendments. Subsequently, I believe they appeared before our Justice and Legal Affairs Committee which looked into this Bill.

With those very many remarks, I beg to reply and under Standing Order No. 66(3), request that the putting of the question be deferred to a later date.

I thank you.

The Speaker (Hon. Kingi): It is so deferred.

(Putting of the Question on the Bill deferred)

Next Order, Clerk.

Proceed, the Senate Majority Leader.

BILL*Second Reading*THE PUBLIC FUNDRAISING APPEALS BILL
(SENATE BILLS NO.36 OF 2024)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to move that the Public Fundraising Appeals Bill (Senate Bills No.36 of 2024) be now read a Second Time.

This is a very interesting Bill. You will recall that earlier this year when we had challenges in the country, there are many things that citizens brought to our attention about what was not right. There are things that they felt that as leaders generally, we need to address and find a long-lasting solution to. There are many things, which they told us as a leadership in Parliament and also for those in the Judiciary.

I have subsequently seen that almost all organs of Government have tried to administratively respond. I know that there have been changes in the members of the Executive even by conduct, presence and those changes are continuing.

In the legislature here, there are certain Bills that we have considered. There is still a lot to be done. Let us not lie to ourselves.

This morning when I came to the office, part of the things that I read through is a Motion that we passed here after the invasion of Parliament on the 25th of June. I was thinking through what we have succeeded in doing, so far, and what have not.

To our credit, many of the things that internally we needed to do as Parliament are in the process midway. Various committees are considering if it is matters of inclusion, our National Cohesion Committee. For example, is doing a holistic study of the report of the establishment of the entire Public Service and seeing which are the communities that are extremely marginalised and which are the parts of the country that feel left out.

Part of the complaints that we had at that particular time is that there are parts of the country that felt that they do not belong to this Republic. We had asked our National Cohesion, Equal Opportunity and Regional Integration Committee to look even into the dodgy question of how public recruitments are done and whether it is possible by policy to dictate and guide where this is done.

Parliamentary Service Commission (PSC) by the way, you know many times Parliament does not get sufficient credit. However, I know for a fact, for example, that this PSC of ours, perhaps because of all the things that people report about us, they may not reflect and think deeply that there is anything good that comes out of Parliament.

Anytime there is a recruitment exercise - I say this with full benefit of having served as the Chairperson of Staff Welfare for five years in the last session of Parliament - you are presented with a report of general representation of the country, given that there are citizens from all the 290 constituencies and breakdown also by tribe, by religion, so that even as you do your recruitment, we have what is called the 70-30 rule as a policy.

I challenge anybody to check the recruitment policy of PSC where 70 or 80 per cent is done on merit, where the candidates that appear before us, make it by having been the best. That is why Parliament attracts the best talent. You can see that in the reports

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that we get here and the quality of the technical staff that we have assisting us as legislators.

Mr. Speaker, Sir, 30 per cent is on something called the affirmative action. That is a point where you include People Living with Disabilities (PLwDs) and regions that are least represented. This policy is so specific. We fine-tuned it to include it even in programmes that we run.

I will give you another example. You know for a fact that Parliament of Kenya runs an internship programme for our young lawyers. They come here to intern and we pick the best. That programme is so specific because we cannot get 47 students at ago. I think we normally pick 14 or 15, I am not sure, but a number like that.

Once a particular county has presented a candidate for that programme, they have to sit out until the rest of the country has had an opportunity. I was just citing examples of part of the work that is being undertaken by, say, our committee on National Cohesion, Equal Opportunity and Regional Integration on the topic of inclusion. There are many other things that we have been asked. There are many things that Kenyans still expect us to do better.

I do not see Sen. Roba today here, but you know that part of our recommendations was an audit of the public debt done internally by us as Parliament with recommendations made on how this can be better managed so that we do not have haphazard figures being splashed here and there. What is it that we paid last year?

We know that part of the reason why we are having economic challenges in the country is because at 70 per cent debt to revenue exposure, most of the revenue that we are presently collecting, this revenue that many people are complaining about is actually funds that we have already consumed, 70 per cent. Therefore, for every Ksh100 that Kenya Revenue Authority (KRA) collects, 70 per cent is being used to service debt.

We had asked our Finance and Budget Committee to look into that and perhaps guide the country for the country to appreciate what needs to be done in that particular space. So that is work that is pending that Budget and Finance Committee needs to review.

We have even the issue of the wage bill and the cost of running Government that stands at an astronomical. I think it is at Kshs1.6 trillion per year; paying salaries and operation and maintenance. We had said that there must be deliberate efforts by the Executive to bring down the cost of running Government. The beauty with a budget, it is so open and plain, there is nothing to hide about it.

It is either being done or not done. What do we expect of our Budget and Finance Committee? Sen. Faki is here. I do not see Sen. Roba, but probably there are other Members of that particular Committee. Eventually when they file that report, they will tell us whether National Treasury has complied.

They are living up to the Presidential Proclamation that was made at that time. The President promised the country that indeed we will make deliberate efforts to bring down the cost of running Government.

We need to see as a legislature and the oversight arm of Government, that there is that policy. Are there parastatals, for example, that are being merged? Is there a deliberate effort to bring down the cost of wages by ensuring that you rationalise staff personnel across? I want to believe that there are Ministries, which either are over-

enrolled and that there are people who sit in office, but find themselves not doing as much as they could. On the other hand, there are other Ministries that are understaffed.

We do like you do in any organisation, rationalisation of ensuring that you deploy, move others from this arm to the others. Therefore, there were deliberate efforts that we promised the country that we were to take as the Legislature.

Mr. Speaker, Sir, there is more that was supposed to be done by the Executive, which I want to believe that part of the statement that the President will be laying next week when he addresses the country here in Parliament is how that is being achieved.

Moving on, this Bill is part of the public pronouncements and requests. Kenyans told us that if we do not keep an eye on how harambees and public fundraising appeals are done and administered, why they are being called in the first place, then they run the risk of being avenues through which money is laundered. They risk being avenues for looting public resources and those resources finding their way to our political ecosystem.

There is nothing wrong with harambees. At some point, many of us in this House have requested for appeals for funds from communities and friends when we have a sick relative or have lost beloved one. Many of us in this House went to school through fundraising because that is a common thing we do in our villages.

I do not think there is anything inherently wrong with harambees. I took time to listen to what we were being told at that particular time; you must establish a mechanism through which we keep track of people who make donations. You can also keep track of whether many of these appeals end up achieving the purpose for which they were sent out to do, in the first place.

The second and most important thing about them is the fact that Kenyans insisted that there is need to greatly demonetize our politics. That is to reduce the influence of money in our politics. *Harambees* have been used as platforms for political mobilization. Many times, people consider the biggest donor or that particular individual to be the most fit to be a leader. People did not like that we state and public officers participate or sometimes even organize fundraisers.

The thing they were telling us is that Sen. Faki instead of coming to fundraise for me at Shimo la Tewa, go to Parliament and legislate and make sure that the Universal Health Coverage (UHC) works, so that we are all able to access Government services in our public hospitals. We do not need to appeal for any fundraiser. We felt it was a fair request.

I do not know whether it is easy to achieve it the way people tell us. However, by our presence in the harambees, citizens feel that we need to provide, first, justification. They were curiously asking how come the biggest donors in the fundraisers are mostly the political class, either as political aspirants or we in office and other state officers, Chief Executive Officers (CEOs) and members of boards and parastatals. Could there be a link between these funds and the many funds that get lost as reported by the Auditor-General?

Yesterday Sen. Okiya Omtatah here talked about circumstantial evidence. You are in charge of goats and sheep. For example, they were 100, but later on, there are 90. They may ask, but you say that you do not know where 10 other goats have gone. However, they can tell the smell of goat meat coming from your mouth. What are they likely to conclude? What decision can they make with regard to that?

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There was a big conversation about how we regulate and provide an environment where harambees are not banned. There is a good measure of control. We went out and sought public opinion.

Mr. Speaker, Sir, somebody from the Secretariat spoke to me today. Curiously, you may want to take time to read through the memoranda that Kenyans sent. However, it may not reflect what was being said at that particular time.

What people were saying is that they do not want us in public fundraisers. Now there is a proposed law before Parliament. Many people were sharing clips about a certain politician carrying money, including the church and other things. This time round, when they sent their memoranda, they said something slightly different. Therefore, that is a question that we will need to answer another time.

We have a Bill before us where we are being told the process through which you can regulate, including even the ones that are done at the village level. We have provided in the Bill, which I will go clause by clause.

Reports will even be filed with our county assemblies, so that you can tell how many public fundraising appeals were issued in Garissa County in a particular financial year. Whether they achieved the purpose for which they were intended. Therefore, this is a good start.

The Bill has 40 Clauses. Like I mentioned, the principal object is to provide and establish a regulatory mechanism at both national and county level to oversee the conduct of fundraising appeals to provide for licensing and regulation of fundraisers, the promotion of transparency and accountability in the conduct of fundraising appeals and also regulate the conduct of state and public officers in participation of public fundraising appeals and the administration of this legislation.

This Bill has just begun its life in Parliament. The Senate is the first place where it is being considered. Kenyans have sent their views. I want to believe that now that this Bill has been formally moved, there is even bound to be more debate about it.

Mr. Speaker, Sir, at a church that I attended last Sunday, where Sen. Wambua is a well-respected elder, that is African Inland Church (AIC) Ziwani, the bishop who I suspect is an employer of Sen. Wambua, is a good gentleman who preached quite an interesting sermon.

The bishop spoke about excuses that people give for not giving. Some say that they are not sure how the funds are used by the administrators of a church. In concluding his sermon, he turned to me and said: "Senator, by the way I am aware there is a Bill before the Senate on the conduct of fundraising. I hope it will not be another reason for people not to give in churches."

I want to confirm to him and the country, like I did on that Sunday, as I move this Bill, that this is not an attempt to stop people from contributing in public fundraisers. There will be an opportunity for the region to contribute. However, more importantly, there will be an opportunity for non-state and public officers to continue fundraising.

We may perhaps not agree. I have been told the committee will propose ways in which you regulate. Maybe the word "licensing" is a bit strong. Maybe notification will be important, so that you file a particular report on how this exercise is done and conducted.

This Bill is replacing Chapter 106 of the Public Collections Act whose institutional architecture does not align with the devolved structures of the Kenyan Constitution and is not sufficiently robust to address corruption tendencies associated with public fundraising appeals.

Further, the Public Collections Act excludes from its purview charitable and religious purposes, yet this forms a large component of harambees. Being specific to the point that I made, nobody is stopping fundraisers.

They will be allowed. How they are conducted is the question at hand, especially the conduct of state and public officers like you and I. What is limit for participating in these fundraisers? It is not just us, but anybody aspiring to run for political office. The Bill is proposing that one cannot be allowed to do a fundraiser three years to an election. That applies to the rest of us too. If we pass this Bill as presently proposed, we will be barred from public collections of fundraisers or presiding over them.

There are Members who are worried that if we stop them from doing fundraisers, we are giving a new advantage to their political competitors. I have seen the Senator for Kwale County, my good friend, Sen. Boy, worried that he is a state officer and if we stop him, his opponents will---

We are not stopping *harambees*, but only stating that public and state officers' conduct needs to be checked. Nobody in the political space will bypass this law and survive its scrutiny so long as you are actively seeking for an election seat. Therefore, it is a level playing field.

I remember what we were told at a certain time and agree with it. That if you to reduce corruption and have a better nation, reduce the influence of money in our politics. You do not need billions, Sen. Kavindu, for you to stand a chance to be elected in Machakos County.

(Sen. Cherarkey spoke off record)

No, it does not mean that that is a case for everybody. Do not be too sure that what made them elect you in the last election is what they will consider in electing you in the coming election. It is good because you are hopeful. However, having more experience than you, I can tell you that every new election has new challenges.

Mr. Speaker, Sir, the original spirit of harambee was that individuals will voluntarily contribute their resources in form of cash, although labour and other materials were also welcomed towards the provision of common good. The harambee motto in the independent Kenya became more than a motto. It symbolised the Kenyan unity, patriotism and most importantly, the future.

I, therefore, propose to the House to take time to read through the Bill. If Members of this House and the public will tell us that we did not hear them correctly and want this practice to continue, we will do what they have asked us because we are humble servants of the people. However, this is part of the reaction to the request that was made to us at that time, which we must oblige and do.

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I will allow my colleague, the Senator for Mombasa County, Sen. Mohamed Mwinyihaji Faki, to continue expounding blow by blow on the other provisions of the Bill as he seconds. I needed to set the basis upon which this Bill is brought before the House so that we can make an informed decision.

Sen. Beatrice, Kenyans will not look at us and say that we promised them that we will do, but when things were hot in the country, we never tried. I would rather let it be known that the Senate of Kenya presented the opportunity and chose how to conduct that space, but Kenyans through their representatives, chose otherwise.

Mr. Speaker, Sir, with those very many remarks, I beg to move. I request the Senator for Mombasa County, Sen. Mwinyihaji, to second. I thank you.

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

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii kuunga mkono Mswada wa Uchangishaji Fedha wa 2024. Kwanza nampongeza Kiongozi wa Wengi kwa kuuleta Mswada huu katika Seneti.

