

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 1<sup>st</sup> October, 2024

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 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?

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

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

*(The Quorum Bell was rung)*

Order, hon. Senators! We now have quorum.  
Clerk, you may proceed to call the first Order.

#### PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL  
STATEMENTS OF VARIOUS ENTITIES

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Tuesday, 1<sup>st</sup> October, 2024-

Report of the Auditor-General on Financial Statements of Rabai Sub-County Level 4 Hospital - County Government of Kilifi for the nine-month period ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Mariakani Sub-County Level 4 Hospital - County Government of Kilifi for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Bamba Sub-County Level 4 Hospital - County Government of Kilifi for the year ended 30<sup>th</sup> June, 2023.

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Report of the Auditor-General on Financial Statements of Isebania Sub-County Hospital - County Government of Migori for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Uriri Hospital - County Government of Migori for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Macalder Sub-County Hospital - County Government of Migori for the year ended 30<sup>th</sup> June, 2023. Report of the Auditor-General on Financial Statements of Kehancha Sub-County Hospital - County Government of Migori for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Migori County Referral Hospital - County government of Migori for the year ended 30<sup>th</sup> June, 2023. Report of the Auditor-General on Financial Statements of Ntimaru Sub-County Hospital - County government of Migori for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Karungu Sub-County Hospital - County government of Migori for the year ended 30<sup>th</sup> June, 2023. Report of the Auditor-General on Financial Statements of Nyamaraga Level 4 Hospital - County government of Migori for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Bondo Level 4 Hospital - County government of Siaya for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Longisa County Referral Level 4 Hospital - County government of Bomet for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Marigat Sub-County Level 4 Hospital - County government of Baringo for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kabartonjo Level 4 Hospital - County government of Baringo for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Chemolingot Sub-County Level 4 Hospital - County government of Baringo for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Fort Ternan Sub-County Level 4 Hospital - County government of Kericho for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kipkelion Sub-County Level 4 Hospital - County government of Kericho for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kapsabet County Referral Hospital - County government of Nandi for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Vihiga County Referral Hospital - County government of Vihiga for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kacheliba Sub-County Level 4 Hospital - County government of West Pokot for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kapenguria County Referral Hospital - County government of West Pokot for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Cheptais Level 4 Hospital - County government of Bungoma for the year ended 30<sup>th</sup> June, 2023.

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Report of the Auditor-General on Financial Statements of Banisa Sub-County Level 4 Hospital - County government of Mandera for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Elwak Sub-County Level 4 Hospital - County government of Mandera for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kutulo Sub-County Level 4 Hospital - County government of Mandera for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Garissa County Level 5 Referral and Teaching Hospital - County government of Garissa for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Murang'a Level 5 Hospital - County government of Murang'a for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Homa Bay County Teaching and Referral Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Ndhiwa Level 4 Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Ogongo Level 4 Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Mbita Level 4 Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kendu Bay Sub-County Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Magunga Level 4 Hospital - County government of Homa Bay for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kitui County Referral Level 4 Hospital - County government of Kitui for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Gatundu Level 5 Hospital - County government of Kiambu for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Keringet Level 4 Sub County Hospital - County government of Nakuru for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kabazi Sub-County Hospital - County government of Nakuru for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Esani Sub-County Hospital - County government of Nyamira for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Ekerenyio Sub-County Level 4 Hospital - County government of Nyamira for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Kijauri Sub-County Level 4 Hospital - County government of Nyamira for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Nyamira County Referral Hospital - County government of Nyamira for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statements of Nyamusi Sub-County Level 4 Hospital - County government of Nyamira for the year ended 30<sup>th</sup> June, 2023.

*(Sen. Tabitha Mutinda laid the documents on the Table)*

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**The Speaker** (Hon. Kingi): Next, is the Chairperson of the Standing Committee on Labour and Social Welfare.

REPORT ON THE COUNTY ASSEMBLIES PENSIONS  
SCHEME BILL (SENATE BILLS NO.14 OF 2024)

**Sen. Murgor:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 1<sup>st</sup> October, 2024-

Report of the Standing Committee on Labour and Social Welfare on its consideration of the County Assemblies Pensions Scheme Bill (Senate Bills No.14 of 2024).

REPORT ON THE WELFARE OF EPZ WORKERS  
IN MOMBASA AND KILIFI COUNTIES

**Sen. Murgor:** Report of the Standing Committee on Labour and Social Welfare on the inquiry on the welfare of workers in the Export Processing Zones (EPZs) in Mombasa and Kilifi Counties.

*(Sen. Murgor laid the documents on the Table)*

**The Speaker** (Hon. Kingi): Chairperson of the Standing Committee on Devolution and Intergovernmental Relations, Sen. Abass, you may proceed.

**Sen. Abass:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, 1<sup>st</sup> October, 2024-

STATE OF MARKETS IN BUNGOMA COUNTY

Report of the Standing Committee on Devolution and Intergovernmental Relations on a Statement sought by Sen. David Wakoli, MP, regarding the state of markets in Bungoma County.

STATE OF MARKETS IN VIHIGA COUNTY

Report of the Standing Committee on Devolution and Intergovernmental Relations regarding a Statement sought by Sen. Godfrey Osotsi, MP, regarding the state of markets in Vihiga.

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ALLEGED SECURITY CONCERNS RAISED BY THE  
DEPUTY GOVERNOR OF TRANS NZOIA COUNTY

Report of the Standing Committee on Devolution and Intergovernmental Relations regarding an enquiry into alleged security concerns raised by Hon. Philomenah Kapkory, the Deputy Governor of Trans Nzoia County.

*(Sen. Abass laid the documents on the Table)*

Mr. Speaker, Sir, I beg to give Notice of the following Motions- Report of the Standing Committee on Devolution and Intergovernmental Relations---

**The Speaker** (Hon. Kingi): Sen. Abass, you are just supposed to lay your Papers. You will give notice of your Motions at some point. Have you laid your Papers?

**Sen. Abass:** Yes.

**The Speaker** (Hon. Kingi): Then that is it.

*(Sen. Abass spoke off record)*

We are getting there, Sen. Abass. Let us go to the next Order.

### NOTICES OF MOTIONS

**The Speaker** (Hon. Kingi): We will pend Order No.6(1), that is, Notice of Motion that was supposed to be given by the Senate Majority Leader.

Let us have the Notice of Motion by the Chairperson of the Standing Committee on Labour and Social Welfare.

If Sen. Murgor is not here, we can have any Member of the Committee.

ADOPTION OF REPORT ON THE PLIGHT OF EPZ  
WORKERS IN MOMBASA AND KILIFI COUNTIES

**Sen. Miraj:** Mr. Speaker, Sir, on behalf of my Chairperson, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Labour and Social Welfare on an inquiry into the plight of workers in the Export Processing Zones (EPZs) in Mombasa and Kilifi Counties, laid on the Table of the Senate on Tuesday, 1<sup>st</sup> October, 2024.

**The Speaker** (Hon. Kingi): Sen. Abass, you may now proceed to give your Notice of Motion.

ADOPTION OF REPORT ON ALLEGED SECURITY  
CONCERNS RAISED BY THE DEPUTY GOVERNOR  
OF TRANS NZOIA COUNTY

**Sen. Abass:** Mr. Speaker, Sir, I beg to give Notice of the following Motion- THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on its inquiry into the allegations on personal security concerns raised by Hon. Philomena Kapkory, Deputy Governor, Trans Nzoia County, laid on the Table of the Senate on Tuesday, 1<sup>st</sup> October, 2024.

ADOPTION OF REPORT ON STATE OF MARKETS  
IN VIHIGA AND BUNGOMA COUNTIES

**Sen. Abass:** Mr. Speaker, Sir, I beg to give Notice of the following Motion- THAT, the Senate adopts Reports of the Standing Committee on Devolution and Intergovernmental Relations on its inquiry into the state of markets in Vihiga and Bungoma counties arising from Statements sought by Sen. Godfrey Osotsi, MP, and Sen. David Wafula Wakoli, MP laid on the Table of the Senate on Tuesday, 1<sup>st</sup> October, 2024.

**The Speaker** (Hon. Kingi): Let us go to the next Order.

## QUESTIONS AND STATEMENTS

### STATEMENTS

ALLEGED MISMANAGEMENT OF EMPLOYMENT, HUMAN  
RESOURCE AND PAYROLL MATTERS IN NANDI COUNTY

**Sen. Cherarkey:** 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 on claims of grave mismanagement of employment, human resource, and payroll matters in Nandi County.

In the Statement, the Committee should-

(1) Provide a report, outlining the findings of an audit that was conducted by the Public Service Commission on the Nandi County Public Service Board (CPSB) and payroll management.

(2) Explain the findings of the verification exercise of Nandi County staff that was carried on 13<sup>th</sup> March, 2023, at Kaimosi Farmers Training College (KFTC), and state why letters of appointment were allegedly issued to the same staff now being claimed to have been recruited irregularly, giving reasons for their continued illegal employment despite the huge wage bill in the county.

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(3) Provide a list of all Nandi County employees, indicating their terms of engagement, where they were recruited and their details captured in Integrated Payroll and Personnel Database (IPPD).

(4) Apprise the Senate on the status of the investigations by the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI), indicating the number of staff who allegedly included relatives of the incumbent governor Sang, among others, who are claimed to have never reported to work (ghost workers) and whose names were deleted from the payroll and have since recorded statement with the DCI or the EACC.

(5) State whether the Nandi CPSB has a capacity to carry out proper checks and controls in terms of ensuring that the IPPD, staff medical insurance and payroll management are free from manipulation and adhere to the rule of law.

I thank you.

**The Speaker** (Hon. Kingi): Senator for Nairobi City County, proceed.

#### ALLEGED GRABBING OF PUBLIC UTILITY AND PRIVATE LANDS IN PARTS OF NAIROBI CITY COUNTY

**Sen. Sifuna:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the alleged grabbing of public utility and private lands in parts of Nairobi City County.

In the Statement, the Committee should-

(1) Establish the legal ownership of the following parcels of land in Nairobi City County:-

(i) LR No.209/10298, designated for Maendeleo Learning Centre, also used for public barazas and gazetted as a polling centre in Mukuru kwa Reuben Ward, Embakasi South Constituency.

(ii) LR No.209/2207/7, designated for Jogoo Road Open Air Market in Maringo Ward, Makadara Constituency.

(iii) LR No.209/12458/8, located on Enterprise Road in Mukuru Kwa Reuben Ward, Embakasi South Constituency, registered in the name of Peter Mwangi Kanee.

(2) State plans and measures in place to restore the encroached parcels of land to their rightful owners.

I thank you.

#### ONGOING STRIKE BY STAFFERS IN PUBLIC UNIVERSITIES

**Sen. Munyi Mundigi:** Mr. Speaker, Sir, I am standing to request this Statement, on behalf of the Senator for Kirinyaga. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the ongoing nationwide strike by academic and non-academic staff members in public universities.

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The industrial action by both the Universities Academic Staff Union (UASU) and the Kenya Universities Staff Union (KUSU) has paralysed learning in the affected institutions, disadvantaging learners and fueling a crisis in the education sector in general.

In the Statement, the Committee should-

(1) Write the nature and particulars of the grievances raised by the striking academic and non-academic staff members in public universities and provide details of the form and extent of intervention the Government has made to address them.

(2) Explain any measures the Ministry and the universities have taken to ensure a conclusive resolution of recurrent industrial disputes to avert similar occurrences in the future.

**The Speaker** (Hon. Kingi): The next Statement is by the Senator for Nyandarua County, Sen. John Methu.

#### RELOCATION OF POWER LINES ALONG NJABINI-OLKALOU ROAD

Now that he is not here, that Statement is dropped.

*(Statement dropped)*

**The Speaker** (Hon. Kingi): Next is a Statement by the Senator for Kisii County, Sen. Onyonka.

#### STATUS AND MANAGEMENT OF ADC FARMS

**Sen. Onyonka:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the status and management of the Agricultural Development Corporation (ADC) farms in Kenya.

The ADC is a crucial institution in Kenya's agricultural sector, holding vast tracts of land intended to boost food security. Recent reports have been raised concerning management and utilisation of these lands, including the controversial lease agreements that have been signed, including underutilization and financial instability of ADC.

In this Statement, the Committee should-

(1) Provide a comprehensive list of all ADC farms in Kenya, including their specific locations, county by county.

