

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 29th February, 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? Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

(Sen. Cheruiyot spoke off record)

Majority Leader, they are outside the Chamber.
Serjeant-at-Arms, stop the Bell. We now have quorum.

*(Sen. Sifuna crossed from the Minority to
Majority side without bowing to the Chair)*

Sen. Sifuna, you are totally out of order. However, you will go with a caution for now.

(Loud consultations)

That is enough. Clerk, kindly proceed to call the next Order.
Hon. Members, kindly, take your seats.

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM COUNTY
ASSEMBLY OF TURKANA**

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon a delegation from the County Assembly of Turkana comprising Members of the Turkana County Assembly Board and its Secretariat.

The delegation is undertaking a benchmarking visit in the Senate. I request each Member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition-

1. Hon. Benedict Lokamar
2. Hon. Elizabeth Lokoel
3. Hon. James Ekimat
4. Hon. Catherine Ereng'

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the delegation. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I will allow the Senate Majority Leader under one minute to extend a word of welcome.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, these were our gracious hosts for 2023 Senate *Mashinani*. We had a beautiful time in the great County of Turkana; the cradle of mankind. They took care of the entire Senate in that one-week period.

They have found time today to come and visit our House and learn one or two things about how this Senate operates. It is expected that the Offices of the Clerk and the Speaker will accord them all the necessary facilitation that they need to enjoy to their fullest all that pertains to their learning.

I welcome the delegation from Turkana County and wish them well. When you go back home, please, pass our regards as a Senate. We are still grateful because of the great one week that we had in the beautiful land of Turkana.

The Speaker (Hon. Kingi): Next Order.

PAPERS LAID**REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL
STATEMENTS OF VARIOUS ENTITIES**

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 29th February, 2024-

Report of the Auditor-General on Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2017.

Report of the Auditor-General on the Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2018.

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Report of the Auditor-General on Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2019.

Report of the Auditor-General on the Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2020.

Report of the Auditor-General on the Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2022.

Report of the Auditor-General on the Financial Statement of Wajir County Executive for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Assembly for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of Wajir County Climate Change Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Government – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Government – Receiver of Revenue – Revenue Statements for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Bursary Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Revolving Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Wajir County Disaster Management Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kilifi County Health Services Improvement Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kilifi County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kilifi County Assembly Car and Mortgage Loan Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Migori Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Kwale - Receiver of Revenue for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Bursary Fund of Kwale for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Mandera for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Mandera - County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Education Bursary Fund of Mandera for the year ended 30th June, 2023.

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Report of the Auditor-General on Financial Statement of the County Government of Kirinyaga – Receiver of Revenue for the year ended 30th June, 2023

Report of the Auditor-General on Financial Statement of the County Education Bursary Fund of Kirinyaga for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kirinyaga Investment and Development Authority for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kirinyaga County Assembly Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Garissa for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Garissa County Assembly for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Garissa – Receiver of Revenue – Revenue Statements for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of Garissa County Investment Development Authority for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of Garissa County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Garissa County Revolving Fund for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of the County Government of Garissa – County Revenue Fund for the year ended 30th June, 2023.

Report of the Auditor-General on the Financial Statement of Kilifi County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor-General on the Financial Statement of Kilifi County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statement of Kilifi County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): There is also a report to be tabled by Sen. Mumma.

REPORT OF SENATE DELEGATION TO 147TH
ASSEMBLY OF IPU HELD IN LUANDA

The Senate Majority Leader (Sen. Cheruiyot): I am tabling on behalf of Sen. Mumma.

Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 29th February, 2024-

Report of the 147th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Luanda, Angola on 23rd to 27th October, 2023.

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(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): The next Papers are by the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations.

Sen. Abass: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 29th February, 2024-

REPORT ON THE COUNTY GOVERNMENTS
(AMENDMENT) BILL, 2023

Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the County Governments (Amendment) Bill (Senate Bills No.25 of 2023).

REPORT ON THE COUNTY ASSEMBLY SERVICES
(AMENDMENT) BILL, 2023

Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the County Assembly Services (Amendment) Bill, (Senate Bills No.34 of 2023).

(Sen. Abass laid the documents on the Table)

The Speaker (Hon. Kingi): Clerk, let us go to the next Order.

NOTICES OF MOTIONS

The Speaker (Hon. Kingi): Senate Majority Leader, now that you have laid that Report on the Table, you may proceed to give Notice on the same.

NOTING OF REPORT OF SENATE DELEGATION TO
147TH ASSEMBLY OF IPU HELD IN LUANDA

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate notes the Report of 147th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Luanda, Angola on 23rd to 27th October, 2023, laid on the Table of the Senate on Thursday 29th February, 2024.

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

NOTING OF REPORT OF SENATE DELEGATION TO 63RD OACPS
ASSEMBLY AND 43RD ACP-EU MEETINGS IN BRUSSELS

Sen. Kathuri: Mr. Speaker, Sir, I beg to give Notice of the following Motion-
THAT, the Senate notes the Report of the 63rd Session of the OACPS
Parliamentary Assembly and 43rd Session of the ACP-EU Joint Parliamentary
Assembly Meetings in Brussels, Belgium laid on the Table of Senate on
Wednesday, 6th December, 2023.

The Speaker (Hon. Kingi): Clerk, let us move on to the next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

EXPENDITURE OF FUNDS IN MARSABIT COUNTY

Sen. Chute: Mr. Speaker, Sir, I rise pursuant to---

*(Sen. Sifuna, Sen. Oketch Gicheru and
Sen. Olekina consulted loudly)*

The Speaker (Hon. Kingi): Order, Sen. Sifuna, Sen. Oketch Gicheru and Sen. Olekina, you may consult, but keep it on the low tone.

Sen. Chute, proceed.

Sen. Chute: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Finance and Budget regarding expenditure of funds in Marsabit County. In the Statement, the Committee should-

(1) table the total budget allocation for the County Government of Marsabit for financial years 2021/2022, 2022/2023 and 2023/2024, including a breakdown of development and recurrent expenditure, detailing the various expenditure categories, including salaries and wages, infrastructure projects, social services, administrative expenses and any other significant expenditures for both the Executive and the County Assembly;

(2) provide details of any budget alterations, including over-expenditure or under-expenditure compared to the budget allocation during the said financial years and outline any supplementary budgets enacted by the County Government since 2021 to date, including the reason for their implementation; and,

(3) table a comprehensive status report of all projects initiated by the County Government of Marsabit from the Financial Year 2021/2022 to date.

The Speaker (Hon. Kingi): Let us now have the Statement by the Senate Majority Leader pursuant to Standing Order No.57(1).

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BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 5TH MARCH, 2024

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, pursuant to Standing Order No.57(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 5th March, 2024.

There are 34 Bills at Second Reading and four at the Committee of the Whole stage. Two of the Bills at the Second Reading stage have being listed for Division in today's Order Paper at Order Nos.12 and 13. I request Majority and Minority Whips to mobilise the requisite number of county delegations for the Divisions to be undertaken.

At Orders Nos.14 and 15 in today's Order Paper, two Motions on consideration and adoption of reports of the Select Committee on County Public Investments and Special Funds have also been listed. I request the Speaker to give these Motions priority in the order of proceedings today to facilitate expeditious conclusion on them. I also request Senators to remain in the Chamber during debate on these Motions, so that we conclude on them before the rise of the House today.

Mr. Speaker, Sir, on Petitions, a total of 22 Petitions are pending conclusion by respective Standing Committees. The summary of the committees that are yet to conclude the Petitions is as follows -

Senate Standing Committee on Agriculture, I see Sen. (Dr.) Murango is here, the Chairperson of the Committee, you have two Petitions that are due for reporting.

The Standing Committee on Education, the Chairperson, Sen. Joe Nyutu, was here a few minutes ago. He has two Petitions.

The Standing Committee Energy. I have forgotten the Chairperson, but they have one Petition. Sen. Sifuna, you are a Member of this particular Committee. You have a Petition that is due for reporting.

The Standing Committee on Finance and Budget has one Petition. The Standing Committee on Health has one Petition.

The Standing Committee on Land, Environment and Natural Resources has eight Petitions; that is the Committee of Sen. Methu who I do not see in the House today, but I believe there are many Members of that Committee. They have eight Petitions that are due for reporting.

Mr. Speaker, Sir, I urge Members of this Committee to do justice to the petitioners that have come before them by concluding on these eight petitions.

The Standing Committee on National Security, some quite several Members are here. I do not see Sen. Cheptumo, but they have four Petitions due for reporting. When I say due for reporting, I mean they have overshot the Statutory 60-days period within which committees are supposed to report to the House.

The Committee on Roads, Transportation and Housing has two Petitions. The Committee on Trade and Industrialisation, I see the Chairperson, Sen. Seki, is here. They have one Petition.

In total, there are 22 Petitions. I request these committees to conclude these Petitions within the shortest time and table their reports so that Kenyans can continue to have faith and trust in this House.

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Mr. Speaker, Sir, at the Senate Business Committee (SBC) meeting held on Tuesday, 27th February 2024, the Committee approved the next set of Questions for reply on Wednesday, 6th March 2024. The summary of these Questions and the Cabinet Secretaries to appear on that day are as follows -

Question No.10 by Sen. (Prof.) Tom Ojienda Odhiambo, SC, to the Cabinet Secretary for Roads and Transport with regard to road accidents involving tractors transporting sugarcane in Kisumu County.

Question No.11 by Sen. Cherarkey to the Cabinet Secretary of Roads and Transport on the financial performance of Kenya Airways.

Question No.12 by Sen. Cherarkey to the Cabinet Secretary for Roads and Transport on the status of the ongoing projects and expansion of Kerenga Airstrip in Kericho Town.

Question No.13 by Sen. Cherarkey to the Cabinet Secretary for Roads and Transport on the status of roads and construction projects in Nandi County.

Question No.14 by Sen. Wambua to the Cabinet Secretary for Roads and Transport on compensation arising from the construction of the Kibwezi-Athi-Mutomo-Kitui-Miwani Road.

Question No.15 by Sen. Wambua to the Cabinet Secretary for Roads and Transport with regard to an airstrip in Kitui.

Question No.16 by Sen. Kathuri with regard to pending bills on the Kenya Urban Roads Authority (KURA) and Kenya National Highway Authority (KeNHA) in Kenya.

Question No.21 by Sen. Sifuna to the Cabinet Secretary of National Treasury and Economic Planning on economic planning failure by a citizen to process payment made to some Government institutions.

Question No.25 by Sen. (Dr.) Murango to the Cabinet Secretary for Gender, Culture, and Arts on the establishment of county libraries.

Mr. Speaker, Sir, I hope that we can conclude on these Questions. You do note that this week, though we had only two Cabinet Secretaries, they took quite a long time because of the interest from Members. Though not a bad thing, it will present a challenge with regard to planning.

In conclusion, on Monday, 4th March 2024, the Senate will hold a one-day routine non-residential retreat to plan for the 3rd Session. I cannot overemphasise the importance of this event in facilitating the effective discharge of our constitutional mandate. I take this opportunity to ask all Senators to purpose to attend this event.

Mr. Speaker, Sir, this is a Communication that you gave earlier in the week. While you gave it, the House was not as full as expected. Perhaps we can request the Office of the Clerk to table that notice and send reminders to Members.

This is an extremely important event. I do hope that we, as Senate, can take the opportunity to address various urgent issues relating to our performance and how we can achieve better for the people of Kenya who pay dearly to have this House up and running.

Mr. Speaker Sir, there are many internal issues also within us as colleagues, which I believe will provide the proper platform and more formal setting than even a *kamukunji* for us to address and resolve these issues and come up with ways where we

can run the House better. I, therefore, wish to request that Members find time to attend this very important event.

I thank you, Mr. Speaker, Sir. I hereby lay the Statement on the Table of the Senate.

(Sen. Cheruiyot laid the document on the Table of the Senate)

The Speaker (Hon. Kingi): Next Order.

BILL

First Reading

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

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)

Next Order.

BILL

First Reading

THE EARLY CHILDHOOD EDUCATION (AMENDMENT)
BILL (SENATE BILLS NO.54 OF 2023)

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)

(A cell phone rung)

Hon Senators, whose mobile phone is that? Whose mobile phone is it? We do not need to seek the services of the Serjeant-at-Arms to locate that mobile phone.

Proceed, Clerk.

(Loud consultations)

Order! Order Senators.

Sen. (Dr.) Khalwale, you are louder than your mobile phone. You have just been cautioned.

Proceed, Clerk

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BILL*First Reading*THE FIRE AND RESCUE SERVICES PROFESSIONALS BILL
(SENATE BILLS NO.55 OF 2023)

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)

Next Order.

BILL*First Reading*THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (CONTROL)
(AMENDMENT) BILL (SENATE BILLS NO.1 OF 2024)

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Senate Committee)

The Speaker (Hon. Kingi): Hon. Senators, at that juncture, allow me to invoke Standing Order No.45(2) for the convenience of the House to rearrange the sequence of today's Order Paper. Instead of proceeding with Order No.12 and Order No. 13, we will straight away move and proceed with Order No.14 which is a Motion whose debate was adjourned yesterday.

Clerk, proceed and call out that Order

What is your intervention? Certainly, it cannot be a point of order, unless you say the Chair is disorderly.

(Laughter)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, it could as well mean that there is something that needs to be orderly. I request to indulge you under Standing Order No.45 now that you have rearranged the Order Paper. That in the course of debate should the Whips signal to us that they now have the requisite numbers to execute the order that we have skipped, allow us to pause the debate, conduct Division and go back to the Motion on the Floor.

Kindly Mr. Speaker, Sir, if you can indulge us.

The Speaker (Hon. Kingi): Very well, Senate Majority Leader.

Next Order.

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MOTION**ADOPTION OF REPORT ON NON-REMITTANCE OF PENSION
DEDUCTIONS BY COUNTY GOVERNMENTS**

THAT, the Senate adopts the Report of the Select Committee on County Public Investments and Special Funds on non-remittance of pension deductions to the Pension Schemes by County Government entities laid on the Table of the Senate on Wednesday, 14th February, 2024.

(Sen. Osotsi on 28.2.2024)

*(Resumption of debate interrupted
on 28.2.2024 –Afternoon Sitting)*

The Speaker (Hon. Kingi): At the interruption of debate on this Motion yesterday, the Hon. Sen. (Prof.) Tom Odhiambo Ojienda, SC, was on his feet with a balance of three minutes. However, he is not present so we will go with the names on my dashboard. Sen. Maanzo, proceed.

Clerk, can I have the list of those who contributed yesterday so that we do not have them talk today.

(The Clerk-at-the-Table approached the Chair)

The Speaker (Hon. Kingi): Sen. Maanzo is not in.
Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I support this Motion by the Standing Committee on County Public Investments and Special Funds (CPICSF). I remember in the last Session, we were not able to look at special funds and others like the county education, emergency and water funds.

In the last Session - before you came on board - together with other Members of the Senate, we had combined both to form the County Public Accounts and Investment Committee (CPAIC). Since I have served the longest in the CPAIC, we could not look at the issue of water companies, county emergency funds such as special education fund. My colleague Senators should note that most county governments and governors misuse and abuse the emergency funds.