Ikumbukwe kwamba hapo nyuma kabla ya mzozo tuliokuwa nao katikati ya mwaka huu, masuala ya harambee yalikuwa kama mashindano. Wenzetu walikuwa wanaenda kwa harambee na magunia ya fedha. Wananchi wanaambiwa wahesabu na wanahesabu mpaka inafika shilingi milioni 20 hadi ile hesabu inapotea.

Ukifanya utafiti wa tarakimu ambazo mchangishaji yule amewasilisha mapato yake ya kodi kwa Kenya Revenue Authority (KRA) mwisho wa mwaka, hana mapato ya shilini milioni 20. Hawezi kuonyesha kodi aliyolipa kutokana na mshahara wa kazi ama biashara iliyompatia hizo shilingi milioni 20.

Kwa hivyo, harambee zilikuwa zimefika kiwango ambacho wengi wanazitumia vibaya. Ilikuwa ni mambo ya mashindano. Hatukatai hayo kwani hata dini yetu ya kiislamu inakubali watu washindane katika mambo ya kheri. Lakini ilikuwa imefikia kiwango ambacho inakejeli hata wananchi waliochangishiwa pesa zile. Katika muktadha huo ndio Kiongozi wa Wengi amekuja na Mswada huu wa ili kurekebisha na kutia nguvu masuala ya uchangishaji pesa.

Bw. Spika, harambee zimesaidia nchi hii pakubwa kutoka wakati Hayati Mzee Jomo Kenyatta alipoanzisha mfumo huu wa maendeleo. Tumeona shule na hospitali zimejengwa na mambo mengi yamefanyika katika mfumo huu wa harambee.

Kwa hiyo Mswada huu haunuwii kua harambee, bali malengo yake ni kuleta usawa na uwazi katika masuala ya harambee. Pia kudhibiti mwenendo wa maafisa wa umma katika masuala ya harambee.

Mara nyingi tumeona watumishi wa umma kama sisi wakialikwa kama wageni wa heshima katika harambee fulani, basi watachangisha nusu--- Kuna mkutano wa Northern Frontier Province (NFP)---

(Loud consultations)

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda and Sen. Cherarkey, please let us allow Hon. Faki contribute and we hear him in silence.

Proceed, Sen. Faki.

Sen. Faki: Asante, Bw. Spika. Mswada huu unalenga kuleta mfumo wa harambee ambao utasaidia taifa na kaunti zetu katika masuala ya uchangishaji pesa kusaidia miradi mbalimbali ambayo wananchi wanachangisha pesa.

Pili, iwapo Mswada huu utakuwa sheria, basi sheria hii itaondoa ama repeal the Public Collections Act, Cap 106 ya sheria zetu za Kenya. Sheria hiyo hailingani na mfumo wa sasa wa ugatuzi katika nchi yetu.

Tukiangalia vipengele tofauti vya sheria hii, inaangalia pande zote mbili za Serikali. Kuna harambee za kitaifa ambazo lazima ziadikishwe kupitia kwa Waziri wa Serikali Kuu na kuna harambee za kaunti ambazo zitaandikishwa kupitia kwa county executive wa kaunti husika. Zote hizi zinatakiwa kuandikishwa katika sehemu zile.

Vilevile sheria hii inatoa fursa ya kutofautisha uchangishaji kwa umma na wa kibinafsi. Kwa mfano, nikiwa nataka kufanya harambee naweza kualika watu fulani pekee yake. Kwa mfano, naweza mualika, Sen. Cherarkey, Sen. Tabitha Mutinda na wengineo ambayo haitakuwa harambee ya wazi, yaani public fundraiser. Mswada huu unasema kwamba sio lazima kuandikisha hizi harambee za kibinafsi. Hii inamaanisha zitakuwa huru.

Sheria hii inatunyima nafasi ya kuhusika katika masuala ya harambee. Kwa hivyo, Wabunge na maafisa wa umma wengine watakuwa hawaruhusiwi kushiriki katika harambee.

Sen. Cheruiyot alipokuwa akiongoza Mswada huu alisema kuwa hata wale ambao wanania za kugombea viti miaka mitatu kabla ya uchaguzi hawatahusika na maswala yoyote ya harambee nchini. Vile vile, yule msimamizi wa harambee lazima atafute *permit* ili aweze kuendesha harambee.

Wengi wanasema kuwa harambee inaleta vikwazo. Lakini ipo haja kwa sababu tumeona kwamba wengine walichangisha pesa kwa madhumuni fulani na baadaye hawakuweza kutekeleza yale madhumuni waliotarajia. Vile vile, kuna harambee nyingi gushi. Pesa zikisha ingia zinatumiwa kwa mambo ambayo haya kukusudiwa katika harambee ile.

Bw. Spika, Mswada huu unatoa mwongozo kwa masuala ya harambee kwa undani zaidi. Ningeomba Maseneta wenzangu waweze kuisoma. La msingi ni kwamba hakuna harambee ambayo inapingwa na Mswada huu. Ule uwezo wa Wabunge na maafisa wa umma kuweza kuendesha harambee na kuenda kwenye harambee na mamilioni ya pesa ambazo hatujui zimepatikana vipi ndio inayopingwa kwenye Mswada huu.

Sheria hii pia inatoa nafasi kwa Waziri kutengeneza sheria endelevu yaani *delegated regulations*, ili ziweze kuhakikisha kwamba sheria hii inatumika kufanya kazi.

Naunga mkono Mswada huu na naomba maseneta wote waunge mkono.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, the Floor is now open for debate.

Sen. Cherarkey, proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. One of the critical issues that Gen Z raised during the protracted demonstrations across the country was the display of opulence by politicians. This was more dominant during public fundraisings and harambees. The spirit of Harambee, at the building of this nation – the senior youth representative, Sen. (Dr.) Oburu Odinga, who is older than all of us, should tell us – changed over time. We have done harambees in many things.

In sports, I see clubs like Abaluhya Football Club (AFC) Leopards Sports Club, Gor Mahia, and the rest of harambees. It comes to the attention of the House that the National Women Amputees team was stranded in Frankfurt, Germany, even after emerging position four. I do not know whether we need to fundraise for them. There are videos doing rounds on social media of the amputees team sleeping in bad places as they remain stranded. I hope something can be done. Nonetheless, of course, this shows the quality of performance of the person in charge there.

Regarding the issue of churches and religious organisations, as has been the case, I do not know what we should do to churches, mosques and other religious organisations. They do not have direct money from anywhere, either private or allocated from the budget. In the future, we might need to budget for the building of religious places.

Even if today you are to deny harambees to happen, how would the church or the religious organisations fund the building of churches, mosques or any religious places of worship? We need to be careful so that we do not overreach the issue of regulating financial rewards. Either the county governments can budget for the building of religious places of worship, or we can allocate from the national budget. In any case, 85 per cent of the national budget remains with the national Government, and 15 per cent goes to counties.

One of the common fundraisers is the issue of hospital bills. I know that every Senator, including yourself, is normally in *WhatsApp* groups trying to fundraise for somebody who is sick, even on compassionate grounds, including funeral expenses.

One of the biggest challenges for many Kenyans is the hospital bill. We hope the Social Health Authority (SHA) will resolve these issues. I hope that our contribution to the SHA and the transition from the National Hospital Insurance Fund (NHIF) to the SHA will allow Kenyans to access medical care without needing to call for harambees.

Every weekend, if it is not a harambee for funeral expenses and medical expenses, it is for education. If it is not for education, it is for building more places of worship.

On the issue of hospital bills, if we fix SHA and ensure that medical care is accessible to all Kenyans through Universal Health Coverage, I believe we shall reduce by 80 per cent contributions or harambees that are made in support of

hospital bills across the country. The problem is not even the hospital bill; it is the commercialised medical services in this country.

When you walk to a private facility or health centre, they cannot explain to you why they are charging, for example, the amount they are charging in their medical bills. In some instances, private medical facilities charge Kshs20 million in medical bills. When you ask them about the gloves and the syringes, they cannot quantify who gave them.

We should regulate private health facilities across the country because no one can explain the hospital bills they give. Moi Teaching and Referral Hospital (MTRH), Jaramogi Oginga Odinga Hospital, and Coast General Provisional Hospital have a way of providing waivers to the needy. This is different in the private facilities. You saw the Body by Design Clinic that led to the death of the late Lucy Wambui, may her soul rest in peace, who was buried the other day.

We were told that the facility was licensed to provide massage services, but you were told they were performing some surgery for beauty. This shows that there is a problem within the system. I hope that at the end of it all, we will address such issues.

One of the major issues is compassionate donations. Some of us have been around for a long time. I remember in the last session, the Coalition of Restoration of Democracy (CORD), when the teachers were on strike. They came up with a pay bill to fundraise for teachers then, although no one told us what happened to that money that was being raised. I hope that with the audit coming under this Bill, we will know when such cases happen.

I agree largely with the spirit of the Bill. However, I have reservations about fundraising. What I expected from this Bill was simplifying the process. If you want to do a Harambee, you get a permit.

Nonetheless, introducing a Cabinet Secretary, audits and taxation is unnecessary. It is lethargy of the entire process, clogging it. We should make the issue of doing a harambee in this country simple, where you need a permit to do a harambee by giving a substantive reason. If it is a medical reason, let it be known. If it is about building a religious place or on compassionate grounds, let it be known.

Cabinet Secretaries of this Republic have better things to do than regulate harambees. I would have expected that we would give a law that we give even through a law that provides for clear guidelines.

Mr. Temporary Speaker, Sir, on the issue of appeals, there is public fundraising Bill. You remember when there was a ravaging drought and issues of hunger in the country, there was the Kenyans for Kenya initiative which was used to fundraise. I agree with such. However, we should conduct audit on public fundraising appeals.

I do not know whether Morara Kebaso, the proponent of 'inject,' who is fundraising for fuel and walking around with security to audit, is part of public fundraising appeals. I do not know whether fundraising to fuel your car to do something is part of the public fundraising. I agree that there must be standards

for such. Does public fundraising also involve fundraising for campaigns? I have not seen it in this Bill.

We do have campaign finance laws in this country. We should, therefore, just regulate public fundraising appeals, so that we do not create bureaucracy. Imagine a small village somewhere in Nandi County which has lost someone and have a target of Kshs250,000 to enable them bury that person. Why create a bureaucracy for them? Why do they have to look for a chief, County Executive Committee Member (CECM) or a Cabinet Secretary to get an approval to fundraise for such an amount?

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

[The Temporary Speaker (Sen. Abdul Haji) in the Chair]

Why do we not bring a standardised permit that will be used when someone wants to conduct a fundraiser? They should start with the lowest person there, who is *mzee wa mtaa*, then get approval from the local chief. How many people in that small village in Machakos County know of the CECM, *waziri* or the sub-county administrator? It is unfortunate that we want to introduce something like that.

I do not see anything on receiving, vetting and processing of applications. Let me walk to the chief's office and get a permit to conduct a harambee. I should fill it and allow the chief to look at it, then proceed to hold the harambee. However, vetting and approval can be done for public fundraising appeals like the one for food. I do not see any need of doing the same for private ones. Auditing and investigation of misuse of funds are issues that can be done on public *harambees*.

Establishment of endowment funds is also important. It can be done on establishments such as the Dr. Hassanally Rattansi and other endowment funds.

The role of a Cabinet Secretary and CECM is highlighted together with inspections of records. There are many other better things that a CECM and a Cabinet Secretary can do other than regulating harambees. Let us be fair to this country. Let us prepare laws that are fair to Kenyans. No one is denying that harambees are good. Some of us are products of harambees. Maybe, I would not have been a Senator if I did not get support from the harambee which helped me get through my schooling. I am sure the same applies to a number of Members in this House. Let us not lose the real and noble intentions of harambee.

It is true that individuals have hijacked harambees to launder their money. We have seen cases where people have contributed Kshs5 million or Kshs10 million in cash, yet their salaries are known. How can somebody earning Kshs500,000, which after tax comes to around Kshs300,000, contribute Kshs5 million in a harambee and they also have a loan through mortgage facility? We know their salary, the number of cows they have and what they do.

I agree that there are cases where harambees have been used to launder public money, but we should not kill the spirit of harambee. Harambees enabled

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those of us who grew up in the village to go to school, build cattle dips and have good places of worship at the end of the day. Let us not lose that good intention.

I will comment on the issue of solicitating members for public or private benefit. I know people who do fundraising for their own selfish benefit and we must root out such individuals. If you conduct a harambee, it should be for something good. We do not want Kenyans to conduct a harambee in order for them to buy a vehicle, build a house or buy a good suit. We agree that harambees are important because they assist in alleviating economic burdens.

The other thing is regulation of harambees. I have insisted that we should know the target. In fact, I will be proposing in the Committee of the Whole that if the target of a harambee is beyond Kshs1 million, then a permit should be issued, but if it is below Kshs1 million, then you can just notify the local administrator such as the chief or *mzee wa mtaa*. This, as it is now, would require a small village somewhere in Siaya County to get a permit to raise Kshs100,000 or Kshs150,000.

I know funeral expenses are expensive because it is quite an elaborate process in Luo-Nyanza. However, why would people who are fundraising for Kshs250,000 require a permit? The permit should be left to those people who want to collect Kshs1 million and above. Let us leave the process of approval within the NGAO administration or the CECM.

Next is the lifestyle audit. The people who use these fundraisers to launder public money should be audited. If lifestyle audit is done, then we do not need this law. We should conduct this audit on individuals who are suspects. I am rushing through so that my colleagues can also get a chance.

