

**NAKALA YA MTANDAO (ONLINE DOCUMENT)**

**BUNGE LA TANZANIA**

**MAJADILIANO YA BUNGE**

**MKUTANO WA KUMI NA NANE**

**Kikao cha Tisa – Tarehe 7 Februari, 2020**

*(Bunge Lilianza Saa Tatu Asubuhi)*

**D U A**

*Naibu Spika (Mhe. Dkt. Tulia Ackson) Alisoma Dua*

**NAIBU SIKA:** Waheshimiwa tukae. Katibu.

**NDG. JOSHUA CHAMWELA - KATIBU MEZANI:**

**HATI ZA KUWASILISHA MEZANI**

Hati zifuatazo ziliwasilishwa Mezani na:-

**NAIBU WAZIRI WA FEDHA NA MIPANGO:**

Maelezo ya Waziri wa Fedha na Mipango kuhusu Azimio la Kufuta Hasara itokanayo na Maduhuli ya Madeni ya Nyuma ya Ada na Leseni za Magari, Riba na Adhabu kwa Kipindi kinachoishia tarehe 30 Juni, 2019.

Muhtasari wa Tamko la Sera ya Fedha (Mapitio ya Nusu Mwaka 2019/2020) [*Monetary Policy Statement (The Mid-Year Review 2019/2020)*].

**MHE. STANLAUS S. MABULA - K.n.y. MWENYEKITI WA KAMATI YA KUDUMU YA BUNGE YA HESABU ZA SERIKALI:**

Maoni ya Kamati ya Kudumu ya Bunge ya Hesabu za Serikali kuhusu Azimio la Kufuta Hasara itokanayo na maduhuli ya madeni ya nyuma ya ada na leseni za magari, riba na adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019.

**MHE. IMMACULATE S. SEMESI - K.n.y. MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI KWA WIZARA YA FEDHA NA MIPANGO:**

Maoni ya Kamati ya Upinzani Bungeni kuhusu Azimio la Kufuta Hasara itokanayo na maduhuli ya madeni ya nyuma ya ada na leseni za magari, riba na adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019.

**WAZIRI WA KATIBA NA SHERIA:**

Maelezo ya Waziri wa Katiba na Sheria kuhusu Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 [*The Arbitration Bill, 2020*].

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### **MHE. ZAINAB A. KATIMBA - K.n.y. MWENYEKITI WA KAMATI YA KUDUMU YA BUNGE YA SHERIA NDOGO:**

Maoni ya Kamati ya Kudumu ya Bunge ya Sheria Ndogo kuhusu Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 (*The Arbitration Bill, 2020*).

### **MHE. SALOME W. MAKAMBA - MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI JUU YA WIZARA YA KATIBA NA SHERIA:**

Maoni ya Kamati ya Kudumu ya Bunge ya Sheria Ndogo kuhusu Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 (*The Arbitration Bill, 2020*).

**NAIBU SPIKA:** Ahsante, Katibu.

**NDG. JOSHUA CHAMWELA - KATIBU MEZANI:**

#### **MASWALI NA MAJIBU**

**NAIBU SPIKA:** Waheshimiwa Wabunge, tutaanza na Ofisi ya Waziri Mkuu, Mheshimiwa Grace Victor Tendega, Mbunge wa Viti Maalum sasa aulize swali lake.

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#### **Agizo La Kukamatwa Vijana Wanaocheza “Pool Table”**

**MHE. GRACE V. TENDEGA** aliuliza:-

Wakati akiwaapisha Wakuu wa Mikoa tarehe 15/03/2016 Mhe. Rais alitoa agizo la kuwakamata vijana wote watakaokutwa wakicheza mchezo wa “pool table” na kuwapeleka kambini wakalime:-

(a) Je, Serikali imeandaa kambi ngapi na kujua huduma za kujikimu kwa vijana hao wakati watakapokuwa wakiendelea na shughuli za kilimo na kipindi cha kusubiri mavuno yao?

(b) Je, Serikali ina mpango mkakati gani wa kupunguza tatizo la ajira kwa vijana ili kuondokana na wimbi la vijana kuzurura na kushinda bila kufanya kazi?

(c) Je, Serikali imefanya sensa na kujua ni vijana wangapi wanaofanya kazi usiku na kupumzika mchana au mchana na kupumzika usiku ili kubaini wazururaji wa mchana na wanaocheza “pool table” mchana kwa sababu ya kukosa ajira?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Waziri Mkuu, majibu.

**NAIBU WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, KAZI, VIJANA NA AJIRA** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Mheshimiwa Waziri Mkuu, naomba kujibu swali la Mheshimiwa Grace Victor Tendega, Mbunge wa Viti Maalum, lenye sehemu (a), (b) na (c) kama ifuatavyo:-

(a) Mheshimiwa Naibu Spika, msingi wa agizo la Mheshimiwa Rais wa Awamu ya Tano Dkt. John Pombe Magufuli kuzuia vijana kucheza “pool table” wakati wa kazi umelenga kuisitiza na kuimarisha dhana na tabia ya kila mwenye uwezo wa kufanya kazi anafanya kazi

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katika sekta mbalimbali za kiuchumi ili kuchangia kukuza pato la Taifa na kupunguza umaskini. Katika kuhakikisha kwamba vijana wanashiriki kwenye shughuli za kiuchumi, Serikali kupitia Tawala za Mikoa na Wilaya imetenga maeneo maalum ya uzalishaji mali kwa vijana ambapo jumla ya ekari 217,882 zimeelekezwa katika kukidhi mahitaji ya shughuli za kilimo, ufugaji, viwanda na biashara ndogo.

Mheshimiwa Naibu Spika, uwepo wa Vituo vya Maendeleo ya Vijana na Majengo ya Viwanda "Industrial Sheds" umesaidia kuwapa mafunzo vijana na kuwajengea uwezo wa kuongeza thamani katika mazao ya kilimo.

(b) Mheshimiwa Naibu Spika, katika kukabiliana na tatizo la ukosefu wa ajira kuwa vijana, Serikali imeendelea kutekeleza mikakati ifuatayo:-

(i) Kuwajengea vijana ujuzi kupitia Programu ya Kukuza Ujuzi Nchini ili vijana kutumia ujuzi wa mafunzo mbalimbali kujajiri na kuajiri vijana wengine. Kwa mwaka huu wa fedha, Serikali inatekeleza mafunzo ya stadi mbalimbali za kazi ambapo jumla ya vijana 49,265 watanufaika.