If today you call for the water or emergency funds that are meant for disaster preparedness, no county has the money. In the case of Nairobi City County when the Embakasi tragedy happened, I bet there was no money that could be used to address that challenge with the gas explosion.

On the issue of revenue, non-revenue water and water companies; under Article 43 of the Constitution, and also the Water (Amendment) Bill which my colleagues wanted to pursue on the Public Private Partnerships (PPPs), the biggest challenge is access to clean and safe water.

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Mr. Speaker, Sir, can you believe that most of the water companies are technically insolvent? A number of them, especially in counties have liabilities which are a very big challenge.

That is why we were wondering if the water works---

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

Sen. Thang'wa: Mr. Speaker, Sir, my good friend is lost. The report we are supposed to be discussing is about the remittance of pension by county governments to pension schemes. The counties owe the pension entities. He is talking about water companies.

(Sen. Cherarkey spoke off record)

The Speaker (Hon. Kingi): Sen. Cherarkey, relevance as a rule in this House must be upheld.

Sen. Cherarkey: Okay, I will be relevant.

The Speaker (Hon. Kingi): As you build your case, just know you have five minutes. If you intend to use the five minutes to build your case, then you will not make any progress.

(Laughter)

Sen. Cherarkey: Mr. Speaker, Sir, I thought the rules of debate depend on how the debater wants to proceed as long as they are relevant. I was building my case. I wish my colleagues who just joined this House would learn very fast. I was comparing that before we had the CPAIC and now we have divided it to the CPICSF and CPAC.

I have served in the Standing Committee on Labour and Social Welfare. We used to talk of the non-remittance of funds through Local Authority Provident Fund (LAPFUND) and Local Authorities Pension Trust (LAPTRUST). The Chairperson of CPICSF is here. We must ensure that any funds - now that people have understood the difference between CPICSF and CPAC, let me get to point two.

Non-remittance should be a criminal offence. Therefore, I challenge the Ethics and Anti-Corruption Commission (EACC) and Directorate of Criminal Investigations (DCI) to investigate non-remittance by these entities. We have made farreaching recommendations that anybody who does not remit the statutory deduction to the necessary bodies, should face prosecution. It should not be business as usual.

It looks like the county governments and their governors want to abuse and misuse everything they are given. In quick succession, I do not know whether we should combine the LAPFUND and LAPTRUST. They almost have similar duties.

Mr. Speaker, Sir, as a former governor, I do not know whether you remit to either of them. We need to relook at this. I remember - I am saying this with insight - last time, there was a fight between LAPTRUST and LAPFUND. I do not want to say what used to go around when the former Senator Hon. Sakaja was the Chair and I was a member of the Standing Committee of Labour and Social Welfare.

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Finally, I agree that counties must ensure they are transparent on how they spend these funds. Today, I was with the Garissa County Women Representative, Hon. Amina, and she was telling me a story---

(The red light was switched on)

Mr. Speaker, Sir, allow me 30 seconds. She said that women in Garissa County are being sexually exploited in county hospital facilities; which is very unfortunate.

With those very many remarks, I beg to support this Motion and hope the Chair will note the changes.

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

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this very important Motion on non-remittance of pension deductions to the pension schemes by county government entities. It should not be lost that in this House, I had requested for a Statement from the Standing Committee on Finance and Budget on non-remittance of these statutory deductions.

I would like to thank the Committee headed by Sen. Osotsi who are doing a good job. The non-remittance of these statutory deductions have far reaching implications. Apart from remittance of deductions to pension schemes, the statutory deductions are not remitted to all the other statutory bodies such as the National Hospital Insurance Fund (NHIF), the National Social Security Fund (NSSF) and so on.

This has led to a lot of suffering. For example, when county governments deduct money supposed to be for NHIF and do not remit the money to NHIF, then the workers do not get medication when they are sick.

Non-remittance to pension schemes has led to people who go home after serving diligently in governments to suffer. We have very many retired people in the villages who cannot access their pension funds be it through LAPFUND or LAPTRUST.

I urge the Senate to follow up the recommendations of this committee so that action is taken against the culpable counties. We want to see retired workers who are suffering and not able to access their money benefit.

Mr. Speaker, Sir, we need to work as a Senate so that these governors, heads of organizations and heads of Government entities who are culprits of non-remittance of the pension funds can be called to this Senate and face the Committee of the Whole and explain why the monies deducted for the pension funds are not remitted.

Sometimes, some of the monies are not remitted because of under-collection of revenue. The non-remittance of funds is a result of pending bills. Government entities should digitize their systems so that agencies of county governments can meet their targets. If counties do not meet their targets, they cannot meet their budgets. As a result, these deductions become pending bills.

This is an important Report of the Senate. We should follow up on the recommendations so that retirees can access their retirement benefits.

I thank this Senate for splitting the formerly County Public Accounts and Investments Committee into two committees. I recommend that we divide these two

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Committees further so that we can look at more Government agencies' reports and have more work done.

In the last Parliament, I used to sit in the County Public Accounts and Investments Committee, where little work was done. However, because of the split of this committee, we have more work being done. If we can move ahead and split the committee maybe into five, we would have more work and more effective oversight in the Senate.

I support.

Sen. Seki: Thank you, Mr. Speaker, Sir. I support this Motion on county governments' non-remittance of pensions to these pension schemes. I really wonder why counties are unable to remit these monies to the pension schemes. This is a 12 per cent deduction from the employee and 15 per cent by the employer. Why are they unable to remit these deductions, considering that much of the money is from the employees? Employees earn meagre salaries after these deductions. We should ask the governors to explain this.

I support the idea of the Senator of Taita Taveta. We need to bring these governors to the Committee of the Whole to explain why they cannot remit these monies.

The retirees and those who are about to retire expect these monies to be remitted so they can get their pensions. These are individuals who are 60 years and above. Others have died before receiving their pension. We need to understand why county governments are killing devolution by not remitting money that belongs to employees and those who have already retired.

This Motion is timely. We want to know what the county governments are doing to reduce the pending bills. These are pending bills that are not supposed to occur because this money has been budgeted for.

County governments give the Controller of Budget (CoB) requisitions regarding personnel emoluments. This means that priorities are diverted when monies go to counties. We should put the CoB to task regarding why there are pending bills.

I thank the CPICSF for bringing up this inquiry and this Motion to the Senate.

I support.

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

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Kwanza, nampa kongole Mwenyekiti wa Kamati hii ambayo iliandika Ripoti kuhusu kaunti kukosa kupeleka pesa ambazo wafanyikazi wanakatwa katika zile pension funds ama mahali pesa za watu wanaostaafu au waliostaafu huwekwa.

(Several Senators walked into the Chamber)

(Loud Consultations)

The Speaker (Hon. Kingi): Order, Hon. Senators.

The Senate Minority Leader (Sen. Madzayo): Ni makosa na ukiukaji wa sheria kutolipa fedha katika *pension funds*. Ni ukiukaji wa sheria wafanyikazi kukatwa pesa kwenye mshahara kila mwezi bila kulipwa baadaye wanapostaafu.

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Wafanyikazi wengi wanaofanya kazi katika serikali za kaunti wanakatwa pesa na kwenda kwenye *Local Authorities Pension Trust (LAPTRUST)* ama *Local Authority Provident Fund (LAPFUND)*. Malipo haya yana mipangilio kwamba mfanyikazi atakapostaafu atachukua pesa zake na zikaweza kumsaidia.

(Loud Consultations)

The Speaker (Hon. Kingi): Hon. Senators, may the Senate Minority Leader be heard in silence.

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Wafanyikazi wanaostaafu hukatwa pensheni kwenye mishahara yao wakati wana nguvu na wanapofanya kazi kwa bidi. Mwishowe, wakifika miaka ya kustaafu hawawezi kupata pesa zao. Swala hili limeleta hasara kubwa katika familia nyingi nchini.

Kuna wazee ambao wamesomesha watoto wao, wanakuwa watu wazima ambao inatakiwa waende chuo kikuu na pia wajikimu kimaisha na kuishi maisha mazuri. Wanafanya kazi lakini hali ya pesa zao inakuwa kana kwamba ni wizi. Kwa mfano, ikiwa mfanyikazi aliweka pesa kwenye LAPTRUST ama LAPFUND, kaunti aliyoifanyia kazi inatakikana iweke pesa hizo kisawasawa. Mfanyikazi huyu anapostaafu, anakosa kupata pesa zake kutoka kwenye kampuni hizi. Mfanyikazi anakuwa hayuko kazini na hapati malipo ya kustaafu.

Tukio kama hili linafanya wafanyikazi waliostaafu wakose pensheni. Wafanyikazi wengi wanapata taabu na kufa mapema kwa sababu hawawezi kufikia pesa zao. Wengi hufa na dhiki kwani pesa zao ziko ila hawawezi kuzifikia wanapougua.

Hili ni kosa kubwa na lazima hatua ichukuliwe na mapendekezo ya Kamati kwenye hii Ripoti yatekelezwe. Nafikiria ingekuwa jambo nzuri sisi tukifuata yale mapendekezo yote ambayo hii Kamati ndugu yangu, Sen. Osotsi, ni Mwenyekiti. Wameandika hii pendekezo wakisema ya kwamba hii ndiyo taratibu ya njia tunaweza kuifuata na kuona ya kwamba wale waliokuwa wakifanya kazi na hivi sasa wako nyumbani, waweze kutumia hizo *savings* zao ambazo waliweka wakati walikuwa vijana.

Cha muhimu ni kwamba, wale ambao hivi sasa wako katika majukumu haya na hususan wale magavana wako kwenye viti sasa, wahakikishe kwamba pesa hizi ambazo ni kama Ksh80 bilioni zinatumiwa vizuri. Pesa hizi ni nyingi.

Watu waliostaafu wametapakaa kote nchini Kenya. Hivi sasa wanaishi katika maisha ya uchochole. Hii ni kwa sababu hizi pesa Ksh80 bilioni hazijapelekwa katika akaunti zao ili waweze kuzifikia na ziweze kuwasaidia.

Bw. Spika, wengi wao hatuwezi kusema wanaishi siku zao za mwisho katika ulimwengu, lakini wamekaribia upande ule wa mwisho. Ingekuwa vyema kuona ya kwamba hatua mwafaka imechukuliwa na pesa zimepelekwa ili waweze kujikimu kimaisha.

Ripoti hii imeandikwa vizuri na inapendekeza hatua ichukuliwe ili kuona ya kwamba waliostaafu wamepata malipo yao ya uzeeni. Sisi tunaona kama Bunge la Seneti litakuwa muhimu ikiwa hatua hiyo itachukuliwa mara moja ili serikali za kaunti ziweze kutuma pesa hizo kwa hazina ya kustaafu.

Asante, Bw. Spika.

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Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. This is a very serious national problem. I remember a case in Malinya of Mzee Moody Magoyi from Bukusi Village. This is a man who never missed a weekend, coming to my home to remind me about his pension.

He is a guy who had spent all his productive years working for the Kenya Railways and his pension never came to him. That was under the case of the defunct local authorities, which according to the statistics from NSSF, the defunct local authorities owe NSSF Kshs1.8 billion and the current devolved governments owe NSSF Kshs2.7 billion. On the word of the Kenyan Union of County Governments officials, they are owed from unremitted amounts, a whopping Kshs41.2 billion.

Mr. Speaker, Sir, these are people who are in their 70s. They are helpless. Even if they were to stand in a village *baraza*, nobody wants to listen to them. So, they need this Senate to advance their case.

Mr. Speaker, Sir, so that we do not miss it, it is very unfortunate that the cash transfer to the aged members of the society is working. Some of those people never did anything in terms of formal employment for the country. However, the people who actually did formal employment and made their own contribution, governors are today enjoying that money, making trips to go to I do not know where. They go to South Africa, buy flashy vehicles and all manner of wrong things. We must stamp our foot down.

A paper has just been circulated by the Senator for Kiambu that we request a small change in the Standing Orders so that governors can face the authority of this whole House. I was not for it, but when I reflect on it, I think it would be nice for some of these funny governors who became governors by accident.

Governors must never be elected outside the political elite. It is only leaders who choose to go into politics that have feeling for the people. However, when you get some professionals in Nairobi, for instance a manager of A, B, C, D and then becomes a governor, he does not have the feel of the people.

It is only politicians who feel it when they see a child being sent home for Kshs20. Politicians understand, but a manager from a blue chip company who has been in Nairobi all his life and then ends up as governor in Migori County, has no idea that those realities do take place on the ground.

Mr. Speaker, Sir, if we expedite these simple payments like the money due for NHIF, these people will be paid. If you have never had a patient of cancer, ask me.

My wife passed on because of cancer and it can be extremely expensive, so expensive that, that NHIF card used to mean more to me than the money I would get from elsewhere. I would take it to Moi Teaching and Referral Hospital and quickly my wife's bill was sorted out. We were spending Kshs300,000 per week. Therefore, we must stand behind these good people of ours and insist----

(The red light went on)

Thank you, Mr. Speaker, Sir. I support.

The Speaker (Hon. Kingi): Proceed, Sen. Oketch Gicheru.

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Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir. I had the opportunity to go through this entire process by the virtue of the fact that I am a Member of this Committee.

(Sen. Cheruiyot walked into to the Chamber and consulted other Senators loudly)

Mr. Speaker, Sir, could you--- The Senate Majority Leaders seems to be---

The Speaker (Hon. Kingi): Order, Senate Majority Leader! Why are you lecturing your colleagues? Have a seat, please, and be orderly.

Proceed, Sen. Oketch Gicheru.

Sen. Oketch Gicheru: The Senate Majority Leader is exceptionally very happy today; I do not know what is going on. Perhaps he can share with us the source of his happiness in the House today or maybe his pension has been paid.

Mr. Speaker, Sir, on the issue of pension, this Report is very direct. I want to address myself to the element of accumulation of this menace.

If you read this Report, by 2013 when we had the defunct local authorities, the accumulation at that time was about Kshs9 billion. I think it was spread in a fraction of Kshs5 billion for LAPSET. I think NHIF had about Kshs1 billion and then the rest had the others.

Mr. Speaker, Sir, between 2013 and the time that we were scrutinizing this particular problem, we had reached Kshs85 billion. That accumulation should worry this House in the sense that it seems that it is becoming something that governors are getting very comfortable with.

Mr. Speaker, Sir, they are getting comfortable to the extent that since they think that there have been previous accumulations, therefore, this cannot be a first charge in their own account such that governors are becoming notorious in terms of ensuring that these deductions are not remitted because somebody else will take responsibility, knowing very well that county governments go as a going concern.

One of the most important recommendations that has been made by this Committee is forming a taskforce to conduct a proper inquiry to this issue and put the matter to rest by the National Treasury and anybody who is relevant in what has been proposed as the composition of that taskforce. This is something that this House must give a lot of weight.

Mr. Speaker, Sir, I would go as far as to propose that this House stand with this sole recommendation and be able to effect immediately, so that in the next 30 days after the adoption of this Report, the taskforce can be formed.

Mr. Speaker, Sir, perhaps, this House should go further and require the National Treasury, after the formation of that taskforce to give it 60 days so that we can put this matter to rest in 90 days.