Next is Clause 11. Yesterday, the Members of Nandi County Assembly disagreed when the *ad hoc* report was being tabled. The report tried to redeem the county from bad governance of Governor Sang. People are stealing in order to give funds in public. People are stealing county money to go and conduct big fundraisers.

In fact, my governor contributes Kshs1,000,000 or Kshs500,000 in public harambees, yet we know how much his salary is. That is how corruption thrives in Nandi County. I thank the great people of Nandi County for coming out in large numbers yesterday and staying up to midnight to defend and protect their rights.

I want to tell the church and the religious organizations that *sadaka haijaguzwa*. I heard a Senator say that a pastor was preaching about public fundraisers when he went to church. Pastor Ng'ang'a and the rest of the preachers might blame the Senate, but I want to assure the church and religious organizations that *sadaka* and tithes have not been touched. It will not form part of public fundraisers. *Sadaka*, tithes, donation to the church and joining membership fee of free organizations shall not be touched.

Mr. Temporary Speaker, Sir, lotteries or raffles like *Sport Pesa* and the rest have also not been touched. I met my religious leaders and we argued on whether these things have been touched or not, but the law has exempted such.

I will move to Clause 13 because my time is almost up. I do not agree that we ban public officers or elected officials from conducting a harambee. I am

proposing that we make it six months and not three years to elections. In case of a by-election, let us agree it is one month before a by-election. If we make it three years, then all of us will be disqualified from participating in 2027. Let us make it six months to the general election. We should ban public officials and elected Members of Parliament (MP) from conducting a fundraiser. The fine should also be reduced from Kshs5 million to Kshs500,000.

Mr. Temporary Speaker, Sir, on the issue of submission of permits, I do not see the need of a cabinet secretary. They are too busy to regulate harambees. Let us ensure that they are not part of this. How will they do that if they cannot even come here to answer our questions? What are you telling us? Will they be able to approve permits of Kshs250,000 in my village, Mosoriot? Let us be honest.

What is a cabinet secretary doing issuing a permit when they cannot even do their job right? They should be left to do other more important things. Let us avoid this. The cabinet secretary and the CECM should keep off the harambees. Let the Government keep off. We should let the people self-regulate. The law should regulate harambees so that they are not used at the expense of others.

The Cabinet secretaries are too busy. We have given them more responsibility than regulating harambees of Kshs250,000 conducted somewhere in Mosoriot, Chemumbe Village, Kaptel, Chemamul or Setek in Tinderet.

Mr. Temporary Speaker, Sir, I totally disagree with auditing of harambees, especially the private ones. If I have raised Kshs250,000 to do a funeral expense, why would you do an audit on it? In fact, you will be using more money sending Kenya Revenue Authority (KRA) officers to come and audit Kshs250,000 that are meant for funeral expenses or to send a child to school. What is this? The KRA has more important things than auditing fundraisers.

Mr. Temporary Speaker, Sir, let us give the standard on the issue of taxation and the KRA involvement in auditing. Let us say, if you raise, especially public fundraising, like the Safaricom Kenyans for Kenyans--- I have never understood why, when your Safaricom data expires, they take it away. In my opinion that is corruption.

Mr. Temporary Speaker, Sir, when we have raised Kshs100 million, for example, let KRA and others audit. However, you do not need to burden KRA with little amounts of money. We have better things to do in the country.

Mr. Temporary Speaker, Sir, I will only support this law if it is only to give a regulatory framework on how to conduct an harambee in a simplified version.

Let us not create bureaucracy in terms of conducting harambees. Let us allow the church and public places to do the harambees. Let us allow Kenyans who have economic burden to do private harambees for medical and compassionate expenses. Let us allow Kenyans to do harambees to send their children to universities.

I agree there is a progressive university funding model, but it will not touch every Kenyan. There are many young men and women who are in school

today courtesy of harambees. I am a product of harambee. We need to rethink about this law. I will ask my brother, Sen. Cheruiyot, to rethink about this law.

We might even request him to withdraw first, so that we come up with a simplified version of conducting harambees. We should not say we are doing this because the Gen Zs were protesting. There are known leaders.

If you see a leader giving out Kshs20 million or Kshs55 million in an harambee, the best you can do is to send the Ethics and Anti-Corruption Commission (EACC) to do lifestyle audits, but you cannot ban the harambees. If you see Cherarkey giving Kshs20 million in a harambee, and you know he does not have that money, just send the EACC and the KRA to do lifestyle. That is how we will resolve this issue.

Mr. Temporary Speaker, Sir, please, allow me one more second; I think the spirit of the Lord has just got in. I reject the Public Fundraising Appeal Bill, 2024, until we amend it to fit Kenyans, so that they can comfortably do fundraising without interference from the Government or anybody.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Beatrice Ogola, please, proceed.

Sen. Ogola: Mr. Temporary Speaker, Sir, the harambee, or public appeal, as it is referred to, is a voluntary exercise. There is a saying which says that when you want to kill a dog, you give it a bad name. A few of us have abused this noble activity that has helped this nation come up with very credible institutions.

The *harambee* spirit is a spirit of our forefathers. When we were growing up, there were even schools that were referred to as harambee schools. This is because people came together, collected the little that each one of them had, and were able to put up schools that notable personalities in this country went through, and today they are credible people wherever they are.

I was amazed when the Mover of this Bill referred to an issue of seeking public opinion. Why would we seek public opinion when we know what harambees have done in this country? It is only a few of us that have abused this noble initiative called harambee. Harambee is giving what you have.

You have one because of a problem that is either in a family or in a community. Sometimes, we are able to contribute in the spirit of giving to build churches. As much as we do, the National Government Constituencies Development Fund (NG-CDF) was initiated in the country and there are specific things that it contributes to. It is only limited to the development of schools and institutions. With the coming of devolution, we now have two levels of government that control development, the national government and the county government. However, there is a missing link. There are limits to which they can do to satisfy our people.

Mr. Temporary Speaker, Sir, as I stand here, in Ndhiwa Constituency, in a ward called Kanyidoto Ward, we lost a third-year student from Moi University, who drowned in a river somewhere in Keses; a river, I am not sure, called Sosiani River. There were two students who drowned. The student that came from the Ndhiwa Constituency, Chris Otieno, was a third-year student, and I share in that

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bereavement and feel with the family. The father of this young boy is called Kasera, equally just a young man.

If you reflect about that family and see the pathetic situation in that home, there would be no way in which the family of Chris would transport the body from Eldoret to Ndhiwa and bury, if members of the community and families around it and a few of us leaders did not come together to support that family. These are the noble areas in which harambees have helped.

Mr. Temporary Speaker, Sir, I know a number of leaders here are involved in support of funerals, either formally or informally. Currently, people form *WhatsApp* groups. Some of us are not able to be in all those *WhatsApp* groups because it would not be easy to manage.

However, we still find a way of supporting these bereaved families. Some of them are people who have died after being terminally ill for so many years. A number of them are cancer patients here in Nairobi, liver problems, and all the medical problems that we have. So, by the time somebody loses their life, the family already is financially down. Therefore, this is an initiative that has supported families.

The support has not only been limited to funerals. There are even medical appeals. If we look at our phones, we will find every other person is involved in some medical appeal, if not three, four, five; some even more than that.

Mr. Temporary Speaker, Sir, what options do we have? These families are needy. People have said that they went to school through this harambee. Harambee is not necessarily going somewhere to physically give money. Harambee is about voluntary support. A number of people even pay school fee for university students.

Right where I was seated this afternoon, I have just been supporting a university student at the University of Nairobi, who has not had a hostel since the beginning of the semester. They are not able to pay for accommodation, food and fees. That is also a form of giving.

Mr. Temporary Speaker, Sir, therefore, we cannot ban the spirit of harambee that has supported our people in different ways. I say this because we cannot create a problem as leaders and then find ways to solve it.

How did we come to this conversation? We had leaders, some of them favoured, a number of them political, who abused this process. Just last year, we saw a number of us flying in choppers with bags of money; some of them carrying money in sacks and bags.

Mr. Temporary Speaker, Sir, I remember one video of a leader who was even dancing with money, saying Kshs1 million, Kshs2 million, Kshs3 million, Kshs10 million, I do not know up to which level. That is how we came to the conversation that we have here.

However, the most desperate situation that they created for us is that they were flying money on the face of hungry and angry Kenyans. You could see leaders dangling money and the crowds they were dangling money to. The crowds comprised of parents who are not even able to pay school fees; who were hungry and had not fed their children. They were both hungry and angry.

We saw the angry unemployed Kenyans. You can feel with the Kenyans the discomfort of having to see money flying in your face. People were arriving with money in choppers. At that time, children are at home because one has not paid fees and has not fed them. There are also youths who finished university five, six or ten years ago and have no jobs. That is how we came into the situation we are in.

Mr. Temporary Speaker, Sir, I have told you that the National Government Constituencies Development Fund (NG-CDF), came to support schools. However, there are certain entities that have no support. For example, the churches that we have around.

We are from recess. Over recess, I attended a number of churches. One of them was a church called Nyabera Roho Israel in North Kabuoch Ward in Ndhiwa Constituency. If I gave you the picture of that church, I do not know how else they would develop that church if people do not come together to support them.

The issue of harambee is voluntary, but let us look at the harambees *vis-a-vis* Chapter 6 of the Constitution. Chapter 6 of the Constitution talks about leadership and integrity. Already, there is a mention of honesty, accountability and discipline. Carrying monies in bags does not arise if one is honest.

If we were honest with ourselves, we would not need regulations to manage harambees. We cannot ban harambee as we need them to support the less fortunate.

When we mention the issue of auditing, when people have given freely and for a purpose, there is a reason they are coming together to contribute willingly as there is a mission they want to accomplish. Why would we bring in the issue of audit? Also, in our sectors, we have not achieved so much by audit, because a number of misgivings are seen in the way our finances are handled.

I support the fact that the harambee system needs to be carried as the tradition was carried forward by our forefathers in the spirit of giving what you have. It is about willingness. It is not about chest thumping and a show of power, but about solving a need that arises.

I want to say no to the idea that we can stop harambees. How would we bring in the idea of clearance for our people to hold harambees? By introducing activities such as clearance, we would be creating gods in our communities. You would be giving a chief or a Cabinet Secretary or a County Executive Committee Member (CECM) work, yet they already have work cut out for them, which they are not able to accomplish.

Yesterday, the Senate was sitting here and the Cabinet Secretaries were not able to come here to answer to our questions. How do we again get them involved in voluntary activities as harambees?

When you bring in the aspect of clearance that you have to line up to achieve or to whoever you want to propose, we regress back to the Kenya African National Union (KANU) days, where people just created rules and executed them.

We do not want to create gods for our people who are already disadvantaged. If you have a funeral, allow people to collect money with the people who believe in the problem that they have and let them support them.

If you want to put regulations and give somebody power to give a clearance, we will be creating mini gods who will decide when you will have a problem or need to solve this problem.

Mr. Temporary Speaker, Sir, there is a practise where leaders have to get clearance from elsewhere to hold certain public functions. We have had very embarrassing situations, where the person who hold the power to make clearance decide who holds a function and who does not hold.

I want to say that giving is in the heart; it is not how much you give. Let us allow our people the space to give. Let us not call a dog a bad name in order to kill it. Let us not kill the spirit of harambee, but go by the Chapter Six that talks about leadership and integrity. By observing that chapter, we will have done a lot of good to the harambee process.

We must also caution leaders who, once they are in position, power gets into their head. I do not have any reason anybody would fly in choppers with bags of money and provoke Kenyans. Specifically, that is what even fanned more of the Gen Z problem, because we had young people with no jobs and they were seeing people flying in this country with money.

I support the harambee spirit as was initiated by our forefathers because that is how a number of people have been supported in education. That is a way in which a number of churches and schools were put together. That is how some of the school buses that we see around were bought.

Hon. Members have given donations and deposits, but the parents in the school and the surrounding communities are always supported by the harambee spirit.

As I end my speech, let us not abuse harambee, but enrich it. Let us encourage that people are able to contribute the little they have that it is voluntary. Giving is in the heart, not how much one gives.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Temporary Speaker, Sir. Allow me to start by engaging the House. When you hear any one saying, “haraaaaambee”, what is the first thing that you answer or think of? Of course, Nyayo. Let us not lie to ourselves because we can speak, but this spirit of harambee was even a political declaration.

‘Harambee’ means let us pull together our resources; let us come together and follow the footsteps of an individual. That is what we are referring to as forefathers. Nevertheless, I want to pose a question. This ‘harambee Nyayo’ came in the 1900s when I was not yet born. Perhaps Sen (Dr.) Ombui may guide us on when harambee was born and we said ‘Nyayo,’ meaning ‘to follow the footsteps.’

Mr. Temporary Speaker, Sir, the reason why I start there is so that we can stop lying to ourselves that Harambee--

The Temporary Speaker (Sen. Abdul Haji): Gloria, do you want to be informed by Sen. (Dr.) Ombui?

Sen. Orwoba: Yes. You know, he is our youth representative and he was alive during that time.

Sen. (Dr.) Oburu: Mr. Temporary Speaker, Sir, I want to inform my sister that this spirit of harambee started just when our Independence was at the corner. There was an old man in Kisumu called Mulu Harambee and he used to call harambee for people to come and pull a rope together. There is a book written by Owino Obundo about the harambee spirit. So, Mzee Kenyatta picked it after he was released from detention and he started executing the spirit of harambee - that we pulled together to push out the colonial yoke from our country. So, that is when it started, in early 1960s.