(ii) Kuweka mazingira bora ya uwekezaji nchini ili kuvutia uwekezaji mkubwa kwenye sekta zenye uwezo mkubwa wa kuzalisha ajira hususani kilimo, ufugaji, madini na viwanda.

(iii) Utekelezaji wa dhana ya *local content* katika miradi mikubwa ya kimkakati ya Serikali katika maeneo ya uchukuzi, nishati na miundombinu ya barabara na reli.

(iv) Kuwezesha vikundi vya vijana kupitia zabuni za manunuzi ya ndani kwenye kila Halmashauri za Manispaa na Wilaya nchini Tanzania kupitia Akaunti Maalum kama mabadiliko ya mwaka 2016 ya Sheria ya PPRA yanavyoelekeza.

(v) Uwezeshwaji kiuchumi kwa vijana kupitia Mfuko wa Maendeleo ya Vijana na mikopo ya asilimia 10 za mapato ya ndani ya Halmashauri.

(c) Mheshimiwa Naibu Spika, Serikali imelipokea wazo la kujua vijana wanaofanya kazi usiku na wanaofanya kazi mchana. Hivyo suala hili litawasilishwa katika Mamlaka ya Takwimu ili lizingatiwe katika sensa ya watu na makazi itakayofanyika mwaka 2022.

**NAIBU SPIKA:** Mheshimiwa Grace Tendega, swali la nyongeza.

**MHE. GRACE V. TENDEGA:** Mheshimiwa Naibu Spika, ahsante kwa kunipa nafasi niulize maswali mawili ya nyongeza.

Mheshimiwa Naibu Spika, kwanza, nasikitika sana swali langu halijajibiwa kama nilivyokuwa nimeuliza. Katika majibu ya Naibu Waziri anasema kwamba wao wametenga zaidi ya ekari 217 ambazo ziko katika mikoa mbalimbali lakini hajaainisha ni mikoa ipi na wilaya zipi makambi hayo yapo ili tuweze kujua kwa sababu sisi ndiyo wawakilishi wa hao vijana na tunawaona jinsi ambavyo wanapata adha huko tuliko. (Makofi)

Mheshimiwa Naibu Spika, wamesema kwamba kuna programu mbalimbali na mazingira ambayo wamewawezesha, ni program zipi na mazingira yepi ambayo wameyaweke ili hawa vijana tukawaona wanafanya kazi. Amekiri kabisa hakuna hata sensa waliokwisha kuifanya ya kufahamu ni vijana wangapi ambao wanafanya kazi hizo mchana na usiku kwa maana ya kwamba hakuna wanachokijua kuhusu vijana wetu na tunawaona wakiwa wako na hali ngumu na hawana ajira na ajira hazijapatikana. Ahsante. (Makofi)

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**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Waziri Mkuu, majibu.

**NAIBU WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, KAZI, VIJANA NA AJIRA:** Mheshimiwa Naibu Spika, napenda kujibu maswali mawili ya nyongeza ya Mheshimiwa Grace Victor Tendega (Viti Maalum), kama ifuatavyo:-

Mheshimiwa Naibu Spika, katika eneo lake la kwanza amehoji kwa nini hatujaainisha maeneo yote ya ekari 217,882 ambayo yametengwa. Katika utaratibu wa uwasilishaji wa majibu nimetoa majibu ya jumla kuonyesha ekeri zilizotengwa lakini bado hii haizuii Mheshimiwa Mbunge kupata taarifa ya maeneo ambayo yametengwa. Kupitia TAMISEMI tutawasilisha orodha ya maeneo yote haya ambayo yametengwa ili Waheshimiwa Wabunge pia wafahamu ardhi ambayo imetengwa kwa ajili ya shughuli za vijana kwa ajili ya kilimo, viwanda na ufugaji.

Mheshimiwa Naibu Spika, la pili anahoji kuhusu program ambazo tunaziendesha. Ofisi ya Waziri Mkuu kwa 2016/2021 tunaendesha Programu Maalum ya Ukuzaji Ujuzi Vijana yenye lengo la kuwafikia vijana milioni 4.4 kwa mwaka 2021 ili vijana hawa wapate ujuzi waweze kujajiri na kuajiri vijana wengine.

Mheshimiwa Naibu Spika, kwa sababu ameomba azisikie program, kwa ruhusa yako naomba nimtajie chache tu ili ibaki kwenye kumbukumbu sahihi za Bunge hili. Program ya kwanza ambayo tunaifanya inaitwa *RPL (Recognition of Prior Learning)*, ni mfumo wa Urasimishaji wa Ujuzi kwa vijana wenye ujuzi ambao hawajapitia mfumo rasmi wa mafunzo ya ufundi. Ukienda leo mtaani kuna vijana wanajua kupaka rangi au kutengeneza magari lakini hawajawahi kusoma *VETA* wala Don Bosco. Serikali inachokifanya inarasimisha ujuzi wao na kuwapatia vyeti. *(Makofi)*

Mheshimiwa Naibu Spika, tuna Program ya *Greenhouse* ambapo kila wilaya tunawafikia vijana 100 katika awamu ya kwanza. Mpaka sasa nchi nzima tumeshafikia vijana 18,800. *(Makofi)*

Mheshimiwa Naibu Spika, tuna Program ya Mafunzo ya Ufundi kupitia vyuo vya Don Bosco na vyuo shirikishi. Takribani vijana 8,800 katika awamu ya kwanza wamenufaika na tunaendelea na awamu ya pili. *(Makofi)*

Mheshimiwa Naibu Spika, tuna program ambayo inaendeshwa *DIT* Mwanza ya Viatu na Bidhaa za Ngozi ambako vijana wanapata mafunzo na kuweza kunufaika. *(Makofi)*

Mheshimiwa Naibu Spika, program ziko nyingi sana kwa sababu ya muda, naomba niishie hapa lakini Mheshimiwa Mbunge atapata taarifa zaidi.

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Waziri Mkuu.

**WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, SERA, BUNGE, KAZI, VIJANA, AJIRA NA WENYE ULEMAVU:** Mheshimiwa Naibu Spika, kwa niaba ya Mheshimiwa Waziri Mkuu, nampongeza sana Mheshimiwa Naibu Waziri kwa majibu mazuri tena ya kina kabisa. *(Makofi)*

Mheshimiwa Naibu Spika, nataka kuongeza jambo dogo tu, Mheshimiwa Tendega amelalamika hapa kwamba hakuna chochote kinachofanyika na haelewi chochote. Ili kumsaidia zaidi Mheshimiwa Mbunge akumbuke kwamba kila tunapopitisha bajeti za Serikali kila Wizara inaeleza program zote zitakazofanyiwa kazi kwenye bajeti ya Serikali.

*(Hapa baadhi ya Wabunge walizungumza bila kufuata utaratibu)*

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**WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, SERA, BUNGE, KAZI, VIJANA, AJIRA NA WENYE ULEMAVU:** Mheshimiwa Naibu Spika, ili kuliweka suala hili, vizuri namwomba Mheshimiwa Tendega arejee kwenye bajeti ya Ofisi ya Waziri Mkuu, hizo program zote, utekelezaji wake kwenye ripoti ya Kamati upo na mambo yote yaliyofanyika yako wazi na yanaeleweka. Kwa hiyo, hatujaficha na siyo kwamba hakuna kinachojulikana. *(Makofi)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, nimesikia maneno utekelezaji, sasa mkiambiwa kila wilaya vijana 18,000 wamefikiwa kwa ujumla wao si maana yake kuna mahali Serikali imeanzia yaani ili uone utekelezaji unataka utazamaje? Mheshimiwa Msigwa swali la nyongeza.

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Naibu Spika, nakushukuru kwa nafasi ya kuuliza swali la nyongeza.

Mheshimiwa Naibu Spika, pamoja na majibu ya kisiasa ya Mheshimiwa Waziri, sasa hivi watu wanaomaliza elimu ya shule ya msingi, sekondari, diploma na digrii ni takribani 900,000. Wengi wao wanaingia kutafuta soko la ajira wakati huo huo Serikali imekuwa ikitoa elimu ambayo inapishana na soko lililoko. Sasa mipango unayosema, ukilinganisha na idadi ya vijana wengi ambao hawana kazi na idadi ya vijana ambao Serikali inasema inawa-*train* na kuwapa hizo fursa ni chache sana ukilinganisha na uhitaji wa watu. Sasa kuna mkakati gani wa makusudi au mpango maalum wa Serikali wa kutoa elimu ambayo itakwenda kukutana na soko wanapokwenda kukutana huko mtaani ukiachilia mbali hayo waliyoyasema?

**NAIBU SPIKA:** Ahsante. Mheshimiwa Naibu Waziri, majibu.

**NAIBU WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, KAZI, VIJANA NA AJIRA:** Mheshimiwa Naibu Spika, napenda kujibu swali la nyongeza ya Mheshimiwa Mchungaji Msigwa, Mbunge wa Iringa Mjini, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza ningemwomba Mheshimiwa Mbunge aende ku-*revisit* tena takwimu zake alizonazo kumekuwa na upotoshaji juu ya watu wanaoingia katika soko la ajira kila mwaka, anasema wahitimu lakini kwa mujibu wa takwimu kutoka NBS ya Juni, 2019 inasema watu wenye uwezo wa kufanya kazi kuanzia miaka 15 na kuendelea, *the working age population*. Kwa hiyo, siyo hicho ambacho amekisema Mheshimiwa Mbunge, kwa hiyo, namshauri aende ku-*revisit* takwimu zake.

Mheshimiwa Naibu Spika, katika kulijibu swali lake, ni kweli hauwezi ukawa una suluhisho moja kwa matatizo mbalimbali ya vijana. Tulichokifanya kama Serikali, katika vijana ambao wengi ni wahitimu wa darasa la saba, kidato cha nne ambao kwa kiasi kikubwa sana tunaamini kwamba wakipata ujuzi wanaweza kujijiri na kuajiri vijana wengine, Serikali inatekeleza Programu Maalum ya Mafunzo ya Ufundi Stadi ambako tumeanza mwaka juzi kushirikiana na Don Bosco. Mheshimiwa Msigwa katika Jimbo lako la Iringa Mjini wako vijana ambao wamenufaika na program hii kupitia ukuzaji wa ujuzi.

Mheshimiwa Naibu Spika, tunachokifanya ni kwamba Serikali sasa inaingia kuwafadhili vijana kupata mafunzo ya ufundi stadi kama sehemu ya kuwafanya kuweza kujijiri. Tunafanya program hiyo Don Bosco Oyster, Don Bosco Mafinga, Don Bosco Iringa, Don Bosco Shinyanga na Don Bosco Dodoma na maeneo mengine.

Mheshimiwa Naibu Spika, kwa vijana ambao ni wahitimu wa vyuo vikuu na vyuo vya elimu ya juu, Serikali ilichokifanya ni kwamba Mheshimiwa Waziri Mkuu amezindua program maalum ya mafunzo ya *internship* na uanagenzi ambako hivi sasa kwenye kuondoa changamoto ya ukosefu wa ajira kwa vijana kwa kigezo cha uzoefu, hivi sasa Serikali

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inawachukua vijana wahitimu wa vyuo vikuu na vyuo vya elimu ya juu, tunakwenda kuwa-*place* katika makampuni na viwanda mbalimbali wanajifunza kwa miezi sita mpaka miezi kumi na mbili. Akitoka hapo anapewa *certificate of recognition* ambapo akienda kuomba kazi hiyo itakuwa ni kigezo kwamba kijana huyu tayari ameshapata uzoefu na imesaidia kwa kiwango kutatua changamoto ya ukosefu wa ajira. (Makofi)

Mheshimiwa Naibu Spika, ziko program nyingi sana na nitapata nafasi kuwaelezea Wabunge vizuri zaidi ili waweze kuzielewa program za Ofisi ya Waziri.

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Stanslaus Mabula, swali fupi.