It cannot be taken as normal that people are retiring from county governments and dying without seeing their NSSF money that they contributed.

Sen. (Dr.) Khalwale talked about what Sen. Thang'wa has proposed that governors should come to this House instead of committees. I do not agree with it. However, the twist would be if we can move this process fast so that we can deal with

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some of the governors who have not been remitting these monies in this current regime, once and for all.

This will help to hold them to account as an issue of current affairs. This way, it will not only be dealing with issues that are stale and previous governors.

Let us make sure that we rush this process so that the Cabinet Secretary and the taskforce can give us that report in 90 days. We want to see some of these governors summoned to this House.

I agree that for this particular problem, we must summon those governors here and hold them to account on current affairs and matters that they can take responsibility for.

I know that Nairobi is notorious. For instance, in this Kshs85 billion, majority of it is for Nairobi, yet the Governor of Nairobi is there and the vibrant Senator for Nairobi, Sen. Sifuna, is also here. We can---

(Sen. Oketch Gicheru microphone was switched off)

The Speaker (Hon. Kingi): Sen. Crystal Asige, Proceed.

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. First, I want to congratulate the couple of counties that have made payments to pension schemes as indicated in this Report.

It is perplexing that despite several constitutional safeguards set out in Article 40 of our Constitution, hardworking Kenyans who have dedicated their lives to service and contributing to society, find themselves at the mercy of poor management practices by county governments and other parastatals, specifically when it comes to the utilisation and allocation of funds earmarked for remittance to pension schemes, which for decades seem to disappear.

The consequence of non-remittance is serious for retirees entering their golden years. They are left unsure about their finances, which is truly abysmal. Most of them end up depending on their families for daily sustenance, including health costs, utilities, transport, food and even airtime.

Mr. Speaker, Sir, children are not a retirement plan. Something that we have never discussed in this House is a phenomenon called black tax. This is money that is expected from us to take care of our elderly family members without question or excuse.

Black tax does not care how much you earn, where you work or your personal monetary responsibilities. It just forces young people to inherit the burden that counties and other parastatals that default in making these payments as reflected in this Report, should be making. This means that our money is not our money at all.

On top of the high cost of living, high inflation, housing levy currently under debate, the new Social Health Insurance Fund (SHIF), increased NSSF, we are then forced to add black tax to this long list because of historical failures of counties to do their job.

If the Report claim on page 26 holds true, with counties owing about Kshs80 billion, efficient, transparent and proper systems should ensure some kind of relief for our retirees, for them to, at least live a dignified life once they are in retirement stages.

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It is the exact reason why many Kenyans believe that having more children ensures a greater financial security for the family in old age. For instance, many are deceived into thinking that if they have 12 children, that means that they have access to 12 bank accounts that they can withdraw from without question or excuse later in life.

Though we are happy to support our elderly family members because of the sweat that they put into raising us, I still wish to reiterate that children should not be a retirement plan. Counties must execute their mandate.

(Applause)

Regrettably, this issue extends beyond our county governments as evidenced by the shortfall in the remittances by parastatals amounting to about Kshs22 billion last year alone.

This pervasive culture of diverting funds intended for pensions must be addressed urgently. Institutions must adopt a culture of responsible budgeting and timely payment to honour their commitments for these outstanding liabilities.

Mr. Speaker, Sir, it is disheartening to learn that the Council of Governors (CoGs) chose not to honour the invitations to these crucial meetings as well, which directly affect the areas they govern. They are the ones in the best position to find solutions, yet did not show up. That speaks volumes. Retirees should know that this is stated clearly in the Report that, our governors did not seem or think that it was important to show up.

It may be prudent to explore other avenues to address this. In this regard, involving the Kenya Revenue Authority (KRA) in the collection of this process as outlined in Section 53 (b) of the Retirement Benefits Act could prove beneficial.

That brings me to the end of my submission.

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

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir, for giving me the opportunity to also put my thoughts in this debate.

Retirement is a very challenging part of life. That is the time that your body is reminding you that you are no longer what you used to be. It is also the time that you have a lot of medical bills. Your energy is not like it used to be. You cannot chase after your business the way you used to be. You are not able to access offices the way you used to do.

It is a time when sickness and disease is part and parcel of management of your life. Sometimes, it is a time when you are managing your life style diseases. So, imagine a situation such as that. Then, saddled with that, you have the challenge of not having steady liquid cash.

You may have accumulated some land and shares somewhere. However, the biggest challenge of retirement is that you are unable to access cash on a regular basis like you used to when you were in employment or business.

It is also a time when private insurance companies do not want to take you for medical because you are a high risk. You are a person who is forever engaged in hospitals and so on. So, you will find that you will be paying a higher amount of premiums for those that will accept you.

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In other words, it is a time when you require a lot of cash flow which is not available as easily as it used to be. Therefore, it is sad that governors who are in power right now and those before, forget that one day one time, they will leave office. They will grow to be 71 or 80 years old and face the same situations that their employees, whom they have been mistreating, are currently facing.

Mr. Speaker, Sir, it is sad seeing governors moving around in nice vehicles. Some of them do not switch off their vehicles when it is hot. They make their speeches while air conditions are on.

That is something we see the Governor of Tana River County doing. You leave your car engine on so that air condition cools it down as you make your speech for one and half hours. When you go back, the vehicle is cool and, therefore, you can sit in.

It is a shame that the same governors fail to pay pension to retirees. As Senators, we are taking this opportunity to tell them that one day one time they will leave those offices and they will also grow old. They will be 70 or 80 years and they will need to have access to their retirement benefits.

Could those governors have a heart and pay people? It is a shame when you see an old man who used to hold a high position in the county council coming to ask for small amounts of money from you just to survive. It is a sad situation.

Sometimes, these people even politicise it. When people have left office and they did not support you, when you seek a re-election, they make it a point not to pay your retirement emoluments. This has happened to a number of people that we know.

The Report recommends that there should be a first charge on unremitted amounts and debts. This Report should be implemented. I do not agree with this idea that we should form another taskforce for this.

There are some recommendations such as making it a first charge and having the KRA as a collector of debts. That can be done immediately. We do not need a task force or a multi-agency to---

(Sen. Mungatana's microphone was switched off)

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

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii kuchangia Ripoti ya Kamati ya Seneti inayohusiana na masuala ya uwekezaji na hazina maalum.

Kwanza, naunga mkono Ripoti hii. Ni jambo la kusikitisha kwamba kaunti zetu zinadaiwa takriban Ksh80 bilioni. Hizo ni pesa za wale ambao wamestaafu na kwa sasa hawana mapato ya kila mwezi. Kaunti ya Mombasa ambayo nawakilisha inadaiwa Ksh9.43 bilioni.

Jambo hili linaathiri kila mtu. Hata wale ambao wako kazini kwa sasa, uwezo wao wa kufanya kazi umeathirika kwa sababu mtu hajui akistaafu kama atapata malipo yake mapema au la.

Niliwahi kufanya mkutano na *County Public Service Board (CPSB)* ya Mombasa. Tulipendekeza kuwa wale ambao wangestaafu karibuni, pesa zao zote zipelekwe kwa haraka ili wanapostaafu, kusiwe na malimbukizi ya pesa wanazodai, wanapostaafu,

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wapewe pesa zao zote kisha waondoke kwa usalama. Hata hivyo, jambo hilo halijatekelezwa mpaka sasa.

Kaunti ya Mombasa ilipoteza Changamwe Estate kwa sababu walishindwa kulipa *pension*. Walifanya makubaliano na LAPTRUST ambayo ilimiliki hiyo *estate*. Sisi kama watu wa Kaunti ya Mombasa tumepoteza raslimali kubwa kwa sababu ya kukataa kulipa *pension*. Ni vyema mapendekezo haya yatekelezwe.

Kama alivyosema Sen. Mungatana, kuundwa kwa kamati nyingine itakuwa kama kuzunguka mbuyu bila mwelekeo wowote. Hii ni kwa sababu wote ambao wametajwa katika Ripoti hii, kama vile Waziri wa Fedha na Mkuu wa Sheria, wako katika Intergovernmental Budget and Economic Council (IBEC). Kwa hivyo, wanajua kuwa pesa za *pension* hazipelekwi katika hifadhi ambazo zimewekwa na Serikali kusimamia *pension*. Itakuwa ni kama kupigia mbuzi gitaa wakati hakuna mwelekeo wowote.

Naomba tukubaliane na Ripoti hii. Kupendekeza kuundwa kwa kamati nyingine ni kupoteza muda na vile vile raslimali muhimu ambazo zingetumika kushughulikia masuala mengine.

Nikimalizia, kwa kuwa suala la *pension* ni muhimu, ijapokuwa wanatakiwa walipe riba kwa pesa ambazo hawakuzipeleka kwa wakati, riba pia haiwashtui.

Ni vyema magavana wahusika wawe *personally liable*. Kama kuna gharama yoyote inayotakiwa kulipwa kwa sababu wamecheleweshwa kulipa pesa, basi iwe ya gavana binafsi kuliko riba kuongezeka kila siku. Ikiwa tumeshindwa kulipa kile kiwango cha chini, tutawezaje kulipa kukiwa na riba juu yake?

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

Sen. Kisang: Mr. Speaker, Sir, I rise to support the report by the Committee on County Public Investments and Special Funds.

This is a disease that has been there since the days of county and municipal councils. As Sen. Oketch Gicheru said, by the close of 2012, defunct county councils owed pension schemes over Kshs9 billion. From 2013 up to now, the amount has risen from Kshs9 billion about Kshs82 billion. This basically means that governors have not been remitting pension deductions from 2013 up to now. It is not that money was and is not being sent to the counties. Employees contribute 7.5 per cent of their salary and county governments add 15 per cent.

Mr. Speaker, Sir, we support what Sen. Thang'wa said that we invite governors here, so that they tell us where they take the money they deduct from employees.

One reason is that governors over-budget resources from their Appropriation-in-Aid (A-in-A). If they do not meet their target at the end of the financial year, they divert deductions from employees to pay their cronies for development done at the expense of employees.

There are many employees who have retired. Some have even died because they do not have the pension to sustain them. That is money that people contribute so that they can use to buy medicine and lead good lives during their sunset years. However, governors now and mayors and clerks of those days misused the money. That is why we are asking Members of this House to support this Report by passing it, so that the resolutions are implemented.

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If you check, you will find that LAPFUND, LAPTRUST, Central Provident Fund (CPF) and National Social Security Fund (NSSF) are owed a lot of money by county governments. In fact, out of the 47 counties, it is only three that are up to date. Nyeri County is one of them. We need to laud the three counties.

Mr. Speaker, Sir, we may need to amend the Retirements Benefits Authority Act, so that the Retirement Benefits Authority (RBA) can empower the KRA to be a collector of pension deductions from county governments. If they cannot deduct, the CoB should deduct at source, so that our people do not continue to suffer just because of rogue governors.

If they are taken as an agent by county governments, we believe that pension deductions will be collected, and our people will no longer suffer. The Committee proposes to bring amendments to the Retirement Benefits Authority (RBA) Act and also the Kenya Revenue Authority (KRA) Act so that this is done.

We also need the National Treasury to be tough so that they reign in the governors not remitting these deductions. As has been mentioned, the Nairobi County Government is one of the major culprits. It owes close to Kshs20 billion. If Nairobi can pay, then these deductions can be reduced. We are proposing that it becomes mandatory for the Controller of Budget (COB) to avoid realising any funds.

The Speaker (Hon. Kingi): Sen. Kavindu Muthama.

Sen. Kavindu Muthama: Asante, Bw. Spika, kwa kunipa fursa hii ili niunge mkono Mswada huu wa uhamishaji wa pensheni wa Kamati inayoongozwa na Sen. Osotsi.

Ni aibu na haistahili, wala haifai kuwa magavana wanakata watu pesa zao za pensheni na kisha wakose kuzipeleka kule zinastahili ili wakati wafanyikazi wanastaafu, wapate malipo yao ya uzeeni.

Mtu hufanya kazi ili wakati wa uzeeni, aweze kupata kitu cha kujisaidia. Wanapokatwa hizi hela, wanakuwa na matumaini makubwa ya kuwa, wakati wa uzeeni watakuwa sawa na salama.

Bw. Spika, si hao wafanyikazi wa kaunti peke yao, pia kuna walimu. Hii ni kwa sababu ninaketi kwa Kamati ya Elimu na kuna walimu kutoka 2012 hawajalipwa pensheni. Hii inaumiza kwa sababu wengi wanakufa bila kupata hela zao.

Ni lazima hii Kamati ione itachukua hatua gani zaidi ili kuhakikisha hizi pesa zimepatikana zote na zimehamishwa kwa hiyo hazina ya pensheni ili hao waliostaafu wafurahie pensheni yao kama watu wengine. Wakati wanapostaafu, wanapata shida nyingi sababu huo wakati hawana bima inayowaruhusu kuenda hospitali kutibiwa. Wakati huo ndio mgumu zaidi kwa sababu wengi huwa wanaugua magonjwa ya presha na kisukari na wanakuwa na shida nyingi.

Bw. Spika, ninaunga mkono kwa kusema hatua ichukuliwe kwa hao magavana na kwa watu waliyo kwenye wizara zingine ambazo huwa hawapeleki hizo pesa za pensheni kwa ile hazina inayostahili.

Asante. Naunga mkono.

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

Sen. Abass: Thank you, Mr. Speaker, Sir. I join my colleagues in supporting this Report.

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In this country, the most neglected people are the retirees. We are talking about counties but those who have worked in the national Government equally suffer the same predicament. It is painful, having served the country with dedication and when you retire at the age of 60 or 65 years, you move around struggling to get your pension.

What happens in the counties is that the money for such deductions is used as miscellaneous funds. When salaries delay, they pay against salaries and when they have other commitments, they use the same money. As a result, this money accrues interest because those institutions have deducted from the Local Authorities Provident Fund (LAPFUND), the Kenya Revenue Authority (KRA) and others.

Mr. Speaker, Sir, as we talk, my county is currently paying Kshs1 billion for those statutory deductions. The most unfortunate thing is that the second term governor whose term ended in 2022 is looking for his gratuity because he failed to submit that money. Today, the same governor is looking for the same money but he failed to submit that money when it was meant to be done.

The best thing to do is to change the institutional framework for pensioners and decentralize it. Pensioners come all the way, from far-fetched areas of the country, struggling every morning to visit pension offices in Nairobi and they stay here for months without getting their pensions. They are then told that the money will be sent to them and they should go back to their homes. At that time, they do not even have fare and they become stranded in Nairobi.

Mr. Speaker, Sir, Kshs90 billion is a lot of money. This House has to come up with a Bill to change the Pensions Act. This will compel every county to submit that money on time and if they fail to do that, the pensioners should ask them. They do not even give interest because they do not have money. Sometimes, trustees hold this money by saying that a child must reach 18 years. If we say the child must reach 18 years and they cannot even go to school, that beats the purpose of paying that pension. This should also be reviewed.

Mr. Speaker, Sir, during this time when these pensioners get blood pressure and all kinds of diseases and yet, they cannot access treatment. To be fair, the House needs to act in order to help retirees in this country.