(2) State the current operators of the farms, specifying whether they are being run by individuals, corporations, entities engaged in agricultural activities on these lands and indicate if there are any known subleases or involvement of third-party operators.

(3) Table a comprehensive list of all the current leases and agreements which have been signed by the Government, specifying whether there are executed leases or agreements with any organization presently operating on these farms or individuals, and explain how and when these agreements were signed and whether they were signed with

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the agenda of having Agricultural Development Corporation (ADC) to fulfill the mission of promoting food security and agricultural development in our country.

I thank you.

**The Speaker** (Hon. Kingi): Chairperson, Standing Committee on Land, Environment and Natural Resources.

ACTIVITIES OF THE COMMITTEE ON LAND,  
ENVIRONMENT AND NATURAL RESOURCES

That Statement is dropped.

*(Statement dropped)*

**The Speaker** (Hon. Kingi): Chairperson, Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

ACTIVITIES OF THE COMMITTEE ON NATIONAL COHESION,  
EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

**Sen. Chute:** Thank you very much, Mr. Speaker, Sir. I rise pursuant to Standing Order No.56 (1) (b) to make a Statement on the activities of Standing Committee on National Cohesion, Equal Opportunity and Regional Integration for the period commencing April to September, 2024. .

During the reporting period the Committee has carried out various activities pertaining to its mandate. It has transacted the following legislative business-

(a) The Committee has processed five Statements which were sought from the committees. Of the five statements, it has considered and concluded one, leaving four pending.

(b) The Committee is currently considering a Motion by the Senate Majority Leader and the Senate Minority Leader on the Current State of the Nation. On Wednesday, 24<sup>th</sup> July, 2024, the Senate resolved that the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration engages the Public Service Commission (PSC) and the National Cohesion and Integration Commission (NHIC) to audit the state of employment in the public service, including county governments and propose strategies to adhere to meritocracy, equality and equity of opportunities across the public service as espoused in Article 232 of the Constitution on the values and principles of public service.

(c) The Committee in its consideration of the Motion has so far met with the following 28 county governments; Garissa, Makueni, Taita Taveta, Trans Nzoia, Bomet, Narok, Nyeri, Kericho, Kwale, Kajiado, Marsabit, Samburu, Kilifi, Turkana, Tharaka Nithi, Kitui, Elgeyo Marakwet, Wajir, Uasin Gishu, Mandera, Nakuru, Mombasa, Nyandarua, West Pokot, Nairobi City, Nyamira, Kakamega and Lamu.

While the Committee has made significant progress, we are yet to conclude on the Motion as further submissions are yet to be received from the remaining county

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governments for consideration in preparation of a comprehensive and accurate report to be tabled in mid-October.

(d)The Committee in the course of its oversight role started an inquiry into the representation of Kenya's diversity in staff composition of various state agencies. I am pleased to inform you that the Committee has successfully met with 29 State agencies as part of the inquiry process, with each agency providing valuable input towards the progress report that I will table within the course of this week.

Mr. Speaker, Sir, the Committee in future plans to-

(1) Conclude on the Motion of the Current State of the Nation on the Committee's findings and drafting a report that will be tabled on the Floor of the House soon, outlining the submissions and recommendations.

(2) Continue with an inquiry on the representation of Kenya's diversity in the staff composition of the various state agencies.

(3) Conduct visits to various counties on peace dialogue meetings, especially in conflict regions and cohesive existence among warring communities.

Lastly, I wish to appreciate the Office of the Speaker, the Senate leadership, and the Office of the Clerk of the Senate for the steadfast support they have accorded this Committee.

I thank you.

**The Speaker** (Hon. Kingi): The Chairperson, Standing Committee on National Security, Defence and Foreign Relations.

#### ACTIVITIES OF THE COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I will read the Statement on behalf of the Chairperson, who is indisposed.

I rise pursuant to Standing Order 56 (1) (b) of the Senate Standing Orders to make a Statement relating to the activities of the Standing Committee on National Security, Defence and Foreign Relations for the period April to August, 2024.

During the period under reference, the Committee held 28 sittings, at which it considered various legislative proposals, Bills, Statements, Petitions, Motions, a resolution from a County Assembly and approval hearing and stakeholder's engagement as set out below-

(1) The Committee conducted pre-publication scrutiny on the Protection of Criminal Infrastructure Bill, 2024, legislative proposal sponsored by Sen. Chesang, MP. The Committee approved the proposal, which has since been published as a Bill.

(2) The Committee considered two Bills during the reporting period namely; The Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill, 2024 and The National Disaster Risk Management Bill, 2023 (National Assembly Bill No.23 of 2024).

Owing to the ongoing public discourse on the effects of *miraa* and *muguka*, the Committee sought extension of time to consider the Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill, 2024 so as to engage the public in Meru, Embu and Coastal counties.

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The Committee is currently considering memorandum received on the National Disaster Risk Management Bill, 2023 (National Assembly Bill No.24 of 2023). We are in the process of finalizing these Bills and table the reports in the coming month.

(3) The Committee considered 22 Statements during the reporting period and concluded 15, while seven are ongoing.

(4) There were five Petitions. The Committee concluded consideration of four Petitions and tabled reports in May 2024. The Committee is currently considering a Petition concerning compensation of police officers injured in the line of duty, which was directed from the Standing Committee on Labor and Social Welfare. The Committee is currently meeting with the petitioners and relevant stakeholders.

(5) The Committee concluded consideration of resolution from the County Assembly of Elgeyo Marakwet on measures to curb banditry in Kerio Valley and tabled its report.

(6) There is one Motion. The Committee is currently considering resolution of the Senate arising from the adoption of the Motion on the Current State of the Nation. The Committee is meeting with the relevant stakeholders and will be tabling its report in Senate during the month of October.

(7) The Committee jointly concluded an approval hearing of Mr. Douglas Kirocho Kanja, the nominee for appointment to the position of Inspector-General of the National Police Service with its counterpart Committee of the National Assembly. The Committee approved the nominee for the appointment to the position of Inspector-General of the National Police Service.

Mr. Speaker, Sir, on stakeholder engagement, the Committee held a stakeholders' forum to receive submissions from various stakeholders on the Narcotic Drugs and Psychotropic Substance Control (Amendment) Bill 2024 (Senate Bill No.1 of 2024) and conducted a retreat with the Ministry of Interior and National Administration to discuss the Ministry's memorandum on the Bill. The detailed status of the legislative business considered by the Committee during the reporting period is attached and annexed to this Statement.

During the remainder of the Third Session of the Committee, we have prioritized the conclusion of the legislative business before the Committee as well as the county visits as mentioned.

As I conclude, I wish to thank the offices of the Speaker and the Clerk of the Senate for the steadfast support they have accorded to the Committee as well as the Members of the Committee for their utmost dedication and committed to the duty.

I will not go through all the annexes, but the report is available for perusal.

I thank you.

**The Speaker** (Hon. Kingi): Sen. Hezena.

FAILURE TO RESERVE 30 PER CENT PROCUREMENT  
VALUE TO DISADVANTAGED GROUPS

**Sen. Lemaltian:** Thank you, Mr. Speaker, Sir. I rise to request a Statement on the persistent failure by Government entities to reserve at least 30 per cent of their procurement value in every financial year for disadvantaged groups.

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Finance and Budget regarding the persistent failure by government entities to reserve at least 30 percent of their procurement budgetary allocations, in every financial year for the youth, women and persons with disabilities as mandated by the law.

In the Statement, the Committee should:

(1) Outline measures put in place to ensure transparency in the award of tenders by Government entities.

(2) State actions taken to ensure all government agencies reserve at least 30 per cent of their procurement budget in every financial year for the youth, women and persons with disability, disclosing the channels available to the public for reporting noncompliance.

(3) Disclose the findings and recommendations of the most recent audit conducted to ascertain whether government entities have reserved procurement opportunities for the youth, women and persons with disability as mandated by the law.

(4) Provide details on programmes and interventions by the Government aimed at addressing challenges that prevent the youth from securing tenders, particularly lack of access to funding, complex tender requirements and limited knowledge on the procurement processes.

(5) Last but not least, explain how Government entities verify the legitimacy of youth-owned enterprises when awarding tenders to ensure that the older and wealthier businessmen do not use these enterprises as a cover to secure tenders.

Thank you.

**The Speaker** (Hon. Kingi): I will allow comments on these Statements for 15 minutes.

Hon. Maanzo Daniel.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. I would like to comment on Sen. Cherarkey's Statement. There are a number of ghost workers in many counties and if memory serves us right, recently, the Governor of Kisii, Hon. Arati, took stock of them, starting with the drivers. There were a number of employed drivers who did not even have a vehicle to drive.

It is important to audit every single county, bearing in mind that this problem started from the county councils, so that we do not have ghost workers in our counties and also for the money going to the counties is put into good use.

**The Speaker** (Hon. Kingi): Sen. Nderitu Kinyua.

**Sen. Kinyua:** Asante, Bw. Spika. Ninaunga mkono Taarifa iliyoletwa na Seneta Onyonka kuhusu usimamizi wa shamba la ADC. Hii ni Taarifa nzuri sana kwa sababu kule sehemu za Laikipia kuna shamba kubwa sana la ADC.

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Badala ya shamba lile kuleta afueni kwa ufanyi biashara wa Serikali kama kuweka ng'ombe wa nyama, unapata hilo shamba linakua donda sugu kwa wakaaji wa sehemu ile.

Hii ni kwa sababu, wafugaji na wezi wanajificha kule, wakiwavizia na wakiwavamia wakaaji wa kule ambao hawana hatia yeyote.

Vile vile, ile sehemu inatumika vibaya kwa sababu Serikali haizingatii kuweka usalama katika lile shamba kwa sababu shamba ni kubwa na wamelemewa kufanya kazi wanayopaswa kufanya. Pia, kuna wanyama wa mwituni kama ndovu wanaoishi pale na wanavamia mashamba ya wakulima kila wakati.

Bw. Spika, badala ya haya mashamba ya ADC kuwa na faida, yanakua donda sugu na yanaendelea kuwasumbua wananchi. Ningependekeza kwa Kamati inayohusika iweze kuzingatia na iseme kwamba, ikiwa Serikali imeshindwa kuilinda lile shamba, igawanye hayo mashamba kwa wananchi, ili wayatumie kwa hali ambayo inafaa kutumiwa.

**The Speaker** (Hon. Kingi): Sen. Beth Syengo.

**Sen. Beth Syengo:** Thank you, Mr. Speaker, Sir. I rise to support the Statement sought by the Senator for Nairobi City County on the grabbing of public facilities and utilities in Nairobi. It is not only in Nairobi, but in several counties where individuals who are influential think that they can grab land and take public utilities for their own personal use. This is wrong.

If we move in that direction, the country will not move forward. It is good to be truthful and straight to serve Kenyans willingly.

**The Speaker** (Hon. Kingi): Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. I will comment on the Statement of Sen. Richard Onyonka on the issue of ADC. I will also seek further clarification on this matter with regard to the acreage that is still with ADC because we are aware there was some in Nandi County and across most of our agricultural areas.

In Trans Nzoia, we have a huge tract of land that is being leased out to propagate seeds. It was sad that during this planting season maize farmers had insufficient seeds to plant maize during this season.

We, therefore, want to know what is happening at ADC because they are running on red. We are going to another planting season because of the short rains. The propagation of seeds by ADC, Kenya Seed Company and other farms that are being run must be known.

Secondly, Mr. Speaker, Sir, I would like to know the management of ADC and its own-source revenue. We are aware they are leasing their one acre at Kshs200. This affects the revenue streams of ADC. Where I come from and even where Sen. Ledama comes from in Narok - I am happy that now he is part of the Government's delegation on international engagements - leasing an acre is at Kshs4,000.

When you go to Nandi and Uasin Gishu counties, you lease land at between Kshs5,000 to 10,000. However, when you lease land from ADC, it is only Kshs200. We must invite ADC to tell us what they are doing, so that they do not appear in the red.

Mr. Speaker, Sir, in line with Sen. Sifuna's Statement on grabbing, the problem in this country is that we have a disease called *grabiosis*. I do not know why somebody

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would want to grab land. When you die, it will be only four by six and six feet, going down. Even if you have two million acres of land, where will you go with it? You will leave everything on this earth.

People are grabbing and with this grabbing menace, we were being told that someone had gone to the Government Printer and printed out title deeds. This is how low we have sunk in terms of corruption. As we are talking, the Government Printer should have been shut down.