The Temporary Speaker (Sen. Abdul Haji): Sen. Gloria.

Sen. Orwoba: Thank you, my youth representative. I like that he has said it was started by an individual gentleman and then it was mainstreamed by a politician for political purposes, and that is my point exactly. That we can say that it is a spirit of giving, but the bottom line is that, when the 'Nyayo' was put in there, it was a spirit of, 'let us come together and let us follow this individual, who is now running on something called *Nyayo*.'

The reason I was asking for the timelines is because I would like to ask my colleagues as we debate this Bill whether during that time did we had devolved functions. Did we have structures where we can support our social systems? Did we even have things that we are now calling finance bills? Were our taxes as heavy as they are today?

This is because, the spirit of harambee can be justified and cleaned up to make it look like such a beautiful thing that we must all support, but in real essence, the spirit of harambee in 2024, is a spirit of dependency. It is a spirit of saying we are agreeing that our broken systems in healthcare, social services, education system, as well as in housing, is what we are promoting. Then we can now all come together and say 'harambee' again and go back to our pockets, so that we can give money to people.

Mr. Temporary Speaker, Sir, it was fancy during the time when I am sure our youth representative was a teenager. It was probably encouraged because at that time we were living in communities of social welfare and people were taking care of each other, and it was something to look up to. However, today in 2024, when each individual is being encouraged to take up an income-generating activity so that they can pay taxes, why then would we promote a spirit of dependency?

With that opening speech, I support this Bill because it forces us, leaders, to stop encouraging the spirit of dependency. When I talk about the spirit of dependency, it is not just leaders who go to harambees to give money for funerals, for health reasons and all other things. In my social circles, every opportunity, we talk about weddings or talking about how we are going to visit so-and-so the next weekend in whoever's house, the first thing they do is open a pay bill or a till number, or they give the number collecting money.

Mr. Temporary Speaker, Sir, why? We are encouraging a spirit of dependency in this country. That is the reason I feel that some of the structures we

have in place should be pushed and make sure that we have efficiency in those structures. We have become side-tracked with the fact that if someone in your family dies, it is okay to set up a *WhatsApp* group to collect money.

We have insurance companies and we have our social security fund, which we should question and bring Bills to this House and ask why this social security fund does not cater for funerals; or if it caters for funerals, why not make it efficient that no one should say they are collecting money for a funeral? Then the first question that Kenyans should ask is why are you collecting money for funerals and yet funerals are catered for under this social security fund?

Mr. Temporary Speaker, Sir, I will say again that every single time you hear of this word 'harambee' and I challenge any Member of this House because I know I am one of the youngest, even though we have younger ones, but we all remember that harambee was 'Nyayo' - follow an individual. If you look at that time of that individual, we were 100 per cent dependent on a centralized system that was governed by one man, and that was our former President.

This being a House that supports devolution, we should be ashamed of ourselves to come to the Floor of the House and say that, in the spirit of harambee, churches should be built, and it should not be set aside. We should be ashamed. We should support this Bill because as the 'Upper' House that protects devolution and ensures that we give monies to those devolved functions on the county level, we are pushing for accountability.

This is to the extent that the healthcare works, the housing schemes work and the education sector works, so that we do not have any reason to come here and defend any form of law legislation that calls for us to go back to the 1960s that Sen. (Dr.) Oburu was telling me about. We have no business looking back or to go back and emulate what our forefathers were doing when there was no devolution or technology, and yet, we are advanced.

Mr. Temporary Speaker, Sir, I support this Bill. I can tell you that some of us as much as we are in politics, we probably do not fit in this political space. I have analyzed all the politicians in this House and if there is one thing politicians are afraid of, is that every Thursday like today - and you can see that people are moving in and out of the House. They are looking for money because tomorrow they will be at funerals and they have to go and contribute.

Then on Saturday, they have to be on the ground because they have to go and give money to social groups. They are in and out of this House and they are distracted. They cannot even contribute to this Bill because when it strikes Thursday, politicians become stressed. They have to go back to the grassroots and for harambees. They know they have all these community groups waiting for them in the grassroots and they ask, Senator, *umeleta ngapi?*

In that essence, what are we doing when we say that our 2010 Constitution which pushed for devolution of services and we do not support this Bill because we want us to continue contributing? If not for nothing and as a legislator who has sat in this House for two years, we must continue to push for services to be delivered 100 per cent efficiently by the government, so that we can stop the spirit of dependency, which we hide behind by saying that harambee is our forefathers.

No, it is a spirit of dependency that we need to put aside and we need to question ourselves as Africans.

Mr. Temporary Speaker, Sir, I know there are those who say that---

(Sen. Gataya Mo Fire spoke off record)

If you can protect me from Sen. Mo Fire.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mo Fire, what is your point of order?

Sen. Gataya Mo Fire: Mr. Temporary Speaker, Sir, for the record, that should be struck off the record of the HANSARD. I am not looking for any money. I am consulting so that I can contribute towards the Bill.

The Temporary Speaker (Sen. Abdul Haji): Very well.

Sen. Gloria.

Sen. Orwoba: I apologize, Mo Fire and withdraw. I will go to the Memorandum of Objectives and Reasons on paragraphs 1, 2, 3 and 4, so that we can remind ourselves as to why this piece of legislation was here. It is on page 726. That is how it is paginated on top.

It clearly states that the Bill is also based on the need to reduce the culture of dependency that harambees have imbued in the society, extending even essentially private affairs to the larger public.

If you read further down, it says that its passage will promote the use of devolved structures as entities for promoting structured social development by ensuring that the conduct of the public appeals is approved by assessing their links to the needs and priorities of the counties. You know one thing we have in this country, and not only this country, I think many Africans, maybe it is our culture, I do not know, someone must do research. We like to glorify poverty.

I can tell you most people, their inboxes and their phones, it starts with, 'Hi, *Mheshimiwa*. I am a single mother, my background is I was raised in the slums,' blah, and blah, blah. Yes, there is a majority. However, we glorify poverty to the extent that it is not fancy if you are making it in life.

It is not a good thing if you are independent. So, the fact that we have literally mainstreamed glorifying poverty, it is like there has to be a story of poverty in your life and then we will look at you and say, okay, now you are a leader. The fact that we have glorified poverty has further pushed that bad culture of dependency.

When every single time you talk to someone and say, but do you not think if this particular service was made efficient, 'ah, but you know, some of us, we cannot.' They will always find a reason. I will give you an example. Recently I went to Mama Lucy Hospital, again, on a charitable initiative. When I say charitable, again it is 'harambee - *Nyayo!*'

I also wanted to understand what was happening in Mama Lucy because we have had a lot of complaints. So, I went around, looked at the wards, I could see definitely we have an issue with infrastructure. I had baby blankets to give out to the newborns. At least on three separate occasions when I was engaging the

mothers to the beneficiaries of those blankets. One of them said, “you have brought blankets and sanitary pads. However, I have not gotten diapers.”

I had to say, okay. Diapers were taken to the wing where we had about 17 abandoned babies. On another occasion, you give this and that, and they say, ‘but you have not brought A, B, C, D.’ On several occasions, someone said, ‘yes, but you could have given us also Kshs2,500, at least Kshs3,000, give us something.’

I asked, ‘do you have a pending bill, is it that you have to pay, is Linda Mama not working?’ They said, “no, that service is free, but since you are giving, and I mean, you have come with a blanket, and you have come with this; you might as well also give money.” You therefore understand how that culture is born. It is not like, ‘thank you so much for this.’ It is like, ‘give me more and give me more.’ I want to say, this Bill is not about politicians who are misbehaving, but every single Kenyan who is misbehaving.

I have told you, Mr. Temporary Speaker, Sir, politicians misbehave by ensuring that they are the ones who are contributing the most to show off. Not only do they misbehave on that nature, but it also pushes on corrupt activities, so that they can fuel all their weekend harambees. We have seen individuals in households misbehaving. I have told you, we are going to visit a neighbour, they open a *WhatsApp* group to collect.

People have killed their parents who are still alive, just so they can run harambees. People have actually run harambees stating that their children are sick, yet their children are not sick, just so they can run harambees and benefit. It is a whole industry.

Out of that bad behaviour and bad culture of Kenyans, from leadership to the bottom, I want to fully support this Bill. It is time that we tell each other the truth. The truth is, as I conclude, Harambee - Nyayo, the spirit of dependency that is where this came from.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Senator Agnes Kavindu.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity. I want to start by saying that I do not support this Bill. The reasons I will not even support it is because, from our forefathers, this nation was built through harambee. There are three very important harambees that people conduct in this country.

One is fundraising for school fees. Even now, after the National Government Constituencies Development Fund (NG- CDF) is in place, it cannot provide school fees or bursaries for each and every child, especially those who are coming from very poor backgrounds. That is a harambee that I will always go and give. That is why I have to say no to this Bill. Unless the government makes education free from Early Childhood Development Education (ECDE) to university, then I can say ‘yes’ to such a Bill as long as school fees is being paid. Students are already complaining about the model of educating the students in universities. Some of them cannot even afford to pay for the hostels because the fees are very high.

They are not getting the help that they were getting before. They cannot even afford money to pay for accommodation. So, they are going to college and loitering around during daytime and going to look for abandoned places to go and sleep because they cannot afford.

I can never vote for this Bill to continue because what are we telling those students who cannot afford school fees right now? They have no food to eat, they have nowhere to sleep, yet we are sleeping comfortably and here we are making laws to continue oppressing them?

The second reason I cannot vote 'yes' for this Bill to outlaw fundraising is that most of the patients have hospital bills and cannot afford. We have seen them actually being made prisoners in hospitals, even government hospitals. I cannot tell you how many times I have walked into Machakos hospitals, Level 4, Level 5 and Level 3, and found patients being detained for lack of payments of their bills.

Some of them, even if they are detained in that hospital, for a whole year they can never pay. The hospital, maybe the governors also have bills to put up, so they retain them. Unless medical healthcare has been made free in this country, I can never vote 'yes' for such a Bill because I know there are people who are really suffering.

Some even die and they cannot even take their dead people to go and bury because they have bills in hospitals, not only in government hospitals, even also in private hospitals. This is a Bill we cannot be talking about right now. Kenya is not yet there. We hope to be there, but we are not yet there.

The third reason that will make me not vote 'yes' for this Bill is how we are dealing with the hospital. Social Health Insurance Fund (SHIF) is not working completely. The other day I was called by one of my coordinators, telling me that she was admitted in hospital and she has been discharged. When they entered the SHIF number, SHA reported back to them that she has to remain in the hospital for the next five days for her to be discharged, yet, she is not on any treatment.

I had to call and ask the National Hospital Insurance Fund (NHIF) officers why somebody was being detained in the hospital after they had been discharged. That is when she was released.

The Social Health Authority (SHA) is not working. Therefore, this is a wrong time to bring such a Bill. If there is any Bill that we should be discussing here now, it should be on how to regulate SHA to make it work and function properly. Even private hospitals are not accepting anybody with these cards, unless they make a cash deposit.

We have a big problem in this country. If there is anything we should be discussing here this afternoon is how to solve those problems. First of all, make education free from Early Childhood Development Education (ECDE) to university. Secondly, make healthcare free, especially in Government hospitals. Thirdly, churches and mosques have no money to build their infrastructure. Well-wishers build mosques.

Mr. Temporary Speaker, Sir, you are a Muslim. You know well that there is no imam who can build a mosque. They have to depend on well-wishers to

build mosques for them. Pastors as well depend on their congregations and well-wishers to build churches.

Let me detach myself completely from this. The Bible tells me that you can never touch the apple of the eye of God. If we touch the church, we will be fighting with God. I am sure there is no one particular man or kingdom that can fight with God.

Since we build churches through fundraising, I will say no to this Bill, unless we allocate funds for churches to do their developments. If the Government allocates funds for churches, then we can talk about such a Bill, but not at this time.

Fundraising in this country should not be stopped. If there are people who misuse the idea of fundraising to go and clean or give out a lot of money, why can the Ethics and Anti-Corruption Commission (EACC) not follow them to know where they are getting it from? We also have the Kenya Revenue Authority (KRA). They should establish whether those people pay taxes. Why punish people who should gain from harambees or fundraisers instead of people who take such money to churches and people who need it?

We have seen people giving out money, like Kshs20 million, during a church harambee. They do not just do that to one or two but different churches in one day, and they give huge amounts of money. Such people should be followed by the EACC, so that they say where they are getting that kind of money from. We know their salaries and capabilities, but where are they getting the money?

If there is any Bill that we should be discussing today, it should be about how to end corruption in this country, but not how to end harambees.

Mr. Temporary Speaker, Sir, I oppose this Bill.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Oburu, you have the Floor.

Sen. (Dr.) Oburu: Mr. Temporary Speaker, Sir, I stand to support this Bill not for anything else. The spirit of harambee was noble. The idea of harambee came up as a result of a long struggle of our people to gain Independence.

During those days, the colonial authorities tried as much as possible to divide our people and segment them into regions and tribes, so that they could continue exploiting them. Some people foresaw this and thought of a spirit that could unite our people in the struggle for Independence.