With those few remarks, I beg to support.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this Report by the County Public Investments and Special Funds Committee (CPISFC). I commend them for this Report and for meeting with all stakeholders on matters of retirement.

The issues of older citizens in the country are not well appreciated and not well provided for in policy. That is why everyone who deals with matters relating to older generation persons and those who have retired seems to deal with them casually. This is not just a problem of county governments but of the national Government as well.

Mr. Speaker, Sir, in the first instance, we need to encourage the Ministry in charge of labour to come up with a clear policy on how to take care of older people, including those who have retired. On the issue of protecting the retirement benefits of workers, both at the national and country governments, we will need to ensure that the

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current remittances of pension funds belonging to workers are done in accordance with the law so that, even as we deal with the backlog, we should ensure that since salaries are budgeted for in full, whatever is supposed to be remitted to the Pensions Fund is remitted. We can only worry about backlogs in the past and not create more from where we are. I have not seen that - if that is clearly stipulated there. Even as they suggest for a task force, we need to do the first thing first, which is for every county to remit the current deductions as they are supposed to.

Mr. Speaker, Sir, I was hoping the Committee would come up with a penalty to penalise some of these accounting officers at the county level for failing to ensure statutory deductions are remitted to the Pensions Funds.

There is no union for retired persons, maybe that is why we find it easy to violate their rights knowing they may not have the capability to come together and go to court to claim for their rights. So, we willy-nilly deal with their monies as though it is a small change that should be dealt with in the manner it should not be dealt with.

Mr. Speaker, Sir, I request that the issue of the task force be fast-tracked, if it must be there.

The Chairperson for County Public Investments and Special Funds Committee, you have the recommendations and what we need is for those recommendations to be implemented immediately. We need somebody to also come up with stringent penalties against accounting officers at the county and even national level to ensure that what they are supposed to do is done.

As we move on, I had mentioned that policies around older people are vague and unclear. However, all of us are going to be old one day. It is important that we contribute to coming up with policies and laws that will secure not just the retirees but other older people and to ensure that funds they have invested, whether for health or pension, are properly utilized. Those who do not secure these funds should be penalised for misappropriation and failure to remit them.

I support.

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

Sen. (Dr.) Murango: Asante sana, Mustahiki Spika, kwa kunipa nafasi kuchangia Hoja hii kuhusu shida zinazowakabili wale watu waliostaafu kupata pesa zao za uzeeni. Kirinyaga ni mojawapo ya eneo ambalo kuna watu kama hawa. Mimi binafsi nimehuzunika nikizika babangu mdogo kule Kirinyaga kwa sababu ya *cancer* - na akafa bila kulipwa malipo yake ya uzeeni kutoka mwaka wa 2012 hadi alipokufa. Alikuwa akifanya kazi katika hospitali ya Rufaa ya Kirinyaga. Ni mojawapo wa wengi walionifikia wakilalamika kutolipwa pesa zao za uzeeni.

Harambee nyingi zinazofanyika siku hizi ni kwa sababu ya watu wasiolipwa pesa zao za uzeeni ilhali walijitolea mhanga katika kupeana huduma katika serikali za kaunti. Ni jambo la kuhuzunisha kwamba hadi leo tunapoongea, hawapewi kipaumbele kuhakikisha wamelipwa pesa zao.

Wengi wa wale wanaoteseka saa hii ni wa umri uliosonga na umri inavyosonga ndivyo mwanadamu ana shida na magonjwa mengi bila uwezo wa kujifanyia kazi kwa sababu udhaifu na kukosa nguvu inaandamana na uzee. Kwa hivyo, nimeona kwamba Kirinyaga waliketi na County Pensions Fund (CPF) na wakakubaliana kwamba wataanza

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kulipa pesa zao za uzeeni ila mkataba bado haujatiwa saina ili kuhakikisha wale watu wamepata pesa zao.

Nashukuru kwa bidii iliofanywa kule Kirinyaga ila naomba kwamba waendeleo kwa kila kaunti kupatia kipaumbele mipango ya kulipa pesa ya wale watu waliofanya kazi katika Kaunti zetu. Mizigo ambayo wale wazee wanapata ni sisi kama viongozi tunaokabili pamoja na watoto wa wale tuliokuwa tunajivunia kwamba wanafanya kazi katika gatu zetu za Kenya.

Mustahiki Spika, nashukuru Kamati inayoongozwa na Seneta wa Vihiga, Sen. Osotsi, kwa kazi nzuri na ngumu walioifanya na kuweka nakala na stakabadhi ambazo tunazitegemea siku ya leo kuchangia katika Hoja hii na masaa mengi ya kazi walioifanya. Wazee wanafurahi. Wengi hata nikiwa hapa naona wameandika jumbe kwamba wanafurahi na kazi inayofanywa na Seneti, haswa kuhakikisha wamepata haki zao kama wazee waliojitolea kuhudumia taifa lao. Mswahili husema, mghala muue na haki umpe. Kwa hivyo, haki iwafikie wale waliostaafu.

Asante.

The Speaker (Hon. Kingi): Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Mr. Speaker, Sir, thank you for giving me this chance to add my voice into this Report. First, I appreciate the CPISFC for the good work they have done in collecting the input from the affected people and Kenyans at large.

It is inhuman for the governors and any institution not to pay workers their pensions. It is painful when people have invested time and resources into working and serving an institution, then not get their benefits when they leave. Many of them leave employment when tired and need to get their benefits.

Secondly, some of them may not even have had time to have families when they were working. When they retire is maybe when they get young wives to take care of them. Then when they are not paid their benefits, they suffer because they want to treat these young women in their lives and give them the best lives they can afford. They get frustrated when they are not paid.

Mr. Speaker, Sir, it is important to note that retirees at home also contribute in building the nation. They need to get their benefits so that when called in these social gatherings and in family meetings, they can contribute at ease because they have their benefits and money. That helps them in keeping their social status so that they do not feel neglected, become social misfits and not accepted because they cannot contribute or participate in what the community is doing.

We must come up as a House with a clear way forward on how to enforce the payment of pensions of those who have served the nation because they require support when they retire.

Mr. Speaker, Sir, thank you for the opportunity to recognise that those who do not get their benefits go through psychological torture. They need to be helped by getting them their benefits with their pension being paid in good time. They should not wait for long. Many die without enjoying the fruits of their hard work.

The Speaker (Hon. Kingi): Proceed, Sen. Wakili Sigei.

Sen. Wakili Sigei: Mr. Speaker, Sir, thank you for giving me the opportunity to also add my voice to the report that we received yesterday from the Committee. It took

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the Chairperson of the Committee, Sen. Osotsi, over 45 minutes to present this document. He laid the foundation why we are where we are and the suffering the people who are supposed to be the beneficiaries of the remittances have gone through.

In all the recommendations that the Committee made, it is one thing that this House can help the people who have retired and their entitlements been retained by various county governments and other institutions that are supposed to remit these dues to benefit those people in their old age.

Mr. Speaker, Sir, the figures as given is something we cannot take for granted. This is because at Paragraph 63, there is an additional note on the amounts due to the various institutions starting from Local Authority Pension (LAPTRUST) Trust, National Social Security Fund (NSSF) and LAP Fund. These are remittances that these institutions have not released for the benefit of those people.

We are aware that upon retirement, an individual has no other source of income especially in their in old age. The affinity to have medical conditions that require constant attention is rampant. In the event that they are unable to get any resources, yet they had contributed, they would be subjected to conditions which they are not supposed to because of the inaction of these institutions.

Among the several recommendations which I commend the Committee for, is the one that requires a first charge on the remittances that goes to the county governments. This recommendation is on page 28 where once the county government remits its allocation, the first charge must be laid out on these statutory deductions.

The second proposed amendment is to the Public Finance Management (PFM) Act. It will ensure county governments confirm before any other payment is made that these remittances have been done. This will be the only way to enforce the proposals which the Committee is making.

Secondly, the Controller of Budget (CoB) should ensure statutory deductions are made before monthly payroll payment requests by the county governments are approved. This is going to help us to manage these payments. How will this be done? It is by having a law that requires first charge on any remittances. In addition to that, before approval of any deductions or any payment is done, all the money is supposed to go through the Office of the CoB.

Should the Kenya Revenue Authority (KRA) be given a role to enhance these remittances? The Committee should consider the role of KRA and the Retirement Benefits Authority Act. As such, these deductions will be automatic if KRA is involved.

I laud the comments which were made that some county governments have entered into agreements with the Funds on how to remit these statutory deductions. Unfortunately, if these agreements are signed and not honoured, they will remain just agreements. What is the effect? The Committee recommended that additional interests and penalties will accrue as long as such payments are not made.

I believe that if this House adopts this Report, we will support and help contributors who have suffered because of unremitted deductions.

I commend the Committee on this Report. It will enhance the oversight role of this House. We should ensure that those who contribute benefit from their contributions

when they are still alive. It should not be remitted to their estates after they are no more in this world.

I support and congratulate the Committee for a job well done.

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

Sen. Munyi Mundigi: Asante, Bw. Spika, kwa kunipa fursa nichangie Hoja ya Sen. Osotsi kuhusu malipo ya uzeeni na yale ya National Social Security Fund (NSSF) na fedha nyinginezo.

Niko na huzuni sana kwa sababu ya kaunti zilizoachwa na madeni na wale magavana waliokuwepo. Wale watu tunaotetea hapa, sio wale wa kaunti pekee bali ni vitengo mbalimbali ikiwemo taasisi ya waalimu.

Wafanyikazi wa kaunti wako na shida nyingi. Ikumbukwe walipoajiriwa walikuwa wachanga. Tunajua ya kwamba mfanyikazi yeyote anapoajiriwa, pesa anazopata huwa ni kidogo.

Pia, anapoajiriwa, huwa anaingia kwa madeni ya benki na kwa *shylock* na pesa zingine zinazokatwa benki pamoja na malipo ya uzeeni. Ni aibu kubwa sana tunapooni mfanyikazi anapostaafu baada ya kufikisha miaka 60 na anaendelea kuwa na shida.

Ifahamike kwamba kama sio hawa wafanyikazi wa kaunti, kaunti zetu hazingekuwa imara. Watu hawa ndio wanasimamia shughuli za maombolezi na za makanisa kule mashinani. Hivyo basi, hawa wafanyikazi wameshikilia serikali katika kona zote lakini wanapostaafu huwa na shida nyingi.

Kwa mfano, Kaunti ya Embu kwa wakati huu imechagua Gavana ambaye ni mchapa kazi lakini alikuta madeni ya wanakandarasi yakiwa takriban Ksh2 bilioni. Kwa hifadhi ya serikali, alipata yamkini Ksh500 milioni.

Anapopata pesa, anajaribu kupunguza mishahara ambapo kila mwezi analipa Ksh2.5 milioni. Japo anafanya hivyo, Seneti inashinikiza alipe madeni ya watu. Hivyo, basi, unakuta kaunti nyingi ziko na shida kama kaunti ya Embu.

Ingewezekana, Kamati hii ingependekeza jinsi ya kulipa *pending bills* ndiposa zile kaunti zenye madeni ziweze kuyalipa kwa njia inayofaa ili wafanyikazi wa kaunti waache kuumia.

Hivyo basi naunga mkono lakini kuna njia mwafaka ingeangaliwa ili hawa magavana wasiwe na shida ya watakavyosaidia. Utakuta, kwa mfano, Kaunti ya Embu kuna shida nyingi na ndio hizo shida tunajaribu kutatua hapa.

Mpaka tuangalie ni njia gani hizo kaunti zitaweza kupata pesa ambazo zinaweza kulipa hayo madeni ndio wafanyikazi wanapostaafu waweze kupata malipo ya uzeeni kwa njia ya haraka.

Kampuni niliyokuwa ninafanyia kazi, ya KenGen, unapostaafu huwezi maliza miezi miwili kabla hujapata pesa zako. Kwa hivyo, ningeomba zile kaunti hazina madeni ziweze kusaidia. Miezi mitano kabla ya mfanyikazi kustaafu, rekodi zake zitengenezwe vizuri ili turekebishe jinsi ya kujenga maisha yao wakati wameenda nyumbani.

Tunajua ya kwamba hawana pesa zingine. Tumeona baadhi ya wafanyikazi wanapostaafu, wanaugua hata kuaga dunia. Kwa hivyo, ni lazima tuangalie njia mwafaka ile tutasaidia hawa watu wa kaunti vile watakavyokaa vizuri.

Naunga mkono.

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir for giving me this opportunity to support this very important Motion. Failure to remit these dues borders on criminality. It is very painful that a county government under the governor cannot remit dues meant for their employees.

Mr. Speaker, Sir, the purpose of saving is for tomorrow. It is very painful that somebody has worked for close to 20 or 30 years. By the time you are 60 years old, you are sent home to retire and rest. Then suddenly, you realize that you have no savings at all.

I am happy that Sen Osotsi, through his Committee, has brought that Motion. I think that this Motion should now be processed into a Bill because sometimes Motions are not compelling, they are just advisory. This will ensure that we create some punitive measures through which we can punish these rogue governors who are not remitting the dues of their people. It is very shameful and painful.

Having worked in counties for close to ten years, I know the pain, the struggles and the frustrations that the county workers are going through, and these things revolve around corruption. It is pure theft because at times, this money is put into some fishy accounts and it generates a lot of interest for the benefit of a few errant individuals in those counties.

I would implore upon this Committee, which is led by my brother, Sen. Osotsi, to develop a Bill through this Motion, which is supposed to bring in some very punitive measures to make sure that we punish---

*(Sen. Nyamu and Sen. Wakili Sigei
consulted loudly)*

Mr. Speaker, Sir, can you protect me from Sen. Nyamu and Sen. Wakili Sigei? They are interrupting me.

Sen. Osotsi, I am happy that you have come up with this issue. You must have done a lot of investigations because there are a lot of cries across the board; almost in all counties. We have very few counties that are the exception. Most counties are going through this mess.

I am happy that this Committee has brought this issue to this House. I strongly support that we must make some serious regulations to make sure that the employees who are supposed to have their pension remitted to relevant entities get their money once they retire because that is the essence of saving.

I support.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir, for the opportunity to also support this Report. I am a Member of the County Public Investments and Special Finds (CPISFC) Committee, the Committee that prepared the Report that was presented to the House by our Chairman.

It should be an impeachable offence for any governor to deduct anybody's salary and never remit the same to the pension schemes. If I was to give you the figures of my county, the Kiambu County---

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The Kiambu County Government owes the LAP Fund Kshs59 million. It owes the LAP Trust Kshs167 million. It owes the County Pension Fund (CPF) Kshs54.6 million. In total, the County Government of Kiambu is holding money for its workers that it has deducted from their salary, amounting to Kshs280.6 million. That is why, every day, every time, I keep saying on the Floor of this House that we need to change the way we do things. If we cannot hold governors to account, our people are suffering, and they will continue suffering.

Can you imagine working for a county for 10 years, 20 years or 30 years, then you go home with nothing? When you go to the governor to ask for your money, you are given some chicken to go and rear or put them in your house as you wait for your money yet that money that he is dishing out can be given to these pension schemes so that people can get their dues.

I would want to thank the Chairperson and the Members of the CPISFC because every governor of the 47 counties has appeared before this Committee to discuss issues to do with pension and water.