Members should be careful. I advise them to charge the title deed with the bank for the security of their land. Even people who have received Christ, if they are not careful, might lose their baptismal certificate before Jesus comes. We need to be careful.

With those many remarks, I support.

**The Speaker** (Hon. Kingi): Sen. Wamatinga, proceed.

**Sen. Wamatinga:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by the Senator for Nandi County. Indeed, in this country, we have failed to embrace and leverage technology to ensure we do things right. The issue of ghost workers has been discussed several in this country. We have been told that many people are finding their way into payrolls and pension schemes, but they are ghost workers.

In an age of Information Technology and the internet, this should be a question of pressing a button and knowing who was born when, who died when, and who is employed where.

It is convenient for those in the leadership and those running the organization not to explore this matter, not to even interrogate, and not to lay bare because they benefit from the ghost workers.

Moving forward, it is high time that we look at laws that enforce the application of technology and the leveraging of applications that make it foolproof, that they cannot exceed the time you are supposed to be employed. If you are employed by age 20, when retirement comes, you have to exit, which is mandatory.

However, in a country where death certificates are issued, people continue to draw pensions even long after they have passed on. Most county governments have huge payrolls, and some of them are ghost workers.

The only way to address this is to ensure that once people are employed, they are made public; this information is put in the application, and once they retire again, this application will automatically prompt their dismissal, and they will be removed from the payroll.

As I conclude, we have a responsibility as Kenyans to ensure that this country runs because it is not only bigger than us; it belongs to every one of us. As leaders today, we have a responsibility to ensure that we lay a firm foundation for the future generations who are coming to this country.

This is why we cannot afford to segregate this country into counties, ethnic groups and lines. We must stand as a nation and count all to be counted.

Thank you.

**The Speaker** (Hon. Kingi): Sen. Onyonka, proceed.

**Sen. Onyonka:** Thank you, Mr. Speaker, Sir. I would like to congratulate my brother, Sen. Cherarkey, for bringing up this issue. I hope the Committee will sit and look at what we have done with our Integrated Payroll and Personnel Database (IPPD) and what the national Government has done in the Public Service Commission, that is, the individuals that the Government has employed. We need to know how many teachers we have in this Republic.

I can tell this House that if you ask for that list, you would not get it. Recently, a Kenyan said that he went to chase for their retirement benefit payments. When they went there, they found that they had been – I do not know how to put this statement – I was going to say that they had been killed, but I said they were dead four years before they went to claim their retirement benefits. That is so shocking because many of our people are finding it a challenge to get their retirement benefits, gratuity, and everything that requires Human Resources in our country.

I would wish and pray that the Committee on Labour and Social Welfare, once they sit down, must come up with modalities on how we are going to make sure that in our republic, somebody, somewhere, can have a list of all the employees of Government, even employees of the private sector. Make sure that we have a system whereby we can validate and analyze and a system that is self-vindicating.

**The Speaker** (Hon. Kingi): Sen. Wafula, proceed.

**Sen. Wafula:** Asante, Bw. Spika. Ningependa kuchangia Kauli ya mashamba ya ADC ambayo yamo humu nchini. Kuna wafanyakazi ambao wanafanya kazi kwenye mashamba haya. Wanaishi kwenye madongo poromoka. Hawalipwi kwa wakati unaostahili. Watoto hawaendi shule, ilhali wakurugenzi na wasimamizi wa mashamba haya wanaishi Maisha ya starehe bila kuwahurumia wafanyikazi hawa.

Kauli hii inaenda sambamba na Kauli ya unyakuzi wa mashamba. Katika Jumba hili niliuliza maswali kuhusiana na idadi ya mashamba ya umma katika Kaunti ya Bungoma. Takriban miezi minne iliyopita majibu bado hayajaletwa. Hii ni ishara tosha kwamba sisi kama Bunge la Seneti tusipochunga mashamba katika kaunti zetu, zitanyakuliwa. Wakati wa ujenzi wa miundo mbinu na msingi katika kaunti zetu tutakosa sehemu za kuboresha maisha ya watu wa kaunti tunazotoko.

Ni lazima tujimwae, tujizoeze, ili kuhakikisha kwamba tunalinda mashamba ya kaunti ili vizazi vijavyo viweze kunufaika na mashamba haya.

**The Speaker** (Hon. Kingi): Sen. Ogola, proceed.

**Sen. Ogola:** Mr. Speaker, Sir, I rise to support the Statement by the Senator of Nandi and the Senator of the great Nairobi City County.

There is a big problem with the grabbing of public land. The public land we have in this country was acquired for a purpose, and there seems to be interest in this country on open grounds not limited to cemeteries, playgrounds, schools, and other public amenities.

As I support this, I also urge the county governments all over the country to enhance the planning of their spaces so that every other space has a usage that can be tied to it.

Allow me to also comment on the Statement on mismanagement of employment, human resource, and payroll matters in Nandi County. It is not only mismanagement of

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human resources, but our counties do not even employ technical staff that can serve our people in their different ministries.

It is a pity that in some counties, you will have over 20 drivers in a unit with one or no vehicle at all. These employees are categorized as support staff, but the core services the sectors should provide for our people are understaffed.

All over the country, if you go to the agricultural, water, energy, and lands departments, all these departments are understaffed. This affects services that are given to our people in the counties.

Other than the mismanagement, devolution was not only supposed to stop at the county headquarters. Our people are entitled to services at the sub-counties, wards, and even beyond the ward levels. Nonetheless, do the counties apportion staff that can give our people the required services?

If you look at a sector like veterinary services where most of our farmers require services on their farms especially with their cattle, they can hardly get services because there are no technical staff to serve our people at the farms. So, our people then end up travelling back to the county headquarters to look for services that would have otherwise been devolved.

I support this and we call upon the counties to employ technical staff in the different sectors that they have in the country, so that our people can get the required services.

I support.

**The Speaker** (Hon. Kingi): Sen. Chute.

**Sen. Chute:** Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Cherarkey. About 35 governors appeared before my Committee. I have realized that this country is facing the issue of wage bill. We have parallel payrolls in many counties; the manual payroll and the automated payroll.

Imagine a county getting a budget of Kshs5 billion and the wage bill is Kshs3 billion. In some instances, it is even Kshs4 billion.

I want to give you an example of the County of Kirinyaga. Kirinyaga County has got only Kshs800 million for their development programmes. Looking at Kshs800 million per year and their salary is almost Kshs2.3 billion, how would you manage development with only Kshs800 million? I want to thank Gov. Waiguru because she has done a lot with the Kshs800 million per year that she is getting.

The problem we have in this country is the issue of ghost workers. If you look at the situation in all the counties, their wage bill is very high, but production is less than 50 per cent, maybe even 30 per cent. If you are paying salaries to your people and those people are not working, how do you expect to develop that particular county?

That is a problem that people and leaders in this country need to sit and discuss. That is the issue that Sen. Cherarkey is raising. We had his Governor today before us. We discussed the same issue. We asked the Governor to come again next week to present more documents.

Let me also support the Statement by Sen. Onyonka on the issue of the ADC Farm. It is very important. We need to have a comprehensive report about ADC farms. If you can remember, in the 1990s, with his wisdom, the then President Daniel Toroitich

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arap Moi gave land to the poor, five acres each, both in Ndabibi and Muindabi area, which is in Naivasha.

These was land that belonged to the ADC. However, what happened? This land ended up in the wrong hands. The Provincial Commissioners (PCs,) the District Commissioners (DCs) and the Divisional Officers (Dos) grabbed those lands.

If you go to Ndabibi today, where the farm was, you will find that those farms were taken by the, who-is-who in this country. We are facing the same problem again today, not only on ADC but there is the issue of investors taking Government land, purporting to be building houses for low-cost housing. I said this before and I am saying it again. The same problem that happened in 1990 is coming back again.

I think what ADC needs to do is to tell us how many farms they have in Kenya. Some ranches like Solio Ranch in Laikipia, which were meant for Internally Displaced Persons (IDPs), were grabbed. Some acres in that ranch were meant for IDPs, but we do not know what is happening with all the acreage now. We were told the Government bought that land for IDPs. We need to know how many acres were meant for IDPs, how many acres went to individual people and who those individual people are.

Lastly, the issue of ADC is not only about land. They have got animals on those farms. We need to know what is the productivity of those animals. Is it helping this country financially? If it is not helping, then we must be told what has to be done, so that we engage ADC as an entity that is supposed to do business.

Thank you.

**Sen. Omogeni:** Mr. Speaker, Sir, I also rise to support the Statement that was raised by Sen. Onyonka on allegations that there are people who want to grab ADC farms. I do not know for how long we will have Kenyans who remain extremely primitive; who does not understand that there is no government in the whole world that does not value food security.

Even countries that have made a lot of strides in becoming first-world countries or countries that have attained industrial status, still value food security. If you go to Australia, they still value beef farming. The famous Angus beef comes from Australia.

In 2020, COVID-19 taught us that you do not know about tomorrow. We need to be a country that prides itself, that we can provide enough food for our people. Having gotten our new Constitution that protects public land, I urge all Government agencies to be proactive in protecting public land. Land that is owned by ADC does not belong to private citizens. It belongs to the public and by extension it is owned by Kenyans.

It will be a shame to the future generation if we realize that in a few years we will not be able even to provide our food. I remember that when we were growing up, we all knew that Kitale is a food basket of Kenya.

If we reach a situation where we want to have a country of blocks everywhere, that is being very unwise. I plead with those in Government including the National Land Commission (NLC) who have been given the task of protecting public land to ensure that, we do not lose our ADC farms to these very greedy Kenyans who want to own all the land. Even if you have mansions, you have houses and you have no food, you will finally die.

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We need to protect these farms so that we still pride ourselves as a country that has food security for its people.

I support.

**Sen. Abass:** Thank you, Mr. Speaker, Sir for the opportunity. I also want to join my colleagues in supporting the Statement from Sen. Cherarkey. This matter is very weighty and, in most instances, and in most counties, the human resources management is very poor. It is at the discretion of governors and the budget is just too high; over 50 per cent, especially in my county, that most of the employees who are under the manual payroll cannot be accounted for. There are many unaccounted-for employees in the manual payroll and that contributes a lot to budget overshoot.

One other thing I found is that the County Public Service Board (CPSB) is not an independent institution, as it is supposed to be. Most of the boards are micromanaged and given instructions for employment, who to employ and who not to employ.

I think this is a matter that we need to look into; the Constitution and the law that is available to the county public services, so that at least they can be given full independence and they can function independently and be free from the governor's influence.

In my county, there are members of the land board tribunal and municipalities that were appointed in the last five years but up to today, they have not been paid their remunerations and sitting allowances. The time is over and they are having unpaid allowances, which is very unfortunate. These people are legally appointed, but the payment is not done according to the requirements.

Finally, Mr. Speaker, Sir, promotion and employment is at the discretion of the governors and the county governments. You will find that there are some staff that have been transferred from the national Government because of the devolved functions. Up to date, they are in the low-job groups compared to the people that have been employed by the counties.

A young graduate who is employed by the county is in job Group R or Q, while the man who came from national Government service and has been transferred to the counties, is in job Group K and N, which is below the young graduates. Many disparities also need to be rectified. This House has to do something about it.

Staff pensions and gratuities are being misused at the pleasure of the governors and their staff. Most of the staff do not get their pension to the respective statutory institutions and they also do not get their gratuity when the time limit is over.

For some of them, even Pay-as-You-Earn (PAYE), loan and, National Social Security Fund (NSSF) deductions are not remitted.

This is actually a matter that we need to discuss as a House, so that we can bring some order into the management of staff within the counties.

**The Speaker** (Hon. Kingi): Next Order.

**MOTION**ADOPTION OF REPORT ON INSECURITY  
IN TURKANA COUNTY

THAT, the Senate adopts the Report of the Standing Committee on National Security, Defence and Foreign Relations on a Petition to the Senate by Mr. Samuel Esapar on behalf of residents of Turkana County, concerning the state of insecurity in Turkana County, laid on the Table of the Senate on Wednesday, 7<sup>th</sup> August, 2024.

*(Sen. Dullo on 7.8.2024)*

*(Resumption of debate interrupted on 26.9.2024)*

**The Speaker** (Hon. Kingi): Now, Hon. Senators, debate on this Motion had been concluded. Therefore, I will proceed to put the question.

*(Question put and agreed to)*

Hon. Senators, we will defer Order Nos.9 and 10 and move to Order No.11.