**MHE. STANSLAUS S. MABULA:** Mheshimiwa Naibu Spika, nakushukuru na ahsante kwa nafasi.

Mheshimiwa Naibu Spika, napenda nimuulize Mheshimiwa Naibu Waziri pamoja na kazi nzuri ya urasimishaji wa ajira lipo kundi la madereza na makondakta wa daladala wamekuwa kwenye ajira kwa muda mrefu sana lakini ajira zao zimekuwa hazithaminiwi kwa maana ya kupewa thamani ya mikataba na wao kuwafanya waweze kuwa na akiba kwenye mifuko yetu ya hifadhi pale wanapokuwa wameacha kazi hii. Ni lini Serikali itahakikisha ajira hii na yenyewe inakuwa rasmi na kutambuliwa kwa mujibu wa sheria?

**NAIBU SPIKA:** Ahsante. Mheshimiwa Naibu Waziri, Ofisi ya Waziri Mkuu, majibu.

**NAIBU WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, KAZI, VIJANA NA AJIRA:** Mheshimiwa Naibu Spika, napenda kujibu swali la nyongeza ya Mheshimiwa Stanslaus Mabula, Mbunge wa Nyamagana, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza nimpongeze sana Mheshimiwa Mbunge kwa namna ambavyo anawapigania sana waendesha bodaboda na daladala katika eneo lake la Nyamagana. (Makofi)

Mheshimiwa Naibu Spika, swali lake anasema Serikali tuna mkakati gani wa kuhakikisha kwamba madereva wa daladala na bodaboda wanakuwa na mikataba na kufanya kazi zenye staha. Waziri wa Nchi, Ofisi ya Waziri Mkuu, Mheshimiwa Jenista Mhagama amekwishatekeleza agizo la Mheshimiwa Waziri Mkuu la kuwaita na tumekaa nao kwa pamoja wamiliki wa vyombo mbalimbali vya moto pamoja na Chama cha Madereva katika kutengeneza mpango wa pamoja wa kurasimisha ajira za madereva. Mpaka hivi sasa tunaendelea na ushirikiano mzuri pamoja na wamiliki wa vyombo hivyo na tumepeana muda ambapo baadaye tutafanya ukaguzi kujiridhisha kwamba makubaliano yetu yamefikwa ili tuhakikishe kwamba Tanzania nzima madereva wote wa magari makubwa, mabasi, magari madogo wanapata mikataba ya ajira kama sheria inavyoelekeza katika kifungu cha 14 cha Sheria Na.6 ya mwaka 2004.

**NAIBU SPIKA:** Ahsante sana. Tunaendelea na Ofisi ya Rais, TAMISEMI, Mheshimiwa Margaret Simwanza Sitta, Mbunge wa Urambo swali lake litaulizwa, inavyoonekana Mheshimiwa Sitta ameagiza watu wengi naona wengi mmesimama kuuliza kwa niaba. Ngoja niangalie Mkoa wa Tabora, Mheshimiwa Mwanne Mchemba kwa niaba ya Mheshimiwa Margaret Sitta. (Makofi/Kicheko)

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**Kuongeza Bajeti Hospitali ya Wilaya ya Urambo**

**MHE. MWANNE I. MCHEMBA (K.n.y. MHE. MARGARET S. SITTA)** aliuliza:-

(a) Je, Serikali ipo tayari kuangalia bajeti ya Hospitali ya Wilaya ya Urambo ambayo inahudumia wananchi wa maeneo ya Kaliua, Ulyankulu na maeneo ya jirani ili kuongeza uwezo wa kutoa huduma?

(b) Hospitali ya Wilaya ya Urambo ina majengo mawili ya ICU na maabara ambayo hayajakamilika tangu yalipoanza kujengwa 2011 kupitia utaratibu wa LGDG ya mradi wa ADB. Je, Serikali inatoa kauli gani kuhusu ombi la wananchi wa Urambo la shilingi milioni 200 ambazo zinaweza kumaliza majengo hayo?

(c) Je, Serikali inatoa kauli gani kuhusu kuongeza wafanyakazi angalau Manesi 12 na Wafamasia 6 kutokana na kuongezeka kwa idadi ya wagonjwa Hospitalini hapo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Rais, TAMISEMI.

**NAIBU WAZIRI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. JOSEPHAT S. KANDEGE)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Nchi, Ofisi ya Rais-TAMISEMI, naomba kujibu swali la Mheshimiwa Margaret Simwanza Sitta, Mbunge wa Urambo lenye sehemu (a), (b) na (c) kama ifuatavyo:-

(a) Mheshimiwa Naibu Spika, ili kupunguza msongamano wa wagonjwa kwenye Hospitali ya Halmashauri ya Wilaya ya Urambo, Serikali imepanua Kituo cha Afya Ulyankulu, Kituo cha Afya Usoko na kujenga Kituo cha Afya Usoko Mlimani kwa gharama ya jumla ya shilingi bilioni 1.2. Mpango huu utasaidia kuimarisha utoaji wa huduma za afya katika vituo hivyo na kupunguza idadi ya wagonjwa wanaokwenda kutibiwa katika Hospitali ya Wilaya ya Urambo.

(b) Mheshimiwa Naibu Spika, ni kweli mradi wa ujenzi wa majengo ya upasuaji, ICU na maabara uliofadhiliwa na ADB haukukamilika kutokana na tatizo la kukisia chini ya kiwango gharama za ujenzi wa majengo hayo. Serikali imepanga kukamilisha ujenzi wa majengo hayo kwa kutenga fedha kupitia bajeti ya mwaka wa fedha 2020/2021.

(c) Mheshimiwa Naibu Spika, katika mwaka wa Fedha 2018/2019, jumla ya watumishi wapya 26 wa kada ya Wauguzi, Madaktari, Maafisa Tabibu, Mtaalam wa Mionzi na Maabara walipangwa kufanya kazi katika Halmashauri ya Wilaya ya Urambo. Serikali itaendelea kuajiri na kuwapanga watumishi wa kada za afya kadri watakavyokuwa wakipatikana.