That is why I call upon Mr. Speaker to also assist because there is need to rethink the reconstitution of some committees, because they are not performing as per the expectation and the mandate that they were given.

I am going to mention the County Public Accounts Committee (CPAC). The Committee of CPAC is one of the committees that is making such things happen in the counties because they are not putting governors to task.

Why am I saying so? My governor was supposed to appear before the CPAC on Monday next week, but he has already written a request for an extension, the seventh extension. Seventh! He is asking to come in June of this year.

I am not saying that the Committee will give him that leeway. What I am saying is that, we need your intervention. How can a committee give one governor seven extensions because the governor is probably known to some Members of that committee or the Chairperson of that Committee? That is why I am saying that we should rethink of reconstituting such committees---

The Speaker (Hon. Kingi): Hon. Senator, can you abandon that line of contribution, please? You cannot impute improper motives on your colleagues. Kindly, abandon that line of debate.

Proceed.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I feel frustrated when I am standing here as a Senator of the great County of Kiambu, where I am supposed to fight for my people, but when I try to do my oversight role, I feel that there are some other things that are happening around that are somehow jeopardizing that.

That is why I am trying to implore the Chair to crack the whip on such committees, that would really not give any governor an opportunity to be heard or questioned so that he can answer questions that are affecting his country.

As I thank the CPISFC that every governor has appeared before; those who did not appear were summoned and those who did not honour the summons were fined. I am also the Chairperson of the Committee on Roads and Transportation. A governor who never appeared before the Committee, was fined Kshs500, 000 and they paid. I believe

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we need to check on how we are checking on the governors. Nevertheless, I support this Report.

Sen. Okenyuri: Thank you, Mr. Speaker, Sir, for this opportunity. I also want to support this Report by the watchdog Committee led by the Senator of Vihiga County, Sen. Osotsi.

I have been going through various surveys. One of the damning surveys I came across was by an international financial service provider that rated retirees in Kenya as one of the poorest globally.

In a country that is trying to encourage savings and increasing contributions in terms of the NSSF, this is something that we seriously need to think about not just in counties. I would say, it is gross irresponsibility and unsound to deduct money from someone and then not remit it to the pension fund organizations.

When you look at the tales of many retirees in this country, the moment you retire and go home, most of the issues you are dealing with are either burying your colleagues, paying school fees and most of them are paying school fees for dependents who are young people between 20 and 25 years.

When you carefully scrutinize that situation, most retirees are forced to go back to work. They are going back to work, not in the government but doing odd jobs to make more money because they have nothing and these county governments are not paying them their pension dues.

I would say at times it is deliberate because the county chiefs are prioritizing projects which they are making money from. That is why it is very easy for a county government to launch a new project but dillydally in remitting money that is meant for people who have been their loyal workers.

We need to be strict on this issue. Among the observations that the Committee made was that there was an increase in the debt owed to pension schemes post-devolution. The debts comprised majorly of accrued interests and penalties. Maybe, we need to include these on the pending bills. Also, these should be among the first charge in the budgets of county governments. That would prevent the county chiefs from running away from such a crucial responsibility.

Additionally, I see the recommendation of forming a taskforce. That seems realistic as of now, but it would be dragging us back. This is because most of these organizations have internal data of who and how much is owed. Forming a taskforce will take a long time. Some of these people, as my colleagues have said, will die before they get their dues.

A taskforce, as recommended here, would not be the best option. We know the route such taskforces take in this country. At times, you end up not getting the justice you deserve. We cannot advise retirees to go to court. Court processes are expensive and time consuming. It is unlikely that they will get justice.

As I have always said, this being a watchdog committee, I expect radical recommendations. We should not massage people who know what they are meant to do yet they continue to do the same at the expense of ordinary people who have no space to

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represent themselves in these Houses or speak in several functions we attend in the villages.

As we encourage the culture of saving in Kenya, we also need to---

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

Sen. Kibwana: Thank you, Mr. Speaker, Sir. I want to support the Report of the Committee on County Public Investments and Special Funds (CPIC) where I sit.

It is very sad how the issue of pensions is handled. Many people have died without receiving their dues. It is unfortunate that Nairobi City County and Mombasa County have the highest pension debt according to the data submitted.

The interest charged by the Local Authorities Provident Fund (LAPFUND) and Local Authorities Pension Trust (LAPTRUST) has led to the growth of these penalties. So, it is unfortunate that counties have failed to settle due to that. Nyamira and Nyeri counties have already settled their principal pension. So, it is possible to settle these contributions in full.

We also need to have strict penalties on this one. I have seen the recommendations that the Retirement Benefits Authority (RBA) should appoint the KRA as a collecting agent for these dues. The counties have failed us on these issues.

It is unfortunate looking at the lives that the governors are leading yet, the poor retired people, who expect their dues are not receiving anything.

I feel strongly and support the recommendation that the RBA should appoint KRA as collecting agents if counties have failed.

Mr. Speaker, Sir, much has been said on this. I do not need to repeat it.

I strongly support this Motion.

I thank you.

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

Sen. Korir: Asante, Bwana Spika. Nimesimama pia kuchangia Ripoti ya Kamati ya kuwalipa wafanyikazi wetu malipo yao ya kustaafu. Hii ni changamoto kubwa kwa wafanyikazi wetu kwa sababu wanakosa pesa zao baada ya kustaafu ilhali wamejikaza na kutumia muda wao kuifanyia Serikali kazi. Wamejinyima na kukeza pesa ili mwisho waitumie wanapozeeka.

Hii ni changamoto ambalo gatu zetu zinapitia. Inachangiwa na Serikali kuu kwa sababu kuna pesa ambazo ilifaa kutuma kwa kaunti ili, itumike kulipa *pension*.

Nashukuru Kamati hii kwa kazi nzuri ambayo wamefanya. Kama Bunge hili litatekeleza mapendekezo haya, basi, kaunti zitasaidika.

Sina mengi ya kusema. Naiunga mkono Ripoti hii.

Asante.

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

Sen. Wamatinga: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I rise to also support the Report that has been done by the team led by Sen. Osotsi. They did a good job.

In a country where we have a culture of praising the postman for delivering mail, we may not seem to care a lot that the national Government, in the age of internet, has the responsibility of ensuring that all these deductions are remitted to the Pension Funds.

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It is not lost to us that most of the developed countries use their pension to fund infrastructural development projects. Therefore, they develop their funds and the wealth of their nationalities. By so doing, they ensure that as people retire, their pensions are well taken care of.

Mr. Speaker, Sir, it is important to realize that the county governments---

At this juncture, I would like to take exemption to praise the Governor of Nyeri County, *mwalimu* Hon. Mutahi Kahiga, for making it possible that Nyeri County does not have any pending bills. It is one of the counties that have religiously remitted all the deductions. This is because he shares with me the belief that human capital development is an equally important part of development.

Mr. Speaker, Sir, when we look at the common best practices in other countries, we realize that pension and deductions by employees are not held back. This is because the laws governing those countries are very punitive.

The question is: Why do we not make it mandatory as recommended by the CPISFC and make the statutory deductions as the first charge and forward them as they are deducted?

Unless we change the way we do things, we will continue to have a demotivated and demoralized workforce yet we expect them to deliver. This will largely remain a mirage. A demoralized workforce cannot deliver on anything.

Mr. Speaker, Sir, moving forward, if all those officers, be it governors or Chief Executive Officers (CEOs) of organizations, do not remit pensions and statutory deductions, then we must put mechanisms in place and ensure they are followed.

Mr. Speaker, Sir, in my office, I have a list of retired teachers who worked for the Teacher Service Commission (TSC) and have not gotten their pension. Some are struggling with ill health with no means of survival.

As a country, we must embrace the morals of ensuring we do to others what we would want them to do to us. This can only happen if we ensure that pensioners who worked for this country are given their dues by submitting pensions that are prudently invested.

The Kenya Kwanza Government will embark on a radical scheme to change how we deal with our retirement benefits, social security and taxes, including the housing levy. If that money is not invested prudently, the workforce will be demoralized.

I congratulate Sen. Osotsi for the wonderful recommendations. The County Public Investments and Special Funds Committee should ensure that the recommendations are implemented.

I support.

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I congratulate the Committee on County Public Investments and Special Funds for a job well done. This is what we expect of our committees. That is to respond to issues of great concern to the people we represent in this House.

Pension funds are essential tools and financial instruments that we have abused in this country for a long time. Unfortunately, we are discussing county pension schemes

but there are similar challenges that people have with their savings at the national Government.

As one of the Senators observed earlier, unfortunately, the Senate has not spoken candidly and resolved the issue of county pension funds. We tried to address that issue in the Eleventh Parliament. However, as was rightly observed, partisan interests came in along the way and Parliament was not able to wade over the storm. Unfortunately, the same was worse in the Twelfth Parliament.

Therefore, as an institution, we continue to stand indicted because of how the various county pension funds are run, and the fact that we have not passed a law that guides counties on how their pension schemes are managed, how better to run them and whether it is proper for them to be as many as we already know, or collapse them into one county pension scheme for our county government workers just like we have one for the national Government employees. Nonetheless, I want to appreciate this first attempt to collect what is due to them.

There are many defunct municipals and county councils that, up to date, have never settled their pending bills with the various pension schemes. Unfortunately, it has taken nearly 12 years to stamp our foot with authority and demand that these monies be paid.

In the absence of that, we have some elderly people who gave their best of life and energy to provide service to the country but are now wallowing in extreme poverty and are unable to access their pensions. I hope the recommendations of this Report will be forwarded and implemented.

Over and above this, I would like to challenge the Committee chaired by Sen. Osotsi, to bring a Bill to Parliament, specifically on how pension funds can have a right to first charge just like the KRA has agency notice. The same applies to NSSF and NHIF where many employers, because of the strict nature of the laws in place and the compliance demands on all employers, the default rate is low. So long as people know you can choose to pay, delay, or deduct the pension and use it to do other things with minimal repercussions, we will continue having the same challenges.

For most of the bills, you cannot accurately determine how much is owed to specific county pension funds by various county governments. While this is a good start, a lot needs to be done.

It is my sincere hope that, as a House, we will rise to the occasion and guide our county staffers into pension schemes they can rely on in retirement. It will be impossible for counties to attract good talent if they know they work for organisations which upon retirement, they cannot draw pensions.

Staffers of Parliament are comfortable and are exceptional in their duties because they know that in Parliament, we have a Staff Pension Scheme that is well-run and managed. They know they will enjoy the fruits of their labour in their retirement years. They will not be destitute old people relying on handouts from their children and well-wishers. Unfortunately, people save during their youthful years only to suffer in retirement. I hope Sen. Osotsi will give us a specific Bill that will go through both Houses of Parliament that will give urgent notice to these institutions so that we provide clarity in this space.

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This must be said; we have been unable to do well. We stand indicted up to date as a House of Parliament because many county government employees are still confused.

The last thing I want to say on this topic is that county pension funds must be creative. There are opportunities for business for them even with the said counties. I do not understand why county governments have to borrow from commercial banks, yet they can borrow from their pension fund and earn interest. That is the same money our pensioners should enjoy in their retirement. That is a safe avenue for investment. The same county pension schemes should invest in various counties.

We borrow money from the World Bank, Danish International Development Agency (DANIDA) and other development partners. Those are other people's pensions. How stupid can we be as a people that we borrow pensions of different people, enrich them and ensure they live more comfortably, yet we are packing money here and lending it to others to do projects that are not feasible? We can draw value from our county pension schemes by ensuring that pension schemes invest in the counties where they collect money by putting it to projects that benefit the same people who contribute.

Therefore, I challenge Sen. Osotsi and Members of his Committee on the need for clarity in this space. We should sit with managers of pension funds and open their minds to opportunities that exist in various county governments, so that when employees of counties retire, they are sure that at the end of the month, they will have something worth of comfort to them and they will celebrate knowing that they did not waste their years working for our county governments.

With those many remarks, Sen. Osotsi, this is a good start. However, bring the Bill so that we streamline this space.

I thank you.

The Speaker (Hon. Kingi): Sen. Osotsi, being the Mover of this Motion, kindly proceed to reply.

Sen. Osotsi: Mr. Speaker, Sir, I thank all the Members who have contributed for overwhelmingly supporting this Motion.

I spent a lot of time when I was moving it. Therefore, I will not say much. I just want to clarify the issue of multi-sectoral forum that will be appointed by the Cabinet Secretary in charge of the National Treasury.

The Committee considered the forum to be important because we faced two major challenges. Firstly, there is the issue of harmonizing pension principal balances because of variations. The figures quoted by counties varied with those quoted by pension schemes.

Secondly is the issue of interest. The interest charged and the other charges were a significant portion of the total pension that is owed. We thought that it may not be in our domain. We create a legal forum where the stakeholders can agree on these two issues and that has to be done immediately after this Motion is passed.

We expect the Cabinet Secretary for National Treasury to come up with a task force and gazette it within 30 days. Thereafter, that task force is supposed to submit a final report to the Senate on how they are going to implement the recommendations of this Senate within 60 days.

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Mr. Speaker, Sir, we will also be expecting that this House will be getting an update report on a weekly basis. So, we have internal mechanisms for ensuring that the recommendations of this Report are implemented. This is for the benefit of not just the Senate, but also our Government, which is very keen on promoting a saving culture through pension funds and the pensioners who are languishing in poverty.

I do not want to go beyond that.

I beg to reply and also request that under Standing Order No. 663, the putting of the question on this Motion be deferred to a later date.

I thank you.

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

(Putting of the question on the Motion deferred)

Hon. Senators, we will now move to prosecute Order No.16. Clerk, kindly proceed to call that order.

BILL

Second Reading

THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILLS NO.46 OF 2022)

(Sen. Cherarkey on 22.2.24)

(Resumption of debate interrupted on 22.2.24)

The Speaker (Hon. Kingi): The hon. Sen. Cherarkey, kindly proceed. You have 45 minutes but you do not have to speak for the entire 45 minutes.

Sen. Cherarkey: Twenty-five minutes?

The Speaker (Hon. Kingi): Maximum 45 minutes.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I remember I was moving but, unfortunately, some Members said that I should be moving when the whole House is here.

I think this is a straightforward amendment and I would not want to belabour the point. It is about the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022).

Mr. Speaker, Sir, this amendment intends to capture Article 10 on national values and principles of good governance.

Mr. Speaker, Sir, as you are aware, under Article 232, the values and principles of Public Service have been provided by our Constitution. Therefore, one of them is high professional ethics, efficiency and effective and economic use of resources.

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

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

Mr. Deputy Speaker, Sir, I can say without fear of contradiction that one of the soft underbellies in the growth of our economy has always been the high wage bill. What is choking counties such as Meru County, is the high wage bill. For example, in Nandi County, out of Kshs7.5 billion in the last financial year 2020/2023, a huge junk of the money went to the wage bill. If we are not careful, we are going to turn our counties into employment bureaus.

There has been a soft underbelly in this country where there has been a feeling that some communities are dominating the public services. Nonetheless, when you look at Article 232, we must show the diverse community representation in Kenya, ensuring that we have that reflection.

