

Rt. Hon. Speaker

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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE PUBLIC FUNDRAISING APPEALS BILL (SENATE

BILLS NO. 36 OF 2024)

APPROVED
RT. HON. SEN
AMASON J. KINGI

19/11/24

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CLERK AT THE TABLE	A. Wachira

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LIST OF ABBREVIATIONS/ACRONYMS

CECM	- County Executive Committee Member
CS	- Cabinet Secretary
MP	- Member of Parliament
TISA	- The Institute of Social Accountability

PRELIMINARIES

Establishment and Mandate of the Committee

The Senate Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to - Manpower and human resources planning, pension, gender, culture, and social welfare; youth, National Youth Service, children's welfare; national heritage, betting, lotteries, sports, public entertainment, public amenities, and recreation.

The Committee oversees four ministries as follows –

- a) The Ministry of Labour and Social Protection;
 - i. State Department for Labour and Skills Development; and
 - ii. State Department for Social Protection and Senior Citizens Affairs.
- b) The Ministry of Public Service, Performance and Delivery Management;
 - i. State Department for Public Service; and
 - ii. State Performance and Delivery Management.
- c) The Ministry of Youth Affairs, Creative Economy and Sports;
 - i. State Department for Youth Affairs and Creative Economy; and
 - ii. State Department for Sports
- d) The Ministry of Gender, Culture, the Arts and Heritage;
 - i. State Department for Gender and Affirmative Action; and
 - ii. State Department for Culture, the Arts and Heritage.

The Committee also oversees the Pensions Department in the National Treasury & Economic Planning which includes the following institutions -

- i. The Retirement Benefits Authority;
- ii. The Local Authorities Provident Fund;
- iii. Public Service Superannuation Scheme; and
- iv. The Civil Servants Accident Claim Fund.

The Committee also oversees the following Commissions and State Corporations –

- i. The Public Service Commission;
- ii. The Salaries and Remuneration Commission;
- iii. National Gender & Equality Commission;
- iv. The Commissioner of Sports & Sports Registrar; and
- v. Permanent Presidential Music Commission.

Membership of the Committee

The Committee membership is as follows –

- | | | |
|-----|--|--------------------|
| (1) | Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| (2) | Sen. George Mungai Mbugua, MP | - Vice Chairperson |
| (3) | Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| (4) | Sen. Mohamed Faki Mwinyihaji, CBS, MP | - Member |
| (5) | Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| (6) | Sen. Alexander Munyi Mundigi, MP | - Member |
| (7) | Sen. Crystal Kegehi Asige, MP | - Member |
| (8) | Sen. Miraj Abdullahi Abdulrahman, MP | - Member |
| (9) | Sen. Gloria Orwoba, MP | - Member |

CHAIRPERSON'S FOREWORD

The Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) is an ordinary Bill that was published in the Kenya Gazette Supplement No. 133 on the 12th of July, 2024. The Bill was read a first time on Thursday, 1st August, 2024 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration.

The Bill proposes to provide for the establishment of regulatory mechanisms at the national and county levels which oversee the conduct of fundraising appeals, to provide for the licensing and regulation of fundraisers; the promotion of transparency and accountability in the conduct of fundraising appeals and also the regulation of the conduct by State and public officers in the participation in public fundraising appeals and in the administration of this legislation.

Hon. Speaker,

Pursuant to Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation, Standard Newspapers and Social Media profiles inviting members of the public to submit written memoranda to the Committee on the Bill. Following the call for submissions, the Committee received written memoranda from stakeholders.

The Committee proceeded to consider the Bill extensively, scheduled and held meetings with various targeted stakeholders including the Ministry of Labour and Social Protection; the Ministry of Interior and National Administration; Ministry of Public Service and Human Capital Development; the Public Service Commission; and the Council of Governors.

The Committee received and considered amendments to the Bill from the above-mentioned stakeholders. This report by the Committee is therefore an account of the deliberations, including its resolutions.

Hon. Speaker,

During its consideration of the Bill, the Standing Committee on Labour and Social Welfare noted that there are already existing laws (the Public Officer Ethics Act (CAP 185B), the Leadership and Integrity Act (CAP 185C); and the Election Offences Act (CAP 66)) regulating the conduct of Public officials, both Public Officers and State Officers in harambees or public fundraising.

The Committee also noted that most of the submissions received were against the Bill, as it failed to recognize the lines between public and private fundraising appeals, and seemed to be against the bureaucracy that the Bill will create.

The Public Service Commission, in their submission advised the Committee that the matters that the Bill is trying to address are already taken care of in law, and noted that it is the implementation that is lacking, while the Council of Governors called for rejection of the Bill, stating it will be difficult to implement.

The Committee also noted that the Bill does not provide a way of dealing with charitable trustees, and may institute drawbacks on the freedom of association.

Mr. Speaker Sir,

Arising from the above observations, the Committee will not propose any amendments to the Bill and recommends the following – That,

- a) subsidiary legislation based on the existing laws (Leadership and Integrity Act, the Public Officer Ethics Act, and the Elections Act) be developed to cater for different types of public fundraising appeals;
- b) the National and county governments do prioritise eradication of poverty, provision of affordable health care and affordable education to reduce reliance on fundraising appeals; and
- c) existing legislation (Leadership and Integrity Act, the Public Officer Ethics Act, and the Elections Act) be strengthened on involvement of public and state officers in public fundraising appeals.

Hon. Speaker,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful. I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this assignment.

Hon. Speaker,

It is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders, to present the Report of the Standing Committee on Labour and Social Welfare on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)

Signed 

Date. Wednesday, 30th October, 2024

**SEN. JULIUS MURGOR RECHA, CBS, MP
CHAIRPERSON, STANDING COMMITTEE ON
LABOUR AND SOCIAL WELFARE**

CHAPTER ONE: INTRODUCTION

1.0 Overview of the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)

1. The principal object of the Bill is to provide for the establishment of regulatory mechanisms at the national and county levels which oversee the conduct of fundraising appeals, to provide for the licensing and regulation of fundraisers; the promotion of transparency and accountability in the conduct of fundraising appeals and also the regulation of the conduct by State and public officers in the participation in public fundraising appeals and in the administration of this legislation.
2. The Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) was published in the Kenya Gazette Supplement No. 133 of 12th July, 2024. The Bill was read a First Time in the Senate on Thursday, 1st August, 2024 and was thereafter committed to the Standing Committee on Labour and Social Welfare.
3. The objects and purposes of the Bill are to -
 - a) provide a regulatory framework for ensuring transparency and accountability in the conduct of fundraising appeals;
 - b) protect the public from fraudulent, misleading and coercive fundraising appeals and provide a framework to ensure that the public has sufficient information to make informed decisions in making voluntary contributions;
 - c) establish a framework of standards for persons and entities involved in the conduct of fundraising appeals; and
 - d) provide a platform for the provision of fiscal incentives as a means of encouraging donations and voluntary contributions in relation to fundraising appeals.
4. The key provisions and highlights of the Bill are –

(i) Role of Cabinet Secretary

5. Under the Bill the Cabinet Secretary responsible for social development shall oversee the implementation of the Bill and shall, for this purpose, among other things –
 - a) collaborate with county executive committee members in the performance of their functions;

- b) oversee the conduct of public fundraising appeals national appeal or is publicly made to members of the public in more than one county;
 - c) receive, vet and process applications for the issuance of a permit to conduct a public fundraising appeal where such appeal is a national appeal or is publicly made to members of the public in more than one county;
 - d) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a fundraising appeals;
 - e) conduct inspections of records and audits relating to fundraising appeals conducted;
 - f) maintain a national register of persons licensed by it to conduct a public fundraising appeal;
 - g) establish mechanisms to enable the transparent conduct of fundraising appeals under the Bill and accountability on the part of the persons conducting the appeals; and
 - h) carry out sensitization and education awareness regarding the conduct of fundraising appeals.
6. The County Executive Committee Member responsible for social development within each county shall, among other functions –
- a) receive, vet and process applications for the issuance of a permit to conduct a public fundraising appeal within the county;
 - b) regulate the conduct of public fundraising appeals within the county; and
 - c) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a public fundraising appeal within the county.
7. Both the Cabinet Secretary and the County Executive Committee Members are expected to table annual reports to Parliament and county assemblies respectively on the activities relating to fundraising appeals.

(ii) Classification of fundraising appeals(Harambees).

8. The Fundraising appeals in the Bill are classified into –
- a) public fundraising appeal which shall consist of solicitations made to members of the public or a section of the public for a public or private benefit; and

- b) private fundraising appeal which shall consist of solicitations made by a person or class of persons on behalf of a person or class of persons to the members of the family of, or relatives of such person for the benefit of such person.

(iii) *Who can conduct a fundraising appeal(Harambee)?*

- 9. An individual, a body corporate or an entity registered as a public collection entity under the Bill may conduct a fundraising appeal under the Bill.

(iv) *What is a Public purpose*

- 10. Public purpose is defined in the Bill as –

- a) the advancement of community welfare including the relief of those in need by reason of youth, age, ill-health, gender, disability or any other interest;
- b) the advancement of community development, including agriculture, water sanitation, rural or urban livelihoods and regeneration;
- c) the promotion of health, including the prevention or relief of sickness, disease or human suffering;
- d) the advancement of conflict resolution or reconciliation;
- e) the integration of those who are marginalized, and the promotion of their full participation, in society;
- f) the promotion of economic, environmental, social or cultural development;
- g) the promotion of education;
- h) disaster prevention, preparedness and mitigation; and
- i) advocating on issues of general public interest or the interest or well-being of the general public or a class of individuals or organizations.

(v) *Are state officers or appointed public officers allowed to participate in or conduct a fundraising appeal (Harambee)?*

- a) A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a State officer.
- b) A person who intends to vie for a public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.
- c) A state officer or an appointed public officer who contravenes these provisions of the Bill shall be liable to a fine not exceeding five million shillings.

- d) A person who intends to vie for a public office and participates in a public fundraising appeal within the period of three years preceding a general election to commits an election offence.

(vi) Do I need a Permit to conduct a public fundraising appeal (Harambee)?

- a) For one to conduct a public appeal fundraising (Harambee), they must obtain a permit. So a person shall not conduct a public fundraising appeal (Harambee) unless the person has applied for, and obtained, a permit; and
- b) A person who intends to conduct a public fundraising appeal shall submit to the Cabinet Secretary or the respective county executive committee member, as the case may be, an application for a permit at least fourteen days before the date for the conduct of the fundraising appeal (Harambee).

(vii) What information should one provide in an application for a permit?

11. Information to be included in an application for a permit include –

- a) the full names and address of the person intending to conduct the fundraising appeal;
- b) the purpose of the fundraising appeal;
- c) the necessity of conducting the fundraising appeal;
- d) the date on which the fundraising is to be conducted;
- e) the names and contact details of the persons assisting in conducting the appeal;
- f) the amount intended to be raised through the appeal;
- g) the estimated expenses to be incurred in conducting the fundraising appeal;
- h) a statement regarding whether any monies have been received with respect to the matter pertaining to the fundraising appeal from any person prior to the date of the proposed fundraising appeal;
- i) the place at which the collection is intended to be made; and
- j) the expected timeframe for the appeal.

(viii) Who issues a permit?

12. Where the Cabinet Secretary or county executive committee member is satisfied that the applicant meets the requirements for the issuance of a permit, he or she may, —

- a) issue to the applicant, a permit under this Act within ten days of receipt of the application; and

- b) enter the name of the applicant, the beneficiary and such other particulars in relation to the fundraising appeal as it may consider necessary in the register of fundraising appeals kept for that purpose.

(ix) *When does a Permit expire?*

13. A permit shall automatically expire upon the conduct of the fundraising appeal to which the permit issued relates.

(x) *Declaration of source of contribution.*

- a) A person who makes a contribution to a fundraising appeal shall specify the source of the contribution.
- b) A person who receives funds as a beneficiary or for the benefit of a beneficiary who is a child pursuant to a fundraising appeal shall declare such contribution in the income tax returns submitted by such person pursuant to the Income Tax Act.

(xi) *Maximum administrative expenditure*

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

(xii) *Financial records of a public Fundraising Appeal (Harambee)*

15. Every person who conducts a fundraising appeal shall keep a record reflecting the income and expenditure relating to the appeal including –
- a) details of the persons who make contributions in relation to the fundraising appeal and the amounts contributed by each person;
 - b) the name, number and address of the bank into which the monies raised in relation to the fundraising appeal were deposited;
 - c) full details of all funds and assets received as a result of the appeal;
 - d) full details of the use to which the funds and assets received were put to;
 - e) full details of -
 - (i) the amount applied to the purposes or objects of the appeal and how it was distributed;
 - (ii) any expenditure on assets;
 - (iii) any expenditure on wages, salaries, commissions and other remuneration in relation to the appeal;

- (iv) any other administrative expenses related to the appeal; and
- (v) any other expenditure related to the appeal.

(xiii) General Penalty

16. A person who commits an offence under this Act for which no penalty is prescribed is liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both.

(xiv) Are there fundraising Appeals (Harambees) that are exempted from the requirements of a Permit?

17. The Bill does not apply to a private fundraising appeal (Harambee) where the solicitation is made from members of the beneficiary's nuclear family or relatives and does not extend to members of the public. The following activities, among others, do not constitute a fundraising appeal for the purposes of this Act –
- a) soliciting or receiving any money or benefit in relation to any raffle, lottery or other activity authorised or permitted under the Betting, Lotteries and Gaming Act or any other relevant law;
 - b) money or property collected by or under the authority of a recognized representative of a religious association registered under the Societies Act for normal collections such as tithes and offerings or the purpose of carrying out developments or projects for the benefit of the association; and
 - c) soliciting a person to become a member of an organisation or to pay the joining or membership fee of an organisation.

(xv) Other provisions of the Bill

18. The Bill also provides for –
- (a) grounds for cancellation of permits;
 - (b) cancellation of permits;
 - (c) duties of a fundraiser on cancellation;
 - (d) register of permitted fundraising appeals;
 - (e) keeping of accurate records of the funds or benefits received in a public fundraising appeal;
 - (f) inspectors to ensure compliance with the Act if enacted into law;
 - (g) fiscal incentives;

- (h) regulations; and
- (i) repeal of Public Collections Act.

Current Law

- 19. *The Public Collections Act, Cap.106*, provides for the regulation of collections of money and property from the public.
- 20. *The Public Officer Ethics Act, Cap. 185B*, was enacted to advance the ethics of public officers and outlawed the personal involvement of public officers in organizing harambees. Under section 13 of the Act on collections and harambees Collections and harambees, a public officer shall not-
 - a) *use his office or place of work as a venue for soliciting or collecting harambees;*
or
 - b) *either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.*
- 21. *The elections Act, Cap.7* under section 26 on additional disqualification, provides that *a person who directly or indirectly participates in any manner in any or public fundraising or harambee within eight months preceding a general election or during an election period, in any other case, shall be disqualified from contesting in the election held during that election year or election period.*
- 22. The Leadership and Integrity Act, Cap. 185C, under section 18 on public collections provides that -
 - (1) *A State officer shall not solicit for contributions from the public for a public purpose unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.*
 - (2) *A State officer shall not participate in a public collection of funds in a way that reflects adversely on that State officer's integrity, impartiality or interferes with the performance of the official duties*

1.1 Unpacking the Bill: Legal Framework and Situational Analysis

1.1.1 Situational Analysis

23. The original spirit of Harambee was that individuals would voluntarily contribute their resources in form of cash, although labour and other materials were also welcome towards the provision of a communal good. The Harambee motto in independent Kenya became more than a motto, it symbolised Kenyan unity, patriotism and, most importantly, the future.
24. Yet, what started as an altruistic way to unify the nation has often bred corruption, with government officials sometimes soliciting donations for their own means and trying to evoke harambee to enact public programmes paid by private donations. Harambee contributions are often used as a ticket for politicians to buy their way into public offices only for them to compensate themselves by engaging in corruption once elected to public office.
25. The Public Collections Act, Cap. 106, the Public Officer Ethics Act, Cap. 185B, the the Leadership and Integrity Act, Cap. 185C and the Elections Act, Cap. 7, cover key areas related to public fundraising, ethics, and social support. These existing Acts are critical in regulating fundraising activities, ensuring ethical conduct by public officers, and providing state-backed social assistance.
26. However, the Public Fundraising Appeals Bill could effectively address the challenges of fraud, lack of transparency, and regulatory gaps witnessed in Kenya's current fundraising environment. The success of similar regulations in other countries, combined with recommendations from local governance organizations, underscores the potential of this bill to restore public trust, enhance accountability, and ensure that funds raised through public appeals are used for their intended purposes.
27. For instance, a report by the Institute of Social Accountability (TISA) noted that the rise of digital fundraising platforms, such as M-Changa and social media appeals, has outpaced the existing legal framework, creating opportunities for misuse of funds and fraud due to lack of oversight.
28. While laws such as the Public Collections Act govern public fundraising at the moment, there are gaps in terms of modern fundraising practices, particularly with the rise of online crowdfunding and the need for stronger financial transparency. This prompts discussions to have a more comprehensive regulation of public fundraising.

29. This proposed Bill will certainly provide more modern regulations as fundraising methods evolve. Public fundraising operates within a complex landscape influenced by regulatory frameworks, social norms, economic factors, and technology. There are challenges require legal reforms, better transparency mechanisms, and public education on ethical fundraising practices. This new bill will provide a modernized legal framework.
30. The Bill in its preamble is meant to provide for framework for the regulation in the conduct of public fundraising appeals, however there is the need to clearly distinguish between public fundraising appeal and private fundraising appeal. The definition adopted in the bill is not clear and does not include the broad private fundraising activities that can fall under this category.
31. Further, given that the Bill has introduced mechanisms to promote transparency and accountability in the carrying out of fundraising appeals there is a question of there is need to bar state officers from participate in or conducting a fundraising appeal. If the essence of the ban is to ensure that public resources are not misused, the requirement for application for permit for fundraising appeal addresses this concern as any party applying for the permit shall be required to disclose source of funds and the beneficiaries' details.
32. The name of the Bill as proposed includes the term "appeals" and this term has a different connotation and meaning in legal terms, it is more of challenging a decision made by institution or authority. However, outside of legal contexts, the term "appeals" typically refers to a request or plea for help, support, or resources. In this sense, an appeal is often an emotional or moral request made to a wide audience.
33. The question then remains whether or not there is need to reconsider the use of the term appeals. Considering that this is a proposed law or an Act once enacted therefore making it a legal document and in the legal fraternity the term has a different meaning. Consequently, is it better to use a more accurate or a different term to avoid misunderstanding.

CHAPTER TWO: OVERVIEW OF PUBLIC PARTICIPATION ON THE BILL

2.0 Committee Undertakings

34. The Committee published an advertisement in the daily newspapers of 9th of August, 2024, inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is annexed to this Report as Appendix 4.
35. Subsequently, during consideration of the Bill, the Committee also resolved to invite additional submissions from the key targeted stakeholders inviting them to submit their comments on the Bill on 26th August, 2024. The Stakeholders are –
 - a) The Ministry of Labour and Social Protection;
 - b) The Ministry of Interior and National Administration;
 - c) Ministry of Public Service and Human Capital Development;
 - d) The Public Service Commission; and
 - e) The Council of Governors.
36. In response to the said invitations, the Committee received submissions from the stakeholders. Copies of the written submissions are attached to this Report as Appendix 5. Additionally, a matrix analysing the stakeholder submissions clause-by-clause is annexed as Appendix 6. The Committee proceeded to consider the Bill extensively, together with the stakeholder submissions received thereon.

2.1 Overview of Stakeholder Submissions on the Bill

2.1.2 Emerging Thematic and Policy Issues

2.1.2.1 Public Opposition

37. Several submissions from individuals from the public urged the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision and made the following submissions –
 - a) they oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising

- activities, commonly known as harambees is fundamentally flawed in its approach and intent;
- b) rather than address the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While they acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, these citizens believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services;
 - c) they advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power;
 - d) public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services;
 - e) the Bill fails to address root causes of harambees. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers;
 - f) the Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive;
 - g) the Bill suppresses community solidarity. It undermines the very fabric of our society, where communities come together to support one another in times of need;
 - h) the resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers;
 - i) rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens;
 - j) legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance;

- k) introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes; and
- l) address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

2.1.2.2 Withdrawal of the Bill

38. Unlike opposing a bill where individuals submitted their disapproval, some stakeholders wrote to the Senate to withdraw the bill, a formal act where the bill is voluntarily removed from the legislative process before it can be passed into law. Those that called for the withdrawal of the Bill and made the following submission –

- a) the Bill does not have any benefit since it imposes conditions such as requiring granting of permits for public fundraising and also introduces inspectors who can enter and inspect the premises of fundraising manager;
- b) at a time when the government has made university education expensive and fails to provide affordable public healthcare the Public Fundraising Appeals Bill, 2024 (Senate Bill No. 36 of 2024) will hinder people from raising money to help each other which will increase fatalities from diseases, increase university dropout rates and increase poverty since communities cannot come together and raise funds without approval;
- c) the Bill is in bad faith due to the unique circumstances under which most public appeals occur; due to the failure of the government on providing essential services, e.g., affordable quality health, where most hospitals lack required supplies, other circumstances such as bereavement, emergency support during unfortunate times such as floods and accidents, and overall, the tough economic times to which we all live in;
- d) the Bill requires any public fundraising initiative to have permits to carry out fundraising appeals. This will likely restrict the number of individuals and organizations who benefit from public fundraising for vital matters. In addition, the charges for the permits are not specified and the charges may become prohibitive;
- e) the Bill fails to recognize the lines between public and private fundraising appeals. Private fundraising may in various instances become public when it

involves friends and acquaintances of the individual. This raises pertinent questions such as whether the individual or family should seek permits and be deemed to be engaged in public fundraising when friends and acquaintances, as well as their network, are involved;

- f) the Bill will result in reduced participation in public fundraisings as it requires details of a person who contributes and the amounts contributed;
- g) the requirement for the source of funds may be a deterrent for participation in public fundraising;
- h) it is illogical for one to specify the source of funds for small amounts;
- i) public fundraising appeals are common and serve to fill the gap when the government fails to care for its people;
- j) there is an ever-growing need for public fundraising appeals due to failures by the government. For instance, the failure of the healthcare system to provide affordable and quality healthcare to meet the needs of people, and exorbitantly high university fees have been witnessed recently with the new higher education funding model;
- k) the Bill lacks clarity on what happens when funds raised through falsification of information for fundraising are surrendered to the county executive member;
- l) the public and state officers who participate in public fundraisings are only fined and do not receive a prison sentence; and
- m) There was the suggestion of withdrawing the bill and improve the Social Assistance Act.

2.1.3 Proposed Amendments by stakeholders

19. **The Ministry of Public Service and Human Capital Development** in its submission proposed the following amendments –

- a) Amend the title to read as The Public Fundraising Bill, 2024. The ministry stated that the term “appeal” may connote lodging an appeal from a lower-level jurisdiction to a higher one. The title may confuse the public. Fundraising may include making appeals for funds;
- b) Deleting the term “planning” from the definition of the Cabinet Secretary and the county executive committee member since matters relating to planning and social development may not be under the same Cabinet Secretary as well as under the same county executive committee member;
- c) Delete provision of “public office” as it is already defined in the Constitution or align with the Constitution definition;

- d) The ministry also proposed that under the definition of “beneficiary” the term “entities” be included. This is to include groups, other entities or organizations. Also include the term “entities” in clause 6, 9, and 14 to include groups, other entities or organizations;
- e) They wish to redraft the provisions of clause 8 so that it shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary’s nuclear family, relatives or friends and does not extend to members of the public; and
- f) The ministry in its submission proposed to revise the clauses on consent and opinions of CS or CECM as they may be abused.

40. **Beth Thithi**, proposed the following amendments -

- a) clause 9 on Classification of fundraising appeals be deleted in its entirety;
- b) the justification for exempting churches should be provided;
- c) the Bill to be restricted to Public Collections only and is defeatist and contrary to the Kenyan spirit to help and altruist nature of Kenya's social fabric.