There was a clarion call. It was started by an old man who used to shout very loudly in political rallies in Kisumu. He was called Omollo Ong'iro. He used to say: "*Harambee! Harambee! Tuvute pamoja! Tuvute pamoja!*" That is when the late Mzee Kenyatta saw him when he went to a rally in Kisumu. He liked the spirit and made it political.

When we became independent, you can see this House - the first building that was put up by the Government was called Harambee House. That street is now called Harambee Avenue. That was a good spirit that came from a noble idea.

At Independence, people spoke of three enemies of the people of Kenya. They were poverty, illiteracy and disease. The Independent Government endeavoured to eliminate these enemies in the spirit of harambee because poverty levels in our country were very high.

Over the period, more than 60 or 70 years now, we have not been able to deal with these enemies of our people effectively. Poverty, disease, and illiteracy still persist because we still have problems even in our education sector. That is the reason people are passionate about harambees. We are defending harambees because successive governments have been unable to eliminate, eradicate or reduce substantially these enemies of our people. These are disease, illiteracy, and poverty.

If you are a representative of people and go home over the weekend, people come to see you because they have medical problems or are unable to pay school fees for their children. Some of them cannot even provide food for their families. That is a big shame to our country!

Mr. Temporary Speaker, Sir, our people remain poor, but a few people have managed to become wealthy such that they can even expose it everywhere. They throw money everywhere and fly in choppers because we are not strictly implementing our laws.

I like this Constitution of 2010 because it protects the rights of people. Those rights cannot be fulfilled if we are not serious about managing our resources properly. There are rights in our Constitution such as; the right to education, the right to life, the right to decent living and decent housing and so on and so forth.

We have Chapter Six of the Constitution which deals with leadership and integrity because corruption is normally done by the leadership of the country. The leadership of the country is the one that exposes excessive opulence in public. Therefore, public anger grows slowly until it reaches a point of explosion. That is what you people saw when we had the Gen Z protests.

The reason I support this Bill is because the way harambees have been managed is not right. Harambees have even been harmful to our people.

It is not right even for our own people. These harambees have been harmful to our people. When I was a Member of Parliament (MP) and managing the National Government Constituency Development Fund (NG-CDF), I went to schools and asked the principals of the schools what they would prefer between NG-CDF and harambees? Any principal will tell you that they prefer harambees because the money is not audited. It is loose money which he can use for any purpose he likes. Without regulating it, our people will continue to see big monies being raised in those institutions, and yet the result on the ground is almost zero.

I can give you an example of an instance when I went to my old school where I schooled. I went there to do a harambee to build for them a dormitory. I found the students congested in the dormitories and I wanted to build a dormitory for them. I called my friends, including Governor Orendo and many others and

we flew there. Some of them came in choppers; the ones we are talking about. We raised millions of moneys and deposited there.

We thought we would continue to be raise money until we complete the project. Two years later, I was told there is nothing on the ground. When I asked about it, I was told that the principal of the school who was there when I was raising money had already retired and, therefore, there was nobody to account for the money.

I also had an occasion where we raised money through NG-CDF for a project of an ablution block. I went with officers from the Education Office, the County Council and from my office. The teacher was so embarrassed to see us. He was showing us the same project that a harambee had been done, where NG-CDF had paid money and the national Government had paid money through the Ministry of Education. It was very unfortunate because I carried all these officers with me.

When we were there, the education officer was asking Mwalimu that he thought that was done by their money. The county council officer was also saying that it was done by money from Local Authorities Transfer Fund (LATF). I was also saying that it was done by a harambee and NG-CDF.

There is so much corruption, particularly on harambees. The harambees need to be regulated and audited, including public institutions. We do not have to throw money there because it is good for our people. It is not helping our people. It is very easy to mismanage that kind of money without regulation. That is why I support this.

Mr. Temporary Speaker, Sir, there is another aspect why we need to regulate these harambees. Some public officer who are supposed to offer free service to the people use harambees to get money from the public. For example, when you go to a chief for a burial permit for your dead and your bereaved, they are supposed to give you the permit for free. However, you will find that he has a harambee book for his home church and when you give him your case for either a land case or a dispute, he produces that and says, “Mheshimiwa, I also have a small harambee for my church. Can you please give me something small for this harambee?” You will not give voluntarily, but because you need him to give you the service, which he is supposed to be giving free. Therefore, public officers including us, must be regulated.

I support the spirit that public officers should not be allowed to be guests of honour in harambees. They should go to harambees and contribute their own money. They should not go to harambees and say, “that is contribution from my friends and I.” Who are your friends? We do not know how you got those friends. Why not ask your friends to also contribute directly to those harambee? Why are you coming there to say, “My friends and I?”

Mr. Temporary Speaker, Sir, I do not like this idea that elected leaders are the source of money. That they are the ones with money and whenever you go to pray in a church, a small harambee will be created for you. Public officers should be banned from being guests of honour in harambees, but they can participate in harambees. Harambees should not be banned, but regulated. When public officers

are made the guests of honour, they come with huge sacks of money that they have been given by their friends. Let them come to harambees and contribute their own money. This is something practical.

When I was an Assistant Minister for Finance in the late His Excellency Mwai Kibaki regime, we were not allowed to be guests of honour, but were allowed to do harambees. We could go to harambees. You can participate in the organisation, but not necessarily have to be the guest of honour. Let other people be guests of honour.

Let your competitor be the guest of honour; it does not matter. He can give so much money, but it does not mean that he is going to be elected. When nearing elections, those harambees can be stopped for some months. However, there should be restriction in making public officers guests of honour and bringing monies from their friends. They should bring their own contributions to those harambees.

Mr. Temporary Speaker, Sir, I do not want to say much more on this. I support that harambees should be there, but there should not be licensing for them. I do not like the idea of permits. I do not like the idea of the CECM at the county level or the Cabinet Secretary at the national level issuing permits. However, we should have a law which regulates public officers, so that they can be taken to court for doing what they are not supposed to do. This question of permits is taking us back to bureaucracy. It is creating some monsters and taking us back to the days we had left a long time ago.

The permit issue made the District Commissioners (DCs) so powerful that we had to line up in their offices for licensing. They would sometimes refuse to give you a licence and give someone else just because he does not like you. Sometimes, they would refuse to give you the permit because he is supporting someone else and not you in an election, and think if you do a harambee, you were going to have some advantage over the opponent whom he supports. I do not like this issue of creating that kind of monsters. However, I support the Bill. I hope that when it comes to the Third Reading or the Committee of the Whole, we are going to tax it and make necessary amendments.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Hillary Sigei.

Sen. Wakili Sigei: Mr. Temporary Speaker, Sir, I thank you for giving me the opportunity to support the Bill and make several proposals to amend it, so that it fits the purpose. Listening to Sen. (Dr.) Oburu, one is made to understand the importance and the history of fundraising.

Sen. (Dr.) Oburu Odinga has graphically explained or run us through how it all happened when it happened, and the parties that were involved. I believe that, based on the experience that he saw with the first president of this country and the experience that he has had over time, we cannot overstate the importance of Harambee's.

As that is the position in terms of its importance, regulating, it is where the problem comes in. The Bill in itself has objectives that have been laid out, including a regulatory mechanism to ensure that at the national and county levels, we regulate how we conduct fundraisings, Harambee and appeals for whatever purpose.

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We have various kinds of Harambees. We have fundraisings that are desired to support those who have medical bills, those who do not have insurance, or are unable to get insurance. Secondly, there are fundraisings for schools, churches and for purposes of public development in some public projects. We cannot say we do not need to regulate because a regulatory mechanism will help us determine how to do it, who to do it with and include the aspect of participation by public officers.

This Bill still talks about the issuance of licenses and permits for purposes of this particular fundraising. I will come to that in a short while when I make specific references to the relevant clauses that speak to that. However, the objective that the Bill seeks to enhance transparency and accountability is important in terms of how we conduct fundraisings and how to utilise the resources or the funds we collect during a public appeal in Harambee.

Lastly, it regulates the conduct of public or state officers in planning and conducting a public appeal. Those objectives are critical. They are important and good because they help streamline fundraising.

However, the provisions of the Bill, as they are put, particularly under Part Two on the regulation of fundraising appeals, where the Cabinet Secretary and the County Executive Committee Member (CECM) in charge of planning and social services in our respective counties are given the mandate under Clause 4(1)(c), to receive, vet, process applications and issue permits. When you run through all the provisions of that particular clause, it will not serve the purpose of being a regulatory mechanism. Why?

The other day, we had issues with the absence of the Cabinet Secretaries who were unable to attend the House to respond to critical national issues. This cannot be one of those things that we would wish to burden a Cabinet Secretary or a CECM to be the person to vet applications for purposes of fundraising.

We are representatives of the people from where we come from. Every other weekend, when we get home, you get not less than 50 cards asking us to support fundraisings, whether it is for school, medical or burials. It is because of the inadequacy and capacity of many of the people whom we represent, who are unable to pay school fees and the other types of fundraising that they are appealing. If we then say that we will be expecting a CECM or a Cabinet Secretary to grant a permit, we will never at any given time be able to do the mainstream work of a Cabinet Secretary. The basic thing that they will be doing every morning is to look at the applications before their desk and approve or reject them.

The provisions under Part Two, in terms of having the Cabinet Secretary be the person involved in receiving, vetting, processing, and approving these permits, are supposed to be deleted. In fact, I would propose that we get permits, which I do not think is necessary for regulation. This must be decentralised to the lowest level in the administration of the national Government, which is the chief.

In my county, for example, in my ward, Nyangores ward in itself, in every village, I can confirm to you that every day, we have fundraising in every town. You can imagine an entire country where we ask the Cabinet Secretary to approve the fundraising. That entire provision, I propose, should be deleted not because of the number of applications. When you look at the provisions of Clause 5 of the Bill state that –

“The Cabinet Secretary shall not, later than three months, at the end of each financial year, prepare and submit for tabling before Parliament a report containing information including a comprehensive statement of the purpose of the appeals.”

This is asking the Cabinet Secretary to come to this House to tell us about all the applications for appeals or fundraising; one was about school fees, another was about an expectant mother who was unable to pay her bills in the hospital, and the third was about a school-going child who needed to go abroad. It cannot be one of the things that we would want the law to provide for.

Similarly, the CECM is expected to do the same thing, and such a provision is what I would call over-legislation. We do not need this. I propose that this clause be deleted, even if we are desiring to legislate and regulate fundraising.

Mr. Temporary Speaker, Sir, Clause 7 provides for the role of the CECM in terms of submitting annual reports to the County Assembly. In this case, the same concerns and the same requirements that they are supposed to do are not among those things that we should burden the office of the CECM with in order to engage in submitting such reports before the Assembly every financial year.

Clause 11 provides for exemptions to this regulation. I am glad that the Bill itself has provided for instances where no regulation will be required. First of all, this is where we are looking at other statutes, including betting, lotteries, and the Gaming Act, that provide for instances where a member of the public, a player, or an agent is entitled to solicit funds.

Clause (11)(b) states that –

“Money or property collected by or under the authority of a recognised representative of a religious association registered under the Socialist Act for normal collections such as tithes and offerings or the purpose of carrying out developments or projects for the benefit of the association.”

This is one of those critical support bases that fundraisings help our churches. A good number of us represent local churches in our various areas of representation. No church can develop and build itself without the support of members of the public and members of that church. In fact, they do what they normally call merry-go-rounds. We fundraise for church A today and church B tomorrow. We do the third church and the merry-go-round, and the process goes on and on until all the churches have developed their infrastructure to deliver service to their people. This exemption is important.

I know most of the churches back where we come from struggle to construct even the smallest of the structures without Harambees and the support of the members. This provision is critical, and I support such an introduction of the exemption to the construction of churches and those under other statutes provided.

Under the provisions of Clause 12(3), an individual who seeks to fundraise is required to make an application to the Cabinet Secretary or the respective CECM to be registered as an entity for purposes of fundraising. I have a problem with this. We need to regulate, but we leave it open for the people who are in need at that particular time to apply for that permit or license to conduct fundraising. It is not proper to create an entity whose business will be to be the one getting the licenses and undertaking public collection.

This way, it will become another business enterprise where people will register themselves as public collection entities for purposes of fundraising. Of course, out of that fundraising, they make money.

I propose that this particular provision under Clause 12(3) be deleted so that the only people who can, at any given time, be allowed to apply for and get permits to regulate a process of fundraising are those who are in need and not an entity whose business will purely be a public collection entity. If this is deleted, the preceding provisions will become superfluous.

Mr. Temporary Speaker, Sir, Clause 13 provides that a state officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a state officer. In this case, I propose that this is amended to read that such a public or state officer should not become a chief guest or the person collecting, but otherwise be in their individual capacities.

I wear several hats. I am a public or state officer when I am in office. Out of office, there are certain personal private engagements that I engage in. I propose that the law reads that you cannot be a chief guest, but can participate in contributing to that particular fundraising that has already been authorised. Then, again, the requirement that you cannot do so within a period of three years preceding a general election tells us that all of us who have been engaged in these support programmes have already committed offenses.

I know this will not act retrospectively, but it will affect us for a very long period of time. I propose as one Member here has already done so, that we limit it to six months rather than three years before a general election. The provision on the penalty of Kshs5 million is a bit punitive. The cause with which an individual is contributing to a fundraising is to support genuinely and as a matter of fact, it has already been approved by the issuance of that license.