**NAIBU SPIKA:** Mheshimiwa Mwanne Mchemba, swali la nyongeza.

**MHE. MWANNE I. MCHEMBA:** Mheshimiwa Naibu Spika, ahsante kwa kunipa nafasi ili niulize maswali madogo ya nyongeza.

Mheshimiwa Naibu Spika, swali la kwanza, kwa kuwa jengo la ICU muhimu sana na kwa kuwa mradi ule mpaka sasa hauna fedha na Serikali imesema itatenga fedha mwaka huu wa fedha, je, Serikali iko tayari kupeleka angalau hizo milioni 200 za dharura?

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Mheshimiwa Naibu Spika, swali la pili, kwa kuwa idadi ya watumishi ni ndogo sana hususan kitengo cha *nursing*, je, Serikali haioni sasa umuhimu wa kuongeza angalau watumishi sita katika Hospitali ya Wilaya?

Mheshimiwa Naibu Spika, mbali na maswali hayo, nipongeze sana majibu mazuri ya Mheshimiwa Naibu Waziri. (Makofi)

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Naibu Waziri, Ofisi ya Rais, TAMISEMI, majibu.

**NAIBU WAZIRI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. JOSEPHAT S. KANDEGE):** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Mwanne Mchemba, Mbunge wa Viti Maalum kutoka Tabora, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwa niaba ya Serikali, naomba tupokee pongezi ambazo Mheshimiwa amezitoa. Kipekee naomba na mimi nimpongeze kwa jinsi ambavyo amekuwa akipigania kuhakikisha afya na hasa ya akina mama inaboreshwa katika Mkoa wa Tabora.

Mheshimiwa Naibu Spika, katika swali lake la kwanza anaomba walau Serikali itoe jumla ya shilingi milioni 200 za dharura. Hata hivyo, katika majibu ya msingi na swali la msingi kinachoombwa ili kumaliza majengo yote mawili ni jumla ya shilingi milioni 200. Naomba Mheshimiwa Mbunge aendelee kuamini Serikali, tumeahidi kwamba katika bajeti ya 2020/2021 tunaenda kutekeleza na hii inatokana na baadhi ya maboresho makubwa ambayo yamefanyika katika Hospitali ya Urambo ambapo sasa hivi hata makusanyo yanayokusanywa pale ni mengi. Naomba Mheshimiwa aendelee kuamini Serikali, tutatekeleza.

Mheshimiwa Naibu Spika, katika swali lake la pili anaomba kuongeza idadi ya watumishi walau sita. Juzi Waziri mwenye dhamana amejibu akieleza namna ambavyo Serikali inaenda kutoa jira zisizopungua 45,000. Katika watumishi watakoajiriwa upande wa afya, hakika nimhakikishie Mbunge na Tabora kwa ujumla wake hatutaisahau. (Makofi)

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Felister Bura, swali la nyongeza.

**MHE. FELISTER A. BURA:** Mheshimiwa Naibu Spika, nakushukuru kwa nafasi hii uliyonipa ya kuuliza swali dogo la nyongeza.

Mheshimiwa Naibu Spika, tabu wanayopata wananchi wa Urambo, wanapata wananchi wangu wa Wilaya ya Mpwapwa, Jimbo la Kibakwe, Kata ya Mlunduzi ambayo ina zahanati tatu na zahanati hizi majengo yameshakamilika lakini milango, madirisha, *ceiling board* havijawekwa, kwa hiyo wanawake na watoto wanapata shida wakitafuta matibabu mbali na maeneo yao wakati majengo yako pale. Je, ni lini Serikali itakamilisha majengo yale ya zahanati ya Kata ya Mlunduzi, Jimbo la Kibwakwe ili wananchi wa pale waweze kupata huduma ya karibu?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Rais-TAMISEMI, majibu.

**NAIBU WAZIRI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. JOSEPHAT S. KANDEGE):** Mheshimiwa Naibu Spika, naomba nijibu swali la nyongeza la Mheshimiwa Felister Bura, Mbunge wa Viti Maalum, Mkoa wa Dodoma, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kama hicho anachosema Mheshimiwa Mbunge ndiyo uhalisia maana yeye mwenyewe anakiri kwamba *almost* ni kama majengo yamekamilika imebaki vitu vichache tu ili kukamilisha majengo hayo. Naomba nichukue fursa hii kumuagiza Mkurugenzi



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Mtendaji ahakikishe kwamba tathmini inafanyika kwa sababu katika hayo ambayo anayasema ni pesa kiasi kidogo sana kinahitajika ili kuweza kukamilisha zahanati hizo. (Makofi)

Mheshimiwa Naibu Spika, pia nimtoe wasiwasi. Kama kuna mikoa yenye neema kwa sasa hivi ambayo watumishi wengi wa Serikali wanapenda kuhamia ni pamoja na Mkoa wa Dodoma. Kwa hiyo, adha ya ukosefu wa watumishi kwa Dodoma itabaki ni historia.

**NAIBU SPIKA:** Waheshimiwa wengi sana mna maswali. Mheshimiwa Esther Matiko.

**MHE. ESTHER N. MATIKO:** Mheshimiwa Naibu Spika, nakushukuru. Adha iliyopo Urambo ya Hospitali ya Wilaya kuhudumia *population* nje ya eneo linalohitajika ni sawa na ile ya Hospitali ya Mji wa Tarime ambayo kwa kweli na nimeshaongea mara nyingi sana hapa Bungeni, inahudumia watu nje ya *population* ya Mji wa Tarime, wanatoka Shirati, Halmashauri ya Wilaya ya Tarime na Serengeti.

Mheshimiwa Naibu Spika, wananchi wa Kata ya Kinyemanyoli waliamua kujenga kituo cha afya ili kupunguza ile *population* ambayo inaenda kupata huduma ya Halmashauri ya Mji wa Tarime na nilishauliza hapa akaahidi kwamba angeweza kupeleka fedha. Nataka kujua sasa ni lini Serikali itapeleka fedha ku-*support* nguvu za wananchi ili tuweze kuwa na kituo cha afya Kinyemanyoli kupunguza adha wanayopata wajawazito na watoto?

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Rais -TAMISEMI, majibu.

**WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA:** Mheshimiwa Naibu Spika, kwanza nimpongeze Naibu Waziri kwa majibu mazuri kwa maswali yaliyoulizwa hapo awali.