41. **Wycliffe Kipkirui Cheruiyot**, a Research Intern at Kericho County Assembly proposed the following amendments as follows –

- a) include a clause for expedited applications under specific urgent circumstances, reducing the waiting period to 2-3 days;
- b) lower the cap on administrative costs for smaller-scale fundraisers to ensure more funds go directly to beneficiaries;
- c) mandate the Cabinet Secretary to conduct annual public awareness and education campaigns on the bill's provisions and citizens' rights;
- d) introduce reduced permit fees or expedited processing for fundraising appeals benefiting vulnerable groups such as the elderly or disabled;
- e) require public disclosure of financial reports on an accessible online portal managed by the regulating authority;
- f) include an exemption for small-scale, community-driven fundraising activities below a certain financial threshold;
- g) ensure penalties are proportional to the severity of the infraction to avoid overly punishing minor violations;

42. Ibrahim in his submission called for tough sanctions for those who violate the law.

2.1.3.1 State and appointed public officers not to participate in or conduct a fundraising appeal.

43. The Council of Governors in its submission stated that on the issue of participation of public officers and state officers in public fundraising appeals are already covered in other laws which might be strengthened, namely the Elections Act and the Public Officer Ethics Act.
44. While Beth Thithi questioned in her submission how is it that state officers are not allowed to participate in fundraising yet their offices are allowed? She reasoned that the offices do not operate in isolation or a vacuum, their officers will be required to participate in the fundraising activities.
45. The Ministry of Public Service and Human Capital Development proposed that this clause be aligned with the provisions of Public Officer Ethics Act and revise duration of participating in fundraising to one year.
46. The Public Service Commission in its submission compares clause 13 of the bill which provides for total ban on fund raising by public officers with the provisions of The Public Officers Ethics Act, 2003 and the Leadership and Integrity Act, 2012.
47. The commission proposes an amendment to Clause 13 and suggests that instead of total ban, the provision shall only limit the public officers using their office or place of work as a venue for harambees and that they should not be allowed preside over or play a central role in harambees or appear as guests of honour.
48. The commission observes that while there is need to bar public officers from participating in public collections, as members of society and communities they should be allowed to contribute to any fund-raising appeals for a good cause in their own personal capacities using personal resources. The Commission proposes the text of clause 13 should be as it exists in the Public Officer Ethics Act, 2013.

2.1.3.2 Implementation of the Bill

49. The Council of Governors made the following submission on the issue surrounding the implementation of this Bill –
 - a) the Bill might be difficult to implement given the Kenyan culture of private and public fundraising appeals;

- b) implementation will burden the government;
- c) the matters of planning and social development might fall under different county executive members; and
- d) borrow from other jurisdictions where regulation is on scale of fundraising as opposed to blanket regulation of all fundraising activities.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 Committee Observations on the Bill

50. Having considered The Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) and the submissions received thereon, the Standing Committee on Labour and Social Welfare therefore made the following observations –
- a) there are already existing laws regulating the conduct of Public officials, both Public Officers and State Officers in harambees or public fundraising. These laws include the Public Officer Ethics Act (CAP 185B), the Leadership and Integrity Act (CAP 185C); and the Elections Act (CAP 66);
 - b) the Public Service Commission, in their submission advised the Committee that the matters that the Bill is trying to address are already taken care of in law, and implementation is what is lacking;
 - c) the Council of Governors called for rejection of the Bill, as it will be difficult to implement;
 - d) most of the submissions received were against the Bill, as it fails to recognize the lines between public and private fundraising appeals. Private fundraising may in various instances become public when it involves friends and acquaintances of the individual. This raises pertinent questions such as whether the individual or family should seek permits and be deemed to be engaged in public fundraising when friends and acquaintances, as well as their network, are involved;
 - e) the Bill exposes government failure to address the root causes of public fundraising which mainly include poverty, lack of affordable healthcare and unaffordable education system;
 - f) the Bill will create a lot of bureaucracy especially at the County level since one will be required to apply at the County Executive Committee Member to get a license to conduct fundraisings; and
 - g) the Bill does not provide a way of dealing with charitable trustees; and
 - h) the Bill may occasion drawbacks on the freedom of association.

3.1 Committee Recommendations

51. Arising from the above observations, the Committee recommends that -
- a) the Senate notes the contents of Bill as well as the views of the public on the Bill;
 - b) the Committee will not propose any amendments to the Bill;
 - c) subsidiary legislation based on the existing laws (Leadership and Integrity Act, the Public Officer Ethics Act, and the Elections Act) be developed to cater for different types of public fundraising appeals;
 - d) the National and county governments do prioritise eradication of poverty, provision of affordable health care and affordable education to reduce reliance on fundraising appeals; and
 - e) the strengthening of existing legislation (Leadership and Integrity Act, the Public Officer Ethics Act, and the Elections Act) on involvement of public and state officers in public fundraising appeals.

LIST OF APPENDICES

Appendix 1: Minutes of the sittings

Appendix 2: Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 Of 2024)

Appendix 3: Advertisement as published in the Daily Nation and Standard Newspapers

Appendix 4: Public Participation Submissions –

- | | | |
|--|----------------------------|---------------------------|
| 1. Ministry of Public Service and Human Capital Development | 26. Mosota Brian Otiso | 56. Yvonne Mueni Mwanzile |
| 2. Ibrahim | 27. Valarie | 57. Esther Aruka |
| 3. Council of Governors | 28. Kamondo | 58. Linda Nyambura |
| 4. Wilson Nyenze | 29. Ian | 59. Jokings |
| 5. Wycliffe Kipkirui Cheruiyot, Research Intern at Kericho County Assembly | 30. Mungai | 60. Franis |
| 6. Bunge La Mayut | 31. Sheldon | 61. Enrikay |
| 7. Njoroge wa Kamuiru | 32. Njeri Macharia | 62. Anita Mwangi |
| 8. Felix Ngocho Nderitu | 33. Alice Wairimu Mugo | 63. Petra Muriuki |
| 9. Makuno Muiruri | 34. Zacharia | 64. Nasimiyu Rachelle |
| 10. Beth Thithi | 35. Rawlins | 65. Munene Mwarania |
| 11. Norah Ndonge | 36. Edward Amani | 66. Wandiya Njoya |
| 12. Maxine | 37. Christine Wambui | 67. Kiky Mumbi |
| 13. Teresa | 38. Francis | 68. Njeri Opondo |
| 14. Kalani Walter | 39. Nelius | 69. Mosota Brian Otiso |
| 15. Mutile Mwongo | 40. Mumbua | 70. Celine Kisenga |
| 16. Kajigi | 41. Wairimu Kuria | 71. John Mumo |
| 17. Thomas Otieno | 42. Martha Aluoch | 72. Mwende |
| 18. Alice Wairimu Mugo | 43. Ian Muhia | 73. Rowan Omondi |
| 19. Aggrey Omboki | 44. Terry Mbatia | 74. Jones Kyalo |
| 20. Gatwiri Bundi | 45. Terry Wangechi | 75. Lewis |
| 21. Hamisi Rawlins | 46. Sarah Mulle | 76. Dennis |
| 22. Joshua Masaki | 47. Sherry Muthakye Mulle | 77. Amenia |
| 23. Jesse Mbutia | 48. Francis Kaira | 78. Sharon Wanjiku Njihia |
| 24. Njeri Nganga | 49. Amenia Nyakundi | 79. Paul Aluoch |
| 25. Njeri Macharia | 50. Kipkirui Langat Kelvin | 80. John Mukundi |
| | 51. Karen K | 81. Mulinge Nzau |
| | 52. Odhiambo Otieno | 82. Martha Mumbi Maina |
| | 53. Angela Wamai | 83. Jays Ndune |
| | 54. Joy Njihia | 84. Bethsheba Bosibori |
| | 55. Mulinge Nzau | |

85. Michael O
86. Paul Oluoch
87. Sylvia Rwenyo
88. Bethseba Bosibori
89. Leonell Loga
90. Samelly

91. Sarah Mumbua
92. Martha Aluoch
93. Wyclife Odhiambo
94. Hawi Fred Oyugi
95. Dylan
96. Ian

97. Sharon Wanjiku Njihia
98. Zubeir
99. Austine
100. Erick Asava Magad

.Appendix 5: Public Participation Matrix

APPENDIX 1



**MINUTES OF THE SEVENTY – SECOND (72ND) MEETING OF THE
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD
IN COMMITTEE ROOM 5, FIRST FLOOR, MAIN PARLIAMENT
BUILDINGS ON WEDNESDAY, 30TH OCTOBER, 2024 AT 1.00 P.M.**

MEMBERS PRESENT

- | | |
|--|--------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member |
| 5. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 6. Sen. Crystal Asige, MP | - Member |
| 7. Sen. Gloria Orwoba, MP | - Member |

APOLOGIES

- | | |
|---|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| 2. Sen. Erick Okong’o Mogeni, SC, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|--------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Joseph Otieno | - Audio Officer |

MIN/SEN/SCLSW/433/2024: PRAYERS

The Chairperson called the meeting to order at 1.00 pm, followed by a word of prayer and introductions.

MIN/SEN/SCLSW/434/2024: ADOPTION OF AGENDA

The Agenda was adopted having been proposed by Sen. Mohammed Faki, MP and seconded by Sen. Miraj Abdulrahman, MP as follows –

1. Prayers;
2. Adoption of the Agenda;
3. **Confirmation of Minutes of the 67, 68th, 69th and 70th Sittings of the Committee;**
4. **Matters Arising;**
5. **Consideration and adoption of the Committee amendments of the Sports (Amendment) Bill, 2024 (Senate Bills No. 33 of 2024);**
6. **Consideration and Adoption of the Report on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024);**
7. **Consideration and Adoption of the Report on the Provision of Sanitary Towels Bill, 2024 (Senate Bills No. 7 of 2024); and**
8. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/435/2024 CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS OF THE 67TH, 68TH, 69TH & 70TH SITTINGS;

1. The Minutes of the 67th Sitting held on Saturday, 26th October, 2024 at 2.30 pm. were confirmed to be a true reflection of the proceedings having been proposed by Sen. Mohammed Faki, MP and seconded by Sen. George Mungai Mbugua, MP;
2. The Minutes of the 68th Sitting held on Sunday, 27th October, 2024 at 10.00 a.m. were confirmed to be a true reflection of the proceedings having been proposed by having been proposed by Sen. Mohammed Faki, MP and seconded by Sen. George Mungai Mbugua, MP;
3. The Minutes of the 69th sitting held on Monday, 28th October, 2024 at 10.00 am. were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj Abdulrahman, MP and seconded by Sen. Crystal Asige, MP; and
4. The Minutes of the 70th sitting held on Monday, 28th October, 2024 at 2.30 pm. were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj Abdulrahman, MP and seconded by Sen. Crystal Asige, MP.

MIN/SEN/SCLSW/436/2024 MATTERS ARISING;

There were no matters arising.

MIN/SEN/SCLSW/437/2024 CONSIDERATION AND ADOPTION OF THE REPORT ON THE PROVISION OF SANITARY TOWELS BILL, 2024 (SENATE BILLS NO. 7 OF 2024);

1. Sen. Gloria Orwoba, MP, a Member of the Committee and the Sponsor of the Bill raised concerns over the contents of the report and the Committee deliberated on the possibility of including a minority report on the Bill.
2. The Committee resolved that the Secretariat should prepare a paper on how the Bill is contrasting with the Menstrual Hygiene Management Policy (2019 – 2030) and share with Senator Gloria Orwoba, MP. The Committee also resolved that the Hansard of the deliberations of the Meeting of the Committee that took place on Saturday, 26th October, 2024 from 10.00 am be availed to her.
3. The Committee considered the Report on the Provision of Sanitary Towels Bill, 2024 (Senate Bills No. 7 of 2024 and adopted it after being proposed by Sen. Mohammed Faki, CBS, MP., and seconded by Sen. George Mungai Mbugua, MP.

MIN/SEN/SCLSW/438/2024 CONSIDERATION AND ADOPTION OF THE REPORT ON THE SPORTS (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 33 OF 2024);

The Committee considered the Report on the Sports (Amendment) Bill, 2024 (Senate Bills No. 33 of 2024 and adopted it after being proposed by Sen. Mohammed Faki, CBS, MP., and seconded by Sen. Crystal Asige, MP.

MIN/SEN/SCLSW/439/2024 CONSIDERATION AND ADOPTION OF THE REPORT ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024);

The Committee considered the Report on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) and adopted it after being proposed by Sen. Crystal Asige, MP., and seconded by Sen. George Mungai Mbugua, MP.

MIN/SEN/SCLSW/440/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/441/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 2.29 pm.

SIGNED..........DATE Tuesday, 12th November, 2024

**CHAIRPERSON: SEN. JULIUS MURGOR RECHA, CBS, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**



MINUTES OF THE SIXTY – SIXTH (66TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN DESERT ROSE ROOM, SERENA BEACH HOTEL ON SATURDAY, 26TH OCTOBER, 2024 AT 11.40 A.M.

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| 4. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Member |
| 5. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 6. Sen. Alexander Munyi Mundigi, MP | - Member |
| 7. Sen. Crystal Asige, MP | - Member |
| 8. Sen. Gloria Orwoba, MP | - Member |

APOLOGIES

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
|--------------------------------------|----------|

SECRETARIAT

- | | |
|-------------------------|----------------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Mr. Reinhardt Choge | - Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Ms. Ndindi Kibathi | - Research Officer |
| 5. Mr. Jack Lemeteki | - Media Relations Officer |
| 6. Mr. Joseph Otieno | - Audio Officer |
| 7. Mr. John Pere | - Sergeant at Arms |
| 8. Ms. Sandra Mwandishi | - Aide to Sen. Crystal Asige, MP |

MIN/SEN/SCLSW/395/2024: PRAYERS

The Chairperson called the meeting to order at 11.45 am followed by a word of prayer.

MIN/SEN/SCLSW/396/2024; ADOPTION OF AGENDA

The Agenda was adopted having been proposed by Sen. Gloria Orwoba, MP and seconded by Sen. George Mbugua, MP as follows –

1. Prayers;
2. Adoption of the Agenda;
3. **Consideration of the Public Participation Matrix on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 14 Of 2024);**
4. **Briefing on the Petition on People living with Invisible Disability (Committee Paper 83);**
5. Any Other Business; and
6. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/397/2024 CONSIDERATION OF THE PUBLIC PARTICIPATION MATRIX ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 14 OF 2024);

1. The Committee considered the above Bill, reviewing the objectives, background and main clauses of the Bill to re-acquaint themselves with key matters, and noted the following, That –
 - i. There are already existing laws regulating the conduct of Public officials, both Public Officers and State Officers in harambees or public fundraising; and
 - ii. These laws include the Public Officer Ethics Act (CAP 185B), the Leadership and Integrity Act (CAP 185C); and the Election Offenses Act (CAP 66).
2. The Committee considered the Public Publication matrix on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 14 of 2024) noted that -
 - i. Most of the submissions were against the Bill;
 - ii. The Public Service Commission, in their submission advised the Committee that the matters that the Bill is trying to address are already taken care of in law, and implementation is what is lacking; and
 - iii. The Bill will create a lot of bureaucracy especially at the County level since one will be required to apply at the County Executive Committee Member to get a license to conduct fundraisings.
3. The Members noted that the United States of America has a law that mandates campaign monies contributed or fundraised are available to the Public, and that the bill does not address the issue of digital fundraising;
4. The Bill does not provide a way of dealing with charity trustees, and may institute drawbacks on the freedom of assembly; and

5. The Committee resolved that the Bill should be withdrawn and the Sponsor instead strengthen existing legislation by making amendments to the Leadership and Integrity Act, the Public Officers and Ethics Act, and the Election Laws Act.

MIN/SEN/SCLSW/398/2024 **BRIEFING ON THE PETITION ON PEOPLE LIVING WITH INVISIBLE DISABILITY (COMMITTEE PAPER 83);**

1. The Committee was informed that a petition had been referred to it on persons living with invisible disabilities on Wednesday, 2nd October, 2024;
2. The key issues the petitioner raised in the Petition are –
 - i. The government of Kenya had failed to recognize persons with invisible disabilities in government policies and management strategies and children and adults are not represented from the ground to the national government;
 - ii. That the Ministry of Health, Social Protection and NCPWD policies have barriers denying people living with disabilities access to life saving essential treatment and medicine;
 - iii. That the petitioner requires constant essential medicine, neurologist, cardiologist services once a year that aren't available at county referral hospitals thereby incurring high travel costs to cities where the service is available;
 - iv. Current programs by the NCPWD and Social Protection's current programs, government job slots, support, benefits, donor funds and projects are solely for persons with physical disability; and
 - v. Corruption has resulted in the rejection of applications from persons with invisible disabilities especially those not willing to corrupt authorities.
3. The Petitioner's prayers are as follows –
 - i. That the government recognizes and includes persons with invisible disability in government policies and management strategies and sensitize society and medics to minimize stigma and discrimination;
 - ii. That the government oversees constant supply availability of essential medicines and treatment in referral hospitals. Relevant invisible disability specialists be in recommended hospitals. Close psychological and emotional support to prevent suicides. Give a chance and same category disability interaction. Reasonable financial support up to 6000/= can cover basic needs; and
 - iii. Persons with invisible disability to have a representative from the invisible disability category and plan for suitable support including benefits, funds, job opportunities and programs. Remove all barriers denying people with invisible disability to get support. Support people with disability during the entire journey not when bedridden.
4. The Committee was informed that the Petitioner, the Ministry of Labour and Social Protection, the Council of Governors and the County Assemblies Forum had been invited for a Committee meeting on Tuesday 29th October, 2024;

Committee Resolution

1. The Committee resolved to invite an expert in invisible disabilities as advised by the Committee members to the meeting on the Petition scheduled for Tuesday and to invite the Ministry of Health to subsequent meetings on the Petition.

MIN/SEN/SCLSW/399/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/400/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.44 pm.

SIGNED..........DATE Sunday, 27th October, 2024..

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, CBS, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE FIFTY THIRD (53RD) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD VIRTUALLY ON THURSDAY, 5TH SEPTEMBER, 2024 AT 2.00 P.M.

MEMBERS PRESENT

- | | |
|--|--------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member |
| 5. Sen. Crystal Asige, MP | - Member |

APOLOGIES

- | | |
|---|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 3. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 4. Sen. Gloria Orwoba, MP | - Member |

SECRETARIAT

- | | |
|------------------------|----------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Mr. Reinhardt Choge | - Clerk Assistant III |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Ms. Ndindi Kibathi | - Research Officer III |
| 5. Ms. Nigma Adow | - Research Officer III |
| 6. Mr. Francis Mutulu | - Media Relations Officer |
| 7. Ms. Swaluha Yusuf | - Public Relations Officer |
| 8. Mr. Joseph Otieno | - Audio Officer |
| 9. Ms. Daphne Wambugu | - Intern |

IN – ATTENDANCE

- | | |
|------------------------|--|
| 1. Mr. Paul Famba | - Chief Executive Officer, Public Service Commission |
| 2. Ms. Jackline Manani | - Director Legal, Public Service Commission |

MIN/SEN/SCLSW/325/2024: PRAYERS

The Chairperson called the meeting to order at 2.24 pm followed by a word of prayer and introductions.

MIN/SEN/SCLSW/326/2024: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Mwinyihaji Faki, CBS, MP and seconded by Sen. George Mbugua, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with the Public Service Commission on the Public Fundraising Appeal Bill, 2024 (Senate Bills No. 36 of 2024);
4. Any Other Business; and
5. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/327/2024 MEETING WITH THE PUBLIC SERVICE COMMISSION ON THE PUBLIC FUNDRAISING APPEAL BILL, 2024 (SENATE BILLS NO. 36 OF 2024);

a) Presentation by Mr. Paul Famba, CEO- PSC

1. The Chief Executive Officer started by stating that although the Bill will enhance accountability, there is existing legislation such as the Leadership and Integrity Act, and the Public Officers Ethics Act that addresses the concerns that the bill wishes to cure.
2. he also stated that the enactment of the Bill will lead to consequential amendments to other Acts.

b) Members interventions

The Chairperson thanked the Public Service Commission for attending the meeting and informed them that their submission will be considered.

MIN/SEN/SCLSW/328/2024 ANY OTHER BUSINESS

1. Members were notified that the Committee currently has four Bills before it, where one of the Bill, the County Assemblies Pensions Bill, 2024 awaits consideration and adoption of the report; and
2. The Committee noted that it had received numerous submissions on the remaining Bills and resolved to undertake a retreat in the first week after recess to consider the Public Hearing submissions.

MIN/SEN/SCLSW/329/2024

ADJOURNMENT AND DATE OF THE NEXT
MEETING

The meeting was adjourned at 2.45 p.m.

SIGNED.....



DATE.....

Monday, 16th September, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE FIFTY FIRST (51ST) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD VIRTUALLY ON THE ZOOM PLATFORM ON TUESDAY, 3RD SEPTEMBER, 2024 AT 11.00 A.M.

MEMBERS PRESENT

1. Sen. George Mungai Mbugua, MP - Vice-Chairperson
2. Sen. Alexander Munyi Mundigi, MP - Member
3. Sen. Miraj Abdulahi Abdulrahman, MP - Member
4. Sen. Gloria Orwoba, MP - Member

APOLOGIES

1. Sen. Julius Murgor Recha, CBS, MP - Chairperson
2. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
3. Sen. Mohamed Mwinyihaji Faki, CBS, MP - Member
4. Sen. Erick Okong'o Mogeni, SC, MP - Member
5. Sen. Crystal Asige, MP - Member

SECRETARIAT

1. Ms. Mwanate Shaban - Senior Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant III
3. Mr. Jeremy Chabari - Legal Counsel
4. Ms. Ndindi Kibathi - Research Officer III
5. Ms. Nigma Adow - Research Officer III
6. Mr. Francis Mutulu - Media Relations Officer
7. Ms. Swaluha Yusuf - Public Relations Officer
8. Mr. John Pere - SAA
9. Mr. Joseph Otieno - Audio Officer
10. Ms. Daphne Wambugu - DSIEC Intern

MIN/SEN/SCLSW/312/2024: PRAYERS

The Chairperson called the meeting to order at 11.13 am followed by a word of prayer.

MIN/SEN/SCLSW/313/2024: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Miraj Abdulrahman, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 41st, 45th, 46th, 47th, 48th, 49th and 50th meetings;
4. Matters Arising;
5. Consideration and Adoption of the Report on the County Assemblies Pension Bill, 2024 (Senate Bills No.14 of 2024) (Committee Paper 74; Appendix A);
6. Consideration of Public Hearing Submissions on the Provision of Sanitary Towels Bill, 2024 (Senate Bills No.7 of 2024) (Committee Paper 74; Appendix B);
7. Any Other Business; and
8. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/314/2024 CONFIRMATION OF MINUTES OF THE 41ST 45TH 46TH 47TH 48TH 49TH AND 50TH MEETINGS

1. The Minutes of the 41st sitting held on Wednesday 24th July, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Gloria Orwoba, MP and seconded by Sen. Miraj Abdulrahman, MP.
2. The Minutes of the 45th sitting on Thursday 8th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj Abdulrahman, MP and seconded by Sen. Alexander Mundigi, MP.
3. The Minutes of the 46th sitting held on Tuesday 13th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj Abdulrahman, MP, and seconded by Sen. Alexander Mundigi, MP.
4. The Minutes of the 47th sitting held on Wednesday 14th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. George Mbugua, MP and seconded by Sen. Alexander Mundigi, MP.
5. The Minutes of the 48th sitting held on Monday 26th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Gloria Orwoba, MP.
6. The Minutes of the 49th sitting held on Tuesday 27th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj AbdulRahman, MP and seconded by Sen. Alexander Mundigi, MP.
7. The Minutes of the 50th sitting held on Thursday 29th August, 2024 were confirmed to be a true reflection of the proceedings having been proposed by Sen. Miraj Abdulrahman, MP and seconded by Sen. Alexander Mundigi, MP.