**BILL***Second Reading*THE DIVISION OF REVENUE (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.38 OF 2024)

*(Bill deferred)*

**BILL***Second Reading*THE CO-OPERATIVE SOCIETIES (AMENDMENT)  
BILL (SENATE BILLS NO.53 OF 2023)

*(Bill deferred)*

**MOTION****ADOPTION OF JOINT REPORT ON APPROVAL FOR  
APPOINTMENT OF MR. DAVID KIBET KEMEI  
TO THE POSITION OF DG, CAK**

**The Speaker** (Hon. Kingi): Chairperson for the Standing Committee on Finance and Budget proceed.

**Sen. Tabitha Mutinda:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the Report of the Joint Sitzings of the Departmental Committee on Finance and National Planning of the National Assembly and the Standing Committee on Finance and Budget of the Senate, on the approval hearing of Mr. David Kibet Kemei, nominee for appointment as the Director-General of the Competition Authority, laid on the Table of the Senate on Thursday, 26<sup>th</sup> September 2024; and that pursuant to Section 12(1) of the Competition Act and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, the Senate approves the nomination of Mr. David Kibet Kemei for appointment as the Director-General of the Competition Authority.

Mr. Speaker, Sir, this was a joint sitting between the members of the National Assembly and members of the Senate that sit in the Finance and Budget Committee.

During our proceedings, we had a window of 28 days to look at the credibility of the nominee. We only had one candidate for this position. This process had taken place through an agency that had conducted the recruitment process of so many candidates. The Board of Directors of the Competition Authority had also done their part and selected the nominee.

This nominee was seconded by the Office of the Acting Cabinet Secretary, His Excellency Musalia Mudavadi, by then on 6<sup>th</sup> August, 2024 as a nominee to be vetted by both Houses of Parliament, that is the National Assembly and us, the Senate.

In this position, we only had one candidate. In our vetting process, we keenly looked at the credibility, competency and experience of the candidate and focused more on his experience as a person.

Mr. Speaker, Sir, we also looked at the other credible documents or certifications that the candidate needed to uphold. One of them, being the Ethics and Anti-Corruption Commission (EACC) report, the Higher Education Loans Board (HELB) report, Kenya Revenue Authority (KRA) certification and the Directorate of Criminal Investigation (DCI) report as well, which were all okay.

We further looked at the academic credentials. I state that the candidate holds a Master's Degree in Business Administration (Finance Option), and a Bachelor's Degree in Commerce from the University of Nairobi. As an alumnus of University of Nairobi, we were also able to keenly look at whether he was a student.

In the previous vetting process that we did, we encountered a scenario where one of the candidates had an issue of the university being unable to recognize him.

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Mr. Kibet also had certification from Kenya Accountants and Secretaries National Examinations Board (KASNEB). He was also a Certified Regulation Specialist from the Institute of Private-Public Partnership (IP3) in Washington, United States of America (USA). He was also a practitioner of executive coaching from the Academy of Executive Coaching in United Kingdom (UK).

Mr. Kibet indicated a wide experience of over 30 years, from being a director at Kenya Reinsurance Corporation Limited (Kenya Re), an insurance company. At some point, he was also the chairperson of the board.

Mr. Kibet was also a part-time lecturer at Egerton University, Kabarak University, Moi University, Jomo Kenyatta University of Agriculture and Technology (JKUAT) as well as the Kenya School of Monetary Studies. He has also been a lecturer at Oshwal College and a finance analyst at the Energy and Petroleum Regulatory Authority.

Mr. Speaker, Sir, he has also been a board member at Africa Merchant Assurance, a revenue accountant and also a group credit controller at Nation Media. This then gave him a wide year experience as far as his mandates are concerned.

As a committee of both Houses, we were able to also gauge him in regards to his maturity and competence in terms of delivering, matters conflict of interest and leadership skills.

We, as a committee, we satisfied that he is a man who will ensure that when it comes to his docket as a Director General at the Competition Authority of Kenya (CAK), as a country, we will have somebody who is going to keenly look at the economic situation of this country. He will look at how investors sometimes come in and affect our people by taking full charge without considering competition.

I also thank committee Members for their dedication. As I have always stated, this is one of the busiest committees in this Senate. I also appreciate the support from the secretariat.

Mr. Speaker, Sir, I wish to call my colleague and senior, none other than Sen. (Dr.) Boni, to second.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise to second the report of the Committee on Finance and Budget on the appointment of Mr. David Kibet Kemei, as ably moved by the Vice-Chairperson of the Committee, distinguished Sen. Tabitha Maureen Mutinda.

Sitting and listening to that candidate during the exercise, I was personally and we were collectively convinced and persuaded that the Kenyan is eminently qualified for that job. He demonstrated competence during the interview. For that reason, we approved him.

I second the Report.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, I will now proceed to propose the question.

*(Question proposed)*

Before I allow debate, hon. Senators, allow me to make the following communications.

*(Interruption of debate on Motion)*

## COMMUNICATIONS FROM THE CHAIR

### PENDING BILLS IN THE COUNTIES

Hon. Senators, during the sitting of the Senate held on 20<sup>th</sup> March, 2024, the Senator for Narok County, Sen. Ledama Olekina, MP, moved a Motion on the status of pending bills in the counties. The Senate passed the Motion on 9<sup>th</sup> May, 2024.

Pursuant to Standing Order No.225(1), the resolution was communicated to the relevant Government agencies, including the Controller of Budget (CoB) for implementation.

Standing Order No.225(2) requires that within 60 days of a resolution being conveyed to the relevant Cabinet Secretary, independent Commission or holder of an independent office, such persons shall provide a report to the relevant committee of the Senate in accordance with Articles 153(4)(b) and 254(2) of the Constitution.

At the sitting of the Senate held on 8<sup>th</sup> August, 2024, the matter of implementation of the resolution of the Senate on pending bills in the counties arose, where a number of Senators expressed concern at the slow pace of implementation of measures to address the matter.

I then directed the Standing Committee on Finance and Budget to schedule a meeting with the CoB and the Cabinet Secretary for National Treasury and Economic Planning to apprise the Senate on the status of pending bills and deliberate a view to finding a lasting solution. Further, I directed the committee to extend an invitation to all Senators to the said meeting.

It is against this background that pursuant to Standing Order No.228(4)(j) as read together with Standing Order No.225(2), that the Standing Committee on Finance and Budget has scheduled a meeting with the CoB on Thursday, 3<sup>rd</sup> October, 2024 to deliberate on the status of implementation of the Senate resolution on pending bills in the counties. The meeting will take place in the Mini Chamber, County Hall, First Floor, Parliament Buildings, Nairobi, from 9.30 a.m.

Hon. Senators, through this Communication, the Committee has extended an invitation to all Senators to participate in this important meeting.

I have another Communication.

### REDIRECTION OF PETITION ON AMENDMENT OF SECTION 32(3) OF THE COUNTY GOVERNMENTS ACT

Hon. Senators, as you will recall, at the sitting of the Senate held on Tuesday, 14<sup>th</sup> May, 2024, I reported a petition by Mr. Japheth J. Makokha, requesting the Senate to amend Section 32(3) of the County Governments Act on the mandate of County

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Governors assigning portfolio of a County Executive Committee Member (CECM) to Deputy Governors. Pursuant to Standing Order No.238(1), I committed the Petition to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

Hon. Senators, subsequent to the committal of the Petition to the Standing Committee on Justice, Legal Affairs and Human Rights, vide a letter reference JLHARC/SSM/2024/10, dated 24<sup>th</sup> September, 2024, I received a request from the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights to redirect the Petition to the Standing Committee on Devolution and Intergovernmental Relations.

In the letter, the Chairperson stated that during the consideration of the Petition by the Standing Committee on Justice, Legal Affairs and Human Rights, the committee observed that the subject of relations between County Governors and their deputies as well as the mandates and functions of Deputy Governors, was under active consideration by the Standing Committee on Devolution and Intergovernmental Relations.

The Chairperson further observed that the Standing Committee on Devolution and Intergovernmental Relations was also in the process of considering a legislative proposal seeking to amend Section 32 of the County Governments Act to provide for definitive roles for the Office of the Deputy Governor.

Hon. Senators, having considered the matter as requested by the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, I hereby redirect the Petition submitted by Mr. Japheth J. Makokha to the Standing Committee on Devolution and Intergovernmental Relations. The Committee will be required to table a report on the Petition in not more than 60 calendar days from today, 1<sup>st</sup> October, 2024, pursuant to Standing Order No.238.

I thank you.

*(Resumption of debate on Motion)*

Hon. Senators, debate is open on the Motion.

Proceed, Sen. Osotsi.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for this opportunity to also make my comments on this important Motion. The position of the Director-General of the CAK is a high profile because it looks at the competitive behaviour in our economy and takes necessary actions based on law.

We have many instances of unfair competition in our economy. I hope that the CAK under the new leadership of Mr. David Kibet Kemei will be in a position to deal with.

Competition is important, but unfair competition also has effects on the economy. I would like to encourage the CAK to try and scan around to establish sectors that have instances of unfair competition and deal with them, so that they are also open to others.

Mr. Speaker, Sir, I know that during the previous session, the National Assembly and the Senate looked at the issue of unfair competition in the telecommunications sector and made recommendations on what needed to be done. As I speak, nothing has happened.

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We are seeing a situation where one particular operator is controlling over 80 per cent of the market. This is one area that we expect the CAK to look into, among many others. It is because competition leads to better quality, better prices and many other things that consumers enjoy.

Mr. Speaker, Sir, this particular authority is very important to the economy and the consumers in this scenario. We are being flooded with cheap products in our markets. This is the organization that needs to come out and help this country and the consumers of this country. This organisation does a very important function. Therefore, its leadership needs to be of high integrity, a very professional leadership and a leadership that can be trusted.

Mr. David Kibet Kemei is known to me. We worked together in the Energy Regulatory Commission (ERC). When I was working as an ICT Director, he was working as a Chief Economist. He is a very serious professional. He left earlier than me.

I do not want to go into that, but I know he is a very serious employee who will transform this organization. I encourage him to ensure that there are higher standards of integrity and accountability even as he leads this organization.

Having said that, I know he is coming from outside the CAK, which is okay. However, we also need to encourage that when such an opportunity comes in an organization, the employees of that organization should be given the first opportunity. The managers who have worked there for long and have experience, can be given an opportunity.

I want to talk on behalf of my constituent, who was one of the people looking for this job, and he was overlooked by the Prime Cabinet Secretary who also happens to come from his village. In the future and as the committee that analyses this thing, the first question you need to ask is; was there an employee within that organization who qualifies for this position, so that you can have a reason for looking for a replacement from outside? We want to encourage professionalism, succession planning and aspire people to hire offices within organizations.

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

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

Mr. Temporary Speaker, Sir, it is quite unfair that when an opportunity arises, you get someone from outside to come and either become the Managing Director (MD), the Chief Executive Officer (CEO) or the Director General (DG), while you have qualified people internally.

I am talking as a Senator of Vihiga County who is very knowledgeable about what happened in this process. Mr. Robert Maran who is very experienced, having worked for Kenya Revenue Authority (KRA), CAK and many other organizations for many years, and is one of the senior people in this Authority, was overlooked simply because he is a Maragoli from Sabatia.

Sadly, he was overlooked by his brother, who is the Prime Cabinet Secretary of this country. These are things that do not happen because they happen; it is because of

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political considerations. In any case, I am not doubting the qualifications of Mr. David Kemei. He is qualified. He is the best, but the local employees internally should have been considered.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Osotsi, just a moment.

What is your point of order, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I rise under Standing Order No.105 on statement of fact. While you were consulting, the distinguished Senator of Vihiga County stated that the Prime Cabinet Secretary, Hon. Wycliffe Musalia Mudawadi, prevented unfairly a local of Sabatia Constituency in Vihiga County from becoming the beneficiary to the position of Director General of the CAK.

That is an unfair comment. Could he, under the rules of procedure, table evidence to support the claim that Hon. Musalia Mudavadi blocked his brother from becoming the Director General of the CAK?

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Osotsi, if indeed that was what you had insinuated, could you please clarify? If that is the case, please, can you either withdraw or substantiate the matter?

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, Sen. (Dr.) Khalwale knows very well that I am a well-grounded person in Vihiga. I know a lot about what happens in Vihiga County, just the same way he knows a lot about what happens in Kakamega County.