Mheshimiwa Naibu Spika, tunafahamu Mkoa wa Mara umekuwa na changamoto mbalimbali za sekta ya afya lakini tumefanya *investment* kubwa katika mkoa huo na tukifahamu kwamba eneo la Tarime Mji napo kuna changamoto hizo. Ni jukumu la Serikali kuangalia nini kifanyike katika maeneo hayo kama tulivyofanya kazi katika Mkoa mzima wa Mara. Kwa mfano, kwa sasa hivi tunajenga Hospitali za Wilaya takriban tatu na kuimarisha vituo vya afya. (Makofi)

Mheshimiwa Naibu Spika, nimhakikishie Mheshimiwa Esther Matiko kwamba tunaifahamu changamoto zilizopo kule na tunazishughulikia. Kikubwa zaidi naomba nimuagize Mganga Mkuu wa Mkoa wa Mara kwenda kufanya tathmini na kutuletea taarifa ili katika mchakato wetu wa bajeti unaokuja mwezi wa tano tuangalie jinsi gani tutaweza ku-*address* matatizo ya maeneo hayo kwa sababu lengo letu kubwa ni kuhakikisha kwamba wananchi wa Tarime Mji wanapata huduma vizuri. Ahsante sana. (Makofi)

**NAIBU SPIKA:** Mheshimiwa Edwin Sannda, swali la nyongeza.

**MHE. EDWIN M. SANNDA:** Mheshimiwa Naibu Spika, nakushukuru. Hospitali ya Mji wa Kondoa inahudumia takriban Halmashauri sita. Tunazungumzia Kondoa Vijijini, Chemba, Kiteto, wakati mwingine mpaka Hanang' na Babati. Bajeti tunayopata ni shilingi milioni 45 kati ya milioni 160 ambayo tunahitaji kutoka *Basket Fund*. Nimelizungumzia sana suala hili Bungeni hapa.

Je, ni lini sasa Serikali itakubaliana na uhalisia wa mahitaji hayo na kutuongezea bajeti yetu kukidhi mahitaji ya wananchi wa maeneo hayo?

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Rais, TAMISEMI, majibu.

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**WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA:** Mheshimiwa Naibu Spika, naomba kujibu swali la Mheshimiwa Sannda, Mbunge wa Kondoa Mjini, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli, tuna changamoto katika maeneo ya miji ukiachia ile Halmashauri ya Mji wa Kondoa lakini kwa dada yangu Mheshimiwa Esther Matiko pale Tarime na hali kadhalika kwa Mheshimiwa Chumi pale Mafinga. Ndiyo maana tumewaagiza wataalam wetu sasa hivi wanafanya *analysis* kuangalia changamoto kubwa ya idadi ya watu na mgawanyo wa fedha ili tuweze ku-*regulate* vizuri ili mradi maeneo hayo yaweze kupata huduma vizuri. Kwa hiyo, naomba tuwe na subira kidogo, wataalam wetu wanafanya kazi hiyo, naamini katika Mpango wa Bajeti yetu ya mwaka wa fedha 2020/2021 jambo hilo tutali-address vizuri kwa maslahi mapana ya wananchi wetu.

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na swali la Mheshimiwa George Malima Lubeleje, Mbunge wa Mpwapwa.

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### **Kujenga Daraja Kwenye Mto ulio kati ya Kijiji cha Mbori na Tambi**

**MHE. GEORGE M. LUBELEJE** aliuliza:-

Kati ya Kijiji cha Mbori na Kijiji cha Tambi upo mto ambao hujaa maji wakati wa mvua na kusababisha wananchi na baadhi ya wanafunzi wa Shule ya Msingi Tambi na Sekondari ya Matomondo kushindwa kuvuka:-

Je, Serikali ina mpango gani wa kujenga daraja katika mto huo ili wananchi na wanafunzi waweze kuvuka?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Rais, TAMISEMI, majibu.

**NAIBU WAZIRI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. JOSEPHAT S. KANDEGE)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Nchi, Ofisi ya Rais – TAMISEMI, naomba kujibu swali la Mheshimiwa George Malima Lubeleje, Mbunge wa Mpwapwa, kama ifuatavyo: -

Mheshimiwa Naibu Spika, Wakala wa Barabara za Vijijini na Mijini (TARURA) umepanga katika mwaka wa fedha 2019/2020 kufanya usanifu kwa ajili ya ujenzi wa daraja linalounganisha Vijiji vya Mbori na Tambi vilivyopo katika Wilaya ya Mpwapwa ili kurahisisha mawasiliano kati ya maeneo hayo. Kazi hiyo ya usanifu itakapokamilika itawezesha kujua gharama zinazohitajika ili kutafuta fedha za kuanza ujenzi wa daraja hilo.

**NAIBU SPIKA:** Mheshimiwa George Malima Lubeleje, swali la nyongeza.

**MHE. GEORGE M. LUBELEJE:** Mheshimiwa Naibu Spika, swali la kwanza, pamoja na majibu mazuri ya Mheshimiwa Naibu Waziri lakini ahadi hizi ni za muda mrefu kwamba Serikali ina mpango na mkakati wa kujenga daraja hili la Manamba kwenda Kijiji cha Tambi. Hapa anazungumzia kuhusu usanifu, je, ni lini sasa daraja hili litajengwa? Daraja hili ni upana wa mita 100 na wanafunzi wanashindwa kuvuka, ni lini sasa atajenga daraja hili?

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Mheshimiwa Naibu Spika, swali la pili, kwa kuwa wanafunzi wa shule ya msingi na sekondari wanashindwa kuvuka mto huu kwenda shule ya sekondari na kwenda shule ya msingi na ni kero kubwa sana. Ni lini sasa pamoja na kutathmini mtajenga daraja hilo? Hata Mheshimiwa Waziri wa TAMISEMI analifahamu.

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Rais, TAMISEMI, majibu.

**WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA:** Mheshimiwa Naibu Spika, naomba kujibu swali la Seneta wetu Mheshimiwa Mzee Lubeleje ambapo mimi huwa napenda kumuita *grader* la zamani makali yale yale. (Makofi)

Mheshimiwa Naibu Spika, ni kweli anayosema Mheshimiwa Lubeleje. Daraja lenyewe linaunganisha maeneo ya Mseta na Nambi lakini daraja lile ni kubwa kidogo na sasa hivi kuna korongo hata Mheshimiwa Mbunge anafahamu juzi juzi nilikuwa pamoja naye kule, ukiangalia tuna kazi kubwa ya kufanya. Tulikuwa na fedha kutoka *DFID* ambapo tulianza katika maeneo ili kuondoa vikwazo, tumekamilisha katika baadhi ya maeneo lakini pale lazima iwe fedha ya kutosha.