MIN/SEN/SCLSW/315/2024 MATTERS ARISING

EX-MIN/SEN/SCLSW/296/2024 - PUBLIC HEARING ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

The Committee that it had received a substantial number of submissions from the public and various government institutions, and that a meeting with the Public Service Commission was scheduled for Thursday, 5th September, 2024.

EX-MIN/SEN/SCLSW/309/2024 - SPECIAL MEETING WITH VARIOUS STAKEHOLDERS TO DELIBERATE ON THE PETITION REGARDING THE PAYMENT OF OUTSTANDING TERMINAL BENEFITS AND MAZIWA SACCO DUES

The Committee was informed that the meeting had been rescheduled to a later date to enable all the invitees to attend and the letters had already been sent out including the one requesting for additional information from New KCC.

MIN/SEN/SCLSW/316/2024 CONSIDERATION AND ADOPTION OF THE REPORT ON THE COUNTY ASSEMBLIES PENSION BILL, 2024 (SENATE BILLS NO. 14 OF 2024) (COMMITTEE PAPER 74; APPENDIX A);

The Committee considered the Report on the County Assemblies Pension Bill but had to postpone the adoption due to lack of quorum of five members present to adopt a report.

MIN/SEN/SCLSW/317/2024 CONSIDERATION OF PUBLIC HEARING SUBMISSIONS ON THE PROVISION OF SANITARY TOWELS BILL, 2024 (SENATE BILLS NO.7 OF 2024) (COMMITTEE PAPER 74; APPENDIX B);


The Committee resolved to consider the submissions and preferably at a physical meeting because of the implications the Bill carries and the amount of Public interest it had.

MIN/SEN/SCLSW/318/2024 ANY OTHER BUSINESS

Members were reminded of the Public Hearing on the Sports (Amendment) Bill, 2024 (Senate Bills No. 33 of 2024) scheduled for 5th September, 2024 at 11.00 am and were informed that the Committee was still receiving submissions on the bill.

MIN/SEN/SCLSW/319/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.05 p.m.

SIGNED.......... DATE Monday, 16th September, 2024
CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE FORTY-EIGHTH (48TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN COUNTY HALL, MINI CHAMBER, COUNTY HALL ON MONDAY, 26TH AUGUST, 2024 AT 10.00 A.M.

MEMBERS PRESENT

- | | |
|--|------------------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson (Virtual) |
| 3. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Member (Virtual) |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member (Virtual) |
| 5. Sen. Miraj Abdulahi Abdulrahman, MP | - Member (Virtual) |
| 6. Sen. Gloria Orvoba, MP | - Member (Virtual) |

APOLOGIES

- | | |
|---|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 3. Sen. Crystal Asige, MP | - Member |

SECRETARIAT

- | | |
|------------------------|--------------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Mr. Reinhardt Choge | - Clerk Assistant III |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Ms. Nigma Adow | - Research Officer III |
| 5. Ms. Ndindi Kibathi | - Research Officer III |
| 6. Mr. Francis Mutulu | - Media Relations Officer |
| 7. Ms. Joy Kyallo | - Parliamentary Budget Officer |
| 8. Ms. Swaluha Yusuf | - Public Relations Officer |
| 9. Mr. John Pere | - Sergeant at Arms |
| 10. Mr. Joseph Otieno | - Audio Officer |

MIN/SEN/SCLSW/294/2024: PRAYERS

The Chairperson called the meeting to order at 10.26 am followed by a word of prayer. He noted the absence of members of the Public and targeted stakeholders on the Public Fundraising Appeals Bill, 2024, and directed that the Committee confirms pending minutes and considers the amendments on the County Assemblies Pensions Scheme Bill, 2024.

MIN/SEN/SCLSW/295/2024: ADOPTION OF AGENDA

The Agenda of the meeting was adopted with amendments which included the items (4, 5 & 6) as directed by the Chairperson after been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mbugua, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. **Public Hearing on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024);**
4. **Confirmation of Minutes of the 32nd, 41st, 43rd and 44th Sittings of the Committee;**
5. **Matters arising;**
6. **Consideration and adoption of the amendments on the County Assemblies Pension Bill, 2024 (Senate Bills No. 14 of 2024);**
7. Any Other Business; and
8. Adjournment.

MIN/SEN/SCLSW/296/2024 PUBLIC HEARING ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

1. There being no Members of the Public, the Committee was briefed as follows –
 - a) That the secretariat had received a few written submissions from the Members of the Public;
 - b) That the Ministry of Public Service had called and stated that they will send a written submission; and
 - c) That the Public Service Commission had sent a letter requesting for a reschedule to enable them present before the Committee.
2. The Committee resolved to hold a Sitting with the Public Service Commission at a later date.

MIN/SEN/SCLSW/297/2024 CONFIRMATION OF MINUTES OF THE 32ND, 41ST, 43RD AND 44TH SITTINGS OF THE COMMITTEE

1. The Minutes of the Thirty-Second sitting held on Friday, 21st June, 2024 were confirmed as a true reflection of the proceedings having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Mohamed Mwinyihaji Faki, CBS, MP.
2. The Minutes of the Forty-First sitting held on Wednesday, 24th July, 2024 were not confirmed.
3. The Minutes of the Forty-Third sitting held on Thursday, 1st August, 2024 were confirmed as a true reflection of the proceedings having been proposed by Sen. Mohamed Mwinyihaji Faki, CBS, MP and seconded by Sen. Alexander Mundigi, MP.

- 4 The Minutes of the Forty Fourth sitting held on Tuesday, 6th August, 2024 were confirmed as a true reflection of the proceedings having been proposed by Sen. Mohamed Mwinyihaji Laki, CBS, MP and seconded by Sen. Alexander Mundigi, MP.

MIN/SEN/SCLSW/298/2024 **MATTERS ARISING**

There were no matters arising.

MIN/SEN/SCLSW/299/2024 **CONSIDERATION AND ADOPTION OF THE
AMENDMENTS ON THE COUNTY ASSEMBLIES
PENSION BILL, 2024 (SENATE BILLS NO. 14 OF
2024)**

The Committee considered the revised Committee Amendments on the County Assemblies Pension Bill, 2024 (Senate Bills No.14 of 2024) and adopted them after being proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Gloria Orwoba, MP as follows –

- a) Amend Clause 4 of the Bill by deleting subclause (2) and the words “social security benefits including” appearing at the end of the introductory clause of subclause (3);
- b) Amend Clause 5 of the Bill by deleting the words “and members of staff of county assemblies” appearing at the end of subclause (1); and deleting the word “and staff” appearing immediately after the word “assemblies” in subclause (2);
- c) Amend Clause 6 of the Bill by inserting the following new subclause immediately after subclause (1) to read –
 - (1A) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
 - (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - (c) entering into contracts; and
 - (d) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.
- d) Amend Clause 6, subclause (2) by deleting the word “two” appearing at the beginning of paragraph (c) and substituting therefor the word “three”; and deleting the word “two” appearing at the beginning of subparagraph (d) (i) and substituting therefor the word “three”; and deleting paragraph (e);
- e) Amend Clause 9 of the Bill by deleting subclause (2); and in subclause (3) by deleting the words “The Board” appearing at the beginning of the subclause and substituting therefor the words “The Cabinet Secretary”;
- f) Amend Clause 11 of the Bill by inserting the following new paragraph immediately after paragraph (g)— (ga) term expires;
- g) Amend Clause 13 of the Bill by deleting paragraph (g);
- h) Amend Clause 23 of the Bill be amended by deleting subclause (2);
- i) Amend Clause 24 of the Bill by deleting subclause (4) and also by deleting subclause (6) and substituting it with -

- (6) Any contribution not paid to the scheme by a sponsor within ten days after the last day of the calendar month to which the contributions relate shall attract interest which shall not be less than the interest declared during the period the contribution remains unremitted.
- j) Amend Clause 26 of the Bill by deleting the words “or a staff of a county assembly” appearing at the of subclause (1);
- k) Amend Clause 26 subclause (3)
- (i) by deleting paragraph (a),
 - (ii) by deleting paragraph (b) and substituting the following new paragraph—
(b) where a member ceases being a member of a county assembly before attaining early retirement age, that member may opt for payment of—
 - (iii) in paragraph (b) by deleting sub paragraph (i) and substituting therefor the following new sub paragraph—
not more than fifty percent of his total accrued benefits and the investments income that has accrued in respect of those contributions provided that a member may withdraw any additional voluntary contributions made into the scheme and accrued interest in full;
 - (iv) in paragraph (c) by deleting the words “before attaining the early retirement age” appearing at the end of the paragraph.
- l) Amend Clause 29 by deleting the words “Despite the provisions of any other written law” appearing at the introductory part of subclause (2) and substituting therefor the words “Subject to the Retirement Benefits Act”;
- m) Amend Clause 49 of the Bill by deleting subclause (4) and substituting therefor the following new subclause—
- (4) Without prejudice to any proceedings instituted under the provisions of this section, a sponsor who makes a deduction from a member’s emoluments for remittance to the Scheme and fails to remit the contribution to the Scheme within fifteen days commits an offence and shall on conviction be liable to a fine not exceeding five million shillings or in the case of a natural person to imprisonment for a term not exceeding two years or to both.
- n) Delete Clause 52
- o) Delete Clause 53 and substitute with a new clause on the transition members of county assemblies to the scheme
- 53 (1) The members of county assemblies who are members of the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund shall be transitioned into the Scheme within one year upon the commencement of this Act.
- (2) The funds, assets and other property, movable and immovable which immediately before the commencement date were held by or on behalf of the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund for the members of county assemblies shall vest in the Scheme.

(3) All the records of members of county assemblies held by the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund shall be transferred to the Scheme administrator.

(4) All rights, liabilities and duties whether arising under any written law or otherwise, which immediately before the commencement date were accruing, imposed or enforceable by or against the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund with regard to members of county assemblies shall vest in, be imposed on, or be enforceable against the Scheme.

p) Insert the following new clauses -

immediately after clause 46— on Exemption from compliance with provisions of this Act

46A. The Cabinet Secretary may, by order in the *Gazette*—

- (a) exempt any person or class of persons from compliance with any specified provisions of this Act; or
- (b) extend the time for compliance by any person or class of persons with any specified provisions of this Act

provided that nothing in this section shall apply in respect of payment of retirement benefits.

46B on Provisions of the Retirement Benefits Act, 46B. The provisions of the Retirement Benefits Act (Cap. 197) and regulations thereunder shall apply to the Fund.

q) Amend clause 2 of the Bill by -

(a) inserting the definition of the term “beneficiary” immediately after the definition of the term “Authority”—

“beneficiary” means a dependant, a person nominated by the member in writing or any other person other than a member entitled to receive a benefit;

(b) deleting the definition of the term—

(i) “existing schemes” and inserting therefor the following new definition—
“existing scheme” means the Local Authorities Provident Fund, the Local Authorities Pension Trust, the Local Authorities Pension Trust (Defined Benefits) Scheme and the Local Authorities Pension Trust (Umbrella) Retirement Fund;

(ii) “income drawdown” and inserting therefor the following new definition—

“income drawdown” means an arrangement that allows a member of a retirement benefits scheme to access his or her accumulated retirement benefits as a regular income through reinvesting his or her benefits from an income drawdown fund registered by the Retirement Benefits Authority;

(iii) “member” and inserting therefor the following new definition—

“member” means an eligible member of a county assembly who has become a member of the Scheme and includes a person entitled to or receiving a benefit under the Scheme;

(iv) “normal retirement age” and inserting therefor the following new definition—

“normal retirement age” means the age of sixty years or such other age set out in written law or applicable policy;

(v) “spouse” and inserting therefor the following new definition—

“spouse” means a husband or a wife;

r) Amend the long title

THAT the Bill be amended by deleting the long title and substituting therefor the following new long title—

AN ACT of Parliament to: provide for a contributory pension scheme for members of county assemblies; establish a county assemblies pensions fund for the payment or granting of pensions or retirement benefits to members of county assemblies; and other related matters.

MIN/SEN/SCLSW/300/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/301/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 10.49 a.m.

SIGNED..........DATE Tuesday, 3rd September, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE FORTY-SEVENTH (47TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM 7, FIRST FLOOR, BUNGE TOWER ON WEDNESDAY, 14TH AUGUST, 2024 AT 11.00 A.M.

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member |
| 5. Sen. Crystal Asige, MP | - Member |

APOLOGIES

- | | |
|--|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Mohamed Mwinyihaji Faki, CBS, MP | - Member |
| 3. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 4. Sen. Gloria Orwoba, MP | - Member |

SECRETARIAT

- | | |
|------------------------|--------------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Mr. Reinhardt Choge | - Clerk Assistant III |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Ms. Nigma Adow | - Research Officer III |
| 5. Ms. Ndindi Kibathi | - Research Officer III |
| 6. Mr. Francis Mutulu | - Media Relations Officer |
| 7. Ms. Joy Kyallo | - Parliamentary Budget Officer |
| 8. Ms. Swaluha Yusuf | - Public Relations Officer |
| 9. Mr. John Pere | - Sergeant at Arms |
| 10. Mr. Joseph Otieno | - Audio Officer |

MIN/SEN/SCLSW/287/2024: PRAYERS

The Chairperson called the meeting to order at 11.28 am followed by a word of prayer and introductions.

MIN/SEN/SCLSW/288/2024: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mbugua, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 32nd, 41st, 43rd and 44th Sittings of the Committee;
4. Matters arising;
5. Consideration and adoption of the report on the County Assemblies Pension Bill, 2024 (Senate Bills No. 14 of 2024);
6. Consideration of Pending Legislative Business before the Committee (Committee Paper 70);
 - a) Briefing on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024);
 - b) Briefing on the Sports Amendment Bill, 2024 (Senate Bills No. 33 of 2024);
 - c) Briefing on the Petition by Sen. Okoiti Omtatah, MP, regarding compensation of police officers injured in the line of duty;
 - d) Consideration of the Legislative Proposal on the National Employment Authority (Amendment) Bill, 2024;
7. Any Other Business; and
8. Adjournment.

MIN/SEN/SCLSW/289/2024 CONFIRMATION OF MINUTES OF THE 32ND, 41ST, 43RD AND 44TH SITTINGS OF THE COMMITTEE

The Agenda item was deferred to a later meeting.

MIN/SEN/SCLSW/290/2024 CONSIDERATION AND ADOPTION OF THE COUNTY ASSEMBLIES PENSION BILL, 2024 (SENATE BILLS NO. 14 OF 2024)

The Agenda item was deferred to the next meeting.

MIN/SEN/SCLSW/291/2024 CONSIDERATION OF PENDING LEGISLATIVE BUSINESS BEFORE THE COMMITTEE (COMMITTEE PAPER 70)

- a) Presentation on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)
 1. Members were briefed on above Bill, sponsored by the Senate Majority Leader which was published on 12th July, 2024 as an ordinary bill, and read a first time on 1st August, 2024.
 2. The principal object of the Bill is to provide for the establishment of regulatory mechanisms at the national and county levels which oversee the conduct of fundraising appeals, to provide for the licensing and regulation of fundraisers; the

promotion of transparency and accountability in the conduct of fundraising appeals and also the regulation of the conduct by State and public officers in the participation in public fundraising appeals and in the administration of this legislation.

3. The Committee was informed that the advert inviting members of the Public to submit written submissions and for a public hearing had already been put in the Daily Nation and the Standard, and letters to targeted stakeholders make their submissions were being processed to appear before the Committee on Monday, 26th August, 2024.

b) Briefing on the Sports Amendment Bill, 2024 (Senate Bills No.33 of 2024)

Members were informed that the Bill was read a first time on 8th August, 2024 and the Secretariat were processing the advert inviting members of the Public and targeted stakeholders to make submissions on the Bill on Thursday, 5th September, 2024.

c) Briefing on the Petition by Sen. Okoiti Omtatah, MP, regarding compensation of police officers injured in the line of duty

1. The Committee deliberated on the Petition by Sen. Okoiti Omtatah, MP regarding the compensation of Police Officers injured in the line of duty, which was referred to the Committee on Wednesday, 24th July, 2024 and noted the following –
 - (i) That the House adopted a Motion on Wednesday, 24th July, 2024, on the Current State of the Nation where it tasked the Standing Committee on National Security, Defense and Foreign Relations, in the Security Sector reforms, among other duties, to engage the National Police service to fast-track insurance compensation to police officers who either lost their lives or suffered injuries, as a result of the demonstrations; and
 - (ii) The Standing Committee on National Security, Defense and Foreign Relations have started proceedings on the same.
2. The Committee therefore resolved that for neater handling of the matter, the Standing Committee on National Security, Defense and Foreign Relations should handle the Petition.

d) Consideration of the Legislative Proposal on the National Employment Authority (Amendment) Bill, 2024

1. The Committee considered the legislative proposal was sponsored by Sen. Maureen Tabitha Mutinda whose main purpose is to provide for the decentralization of the authority to establish branches in counties in Kenya, noted that this was already catered for in existing legal frameworks; and

2. The Committee resolved to notify the Speaker that the amendment sought in the National Employment Authority Bill, 2024 has been taken care of in existing legal frameworks.

MIN/SEN/SCLSW/292/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/293/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.40 p.m.

SIGNED..........DATE Tuesday, 3rd September, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

APPENDIX 2

SPECIAL ISSUE

Kenya Gazette Supplement No. 133 (Senate Bills No. 36)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 12th July, 2024

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**THE PUBLIC FUNDRAISING APPEALS BILL,
2024**

ARRANGEMENT OF CLAUSES

Clause

PART I - PRELIMINARY

- 1— Short title.
- 2— Interpretation.
- 3— Objects.

**PART II – REGULATION OF FUNDRAISING
APPEALS**

- 4— Functions of the Cabinet Secretary.
- 5— Reports of the Cabinet Secretary.
- 6— Role of a county executive committee member.
- 7— Submission of report to county assembly.

PART IV – FUNDRAISING APPEALS

- 8— Non-application of Part to private fundraising appeals.
- 9— Classification of fundraising appeals.
- 10— Conduct of fundraising appeals.
- 11— Exemptions.
- 12— Persons who may conduct a fundraising appeal.
- 13— State and appointed public officers not to participate in or conduct a fundraising appeal.
- 14— Application for a permit.
- 15— Urgent applications.
- 16— Consideration of application.
- 17— Prohibition of bribes, gifts and other inducements.
- 18— Requirement for consent.
- 19— Issuance of permit.
- 20— Duration of permit.
- 21— Refusal to issue a permit.

- 22— Conditions of issuance of a permit.
- 23— Grounds for cancellation of a permit.
- 24— Notice of non-compliance.
- 25— Revocation of a permit.
- 26— Duties of a fundraiser on cancellation.
- 27— Register of permitted fundraising appeals.
- 28— Alteration of register.
- 29— False statements.
- 30— Receipts.
- 31— Maximum expenditure.

**PART IV — RECORDS AND ACCOUNTS OF A
FUNDRAISING APPEAL**

- 32— Financial records of a fundraising appeal.
- 33— Other records relating to a fundraising appeal.
- 34— Storage of records.
- 35— Duty to provide reports and information.
- 36— Declaration of source of contribution.
- 37— Inspectors.
- 38— Conduct of inspections.
- 39— False information in conducting a fundraising appeal.
- 40— Misappropriation of funds.

PART V — MISCELLANEOUS PROVISIONS

- 41— Fiscal incentives.
 - 42— Decentralisation of services.
 - 43— General penalty.
 - 44— Regulations.
 - 45— Extension of time.
 - 46— Repeal of Cap. 106.
 - 47— Transitional provisions.
-

THE PUBLIC FUNDRAISING APPEALS BILL, 2024

A Bill for

AN ACT of Parliament to provide a framework for the regulation in the conduct of public fundraising appeals; to promote transparency and accountability in the carrying out of fundraising appeals to foster greater philanthropy; to regulate the conduct of public officers in relation to public fundraising appeals; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Public Fundraising Appeals Act, 2024. Short title.

2. In this Act unless the context otherwise requires — Interpretation.
“beneficiary”, in relation to a fundraising appeal, means —

(a) any person, class of persons or cause listed as beneficiary by the person conducting the appeal when applying for registration; or

(b) any person who is acting on behalf of such a person, cause or class of persons referred to under paragraph (a);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to planning and social development;

“county executive committee member” means the county executive committee member in each county for the time being responsible for matters relating to planning and social development;

“county register” means the register which a county executive committee member is required to keep under section 35;

“fundraising appeal” has the meaning assigned to it under section 9;

“fundraising manager” means a person who is licensed under section 21 to conduct a fundraising appeal and who has the managerial or financial responsibility in relation to the appeal; and

“national register” means the register kept and maintained by the Cabinet Secretary under section 27.

- 3.** The objects and purposes of this Act are to —
- (a) provide a regulatory framework for —
 - (i) the structured conduct of fundraising appeals; and
 - (ii) ensuring transparency and accountability in the conduct of fundraising appeals;
 - (b) protect the public from fraudulent, misleading and coercive fundraising appeals and provide a framework to ensure that the public has sufficient information to make informed decisions in making voluntary contributions in accordance with this Act;
 - (c) establish a framework of standards for persons and entities involved in the conduct of fundraising appeals; and
 - (d) provide a platform for the provision of fiscal incentives as a means of encouraging donations and voluntary contributions in relation to fundraising appeals.

Object and purposes of the Act.

PART II- REGULATION OF FUNDRAISING APPEALS

- 4.** (1) The Cabinet Secretary shall oversee the implementation of this Act and shall, for this purpose —
- (a) collaborate with county executive committee members in the performance of their functions under this Act;
 - (b) oversee the conduct of public fundraising appeals national appeal or is publicly made to members of the public in more than one county;
 - (c) receive, vet and process applications for the issuance of a permit to conduct a public fundraising appeal where such appeal is a national appeal or is publicly made to members of the public in more than one county;

Functions of the Cabinet Secretary.

- (d) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a fundraising appeals under this Act;
- (e) conduct inspections of records and audits relating to fundraising appeals conducted under this Act;
- (f) maintain a national register of persons licensed by it to conduct a public fundraising appeal under this Act;
- (g) establish mechanisms to enable the transparent conduct of fundraising appeals under this Act and accountability on the part of the persons conducting the appeals;
- (h) carry out sensitization and education awareness regarding the conduct of fundraising appeals;
- (i) promote the establishment of endowment funds and such other funds and investments that may provide sustained incomes for the benefit of the public;
- (j) monitor the implementation of, and enforce the provisions of, this Act; and
- (k) perform such other functions as may be necessary for the implementation of the provisions of this Act.

(2) The Cabinet Secretary shall have all the powers necessary for the proper discharge of its functions under this Act and without prejudice to the generality of the foregoing, shall have the power to —

- (a) require any information from any person conducting or intending to conduct a fundraising appeal under this Act;
- (b) require at any time, before the issuance of a permit and at any time after being issued with a permit, such information as it may consider necessary; and
- (c) monitor the compliance, by persons to whom a permit is issued under this Act, of the provisions of this Act.

(3) The Cabinet Secretary may, for the effective implementation of this Act, designate a public officer to

serve as a Registrar for the implementation of the functions under subsection (1).

5. The Cabinet Secretary shall not later than three months after the end of each financial year prepare and submit, for tabling before Parliament a report containing information including a comprehensive statement of the purpose of the appeals, the public funds raised and the monetary value of all the donations received by beneficiaries through fundraising appeals.

Reports of the
Cabinet Secretary.

6. (1) The county executive committee member in each county shall be responsible for the administration of this Act in the respective county.

Role of a county
executive
committee
member.

(2) Notwithstanding the generality of subsection (1), the county executive committee member shall –

- (a) receive, vet and process applications for the issuance of a permit to conduct a public fundraising appeal within the county;
- (b) regulate the conduct of public fundraising appeals within the county;
- (c) investigate any complaints, misuse of funds raised through a fundraising appeal or any issue relating to the conduct of a public fundraising appeal under this Act within the county;
- (d) carry out inspections of records and audits relating to a public fundraising appeal conducted under this Act;
- (e) maintain a register of all permits issued to a person conducting a public fundraising appeal under this Act;
- (f) monitor and evaluate the conduct of fundraising appeals within the county; and
- (g) perform such other functions as may be necessary for the implementation of this Act.