What we are trying to do with this Bill is to present annual reports of human resource compilations from all state organs and county governments through county-to-county assemblies and the Parliament of the Republic of Kenya.

When I say Parliament, under Article 93, it means both the National Assembly and Senate. They must present human resource reports. Therefore, that is why we are amending this Bill by bringing in authorised officers, which means any officer appointed within the Public Service or service is to be delegated.

Mr. Deputy Speaker, Sir, to redefine, it is the President and the Deputy of the company. Those people who hold the highest governance within that level. Therefore, the intention is to enable us to know how many people are in the Public Service.

There have been audits of the Public Service by the Office of the Auditor-General on several occasions. The intent of this amendment is straight and is to ensure that we reflect the diverse communities and look also into gender, race, ethnicity and whether we have People Living with Disability (PWDs).

I want my colleagues to get this, the reason we want those reports to be coming to the Senate is to ensure that we can oversight. You can come and question the universities, counties and state organs, so that we know and do not depend on National Cohesion and Integration Commission (NCIC). When the NCIC is doing their report, they should table it so that we can do our oversight role. Mr. Deputy Speaker, Sir, therefore, it concerns counties as much as I know, and I can give examples.

I will use the next five minutes so that my colleagues can have the opportunity to contribute too. For instance, there was a report by the Auditor-General in the year 2019/2020 and 2020/2021, on how universities employed their workers by ethnic composition. For example, the Dedan Kimathi University of Science and Technology had 556 workers. The workers from the dominant tribe in the county were 372. That means, 66.9 per cent of workers at Dedan Kimathi University came from the local community. Under the National Cohesion and Integration Act, there is 30 per cent threshold.

Mr. Deputy Speaker, Sir, let us pick another example like in your county, the Meru University of Science and Technology. The number of workers is 403. Workers from the dominant community, the *Njuri Ncheke* and the rest are 265 and that is 67 per cent. Therefore, we should be shown that they should be 30 per cent.

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Let me pick one example of a university that has stayed long. I am trying to get an example of a university that is within Nairobi County, so that Members can understand where I am coming from.

Mr. Deputy Speaker, Sir, Maseno University has 1,771 workers and you know where Maseno is. Out of this, 751 workers are local community workers and that is 64 per cent.

So that I appear fair, let us look at the Maasai Mara University. It has 566 workers, 206 come from the local community and that is 36 per cent. Therefore, you can see there is some fairness at the level.

Mr. Deputy Speaker, Sir, Kisii University has 982 workers, 690 are from the dominant community. Therefore, 70 per cent come from the local community. I do not know why Maasai Mara University has somehow beaten that combination, maybe it is through the management. I do not know how different it is.

I am just using those examples. Therefore, these are the reports that will need to be submitted from all State organs, and the counties. I think that is very important for us to understand.

These values are very important. This is why when we are hiring, I normally see adverts saying PWDs, women and youth are encouraged. It is part of the values provided for in Articles 232 and 10 on National Values and Principles of Governance.

Now, we are creating a position for an authorised officer who will ensure there is this combination of human resources based on what the Public Service Commission (PSC) is.

I know most communities, especially, those that come from Sen. Mungatana's and Sen. Gataya Mo Fire's area, have always felt that they are not part of the national cake. They have always accused other communities of eating all the cake. They normally say that you cannot have your cake and eat it.

The point I am trying to make is, I tell the communities that think they are marginalized, that they are not. The law is very clear in Article 10 and 232. What we need to do is to ensure people in the Public Service Commission (PSC) and other public sectors, including County Public Service Board (CPSB), follow the law.

I do not see the reason why people say a certain tribe is dominant. The Constitution is very clear. These people who are employing people without a reflection of the diverse communities are violating the Constitution.

I hope the Ministry of Public Service, Performance and Delivery, the CPSB and the Senators--- We are obsessed with audit on issues of finance and Information Technology (IT), but we have never asked for the audit of human resource.

As the most powerful Vice-Chairperson of the County Public Accounts Committee, and you have appeared before my committee, we have sampled counties that have issues of human resource.

There are some counties whose governors have hired 'cheering squad' as part of the public service. Other counties have hired staff to only praise and worship the governor, yet they are earning a salary. We were hearing stories of other counties where governors have hired people to carry the seat or toilets to public functions.

Other governors have hired goons to maim and undermine others. For instance, we have seen the allegations of the Sniper, the blogger from Meru County, who was maimed and killed. If you look keenly, the people who have been accused and are in court are people who work with county governments.

You never know whether these county governments are becoming criminal enterprises. They are busy shouting down Senators and other leaders. You have seen several counties where when local leaders want to question county governments, they are being shouted down. That must stop. They are violating the public service values. I wanted to emphasize on that point.

Mr. Deputy Speaker, Sir, to all Kenyans watching us, through you, there is no lacuna in law. The County Public Service Board and the Public Service Commission are just violating the Constitution.

Secondly, the duties of authorised officers in Kenya shall be responsible for the promotion of values and principles under Article 10 and 232 and submit quarterly reports to the Commission on the extent to which values and principles have been complied within the Ministry.

An authorised officer is a person who has been appointed by a Government department or agency to perform certain compliance and enforcement of duties. Many people ask who an authorised officer within the company is. I have mentioned them. They include, Chief Finance Officer (CFO), Vice President, Chief Executive Officer (CEO), Secretary or any other.

What are the values of public service? They are; respect for democracy, respect for people, integrity, stewardship and excellence. The values of public service in Kenya should be responsive, prompt, effective, impartial and equitable provision of services.

All of us know that the ethics that are in public service covers issues of honesty and transparency in both levels of Government and dealing with matters like bribery, corruption, police corruption, legislative ethics, regulatory ethics, conflict of interest, avoiding the appearance of propriety and open governance.

Mr. Deputy Speaker, Sir, I happen to chair the caucus of the Open Governance Partnership (OGP), which we approved, where we are encouraging legislative awareness or openness. We are encouraging Executive to learn what we call for open contracting. I am a Member of OGP that we started in this House and your office approved. Openness and transparency is key. The values in public service include, honesty and integrity, impartiality, respect for rule of law, respect for persons, diligence, economy and effectiveness. Every public servant must work for the benefit of the public. That is why the late President Daniel arap Moi used to say, "What about Wanjiku?"

It is the aim of every person, including all of us here, to have the public interest at heart. It is our agenda to ensure we serve the public. When you maim and kill a blogger, are you serving the public? You are not.

When you harass a journalist in Nandi who is covering harassment by county enforcement officers in Nandi Sub County, are you serving the public? No. This is what we call absolute power corrupts absolutely and abuse and misuse of power. You are violating the values in public service.

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All of us are public servants. We must carry out our duty with diligence, honesty and transparency. That is why all of us queue to speak. We follow a certain order because it has been provided for.

Mr. Deputy Speaker, Sir, governors must know that they are workers. They are people's servants. They are not rulers. You are the one who mentioned yesterday that governors are not supposed to be rulers, but leaders.

I was having a discussion with the Garissa Women Representative, Hon. Amina Siyad, today. What is happening in Garissa County, presided over by Hon. Nadhif Jama, is unfortunate. She said that she is getting complaints and information that when women go to deliver in county public hospitals, they are being sexually exploited as they recover. This is tragic and so unfortunate. We must call out such unfortunate events. Ours is to represent all the counties.

When you go to Garissa and other counties, you will find out that the people cannot access the water that we are giving here for free, yet there are water bowsers. In the last financial year, Garissa County received over Kshs12 billion in equitable shareable revenue. Can you believe there are people who are sleeping without drinking water? Can you believe women are being sexually harassed in hospital county hospitals?

The county governments must do their job. The Governor of Garissa County is having a second and final term. When a governor is new, we could excuse them because they are still learning, the way yours is grappling with everything left, right and centre.

Nandi County is also a sad story. Before elections, yours truly, if I had not tactfully evaded, the governor had hired people on County Government of Nandi's payroll, to go and heckle other leaders or to cheer him while attending functions or to be the agents of nominations or part of the rigging brigade.

Mr. Deputy Speaker, Sir, we must issue a clarion call that the issue of public service is about honesty, sacrifice, integrity and passion to serve the people. I am happy you spoke about Article 34 on the issue of media yesterday.

After the debate, I received a lot of calls from media personnel who work in counties. They are saying it is safer for them to report stories of baby shower and other stories instead of reporting about county functions. This is because the moment they report and they are suspected to put the county in bad limelight, they are maimed, bludgeoned, attacked and harassed as they go to their houses.

That is why we should not make mockery of Article 34 on media freedom in this Republic. The reason Nandi Media is under attack in Nandi County is because somebody in social media, filmed rats that were walking majestically within Kapsabet County Referral Hospital. The media picked that story and ran. The governor felt he was being portrayed in bad light so he decided to profile and ensure the media is being intimidated daily.

I call upon the Kenya Union of Journalists, other sector holders and the Ministry of Interior and Co-ordination of National Government to protect our journalists.

You saw what happened in Meru. I highly doubt there is a journalist who would want to report anything about that county government, because they know if you report, you can disappear like the late Sniper. We continue to condole and wish well the family as they recover from that tragic loss. That is why when a governor appears in the media,

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you do not see any story about that county. This is because either the “brown envelope” is working or the media is being intimidated.

Mr. Deputy Speaker, Sir, through you, as the Senate of the Republic of Kenya, I assure the media that we shall always protect their freedom, but they must come halfway. The only way we can oversight the counties is for the media to highlight those challenges.

With those very many remarks, this is a straightforward amendment, let us process it quickly. Allow me to call Sen. Danson “m!a mamba” Mungatana, the only one who shoots straight from the hip, to second me.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I thank the hon. Sen. Cherarkey, the only Nandi Warrior that we know, for bringing this Bill, moving it so ably and explaining its parameters. It is my pleasure to second this very crucial Bill.

Many years ago, as a young man, I was elected as a Member of Parliament (MP) in the National Assembly. In the first week of that election, we were brought into the House of the National Assembly and taken through orientation. I remember, the Speaker, hon. Ole Kaparo, personally taking us around the fields of the National Assembly.

I, a man from Garsen Constituency, would then walk with the Speaker, hon. Kaparo and hear various MPs greeting other workers within the Parliament in their mother tongue. You would reach the dining hall and one MP would say “*atiriri*”; you go to one of the offices and you would hear another one say, “*chamgei*”.

I then asked the Speaker, hon. Kaparo, when I would get a chance of greeting someone in Kipokomo in the vicinity of Parliament? The hon. Kaparo did not have an answer for me. I actually caused a lot of problems. One of the first Motions that I wrote and sought the Speaker’s approval on was that we must have ethnic diversity even in this Parliament at that time. I spoke very strongly.

That is when the hon. Speaker called me aside and told me that there is a different way of doing it. He showed me what to do and we were able to find people from Tana River County now getting some employment opportunities through affirmative action.

Mr. Deputy Speaker, Sir, why am I giving this story? It is so as to say that balancing ethnic opportunities for employment is a sad thing. It affected even the National Assembly, when I was here the first time, as a young man. Balancing ethnic opportunities for employment in this country has been abused in the highest way possible.

When I am speaking to this, I know, if you go to the National Public Service offices right now, and ask how many people from Tana River County are there, you will find very few. It is not idle talk when people say that we are, in fact, marginalized.

This Bill is saying, going forward, all these national institutions including the county and national institutions, will have to be filing reports on the number of people who are employed from various ethnic communities. This is a very good Bill that I support with all my heart.

Mr. Deputy Speaker, Sir, if today you go and ask how many Pokomos, Oromos, Wailwanas, Wardei’s and people from the minority communities in Tana River County are employed in this Government department, you will realise that you cannot find these people there. It is not that our people are not qualified or they are not able to do those

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jobs. It is just that we are not given those opportunities, simply because the Public Service Commission (PSC) has not adhered even to the Constitution.

The requirement in Article 130 speaks about how the President should compose the National Executive. It says that it is the President, the Deputy President and the Cabinet. However, that Cabinet must reflect regional and community diversity.

If the President and the Cabinet are pushed by the Constitution under Article 13 to be obedient to the question of regional and community diversity, why is it that the Public Service Commission (PSC) does not see it important to check how many people are employed in their various departments?

Article 232 speaks to the requirement---

(Loud consultations)

Mr. Deputy Speaker, Sir, could I be protected because I want your attention?

The Deputy Speaker (Sen. Kathuri): Sen. Mungatana, you are protected, but the protection is a bit threatened.

Proceed.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, let me not go there. Article 232, which gives the values of the public service, is so clear. For the Kenyans who are listening to me, they can turn to Article 232. It gives the values and the principles of public service. In fact, the entire Chapter 13 of the Constitution discusses the values and what public service should be like. It says that these values apply not just to the National, but also to the county governments and all state corporations. It is so clear on what the Kenyan people were saying.

Some of the values of the public service are high standards of professional ethics, efficient, effective and economic use of resources. It goes on to talk about involving people in policy making, transparency is provision of public information and fair competition and merit to be the basis of appointments and promotion, but subject to representation of Kenya's diverse communities.

Mr. Deputy Speaker, Sir, the Kenyan people through the Constitution of Kenya 2010 said, yes, let us have merit and fair competition when we are employing people at the national Government, state corporations and at the county governments. However, the question of fair competition and merit as the basis of appointment and promotion must be representation of diverse communities in Kenya.

Kenyans who are in Tana River County; the various communities there – Watta, Wailwana and other small ones all over there - the spread of Kenya's communities is more superior in terms of looking at what will be the category of employment, as opposed to fair competition and merit. We must have affirmative action. Yes, there must be merit and fair competition, but in order for us to obey the Constitution, there must be representation of Kenya's diverse communities in every State department.

I live in this country and when Kenyans were passing this Constitution, they were well aware of what I am talking about. You will go to a State corporation or a parastatal and people will be speaking their mother tongue. A whole department will have people speaking in mother tongue. Mother tongue is the *lingua franca* of that department.

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Mr. Deputy Speaker, Sir, this is what this amendment is seeking to make happen; that even if you are employed in the Public Service Commission (PSC) - and Kenyans who have passed this Constitution are listening and have seen this happen want these mistakes corrected. It cannot be that in a parastatal, State corporation or department, you cannot find a Pokomo, an Orma, a Kipsigis or even one person from the Watta Community or other communities, and yet, you have one dominant community; so dominant in that department that they speak their mother tongue.

This amendment Bill is saying that going forward, we need to file all returns. This Bill is very specific because if the Senate approves this Bill, which the National Assembly has already approved, the requirement in that the new clause says that there will be details on the human resource establishment within the service commission, outlining the total number of employees and highlighting their gender, age, ethnicity and whether they are persons with disabilities.

These amendments to the Public Service (Values and Principles) (Amendment) Bill, 2022 must be supported by this Senate. It is so fundamental. I have addressed myself to what has been happening at the national level. The levels of accountability are not just for national departments, State corporations and parastatal. They also apply to the county governments.

Mr. Deputy Speaker, Sir, our county governments have ignored the principles of ethnic balancing. You will find a governor who comes in brings in a majority from the community that supported him. That governor completes his term or is voted out, and the next governor who comes in does everything possible to reduce the numbers of the previous governor. He brings in other employees in order to create a majority of his own community that supported him during elections. This must come to an end.