It cannot, therefore, be fair that the same license that permitted contributions to that fundraising can lead to an individual being penalized Kshs5 million or a fine not exceeding that amount. I propose that it be reduced to an amount which is not punitive, not Kshs5 million and above.

Mr. Temporary Speaker, Sir, at the same time, subclause 4 says this will become or will constitute an election offense. If it is an election offence, it attracts another separate penalty. One could be barred or one could be punished by an imposition of a fine because they are candidates. This means one is going to be subjected to double jeopardy.

Clause 14(2) says that the Cabinet Secretary upon receiving an application has got 14 days to either make a decision to issue or not. Fourteen days cannot fly, especially where we require fundraisings to be conducted for purposes of emergencies. Although I am aware that the provisions of Clause 15 says that there are exceptions to this 14-day period, I bet, as a matter of fact, that no such exceptions will be able to facilitate quick approval of requests for fundraising.

Therefore, this should be an instant application and not to the Cabinet Secretary as I have proposed that requirement to take charge, be deleted and have it within the local lowest level of national Government administration; the local area assistant chief. That application should be instant, and it should not require 14 days for approval.

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The next provision is asking about the list of the things that you are supposed to submit in the application. You cannot, for purposes of an emergency, be required to list why you are supposed to conduct a fundraiser yet it is obviously for seeking support of the public.

Clause 15 provides that the Cabinet Secretary is now given exemption. I propose that the provision of 14 days be deleted, and also the requirement that you will get it on exceptional circumstances will not apply. We are looking at 14 days of the application and Clause 19 says that the Cabinet Secretary can, under the provisions of this Act, be subject to another additional 10 days. We are looking at almost 24 days within which one can get a permit to conduct a fundraising, which is quite unreasonable in the circumstances.

Mr. Temporary Speaker, Sir, Clause 27 proposes keeping of the register of permitted fundraising appeals at the national and county level. This is not going to be something implementable. We cannot be in a position to keep the register of all fundraisings in the country. Clause 27 says the Cabinet Secretary or the CECM shall keep and maintain a register of-

(a) All persons to whom permits have been issued to conduct fundraising appeal in the county

(b) all persons whose permit has been cancelled and;

(c) such other particulars as may from time to time be considered necessary.

Mr. Temporary Speaker, Sir, this is a superfluous provision. We should not have this in law. I propose that the entire Clause is deleted. Clause 36 seeks to get a declaration on the source of contribution. The law here says that a person who makes a contribution to a fundraising appeal shall specify the source of the contribution. It does not tell us who are we going to make this declaration to. It is also not going to be possible because in any fundraising, we do not list down the names of the people who come to support.

Everybody just brings their contribution. It is not going to be possible to implement this. This is an unnecessary provision, which I propose it be deleted. There is a requirement that if I am receiving donations on behalf of a minor, I am required to file it, or rather to declare it under the Income Tax. The purpose of a fundraiser is to serve a good cause. It is not meant for personal gain.

It is meant to support the particular cause whose permit was granted. Such a requirement in law will make it extremely impossible to even engage in supporting and receiving on behalf of those minors, or those who are unable to fundraise but need support from well-wishers.

As much as I support this Bill, there is a lot that needs to be done to amend it so that it aligns with the reality on the ground with regards to regulation. However, the bottom line is, it is important for purposes of regulating fundraising to avoid misuse, corruption and also blackmail.

Almost all the Members here on a daily basis are invited to various WhatsApp groups for purposes of fundraising and we need to regulate that.

I support and I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Tabitha Mutinda proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. As I rise to give my submissions on this Bill, I have asked myself so many questions in terms of what this Bill is really curing. What are we trying to achieve, looking at both sides of the coin, as far as the issues of fundraising or Harambees, as we locally call them, are concerned?

Mr. Temporary Speaker, Sir, you will agree with me, and my colleagues who have spoken earlier before me, that the major reasons for us conducting fundraising are mostly for purposes of helping. In most cases, fundraising is voluntary. It is a case of willing buyer and seller. However, what does it really focus on? It focuses mostly on education, medical, funerals and such like issues. It also applies to where we have publicly built public infrastructures. These range from mostly the schools and narrowing it down to our churches.

Mr. Temporary Speaker, Sir, as far as building of churches is concerned, even the Bible says that the church shall be built by the people, and as Christians, we have done that well.

However, I am happy that this Bill does not touch so much on the issue of the church. It does not affect the issues of tithe or any contributions as far as churches are concerned. The Bible is clear that it is us to build the churches and mosques.

Mr. Temporary Speaker, Sir, allow me to refer to the Bible. Proverbs 19:17 says-

“Whoever is generous to the poor lends to the Lord and he will repay him for his deed.”

Further, Proverbs 22:9 says-

“The generous will themselves be blessed for they will share their food with the poor. Whoever oppresses the poor to increase his own wealth or gives to the rich will only come to poverty.”

Matters about giving generously are in the Bible.

Mr. Temporary Speaker, Sir, this Bill has touched on an additional responsibility to the Cabinet Secretary. Yesterday, we had two Cabinet Secretaries (CSs) who were supposed to appear before this House to answer to a number of questions that have been awaiting them to respond. Unfortunately, they were not able to appear before this House. Since last year when this House approved, in our Standing Orders that CSs should appear, the Cabinet Secretary for the National Treasury and Economic Planning appeared for the first time. So, you can imagine subjecting the CS to more responsibilities as far as the issue of harambee is concerned.

If I do random statistics, you would agree with me, although I do not have the exact number, we might be having not less than even 2,000 harambees, as we speak, going on in this country because of the different issues that exist. If it is lower than that, it could be 1,500.

Where is the time that the CS will have to vet all this with the necessary requirements that have been stated in this Bill to ensure timely response within the 14 days that have been stipulated? Will it be enough, putting in mind just in a day how many applications they can be? Why are we still giving more responsibility to the Ministry instead of focusing on the CS giving us the audit reports in regards to the issues of public debt, how much and how we intend to collect more revenue and timely disbursements of the funds to the counties as required? That is where the focus should be.

Bringing in the issue of fundraising and adding more responsibilities to the Cabinet Secretary is uncalled for. Actually, since we have *Nyumba Kumi*, our chiefs at the *mashinani* lower level, will be the best people to engage as they normally give permits for gatherings to take place. Perhaps, in one way or the other, they would be in a better place because they are much more confined within the environments of where this Harambee is supposed to take place. They are in a better place to understand what the Harambee is for.

As I have said earlier, most of these harambees are for medical, education, funeral expenses, or building a community infrastructure that will help the people. You can imagine someone coming all the way from Kitui County to Nairobi to submit application for permit, for Christ's sake.

In one of the committees that I sit in; the Senate Committee on County Public Investments and Special Funds (CPIC), where we do audit, we are struggling with late submissions of documents that are should be able to help in the conclusions on audit. When you ask the Members of the County through the Executive, they keep on telling us to give them more time or this was the issue or it has been submitted but late submission.

Look at what we still want to make them do. At the end of the day, what are we trying to solve? What is that one or two things that we are trying to cure today as far as these fundraisings are concerned, is it the issue of money laundering? Is that what you want to get to the bottom of? If so, how do you deal with that? We have Government agencies. The EACC and other Government agencies should look at these matters, if that is what they are trying to cure. What are we really trying to cure?

Mr. Temporary Speaker, Sir, for us to cure medical issues, we should give more time to Social Health Authority (SHA), so that the benefits that SHA is and was supposed to provide to the people are realized. One of them, which the President pronounced himself on, was to reduce the issues of harambee because the medical scheme should be able to cut across most of these chronic diseases that make our people end up incurring very high treatment costs. The solution for medical issues cum harambees is and should be in SHA.

The discussion should be the speed up of ensuring people register and the system is rolled out maximally, as we have seen in counties whereby this is taking place, so that when we achieve 100 per cent registration and roll-up of SHA, we will be able to have the benefits that SHA has introduced, especially in financial issues.

As far as harambees are concerned, I have participated in contributions. Last weekend, I did a contribution to a foundation of one gentleman, Meshack Mwenge, in Machakos County, with his good intentions of helping the needy.

Focusing on the element of education factor and why people do harambees for education, the solution should be on free education in the country. Who will come and ask you to support their child to pursue a particular level of education, if from the lower level of education, the primary level to the highest, which is the university level, there is free education? We will not need to have the discussion of harambees for education matters. On the medical issue, SHA should be able to take care.

So, what are we left with? Looking at the issue of the church, it is not dealt with in this Bill. Therefore, that is taken care of. Mostly these contributions are because of funerals, when we lose our loved ones. Where I come from, the eastern region, when you

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lose your loved one, the culture, and as most cultures would replicate, we say you do not bury your own person.

Therefore, the community, friends and neighbours help you mourn and give a decent send-off to your loved one. It is a culture that has been there and people normally come together, condole, share and help you in ensuring that you give a decent send-off to your loved one. In most scenarios, it is voluntary, but comes from an existing culture.

Looking at the timelines that have been set here, one of the first timelines by the Cabinet Secretary was 14 days. Further to that, Clause 16(1) states that –

“the committee member shall, within ten days upon receipt of an application under section 16 —

(a) examine the documents submitted to it;”

Now, it moves from one body which has 14 days and it goes to another Committee for ten days. You have lost a loved one and those are 24 days, which is an equivalent of three weeks and three days. In most scenarios, for us, as Christians, it will take us like two weeks to bury someone unlike the Muslims who bury immediately, almost the same day. If there is support that is needed and all these processes have to take place, then when do we give a descent send-off to our loved ones? It does not make sense.

I recommend to the Senate Majority Leader to redraft this Bill and do a very simple amendment insofar as the issue of the state officers is concerned. He has talked about the state officers being able to participate but not being the chief guest and leading in a particular fundraising. In short, they are being asked to step aside. Is it a good thing or is it a bad thing? Yes, it is a good thing because the state officers will now fully concentrate on their responsibilities.

Fundraising is not about how much I have been able to contribute versus what my opponent has been able to contribute. It is not a competition. You do not get an award at the end of the day because it is a voluntary process. The state officers will then just be mandated to ensure they partake their roles without involving themselves so much with other responsibilities.

This Bill has also talked about the three-year period. This means that if you intend to vie for a particular position, then you should not participate in any fundraising three years before the general election. This is okay because one will now not be judged by how much they have been able to contribute in total, but in terms of how much you are able to offer or do as a leader. One will not be judged by how much they have contributed or how many sacks they have been able to carry.

The focus will be on whether one has achieved their mandate and fulfilled what they promised the people during the campaigns. If the Senate Majority Leader can refocus this amendment and narrow it to target the State officers, then it would make sense.

Lastly, Clause 31 talks about –

“Not more than five per cent of the targeted amount to be raised shall be utilized in defraying administrative expenses related to the fundraising appeal.”

What are we doing? We have Kshs10 million and five per cent of Kshs10 million is Kshs500,000. Subsequently, why should we contribute and still subject ourselves to more room for giving an opening that money can still be spent again? That is why I am wondering what we are trying to achieve. If it is to bar state officers from fundraising,

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then that is a whole different thing. Does it make sense? It makes sense, so that it reduces what has been there publicly in terms of the issues that have earlier cropped up.

Are we saying that the State officers cannot help or assist? No, it is voluntary but we are limited. We should be limited from so much public image and you can in one way or the other know how to give from your own contribution. I read Proverbs and clearly stated that giving is considered a blessing even in the Bible. Hence, Clause 31 which talks about another expense of 5 per cent of the particular funds that have been contributed does not make sense. It needs to be narrowed so that it can achieve its specific goal.

Mr. Temporary Speaker, Sir, with those many remarks, I do ask the Mover of the Bill to seek further amendments.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Tabitha Mutinda. I now call upon Sen. Crystal Asige.

Sen. Crystal Asige: Thank you so much, Mr. Temporary Speaker, Sir. As I sat there waiting to contribute to this Bill, I looked back over the year 2024 and figured out if I can calculate or remember how many fundraisers I have been requested to participate in. To be honest, I have not thought of one week so far, this year, that I have not had to fundraise for one, two or multiple types of appeals.

Just this month, it was with profound sorrow that I learnt of the passing of Eunice Kuindwa, formerly of Central Bank of Kenya. She died on Sunday, 3rd November, 2024 and will be buried this weekend on 16th, in her home county of Tana River.

Mr. Temporary Speaker, Sir, Mama Eunice was the devoted wife of the late Ambassador Fares Kuindwa, EGH, EBS, who served as Secretary to the Cabinet and Head of Public Service. She was a cherished mother of Sharuti, Kido, Olympia, Abaria, Kirongo and Maombi. Her five children are friends of mine. We are family friends and we lived and schooled together in Mombasa. It pains me to accept that they lost their father before, the late Ambassador Fares Kuindwa, and now their mother to cancer. It was just yesterday, when we sat here, in this House, and considered in the Committee of the Whole, the Cancer Prevention and Control (Amendment) (No.2) Bill (National Assembly Bills No.45 of 2022).

Mr. Temporary Speaker, Sir, all of these things put together, and now, considering this Bill before us, really makes me have mixed feelings about how we are going to implement this in the fairest way possible. I really enjoyed your contribution when you did so just a few minutes back. You had a considered view of all the different clauses that you felt had to be relooked and that is what I have also been doing.