(3) The county executive committee member shall have all the powers necessary for the proper discharge of the functions under this Act and without prejudice to the generality of the foregoing, shall have the power to –

- (a) oversee the conduct of fundraising appeals carried out under this Act within the county;

- (b) require any information from any person conducting or intending to conduct a fundraising appeal under this Act;
- (c) require at any time, before the issuance of a permit and at any time after being issued with a permit such information as it may consider necessary; and
- (d) monitor the compliance, by persons licensed under this Act, of the provisions of this Act.

(4) The county executive committee member may designate such public officers as may be necessary for the performance of the functions under subsection (2).

7. The county executive committee member shall prepare an annual report on the activities relating to fundraising appeals conducted within the county and submit the report to the County Assembly.

Submission of report to County Assembly.

PART III—FUNDRAISING APPEALS

8. The provisions of this Part shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary’s nuclear family or relatives and does not extend to members of the public.

Non-application of Part to private fundraising appeals.

9. Fundraising appeals shall be classified as —

Classification of fundraising appeals.

- (a) public fundraising appeal which shall consist of solicitations made to members of the public or a section of the public for a public or private benefit; and
- (b) private fundraising appeal which shall consist of solicitations made by a person or class of persons on behalf of a person or class of persons to the members of the family of, or relatives of such person for the benefit of such person.

10. (1) A person conducts a fundraising appeal if the person solicits or receives money or a benefit on the basis of a representation that —

Conduct of fundraising appeal.

- (a) the soliciting or receiving of the money or benefit is not solely for the profit or commercial benefit of that person or any other person or cause on whose behalf the person is soliciting or receiving the money or benefit; or

(b) the money or benefit is to be utilised for public good.

(2) A person who solicits or receives money or a benefit under subsection (1) conducts a fundraising appeal whether or not—

- (a) such person made the representation;
- (b) the representation made under subsection (1) was direct or indirect;
- (c) the money or benefit, or such proportion of the money or benefit is applied for the benefit of the person or cause on whose behalf it is solicited or received;
- (d) such person solicits or receives the money or benefit as an ongoing activity or in relation to a particular period of time;
- (e) such person solicits or receives the money or benefit as a volunteer or is paid for doing so.

11. Despite the provisions of section 10, the following activities do not constitute a fundraising appeal for the purposes of this Act—

Exemptions.

- (a) soliciting or receiving any money or benefit in relation to any raffle, lottery or other activity authorised or permitted under the Betting, Lotteries and Gaming Act or any other relevant law;
- (b) money or property collected by or under the authority of a recognized representative of a religious association registered under the Societies Act for normal collections such as tithes and offerings or the purpose of carrying out developments or projects for the benefit of the association;
- (c) soliciting a person to become a member of an organisation or to pay the joining or membership fee of an organisation;
- (d) the soliciting or receipt of any money or benefit by, or on behalf of, an organisation from a person—

Cap. 131.

- (i) who is, or was, a member of the organisation;
or
- (ii) who is in the process of becoming a member
of the organisation; or
- (iii) who is a relative of, or who is personally
acquainted with, any person referred to in
subparagraph (i) or (ii)—

even if the money or benefit is solicited or received on
the basis that it will be applied for purposes other than the
benefit of the organisation;

- (e) soliciting or receiving money or a benefit
exclusively or predominantly from among people
sharing a common employer or principal or place
of work if the soliciting or receiving —
 - (i) is carried out by one of those people; and
 - (ii) is made on the basis of a representation that
the money or benefit will be applied for a
benevolent or philanthropic purpose
connected directly with another of those
people or with the immediate family of
another of those people;
- (f) soliciting or receiving money or a benefit—
 - (i) from the National Government, a county
government or a state agency;
 - (ii) for or on behalf of a public benefits
organisation registered under the Public
Benefits Organisations Act, a corporation,
partnership or trust that is permitted to donate
money or benefits for non-profit or non-
commercial purposes by its memorandum of
incorporation, articles of association,
partnership agreement, trust deed or other
empowering document; and
- (g) any other activity that the Cabinet Secretary may
prescribe.

12. (1) An individual person or a body corporate or an
entity registered as a public collection entity under this Act
may conduct a fundraising appeal under this Act.

Persons who may
conduct a
fundraising
appeal.

(2) A public collection entity may, from time to time, conduct fund raising appeals for a public purpose or on behalf of beneficiaries under this Act and may, for that purpose, receive money on behalf a beneficiary or for an intended public purpose under this Act.

(3) A person may make an application to the Cabinet Secretary or the respective county executive committee member to be registered as a public collection entity for the purpose of conducting fundraising appeals within the county under this Act.

(4) The provisions of section 21 shall apply to the consideration of an application submitted to the county committee under subsection (3).

(5) The obligations imposed on a fundraising manager under this Act shall apply to a public collection entity registered under this Act.

(6) In this section, “public purpose” means —

- (a) the advancement of community welfare including the relief of those in need by reason of youth, age, ill-health, gender, disability or any other interest ;
- (b) the advancement of community development, including agriculture, water sanitation, rural or urban livelihoods and regeneration;
- (c) the promotion of health, including the prevention or relief of sickness, disease or human suffering;
- (d) the advancement of conflict resolution or reconciliation;
- (e) the integration of those who are marginalized, and the promotion of their full participation, in society;
- (f) the promotion of economic, environmental, social or cultural development;
- (g) the promotion of education
- (h) disaster prevention, preparedness and mitigation; and
- (i) advocating on issues of general public interest or the interest or well-being of the general public or a class of individuals or organizations.

(7) The Cabinet Secretary may, in consultation with the county executive committee members, make Regulations for the registration of public collection entities under this Act.

13. (1) A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a State officer.

State officers are not to participate in or conduct a fundraising appeal.

(2) A person who intends to vie for a public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.

(3) A person who contravenes the provisions of this section shall be liable to a fine not exceeding five million shillings.

(4) The conduct by a person under subsection (2) shall be deemed to constitute an election offence.

14. (1) A person shall not conduct a public fundraising appeal unless the person has applied for, and obtained, a permit in accordance with the provisions of this Act

Application for a permit.

(2) A person who intends to conduct a public fundraising appeal shall submit to the Cabinet Secretary or the respective county executive committee member, as the case may be, an application for a permit at least fourteen days before the date for the conduct of the fundraising appeal.

(3) An application under subsection (2) shall be in such form as the Cabinet Secretary shall prescribe and shall be submitted together with the following information —

- (a) the full names and address of the person intending to conduct the fundraising appeal;
- (b) the purpose of the fundraising appeal;
- (c) the necessity of conducting the fundraising appeal;
- (d) the date on which the fundraising is to be conducted;
- (e) the names and contact details of the persons assisting in conducting the appeal;
- (f) the amount intended to be raised through the appeal;

- (g) the estimated expenses to be incurred in conducting the fundraising appeal;
 - (h) a statement regarding whether any monies have been received with respect to the matter pertaining to the fundraising appeal from any person prior to the date of the proposed fundraising appeal;
 - (i) the place at which the collection is intended to be made;
 - (j) the expected timeframe for the appeal; and
 - (j) such other information as may be necessary.
- (4) Where an applicant for a permit under subsection (2) is not the intended beneficiary of the fundraising appeal, the application shall be submitted together with —
- (a) the name of every person on whose behalf the person intends to conduct a fundraising appeal;
 - (b) the common features shared by the class of persons for whose benefit the person intends to conduct a fundraising appeal, and the means by which the money or benefit is to be transmitted to that class or is to be distributed among the individual members of that class;
 - (c) if any intended appeal is not to be conducted for the immediate direct benefit of one or more people, a description of the cause for which the appeal is to be conducted, and the means by which the money or benefit will be applied to the cause;
 - (d) in the case of —
 - (i) an adult who is the intended beneficiary, the consent of such adult;
 - (ii) an adult who is the intended beneficiary but who lacks legal capacity to consent, the consent of a legally appointment guardian; or
 - (iii) a child who is the intended beneficiary, the consent of the parents or guardian of the child;
 - (e) a declaration that the intended fundraising appeal does not violate the provisions of the Public Officer Ethics Act, the Elections Act or the provisions of any other written law.

(5) Where the intended beneficiary of a fundraising appeal is an organisation or the members of such organisation, an application for a permit under subsection (2) shall be submitted together with the consent of a duly authorised representative of the organisation.

15. (1) The Cabinet Secretary or respective county executive committee member may dispense with the period specified under section 16(2) where they are satisfied that special circumstances exist to warrant the exemption.

Urgent applications.

(2) An application submitted under subsection (1) shall contain a statement specifying the special circumstances warranting the application.

(3) The Cabinet Secretary or county executive committee member shall consider the application and may, in granting a permit, impose such conditions as the committee considers appropriate.

16. (1) The Cabinet Secretary or county executive committee member shall, within ten days upon receipt of an application under section 16—

Consideration of application.

- (a) examine the documents submitted to it; and
- (b) if it considers it necessary, call for such further information or consent or carry out such a query as it may consider necessary for the determination of the application.

17. (1) A Cabinet Secretary, county executive committee member or public officer shall not solicit or receive any inducement to process an application made under this Act or receive not receive any gift or favour from a person in respect of whom a permit is considered.

Prohibition of bribes, gifts and other inducements.

(2) A person who solicits, receives or offers a bribe or any other inducement under subsection (1) for purposes of having an application considered positively commits an offence.

18. (1) The Cabinet Secretary or county executive committee member may require a person to submit, together with an application for a permit, any consent required by another person or body to enable the Cabinet Secretary or county executive committee member to obtain from that other person or body information to check or confirm any information set out in the application.

Requirement for consent.

(2) A reference in this Part to seeking further information in relation to an application includes a reference to requiring the provision of any consent referred to in subsection (1).

19. Where the Cabinet Secretary or county executive committee member is satisfied that the applicant meets the requirements for the issuance of a permit, the committee may, subject to the provisions of this Act, —

Issuance of a permit.

- (a) issue to the applicant, a permit under this Act within ten days of receipt of the application; and
- (b) enter the name of the applicant, the beneficiary and such other particulars in relation to the fundraising appeal as it may consider necessary in the register of fundraising appeals kept for that purpose.

20. (1) The Cabinet Secretary or county executive committee member shall issue to an applicant one permit in relation to the conduct of each fundraising appeal under this Act.

Duration of permit.

(2) A permit issued under subsection (1) shall, unless otherwise specified by the Cabinet Secretary or county executive committee member, automatically expire upon the conduct of the fundraising appeal to which the permit issued relates.

(3) Notwithstanding subsection (2) the expiry of the permit shall not relieve the person from the obligations imposed under this Act.

21. (1) The Cabinet Secretary or county executive committee member may refuse to issue to an applicant, a permit to conduct a fundraising appeal where —

Refusal to issue a permit.

- (a) the application for a permit does not comply with this Act;
- (b) the applicant —
 - (i) is an undischarged bankrupt;
 - (ii) has been found guilty of an offence under this Act;
- (c) the application for a permit contains false or misleading information;

- (d) there are significant omissions in the application for a permit or the application is incomplete in a significant way;
- (e) the consent of a beneficiary of an intended appeal has not been supplied;
- (f) in the case of an intended appeal on behalf of a class of beneficiaries, the description of the class is too vague, or the class is insufficiently identified; or
- (g) the purpose for which the fundraising appeal is to be conducted is unlawful or incompatible with public interest.

(2) The Cabinet Secretary or county executive committee member may refuse to issue a permit to a person as a fundraising manager if any person named in the application as a fundraising manager is not, in their opinion, a fit and proper person to be associated with a fundraising appeal.

(3) In the case of a refusal, the Cabinet Secretary or county executive committee member shall notify the applicant in writing of the refusal within three days of the decision.

(4) The Cabinet Secretary or county executive committee member shall, where he or she refuses to issue a permit to a person, specify the reasons for such refusal in the notification issued to the applicant under subsection (3).

22.(1) The relevant Cabinet Secretary or county executive committee member may, in issuing a permit to an applicant under section 19 impose such conditions on the applicant in relation to the conduct of the fundraising appeal.

Conditions of issuance of a permit.

(2) The Cabinet Secretary or county executive committee member may, from time to time, issue guidelines relating to the imposition of conditions under subsection (1).

23. The Cabinet Secretary or county executive committee member may, subject to the provisions of section 24, cancel a permit issued under this Act where —

Grounds for cancellation of a permit.

- (a) it has reasonable cause to believe that the fundraising appeal is likely to be pursuing an unlawful cause or purpose prejudicial to the peace, welfare or good order of the public;
- (b) the person conducting the fundraising appeal fails to comply with the provisions of this Act;
- (c) the person to submit any additional information that the Cabinet Secretary or county executive committee member may require under this Act to ensure compliance with this Act;
- (d) the Cabinet Secretary or county executive committee member determines that the person submitted false information or statements at the time of application for a permit; or
- (e) the Cabinet Secretary or county executive committee member determines that the permit was obtained fraudulently or through a misrepresentation of facts.

24. (1) The Cabinet Secretary or county executive committee member shall, before cancelling the permit under section 23 issue to the person, a compliance notice in the prescribed form.

Notice of non-compliance.

(2) A compliance notice specified under subsection (1) shall—

- (a) be in writing;
- (b) notify the licensed person of the noncompliance and the steps it is required to take in order to comply; and
- (c) inform the person of the time period within which it is required to comply with the notice.

(3) The Cabinet Secretary or county executive committee member may, upon request by the person under subsection (1) and where there are sufficient grounds shown by the person, extend the period of compliance for such period as it may consider necessary to ensure compliance.

25. (1) Where a person receives a notice under section 24 and fails to comply with such notice, the Cabinet Secretary or county executive committee member shall —

Cancellation of a permit.

- (a) cancel the permit;
- (b) notify the person in writing of —
 - (i) the cancellation and the reasons for it; and
 - (ii) the date on which the permit was cancelled; and
- (c) amend the register accordingly.

(2) For purposes of this Act, a cancellation of a permit takes effect on the date on which the permit is cancelled by the Cabinet Secretary or county executive committee member.

26. Where the Cabinet Secretary or county executive committee member cancels the permit of a person, such person —

Duties of a fundraiser on cancellation.

- (a) shall stop any fundraising activities that the person was undertaking immediately before the revocation took effect;
- (b) Cabinet Secretary or county executive committee member, pay out, or otherwise distribute or deal with, any asset obtained as a result of any fundraising appeal that the person conducted while registered as a fundraiser;
- (c) shall submit to the Cabinet Secretary or county executive committee member as the case may be, an inventory of the assets of any fundraising appeal being conducted by the person within seven working days of the revocation; and
- (d) subject to paragraph (c), shall ensure that any assets obtained as a result of the appeal are distributed as soon as is practicable to the intended beneficiaries of the appeal.

27. (1) The Cabinet Secretary or county executive committee member shall keep and maintain a register of —

Register of permitted fundraising appeals.

- (a) all persons to whom permits have been issued to conduct a fundraising appeal in the county;
- (b) all persons whose permit has been cancelled; and
- (c) such other particulars as may from time to time be considered necessary.

(2) Any person may inspect the register and obtain a copy of, or an extract from the Cabinet Secretary or county

executive committee member upon payment of such administrative fee to meet the cost of availing that information to the applicant as the Cabinet Secretary or county executive committee member shall determine.

28. (1) Each Cabinet Secretary or county executive committee member shall ensure that the integrity of the register under its custody is maintained at all times.

Alteration of register.

(2) A person who falsifies an entry in a register or wrongfully alters an entry in the register commits an offence.

29. If an application made under section 16 or pursuant to section 20 contains any matter which is false in any material fact known to any person signing it, that person commits an offence.

False statements.

30. (1) A person who conducts a public fundraising appeal shall keep accurate records of the funds or benefits received.

Receipts.

(2) A person conducting a fundraising appeal shall, upon request, give a receipt to a person making a monetary contribution.

(3) A receipt issued under subsection (1) shall be in such form and contain such information as the Cabinet Secretary shall prescribe.

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

Maximum expenditure

PART IV — RECORDS AND ACCOUNTS OF A FUNDRAISING APPEAL

32. (1) Every person who conducts a fundraising appeal shall keep a record reflecting the income and expenditure relating to the appeal including —

Financial records of a fundraising appeal.

- (a) details of the persons who make contributions in relation to the fundraising appeal and the amounts contributed by each person;
- (b) the name, number and address of the bank into which the monies raised in relation to the fundraising appeal were deposited;
- (c) full details of all funds and assets received as a result of the appeal;

- (d) full details of the use to which the funds and assets received were put to;
- (e) full details of—
 - (i) the amount applied to the purposes or objects of the appeal and how it was distributed;
 - (ii) any expenditure on assets;
 - (iii) any expenditure on wages, salaries, commissions and other remuneration in relation to the appeal;
 - (iv) any other administrative expenses related to the appeal;
 - (v) any other expenditure related to the appeal; and
 - (vi) such other information as the Cabinet Secretary or county executive committee member may determine.

(2) The person conducting an appeal shall ensure that the records are kept in a way that enables them to be conveniently and properly audited.

(3) The person conducting the appeal shall ensure that accounts containing a summary of the records required by subsections (1) are finalised within three months of—

- (a) the date the appeal ends, if the appeal runs for six months or less; or
- (b) after every six months if the appeal runs for more than six months.

(4) For the purposes of this section, an appeal ends on the occurrence of the first of these events—

- (a) if the appeal is being conducted by a person whose permit has been cancelled, on the date of the cancellation of the permit;
- (b) in any other case, one month after the last significant solicitation for money or a benefit is made in relation to the appeal.

(5) Records relating to any proceeds received after the date an appeal ends but before the accounts for the last period of the appeal are finalised shall be included in those accounts.

(6) If the person who conducted an appeal continues to administer any funds or assets received as a result of an appeal after the appeal ends, the person shall ensure that accounts containing a summary of the records required under subsections (1) and (2) are finalised within one month of the receipt of the funds.

(7) A person to whom subsection (6) applies shall ensure that accounts containing a summary of the records required by subsections (1) and (2) are finalised within two months of the date the last of the funds or assets ceased to be administered by the person.

(8) A person who fails to comply with the provisions of this section commits an offence.

33. A fundraising manager shall keep the following records—

- (a) the name and address of each person who participates in the appeal as an assistant to the fundraising manager;
- (b) the name and address of each person who gained a financial advantage from the appeal, other than as a person for whose benefit the appeal was held or other than as a supplier of goods or services, and details of the reason for, and nature and amount of, that financial advantage;
- (c) the—
 - (i) name and address of every person; or
 - (ii) name or description of every class of people on whose behalf the appeal was made;
- (d) copies of the consents required under this Act, where applicable;
- (e) the dates on which the appeal started and finished;
- (f) any other records that may be specified by the Cabinet Secretary or county executive committee member.

Other records relating to a fundraising appeal.

34. (1) A fundraising manager shall ensure that any records or accounts that the person is required to keep under this Part are stored at all times at the address or the registered office or principal place of business of the person or of the designated person.

Storage of records.

(2) A person under section (1) shall keep and maintain the records or accounts of a fundraising appeal for a period of at least three years after the date the appeal ends.

(3) A fundraising manager who fails to keep proper records in accordance with this section commits an offence.

35. (1) Every fundraising manager shall submit to the Cabinet Secretary or the respective county executive committee member a summary of the records pertaining to the fundraising appeal conducted by him or her and prepared under section 37 and the records kept by him or her under section 38 within thirty days from the date of the conduct of the appeal.

Duty to provide reports and information.

(2) Notwithstanding subsection (1), the Cabinet Secretary or the respective county executive committee member may require a fundraising manager to submit to it, such other information, record or document that it may require in order to enable the determination on whether the person has complied with the provisions of this Act.

(3) A person under subsection (2) shall submit the information or document required by the Cabinet Secretary or county executive committee member under subsection (2) within a period of seven days of such request.

(4) A person who fails to submit the records under subsection (1) or fails to comply with a request under subsection (2) commits an offence.

36. A person who –

Declaration of source of contribution.

- (a) who makes a contribution to a fundraising appeal shall specify the source of the contribution; and
- (b) receives funds as a beneficiary or for the benefit of a beneficiary who is a child pursuant to a fundraising appeal shall declare such contribution in the income tax returns submitted by such person pursuant to the Income Tax Act.

37. (1) The Cabinet Secretary or a county executive committee member may designate such public officers as inspectors for conduct an inspection in relation to fundraising appeal where necessary to ensure the effective implementation of this Act.

Inspectors.

(2) The Auditor General may carry out an inspection of the books and accounts in relation to a fundraising appeal carried out under this Act.

38. (1) An inspector may, at any reasonable time, enter and inspect the premises of a fundraising manager to ensure compliance with this Act.

(2) An inspection under subsection (1) shall not be conducted unless the inspector has, with the approval of the Cabinet Secretary or county executive committee member, issued to the fundraising manager, a notice of at least seven days prior to the carrying out of the inspection.

(3) An inspector may, in conducting an inspection under subsection (1) —

- (a) enter and inspect any books, records or documents required to be kept under this Act or relating to a fundraising appeal, expenditure or distribution of contributions;
- (b) inspect, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form; or
- (c) remove any document specified in paragraph (b), whether in its original form or as an electronic or paper copy.

(4) Where any original documents are removed from the premises of a fundraising manager under subsection (2)(c), the inspector who removes the documents shall —

- (a) leave at the entity or premises of the fundraiser, a list of the documents removed; and
- (b) return the documents, or a copy of them, to the centre as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the Cabinet Secretary or county executive committee member.

(5) Every inspector exercising any power under this section shall, at the time of inspection, possess the appropriate written authorisation, and evidence of identity, and shall produce them to the person in charge of the premises concerned or, as the case may be, the person having possession or control of the books, records, or accounts concerned —

- (a) on first entering the premises; and

(b) whenever subsequently reasonably required to do so by the person in charge.

(6) A person who obstructs an inspector in the conduct of an inspection commits an offence.

39. (1) A person who, in conducting or participating in a fundraising appeal, makes a false representation to the members of the public in soliciting for funds or makes a false statement to another person that misleads or deceives, or that is likely to mislead or deceive—

False information in conducting a fundraising appeal.

(a) the other person; or

(b) anyone else to whom the other person may make, repeat or give the representation or oral or written statement,

commits an offence.

(2) It shall be a defence for a person under subsection (1) to show —

(a) that they reasonably believed that the representation or statement was not misleading or deceptive, and was not likely to mislead or deceive; or

(b) that the statement was an accurate repetition of information supplied by another person, and that the person repeating or passing on the statement had no reasonable grounds to doubt that the information was true.

(3) Despite the provision of subsection (2) above, the person shall be required to surrender to the county executive committee member any collections or donation received in the course of the fundraising activity.

40. A person who applies the funds received pursuant to a fundraising appeal for a purpose other than which for which the appeal was held commits an offence.

Misappropriation of funds.

PART V - MISCELLANEOUS PROVISIONS

41. (1) The Cabinet Secretary shall, in accordance with the appropriate law, and in consultation with the Cabinet Secretary responsible for finance, grant to persons who make voluntary contributions pursuant to a fundraising appeal, such fiscal incentives on their contributions, as shall

Fiscal incentives.

be considered necessary for the advancement of voluntary contributions in the Republic.

(2) The Cabinet Secretary shall operationalize subsection (1) within sixty days of commencement of this Act.

42. The county executive committee member shall decentralise their services to the wards and village units established in accordance with section 48 of the County Governments Act.

Decentralisation
of services.

No. 17 of 2012.

43. A person who commits an offence under this Act for which no penalty is prescribed shall be liable, on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both.

General penalty.