We are asking, as Senators, that governors should rationalize their public service. There are County Public Service Boards (CPSBs) that have been set up in all 47 counties, but governors have gone there to intimidate members of those boards in order to impose their will on these people. I wish that those people serving in CPSBs can be given security of tenure, so that governors are not able to interfere with the processes that are there.

We have seen people in counties like Tana River making public demonstrations against the CPSB. This is because they are not giving young people access to employment opportunities. In Tana River County, we have seen the CPSB advertising positions. They say that there are vacant positions and they are supposed to be filled. Young people go to cyber cafes, download documents and send them to the relevant links. Some of them take their papers in person and the CPSB keeps quiet, and people do not know what is going on. Have those vacancies been filled? Have they been left empty? Nobody knows what is happening.

Mr. Deputy Speaker, Sir, the next thing you hear is that people have been employed. There is no transparency in what is happening. Just like these provisions of balancing ethnicity and communities apply at the national level, they must apply at the county level. Governors must be fair to everyone. All these are our children. Every person within the community is our child.

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When you look at some of us, I am of mixed ethnicity. My mother is a Taita and my father is a Pokomo. However, we lean towards the paternal side and that is why we were brought up speaking the language of our father. When we get married to other mixed communities, these children carry quarter-quarter bloodlines. What do we call them?

I am telling governors, employers at the CPSBs and the Public Service Commission (PSC) at the national level that all these are Kenyans and we should treat our people fairly. Let us treat people with disability, as is required in this Bill and give them opportunities and a chance to make a useful contribution to the communities that we live in.

I was in the Buxton Estate this week when the Deputy President was in Mombasa and was addressing all the six leaders from the six counties on the question of drug abuse and illicit alcohol. Afterwards, we went to the affordable housing estate in the Buxton area. One of the persons who served us is a person living with disability. I found it profound that in that set-up, they were able to be sensitive to that. However, that is not happening in our CPSBs. You will find that the percentages, the gender and age realities are not adhered to. There is discrimination. Even ethnic balancing is not observed.

I rise to wholly support this Bill and urge the Senators who will speak to this Bill to support it 100 per cent. We need these returns so that if PSC has been unfair to Tana River in its ethnic composition, then we will know and can punish the people who are responsible for those actions that are against the principles of public service, as espoused within Article 232 of the Constitution.

Mr. Deputy Speaker, Sir, we need to bring this country to a higher level and we will not tire to speak on the Floor of this House. It is the only way we are going to change this nation to be a better nation.

Mr. Deputy Speaker, Sir, with those remarks, I beg to second.

I thank you.

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

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I will call upon the Members who have expressed interest to contribute to this particular Bill.

Proceed, Sen. Gataya Mo Fire.

Sen. Gataya Mo Fire: Thank you very much, Mr. Speaker, Sir. I am impressed by this Bill, which has been brought by my good friend, Sen. Cherarkey. It has captured quite a lot of abnormalities, especially in our institutions. We have witnessed situations where this Constitution has been blatantly violated by those who are supposed to protect what Kenyans brought on board.

I want to quote a very particular case, especially in our Parliamentary Service Commission (PSC), where we are. I happen to be the Senator for Tharaka-Nithi County. I come from a tribe called Tharaka.

I want to go on record that there is no Tharaka-speaking person in this Parliamentary Service Commission, both in the National Assembly and the Senate; the entire workforce. It is shameful. I have raised that issue with the Chairperson of that Commission and the commissioners.

Those who are in charge as supposed to check their records and they will establish my concern. It is something that this Bill is going to adequately address. This is because we have witnessed it in several institutions, entities, commissions and parastatals.

If you go to counties, you will be surprised to find that almost the entire workforce belongs to one ethnic group, which is ripping and violating the Constitution that we put in place as Kenyans. We are supposed to give Kenyans equal chances to make sure that they serve this nation. However, we have institutions where people think it is their time to eat and employ their people.

To quote what Sen. Mungata has just said, some governors are too arrogant, especially when they want to employ in their counties. You will find that a governor comes in and employs three-quarters of his kinsmen and those who campaigned for him. Then another governor comes in and sacks those who were there before. This is supposed to be addressed by this Bill before us today. As the Senate, we are supposed to put these strong measures on board to make sure that we have serious regulations, laws and adherence to the Constitution that we put in place as Kenyans.

Mr. Temporary Speaker, Sir, it is very sad. I am in the Committee on National Cohesion, Equal Opportunity and Regional Integration. We have seen some serious irregularities, especially in our institutions, for example, in the universities and parastatals. It is something that is supposed to be addressed.

I am happy that this Bill has found its way here. I am sure once this Bill goes through, we are not going to see some of these things that are happening today. So, I strongly support the Bill. I wait for the Senate to make sure that it sails through, so that we can have equality and give our people opportunities to serve diligently in this country.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No.46 of 2022).

Let me, first of all, appreciate both the National Assembly and the Senate for coming up with the concept of ensuring that Bills, which are as important as this, are co-sponsored by a Member from the “Lower” House and a Member of this House.

I appreciate the two Members, distinguished Sen. Cherarkey and Hon. Rahim Dawood, for having foresight in governance. This is what defines anticipatory governance. This is what tries to avoid difficult situations where the country becomes completely unmanageable.

Mr. Temporary Speaker, Sir, the two distinguished Senators who spoke before me, Sen. Mungatana, who seconded the Bill and Sen. Mo Fire, have attempted to demystify what this Bill is all about. The Bill promotes nothing but meritocracy. It allows

Kenyans to be given an opportunity to serve their country without considering which clan or tribe they come from, hence, giving them an opportunity.

The thing that destroys the concept of governance in this country is the nonsense called clannism and tribalism. People in Kenya talk about something called state capture. In Narok County, we have family capture where one family, that of the Governor Patrick Ole Ntutu, is the one that calls all the shots in the county and gets all the contracts.

It is sad that I come from the same clan as the Governor for Narok. I am ashamed because if you go to Narok County, the entire human resource currently is from my clan. Where does he put all the other clans that exist in Narok?

You find a tug of war on a daily basis between brothers, who speak the same language and who when they get sick tomorrow, will need each other to donate blood. The Governor has completely ignored meritocracy and decided to put everyone who is from his clan.

Every single contract in Narok County is given to members of the family. If today someone dies and the county government decides to donate money, like what happened recently when a Member of County Assembly (MCA) died, the Governor of Narok donated about Kshs2.5 million. However, the tent was provided by a family member. So, Kshs600,000 went to pay for the tent and Kshs170,000 went to pay for security, all of whom were from the same clan.

Mr. Temporary Speaker, Sir, this Bill is long overdue. It will ensure that we carry out specific audits of human resources. We want to know every single person employed in every single county government.

This Bill complements another Bill, sponsored mostly by the International Monetary Fund (IMF) and the World Bank. However, I do not subscribe to their thinking on the issue of conflict of interest.

When the framers of the Constitution brought about Article 232, this is what they had in mind. Framers of the Constitution had the future generations in mind. Today, we focus a lot on the girl-child. Every single project out there is to defend the girl-child.

In this country, including in this House, we talk about the two-thirds gender rule. When we discuss about it, there is only one thing that comes to our mind; the female gender. It is because of the cultural context where women have been treated as second-class citizens and been left behind.

Do we ask ourselves about the boy-child? If we put all our efforts on the girl-child, what about the boy-child? Who is going to support the boy-child? These are issues that we need to contextualize. We need to have futuristic thoughts, that is, thinking about what we anticipate may happen in the future.

Anticipatory governance is a subject that all of us must start thinking about. It cuts across everything. It begins with the human resource. If you only employ one clan, what happens in the future? What about the other clan? Will they be resilient or resentful? What will happen to other ethnic groups? If we only think about the current situation and focus on the past, then we will miss the point. We have to start thinking about the future.

Some of the challenges we face are as a result of debts that we have accumulated as a country. If we put people full of mediocrity to run State departments because they

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are our family members, they will continue lining their pockets, yet we leave people who are intelligent and can provide good thinking.

If a person is not related to me or did not vote for me, I leave them out. By doing that, we put ourselves in a bigger hole. When future generations come, they will pay for our sins, yet they never subscribed to it. We need to change our mindset completely.

When I was going through this Bill, I looked at Article 232(1) on values and principles of public service. Article 232(1) (h) is about representation of Kenya's diverse communities.

Going through it, I asked myself: How come no one ever thought about the audits? Sen. Tabitha Mutinda, we talk about it. We need to have affirmative action and such like things. County governments have internal audit mechanisms.

There is also the issue of ethnic balancing. When you look at every Auditor-General's Report, there is always a concept of ethnic balancing. According to the Auditor-General, there is no ethnic balance. Do we ever ask ourselves about the audits?

Hon. Dawood, a Member of the National Assembly, thought about this Bill to operationalize Article 232 of the Constitution of Kenya. I hope we shall add more to this Bill during the Committee of the Whole. That clause states as follows-

“2. The Public Service (Values and Principles) Act is amended in Section 16 -

- (a) In sub-clause (3), by inserting the following paragraph immediately after paragraph (d) that is being amended reads as follows “In 23(3) by inserting the following new paragraph immediately after (d) -

“(da) details on the human resource establishment within the Service Commission, outlining the total number of employees and highlighting their gender, age, ethnicity and whether they are persons living with disabilities.”

I beseech the Sponsors of this Bill to demystify it further and detail their relations with Heads of Departments (HoDs) and heads of the entities. You will be shocked. After doing that, we should start thinking about the consequences. What happens if it violates the conflict of interest principle? That is why I am saying that we need to expound further.

We may have an audit and a report is tabled. We can even table it here, but what next after that? We need to expound and say, for example, to prohibit employing your relatives in the public service. You can employ them in your private company and nobody will give a hoot in hell because it is your company. However, when it is something that taxpayers are paying for, then you have no business discriminating against other ethnic groups or individuals. There are ethnic groups like my community; the Maasai. If we do not stand firm and fight for their rights to employment, in a few years, they will be forgotten.

Narok is a Maasai county. However, when you go to the county government, you can count how many Maasais are working there. There are institutions like Maasai Mara University. By virtue of it having the name “Maasai,” it should have at least 70 per cent local people. The Maasais are the ones who gave out the land.

The other day, I was talking to the Vice Chancellor of the University. We discussed about coming up with a Memorandum of Understanding (MoU) with the community that I come from, which donated land to the university. I was happy that she

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was welcoming and in agreement. Those young men and women who come from that community gave their share of land, anticipating that when the university is established, they will be given jobs.

In most cases, you will find that 70 per cent of all the staff in the institutions, including even sweepers, come from other ethnic groups far from Narok County. That is what we need to check. The only way of doing so is by ensuring that every State agency and county government---

In fact, I beseech Sen. Cherarkey, and if he does not do it, I will bring the amendment. Sometimes when you just talk about details of human resource establishment within service commissions, some people try to be smart.

Currently, all of us are agonizing about Article 110(3) on the definition of “consider”. It states as follows—

“Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.”

What we forget is the term “considers”. What does it mean? When is a Bill considered? Is it considered when it has been published, read the First Time or being debated? There are many issues that we need to address. That is why I suggested that we may need to define in our Standing Orders. Before the Clerk reads a Bill, he or she has to define “consideration”.

If you look at most Bills, it is only an Amendment Bill that specifies whether it concerns counties or not. The Supreme Court made two rulings to explain Article 110(3). That determination was made by Justice Lenaola. The two Houses should resolve that quagmire by ensuring that we define the term “consider”. We can only do so in our Standing Orders.

Mr. Temporary Speaker, Sir, so, to get back to the issue of this Bill, I would be very happy if we define and include and just spell out the county governments and state departments, so that you do away with the mischief. Once we have done away with the mischief, there will be no reason these county governments will not be scared of employing just their family members.

As it is right now, if we do not add consequences, all these 47 men and women will just know they have five-year contracts and for the next five years, it will be their time to eat. You will not see a young Maasai child from a place called Mosiro, which is almost the end of the world, or a young Kipsigis boy from a place called Aganga, being able to rise to become a Senator, like the Temporary Speaker now.

So, we have to think about this. I am happy that a few of us are here. I do hope that our colleagues will be able to understand what this amendment means, so that we find an opportunity to add more things. This will ensure that we promote meritocracy; to give our young men and women an opportunity to become leaders in this country and be counted, and not just to be set aside.

As I conclude, I am very passionate about future generations. I want to plead with all of us to start building this conversation on future foresight and anticipatory governance. What should we anticipate in terms of policymaking in terms of legislative proposals?

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One of the reasons I came back this afternoon to contribute to this piece of legislation is because I saw an element of the Bill being future-centric. In the past, we employed whomever; you did not have to account to anybody.

There is an issue of accountability and the day we will all remember that we have that fiduciary duty; that legal obligation to be our own brother's keepers, is the day that this country called Kenya will develop. It is a day that all of us will compete for just making the country a much better place for future generations.

This Bill is quite timely, and I do hope that as we speak to this Bill, we will keep in mind the principles defined in Article 232 of the Constitution of Kenya 2010. This Bill does nothing other than save our counties, particularly the County of Narok, from family capture, save the country from individual captures; those people who are strong-willed and those people who have deep pockets and control different departments, as well as allow meritocracy and give us a chance to change the future of this nation for future generation.

I support.

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

I will call upon Sen. Tabitha Mutinda to proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. Let me start by thanking Sen. Cherarkey for agreeing to pick up this Bill that has been concurred by the National Assembly, which was also brought by Hon. Rahim. I hope I have pronounced his name correctly.

I also want to appreciate colleagues who have spoken in regards to this Bill, with an indication of supporting it. Let me start with where I come from in terms of the name I hold, which is “Mutinda”.

The discussion of this amendment is much more on ethnic, gender and Persons with Disability (PWDs) issues. It reminded me of the first time I came to Parliament. When I said my name, the second thing someone would ask me is if I am the daughter of the former Mutinda. The notion, expectation and perception has been for the longest time, that for you to be in a certain office or level, then you must be from a specific royal and big family. However, that was not the case.

Some of us are very happy and proud to be the products of ‘bottom-up’. It is not because of the big names of our families. It is because of the belief of the one chicken seller and son of the Kalenjin people, who had a dream and believed in it. For years on, he walked the dream and today, he is the sitting President of the great Republic of this country.

He believed in giving equal opportunity; not looking at who is your father, mother or who you are related to, but what you are capable of. It is in that, where some of us - I personally included - were granted opportunity to represent the great people of Kenya in the Senate of the 13th Parliament.

If you look back, we have seen leaders, even, currently as we speak, whose children are serving in different Parliaments, for example, the East African Legislative Assembly (EALA). They have taken their own kids. What about the child who does not come from the wealthy family?

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(Sen. Crystal Asige spoke off record)

Where do they end up? Thank you, Sen. Crystal Asige. Personally, I am very passionate about the young generation. We kept on hearing years back during the late Presidents Moi's time that it was for the future generation. Since we are here today, we say it is for the current generation. It is for us all because the future is already here and it is with us.