I have been thinking about my friends who are kids to Mama Eunice as we are considering this Bill. If this Bill had already been enacted, for example, how would I speak to my friends and tell them that I am so sorry for your loss? How would I tell them that before we go any further, we have to make sure that we comply with the legislation that has been put in place; a legislation which requires you to acquire licenses, registrations and all sorts of things as outlined in the Bill.

Mr. Temporary Speaker, Sir, how would I start explaining that to people who are bereaved and are now orphans? Thank God they are people who are now adults, just like I am and all five of them have been blessed enough to land on their feet. What if it was a family that did not have that luxury? What if all the kids were minors, for example, and

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had to bury their parents or their mother this weekend? How would you ask minors to start going through all the processes outlined in this Bill? Would it be fair to tell people, who are grieving, of the timelines and processes which they have to follow and if not, they will be running contrary to the law and could face fines and even jail time? That is a difficult conversation.

I also thought about cases where people have multiple fundraisers that they are doing at the same time. For example, bringing a body home from abroad where somebody has passed away. That is one type of fundraising appeal, perhaps. Then maybe, another committee within the same family is taking care of the funeral costs now in the home county of the deceased person and maybe there is a third fundraiser because they have to think about the children of that deceased person and how they are going to go to school.

Mr. Temporary Speaker, Sir, so in one family, there could be multiple fundraisers which are going on concurrently. How do we deal with that through this Bill? Like I said as well, how does this Bill deal with situations where, for example, you are looking at marginalized groups? How do you ask, for example like in Nakuru County where I support a young lady whose mother is severely schizophrenic and she is only in her early 20s? She is just a young girl taking care of her mother who cannot take care of herself.

What if in her case, because she needs fundraising which is continuous to get medication for her mother and which is very expensive in light of schizophrenia and those kinds of intellectual and developmental disabilities, which are also invisible, how do we then convince or support such a situation through this Bill? There are several things that we have not really considered about in the real life situation of what is going on the ground.

I do understand the objectives from the Senate Majority Leader which I read through in the preparation of my contribution and there are some which are very noble and to be honest, very progressive in my view. I believe that we are a democracy that is not quite there yet because the majority of our population are still very needy in many ways.

Mr. Temporary Speaker, Sir, if this was Switzerland, Australia, the United States or Canada, perhaps, then we could think about realizing this in the best way possible. However, we are not there yet, and I am not sure that we will be helping, and we might be hurting the situation if this Bill does not go through a lot of corrections and amendments to try and cure some of the issues that have been raised by many Senators this evening.

We do not want to promote this one objective which I see here - the culture of dependency. I am not sure that that is a fair statement because of the kind of society we live in. We are dependent, that is just the fact and it is a reality. The majority of us are dependent, and we do not want this kind of Bill to speak to the public and say that we are punishing the majority, whilst trying to control the minority who may abuse *harambees* or fundraising appeals.

How can we justify that to the masses who are the majority of Kenyans? We do not want to speak or legislate from a point of privilege. That is what I am trying to say. I am concerned that is what we might be risking if we continue without heavily amending or even rethinking this entire subject matter.

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Mr. Temporary Speaker, Sir, I will go to some of the provisions. I am sure people are asking themselves; do I need a permit to conduct a fundraising appeal? How would they know? Some of the criteria here is very dense. It says that for one to conduct a public appeal fundraising or a harambee, they must obtain a permit. So, a person cannot conduct a fundraising appeal unless the person has applied for and obtained a permit. A person who intends to conduct the fundraising appeal shall apply to the Cabinet Secretary as the case may be.

What information do they need in this application? They will need information around the full name and address of the person intending to conduct the fundraising appeal; the purpose of the fundraising appeal, the necessity of conducting the fundraising appeal, the date on which the fundraising is to be conducted and the names and contact details of the persons assisting in conducting the appeal.

You will need the amount intended to be raised through the appeal. You will need the estimated expenses to be incurred to conducting the appeal. You will need a statement regarding whether any monies have been received with respect to the matter pertaining to the fundraising appeal from any person prior to the date of the proposed fundraising appeal; and the place at which the collection is intended to be made and the expected time frame for the appeal.

Mr. Temporary Speaker, Sir, me saying that was a mouthful. I even struggled to say all of that criteria. Now imagine someone who is in a marginalized group or in a marginalized part of the country who has no clue about this Bill. How will this reach them? Imagine those who are illiterate, trying to put all this together in the midst of bereavement, how are they going to manage? I am trying to think about PWDs, especially those with intellectual or severe disabilities. I am thinking about minors who may need to conduct fundraising appeals for one reason or the other. I am thinking about people who are indignant, who need to also adhere to these provisions and these criteria.

I feel like we may be over-legislating and missing the intent or the spirit of a fundraiser because we are trying to control, cure or curb corruption, as has been alluded to by some other Members who have contributed. We cannot cut off our noses on our faces. It is difficult to continue thinking about how we are going to realize and implement this in the best way possible because it will need a buy-in from the general public.

I am in the Committee on Labour and Social Welfare that considered this Bill. We listened to many public participation contributions and we went through the matrix. A lot of it was not in support of the Bill, if I am completely honest. I am sure that the Majority Leader is aware of all this through a report the Chairperson will make available to him. It was not just, individuals but we also had had institutions like the Council of Governors (CoG) and many other stakeholders.

Mr. Temporary Speaker, Sir, I will share a couple of these thoughts that I found interesting and powerful when I listened to them. They opposed the sweeping provisions of this Bill in general like I said. They said that this Bill which seeks to regulate public fundraising activities, commonly known *harambees* is fundamentally flawed in its approach and intent. Rather than address the root cause of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic Government failures.

While they acknowledged the need for regulation in specific areas, such as fundraising activities involving politicians especially, political aspirants and religious institutions, these citizens believed that the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services by the Government.

They advocated for a more focused approach that targets the misuse of public funds and resources by those in position of power. Public fundraising or *harambees* as we know them, have become a necessity to the failure by Government institutions to provide adequate and accessible health care, for example, in education and social services.

The Bill fails to address the root cause of *harambees*. They said that it does not propose any solution to reduce the reliance on *harambees* nor does it acknowledge the systemic issues that necessitate these fundraisers in the first place. They said that the Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs by requiring permits and detailed financial records, and imposing penalties for non-compliance. The Government is effectively penalizing those who are forced to rely on public goodwill to survive.

Mr. Temporary Speaker, Sir, this is not only unjust but also very counterproductive. When I listened to some of those views, I could not agree more. You are not curing one problem but you are exacerbating another.

The Bill suppresses community solidarity. They told us it undermines the very fabric of our society where communities come together to support one another in times of need. Ubuntu that is what African culture is about. That is what Kenyan culture is about.

The resources and effort required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education and social welfare. Go down to the root. Instead of policing citizens who are trying to help one another, the Government should strengthen public institutions and infrastructure to reduce the need for such fundraising. Right?

We have to get to the root of the problem, not just deal with the branches and the leaves of a problem. Otherwise, we may be doing an injustice to our people who most need this particular type of community support through fundraisers.

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Crystal, you have five minutes out of your time to conclude your contribution.

Sen. Crystal Asige: Thank you very much, Mr. Temporary Speaker, Sir. I was going to my conclusion.

The Temporary Speaker (Sen. Wakili Sigei): Thank you.

Sen. Crystal Asige: Mr. Temporary Speaker, Sir, I think I have tried to make my point clear, and I hope that the spirit of this particular Bill, which is, like I said earlier, very noble, and understandable, does make practical sense and logical sense. However, we have to marry the logical with the real-life experience of what Kenyans are going through.

Otherwise, we may be legislating and then not be able to follow through with implementation at all. Then we are going to put vulnerable Kenyans in more trouble with the law when they never intended to ever be in trouble with the law in this way.

I would like to reiterate that I do have mixed feelings about this Bill, especially because I am somebody who supports persons with disabilities in the country, and one of very few because there are not many of us who represent PWDs in the country. I understand the deep and complex needs that are in these households and families not just for the PWDs themselves, but for their caregivers, their parents and the communities that support them.

I think that some of these legislations that we come up with in this House and contribute to and debate on and ultimately pass or not pass, we need to start thinking about them holistically and not from a place of privilege and say things like we are trying to reduce dependency in the country. We are dependent.

It is like we are trying to say, I am sure when you had your children when they were still young and they are trying to walk; you will remember that they were struggling, they would crawl. They would try to figure out how are mom and dad walking step by step, left, right, and you would need to give them support for them to give them a hand. That is what I mean. Give them a hand, give them support for them to get to the place where they are walking and no longer crawling. We cannot ask Kenyans to just stand up and walk. That is what this Bill, I feel, is akin to.

We are trying to tell Kenyans, okay, this is what is going to happen. We are going to cut or control fundraisers, you need to walk, and you need to stop being dependent on well-wishers or your community. Do it yourself, be independent. However, you cannot be independent without giving people the tools, the process and the pathway to get there. You cannot miss the steps; you have to go from A to Z systematically. You cannot make people try to jump from one point to the next without any support in the middle.

I would like to end my contribution there. I am not sure that I support this Bill unless there is some heavy lifting done in the Committee of the Whole stage which is going to come up next. I however appreciate the Senate Majority Leader for what he is trying to do. It is progressive and I thank him for all of his industrious effort.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Crystal. I call upon Senator James Murango.

Sen. (Dr.) Murango: Asante sana, Mstahiki Bw. Spika wa Muda. Ingekuwa ni kongamano la walala hoi, maskini ama la makata, Mswada kama huu haungeona mwanga. Lakini katika kongamano la wanaojiweza, madingi na matajiri, ni rahisi sana Mswada huu kupita bila shida yoyote.

Sisi wote tulioko hapa kama Maseneta bila kuogopa kwamba sisi sio maskini. Mshahara tunao na bima ya afya tunayo. Lakini tusingahau ya kwamba chanzo kubwa cha harambee zinazofanywa kule mashinani ni kwa sababu ya ukosefu wa afya, karo ya shule ama kwa wale waliopatwa na msiba na hawawezi hata kulipa fedha ili wapewe miili ya wapendwa wao waende wakaomboleze kwa amani.

Waswahili husema, aliyekupa wewe kiti ndiye aliyenipa mimi kumbi. Aliyenipa kiti nilichokalia leo kufanya uamuzi katika Mswada ndio pia amewapa wale maskini tunaowawakilisha kumbi ambalo ni ganda la nazi waweze kukalia. Kwa hivyo, tusingahau hilo.

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Mambo yale sisi hapa tunaweza kufanya bila shida yoyote ndio inawatatiza wananchi kule mashinani. Kama tutakuja kutengeneza Mswada, kama tutawabomolea daraja, lazima kwanza tuwafunze kuogelea. Ni lazima kwanza tutatue shida za afya kwa kuhakikisha kwamba Social Health Insurance Fund (SHIF) inafanya kazi, malipo ya shuleni kuanzia shule ya chekechea hadi chuo kikuu yapo.

Najua hakuna atakayetsumbua na mambo ya kutoa fedha katika harambee. Waswahili husema, “Kutoa ni moyo, usambe ni utajiri.” Hakuna anayelazimishwa kwenda kutoa. Mtu hutoa kwa hiari yake. Swali nauliza, mzigo ulio kichwani, kwapa lakutokeani jasho? Kama sijalazimishwa mimi kutoa fedha, kwa nini nianze kutengeneza sheria ya pesa ambayo inatolewa na mtu anayetoa kwa hiari?

Matatizo ambayo yako hapa yanamkumba sana mwananchi wa kawaida. Na siku ambayo mbwa anatua katika sehemu nyeti, hiyo ndio siku mtu hujua sio kila tatizo huwa linatatuliwa kwa fimbo au nyundo.

Shida tuliyonayo saa hii sio lazima itatuliwe kwa sheria. Ni tatizo ambalo linafaa kutatuliwa kwa kuweka miundo msingi mbele ili wananchi waweze kuendelea. Sheria kama hizi ndio wakati mwingine hufanya wananchi wajiulize kama waliweka chui zizini.

Wakati tunapoomba viti, wanaotushikilia ngazi ni wale wananchi wa kawaida. Unajua, mtu anayehusika kupandisha wengine ngazi hupigwa teke kwa meno kwa sababu anayemshikilia anaenda juu ilhali miguu iko chini. Kwa hivyo, ni rahisi sana kumpiga teke kwa meno.

Hivyo basi nasema ya kwamba, mimi kama Seneta wa Kirinyaga, nikikaa katika baraza, wale wanaokalia kumbi na vigogo, vile wanavyoongea kuhusu shida walizonazo, mimi nitakuwa kama mtu wa kuwapiga teke kwa meno nikisema huu Mswada unafaa kwa wakati tulionao kwa sasa.

Mambo ambayo mimi nimeyapitia, na wengi wanaokaa katika Seneti, naweza kudhihirisha ya kwamba wanaoketi hapa wengi walipita na kusoma kwa sababu watu walikuja pamoja kwa harambee wakawachangia pesa. Kwa hivyo, ile njia iliyowapitisha kuwafanya walivyokuwa siku ya leo, mimi naomba tusije tukaifunga. Kwa nini? Angalia mtu aliyefiwa kwa sababu ya kukosa matibabu.

Mwili unafungiwa makafani kwa sababu familia haina pesa ya kuutoa. Labda mwendazake alikufa kwa sababu ya ukosefu wa matibabu. Kama tungelainisha maneno na kuhakikisha kuwa matibabu yanapatikana, pengine tungezuia vifo na hakuna mtu angeitishwa pesa.