44. (1) The Cabinet Secretary may, in consultation with the county executive committee members, make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may in consultation with the county executive committee members make regulations —

- (a) for the issuance of permits under this Act;
- (b) for adequate monitoring mechanisms to ensure transparency and accountability under this Act;
- (c) in consultation with the Cabinet Secretary responsible for finance, financial incentives in relation to activities and funds raised for a public purpose, from tax liabilities under this Act;
- (d) for the conduct of sensitization programmes and the publication and dissemination of information under this Act; and
- (e) for charges and fees to be paid to the relevant committee under this Act.

Cap. 2.

No. 23 of 2013.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the Cabinet Secretary to make regulations shall be limited to the implementation of the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

45. Where a period for performance of any action has been prescribed in this Act, a person may apply to the relevant committee, in the prescribed format, for extension of the timeline.

Extension of time.

46. The Public Collections Act is repealed.

Repeal of Cap. 106.

47. All directions, certificates of authority orders and approvals issued under the Public Collections Act and subsisting or valid immediately before the commencement of this Act, shall be deemed to have been given, issued or made under this Act.

Transitional provisions.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to provide for the establishment of regulatory mechanisms at the national and county levels which oversee the conduct of fundraising appeals, to provide for the licensing and regulation of fundraisers; the promotion of transparency and accountability in the conduct of fundraising appeals and also the regulation of the conduct by State and public officers in the participation in public fundraising appeals and in the administration of this legislation.

The Bill is developed against the need to maintain the altruistic rationale that public appeals (*Harambees*) serve in the Kenyan society while addressing the shortcomings that have accompanied this process.

The Bill seeks to replace the *Public Collections Act, Chapter 106, Laws of Kenya*, whose institutional architecture does not align with the devolved structures of the Kenyan constitution and is not sufficiently robust to address corruption tendencies associated with public fundraising appeals. Further, the Public collections Act excludes from its purview, charitable and religious purposes yet this forms a large component of harambees.

The Bill is also based on the need to reduce the culture of dependency that harambees have imbued in society, extending even essentially private affairs to the larger public. The Bill seeks to restrict its application to private fundraising appeals except where such appeals fall within public appeals for public purposes. Its passage will promote the use of devolved structures as entities for promoting structured social development by ensuring that the conduct of public appeals are approved by assessing their links to the needs and priorities of the counties and their decentralized structures.

To support voluntary contributions, it is imperative that the state grants incentives to such givers. The current regulatory regimes are limited in their financial incentives and essentially excludes private individuals. This Bill will provide frameworks within which financial incentives can be issued to voluntary contributions.

The Bill-

- (a) confers functions on the relevant Cabinet Secretary and the respective county executive committee members functions in relation to the issuance of permits, regulates and monitors the conduct of fundraising appeals and establishes mechanisms for the promotion of transparency and accountability in the conduct

of fundraising appeals at the National and county levels of government;

- (b) defines fundraising appeals, indicates who can undertake a fundraising appeal and lays out procedures for applying for permits, conditions to be fulfilled and consequences of not following these conditions;
- (c) defines and excludes private fundraising appeals from its provisions;
- (d) imposes obligations on State and public officers by limiting their participation in public fundraising appeals; and
- (e) stipulates records and accounts of fundraising appeals that must be retained.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does delegates legislative powers only to the extent of giving effect to the provisions of the Bill it does not limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill makes provision for regulation of fundraising appeals at the national and county levels of Government. The Bill therefore concerns county governments in terms of Article 110(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

The Bill is not a money bill within the meaning of Article 114 of the Constitution.

Dated 10th July, 2024.

AARON CHERUIYOT,
Senate Majority Leader.

APPENDIX 3



SIBO WATER AND SANITATION COMPANY LTD

SIBO HQS
Opp. Siaya Police Station
Off Siaya – Boro Road

P. O. BOX 214 – 40600 SIAYA
TEL: +254 715 500 071
FAX: +254 732 500 071
Email: info@sibowasco.co.ke

JOB OPPORTUNITY IN SIBO WATER & SANITATION COMPANY LIMITED

Siaya Boro Water and Sanitation Company Limited was established in 2006 under the Company's Act CAP 486, Laws of Kenya to provide clean, safe, affordable drinking water and Sanitation services in Siaya County. We are seeking to recruit exceptional employee with strong administrative, customer service oriented, organizational and leadership skills who seek to be part of result-oriented team.

MANAGING DIRECTOR - POSITION 1 (SIBO 7)

The Managing Director will report to the Company's Board of Directors based at the Company's Head Offices in Siaya Town. He/She will be responsible for efficient and effective management, planning, directing and controlling the operations of the Company to ensure that it effectively provides water and sanitation services in Siaya County and its environs.

Details of job description, responsibilities, academic & professional qualifications, experience and skills needed can be viewed and downloaded for free from the website address www.sibowasco.co.ke

How to Apply

Qualified and interested applicants may apply by enclosing a cover letter, a detailed resume, copies of academic and professional certificates, testimonials, names and addresses of three (3) referees (including telephone and email contacts). To the following contacts not later than **22nd August 2024**.

Chairman, Board of Directors
Siaya Boro Water & Sanitation Company Limited.
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PUBLIC AUCTION

Duly instructed by our clients, we shall sell by Public Auction the under mentioned properties together with all improvements thereon.

On WEDNESDAY, 20th AUGUST 2024 at Joyland Auctioneers Storage Yard situated at Kasoope, off Flagen Road.

1) All that piece of land known as **TITLE NO. KAPTAGAT/KAPTAGAT BLOCK 2 (MOSOP)/181, KENDA STAGEMATT-FLAX TRADING CENTER, ASIN GISHU COUNTY**. The property is situated within Flax Trading Centre about 2 kilometers to the north of Eldoret - Kaptagat Road in the neighborhood of Sibo Tea Factory in Mosop area of Laisan (Gishu County). The plot is demarcated with almost complete four storey commercial building. Flax Trading Center is about 100 meters from the road of Eldoret - Siaya Centre. The property measures approximately Zero Decimal Zero Four Square Decimals (0.044) of an area approximately.

2) L.R. NO. KITALA MUNICIPALITY BLOCK 2/ TUWAN/ 4632 & 4634 located in close proximity to each other along South Highway within Town area Kitala Town, Trans Nzoia county. It is approximately 800 meters North West of Kenyatta Stadium and about 2.2 kilometers North-West of Kenyatta Stadium and about 2.2 kilometers North West of Kitala Town Centre, & L.R. NO. KITALA MUNICIPALITY BLOCK 1/LESSOS/ 556, 605 & 606, LESSOS, TRANS NZOIA COUNTY, located adjacent to each other, along Kitala - Endebera - Suam Highway, within Lessos area in the outskirts of Kitala Town, Trans Nzoia County. It is approximately 900 Meters North West of Kenyatta Stadium and about 2.3 Kilometers North West of Kitala Town Centre.

L.R. NO. KITALA MUNICIPALITY BLOCK 2/ TUWAN/ 4632 measures approximately Nought Decimal Nought One Two Hectares (0.1227Ha). L.R. NO. KITALA MUNICIPALITY BLOCK 2/ TUWAN/4634 measures Nought Decimal Nought One Two Hectares (0.1227Ha). L.R. NO. KITALA MUNICIPALITY BLOCK 1/LESSOS/ 556 measures approximately Nought Decimal Nought Four Five Hectares (0.45Ha) & L.R. NO. KITALA MUNICIPALITY BLOCK 1/LESSOS/ 605 measures approximately Nought Decimal Nought Four Five Hectares (0.45Ha) & L.R. NO. KITALA MUNICIPALITY BLOCK 1/LESSOS/ 606 measures approximately Nought Decimal Nought Four Five Hectares (0.45Ha) or thereabouts.

CONDITIONS OF SALE.

- All interested purchasers are requested to view the property and verify all the details as these are not warranted by the auctioneer.
- The successful bidder must pay 25% of the purchase price at the fall of the hammer and the balance to be paid off within 90 days.
- Sale is subject to resale price.
- The auctioneer reserves the right to reject any bid without explanation.

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REPUBLIC OF KENYA THE NATIONAL ASSEMBLY THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION

AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

- THE SEXUAL OFFENCES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 78 OF 2023); AND
- THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2024).

INVITATION TO SUBMIT MEMORANDA

WHEREAS Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders require House Committees considering Bills to facilitate public participation;

AND WHEREAS the National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No. 24 of 2024) and the Sexual Offences (Amendment) Bill (National Assembly Bill No. 78 of 2023) were read a First Time and referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that—

- The Sexual Offences (Amendment) Bill (National Assembly Bill No. 78 of 2023) is sponsored by Hon. Doris Donyo Aburi, MP. The Bill seeks to amend the Sexual Offences Act, Cap. 63A to provide for promotion of national public awareness on sexual offences. Further, the Bill mandates the Cabinet Secretary responsible for education to establish programs to safeguard, protect and promote the right to education of victims of sexual offences, including victims of teenage pregnancies;
- The National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No. 24 of 2024) is sponsored by Hon. John Kiragu Chege, MP. The Bill seeks to amend the National Transport and Safety Authority Act, Cap. 404 to assign the function of overall responsibility for the safety of land transport, including transport by road, railway, pipeline, to the National Transport and Safety Authority. The Bill also seeks to create an integrated and unified approach to the regulation of the safety of various modes of transportation to promote efficiency.

NOW THEREFORE in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees listed below—

S/No.	BILL	COMMITTEE
1.	The Sexual Offences (Amendment) Bill (National Assembly Bill No. 78 of 2023)	Justice and Legal Affairs
2.	The National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No. 24 of 2024)	Transport and Infrastructure

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to crna@parliament.go.ke to be received on or before **Friday, 23rd August 2024 at 5.00 p.m.**

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

9th August 2024

"For the Welfare of Society and the just Government of the People"

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING

THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

The **Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)** was read a First Time in the Senate on Thursday, 1st August, 2024 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The principal object of the Bill is to provide a framework for the regulation of the conduct of public fundraising appeals (*harambees*). The Bill seeks to replace the Public Collections Act (Cap. 106) whose architecture does not fully comply with the Constitution of Kenya, 2010. The Act is also not sufficiently robust in addressing corruption tendencies that are sometimes associated with public fundraising appeals. Further, the Act excludes from its purview charitable and religious purposes, yet these form a large component of fundraising appeals.

The Bill therefore seeks to promote transparency and accountability in the carrying out of fundraising appeals, to provide for persons who may conduct fundraising appeals and to regulate the participation of State and public officers in fundraising appeals.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk_senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke and received on or before **Friday, 30th August, 2024 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Monday, 26th August, 2024 at 10.00 a.m.** in the **Mini Chamber, First Floor, County Hall Building, Nairobi**. Members of the public are welcome to attend this hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

MOTOR WEDNESDAY

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ODM top organ meets to replace leaders

Raila Odinga will today chair a meeting of the Central Management Committee.

There are reports that he initially pushed for consensus.

BRIAN OTENO, NAIROBI

Raila Odinga's Orange Democratic Movement (ODM) is today scheduled to pick replacements for party leaders who were appointed to President William Ruto's Cabinet.

Raila will chair a meeting of the Central Management Committee to pick interim officials ahead of elections to pick substantive office holders.

The positions up for grabs are two deputy party leaders, vacated by Cabinet Secretaries Hassan Joho (Mining) and Geoffrey Oparanya (Cooperatives) and the ODM chairperson that was held by John Mbadi (Treasury). The committee will also decide Energy Cabinet Secretary Opiyo Wanduyi's replacement as ODM secretary for political affairs.

Raila faces the tough task of fill-

ing the top leadership positions amid reports that he initially pushed for consensus.

Besides Nyanza, the former Western and Coast provinces are perceived ODM strongholds. With Raila's Nyanza backyard producing the party leader, the Central Management Committee is expected to balance the leadership positions across other strongholds.

The Standard has reliably established that Nairobi Senator Edwin Sifuna and Mombasa Governor Abdulsamad Shariff Nassir are the front runners in the race for deputy party leader posts.

They face competition from Governors Gladys Wanga (Homa Bay) and Simba Arati (Kisii). A section of women lawmakers recently lobbied to have Wanga picked to ensure gender equity. Sources told *The Standard* that the gender question was addressed when Suba North MP Millie Odhiambo was picked as National Assembly Minority Whip.

Similarly, insiders revealed that ODM could replace Sifuna with one of his deputies, Busia Women Representative Catherine Omanyo and Agnes Zani. Vihiga Senator Godfrey Osotsi, interested in the deputy party



ODM leader Raila Odinga and European Union Ambassador to Kenya, Henriette Geiger. Last month, he submitted his application for the top job at the African Union Commission. [Emmanuel Wansori, Standard]

leadership, could be prevailed upon to replace Sifuna.

Insiders said the party favoured returning the positions to regions that previously produced the occupants. The formula favours Sifuna and Nassir, who also enjoy Raila's trust to be his deputies. Sifuna has been the party's secretary general since 2018 and steered it to solidify support in Western in the 2022 General Election. Nassir, on the other hand, is Raila's loyalist and is considered an heir to Joho at the Coast. Kilifi Governor Gideon Mung'aro is also interested replacing Joho as deputy party leader.

There were concerns that moving Sifuna to the less visible deputy party leader position may seem like a demotion as he has been the face and voice of the party. "I can do just as well in any other role. The role is as good as the person occupying it," the Nairobi senator told *The Standard*.

If selected, the pair will be a step closer to the party leadership, with Raila expected to relinquish the position in February next year if he clinches the African Union Commission chairperson position. ODM's constitution requires the deputy party leader to act as leader in the absence of the top boss.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

THE TOBACCO CONTROL (AMENDMENT) BILL, 2024 (SENATE BILLS NO. 35 OF 2024)

The Tobacco Control (Amendment) Bill, 2024 (Senate Bills No. 35 of 2024) was read a First Time in the Senate on Tuesday, 6th August, 2024 and thereafter stood committed to the Standing Committee on Health for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The principal object of the Bill is to amend the Tobacco Control Act (Cap. 245A) to make further provisions on regulation of smoking and production and sale of tobacco products, including electronic nicotine delivery systems. The Bill aims to ensure that the advertising of tobacco products is regulated and that the sale of tobacco products, including electronic nicotine delivery systems, to persons under the age of eighteen years is prohibited. The Bill further seeks to regulate the promotion and advertising of tobacco products online or via any digital platform, including social media sites and video-sharing platforms. The Bill also seeks to ensure that no products, particularly electronic nicotine delivery systems, are manufactured, distributed, imported or sold in Kenya without the prior authorization of the Cabinet Secretary responsible for health.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Health now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to healthcommittee.senate@parliament.go.ke to be received on or before **Monday, 26th August, 2024 at 5.00 p.m.**

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND PUBLIC HEARING

THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

The Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) was read a First Time in the Senate on Thursday, 1st August, 2024 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The principal object of the Bill is to provide a framework for the regulation of the conduct of public fundraising appeals (*harambees*). The Bill seeks to replace the Public Collections Act (Cap. 106) whose architecture does not fully comply with the Constitution of Kenya, 2010. The Act is also not sufficiently robust in addressing corruption tendencies that are sometimes associated with public fundraising appeals. Further, the Act excludes from its purview charitable and religious purposes, yet these form a large component of fundraising appeals.

The Bill therefore seeks to promote transparency and accountability in the carrying out of fundraising appeals, to provide for persons who may conduct fundraising appeals and to regulate the participation of State and public officers in fundraising appeals.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke to be received on or before **Friday, 30th August, 2024 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Monday, 26th August, 2024 at 10.00 a.m.** in the **Mini Chamber, First Floor, County Hall Building, Nairobi**. Members of the public are welcome to attend this hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

APPENDIX 4

THE SENATE
RECEIVED

03 SEP 2024

DIRECTOR COMMITTEE SERVICES
(DGAC)



REPUBLIC OF KENYA



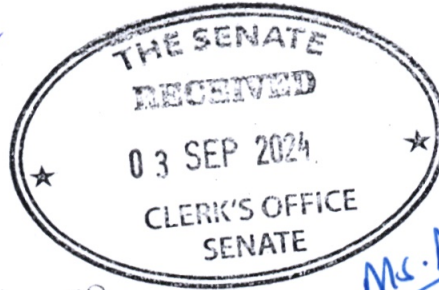
PUBLIC SERVICE COMMISSION

PSC/LEG/019/14/158 VIII/21

2nd September 2024

J. M. Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

*DLS
DSEC ✓
Kindly deal
03/09/2024*



*Ms. Mwanata
Kindly deal
04/09/2024*

Dear **Mr. Nyegenye,**

RE: MEMORANDUM BY THE PUBLIC SERVICE COMMISSION ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILL NO.36 OF 2024)

Reference is made to your letter dated 28th August, 2024 Ref. No: SEN/DSEC/SCLSW/2024/117 through which the Commission was requested to submit its written submissions on the above Bill on or before the 3rd September, 2024 in readiness for a meeting with the Senate Standing Committee on Labour and Social Welfare on 5th September, 2024 at 2.00pm.

In this regard, therefore, please find attached to this letter the Commission's Memorandum dated 2nd September 2024 on the subject Bill for the kind consideration by the said Standing Committee.

Yours **Sincerely,**

HAUL FAMBA, MBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION





PUBLIC SERVICE COMMISSION

Memorandum by the Public Service Commission on the The Public Fundraising Appeals Bill, 2024

The Senate, in a letter REF: SEN/DSEC/SCLSW/2024/117 dated 28th August, 2024 requested the commission to submit its views on the Public Fundraising Appeals Bill, 2024. The Commission was to submit the views by 3rd September, 2024 and appear before the Senate Standing Committee on 5th September, 2024.

Having reviewed the Bill in its entirety, the Commission agrees that the Bill will enhance transparency and accountability on the usage of funds collected through public fundraising appeals.

With regard public officers specifically, the Commission observes that this is already regulated by the Public Officer Ethics Act, 2003 and the Leadership and Integrity Act, 2012.

The Public Officer Ethics Act imposes a total ban on promotion of public collections by public officers whereas the Leadership and Integrity Act opens a window and prescribes the circumstances under which a State or public officer may engage in public collections.

The details on existing legislative provisions on public fundraising are as per the matrix below:

Clause	Provision in the Bill	Observation	Remarks
13	13. (1) A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during	<p>The clause proposes a total ban on participation in public fundraising by persons who are holding public office and those who intend to vie for elective posts in the next three years.</p> <p>This provision is in tandem with the one in the Public Officer Ethics Act, but at variance with the provision in the Leadership and Integrity Act.</p>	<p>Amend clause 13 to read as follows:</p> <p>A state or public officer shall not—</p> <p>a. use his or her office or place of work</p>

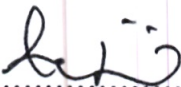
<p>his or her term as a State officer.</p> <p>(2) A person who intends to vie for a public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.</p> <p>(3) A person who contravenes the provisions of this section shall be liable to a fine not exceeding five million shillings.</p>	<p>The Public Officer Ethics Act</p> <p>19. (1) A state or public officer shall not—</p> <p>a. use his or her office or place of work as a venue for soliciting or collecting harambees; either as a collector or a promoter of collection harambee, obtain money or other property from a person by using his or her official position in any way to exert pressure;</p> <p>b. preside at a harambee, or play a central role in the organization of a harambee, or appear as a guest of honour at a harambee; or</p> <p>c. participate at a harambee in such a way as to reflect adversely on his integrity or impartiality or interfere with the performance of his or her duties.</p> <p>(2) For the purposes of this rule, "collection", "collector" and "promoter" have the same meanings as are assigned to them in section 2 of the Public Collections Act.</p> <p>The Leadership and Integrity Act</p> <p>18. (1) A State officer shall not solicit for contributions from the public for a public purpose <u>unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.</u></p> <p>(2) A State officer shall not participate in a public collection of funds in a way that reflects adversely on that State</p>	<p>as a venue for soliciting or collecting harambees; either as a collector or a promoter of collection of harambee, obtain money or other property from a person by using his or her official position in any way to exert pressure;</p> <p>b. preside at a harambee, or play a central role in the organization of a harambee, or appear as a guest of honour at a harambee; or</p> <p>c. participate at a harambee in such a way as to reflect adversely on his integrity or impartiality or interfere with the performance of his or her duties.</p>
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		<p>officer's integrity, impartiality or interferes with the performance of the official duties.</p> <p>Section 18(1) is at variance with Clause 13 of the Public Fundraising Appeals Bill, 2024</p>	<p>There should also be consequential amendment to the Section 18 of Leadership and Integrity Act so that there is harmony on all the legislation on the same subject matter</p>
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Conclusion

The Commission observes that the Bill proposes to bar public officers from participating in public collections. Public officers live in a society and may once in a while be called upon to contribute to some causes such as medical bills. The Commission is of the view that whereas the Bill should ban public officers from soliciting for funds using their office or presiding over harambees while in office, public officers, as members of society and communities, should be allowed to contribute to any fundraising appeals for good cause such as medical or educational purposes in their own personal capacity, using personal resources. Therefore, the text should be as it exists in the Public Officer Ethics Act, 2003.

DATED at NAIROBI this 2nd day of September, 2024.



.....
Amb. Anthony Muchiri
Chairperson, Public Service Commission

25/9/24

Date: September 3, 2024
To: The Clerk of the Senate



SUBJECT: OPPOSITION TO THE PUBLIC FUNDRAISING APPEALS BILL, 2024, WITH RECOMMENDATIONS FOR TARGETED REGULATION

Introduction

I, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While i acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, i believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. I advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

DSEC
ALS

Please deal.
Guleda
4/9/2024

Mr. Mwanate
Kindly deal.
Nkubani
04/09/2024



3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

- a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.
- b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- I urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

There are more pressing issues to discuss in the senate for example

- a. Introduce a law to consolidate all bursaries to go to the funding of education from Primary to University
- b. Anchor the right to free, quality education in the law, punishable by dissolving of government if the president is unable to provide free education.
- c. Create a law to ensure all children under 18 years have access to quality and free healthcare, punishable by resignation of the president if they are unable to provide healthcare.
- d. Create a law to punish government officials who don't provide supporting documents to Auditor general during audits.
- e. Introduce a law that provides for public participation to be part of the legislation process. If the majority agree to a bill it passes, if they don't it is dropped. Anchor public participation to be a mandatory process in any bill making.

In view of the above, I urge the Senate to completely drop this bill in its entirety.

Regards,

Concerned Citizen.



COUNCIL OF GOVERNORS



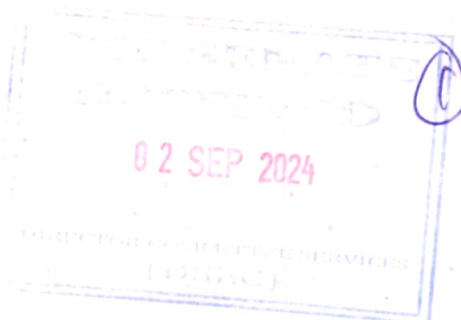
Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

Tel: (020) 2403314, 2403313
E-mail: info@cog.go.ke

Our Ref: COG/6/10 Vol. 12 (90)

30th August 2024

J.M. Nyegenye, CBS
The Clerk of the Senate
Parliament Buildings
Nairobi



DSFC
Dtg

Kindly deal.
EP 02/09/2024

Dear Mr. Nyegenye,

GENERAL COMMENTS ON THE PUBLIC FUNDRAISING APPEALS BILL (SENATE BILLS NO. 36 OF 2024)

Greetings.

The Council of Governors has reviewed the **Public Fundraising Appeals Bill (Senate Bills No. 36 of 2024)** and hereby forwards its general comments attached herewith for your consideration.