Mheshimiwa Naibu Spika, kwa hiyo, naomba nimhakikishie Mheshimiwa Mbunge kwamba katika tathmini inayofanyika lengo ni kutafuta fedha kwa sababu daraja lile siyo la shilingi milioni 300 au 4000, ni daraja kubwa linalotaka zaidi ya bilioni 2. Kwa hiyo, nimhakikishie Mheshimiwa Mbunge kwamba tunalifahamu daraja hilo na nimuagize Mtendaji wetu Mkuu, watu wameshafanya *design* pale afike yeye mwenyewe Mhandisi Seif akaangalie ili katika mpango wa bajeti tuweke vipaumbele kwa sababu eneo lile lina watu wengi lazima tuweze kuwaokoa. Kwa hiyo, nimhakikishie Mheshimiwa Lubeleje kwamba jambo lile tunalifanyia kazi kwa nguvu zote.

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunafahamu uhitaji wa maswali ya nyongeza lakini sasa tuwe tunaangalia muda kwa sababu mwenye maswali akimaliza muda wake na wewe ukaanza kujenga kwanza hoja inachukua muda zaidi, nenda moja kwa moja kwenye swali ili wengi mpate fursa ya kuuliza. Mheshimiwa Mnyika.

**MHE. JOHN J. MNYIKA:** Mheshimiwa Naibu Spika, nakushukuru. Matatizo ya kukosekana kwa madaraja na kusababisha watu kushindwa kuvuka yapo vilevile kwenye Kata ya Goba hasa Mtaa wa Kulangwa na kwenye mitaa kadhaa. Kwa sababu Serikali inalifahamu suala hili na Mheshimiwa Waziri wakati anajibu swali alisema kuna fedha maalum wanazitafuta. Je, watakapotafuta fedha maalum ni pamoja na Kata ya Goba ili kwenda kuondoa matatizo ya madaraja Mtaa wa Kulangwa na mitaa mingine? (Makofi)

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Rais, TAMISEMI, majibu.

**WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA:** Mheshimiwa Naibu Spika, naomba kujibu swali la ndugu yangu Mheshimiwa Mnyika, Mbunge wa Kibamba, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli tunafahamu maeneo yenye changamoto mbalimbali ikiwepo katika Jimbo a Kibamba na tukifahamu wazi kwamba katika eneo la Dar es Salaam kuna maeneo mengi tumeanza kuya-*address* kupitia mradi wa *DMDP* lakini hata hivyo kuna maeneo mengine bado hasa katika Wilaya ya Kigamboni na baadhi ya maeneo ya Wilaya ya Ubungo. Siwezi kutoa *commitment* ya moja kwa moja hapo kwa sababu mimi sitaki kuzungumza biashara ya uongo lakini kama Serikali tunaichukua changamoto hii na kuhakikisha wataalam wetu wanapitia maeneo hayo halafu kuangalia kipi kiwekwe kwenye kipaumbele

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cha kwanza ili kuwasaidia wananchi wetu waweze kusafiri na kutekeleza kufanya huduma zingine za kijamii. Ahsante.

**NAIBU SPIKA:** Mheshimiwa Mary Nagu, swali la nyongeza.

**MHE. DKT. MARY M. NAGU:** Mheshimiwa Naibu Spika, nakushukuru sana kwa kunipa nafasi hii. Kutoka Mogitu kwenda Basotu na Haydom, kuna barabara ambayo inawafikisha watu hospitali wanapougua lakini kwa bahati mbaya kutokana na mvua maji mengi kutoka ukuta wa bonde la ufa yamekuwa yakiharibu ile barabara mpaka imefungwa na watu wawili kufia pale. Je, Waziri anasema nini kuhusu barabara hii? Nitashukuru watu wa Hanang wakisisikia ili wawe na moyo wa kuendelea kuishi.

**NAIBU SPIKA:** Mheshimiwa Waziri wa Nchi, Ofisi ya Rais, TAMISEMI, majibu.

**WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA:** Mheshimiwa Naibu Spika, kwanza naomba nimpongeze mama yangu Mheshimiwa Dkt. Mary Nagu kwa kazi kubwa sana anayofanya katika Jimbo la Hanang. *(Makofi)*

Mheshimiwa Naibu Spika, barabara hii ni miongoni mwa barabara ambazo nimezipita mara kwa mara na nimepita mpaka Dongobesh. Ni kweli kuna changamoto kubwa na juzi juzi alinipa taarifa ya barabara hii na nyingine. Kubwa zaidi niseme siku ileile tuliyoongea niliweza kuwasiliana na Mtendaji wetu Mkuu wa TARURA kuhakikisha wanafanya tathmini ikiwa ni pamoja na barabara za Kilindi Mkoani Tanga. Imani yangu watu wangu wako *site* hivi sasa ama wanaelekea *site* ili tupate jawabu halisia nini tufanye tuweze kuwasaidia. Ni kweli najua kweli kuna changamoto katika eneo hilo. Ahsante sana. *(Makofi)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na swali la Mheshimiwa *Engineer* Edwin Amandus Ngonyani, Mbunge wa Namtumbo.

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### **Maeneo ya Wananchi wa Jumuiya za Hifadhi ya Wanyamapori Namtumbo**

**MHE. ENG. EDWARD A. NGONYANI** aliuliza:-

Wananchi wa Vijiji vinavyounda Jumuiya za Hifadhi ya Wanyamapori waliopo Namtumbo miaka 14 iliyopita walikubaliana kuacha ardhi yao kwa shughuli za hifadhi na kwamba ardhi hiyo isitumike kwa makazi wala kilimo cha mazao ya kudumu isipokuwa mpunga pekee. Wananchi washiriki kutunza njia za asili za wanyama hususan tembo na walikubaliana kwamba mipaka ya ardhi husika ingepitiwa upya baada ya kupita miaka 10 kuanzia mwaka 1996 walipoingia makubaliano:-

(a) Je, kwa nini Serikali imekiuka makubaliano hayo na kuwakaribisha wafugaji kwenye maeneo ya wananchi yaliyokuwa yakitumika kwa kilimo cha mpunga?