Najua kuwa mnachangia sana kulipa karo za wanafunzi kwa kupeana *bursary*. Tumeongea sana kuhusu jambo hilo. Kuna Mswada unaonua kufanya elimu kutoka kiwango cha chekechea hadi chuo kikuu bila malipo. Mswada huo ukiwa sheria, hakuna mtu atatuita kwenda kuchangisha pesa ya watoto kwenda shuleni. Kwa nini tusianze na kutengeneza sheria ambazo nimetaja?

Kule kwetu, kuna msemo kuwa anayekula kwa kijiko huwa hajui kuchomeka kwa anayekula kwa mikono. Kama sisi tuna bima, hatuna matatizo na hatutaki kuchangiwa, tuisahau kwamba wanaoitisha msaada wana shida na wanafaa kusaidiwa.

Bw. Spika wa Muda, kwa kumalizia, nilipokuwa nimeketi hapa, nilipata jumbe kadhaa za watu ambao wanaomba msaada kupitia harambee. Wote wanaoitisha msaada wana sababu za kutosha ili waweze kuokolewa.

Mimi kama Seneta wa Kirinyaga, kwa sababu ya watu wa Kirinyaga na Kenya nzima, kwa wale wote ambao nimeongea nao na wale wanaoketi katika mabaraza kuongea shida zao na kutualika sisi kwenda kuwapa msaada, kwa ajili ya akina mama na wale ambao wamejiunga katika vikundi kule Kirinyaga ili kuchangisha pesa kusaidia waliofiwa, sitaunga mkono Mswada ulio mbele yetu.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. (Dr.) Murango. Sen. Abdalla, you have the Floor.

Sen. Shakila Abdalla: Mr. Temporary Speaker, Sir, I rise to oppose this Bill. Kenyans do fundraise not for fun; they fundraise for a purpose. Nobody likes to fundraise because it is not a simple task. It is a hard task which is also challenging. However, people opt for it because they need to do that.

We are coming up with such a Bill to suppress Kenyans who are already suppressed in many ways. If we continue to suppress them by asking them not to fundraise to cater for their needs, we will not be fair to Kenyans. As legislators, we need to think twice before passing this Bill.

Fundraising is not a sin. It is being done by everybody worldwide. Even politicians, including in America, do fundraising. I know this is one way the Government wants to suppress especially politicians not to do fundraisings because they have enough money for their campaigns and everything. So, they want to suppress others who wish to fundraise for their politics.

If you want to punish one person, you should not punish the whole country or everybody. You should come out clearly and do what you think you want to do, but not punish poor Kenyans who fundraise for a good purpose.

I wonder how many Kenyans have access to the Cabinet Secretary who will go and get permits for burials. I can assure you there will be queues and bodies rotting in mortuaries because they have no permits to fundraise before taking bodies for burial.

I am a Muslim, and so we burry our dead within 24 hours. However, Christians have to fundraise in order to transport bodies to areas they come from for burial. You can imagine 14 days to apply for the permit and another 10 days for one to think about it. That is already a month. The body will be rotting in the mortuary and the bill will be piling. That is another way of punishing Kenyans.

On the cancellation bit, you might get a permit, do all the preparations and spend quite an amount of money but somebody just decides to cancel the permit. Once a permit is cancelled, you have to stop everything, including fundraising. Are we being fair to Kenyans by passing this Bill?

I do not have much but just to reiterate that the Government should stop suppressing Kenyans because we have suppressed them enough. All these come back to us as legislatures, who are here to bring and pass Bills. That is why most of the time, as a person, I do not pass Bills. I do not even contribute because I know most of the Bills that we pass here suppress Kenyans and this is one of them.

With those few remarks, Mr. Temporary Speaker, Sir, I oppose this Bill. I hope it is not going to be passed.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Abdalla.

(Interruption of debate on Bill)

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Before I allow Sen. Karungo Thang'wa to make his contributions, I have a Message from His Excellency the President.

MESSAGE FROM THE PRESIDENT

NOMINATION OF MR. GERALD NYAOMA ARITA AS CBK DEPUTY GOVERNOR

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.47, I received a Message from His Excellency, Hon. William Ruto, PhD, CGH, President of the Republic of Kenya and Commander-in-Chief of the Kenyan Defence Forces (KDF), on the nomination of Mr. Gerald Nyaoma Arita for appointment to the position of Deputy Governor of the Central Bank of Kenya (CBK).

The Message was transmitted to the Senate by a letter reference EOP/CAB.26/4A, Vol. V/13, dated 11th November, 2024, by the Chief of Staff and Head of the Public Service, Mr. Felix Koskei, EGH.

Pursuant to Standing Order No.47(1) of the Senate, I shall now report the Message to the Senate-

You are most graciously notified that His Excellency the President, has, in the exercise of the prerogative vested in the Head of State and Government, caused the nomination of the candidate for the position of Deputy Governor of the CBK.

In that regard, and pursuant to Section 13(b) of the Central Bank of Kenya Act, Cap 491 of the Laws of Kenya, we submit to both Houses of Parliament the presidential nomination of Mr. Gerald Nyaoma Arita for appointment as the Deputy Governor of the CBK.

To aid Parliament in its consideration and approval processes, we convey herewith the certificate of presidential nomination, No.6 of 2024, alongside the nominees' Curriculum Vitae (CV) and testimonials and the report of the Public Service Commission on the recruitment of the nominee.

In recognition of the pivotal role played by the CBK in steering the nation's monetary policy and ensuring economic stability, we humbly request that the nomination be considered with the utmost priority.

Hon. Senators, Section 13(b)(i) of the Central Bank of Kenya Act provides that there shall be two Deputy Governors who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament. In relation to this, Section 3 of the Public Appointments (Parliamentary Approval) Act states that-

“An appointment under the Constitution or any other law for which the approval of Parliament is required shall not be made unless the appointment is approved or deemed to have been approved by Parliament in accordance with this Act.”

As such, Section 8 of the same Act provides that-

“(1) Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and the decision

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within fourteen days from the date on which the notification of nomination was given in accordance with Section 5.

(2) At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.”

Hon. Senators, the period on the matter that is now before Parliament starts running upon the Speakers of the Houses of Parliament committing the name of the nominee to the relevant committees in the Senate and the National Assembly respectively.

Standing Order No.77(1) of the Senate Standing Orders provides that-

“Upon receipt of a notification of nomination for appointment to a public office required to be approved by the Senate under the Constitution or any other legislation, the nomination shall stand committed to the relevant Standing Committee for consideration.”

This being the case, the Message from His Excellency the President, together with the CV of the nominee stands committed to the Standing Committee on Finance and Budget for approval hearing. The Committee will hold the approval hearing jointly with the Departmental Committee on Finance, Planning and Trade of the National Assembly, in accordance with the provision of the Central Bank of Kenya Act, the Public Appointments (Parliamentary Approval) Act, and the Standing Orders of the Houses of Parliament.

Part 26 is on the Joint Committees of Parliament. The Senate Standing Orders and the corresponding part of the National Assembly Standing Orders shall apply during the approval hearing. I direct the Committees to expeditiously consider this matter and table a report thereon considering the remaining time before the conclusion of the Third Session.

I thank you.

Hon. Members, that nomination is hereby committed to the Standing Committees as directed.

I call Sen. Karungo Thangw’ a to make his contributions on the Bill.

(Resumption of debate on Bill)

Sen. Thang’wa: Thank you very much, Mr. Temporary Speaker, Sir, for the opportunity to also weigh in on this Bill.

From the onset, I have tried to understand what this Bill is trying to cure, but I cannot. If this Bill will come the way it is, I will surely not support it. I will oppose it because the Kenyan motto from the beginning when the late Mzee Jomo Kenyatta was alive was Harambee. Harambee means coming together, pulling together to help each other. If we can legislate on our motto, we are over legislating. If we can come up with restrictions and rules against our motto and what we believe in, then I believe we have lost it.

This Bill was supposed to have only two clauses only meant stop the state and public officers from engaging in harambees and dishing out cash publicly, enticing

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people or pulling them towards their agenda. However, when you read it, it is curtailing the belief that Kenyans have always had. Harambees or fundraisers have built schools and provided medical assistance to people who are very vulnerable. We have helped families to come out of hardship. We have done harambees and fundraisers to buy someone a cow or a *boda boda* or help someone start a small business. However, we are told that for you to do that, you have to register 14 days prior to that event. Some of these fundraisers are emergencies.

Everybody who has spoken to this has mentioned that the Government is supposed to make the lives of our people very easy and not harder. If you say that you need 14 days to apply for a permit to conduct a harambee, yet it is an emergency caused by the Social Health Authority (SHA) and Social Health Insurance Fund (SHIF) cards that did not work--- You know what our hospitals do - They cannot admit a patient unless money is paid. They need a deposit to admit a patient. If the health systems of our country were working, maybe we would not be worried with this.

Kenyans are known for coming together. Even the Government through Red Cross, has invited Kenyans to come together to contribute to save Kenyans because of disasters. We had the Kenya for Kenya Initiative. Now, if we make harambees and fundraisers very hard to achieve, they will be like drugs. We will now convert the good gestures of helping each other like a drug. People will be helping while hiding, yet politicians will be able to flush their money when helping and taking pictures so that they can get votes. We are however curtailing those who do not want votes, but are there to help each other. Why we are stopping them?

The reason I would oppose this Bill is the undue restriction on charitable activities. If you read clause 14(2), it says-

“A person who intends to conduct a public fundraiser appeal shall submit to the Cabinet Secretary or the respective County Executive Committee Member (CECM, as the case may be, an application for a permit, at least 14 days before the date of the conduct of the fundraising appeal.”

Someone is looking for money and we are asking them to travel to look for a Cabinet Secretary or CECM. Remember, every county has one headquarters, so, we are asking someone to travel from one place to another to go and apply for a permit. That is why I said we are over-legislating. We are even telling people that when they conduct a harambee, the administrative money that they are going to use should not exceed five percent of what they are going to collect. How do I even know how much I am going to collect? If people do not turn up and I was so prepared with Kshs1,000,000 or Kshs500 or even Kshs10,000, and I receive Kshs3,000, that becomes a crime.

The most important issue is not to make Kenyans feel as if we are on their throats; that whenever they try to help each other, the Government and *askari wa kanjo* are there telling them that they saw them having a harambee the other day and would want to have some amount from what was contributed.

The other issue is that Clause 13 is an infringement of the freedom of association. Yes, I understand that a state officer should not conduct harambees. However, why are we stopping them from association? Not every state or public officer is a thief or corrupt. Probably the little money they have will not be enough to cater for some of the sudden emergencies. It could be your harambee, but you cannot even contribute in your

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harambee. You cannot even tell people the little amount that you have. That is infringing on freedom of association. We should come up with a way to stop the public officers, but not as stated in Clause 13.

It is also an offence for an aspiring candidate to attend a harambee three years prior to the next election. It is like we decide to run for an election five or four years before the election. When do you make the decision to run for an election seat? You can make that decision tomorrow or a few days before the end of the closure of registration.

This Bill should only work to stop money laundering and politicians from flashing monies for the sake of wooing the voters. However, we should not stop the aspiring candidates from going for these harambees.

As I conclude, we have to work to make sure that we do not get into the privacy of people.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Karungo, resume your seat.

(Sen. Thang'wa resumed his seat)

As you conclude, I invoke the provisions of Standing Order No.34 (2) (a) to extend the sitting for five minutes to allow you to conclude your contribution.

Sen. Thang'wa: Thank you very much, Mr. Temporary Speaker, Sir. You are the best. I was about to conclude. If you look at Clause 32, it says that-

“Every person who conducts a fundraising appeal shall keep a record reflecting the income and expenditure relating to the appeal”

Then, it gives details. This is an administrative burden.

You are telling me that everybody who comes must write their name and say how much they have contributed. There is a clause that I do not remember, but it says that the contributor must declare the source of their income. We are scaring away the donors. We have private donors, people who want to help anonymously. Why state that we should write their names down? Now, who is going to keep this record?

I was in Arusha the other day. When I talked about Harambee, I thought this happened only in Kenya. I was in Arusha last week with the Committee of Liaison, and as I was walking in the streets, a young man approached me with an exercise book that had a photo of a young guy stuck on it. He asked me to help since they had lost one of the *boda boda* guys. I thought this was unique to Kenya.

This is an African spirit of helping one another. Now, if we restrict it so much, we will only burden, oppress and make them feel as if Kenya does not belong to them.

In conclusion, there are also disproportionate penalties. The Bill states that if a state officer attends a Harambee, you will be fined about Kshs5 million or Kshs2 million, or three years in prison. It should be proportional to how much you contribute. I mean, if I contribute Kshs1,000 and you fine me Kshs5 million, are you helping me in any way? You should actually put it as if it is two or three times what you contributed in that Harambee.

When we overfine or charge crimes, the crime goes up because now the police officer will be bribed. We should not create channels of corruption by trying to stop it and by trying to stop people from helping each other.

If the Mover of this Bill does not change, as the Members have said here today, I do not see this Bill seeing the light of the day.

Thank you.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 6.34 p.m. Having concluded the business for which I extended the sitting hours pursuant to Standing Order No. 34 (2)(a), the Senate stands adjourned until Tuesday, 19th November, 2024 at 2.30 p.m.

The Senate rose at 6.34 p.m.