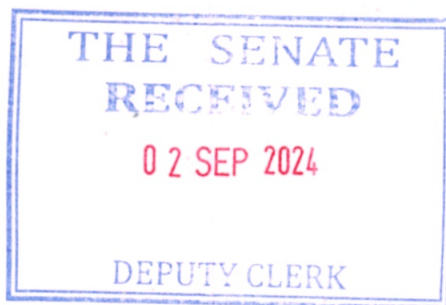
Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer

② DSFC (VK)

Kindly deal
02/09/2024



③ Ms. Mwanate
Kindly deal.
02/09/2024



**GENERAL COMMENTS ON THE PUBLIC FUNDRAISING APPEALS BILL (SENATE BILLS NO.
36 OF 2024)**

TO

THE SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

FROM

THE COUNCIL OF GOVERNORS

30TH AUGUST 2024

A. INTRODUCTION

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Articles 6 (2) and 189 of the Constitution; and

In further recognition of the national values and principles of governance in Article 10 of the Constitution which binds all State organs, State officers, public officers and all persons in the process of implementation of the Constitution; and

Having reviewed the **Public Fundraising Appeals Bill (Senate Bills No. 36 of 2024)** which seeks to provide for the establishment of regulatory mechanisms at the national and county levels which oversee the conduct of fundraising appeals in its entirety, the Council of Governors on behalf of the 47 County Governments submits the following general comments on the proposed legislation:

B. GENERAL COMMENTS ON THE BILL

- i. The Council notes that the Bill as drafted may be difficult to implement given the Kenyan culture of conducting *harambees* or public fundraising appeals for public and private benefit. These benefits include relief of those in need by ill-health, promoting education, community development and advocating for issues of public interest. Such appeals are classified as a '*public purpose*' in the Bill and subjected to bureaucracies of applications for permits, regulation of conduct of these appeals, spending limitations and even reporting obligations for beneficiaries and fundraising managers. Given the number of appeals in our communities, these proposed systems will be hard to effect and may unnecessarily burden the responsible officers.
- ii. The Council notes that the Bill assigns responsibility to the county executive committee member (CECM) responsible for matters relating to planning and social development to issue permits, regulate and monitor the conduct of fundraising appeals and establish mechanisms for the promotion of transparency and accountability in the conduct of fundraising appeals at the county level. We note that these two issues fall under different departments in the County Government and may occasion implementation issues.
- iii. The Council notes that the Bill seeks to replace the *Public Collections Act, Chapter 106, Laws of Kenya*, whose institutional architecture does not align with the devolved structures of the Kenyan constitution. We are of the view that provisions to regulate participation of public officers, including state officers, in *harambees* are already existent in other legislation and may be enhanced to suit the purpose for enacting the instant Bill.

Section 26 (1) of the Elections Act Chapter 7, Laws of Kenya provides that a person who directly or indirectly participates in any manner in any public fundraising within eight months preceding a general election or during an election period, shall be disqualified from contesting in the election held during that election year or election period. Section 13 (1) of the *Public Officer Ethics Act, Chapter 185B, Laws of Kenya* provides that a public officer shall not use his office or place of work as a venue for soliciting or collecting harambees; or obtain money or other property from a person by using his official position in any way to exert pressure.

We propose that these provisions are amended accordingly to require public officers, including state officers to declare the source of funds, in cash or otherwise, donated to public fundraisers to the bodies responsible under the Public Officer Ethics Act. The provisions need to be expanded to cover the public officers at the county level.

We also note that the Bill seeks to exempt money or property collected by or under the authority of a recognized representative of a religious association for the purpose of carrying out developments or projects for the benefit of the association. It also exempts soliciting or receiving money or a benefit from the National Government, a county government or a state agency. We note that these are part of the fora where public officers, including state officers have been seen to splurge large amounts of money in contributions and hence, such exemptions raise doubts as to the purpose of the Bill.

- iv. Alternatively, the Council recommends borrowing of best practice from advanced jurisdictions that regulate public fundraising appeals including the United Kingdom, the United States, Australia and Canada. However, regulation often depends on the scale of the fundraising activities as opposed to blanket provisions for all. Small, local or village/community fundraising may be subjected to minimal regulation or permits to ensure transparency. Larger or more formal public fundraisers may be subjected to more stringent regulation including codes of conduct, spending limitations and reporting obligations

C. CONCLUSION

That the Council's recommendations be adopted to reconceptualise the Bill and consider amending existing frameworks to achieve the purpose of the Bill.



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Fwd: Opposition to the Public Fundraisir

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Labour S. Welfare Comm

to chabarim, Jeremy, adownigma, me, chogereinhardt

Kind regards,

Committee Clerk.

Standing Committee on Labour and Social Welf

From: Bethsheba <bosiboribethsheba@gmail.com>
To: clerk <clerk.senate@parliament.go.ke>
Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate>
Date: Friday, 30 August 2024 1:23 PM EAT
Subject: Opposition to the Public Fundraising Appeals Bill, 2024

CAUTION: This Mail Originated from outside of the Organization.

Good afternoon,

Please find attached communication regarding the above mentic

Regards,

Bethsheba Bosibori

1. Bethsheba Bosibori
 2. Alice Wairimu Mugo
 3. Wilson Njenge
 3. Martha Maina
 4. Ian
 5. Mutinge Nzau
 6. Mungai Kamuyu
 7. Sheldon Odhamsso
 8. Njeri Macharia
 9. Diana Mutari
 10. Kamondo
 11. Mumo Katunda
 12. Lewis
 13. Dennis Musingita
 14. Brian Mosota
 15. Mwendu Job
 16. John Kyallo
17. Teresa
18. Maxine Makera

02/09/2024, 12:44

Date: 29 August 2024
To: The Clerk of the Senate
From: Bethsheba Bosibori Oreng

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

I, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. We advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

- a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.
- b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

Regards,

Bethsheba Bosibori

From: IBRAHIM <oguyoibrahim@gmail.com>

To: clerk <clerk.senate@parliament.go.ke>

Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate@parliament.go.ke>

Date: Friday, 9 August 2024 11:07 AM EAT

Subject: RE: PARTICIPATION ON THE HARRAMBEE BILL IN THE SENATE.

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

We've got good constitution as Kenyans, so the problem is not about drafting more bills, the problem is with the final office that is to give the final verdict incase one has broken the law. We can't fix our system by drafting laws and laws and you us the leaders leave a back door to operate through incase the laws you draft catches up with you.

The bill is okay, it doesn't give a tough layout incase someone whose suspected to have gone against the law will be dealt with;

As this law will rule the high class we should have a suggestion

1) when someone is suspected to have committed the crime he/she is denied a bail until he is proven guilty by then they will stay in remand and accounts to be frozen.

Why, because when left free that's when they use the back door now bribing and giving threats to offices who are to rule on the case.

2) Media should be present in the places of harrabee from the start until the event comes to an end as those videos can help as evidence incase need be.

3) When an investigation is being carried out let the public be informed on every progress made

From: Wycliffe <wycliffepkurui79@gmail.com>

To: clerk <clerk.senate@parliament.go.ke>

Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate@parliament.go.ke>

Date: Tuesday, 13 August 2024 3:35 PM EAT

Subject: Submission of Views on the Public Fundraising Appeals Bill 2024 (Senate Bills No. 36 of 2024)

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

I hope this email finds you well.

Please find attached a Word document containing my views on the Public Fundraising Appeals Bill 2024 (Senate Bills No. 36 of 2024). I appreciate the opportunity to contribute to the discussion on this important piece of legislation.

Thank you for considering my input.

Best regards,

Wycliffe Kipkirui

Research Assistant

Kericho County Assembly.

One attachment • Scanned by Gmail

PARLIAMENT OF KENYA
THE SENATE
SENATE BILLS DIGEST
THE PUBLIC FUNDRAISING APPEALS BILL, 2024
(SENATE BILLS NO. 36 OF 2024)

Sponsor: Senate Majority Leader

SUBMISSION OF VIEWS ON THE PUBLIC FUNDRAISING APPEALS BILL 2024
(SENATE BILLS NO. 36 OF 2024)

RESPONSE TO THE STANDING COMMITTEE ON LABOUR AND SOCIAL
WELFARE ON THE *THE PUBLIC FUNDRAISING APPEALS BILL, 2024*

1. **Simplifying Permit Application:**

- **Current Requirement:** Article 15 states that applications for fundraising permits must be submitted 14 days before the event.
- **Suggestion:** Reduce the complexity and introduce a fast-track process for urgent cases such as medical emergencies or natural disasters.
- **Amendment Proposal:** Modify Article 15 to include a clause for expedited applications under specific urgent circumstances, reducing the waiting period to 2-3 days.

2. **Lower Administrative Costs:**

- **Current Requirement:** Article 22 specifies that administrative expenses should not exceed 5% of the targeted fundraising amount.
- **Suggestion:** Further lower the cap on administrative costs for smaller-scale fundraisers to ensure more funds go directly to beneficiaries.
- **Amendment Proposal:** Adjust Article 22 to set a tiered structure where smaller fundraisers have a cap of 3% on administrative costs.

3. **Enhanced Public Awareness:**

- **Current Framework:** The bill does not explicitly mandate public awareness campaigns.
- **Suggestion:** Implement public awareness campaigns to educate citizens on the new regulations and their rights.
- **Amendment Proposal:** Add a new article mandating the Cabinet Secretary to conduct annual public awareness and education campaigns on the bill's provisions and citizens' rights.

4. **Support for Vulnerable Groups:**

- **Current Framework:** No specific provisions for vulnerable groups.
- **Suggestion:** Introduce reduced permit fees or expedited processing for fundraising appeals benefiting vulnerable groups such as the elderly or disabled.
- **Amendment Proposal:** Insert a clause in Article 15 allowing for reduced fees and expedited processes for fundraisers aimed at supporting vulnerable groups.

5. **Transparency and Reporting:**

- **Current Requirement:** Article 24 mandates detailed record-keeping of income and expenditure.

- **Suggestion:** Mandate public disclosure of funds raised and their usage to enhance transparency and trust.
- **Amendment Proposal:** Amend Article 24 to require public disclosure of financial reports on an accessible online portal managed by the regulating authority.

6. Flexibility for Small Donations:

- **Current Requirement:** Article 13 outlines the necessity of permits for public fundraising appeals.
- **Suggestion:** Allow small, spontaneous donations without extensive paperwork, especially for community-driven initiatives.
- **Amendment Proposal:** Modify Article 13 to include an exemption for small-scale, community-driven fundraising activities below a certain financial threshold.

7. Penalties for Non-Compliance:

- **Current Framework:** Articles 26 and 27 provide penalties for violations.
- **Suggestion:** Ensure penalties are proportional to the severity of the infraction to avoid overly punishing minor violations.
- **Amendment Proposal:** Add a clause in Article 26 specifying a tiered penalty system based on the severity and nature of the non-compliance.

Suggested Amendments

1. Article 15:

- Add: "Expedited applications for urgent cases such as medical emergencies or natural disasters can be processed within 2-3 days."

2. Article 22:

- Modify: "For fundraising activities with a target amount below KES 1 million, administrative expenses should not exceed 3% of the total raised funds."

3. New Article (Public Awareness):

- Add: "The Cabinet Secretary shall conduct annual public awareness campaigns to educate citizens on the provisions of this Act and their rights."

4. Article 13:

- Add: "Small-scale, community-driven fundraising activities with a financial threshold below KES 50,000 are exempt from the permit requirement."

These amendments aim to make the bill more accessible and beneficial to common citizens while maintaining the necessary regulatory framework to ensure transparency and accountability.

By: WYCLIFFE KIPKIRUI CHERUIYOT
RESEARCH INTERN
KERICHO COUNTY ASSEMBLY

From: Samelly <samellyautospare@gmail.com>

To: clerk <clerk.senate@parliament.go.ke>

Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate@parliament.go.ke>; bungesays <bungesays@gmail.com>

Date: Friday, 30 August 2024 12:23 PM EAT

Subject: Subject: Opposition to the Public Fundraising Appeals Bill

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Date: 30 August 2024

To: The Clerk of the Senate

From: Bunge La Mayut

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

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Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

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Need for Targeted Regulation:

Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.

Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

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- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

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Regards,

Jays Ndune



Search mail



Fwd: Memorandum on The Public Fundraising Appeals Bill, .



Labour S. Welfare Comm

to chabarim, ndindikm, adownigma, Jeremy, me, chogereinhardt

Kind regards,
Committee Clerk.

Standing Committee on Labour and Social Welfare

From: Enock <enocktarus9@gmail.com>
To: clerk <clerk.senate@parliament.go.ke>
Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate@parliament.go.ke>
Date: Monday, 19 August 2024 9:08 PM EAT
Subject: Memorandum on The Public Fundraising Appeals Bill, 2024

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Dear Clerk,

Following the Senate's call for comments on the The Public Fundraising Appeals Bill, 2024, attac

Please acknowledge receipt of this email.


Enock Tarus


Name of the Bill Reviewed : The Public Fundraising Appeals Bill, 2024


Date: 20th August, 2024


Submitted By: Enock Kiplagat Tarus


Residence: Marakwet West Constituency Tel No: 0729053016

NO.	Provision of the Bill	Issue	Proposal	Justification
1.	Clause 13(1): A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a State officer.	The provision could infringe on the right of State officers to participate in social and charitable activities, which may not directly conflict with their official duties.	Amend the provision to allow State officers to participate in fundraising appeals, provided they do not exploit their official positions for personal gain or influence.	The amendment aligns with Article 36 (freedom of association) and Article 31 (right to privacy) of the Constitution, while ensuring that State officers do not misuse their positions.
2.	Clause 13(2): A person who intends to vie for public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.	This clause could be viewed as overly restrictive and may unfairly limit the rights of individuals to engage in legitimate fundraising activities.	Reduce the restriction period to one year preceding a general election and make it an electoral offense to participate in fundraising within that period	This proposal ensures a balance between preventing the misuse of fundraising for political gain and protecting individuals' rights to participate in social and charitable activities.
3.	Clause 14(1): A person shall not conduct a public fundraising appeal unless the person has applied for, and obtained, a permit in accordance with the provisions of this Act.	The requirement for a permit could be seen as an impediment to the right to freely assemble and associate as provided under the Constitution.	Introduce a provision for exemptions or simplified procedures for small-scale or urgent fundraising appeals. 	This proposal ensures that the law does not unnecessarily restrict constitutional freedoms while still providing a framework for regulating fundraising activities.

4.	Clause 14(4)(e): The application must include a declaration that the intended fundraising appeal does not violate the provisions of the Public Officer Ethics Act, the Elections Act, or any other written law.	The requirement may place an undue burden on applicants, particularly in understanding the intricacies of various laws.	Simplify the declaration requirement, or provide a standardized form that outlines the key legal provisions applicants must comply with.	This approach would make the process more accessible, especially for individuals and small organizations, while still upholding legal standards.
5.	Clause 19(b): The Cabinet Secretary or county executive committee member shall enter the name of the applicant, the beneficiary, and such other particulars in relation to the fundraising appeal in the register of fundraising appeals.	The inclusion of extensive personal information in a public register may raise privacy concerns.	Limit the information recorded in the public register to essential details, such as the name of the fundraising appeal, the purpose, and the general location.	This proposal seeks to protect the privacy rights of individuals, as enshrined in Article 31 of the Constitution, while ensuring transparency in fundraising activities.
6.	Clause 20(1): The Cabinet Secretary or county executive committee member shall issue to an applicant one permit in relation to the conduct of each fundraising appeal under this Act.	The requirement to obtain a separate permit for each fundraising appeal may be cumbersome for organizations conducting multiple appeals. 	Amend the provision to allow for a single permit to cover multiple fundraising appeals within a specified period, subject to compliance with the Act.	This proposal reduces administrative burdens while ensuring that all fundraising activities remain regulated and within the law.
7.	Clause 20(2): A permit issued under subsection (1)	The automatic expiry of permits may cause	Clarify that the permit's expiry does not relieve the permit	This ensures that all obligations under the Act are met while

	shall, unless otherwise specified, automatically expire upon the conduct of the fundraising appeal.	confusion regarding post-appeal obligations, especially in cases where follow-up activities are required.	holder from post-appeal obligations, and consider extending the permit's validity to cover necessary follow-up activities.	providing clarity to permit holders on their responsibilities.
8.	Clause 21(1)(g): The purpose for which the fundraising appeal is to be conducted is unlawful or incompatible with public interest.	The terms "unlawful" and "incompatible with public interest" are broad and may be subject to varying interpretations, leading to potential misuse.	Define "incompatible with public interest" more clearly or provide specific guidelines on what constitutes a violation of public interest.	This amendment ensures that the provision is applied consistently and fairly, reducing the risk of arbitrary decisions by authorities.
9.	Clause 23: The Cabinet Secretary or county executive committee member may cancel a permit for various reasons, including non-compliance with the Act.	The grounds for cancellation may lead to sudden disruptions in ongoing fundraising appeals, which could negatively impact beneficiaries.	Introduce a provision that allows for a grace period before cancellation, during which the permit holder can rectify any issues.	This proposal provides a fair opportunity for permit holders to comply with the Act before facing the severe consequence of permit cancellation.
10.	Clause 24(1): The Cabinet Secretary or county executive committee member shall issue a compliance notice before canceling a permit.	The Act does not specify the minimum time period within which compliance must be achieved before cancellation.	Specify a minimum time period (e.g., 14 days) for compliance after the issuance of a compliance notice.	This ensures that permit holders have a reasonable amount of time to address any issues, thereby upholding principles of fairness and due process. 
11.	Clause 26: Duties of a fundraiser on cancellation,	The seven-day timeframe for submitting an inventory	Extend the timeframe to 14 working days or allow for	This proposal provides a more realistic timeframe for compliance,

	including submitting an inventory of assets within seven working days.	of assets may be too short, particularly for large or complex fundraising appeals.	extensions upon request, depending on the scale and complexity of the fundraising appeal.	ensuring that fundraisers can accurately account for and manage assets post-cancellation.
12.	Clause 27(2): Any person may inspect the register and obtain a copy upon payment of a fee.	The provision may restrict access to information due to the requirement of a fee, potentially limiting transparency.	Consider waiving the fee for accessing the register or providing a provision for fee waivers for certain individuals or organizations.	This amendment promotes transparency and access to information, in line with Article 35 of the Constitution, which guarantees the right to access information.
13.	Clause 31: Not more than five percent of the targeted amount to be raised shall be utilized in defraying expenses.	The five percent cap on expenses may be too restrictive, especially for smaller organizations with limited resources.	Increase the cap to ten percent, or allow for exceptions based on the scale and nature of the fundraising appeal.	This proposal provides greater flexibility for organizations, ensuring that they can cover necessary expenses while still maximizing funds raised for beneficiaries.
14.	Clause [Insert Clause Number]: The provisions of this Part shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary's nuclear family or relatives and does not extend to members of the public.	While the exemption for private fundraising appeals within a family is appropriate, the definition of "relatives" may be ambiguous and could lead to differing interpretations.	Define "relatives" more precisely in the Bill to avoid ambiguity, potentially including only immediate family members and first-degree relatives (e.g., parents, siblings, children).	This proposal ensures clarity in the law, reducing the risk of misuse or misinterpretation of the exemption. By clearly defining "relatives," the Bill will be more effective in distinguishing between truly private fundraising and public appeals. 
15.	Fundraising conducted through online platforms must comply with the same	The Bill currently lacks specific provisions addressing online	Introduce a new clause specifying that online fundraising platforms must be	Ensuring that online fundraising is regulated similarly to physical fundraising activities prevents

	permit requirements as physical fundraising activities.	fundraising, which could create ambiguity in regulatory oversight and compliance.	registered and approved, and outline the requirements for obtaining a permit for online fundraising activities. This should include provisions for monitoring and reporting online fundraising activities.	regulatory gaps and maintains transparency and accountability in all fundraising methods.
16.	Clause [X]: Fundraising appeals conducted via social media must include clear disclosure of the fundraising goals, the organization conducting the appeal, and financial handling procedures.	Online fundraising often lacks the transparency and accountability seen in traditional fundraising methods.	Mandate that online fundraising appeals must prominently display information about the organization, fundraising goals, and how funds will be used. This should include links to the organization's website and relevant regulatory compliance information.	This proposal enhances transparency and allows potential donors to make informed decisions, thereby aligning with principles of accountability and consumer protection.
17.	Clause [X]: Online fundraising platforms must submit regular reports to the relevant regulatory authority detailing the amounts raised, the sources of funds, and expenditures.	Without specific reporting requirements, there may be challenges in tracking and ensuring compliance for online fundraising.	Implement a requirement for online fundraising platforms to provide periodic reports to regulatory authorities, including details on funds raised, donor information, and how the funds are utilized.	Regular reporting ensures ongoing oversight and accountability for online fundraising activities, helping to prevent misuse and fraud.
18.	Clause [X]: Online fundraising activities are subject to the same penalties and compliance measures as traditional fundraising activities.	The Bill should ensure that penalties for non-compliance with online fundraising regulations are equivalent to those for physical fundraising to ensure fairness and deterrence.	Extend the existing compliance measures and penalties applicable to traditional fundraising activities to include online fundraising.	Applying consistent penalties for non-compliance across both online and physical fundraising activities ensures that all fundraising methods are equally regulated and that there is a level playing field. 

THE SENATE
RECEIVED
30 AUG 2024
DIRECTOR COMMITTEE SERVICES
(DSEC)



OFFICE OF THE CLERK SENATE
SECRETARY
29 AUG 2024
PSC
P.O. BOX 41042 - NAIROBI

REPUBLIC OF KENYA
MINISTRY OF PUBLIC SERVICE AND HUMAN CAPITAL DEVELOPMENT
Office of the Cabinet Secretary

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 227411
Telex: 23125
Fax: 2243620
When replying please quote

P.O. BOX 30050- 00100
NAIROBI
KENYA

① DSEC
DKY

29th August, 2024

Kindly deal

E
30/08/2024

Ref No: MPS & HCD.3/7

The Clerk of the Senate
Parliament Buildings
NAIROBI

**RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FUNDRAISING APPEALS
BILL, 2024 (SENATE BILLS NO. 36 OF 2024)**

Reference is made to your letter Ref No. SEN/DSEC/SCLSW/2024/99 dated 20th August, 2024 on the above subject matter.

Submitted herewith, please find our proposed amendments to the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024) for your consideration.

② DSEC (NK)
Kindly deal
02/09/2024

Hon. Justin B. N. Muturi, EGH
CABINET SECRETARY

Copy to: **Amos N. Gathecha, EBS, 'ndc' (K)**
Principal Secretary
State Department for Public Service
NAIROBI

THE SENATE
RECEIVED
30 AUG 2024
DEPUTY CLERK

③ Ms. Mwanate
Kindly deal.
Wobasi
02/09/2024



REPUBLIC OF KENYA

MINISTRY OF PUBLIC SERVICE AND HUMAN CAPITAL DEVELOPMENT

**SUBMISSION OF VIEWS ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024
(SENATE BILLS NO. 36 OF 2024) TO THE SENATE STANDING COMMITTEE ON
LABOUR AND SOCIAL WELFARE BY THE CABINET SECRETARY.**

29TH AUGUST, 2024


MINISTRY VIEWS ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024

S/No	Section of the Act	Specific Clause	Proposed Amendment	Justification
1.	Section 1 Short Title	The Public Fundraising Appeals Bill, 2024	The Public Fundraising Bill, 2024	<ul style="list-style-type: none"> i. The term 'appeals' may connote lodging an appeal after decline by a lower level jurisdiction. ii. This term may also be confusing to the public in its interpretation. iii. The term 'fundraising' may include making appeals for funds
2.	Section 2 Interpretation	"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to planning and social development.	"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to social development/protection.	Matters relating Planning and Social Development may not be within the purview of the same Cabinet Secretary.
3.	Section 2 Interpretation	"county executive committee member" means the county executive committee member in each county for the time being responsible for matters relating to planning and social development.	"county executive committee member" means the county executive committee member in each county for the time being responsible for matters relating to social development/protection.	Matters relating Planning and Social Development may not be within the purview of the same county executive committee member.
	Section 2 Interpretation	Definition of Public Office	Definition of Public Office as provided for in the Constitution	To align with the Constitution.
	2 (a), (b) Interpretation	any person, class of persons or cause listed as beneficiary by the person conducting the appeal when applying for registration; or any person who is acting on behalf of such a person, cause or class of persons referred to under paragraph (a);	any person, class of persons, cause or entities listed as beneficiary by the person conducting the appeal when applying for registration; or any person who is acting on behalf of such a person, cause or class of persons referred to under paragraph (a);	To include other entities such as groups, organizations.