According to the report that was tabled on the appointment by the Prime Cabinet Secretary, that is a fact and it is in the Report. I know for sure that this particular individual I am referring to---

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Osotsi, what is in the Report?

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, the Report talks about the name having been nominated by the Prime Cabinet Secretary. That is a fact and it is in the Report.

Secondly, I have been interrogated about this matter before when this thing was going on. I know a lot about this. If challenged, I am ready to substantiate.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Osotsi, the report that you are referring to states that the Prime Cabinet Secretary nominated the said individual. What you have been asked to substantiate is whether or not you have evidence of whether the Prime Cabinet Secretary removed the person that you are referring to as a candidate for the position of Director-General of the CAK.

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, that is why I have answered to say that I am well-grounded. I have interacted with this matter and I am the Senator of Vihiga County. There are chances that I have had meetings where this matter has come up.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Osotsi, let me stop you right there. The fact that you are grounded, and we all know you are grounded, you might have this information.

Are you able to table evidence of the fact that you are referring to, not the fact that you are aware of? Are you able to table that evidence?

**Sen. Osotsi:** Mr. Temporary Speaker, it is very unfair to ask me to table discussions that I have had in meetings somewhere. I will not be able to do so, but I will want to say that even as Sen. (Dr.) Khalwale wants me to withdraw that bit, I will withdraw, but my point is very clear.

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**The Temporary Speaker** (Sen. Abdul Haji): It is not Sen. (Dr.) Khalwale who required you to withdraw; it is the Chair. I will require you to withdraw that statement and replace it with something that is more formable and understandable.

**Sen. Osotsi:** Mr. Temporary Speaker, Sir, because I cannot table the discussions we had in meetings, I will withdraw that bit. However, I insist that my conscience is very clear on what happened. As an elected leader of Vihiga County, it is sad that I had to say this on the Floor of the House.

I have finished my contribution. Therefore, I have nothing more to say, but only to say that the report is very clear on who the nominating authority was.

Regarding the issue of tabling the discussion in meetings and what I have had before on this matter, I will not be able to table. Therefore, I withdraw that particular bit.

I support the Motion because I know the gentleman, Mr. David Kemei.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Sen. Osotsi.

Sen. Chute, you have the Floor.

**Sen. Chute:** Thank you Very much, Mr. Temporary Speaker, Sir. Let me take this opportunity to oppose this Motion completely. There is a problem in this country. I do not know what name I should give this country.

This country is very tribalistic. I will tell you why. This man, Mr. David Kibet Kemei, if you ask me today, should not be employed. First, there is an issue with the EACC, who have reported to him.

**The Temporary Speaker** (Sen. Abdul Haji): What is your point of order, Sen. Cherarkey?

*(Sen. Chute stood in his place)*

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, please resume your seat and mute your microphone.

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.106 on responsibility for statement of fact. Is it in order for Sen. Chute to allege tribalism and the issues that are within the EACC? Can he substantiate by tabling that evidence, so that we can be satisfied?

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, are you able to substantiate?

**Sen. Chute:** Mr. Temporary Speaker, Sir, in my Committee, we already have a report that shows that this country is very tribal. I will table that report next week. This is what is happening in this country.

Mr. Temporary Speaker, Sir, let me give you a scenario. First of all, I am ready to substantiate because it is in my report. As I said, I will table it next week.

**Sen. Kinyua:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): What is your point of order, Sen. Kinyua?

**Sen. Kinyua:** Mr. Temporary Speaker, Sir, about tribalism and him being a Chairman, is a story for another day. However, he talked about the EACC and he, first, needs to table the report of the EACC.

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**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, will you table the report?

**Sen. Chute:** I will table that report. It is here and I have just seen it. That is not a big issue. Nonetheless, the issue of tribalism is in the domain of my Committee. I will table the report next week.

Mr. Temporary Speaker, Sir, I am saying this because when this position was advertised in the first instance, it was re-advertised again and they changed so many things in that advertisement. What was in the earlier advertisement was removed because they wanted it to suit a particular person. What happened is that we have somebody from Marsabit who has worked in that position for almost two years. Since he comes from the minority, he cannot be considered.

The issue I am trying to raise is the way this person was picked and selected. We need to investigate this matter. I will bring a statement to this House to investigate the process these people used to give that position to Mr. Kemei.

If you had a programme or an advertisement with conditions then later on you re-advertise by removing those conditions and bringing in new ones, it clearly mean you have a preference and you want to give that particular position to a particular person.

My request is that we do not need to look at only one area of this country. I come from Marsabit. Somebody from Marsarbit cannot be employed because you want a particular person from a particular region, yet he has all the qualifications.

In fact, if I am asked today of what I have seen by sitting in that committee, I would say there is reliance on one particular area of this country. If you had advertised this position before, why do you change the goalpost and then re-advertise?

When this position was advertised in the first instance, Mr. Kemei was not there. He was not in that shortlist. He appeared in the second advertisement. They removed some things from the second advertisement. Why did they remove? It is because they wanted to give this position to Mr. Kemei, who comes from Rift Valley and not somebody who comes from the former Eastern Province. This is wrong.

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir.

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

**Sen. Cherarkey:** Mr. Speaker, Sir, is it in order under Article 10 of the Constitution on National Values and Principles of Governance to allege that Mr. Kemei was given this position of Director General of CAK because he comes from Rift Valley? Is it in order for the young children to see us profiling Kenyans?

The other day, I was defending the Member of County Assembly (MCA) from Wajir who had been abducted and is yet to be found. I would have simply said they are abducting people from North Eastern. Is it fair? Can my brother, the Chairman, who I have tremendous respect for withdraw and say Mr. Kemei is a Kenyan like the others? Can he give other reasons? He is threatening the peace and cohesiveness of the country.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, as much as we agree to your opinion, it is unfair to profile people based on regions. Please, continue with your contribution without making any reference to certain regions and certain people.

**Sen. Chute:** Mr. Temporary Speaker, Sir, today, I am a disappointed man. You know ---

**Sen. Korir:** On a point of order, Mr. Temporary Speaker, Sir.

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

**Sen. Korir:** Thank you very much, Mr. Temporary Speaker, Sir. I want to know whether my Chairperson of the Committee on Nation Cohesion, Equal Opportunity and Regional integration is in order to profile a community at the expense of his community, yet he is the Chairperson of the Committee on Nation Cohesion, Equal Opportunity and Regional integration.

**The Temporary Speaker** (Sen. Abdul Haji): Very well. Proceed, Sen. Chute.

**Sen. Chute:** Mr. Temporary Speaker, Sir, as the Chairperson of the Committee on Nation Cohesion, Equal Opportunity and Regional integration, I want every part of this country to be considered; not to look as if Muslims are looking at the Kaaba. They are looking at only one side, taking care of some people and doing things for only---

That is not right.

**Sen. Mandago:** Mr. Temporary Speaker, Sir.

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

**Sen. Chute:** What is wrong with you people?

**Sen. Mandago:** Mr. Temporary Speaker, Sir, under statements of fact, Sen. Chute should not lie to this country and mislead the nation that people have been looking in one direction.

Sen. Chute, for your information, the Managing Director of Kenya Portland Cement is your personal friend. You know so many people who have been appointed to Government from other regions. Mr. Twalib Abdallah Mbarak is the head of EACC.

We have the Director General for Kenya Roads Board. Sen. Chute cannot mislead the nation. In fact, he should resign from being the Chairperson of the Committee on Nation Cohesion, Equal Opportunity and Regional integration, if that is the kind of thinking and mentality he wants to advance in this Parliament. It is not in order.

I want to say this for the record. As the Kalenjin community, we are going to refuse to be profiled. We are citizens of this county and we pay taxes. We go to school like any other community in this country. The fact that the President comes from that region does not mean any other citizen from that region is not entitled to employment.

We are tired and sick of being profiled. We will take our rightful position and respond to any allegation that is meant to intimidate this community.

**Sen. Ali Roba:** Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you.

Sen. Ali Roba, what is your point of order?

**Sen. Ali Roba:** Mr. Temporary Speaker, Sir, the the Chairperson of the Committee on Nation Cohesion, Equal Opportunity and Regional Integration, has made derogatory utterance against the Muslims, by referring to 'like Muslims who face the Kaaba,' and they pray in one direction. Considering he is a Muslim; such simile or example being taken has not settled well with the Muslims. He needs to withdraw.

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**Sen. Omogeni:** On a point of order, Mr. Temporary Speaker, Sir.

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

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, I rise on a point of order to inquire from Sen. Mandago whether he is order to only refer to the Muslims in order to show their fairness in distribution of jobs across the country, while the country has 42 tribes.

If Sen. Mandago wants to prosecute his point of order, let him table before the House the appointments that have been made to all parastatals in the last two years. We will then say there is fairness in the whole country. If it is a matter of us being a House that is fair, let Sen. Mandago, table that before us.

**Sen. Munyi Mundigi:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Senator for Embu County, what is your point of order?

**Sen. Munyi Mundigi:** Bw. Spika wa Muda, sikubaliani na Sen. Chute kutoka Kaunti ya Marsabit. Amezoea vibaya sana. Kitu chochote ambacho hajahusishwa, Seneti haiwezi kuendelea vizuri.

Sen. Chute, wewe ni Mwenyekiti wa Kamati ya Uwiano na Utangamano na unafanya kazi nzuri, lakini kitu chochote kinachokuja kwa Bunge hili na hujahusishwa, unaleta shida. Tuko kaunti 47. Huyu mtu unayemtaka ni rafiki yako na ametemwa. Umesema kwamba utakuja kumtetea.

Bw. Spika wa Muda, nataka kumueleza Sen. Chute kwamba mambo mengine ni lazima aachie watu wengine. Siyo kila kitu ahusishwe. Anataka ahusishwe kwa kila kitu. Ukiangalia upande wa nyumba, mafuta na kila kitu, ni Sen. Chute anahusishwa. Kenya sio Marsabit. Ni lazima ujue kwamba tuko Maseneta 67 na kaunti 47. Kwa hivyo, haiwezekani Sen. Chute ahusishwe kwa kila kitu.

(Laughter)

Nikiwa hapa nimesikia ukisema kwamba umekasirika kwa sababu rafiki yako ametemwa. Hata kama itarudiwa, huyo mtu hafai. Ni lazima tuangalie kazi yake ndio apatiwe nafasi. Je, inafaa tufuate *applications* za kwanza au za pili? *Application* ya kwanza ilikuwa na dosari. Tumesikia ukisema *application* ya pili ndio ilifuatwa.

Bw. Spika wa Muda, napinga mambo ya Sen. Chute. Asante.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Faki, endelea.

**Sen. Faki:** Bw. Spika wa Muda, roho yangu imetulia kuona Sen. Munyi Mundigi ameketi kwa sababu alikuwa anarusha ngumi na mikono ungefikiri yuko uwanja wa miereka.

(Laughter)

Kitendo kama hicho cha Sen. Munyi Mundigi hakiongezi sifa katika Bunge hili kwani inaonekana kama anapigana Bungeni. Watu huzungumza kistarabu hapa.

Sen. Munyi Mundigi, siku nyingine usijaribu kuonyesha vidole.

**Sen. Munyi Mundigi:** On a point of order, Mr. Temporary Speaker, Sir.

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**The Temporary Speaker** (Sen. Abdul Haji): Sen. Munyi Mundigi, ningekupatia nafasi lakini ushaongea. Siwezi kukupatia ---

*(Sen. Munyi Mundigi spoke off record)*

Sawa, jibu kwa sababu jina lako lilitajwa.

**Sen. Munyi Mundigi:** Bw. Spika wa Muda, sina tashwishi yoyote kwamba hii ni Bunge ya wazee yaani 'Upper' House. Nimekasirika niliposikia Sen. Chute akiongea kuhusu Kaunti ya Marsabit ilhali tuko na kaunti 47 na Maseneta 67. Sisi sote huwa tunaleta amani Kenya hii. Tunajua kwamba Sen. Chute ni Mwenyekiti wa Kamati ya Uwiano na Utangamano na maneno aliyoongea hayakunifurahisha.

Seneta wa Kaunti ya Mombasa, wewe ni rafiki yangu. Sina shida yoyote lakini matamshi ya Sen. Chute ndiyo yamefanya roho yangu iende juu. Mimi ni rafiki wa kila mtu na kila kaunti. Sikuwa na shida yoyote.

Asante, Bw. Spika wa Muda.