Mr. Temporary Speaker, Sir, I sit in both the Standing Committee on Finance and Budget and Committee on County Public Investments and Special Funds (CPISFC). In CPIC, we usually oversight governors. I have been in the forefront to question them when they appear before our Committee. When I look at the composition of their representation on the particular visits, I am keen to observe how many women have accompanied the Governor and been given the opportunity to serve in that county, so that they are present on matters we are discussing. This is an issue I have pointed out, and I am happy because some of the governors have taken it up. Nowadays, when they appear before our Committee, there is gender balance.

The question I always raise is: Do they want to indicate to the Committee that there are no women in the county they have come from? We have continued to voice the issue of governors walking into Committee sittings with an all-male entourage. It cannot be that in one department, we have men only. We do not have women from the top leadership, be they County Executive Committee Members (CECM), Chief Officers or Ward Administrators. This is something we have noted and raised.

This Bill addresses a key factor. You realize when we go to schools, be it the primary, high school, universities and colleges, when recruitments are done, it is not about where you come from, but what you want to attain and achieve. What do you want to specialize in as a Kenyan student?

However, remember these students are being prepared for the Kenyan market. It becomes fairer when there is fairness in equal opportunities for all students in this country. My colleagues would agree that this was the case when they were going through the learning systems.

I have been to higher institutions of learning at primary, ordinary and university levels, and hold no certificate indicating my tribe. It bears my name and what I have specialized in. Some will have their admission numbers. It does not even indicate my gender.

Learning institutions have been able to graduate their students and give them the power to read and write. However, when they come to the job market, they become disadvantaged because of their origins and ethnic background. What kind of generation are we talking about?

I am happy with this Bill because it addresses the bigger issues. Where do we take these young people if they must be of a certain tribe to fit in? If the opportunity is for the boy-child and you are a girl, you will miss it. Gender becomes a disadvantage.

I would like to agree on the reporting issue. As the Senate, we need oversight on every county's report regarding the gender, ethnicity, and specialty of any individual employed in any Government institution. It is important.

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With the data I have been able to look through, you will find that only 13 out of the 47 counties have adhered to Section 65(1) (e) of the County Governments Act 2012, which indicates on -

“(e) the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.”

The composition of the dominant ethnic community should be 70 per cent and 30 per cent of the non-dominant communities for them to have an equal opportunity in that county.

Nairobi County is cosmopolitan. Our population is very high. The County Government of Nairobi has over 13,000 employees, and out of that, you will realize we have numbers like 15 per cent of the Kikuyus, 15 per cent for Kalenjins, 11 per cent for Luhyas and 9 per cent for Luos.

Some of them like the Kikuyus are the majority, but you find that some of the communities like even where I come from, from the Kamba community, you realize the number ---

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, what is your point of order? Kindly, resume your seat, Sen. Tabitha Mutinda.

Sen. Mandago: Mr. Temporary Speaker, Sir, the hon. Member has cited percentages of particular communities. I would like to know whether that is authentic data and that she can produce evidence. As far as I am concerned, we are not 15 per cent in Nairobi. In fact, we are among the marginalized in Nairobi.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Tabitha Mutinda, are you able to table the statistics on the percentages that you have made reference to in your comments to the Bill?

Sen. Tabitha Mutinda: I appreciate the keenness of the Senator. It is good and I am happy that he is keen. Sen. Mandago, the data that I have used, I have just gotten it. If you go to the site, you will be able to get it from there. I can share it with you just after this, if you allow. I have just gotten it from the site.

I speak about my county because it is the county that I represent.

The Temporary Speaker (Sen. Wakili Sigei): You may then proceed to share those statistics to Sen. Mandago's satisfaction.

Proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speakers, Sir, and I appreciate the keen listening of Sen. Mandago.

Thank you, Sen. Mandago.

Mr. Temporary Speaker, allow me to still proceed and say that is the data that is in place. Yes, Nairobi is a cosmopolitan area, but still, it should allow all types of ethnic groups to also have an equal opportunity within the same county.

You realize that our basic language is Swahili and English. However, in some of these counties, it is sad because the language that is there is just pure vernacular, that does not promote what we uphold as a country.

Remember in each and every county, we have the department of Tourism and Culture, but still, we should uphold our Swahili and English to the highest level.

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Article 232 is very clear in regards to the standards of professional ethics, efficient, effective and economic use of resources. When we have competent people, when people are in office by merit, then that specialization or professionalism levels gives quality output or quality service delivery.

Nevertheless, you realize that because of clannism, you find that a county or an institution is like an extended family of relatives. Therefore, how do you even expect that there be deliverables within that county? It becomes a challenge.

A few weeks ago, I saw that there was a report on fake documents by employees in different Government institutions. When you look at this further, there must have been a hand that supported that.

I am happy today the Government requires that if you are going to be a Government employee, the Kenya National Examination Council (KNEC) has to certify your results. They have to send those results to that particular institution. This then will reduce this rogueness.

Mr. Temporary Speaker, Sir, we have had even cases whereby governors, for example, have fake certificates and these are the leaders that are expected to be managers and be able to deliver. That is why, in my Committee of Finance and Budget, I have many Statements on the issues of pending bills. This is caused incompetence. Counties receive equitable share, grants, Equalization Fund and additional funds, but there is misuse.

Some of these is brought about by lack of knowledge and skill that is required to plan accordingly. Further to that, it is brought about by the fact that you employ your family and expect results.

I liked it when the President of this country, Dr. William Ruto, told Cabinet Secretaries that he should not know more about their Ministries than they do. If he does, it means they are sleeping and the next thing is to exit the Ministry because it needs competency of the highest level.

Mr. Temporary Speaker, Sir, finally, there is an issue that has happened in Kisii County, which is already in all our social media with regards to an impeachment that has taken place. The communication coming is about an employment that was to take place.

Those are the same issues that we are discussing. Employment issues should be done on merit. It should be done within the County Governments Act, 2012; the 70:30. There should be fairness.

Right now, we have intermarriages. We are trying to make our children feel like Kenyans. They do not need to feel like they belong to a certain ethnic group. However, the moment we continue filling these spaces with our own families, we lose it. What happens to other children?

As I started, I said that if it were not for the President, Dr. William Ruto, with his bottom-up strategy, who gave equal opportunities during this leadership and formation of this Government, some of us would not have been here.

I am not be here because my father was a big man somewhere. I am a daughter of a single mother and I am very proud of it. It is out of our hard work and education that we are here. For us to see results and open doors for others, this amendment needs to be passed.

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I urge colleagues that this is one of the Amendment Bills that we need to support 100 per cent. It does not only take care of you, but also your children's children. If this is not done, we will continue singing the same song. It will become difficult.

The faking of documents needs to stop. I support the Government in ensuring in that they verify documents.

With all those few remarks, I support the Bill.

I congratulate Sen. Cherarkey for picking up this particular Bill. These are some of the Bills that the National Assembly will appreciate. As Senate, we need to adopt this Bill. This is the way to work. This is the way to go.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Crystal Asige, proceed.

Sen. Crystal Asige: Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute to the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bills No.46 of 2022)

The proposed changes hold personal significance for me. With the Constitution of Kenya having been in operation for over 13 years, it is no longer accurate to refer to it as new.

The Constitution sets forth obligations for public organs and entities, including equal opportunities for training, employment and advancement of Persons with Disabilities (PWDs) at all levels of the public service, as outlined in Article 232 of the Constitution.

Currently, the representation of PWDs in the public service stands at 1.4 per cent only, falling short of the requirement stipulated in Article 54(2) of the Constitution that puts it at 5 per cent.

Despite the Constitution's call for progressive implementation, over a decade has passed since its promulgation, without clear benchmarks for what constitutes as progressive action. Without establishing clear parameters for this progress, we risk perpetuating the same inadequate representation for another decade or even more.

It is crucial that reports detail the number of PWDs employment by each service commission annually, along with any increases over time. This transparency is essential for ensuring accountability and preventing the ongoing neglect of PWDs in the public service.

Mr. Temporary Speaker, Sir, further, these reports should provide insights into the measures taken by service commissions, to actively recruit, train and promote PWDs within the public sector. By tracking these efforts, over time, we can assess the effectiveness of the strategies aimed at inclusion of PWDs in the workforce.

Additionally, they should highlight any challenges encountered in implementing policies aimed at promoting the participation of PWDs in the public service. Identifying barriers and obstacles is crucial for devising solutions and ensuring meaningful progress in this area of trying to reach the 5 per cent principle of employment of PWDs in our public service.

There is a strong case for employment of PWDs. Several reports world over show that hiring PWDs is not just the right thing, but also the smart thing to do for progressing any institution and environment that PWDs find themselves in.

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Reports show that when you hire a PWD, you increase productivity, innovation and loyalty. This is because with few chances for employment, we, PWDs, stick close to the people that give us opportunities and we are loyal to those organisations.

Reports also show that when you hire a PWD, you increase empathy within the workforce. You increase belonging and understanding of diversity because of sharing the same space with other non-disabled counterparts in the workforce.

In Kenya, statistics show that out of approximately 18 million people in our workforce in the formal sector, approximately 500,000 are PWDs. That is less than 3 per cent of our workforce right now. That is abysmal!

As I said before, the workforce in the PSC only accounts for 1.4 per cent PWDs. Through this Bill, I wish to see this number increase rapidly because we have been waiting for far too long to be represented fully within the Public Service Commission and other boards.

Mr. Temporary Speaker, Sir, I hope that the co-sponsor of this Bill, that is, Sen. Cherarkey, will listen keenly to what I am about to suggest. There is something in the disabled community, which is a real challenge to us. First of all, the public must understand that within the disabled community, there is diversity therein.

People with Disabilities (PWDs) are not homogenous. We are diverse in our disabilities. That means that when you are hiring and giving opportunities for participation and inclusion of PWDs, we need to make sure that we are diverse in the types of disabilities we are catering to.

What does that mean? That means that in this Report, we are supposed to find out clearly how many are visually impaired or blind, how many are employed that are deaf, wheelchair users, autistic, have downs syndrome, cerebral palsy, multiple sclerosis, quadriplegic and so on. We should not just rest at saying that we have hired 10 people with albinism and, therefore, we are working and are in line with the Constitution. No! We need to go further and make sure that the people with disabilities we are hiring are also diverse by the nature of their disability. This is so that we give different sectors within the disabled community a chance at employment and to be represented at all levels. It is not enough to just say that we have one or two disabilities represented, and that it is okay; we are fine now and we have adhered to what this particular Bill asks us to do. We need to go further than that.

I suggest to Sen. Cherarkey, the Senator for Nandi County, to make sure that the word ‘diverse disabilities’ is also included in this amendment, not just ‘persons with disabilities’ but ‘persons with diverse disabilities. This is so that we make sure that all sectors of our disabled community and the fraternity at large are also being given a chance at employment and representation in our country.

Mr. Temporary Speaker, Sir, it is a well-known fact that many in the public and private sector do hire those with easier - I will put this in quotes, I am going to be careful and sensitive but this is an ongoing argument in the community – “easier to handle” disabilities. This is because it is thought that when you hire a blind person like myself, it means that you will have to hire an aide for me to work properly and get assistive equipment, including computers, Information Technology (IT) software, which are

costly. It also means that you have to get a special trainer to come in and assist someone like me to understand and work on these technologies and devices.

Therefore, the cost of hiring a visually impaired person is seen as too high. What do people do to circumvent this? They hire someone with a more “palatable” disability. That is completely out of order and it is wrong. It is perhaps the reason I am the first and only Senator with visual impairment.

Mr. Speaker, Sir, of all the years that this House has been running, I am the first and the only Senator with visual impairment. That should not be the case. I should not be the first and the only. There should have been many more before me and after me. I hope that my existence and my sheer being in this space will show people that people with visual impairment and who are blind are just as productive, if not more than, a whole range of people who have come through these doors. That is one amendment I wish Sen. Cherarkey would take forward as he continues to move this Bill and get support from colleague Senators.

We have to look into not just the employment of people with disabilities but the training and retention of people with disabilities. I spoke to the Chairperson of the Public Service Commission (PSC) a week ago, when he appeared before our Committee on Labour and Social Welfare. I explained to him and his team that it is not enough to just advertise and recruit a person with disability. They should train them, so that they can continue to upscale.

What is the PSC doing to make sure that they retain them and not just employ them for six months and say that they have ticked the box? We are progressively actioning the 5 per cent principle of employment representation as per the Constitution; but saying, how can we retain these Persons with Disabilities (PwDs)? What do we need to do? How do we go above and beyond what is required of us on paper so that we can have these PwDs stay with us for two or five years or even until retirement because like I said, there is a huge case for hiring PwDs?

Mr. Temporary Speaker, Sir, this is not just in the Public Service nationally. When you look at the same in county governments, I have said before and will not tire to say that there are 21 counties currently that have no PWD representation. This House and the “Lower” House, the National Assembly, are doing nothing about it right now. I seem to be the only one talking about it. If we had full representation, we would have more voices amplifying this egregious misrepresentation of PwDs.

Mr. Temporary Speaker, Sir, I applaud the Mover of the Bill, in his effort as well as the co-sponsor from the National Assembly in putting these issues forward regarding values and principles; and make sure that the sponsors understand the importance of what I am saying. It is not just semantics; adding a word here or removing a word there. Language and how is interpreted is extremely important and that is how people in this country have been able to go around this particular 5 per cent principle requirement. Our laws and the language we use in our laws is not specific and does not pin people down with consequences for a lack of adherence to the Constitution.

I also concur with colleague Senators who have said that there must be consequences for non-compliance. With everything we are doing, there has to be absolute consequences. What is the consequences of not reaching 5 per cent principle in this

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country? There are none right now and that is why people have been able to continue masquerading and leaving PWDs behind since and before 2010. I am afraid and concerned that it will continue even after my lifetime.

Without punitive action and sanction of consequence for non-compliance within national and county governments, you will never see the Sustainable Development Goals (SDGs) being fulfilled and coming to true fruition when it comes to respect of PWDs in this country.

Mr. Temporary Speaker, Sir, I hope with those many remarks, the Mover has noted this down. I am fighting tooth and nail, day and night to have these issues listened to and taken seriously in all our laws, so that we can be a House that continues to be disability responsive within our legislation. Every single piece of legislation has to have disability lens put to it.

I am happy that some Senators before me have mentioned it. For the first time in a long time, I am not the only person talking about disability in this House. It is refreshing. I thank those who have pointed out matters of disabilities. I hope that Sen. Cherarkey, through you Chair, will take into action these amendments and proposals I have put forth in this contribution.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Tobiko.

Sen. Tobiko: Thank you, Mr. Temporary Speaker, Sir. I was panicking about the time. I am still not sure about the minutes I have. However, let me say that I support this Bill and congratulate Sen. Cherarkey and the Co-sponsor of the Bill.

If only this law, once enacted would be able to cure the circus that is in our service commissions, both in the Public Service Commission and at the county level. This country has been put in a situation where nothing seems to matter. It is the strongest take-it-all or the survival for the fittest.

Mr. Speaker, Sir, if only we could rectify our public service, so that merit is ---

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until Tuesday, 5th March, 2024, at 2.30 p.m.

When we resume, Sen. Tobiko will have a balance of eight minutes to continue on this amendment of the Bill.

The Senate rose at 6.30 p.m.