5.	4 (f)	Maintain a National register of persons licensed by it to conduct a public fundraising appeal under this Act;	maintain a national register of persons and/or entities licensed by it to conduct a public fundraising appeal under this Act;	To include other entities such as groups, organizations
	6(e)	maintain a register of all permits issued to a person conducting a public fundraising appeal under this Act;	maintain a register of all permits issued to a person and/or entities conducting a public fundraising appeal under this Act;	To include other entities such as groups, organizations
	8	1. The provisions of this Part shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary's nuclear family or relatives and does not extend to members of the public.	1. The provisions of this Part shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary's nuclear family, relatives or friends and does not extend to members of the public.	Friends are close to family and relatives and may not be regarded as public.
	9(b)	private fundraising appeal which shall consist of solicitations made by a person or class of persons on behalf of a person or class of persons to the members of the family of, or relatives of such person for the benefit of such person.	private fundraising appeal which shall consist of solicitations made by a person or class of persons on behalf of a person or class of persons to the members of the family of, or relatives or entities of such person for the benefit of such person.	To include other entities such as groups, organizations
	13 (1)	A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a State officer.	A State officer or an appointed public officer shall not participate in a fundraising appeal or conduct a public fundraising appeal during his or her term as a State officer or Public Officer Provisions under the Public Officers Ethics Act, 2003 A public officer shall not- (a) use his office or place of work as a venue for soliciting or collecting harambees; or (b) either as a collector or	Include public officer at the end of the clause. Consider aligning with the provisions of the Public Officers Ethics Act, 2003

			promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.	
	13 (2)	A person who intends to vie for a public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.	A person who intends to vie for a public office shall not participate in a public fundraising appeal within the period of three years preceding a general election.	<ul style="list-style-type: none"> i. Consider revising the duration to one (1) year. ii. Consider reviewing the word "intends" as the intention to vie may not be actualized.
	13 (4)	The conduct by a person under subsection (2) shall be deemed to constitute an election offence.		Align with the Elections Act
	14 (1)	1. A person shall not conduct a public fundraising appeal unless the person has applied for, and obtained, a permit in accordance with the provisions of this Act	1. A person or an entity shall not conduct a public fundraising appeal unless the person has applied for, and obtained, a permit in accordance with the provisions of this Act	Consider defining a person under definition of terms.
	21 (1) (e)	The consent of a beneficiary of an intended appeal has not been supplied.		Some instances may be difficult to obtain consent of the beneficiary e.g. minor, unsound mind, critical illness
	21 (2)	2. The Cabinet Secretary or county executive committee member may refuse to issue a permit to a person as a fundraising manager if any person named in the application as a fundraising manager is not, in their opinion, a fit and proper person to be associated with a fundraising appeal.		There is need to review the clause because it is subjective and may be open to abuse

Hon. Chairman, I thank you and hereby submit.


Hon. Justin B. N. Muturi, EGH
CABINET SECRETARY

Subject Public Fundraising Appeal Bill
 From Concernedkenyan123 <Concernedkenyan123@proton.me>
 To clerk senate <clerk.senate@parliament.go.ke>
 Date Friday August 30, 2024 11:10:56 AM



① DSEC
 DLG
 kindly deal

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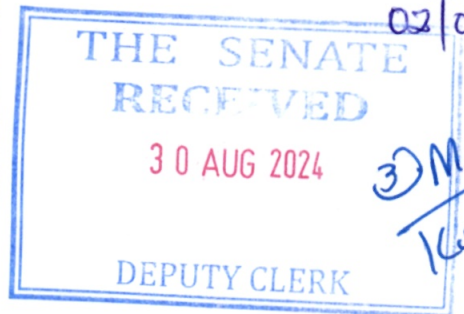
Ep 30/08/2024

MEMORANDUM TO THE SENATE OF KENYA REGARDING THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

28TH AUGUST, 2024

② DSEC (VK)
 kindly deal
 02/09/2024
 ③ Ms. Mwanande
 kindly deal
 02/09/2024

The Clerk of the Senate
 Parliament Buildings
 P.O BOX 41842 - 00100
 00100 Nairobi



Cc: Labour Social Welfare Committee

1. Preamble

Honourable Chair and Committee members,

I am responding to the invitation by the Clerk of the Senate for the public's input on the Public Fundraising Appeals Bill 2024 (Senate Bill No. 36 of 2024)

As a Kenyan citizen who advocates for accountability, good governance, development, and strong democracy, I have considered this bill and submitted my insights, commentary, and response to the above bill.

2. CONCERNS AND APPRECIATIONS OF THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

- a. **Appreciation** of the Public Fundraising Appeals Bill 2024 in recognition of the need to regulate public fundraising, especially as it pertains to public and state officers.
- b. **Appreciation** of the bill in recognition of the need to protect the public against unscrupulous individuals and organizations who wish to con and scam them of their money
- c. **Appreciation** of the bill in differentiating between public and private fundraising appeals.
- d. **Appreciation** of the bill for recognizing the need for sensitization, education, and awareness on public fundraising appeals under part 2, section 4.

- e. The **concern** that the bill requires any public fundraising initiative to have permits to carry out fundraising appeals. This will likely restrict the number of individuals and organizations who benefit from public fundraising for vital matters. In addition, the charges for the permits are not specified and the charges may become prohibitive.
- f. The **concern** of the bill in failing to recognize the lines between public and private fundraising appeals. Private fundraising may in various instances become public when it involves friends and acquaintances of the individual. This raises pertinent questions such as whether the individual or family should seek permits and be deemed to be engaged in public fundraising when friends and acquaintances, as well as their network, are involved.
- g. The **concern** of the bill in imposing conditions when granting permits. The bill is unclear on the kind of conditions that will be imposed for public fundraising appeals.
- h. The **concern** that while the bill allows any individual to inspect the register or a copy of the register, the administrative fee may be a hindrance to access of information on the same. This is especially true considering that the bill does not cap the administration fee under section 27(2)
- i. The **concern** that the bill will result in reduced participation in public fundraisings as the bill requires details of a person who contributes and the amounts contributed (32(1a), the person to specify the source of funds (36(a)) and that a receipt be issued to a person that makes a monetary contribution (30(1)). While the receipt may help in accurate record keeping, it may not be beneficial to the contributor as they are likely to have records of transactions on their phone or bank account. The requirement for the source of funds may be a deterrent for participation in public fundraising. Also, it is illogical for one to specify the source of funds for small amounts.
- j. The **concern** that the bill introduces inspectors who may at any reasonable time enter and inspect premises of a fundraising manager. What counts as any reasonable time? What also happens if the funding manager does not receive the notice?
Moreover, when copying or removing documents from the fundraising manager what is to stop inspectors from keeping a copy of documents? They can photocopy the documents and duplicate files that have left the premises of the fundraising manager.
- k. The **concern** that the bill lacks clarity on what happens when funds raised through falsification of information for fundraising are surrendered to the county executive member (39(3)). Do they become the property of the county? Are they refunded to those who contributed?
- l. The **concern** that public and state officers who participate in public fundraisings are only fined and do not receive a prison sentence. This means that these individuals can pay their way out of the offence. Hence, If the penalty is a fine, it's legal for the rich.

3. RECOMMENDATIONS TOWARDS THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

Honourable Senators, after careful consideration of the bill, these are my recommendations concerning

this bill

1. That the Senate Majority leader, Aaron Cheruiyot withdraws the bill to make amendments to allow for greater clarity and functionality of the bill. The bill has some strong points but has some weak points which are of great concern. Public fundraising appeals are common and serve to fill the gap when the government fails to care for its people. There is an ever-growing need for public fundraising appeals due to failures by the government. For instance, the failure of the healthcare system to provide affordable and quality healthcare to meet the needs of people, and exorbitantly high university fees have been witnessed recently with the new higher education funding model. Restricting certain forms of public fundraising is likely to leave people in worse off conditions and to increase and entrench poverty among Kenyans.

4. CONCLUSION

Honourable members, I thank you for considering this response and my recommendations. I appreciate the drafter of this bill and request they withdraw the bill to make some changes to reflect the situation on the ground. If the bill goes forward, it will need several amendments to make it favourable to Kenyans and protect them from exploitation.

Kind regards,
Concerned Citizen

Sent with [Proton Mail](#) secure email.

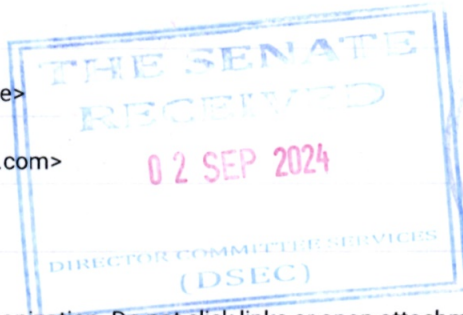
Subject OPPOSITION OF TH PUBLIC FUNDRAISING APPEALS BILL, 2024

From Eddy Kibe <kibeeddy64@gmail.com>

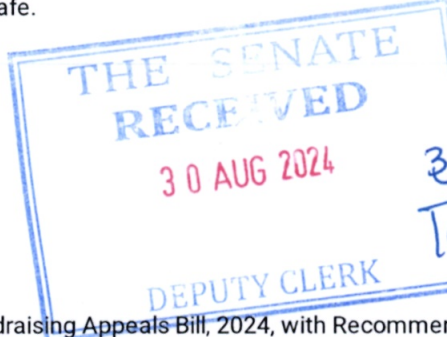
To clerk senate <clerk.senate@parliament.go.ke>

Cc bungesays@gmail.com <bungesays@gmail.com>

Date Friday August 30, 2024 10:06:48 AM



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Handwritten notes: (1) DSEC DLG, (2) ADSEC (JK) Kindly deal, 3D Mr. Mwanjate Kindly deal, 02/09/2024, 30/08/2024

Date: 29 August 2024
To: The Clerk of the Senate
From: Kibe Eddie

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

We, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. We advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare,

education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.

b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

I would urge and implore Senator Paul Karungo Thangwa, the proposer of the bill to withdraw the bill in totality as this would go against the people who once elected him as their representative in the Senate. More rigorous work is to be done to address the issues facing harambees rather than the compiling of a policy that would see more and more Kenyans suffer.

Regards,
Concerned citizen



REPUBLIC OF KENYA
MINISTRY OF PUBLIC SERVICE AND HUMAN CAPITAL DEVELOPMENT
Office of the Cabinet Secretary

Telegraphic address: "Personnel", Nairobi
 Telephone: Nairobi 227411
 Telex: 23125
 Fax: 2243620

When replying please quote
 Ref No: **MPS & HCD.3/7**

P.O. BOX 30050- 00100
 NAIROBI
 KENYA

23 AUG 2024
 CLERK'S OFFICE
 SENATE

22nd August, 2024

The Clerk of the Senate
 Parliament Buildings
NAIROBI.

RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

Reference is made to your letter REF: SEN/DSEC/SCLSW/2024/99 dated 20th August, 2024 on the above subject matter.

The Senate Standing Committee on Labour and Social Welfare has invited me to appear on Monday, 26th August, 2024 to submit the Ministry's views on the proposed Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024). However, due to the National Youth Service (NYS) Pass-out Parade which will be presided over by **H.E The President of the Republic of Kenya** on the same date, I will not be able to attend the meeting.

The purpose of this letter, therefore, is to confirm that the Ministry will prepare adequately and forward a written submission by Friday, 30th August, 2024 as agreed with the Committee.

Justin
Hon. Justin B. N. Muturi, EGH
CABINET SECRETARY

Copy to: Principal Secretary
 State Department for Public Service
NAIROBI

THE SENATE
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 23 AUG 2024
 DIRECTOR COMMITTEE SERVICES
 (DSEC)

THE SENATE
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 DIRECTOR LEGAL SERVICES

① D-sec
Note as deal.
23/8/2024

③ Ms. Mwanate
Kwaly deal.
Wakach
02/09/2024

② DSEC VK
Kindly deal
Wakach

Date: 29 August 2024

To: The Clerk of the Senate

From: Sharon Wanjiku Njihia

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

We, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. We advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

- a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.
- b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

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- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

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- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

Regards,

Sharon Wanjiku Njihia.

Date: 29 August 2024
To: The Clerk of the Senate
From: Paul Oluoch

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

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Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

- a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.
- b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

Regards,

Paul Oluoch

MEMORANDUM TO THE SENATE OF KENYA REGARDING THE PUBLIC FUNDRAISING
APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

28TH AUGUST,2024

The Clerk of the Senate
Parliament Buildings
P.O BOX 41842 - 00100
00100 Nairobi

Cc: Labour Social Welfare Committee

1. Preamble

Honourable Chair and Committee members,

I am responding to the invitation by the Clerk of the Senate for the public's input on the Public Fundraising Appeals Bill 2024 (Senate Bill No. 36 of 2024)

As a Kenyan citizen who advocates for accountability, good governance, development, and strong democracy, I have considered this bill and submitted my insights, commentary, and response to the above bill.

2. CONCERNS AND APPRECIATIONS OF THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

- a) **Appreciation** of the Public Fundraising Appeals Bill 2024 in recognition of the need to regulate public fundraising, especially as it pertains to public and state officers.
- b) **Appreciation** of the bill in recognition of the need to protect the public against unscrupulous individuals and organizations who wish to con and scam them of their money
- c) **Appreciation** of the bill in differentiating between public and private fundraising appeals.
- d) **Appreciation** of the bill for recognizing the need for sensitization, education, and awareness on public fundraising appeals under part 2, section 4.
- e) The **concern** that the bill requires any public fundraising initiative to have permits to carry out fundraising appeals. This will likely restrict the number of individuals and organizations who benefit from public fundraising for vital matters. In addition, the charges for the permits are not specified and the charges may become prohibitive.
- f) The **concern** of the bill in failing to recognize the lines between public and private fundraising appeals. Private fundraising may in various instances become public

when it involves friends and acquaintances of the individual. This raises pertinent questions such as whether the individual or family should seek permits and be deemed to be engaged in public fundraising when friends and acquaintances, as well as their network, are involved.

- g) The **concern** of the bill in imposing conditions when granting permits. The bill is unclear on the kind of conditions that will be imposed for public fundraising appeals.
- h) The **concern** that while the bill allows any individual to inspect the register or a copy of the register, the administrative fee may be a hindrance to access of information on the same. This is especially true considering that the bill does not cap the administration fee under section 27(2)
- i) The **concern** that the bill will result in reduced participation in public fundraisings as the bill requires details of a person who contributes and the amounts contributed (32(1a), the person to specify the source of funds (36(a)) and that a receipt be issued to a person that makes a monetary contribution (30(1)). While the receipt may help in accurate record keeping, it may not be beneficial to the contributor as they are likely to have records of transactions on their phone or bank account. The requirement for the source of funds may be a deterrent for participation in public fundraising. Also, it is illogical for one to specify the source of funds for small amounts.
- j) The **concern** that the bill introduces inspectors who may at any reasonable time enter and inspect premises of a fundraising manager. What counts as any reasonable time? What also happens if the funding manager does not receive the notice?
Moreover, when copying or removing documents from the fundraising manager what is to stop inspectors from keeping a copy of documents? They can photocopy the documents and duplicate files that have left the premises of the fundraising manager.
- k) The **concern** that the bill lacks clarity on what happens when funds raised through falsification of information for fundraising are surrendered to the county executive member (39(3)). Do they become the property of the county? Are they refunded to those who contributed?
- l) The **concern** that public and state officers who participate in public fundraisings are only fined and do not receive a prison sentence. This means that these individuals can pay their way out of the offence. Hence, If the penalty is a fine, it's legal for the rich.

3. RECOMMENDATIONS TOWARDS THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

Honourable Senators, after careful consideration of the bill, these are my recommendations concerning this bill

I. That the Senate Majority leader, Aaron Cheruiyot withdraws the bill to make amendments to allow for greater clarity and functionality of the bill. The bill has some strong points but has some weak points which are of great concern. Public fundraising appeals are common and serve to fill the gap when the government fails to care for its people. There is an ever-growing need for public fundraising appeals due to failures by the government. For instance, the failure of the healthcare system to provide affordable and quality healthcare to meet the needs of people, and exorbitantly high university fees have been witnessed recently with the new higher education funding model. Restricting certain forms of public fundraising is likely to leave people in worse off conditions and to increase and entrench poverty among Kenyans.

4. CONCLUSION

Honourable members, I thank you for considering this response and my recommendations. I appreciate the drafter of this bill and request they withdraw the bill to make some changes to reflect the situation on the ground. If the bill goes forward, it will need several amendments to make it favourable to Kenyans and protect them from exploitation.

Kind regards,
Concerned Citizen

Kind regards,
Committee Clerk.

Standing Committee on Labour and Social Welfare

From: Francis <francismagoba3@gmail.com>

To: Francis <francismagoba3@gmail.com>; clerk <clerk.senate@parliament.go.ke>; laboursocialwelfarecomm <laboursocialwelfarecomm.senate@parliament.go.ke>; bungesays <bungesays@gmail.com>

Date: Friday, 30 August 2024 11:19 AM EAT

Subject: SUBMISSION OF DETAILED MEMORANDUM ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS No. 36 of 2024)

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Clerk of the Senate ,

I am presenting a comprehensive memorandum regarding the Public Fundraising Appeals Bill, 2024 (Senate Bill No. 36 of 2024). As a committed Kenyan citizen who values accountability and strong governance, I have thoroughly examined the bill and wish to share my gratitude for its merits, as well as my concerns, accompanied by suggestions for its enhancement.

Key Points:

Appreciations:

- The bill's recognition of the need to regulate public fundraising, especially for public and state officers.
- Protection against fraudulent individuals and organizations.
- Differentiation between public and private fundraising appeals.
- Emphasis on sensitization, education, and awareness.

Concerns:

- Potential restriction of public fundraising initiatives due to the requirement of permits.
- Unclear distinction between public and private fundraising, especially in cases involving friends and acquaintances.
- Lack of clarity on conditions for granting permits and on administrative fees for accessing fundraising registers.
- Possible deterrence of participation due to stringent record-keeping and source of funds requirements.
- Issues with the introduction of inspectors and their authority over fundraising managers.
- Unclear provisions on the handling of funds raised through falsified information.
- Inadequate penalties for public and state officers participating in public fundraisings.

Recommendations:

I recommend that the Senate Majority Leader withdraw the bill for amendments to enhance clarity and functionality. The bill should better address the growing need for public fundraising, especially in light of governmental shortcomings in healthcare and education.

Please refer to the attached document for a detailed analysis and specific recommendations.

Thank you for considering my insights and recommendations.

Kind regards,
Concerned Citizen

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Labels

Fwd: The Public Fundraising Appeal Bill,2



Labour S. Welfare Comm

to me, adownigma, chabarim, Jeremy, chogereinhardt

Kind regards,
Committee Clerk.

Standing Committee on Labour and Social Welf

From: Wilson <Wilsonnyenze@outlook.com>
To: clerk <clerk.senate@parliament.go.ke>
Cc: laboursocialwelfarecomm <laboursocialwelfarecomm.senate>
Date: Friday, 30 August 2024 1:36 PM EAT
Subject: The Public Fundraising Appeal Bill,2024 Public Particip

CAUTION:This Mail Originated from outside of the Organization.

Good afternoon,

Please find attached my submission for the The Public Fu

Please feel free to contact me for any questions, or clarifi

Wilson Nyenze

wilsonnyenze@outlook.com

+254798152967

Office of Clerk of the National Assembly,
Parliament Buildings,
Parliament Road,
P.O. Box 41842-00100,
Nairobi, Kenya.

RE: The Public Fundraising Appeal Bill,2024 Public Participation.

I hope this finds you well. I write regarding public participation, as is my constitutional mandate, on The Public Fundraising Appeal Bill,2024 Bill.

While I appreciate the need to weed out bad actors in public appeals, minimizing fraudulent activity, this bill is in bad faith due to the unique circumstances under which most public appeals occur; due to the failure of the government on providing essential services, e.g., affordable quality health, where most hospitals lack required supplies, other circumstances such as bereavement, emergency support during unfortunate times such as floods and accidents, and overall, the tough economic times to which we all live in.

Therefore, I propose, that this **BILL IS SCRAPPED**, in toto, until a time where basic services are adequate, and public appeals are not an every day necessity.

I hope that the aforementioned matters are taken into consideration, and due consideration is carried out for the welfare of the Kenyan people. Feel free to contact me, for any further clarification.

Kind regards,

Wilson Nyenze.

Date: 29 August 2024
To: The Clerk of the Senate
From: Bunge La Mayut

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

We, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. We advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they can also be exploited by politicians seeking to launder misappropriated funds or gain undue influence through generous donations to religious institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

1. The Bill Fails to Address Root Causes of Harambees:

The widespread need for public fundraisers arises from the government's inability to provide adequate healthcare, education, and social services. Instead of focusing on the regulation of these fundraisers, the government should prioritize the improvement of these essential services. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers.

2. Undue Burden on Citizens:

The Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties for non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive.

3. Suppression of Community Solidarity:

Harambee spirit embodies the essence of community solidarity and mutual support. The Bill, with its stringent regulations and potential criminalization of unpermitted fundraising, threatens to stifle this spirit. It undermines the very fabric of our society, where communities come together to support one another in times of need.

4. Misdirection of Government Resources:

The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

5. Human Rights Implications:

The right to life, health, and education are fundamental human rights. By failing to provide these services adequately and then seeking to regulate the public's efforts to fill the gap, the government is violating these rights. The Bill does not take into account the desperation and urgency that often accompany the need for a public fundraiser.

6. Need for Targeted Regulation:

- a. Politicians and those intending to run for office often use harambees as a means to gain political capital, distributing funds that may have been acquired through corrupt means. These activities can skew the democratic process and give an unfair advantage to those with access to ill gotten wealth. Rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens.
- b. Religious Institutions as Conduits for Misappropriated Funds: Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

2. Introduce Targeted Regulations for Politicians and Political Aspirants:

- Legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance.

3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

- Address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.

Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

Regards,

Bunge La Mayut

Date: 31 August 2024

To: The Clerk of the Senate

From: Erick Asava Magada

Subject: Opposition to the Public Fundraising Appeals Bill, 2024, with Recommendations for Targeted Regulation

Introduction

We, the undersigned, submit this memorandum to oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as "harambees," is fundamentally flawed in its approach and intent. Rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services. We advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power to remedy the root cause that necessitates the ordinary Kenyan to have to rely on the support of their community for their healthcare, education, and social needs.

Context and Background

Public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare and education services, and lack of employment opportunities for vulnerable Kenyans to adequately cater of their social needs like weddings and burials. The very existence and proliferation of harambees are symptomatic of a government's failure to fulfill its most basic obligations to its citizens—access to quality healthcare, education, and social support for the vulnerable. However, while these fundraisers are often organized out of necessity, they have been exploited by the corrupt seeking to launder misappropriated funds or gain undue influence through generous donations to religious and social institutions. These activities undermine public trust and distort the electoral process.

Key Concerns

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The resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers.

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- b. **Religious Institutions as Conduits for Misappropriated Funds:** Religious institutions have, on occasion, become venues where politicians channel misappropriated funds under the guise of donations. This not only compromises the integrity of religious organizations but also allows corrupt individuals to launder money and gain social influence. However, this bill exempts them from scrutiny that other entities have created a lot of room for this to continue.

Recommendations

1. Reject the Broad Provisions of the Bill:

- We urge the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision.

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3. Regulate Donations to Religious Institutions by Politicians:

- Introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes.

4. Strengthen Public Service Delivery:

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Conclusion

In light of the above concerns, we strongly urge the Senate to reject the Public Fundraising Appeals Bill, 2024, in its entirety. This Bill is not only misdirected but also deeply unjust. Rather than regulating harambees, the government should focus on fulfilling its obligations to provide quality healthcare, education, and social support to all Kenyans. The systemic issues that drive citizens to organize public fundraisers must be addressed at their root, rather than suppressing the symptoms. You must Support, Not Suppress, Community Initiatives. Encourage and support community-driven initiatives that seek to address gaps in government service provision, rather than imposing punitive regulations.