**The Temporary Speaker** (Sen. Abdul Haji): Asante, Seneta.

Sen. Chute, I will allow you to continue with your contribution, but I urge you to refrain---

**Sen. (Dr.) Khalwale:** On a point of procedure, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): What is your point of procedure?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir, for granting me this opportunity. I want to clarify as a Member of the Committee that the points of argument by the Senator for Marsabit County are permissible in this House. That is the meaning of debate.

Mr. Speaker, Sir, however, the issues he is conversing never came before the Committee. What came before us were two issues that were raised by the youth of the Republic of Kenya through their leadership and the EACC. The youth raised the issue of age, which we considered and the EACC brought in the issue of when Mr. Kibet was serving at the Kenya Medical Training College (KMTC). EACC, in writing, excused him.

When we pursued the issue of age, indeed, Mr. Kibet is 59 plus a few months old this year. We were almost tempted to refuse him because he is approaching 60 this year, but on further scrutiny, we found that the advertisement did not use age as a reason to disallow the candidate. Let it be understood that we are alive to this matter.

The only thing that the nomination required of us was to establish his suitability based on competence. He is very competent. For God's sake, if we go to the root of how many Muslims and Kalenjins are in public service, we will blow up our country. Let us just agree that mistakes have been made and keep on making corrections. There are many Muslims in senior positions than other people.

The fact that The President, His Excellency Dr. William Ruto is a Kalenjin does not mean that other Kalenjin professionals should not be given jobs. We can only ask the President and the Public Service Commission (PSC) that where they want to give jobs based on communities, let them always remember that the President being a Kalenjin, he collectively holds a very big position in trust of other people. They should remember Kalenjins with the other communities.

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We have a country to build, ladies and gentlemen, colleagues Senators.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Sen. (Dr.) Khalwale.

Sen. Chute, Sen. Khalwale took some of my words in his submission. If you have listened to him keenly, you should be guided on how you should continue with your contribution. Please, refrain from mentioning any tribes or regions. Most of the Senators have guided you.

As the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration, there are some things which are not expected to be coming out from you. Please, be guided. Make your contribution considering that you should not agitate any more of this debate.

**Sen. Chute:** Thank you, Mr. Temporary Speaker, Sir. Let me refer to what Sen. Mandago said. He told me to resign. I will ask him if he is also going to resign because he has a court case.

*(Loud consultations)*

Please, protect me against this person.

**The Temporary Speaker** (Sen. Abdul Haji): Continue, Sen. Chute.

**Sen. Chute:** Mr. Temporary Speaker, Sir, I want to be very clear here.

*(Sen. Cherarkey spoke off record)*

How can I even speak? This person is making a lot of noise in this House.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute.

**Sen. Chute:** The hon. Sen. Cherarkey is making a lot of noise.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, address the Chair.

**Sen. Chute:** Thank you, Mr. Temporary Speaker, Sir.

**Sen. Dullo:** On a point of order, Mr. Temporary Speaker, Sir.

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

**Sen. Dullo:** Mr. Temporary Speaker, Sir, is it in order for Sen. Chute to insinuate that Sen. Cherarkey is making noise? That language is unparliamentary. Can he withdraw and apologize?

*(Applause)*

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Chute, since it has been brought up, please, withdraw and apologize.

**Sen. Chute:** He is a noisemaker, but let me withdraw it.

*(Laughter)*

I have withdrawn that statement and apologized. He is my friend.

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Mr. Temporary Speaker, Sir, I was elected by the people of Marsabit County and I am here to represent them. It was called the Eastern Province before. If I have any grievance, I have to speak out. Everybody in this House and country knows what is happening. We need to have equitable distribution of resources, including jobs.

What I have noticed and realized is that when this particular advert was put out there, it had some conditions. Later on - and I have said this before - in order to help someone who was not earlier there, they changed some of those conditions.

Mr. Temporary Speaker, Sir, I will bring a statement to this House to investigate how the advert was put from day one to the end.

*(Loud consultations)*

There are people making noise here in this House.

Let me withdraw that statement, Mr. Temporary Speaker, Sir.

*(Sen. Cherarkey spoke off record)*

Mr. Temporary Speaker, Sir, I am concluding. Everyone in this country knows what is happening even our Parliamentarians who are here today know that. It is not news to us and moving forward, we need to look at all regions equitably.

What happened to that particular advert from the first day to conclusion was done in a biased manner because it was tailor-made for someone. When that man did not appear in the first advert, it was decided to change goal posts to suit him.

On the issue of age, we saw the Gen Z complain on 25<sup>th</sup> June when they almost killed us. They were complaining about what happens daily. Some of the governors who have come before my committee have employed old people. One is 76 years old and the other is 86 years old. He is an advisor, but what is he advising on? If one has a Government-bonded vehicle, they sell it off as scrap and yet these people at 78 and 80 are advisors. Who are they advising?

Mr. Temporary Speaker, Sir, on behalf of the people of Marsabit, we are not happy with the way---

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

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, today, the Chairman of the Committee on National Cohesion, Equal Opportunities and Regional Integration is not cohesive at all. Article 57 of the Constitution of Kenya talks about older members of the society: It says:-

“57. The State shall take measures to ensure the rights of older persons—  
(a) to fully participate in the affairs of society;  
(b) to pursue their personal development;  
(c) to live in dignity and respect and be free from abuse; and  
(d) to receive reasonable care and assistance from their family and the State.”

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Is it in order in the submission of Sen. Chute, the Chairperson of the Committee on National Cohesion, Equal Opportunities and Regional Integration to talk in a discriminative language, undermining Article 27 and 28 of the Constitution by saying that older people of the society do not matter?

Can he withdraw and apologize? Older people are very critical in our society. Some governors hire advisers on marital affairs because they are a repository of wisdom.

*(Laughter)*

**Sen. Chute:** Mr. Temporary Speaker, Sir, their place is not in advising, but in going to old people homes to stay there, relax and enjoy themselves.

This Motion has brought heated debate, but I would like to say that the people of Marsabit are not happy. They must know that someone who has been acting in that position for many years has been denied that opportunity and someone else from somewhere was given that opportunity under circumstances that need to be investigated.

I, therefore, oppose this Motion. I thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I will begin by saying that I empathize with my brother, Sen. Chute. I do so because when he is here, he wears two hats; he is the Chairperson of the Committee on National Cohesion, Equal Opportunities and Regional Integration, which ensures that there is equity. Even if there is no equality and fair representation in this country, but he is also a Member of the Senate, which represents all the 47 counties.

We are being invited to debate a matter that this honourable House and the National Assembly's joint Committees were given facts and provided with one name in order to debate, interrogate and establish the suitability of that candidate to serve or be appointed. The report the recommendation given by the joint committees reads:

The Committee having held and approved the nominee regarding his suitability - I underline the word 'suitability'; observed the due process – I underline due process – was followed in the nomination of the nominee in accordance with Section 12 of the Competition Act, Cap 504, as read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011. The Committee, therefore, recommends that the National Assembly and the Senate approve the nomination of Mr. David Kibet Kemei for the appointment as Director General of the Competition Authority of Kenya.

These are the only facts tabled in this House. Standing Orders are clear on the statement of facts. We can only argue on matters that have been brought here. It is imperative that we become cognizant of other issues that my brother is raising. He has attempted to demonstrate how the process was flawed and I wish we had more information to that effect, so that we interrogate that. This should be taken as a learning example. I do not believe that we should punish one individual and yet, we have not been given information on how the process was carried out.

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Mr. Temporary Speaker, Sir, I, therefore, request this House that out of the respect for the Senators who represented this House in the joint Committee with the National Assembly, to approve the appointment of this gentleman to serve, let us give him the opportunity to prove himself. His Curriculum Vitae (CV) is remarkable on what he has done.

The Board gave this task to an independent institution to carry out this recruitment, but were not satisfied and then the Board came back and decided to carry out a second process where they found this gentleman was suitable and presented that name. I would like to beseech my colleagues to look at what has been presented to us. There are many avenues. In future, if there are Kenyans who will feel that there was discrimination, they can pursue other avenues to seek justice.

Mr. Temporary Speaker, Sir, every appointing authority, a board or an institution out there is given the mandate to recruit Kenyans to serve. Let us limit ourselves to speaking about Kenya and not speaking about tribal affiliations. That is painful. When some of us start talking about that, the tears that will ooze from my eyes can fill a cup.

This is because, for years and decades, our communities have been discriminated against. However, to punish an individual because his name has been forwarded will be going overboard. I support the nomination of this candidate and hope we give him an opportunity to serve. There are serious issues with competition and businesses.

One of the biggest ones we are grappling with right now is Safaricom's desire to compete with a company whose value is only 0.03 per cent of its own. We need to determine whether Safaricom, our baby, can be given preferential treatment. Let us protect it. There are various ways that we can protect our institutions.

So, I hope that when this gentleman takes over as the new Director General, he can look at areas where businesses can be promoted. We have had these issues with milk, and I speak because I am also a milk farmer. I wear another hat. Of course, my dear brother, here is my customer.

We have farmers, and when we compete with neighboring countries, we have to balance. We have to look at it and say, if we bring in a lot of milk into this country, what are the unintended consequences when it comes to the issue of the farmers?

The task ahead is humongous. I want to recommend that this gentleman should not sit in the boardroom, but traverse this country called Kenya when he takes over his position. The first stop should be Marsabit County, where we could speak to our brothers in Marsabit, tell them he is the Director General of the Competition Authority, and ask them how he would assist them.

The next stop should be Narok County. He should tell us what he will do for us and give us an opportunity to thrive. We need to push forward industrialisation in this country.

We need to ensure that the policies we pass here will encourage our farmers to grow. One of the things that hurts me is that when the Finance Bill was thrown out, today, milk farmers import milk cans, and the Kenya Revenue Authority is already charging them 35 per cent duty on those milk cans. It was effected from 1<sup>st</sup> July.

In reality, that Finance Bill was defeated. We must be diligent and carry out our proper due diligence on the policies we pass here. Are they being implemented illegally,

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so that we know what we are dealing with as a House, instead of waiting for Kenyans to go to court? Those are some of the things that this Competition Authority should be doing.

Companies that can import these cans from outside the country, or they imported way before, and they are better quality because of safety standards, and they never paid the duty, will have a much better, they will have a sort of like a higher ground to compete with these other lower ones. They will have an advantage over companies now importing and are subject to that duty of 35 per cent. So, there are various angles to look at it.

I hope we will proceed further, looking at Kenya as one country, talking about Kenya, and stopping this nonsense of tribes.

I beg to support.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you. Sen. Cherarkey, proceed.

**Sen. Cherarkey:** Thank you, Mr. Temporary Speaker, Sir. From the onset, I want to support this Motion and commend the Committee on Finance and Budget for their wonderful job, led by the party leader and the Chairman, Sen. Ali Roba, the great Senator of Mandera. Also, the Vice Chairperson, Sen. Tabitha Mutinda, and our Majority Whip, although sometimes he becomes minority whip, Sen. (Dr.) Khalwale, my neighbour, *Omwami*, the bullfighter. Thank you for the wonderful job—also, a number of Members of Finance and Budget for this wonderful report.

I want to make a few observations. One is that Mr. David Kemei has an impressive curriculum vitae. He was in Kenya Reinsurance and lectured at various universities: Egerton, Moi, Kabarak, and Jomo Kenyatta University of Agriculture and Technology (JKUAT). Of course, yours truly went to Moi University School of Law. I have also been a student at the University of Nairobi.

He was a lecturer and finance analyst at the Energy Regulatory Board member, Revenue Accountant, and Group Credit Controller at a media house. I am happy the media person, Sen. Wambua, just walked in. This is a man with a proven track record. That is proven and tested.

I want to thank the Senate Committee on Finance and Budget, your office, and the office led by Clerk Nyegenye for their impressive support of this Report.

Section 12(1) of the Competition Act is clear. It says –

“There shall be a Director-General of the Authority who shall be appointed by the Authority with the approval of Parliament from persons having knowledge and experience in competition matters.”

So, when you look at the knowledge, Mr. Kemei has it. When you look at the experience, you will see that he has over 30 years of experience. He has everything to be the Director-General of the Competition Authority of Kenya.

The Committee did an extremely wonderful job. We should not spend a lot of time. We should move and approve this Motion as is. Allow Mr. David Kemei to begin fixing issues within the Competition Authority.

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I heard the Chairperson of the Committee on National Cohesion, Equal Opportunity, and Regional Integration, my senior brother and friend, Sen. Chute, say something about the ethnic balance within the Authority. When you look at Section 10 of the Authority, you can bring regional and tribal balance under Article 10 of the Constitution because five people will be nominated—a representative from the Attorney General's Office and the Principal Secretary.

So, even if Mr. David Kemei comes from a certain tribe, the Authority has a board that can still be nominated to reflect the face of Kenya. I wanted to correct that perception, so that they would not imagine Mr. David Kemei running a one-man show within the Authority. The Authority has a number of people with whom they will work. There is the secretariat, the management, and the board. Reading the Competition Authority Act is critical.

Mr. Speaker, Temporary Speaker, Sir, I would like to talk directly to Mr. David Kemei. We have a problem as milk farmers. Can you believe it? I do not want to name a company that was once associated with the most powerful man in this country many years ago. They control over 30 per cent of milk market share in this country.

They manipulate the prices of milk. Where I come from, God has given us rain. We depend on the soil for maize, coffee, tea and milk. This includes Homa Bay, Mombasa, Kakamega, Kitui, and Garissa counties. However, the sad reality is that the farmer is suffering the most. In the value chain of farming, the biggest beneficiaries, without fear of contradiction, are the brokers and middlemen.

Our farmers, even the *Ndengu* farmers, as we wait for the Mung Beans Bill, the National Assembly has decided to become a graveyard of Senate Bills. The Mung and Coffee Bills have gone there for long. The Tea Amendment Bill has been there. Also, the Sugar Bill has been there. We pass things here, but they are relegated to a cemetery of Bills in the National Assembly.

The Competition Authority must tell us why one person is controlling the milk market. They do this to manipulate prices. Even in the coffee and tea sector, Kshs32 billion worth of tea is lying in Mombasa County because of lack of competition and unfair trade practices.

I want to challenge Mr. David Kemei to say consumer protection is critical. We must protect consumers. There are things that you consume in this country that you cannot dare see outside Kenya. We must protect our consumers from what we consume, eat and use.

We are told that asbestos has been banned in this country. However, some buildings still have asbestos. What is the Competition Authority doing about it?

Consumer protection is the heartbeat of the Competition Authority of Kenya (CAK). We have seen unfair trade practices. My colleague Senator mentioned something about the Telco in the country. We have these Telecommunication companies like Safaricom and Starlink. Although Mr. Elon Musk blocked me on *Twitter*, we will have a conversation with him in the near future.

He has brought Starlink and Safaricom is now worried. We want that competition. It is healthy for consumers, because the more in the market, the merrier the market, the more enjoyable the market and the more affordable the market for every consumer.

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I have been asking myself this. Some of us use the internet. With Kshs900, you buy 10 GB for seven days from Safaricom. Why is it that after seven days, when I still have 500 MB, it expires and disappears? Is it not unfair for Safaricom to do this to me because that is my money? I bought 10 GB for Kshs1,000. I am not using the internet too much. When you look at the balance, I still have maybe 5,000 MB, which is around 5 GB. At a particular time, why would it expire and it is my money that I bought my bundles with?

Those are some of the challenges. The internet now is becoming an elusive currency for many young people. When you go to universities, many people work online including even your personal assistant King Larry. He could be working online and he needs that internet. So, insist that CAK should protect consumers. There are consumer protection mechanisms that we must ensure.

Even what we consume including what is sold in supermarkets, we need to be given the report. There are imported things that are sold including juices and diapers used by children. Are they eco-friendly? In the withdrawn Finance Bill, 2024, we wanted to levy eco-tax on phones, electronic appliances, and even diapers. These diapers that our children use do not decompose.

I do not know what the Government will do to introduce eco-tax, such that my phone and those who have iPhone 8 and iPhone 16 can know where to dump them. That was the essence of eco-tax. We need the CAK to do what we call consumer protection.

The second issue is consumer information. Do you remember there was a scandal of mercury sugar? Those individuals were eventually let scot-free. The Director of Public Prosecutions (DPP) decided to withdraw the cases--- We are aware of sugar barons in this country. We saw the other day the Government Printer saying that there are titles that were issued illegally. My advice as one of the senior lawyers in this country is, if you want your land to be safe, charge with a loan. If you do not charge it with a loan, it will disappear through the disease of “*grabiosis*”.

**Sen. Faki:** On a point of order, Mr. Temporary Speaker, Sir.

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

**Sen. Faki:** Nimemsikia Sen. Cherarkey akisema kuwa yeye ni wakili mkuu. Lakini, mimi nakumbuka tukiwa Bunge hili mwaka wa 2020 au 2021 ndio Sen. Cherarkey aliapishwa rasmi kama wakili wa Mahakama Kuu ya Kenya.

Je, inawezekana wakili wa miaka mitatu ajiite wakili mkuu wakati hapa katika Bunge hili tuna mawakili ambao wana vyeo vya *senior counsel* wakiongozwa na Sen. Omogeni na Sen. (Rtd.) Justice Madzayo wakati sisi tulikuwa hapa na tukaona Sen. Cherarkey akiapishwa? Sisi ndio tulimpeleka Mahakama Kuu kwenda kuapishwa.

Asante, Bw. Spika wa Muda.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Cherarkey, are you a senior counsel?

**Sen. Cherarkey:** Just one word. I think Sen. Faki might be worried about why the blogger in Mombasa was sodomised. He did not listen to me properly. I said as a senior lawyer, I did not say I am a senior advocate or a senior counsel. I am a senior lawyer. I graduated more than 15 years ago with a Bachelor of Law (LLB). I said I am a senior

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lawyer; I did not say I am a senior advocate. I wish my brother would stand guided on matters of English.

On the issue of consumer information, we must agree and ensure there is proper consumer information. We have technology. If the CAK is not comfortable with any product in the market, can they ensure there is consumer information as per Section 9 on the functions of the Authority? So, consumer protection and information are very critical.

The last point is on the trade associations. I know, as a country, we want to go outside and get more investors into the country. You remember there are many Private Investment Partnerships (PIPs) including the Nairobi Expressway, the Adani Airport issue and the Social Health Authority (SHA), among others in the country that will come through PIPs. For example, even this Expressway, are you aware that no one knows how much the Expressway is generating in this Republic? We have asked questions. When I was using the Expressway a year ago, it cost Ksh100 less than it is today. No one has told us, the money we pay through the Expressway, how much has been paid, how much is still being owed and what will be the state of the person who runs the Expressway at the end of their PIPs that they have done. That is why Kenyans were very critical of the issue of PIPs on infrastructure.

The reason why there was hue and cry on the Jomo Kenyatta International Airport (JKIA), KIA, the University Funding Model and the Social Health Act is because of a lack of information.

Sen. (Dr.) Khalwale, information is power. If those of us who are in Government can get the information out there, the people who oppose the policies of government - and I can see one representative in the House - will not have a chance to bash the Government. So, consumer information and consumer protection must be ensured.

On trade associations, we should promote trade freedom. I know there is the Kenya National Chamber of Commerce and Industry. We can go to the US, Berlin and all other countries. Let us be fair, even as we invite investors. We must also ensure that the CAK protects the local farmers. I saw the other day in the Sugar Bill the issue of industrial sugar.

If today we allow industrial sugar to come, we will be exporting jobs and even revenue. However, if today we levy a tax on industrial sugar, those people who want to import industrial sugar would rather open a local factory and generate employment and revenue.

I support this Motion and request that we support CAK. I hope in the tenure of Mr. David Kemei, we shall see a more robust, more assertive, more responsive Authority that will ensure consumer protection, consumer information, freedom of trade and choices of a customer are well balanced as provided for in the Constitution of Kenya.

I want to thank the Committee on Finance and Budget for this wonderful job. We expect other Committees will do the same.

With those very many remarks, I support this Motion.

I thank you.

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

**Sen. Ogola:** Mr. Temporary Speaker, Sir, I am a bit apprehensive about supporting this Motion. It is not because I should know Mr. David Kibet Kemei. I do not

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know him. I do not even care to know him and I do not even care about where he comes from.

All I care about is the process of the recruitment of Mr. David Kibet Kemei, who is a nominee for appointment to the position of Director General of the Competition Authority of Kenya. It concerns me that a recruitment has been done, not for any other authority, but for a Competition Authority where in its rightful word, we must see a competitive process that is open to all other Kenyans.

It is not my saying; the Mover of the Motion was very indicative that there was only one name. We all know the rightful process of recruitment. There has to be a selection process and if you arrive with one name, then the question is, who are these he was competing with?

I have heard hon. Sen. Cherarkey mention a lot of the competencies of Mr. David Kemei to the extent that the Senator of Nandi County says he has everything. I do not know what everything means.

The report of the Standing Committee on Finance and Budget talks about Mr. Kemei being a lecturer, financial analyst and credit controller, but there are other lecturers, financial analysts and credit controllers he could have competed with. We must know where we are coming from.

In some of these country's sectors, jobs have been advertised with some people in mind. It must be indicated that I said I do not know him. I do not have to know him, but there must be a competitive recruitment process.

I would expect that an appointment would be made for a position of the Chair, because that is indicated. However, for a director general, I must see a competitive process that gives other Kenyans room to compete with Mr. David Kibet Kemei.

Mr. Temporary Speaker, Sir, just two or three months ago, we had a scene in this country that culminated into a breach of the Parliament Grounds. If we listened properly to the young people that were demonstrating, there was a message they were passing to all of us.

I agree with the sentiments of Sen. Chute. I once read a book called, *A Man of the People*, by Henry Gibson. I encourage Sen. Chute that the path he took is always a path of the lonely. There are never many people in that path, and he does not have to be uncomfortable about the rest thinking that the path he took was a wrong one.

Mr. Temporary Speaker, Sir, competence is relative. Who are you being compared with to arrive at that competence or suitability? There are many Kenyans and we would like to see a situation in this country where everybody is given a chance.

We want equity to all Kenyans, and that is what every other person is crying about. The absence of the mention of other candidates in this process, leaves me with the conclusion that probably a job was advertised with Mr. David Kibet Kemei at the end of it. That is not a fair process.

The Competition Authority of Kenya is very crucial. We have an industry called the Ndhiwa Sukari Industries Limited where I come from. Of late, when I talk to the farmers in my catchment area, there is a fear that the sugar cane from their farms is not being harvested in good time. This is because Sukari Industry seems to be dealing with

pressure or challenges whereby, they have so much sugar packed in their stores and they are unable to sell the one they are producing from the factory.

This brings a problem because then our farmers have sugar cane that is overgrowing in their farms. That is our main source of income in that constituency. This Authority is so crucial to us. We would like a director general that will look into the plight of the farmers in my constituency whose farms are overgrown with sugar cane but cannot harvest because probably there are some sugar barons that are providing sugar where theirs should be.

That is why the Competition Authority is very important. The report that has been tabled before us is not fairly considered because I do not see the comparison that was made to other persons. If the candidate was suitable, who was he suitable against? If there was competency, who was he competent against? We needed to see this.

This is not to say that Mr. David Kemei is not suitable. However, it is to stress that opportunity should be given for everybody to compete against each other. That is why we call it a recruitment.

Therefore, I am hesitant to support this Motion. Going forward, all recruitment processes must be competitive and everybody must be given a chance. If this is done, then we will have a country that we all admire to live in. Those are my points. I do not support this Motion based on the process and on the fact that only one name was provided.

In future, all Kenyans must be given a chance. I thank you.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Munyi Mundigi proceed.

**Sen. Munyi Mundigi:** Asante, Bw. Spika wa Muda. Naunga mkono kuteuliwa kwa Mr. David Kemei kwa cheo cha Director General. Kulingana na vile tunajua nafasi ya kazi ikitokea, kamati husika huketi kuchambua stakabadhi na kutangaza kazi ili watu wanapeleka stakabadhi zao.

Seneta mwingine hapa alinena kuwa suala hili lilikuwa limetangazwa mara ya kwanza na ya pili. Hapo ndipo wahusika walipeleka stakabadhi zao kwa kamati na wakaona kuwa Mr. David Kemei alifaa kuwa director general aliyetimiza masharti ya kazi hii.

Kulingana na stakabadhi za Bw. David Kemei, tumeona shule na university aliposomea. Hata alisoma kule Washington DC, USA. Ina maana kuwa katika kuchambua stakabadhi zake, waliona kuwa amesoma vizuri.