Regards,

Erick Asava Magada

MEMORANDUM TO THE SENATE OF KENYA REGARDING THE PUBLIC
FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO.36 OF 2024)

The Clerk of the Senate

Parliament Buildings

P.O. BOX 41842-00100

Nairobi

CC: Labour Social Welfare

Honourable Chair and Committee Members,

I am responding to the invitation by the Senate Clerk for Public Input on the Public Fundraising Appeals Bill 2024 (Senate Bill No. 36 of 2024).

As a Kenyan Citizen, I believe that the bill does not have any benefit to me and other Kenyans since it imposes conditions such as requiring granting of permits for public fundraising and also introduces inspectors who can enter and inspect the premises of fundraising manager. At a time when the government has made university education expensive and fails to provide affordable public healthcare the Public Fundraising Appeals Bill 2024 (Senate Bill No. 36 of 2024) will hinder people from raising money to help each other which will increase fatalities from diseases, increase university drop out rates and increase poverty since communities cannot come together and raise funds without approval. I urge you to listen to these grievances and I also urge Aaron Cheruiyot the Senate Majority Leader and sponsor of the bill to withdraw the bill since it shall increase suffering among citizens.

Kind Regards,

Felix Ngocho Nderitu.

A Kenyan Citizen.

THE SENATE
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26 AUG 2024
DIRECTOR GENERAL SERVICES
(DSECS)



REPUBLIC OF KENYA



PUBLIC SERVICE COMMISSION

Our Ref No: PSC/LEG/019/14/158/VIII

26th August, 2024

Your Ref: SEN/DSEC/SCLSW/2024/98

The Clerk of the Senate,
Clerk's Chambers,
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

VERY URGENT

THE SENATE
RECEIVED
26 AUG 2024
CLERK'S OFFICE
SENATE

DSEC
kindly deal
26/08/2024

RE: INVITATION BY THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE TO SUBMIT VIEWS ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILL NO. 36 OF 2024)

Reference is made to your letter dated 20th August, 2024 seeking the Commission's views on the Public Fundraising Appeals Bill, 2024. The Commission appreciates the invitation and acknowledges the timeline within which it was requested to submit its written submissions on the Bill.

However, the Commission was unable to submit its written submissions within the said timeline and given the significance of the Bill, the Commission kindly requests for an extension of time within which to submit its written submissions and, thereafter, to appear before the Standing Committee on Labour and Social Welfare.

We therefore request your favorable consideration of this request and look forward to your guidance on the extended timeline.

2 Mr. Mwanuzi
for our dealing
27/08/24

PAUL FAMBA, MBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION

THE SENATE
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26 AUG 2024
DEPUTY CLERK

THE SENATE
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26 AUG 2024
CLERK'S OFFICE
SENATE



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DEPUTY CLERK - MA'S OFFICE
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27 AUG 2024
P.O. Box 30510, 00100
Nairobi

OFFICE OF THE PRESIDENT

Fax: +254-20-341938
Telephone: Nairobi 2227411

**MINISTRY OF INTERIOR
AND
NATIONAL ADMINISTRATION**

When Replying Please Quote

Our Ref. MOINA/SEC. 1/27/1

Date: 26th August, 2024

The Clerk of the Senate
Parliament Building
NAIROBI

**RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FUNDRAISING
APPEALS BILL, 2024 (SENATE BILL NO. 36 OF 2024)**

Reference is made to your letter Ref. No. SEN/DSEC/SCLSW/2024/96 dated 20th August 2024 on the above subject matter.

Attached herewith please find the Principal Secretary, State Department for Internal Security and National Administration's submission on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)

**J.N. NARENGO, EBS, MBS
FOR: PRINCIPAL SECRETARY
INTERNAL SECURITY AND NATIONAL ADMINISTRATION**

Encl.

① DSEC
Please deal
MA
27/8/24

② Ms. Mwanete
Please deal
28/08/24

CONFIDENTIAL

SUBMISSIONS ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

Honourable Chair, this Standing Committee on Labour and Social Welfare, has invited me, as the Principal Secretary for Internal Security and National Administration for the stakeholder engagement on the Public Fundraising Appeals Bill(Senate Bills No. 36 of 2024)

Honourable Chair, at independence, Kenya's social services especially education and health were inadequate hence inaccessible to most citizens. To remedy this situation, our leaders resorted to a traditional approach of resource mobilization known as 'Harambee.' This is a concept where members of a community pull together resources for common good. Through this approach, many community projects were initiated for the betterment of the standard of living of Kenyans.

With time, this noble initiative was eroded. Public fundraising events became avenues for corruption with public officers demanding Harambee contributions before offering services. In some cases, the funds collected were misappropriated. Harambees also became avenues for seeking political office.

Regulation of Public Fundraising Appeals

The abuse of public fundraising appeals necessitated their regulation. To this end, the Public Collections Act was enacted to provide for the regulation of collection of money and property from the public. The Public Officers Ethic Act was also enacted to prohibit public officers from using their offices as avenues for soliciting or collecting Harambee funds.

The Public Collections Act was ineffective in the regulation of public fundraising appeals. It has not been aligned to the Constitution of Kenya, 2010, did not require permits for such appeals, did not require contributors to disclose the source of their funds and had no accountability mechanism for the funds collected. These inadequacies have informed the present Bill.

Importance of the Bill

The Public Fundraising Appeals Bill, 2024 is therefore important for the following reasons. First, it will establish an effective regulatory framework for fundraising appeals to replace the present regime which has not been effective.

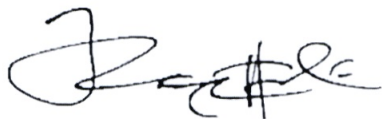
Second, it will promote transparency and accountability in fundraising appeals. Contributors will be required to disclose the source of their funds and organizers of such appeals will be required to keep records and accounts of the appeals.

Third, State officers will be prohibited from participating in or conducting fundraising appeals. This is meant to reduce corruption.

Conclusion

This is an important Bill in the regulation of public fundraising appeals and hence the State Department for Internal Security and National administration supports it.

Thank you, **Honourable Chair.**

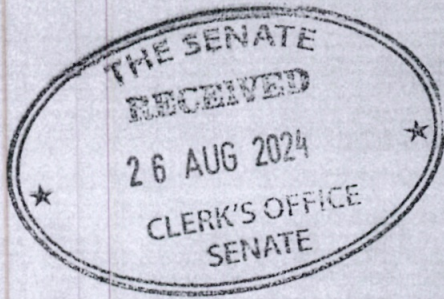


DR. RAYMOND OMOLLO, PhD, CBS

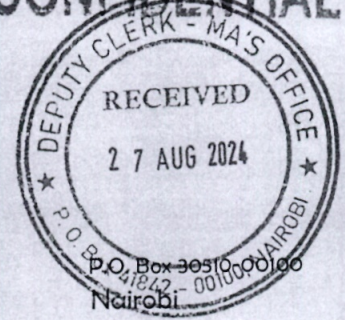
PRINCIPAL SECRETARY

INTERNAL SECURITY & NATIONAL ADMINISTRATION

23rd AUGUST 2024



CONFIDENTIAL



OFFICE OF THE PRESIDENT

Fax: +254-20-341938
Telephone: Nairobi 2227411

**MINISTRY OF INTERIOR
AND
NATIONAL ADMINISTRATION**

When Replying Please Quote

Our Ref. MOINA/SEC. 1/27/1

Date: 26th August, 2024

The Clerk of the Senate
Parliament Building
NAIROBI

**RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FUNDRAISING
APPEALS BILL, 2024 (SENATE BILL NO. 36 OF 2024)**

Reference is made to your letter Ref. No. SEN/DSEC/SCLSW/2024/96 dated 20th August 2024 on the above subject matter.

Attached herewith please find the Principal Secretary, State Department for Internal Security and National Administration's submission on the Public Fundraising Appeals Bill, 2024 (Senate Bills No. 36 of 2024)

**J.N. NARENGO, EBS, MBS
FOR: PRINCIPAL SECRETARY
INTERNAL SECURITY AND NATIONAL ADMINISTRATION**

Encl.

② Ms. Mwanete
Please deal

28/08/24

① DSEC
Please deal
MA
27/8/24

CONFIDENTIAL

SUBMISSIONS ON THE PUBLIC FUNDRAISING APPEALS BILL, 2024 (SENATE BILLS NO. 36 OF 2024)

Honourable Chair, this Standing Committee on Labour and Social Welfare, has invited me, as the Principal Secretary for Internal Security and National Administration for the stakeholder engagement on the Public Fundraising Appeals Bill(Senate Bills No. 36 of 2024)

Honourable Chair, at independence, Kenya's social services especially education and health were inadequate hence inaccessible to most citizens. To remedy this situation, our leaders resorted to a traditional approach of resource mobilization known as 'Harambee.' This is a concept where members of a community pull together resources for common good. Through this approach, many community projects were initiated for the betterment of the standard of living of Kenyans.

With time, this noble initiative was eroded. Public fundraising events became avenues for corruption with public officers demanding Harambee contributions before offering services. In some cases, the funds collected were misappropriated. Harambees also became avenues for seeking political office.

Regulation of Public Fundraising Appeals

The abuse of public fundraising appeals necessitated their regulation. To this end, the Public Collections Act was enacted to provide for the regulation of collection of money and property from the public. The Public Officers Ethic Act was also enacted to prohibit public officers from using their offices as avenues for soliciting or collecting Harambee funds.

The Public Collections Act was ineffective in the regulation of public fundraising appeals. It has not been aligned to the Constitution of Kenya, 2010, did not require permits for such appeals, did not require contributors to disclose the source of their funds and had no accountability mechanism for the funds collected. These inadequacies have informed the present Bill.

Importance of the Bill

The Public Fundraising Appeals Bill, 2024 is therefore important for the following reasons. First, it will establish an effective regulatory framework for fundraising appeals to replace the present regime which has not been effective.

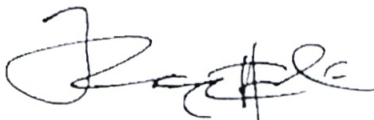
Second, it will promote transparency and accountability in fundraising appeals. Contributors will be required to disclose the source of their funds and organizers of such appeals will be required to keep records and accounts of the appeals.

Third, State officers will be prohibited from participating in or conducting fundraising appeals. This is meant to reduce corruption.

Conclusion

This is an important Bill in the regulation of public fundraising appeals and hence the State Department for Internal Security and National administration supports it.

Thank you, **Honourable Chair.**



DR. RAYMOND OMOLLO, PhD, CBS

PRINCIPAL SECRETARY

INTERNAL SECURITY & NATIONAL ADMINISTRATION

23rd AUGUST 2024

APPENDIX 5

THE SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.

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

CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
1	Ministry of Public Service and Human Capital Development	Amend the title to read— The Public Fundraising Bill, 2024	The term “appeal” may connote lodging an appeal from a lower level jurisdiction to a higher one. The title may confuse the public. Fundraising may include making appeals for funds.	
2	Ministry of Public Service and Human Capital Development	Delete “planning” from the definition of the Cabinet Secretary.	Matters relating to planning and social development may not be under the same Cabinet Secretary.	
		Delete “planning” from the definition of “county executive committee member”.	Matters relating to planning and social development may not be under the same county executive committee member.	
		Delete provision of “public office”.	It is already defined in the Constitution or align with the Constitution definition.	
		Under definition of “beneficiary” include “entities”.	This is to include groups, other entities or organizations.	

CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
4	Ministry of Public Service and Human Capital Development	Include “entities”.	This is to include groups, other entities or organizations.	
6	Ministry of Public Service and Human Capital Development	Include “entities”	This is to include groups, other entities or organizations.	
8	Ministry of Public Service and Human Capital Development	Redraft as follows— The provisions of this Part shall not apply to a private fundraising appeal where the solicitation is made from members of the beneficiary’s nuclear family, relatives or friends and does not extend to members of the public	Friends are close to family and friends and may not be regarded as public.	
9	Ministry of Public Service and Human Capital Development.	Include “entities”.	This is to include groups, other entities or organizations.	
13	Ministry of Public Service and Human Capital Development	Align with the provisions of Public Officer Ethics Act. Revise duration of participating in fundraising to one year.		
14	Ministry of Public Service and Human Capital Development.	Include “entities”.	This is to include groups, other entities and organizations	

CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
21	Ministry of Public Service and Human Capital Development	Revise the clauses on consent and opinions of CS or CECM as they may be abused.		

OTHER SUBMISSIONS

1. Amenity Nyakundi, Kipkirui Langat Kelvin, Karen K, Odhiambo Otieno, Angela Wamai, Joy Njihia, Mulinge Nzau, Yvonne Mueni Mwanzile, Esther Aruka, Linda Nyambura, Jokings, Franis, Enrikay, Anita Mwangi, Petra Muriuki, Nasimiyu Rachelle, Munene Mwarania, Wandiya Njoya, Kiky Mumbi, Njeri Opondo, Mosota Brian Otiso, Celine Kisenga, John Mumo, Mwendu, Rowan Omondi, Jones Kyalo, Lewis, Dennis, Amenity, Sharon Wanjiku Njihia, Paul Aluoch, John Mukundi, Mulinge Nzau, Martha Mumbi Maina, Jays Ndune, Bethsheba Bosibori, Michael O, Paul Oluoch, Sylvia Rwenyo, Bethseba Bosibori, Leonell Loga, Samelly, Sarah Mumbua, Martha Aluoch, Wyclife Odhiambo, Hawi Fred Oyugi, Dylan, Ian, Sharon Wanjiku Njihia, Zubeir, Austine, Erick Asava Magada and Bunge la Mayut urged the Senate to reject the sweeping regulations proposed in the Public Fundraising Appeals Bill, 2024, as they unfairly target citizens who are forced to rely on public fundraisers due to systemic failures in public service provision and made the following submissions—
 - (a) we oppose the broad and sweeping provisions of the Public Fundraising Appeals Bill, 2024. This bill, which seeks to regulate public fundraising activities, commonly known as harambees is fundamentally flawed in its approach and intent;
 - (b) rather than addressing the root causes of the pervasive need for public fundraisers, the Bill focuses on controlling the symptoms of systemic government failures. While we acknowledge the need for regulation in specific areas, such as fundraising activities involving politicians, political aspirants, and religious institutions, we believe the Bill in its current form unfairly burdens ordinary citizens who rely on community support to address gaps in essential services;

- (c) we advocate for a more focused approach that targets the misuse of public funds and resources by those in positions of power;
- (d) public fundraising, or harambees, have become a necessary response to the failure of government institutions to provide adequate and accessible healthcare, education, and social services;
- (e) the Bill fails to address root causes of harambees. The Bill does not propose any solutions to reduce the reliance on harambees, nor does it acknowledge the systemic issues that necessitate these fundraisers;
- (f) the Bill imposes additional regulatory burdens on citizens who are already struggling to meet basic needs. By requiring permits, detailed financial records, and imposing penalties or non-compliance, the government is effectively penalizing those who are forced to rely on public goodwill to survive. This is not only unjust but also counterproductive;
- (g) it suppresses community solidarity. It undermines the very fabric of our society, where communities come together to support one another in times of need;
- (h) the resources and efforts required to enforce this Bill would be better spent on addressing the underlying issues of healthcare, education, and social welfare. Instead of policing citizens who are trying to help one another, the government should focus on strengthening public institutions and infrastructure to reduce the need for such fundraisers;
- (i) rather than imposing blanket regulations on all public fundraising activities, the government should focus on regulating fundraising by politicians, political aspirants, and the use of religious institutions for political and financial gain. This approach would address the real issues of corruption and misuse of public resources without burdening ordinary citizens;
- (j) legislate specific restrictions on fundraising activities by politicians and those intending to run for office. This could include banning the use of harambees for political purposes, requiring full disclosure of the sources of funds, and imposing strict penalties for noncompliance;
- (k) introduce regulations that require transparency and accountability for donations made to religious institutions by politicians. This could involve mandatory reporting of large donations, audits of religious institutions receiving significant political contributions, and restrictions on the use of these funds for electoral purposes; and

-
- (l) address the root causes of the widespread reliance on harambees by improving public healthcare, education, and social services. By reducing the need for public fundraisers, the government can alleviate the burden on citizens and minimize the exploitation of these fundraisers by corrupt individuals.
2. Felix Ngocho Nderitu called for withdrawal of the Bill and made the following submission—
- (a) the Bill does not have any benefit since it imposes conditions such as requiring granting of permits for public fundraising and also introduces inspectors who can enter and inspect the premises offundraising manager; and
 - (b) at a time when the government has made university education expensive and fails to provide affordable public healthcare the Public Fundraising Appeals Bill 2024 (Senate Bill No. 36 of 2024) will hinder people from raising money to help each other which will increase fatalities from diseases, increase university drop out rates and increase poverty since communities cannot come together and raise funds without approval.
3. Wilson Nyenze requested the Senate to withdraw the Bill and submitted that the Bill is in bad faith due to the unique circumstances under which most public appeals occur; due to the failure of the government on providing essential services, e.g., affordable quality health, where most hospitals lack required supplies, other circumstances such as bereavement, emergency support during unfortunate times such as floods and accidents, and overall, the tough economic times to which we all live in.
4. Norah Ndonge, Maxine, Teresa, Kalani Walter, Mutile Mwongo, Kajigi, Thomas Otieno, Alice Wairimu Mugo, Aggrey Omboki, Gatwiri Bundi, Hamisi Rawlins, Joshua Masaki, Jesse Mbuthia, Njeri Nganga, Njeri Macharia, Mosota Brian Otiso, Valarie, Kamondo, Ian, Mungai, Sheldon, Njeri Macharia, Alice Wairimu Mugo, Zacharia, Rawlins, Edward Amani, Christine Wambui, Francis, Nelius, Mumbua, Wairimu Kuria, Martha Aluoch, Ian Muhia, Terry Mbatia, Terry Wangechi, Sarah Mulle, Sherry Muthakye Mulle, Francis Kaira, requested the Senate to withdraw the Bill and made the following submissions—

- (a) the Bill requires any public fundraising initiative to have permits to carry out fundraising appeals. This will likely restrict the number of individuals and organizations who benefit from public fundraising for vital matters. In addition, the charges for the permits are not specified and the charges may become prohibitive;
 - (b) the Bill fails to recognize the lines between public and private fundraising appeals. Private fundraising may in various instances become public when it involves friends and acquaintances of the individual. This raises pertinent questions such as whether the individual or family should seek permits and be deemed to be engaged in public fundraising when friends and acquaintances, as well as their network, are involved;
 - (c) the Bill will result in reduced participation in public fundraisings as it requires details of a person who contributes and the amounts contributed;
 - (d) the requirement for the source of funds may be a deterrent for participation in public fundraising;
 - (e) it is illogical for one to specify the source of funds for small amounts;
 - (f) public fundraising appeals are common and serve to fill the gap when the government fails to care for its people;
 - (g) there is an ever-growing need for public fundraising appeals due to failures by the government. For instance, the failure of the healthcare system to provide affordable and quality healthcare to meet the needs of people, and exorbitantly high university fees have been witnessed recently with the new higher education funding model;
 - (h) the Bill lacks clarity on what happens when funds raised through falsification of information for fundraising are surrendered to the county executive member; and
 - (i) the public and state officers who participate in public fundraisings are only fined and do not receive a prison sentence.
5. A concerned citizen requested the Senate to withdraw the Bill and improve the Social Assistance Act.
6. Njoroge wa Kamuiru, Makuno Muiruri called for total rejection of the Bill.

7. Beth Thithi submitted as follows—

- (a) the Bill seeks to regulate the conduct of public officers with respect to conducting public fundraisings but proceeds to inhibit the rights of citizens to contribute voluntarily for whatever purpose as pleases them;
- (b) clause 9 should be deleted in its entirety;
- (c) the justification for exempting churches should be provided;
- (d) how is it that state officers are not allowed to participate in fundraising yet their offices are allowed. The offices do not operate in isolation or a vacuum, their officers will be required to participate in the fundraising activities; and
- (e) the Bill should be restricted to Public Collections only and is defeatist and contrary to the Kenyan spirit to help and altruist nature of Kenya's social fabric.

8. Wycliffe Kipkirui Cheruiyot, Research Intern at Kericho County Assembly submitted as follows—

- (a) include a clause for expedited applications under specific urgent circumstances, reducing the waiting period to 2-3 days;
- (b) lower the cap on administrative costs for smaller-scale fundraisers to ensure more funds go directly to beneficiaries;
- (c) mandate the Cabinet Secretary to conduct annual public awareness and education campaigns on the bill's provisions and citizens' rights;
- (d) introduce reduced permit fees or expedited processing for fundraising appeals benefiting vulnerable groups such as the elderly or disabled;
- (e) require public disclosure of financial reports on an accessible online portal managed by the regulating authority;
- (f) include an exemption for small-scale, community-driven fundraising activities below a certain financial threshold;
- (g) ensure penalties are proportional to the severity of the infraction to avoid overly punishing minor violations;

9. Ibrahim called for tough sanctions for those who violate the law.
10. Council of Governors made the following submission—
 - (a) the Bill might be difficult to implement given the Kenyan culture of private and public public fundraising appeals;
 - (b) implementation will burden the government;
 - (c) the matters of planning and social development might fall under different county executive members;
 - (d) issue of participation of public officers and state officers in public fundraising appeals are already covered in other laws which might be strengthened, namely the Elections Act and the Public Officer Ethics Act;
 - (e) borrow from other jurisdictions where regulation is on scale of fundraising as opposed to blanket regulation of all fundraising activities.

LIST OF STAKEHOLDERS

- | | | |
|--|---|--|
| 1. Ministry of Public Service and Human Capital Development | 9. Makuno Muiruri | Njeri Macharia, Alice Wairimu |
| 2. Ibrahim | 10. Beth Thithi | Mugo, Zacharia, Rawlins, Edward |
| 3. Council of Governors | 11. Norah Ndonye, Maxine, Teresa, | Amani, Christine Wambui, Francis, |
| 4. Wilson Nyenze | Kalani Walter, Mutile Mwango, | Nelius, Mumbua, Wairimu Kuria, |
| 5. Wycliffe Kipkirui Cheruiyot, Research Intern at Kericho County Assembly | Kajigi, Thomas Otieno, Alice Wairimu Mugo, Aggrey Omboki, | Martha Aluoch, Ian Muhia, Terry Mbatia, Terry Wangechi, Sarah Mulle, Sherry Muthakye Mulle, Francis Kaira, |
| 6. Bunge La Mayut | Gatwiri Bundi, Hamisi Rawlins, Joshua Masaki, Jesse Mbutia, | |
| 7. Njoroge wa Kamuiru | Njeri Nganga, Njeri Macharia, | 12. Ameyia Nyakundi, Kipkirui |
| 8. Felix Ngocho Nderitu | Mosota Brian Otiso, Valarie, Kamondo, Ian, Mungai, Sheldon, | Langat Kelvin, Karen K, Odhiambo Otieno, Angela Wamai, |

Joy Njihia, Mulinge Nzau, Yvonne
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Enrikay, Anita Mwangi, Petra
Muriuki, Nasimiyu Rachele,
Munene Mwarania, Wandiya
Njoya, Kiky Mumbi, Njeri
Opondo, Mosota Brian Otiso,

Celine Kisenga, John Mumo,
Mwende, Rowan Omondi, Jones
Kyalo, Lewis, Dennis, Amenya,
Sharon Wanjiku Njihia, Paul
Aluoch, John Mukundi, Mulinge
Nzau, Martha Mumbi Maina, Jays
Ndune, Bethsheba Bosibori,
Michael O, Paul Oluoch, Sylvia

Rwenyo, Bethseba Bosibori,
Leonell Loga, Samelly, Sarah
Mumbua, Martha Aluoch, Wyclife
Odhiambo, Hawi Fred Oyugi,
Dylan, Ian, Sharon Wanjiku Njihia,
Zubeir, Austine, Erick Asava
Magad