Amekuwa mtendaji wa kazi kwa miaka 30. Alikuwa Director wa Kenya Reinsurance Corporation (Kenya Re) ambapo alifanya kazi nzuri. Kuna Maseneta ambao wamefanya kazi pamoja na yeye. Pia, alifanya kazi Egerton University, Kabarak University, Kenyatta University na pia School of Monetary Studies.

Pia, imelezwa kuwa amefanya kazi na Energy Regulation Commission kwa idara ambayo ilikuwa inashughulikia mambo ya Kenya Power and Lighting Company (KPLC), Kenya Electricity Generating Company (KenGen) na oil. Niliskia jina lake nilipokuwa nafanya kazi pale KenGen. Alilainisha sekta ya kawi.

Naunga mkono kuteuliwa kwake kwa sababu amefanya kazi kwa miaka mingi na akapata ujuzi. Pia, kazi yake ilikuwa mzuri pale Merchant Insurance. Angekuwa ameanza



kazi mapema katika hii kipindi ya Serikali ya muungano, angelainisha mambo mengi iliyoharibika.

Alipotoka sekta ya kawi, ndipo tukaskia kwamba KPLC ilinunua transformer ambazo hazifanyi kazi vizuri kwa sababu ya ukosefu wa competition katika kampuni ya kusambaza umeme, isipokuwa KPLC. Labda angetupa ujuzi wa kuwa na competition ya umeme.

Bw. Spika wa Muda, kuna mambo mengi ambayo tunataka yafanyike kwenye sekta ya kilimo. Katika Kaunti ya Embu, kuna *miraa/muguka*. Angekuwa amechunguza kuhusu dawa itakayosaidia kukuza miraa bora ili watu wasiwe wagonjwa.

Naunga mkono kuteuliwa kwa Bw. David Kemei kwa sababu angekuwa amechunguza idara nyingi na kutenda kazi. Atahakikisha kuna competition katika kila department ili kazi ifanywe vile inapaswa kufanywa. Ana miaka mingi huko mbele na ataweza kutupa ujuzi na kuwatafutia vijana wetu kazi kwenye kila kona kulingana na ujuzi wao.

Naunga mkono Serikali ya muungano na ningeomba Maseneta wote wamuunge mkono Bw. David Kemei ili tuone akakavyotufanyia kazi. Napinga wanaosimama kusema kwamba wangeleta majina matatu au mawili. Kazi yetu ni kuunga mkono lile jina moja tu ya David Kemei, ambayo tumeletewa hapa. Hiyo ndio kazi yetu ya kuchambua stakabadhi zote ya David na tumpitishie ili afanye kazi.

Ninapinga wale watu ambao wanasimama kusema huyu ni wa kaunti hii na ile. Wengine wanasema ni wa mlima. Napinga Maseneta ambao wanasimama kuongea mambo ambayo hayaeleweki katika Seneti hii.

Kwa hivyo, ninaunga mkono. Asante.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, we have had a very interesting afternoon from the diverse comments that we have heard from Senators who have spoken on this matter. I am speaking as somebody who has personally gone through an experience of what it means to be profiled when seeking public office.

I heard Sen. Osotsi give a chronology that when Kenyans were given an opportunity to apply for these positions, the first list was rejected because there could have been a candidate that the Government had in mind. Around 2011, I applied to be the Chairperson of the Ethics and Anti-Corruption Commission (EACC) and our names were sent to the panel that was meant to interview us.

Mr. Temporary Speaker, Sir, when the panel sat, they made a conclusion that probably if they left the names to go as they were, the strongest candidate would most likely be Sen. Omogeni. The Government *suo moto* cancelled the advert and looked for a particular candidate. They put a second advert and that candidate that the Government had in mind made it to the shortlist of three names that went to the President.

Even though I was number one in the interview, the Government was so determined that my name was overlooked and the person who was number two was given that chance, and I was left out.

Senator of Embu, when we hear issues being raised about other Kenyans who have been denied an opportunity, it touches me on a personal level. I know how one feels to come out expecting fairness from the appointment process, but you are left out because you do not have the right connections.

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My contribution before this House this afternoon is that we should give equal opportunity to a Kenyan who has the requisite experience and has expressed interest to serve in the public service or in any parastatal. It is not about us trying to profile anybody. If the unfairness was regarding an Embu, I would have the same sentiments. If the discrimination is towards a Mkamba, I would have the same sentiments. If it is towards somebody from Coast, Sen. Faki's county or Garissa County, I would take the same stand because there are many Kenyans who cannot drop names so that they get jobs.

The only weapon they have is good education, integrity and good experience which should be our standard in this House. If you are from the Kalenjin nation and you qualify, that is okay. However, this idea of us being told that in this particular position, there could have been some underhand dealings, as a House, if that comes to our attention, we should always question it.

Two, I know that the adverts, the long-list that was published by the Public Service Commission (PSC), the shortlist and the final interview--- I want to join what the previous Senator said. In the spirit of transparency, I have looked at the report. I do not know whether some annexures were excluded. I looked at the report and I have not seen an annexure of the long list which should tell us all the names of Kenyans who applied.

The shortlist should show us the people who made it to the shortlist and the criteria that was used. We will be able to see whether the criteria was only academic or whether they also took into account regional balance. We also need to see whether there was affirmative action that was taken to give opportunity to the youth, Persons with Disability (PWDs) or to give those from marginalized areas.

That is why we are Senators to ensure that there is fairness in a process like what we are trying to approve this afternoon. There is nothing wrong in us seeking more transparency and accountability from the Public Service Commission. Why should the Public Service Commission fail to give us a list?

Mr. Temporary Speaker, Sir, we also need to see from the commissioners within the Public Service Commission (PSC) how they are scoring candidates because; the only way you can bring in an accusation of nepotism or tribalism is to see how the commissioners are scoring each candidate.

We must live true to the spirit of Article 73(3) of the Constitution of Kenya. If you read Article 73, it says that anybody who is seeking an appointive office should get it based on objectivity and impartiality in decision-making by the person making that decision. It should be free and not be influenced by nepotism or favoritism.

The people who should ensure that the Constitution of Kenya is followed and that the law is followed are us, Senators. I do not know whether the best recommendation to make is maybe to amend our Standing Orders so that next time we get a name forwarded to us - In this particular case, the law is only giving the PSC an obligation to forward one name to Parliament. We demand that they give us a detailed report, including the score chart so that we see how they picked the candidates.

Thirdly, we are a country of, I believe now, 45 tribes. We used to be 42 or around 47 tribes. I want to have a sense of pride as a Kenyan, but with that cultural heritage of coming from the Omogusii Community, the same way I am sure Sen. Munyi Mundigi is

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proud of that heritage, that he belongs to the Embu Sub-tribe. Sen. Wambua is proud that he is from the Kamba Community, and Sen. Faki, the same.

In making appointments to public bodies, parastatals, Principal Secretaries, or Cabinet Secretaries, everybody, and all tribes want to see that they are represented. You cannot tell me that the Kalenjin will sit easily if they see President Ruto appointing Cabinet Secretaries and there is not even a single Kalenjin. They will not sit easy. They will question and say, where is our representation in the national Government?

So, it is the same way when I see appointments in parastatals. When I want to go down the list and see who is heading what, I also want to see that the Omogusii nation has a cake. I am sure Sen. Munyi Mundigi wants to see that the Embu people have a cake. He is proud of my good friend, Hon. Justin Muturi, who is a Cabinet Secretary. If we touch him, I am sure Sen. Munyi Mundigi will be up on his feet.

So, we want to see that as Kenyans, all of us, 47, have a share. We just want a small share of the cake because we want to build a strong nation. When I see you, as a Senator of Garissa County, I look at you as my brother, my Kenyan brother. I do not look at you as a Muslim from Garissa. That is the way I look at Sen. Wambua, the way I look at Sen. Munyi Mundigi. When he invites me to his house to have a meal, I go to the house of my brother to have a meal. That is the spirit we need to have in this House.

When we see a name, we should not have the kind of debate we have seen this afternoon, where people are feeling that a certain tribe is getting a bigger share of the cake than the other. Let us promote brotherhood and oneness so that we build one Kenya that we are all proud of.

If you go to Somalia, 90 years ago, Somalia was a strong nation, but just competition among clans is what destroyed Somalia; a country that has huge potential but just that competition for who has what position, who is controlling what, is what destroyed Somalia. We do not want to reach there; we do not want to go there. Our diversity should be our strength, you know. So, if the Public Service Commission is watching, let them not subject themselves to these kinds of doubts that we have seen this afternoon.

On my fourth point, there are constitutional bodies in this country that have been given prominence in our Constitution. We have Chapter 6 of the Constitution where we have created a body called the Ethics and Anti-Corruption Commission (EACC). That is the body that is tasked with ensuring that Chapter 6 is complied with.

Before, we had the Constitution of Kenya 2010, and you could appoint anybody to public office. There was no requirement from any public entity that you go to EACC and get a clearance. There was nothing. You could be a crook, but as long as the President has said you get an appointment, you get it.

However, there was a paradigm shift in 2010, and we said we want integrity to be an integral part of our national ethos and values and our leadership. That is why any time you are seeking a public appointment, you will be told to go to the EACC to seek clearance.

What worries me in this Report is that I have tried to look at the meat in the conclusion of the Committee, I cannot get it. There is just a mention on page 33 that

EACC, and I do not want to have any doubt that EACC has nothing personal against Mr. David Kibet Kemei.

I do not think anybody at the EACC has anything personal against this guy. However, they have written to Parliament objecting, okay, on the basis that there was a court judgement where the Kenya Medical Training College (KMTC) board was surcharged.

I do not know how the Committee was able to navigate around that objection that was raised by the EACC. If that objection was from someone like Sen. Munyi Mundigi, I would say that maybe those are his political competitors. This is from the EACC. There is a chance that the guy heading the EACC, my good friend, does not know this gentleman but because; he is there to ensure that Chapter 6 of the Constitution is complied with, he had a constitutional obligation to disclose to Parliament that the person you are about to approve has these issues.

The question I am asking is this; how are we going to encourage the EACC to look at Kenyans who have questionable integrity if every time they write to us, we ignore their objection? They will give up. They will say there is no need to write to Parliament. Our input will be ignored, even when they are backing it with a court decision.

In 2007, this country was almost going to war, and there were concerted efforts to pass several legislations to ensure that going forward, we retain unity and oneness for the country called Kenya.

There was even a Bill. I do not know whether that Bill was enacted. There was the Equal Opportunities Act. As the Chairman of the Law Society of Kenya then, I appeared in Parliament and made a presentation. We said, “please, pass this Bill so that every Kenyan when there is an opportunity, you give a Kenyan an opportunity.”

Maybe we need to look at the Bill and have something like a ticking box. If today an Omogusii gets, tomorrow an Embu, the other day, a Kamba, and a Luo, like that so that; everybody feels like in this country, we are all getting an equal opportunity.

So, Mr. Temporary Speaker, Sir, I will interrogate this Report further before I cast my vote because I want to make a decision that gives hope to Kenyans. When the time comes, I will make a decision, but it must be a decision that gives hope to Kenyans, and we must, as a House, assure the country that we are objective, we are impartial, we have the best interest of this country at heart.

I thank you.

**Sen. Murgor:** Thank you very much, Mr. Temporary Speaker, Sir, for giving me the opportunity to also add my voice to those of my colleagues.

I support the Motion by saying that Mr. Kemei comes in with a lot of credibility from those who sat and heard him and those who interviewed him. They have a lot of positive remarks and recommendations after his name.

Mr. Kemei also comes with a wealth of experience from previous positions he has held. Therefore, he suits to be the Director General of the Competition Authority.

Additionally, businesses these days need people with a wealth of experience. They bring in new ideas and also have the experience of what has been happening, so the economy of the county will be uplifted through the experience of people such as Mr. Kemei and others.

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Consequently, with that, comes quality of work, effort and ---

**The Temporary Speaker** (Sen. Abdul Haji): What is your point of order, Sen. Kibwana.

### QUORUM

**Sen. Kibwana:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.41 regarding quorum. I feel strongly that we do not have quorum.

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

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, there being no quorum, we are going to ring the Bell for 10 minutes to see if we can establish quorum. Serjeant-at-Arms, please, ring the Bell.

*(The Quorum Bell was rung)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Abdul Haji): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the House stands adjourned, pursuant to Standing Order No.41(2)(a), until tomorrow, Wednesday 2<sup>nd</sup> October, 2024, at 9.30 a.m.

The Senate rose at 5.43 p.m.