(b) Je, ni lini Serikali italipa fidia wakulima ambao mashamba yao ya mpunga yameathiriwa na ng'ombe wanaochunga katika mashamba hayo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Rais, TAMISEMI.

**NAIBU WAZIRI WA NCHI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. MWITA M. WAITARA)** alijibu:-

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Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Nchi, Ofisi ya Rais - TAMISEMI, naomba kujibu swali la Mheshimiwa Edward Amandus Ngonyani, Mbunge wa Namtumbo, lenye sehemu (a) na (b) kama ifuatavyo:-

(a) Mheshimiwa Naibu Spika, Serikali inatambua uwepo wa Jumuiya za Hifadhi ya Wanyamapori katika Halmashauri ya Wilaya ya Namtumbo zilizoanzishwa kwa kushirikisha wananchi wenyewe na kutangazwa katika Gazeti la Serikali. Aidha, Serikali haijabadili matumizi ya ardhi hiyo na kuwapatia wafugaji isipokuwa wapo baadhi ya wafugaji waliovamia maeneo hayo bila kufuata taratibu. Serikali inaendelea kuwabaini na kuwaondoa wafugaji ambao wamevamia maeneo yasiyoruhusiwa na kuwapeleka katika maeneo yaliyotengwa rasmi kwa shughuli za ufugaji.

(b) Mheshimiwa Naibu Spika, wapo baadhi ya wakulima waliovamia na kufanya shughuli za kilimo katika eneo la Jumuiya za Hifadhi ya Wanyamapori kinyume na sheria. Hivyo, hakuna fidia itakayolipwa na Serikali kwa wakulima waliovamia na kufanya shughuli za kibinadamu katika maeneo yasiyoruhusiwa. Viongozi wa Mkoa na Wilaya wanaelekeza kusimamia na kuhakikisha yanatengwa maeneo rasmi kwa ajili ya shughuli za ufugaji na kilimo kuepuka uvamizi wa hifadhi.

**NAIBU SPIKA:** Mheshimiwa *Engineer* Ngonyani, swali la nyongeza.

**MHE. ENG. EDWIN A. NGONYANI:** Mheshimiwa Naibu Spika, kwanza naomba nitoe shukurani za dhati kwa Mheshimiwa Rais Dkt. John Pombe Joseph Magufuli kwa makubwa aliyoyafanya katika Wilaya ya Namtumbo. Alipofika tarehe 5 Aprili, 2019 katika Kijiji cha Nchomoro katika mambo ambayo wananchi walimlalamikia ni pamoja na kutaka maeneo ya kulima mpunga katika maeneo ambayo wamezoea kuyalima. Maeneo hayo ni Luvele, Bomalili, Nahimba, Makangaga na Mpigamiti katika Kijiji cha Nchomoro na Nangunguve, Namayani na Mkuti katika Vijiji vya Mteramwai na Songambebe pamoja na eneo la Nandongga la Kijiji cha Likuyu Sekamaganga. Jibu ambalo Mheshimiwa Rais alilitoa linafanana kabisa na kauli iliyotolewa na Mheshimiwa Naibu Waziri, nashukuru sana.

Mheshimiwa Naibu Spika, swali la kwanza, tatizo langu tu katika utekelezaji, Halmashauri pamoja na Ofisi ya Mkuu wa Wilaya bado hawajapata fedha za kupitia upya hayo maeneo ili kupata maeneo ya kilimo, ufugaji pamoja na hifadhi na hivyo kuondoa mgogoro huo moja kwa moja lakini fedha za kufanya doria kila wakati zinapatikana. Sijui suala hili la fedha kama Wizara inaweza kutusaidia zipatikane ili tatizo hili liondoke moja kwa moja? (*Makofi*)

Mheshimiwa Naibu Spika, swali la pili, mimi kama Mbunge wao katika maeneo hayo kila napopita changamoto hii ya kukosa ardhi ya kilimo hasa kilimo cha mpunga katika maeneo yote yanayozunguka hifadhi za Mbalang'andu, Kimbanda na Kisungule ndiyo kubwa. Dawa pekee ni kupitia upya mipaka ya maeneo hayo na kupata maeneo rasmi ya kilimo, uhifadhi na mifugo. Je, ni lini Serikali itatusaidia kuondoa hili tatizo moja kwa moja kwa kufanya hayo mapitio haraka inavyoweze kama makubaliano yalivyokuwepo toka awali? (*Makofi*)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Ofisi ya Rais, TAMISEMI.

**NAIBU WAZIRI, OFISI YA RAIS, TAWALA ZA MIKOA NA SERIKALI ZA MITAA (MHE. MWITA M. WAITARA):** Mheshimiwa Naibu Spika, nakushukuru. Naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Ngonyani, Mbunge wa Namtumbo, kama ifuatavyo:-

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Mheshimiwa Naibu Spika, kwanza naomba nitumie nafasi hii kumpongeza Mheshimiwa Mbunge kwa kuwasemea na kuwatetea watu wake ili kupunguza migogoro kati ya wafugaji na wakulima katika Jimbo lake na maeneo mengine.

Mheshimiwa Naibu Spika, swali lake la msingi anataka kujua kwa nini ahadi ya Mheshimiwa Rais haijatekelezwa lakini pia kazi ya kupitia na kutenga maeneo haijafanyika kwa maana ya Halmashauri na Mkuu wa Wilaya labda kama kuna upungufu wa fedha. Naomba nimhakikishie Mheshimiwa Mbunge kwamba katika mambo ambayo hatuwezi kufanya mchezo nayo ni pamoja na kuchezea ahadi za Mheshimiwa Rais kama amepita mahali na kuahidi. Kwa hiyo, naomba nimuelekeze Mkuu wa Wilaya ya Namtumbo na Mkurugenzi wakae pamoja wajadiliane, watuambie changamoto iliyopo ili tuweze kusaidiana kwa pamoja na Wizara kuondoa changamoto hii lakini pamoja na kuondoa kero kwa wananchi wale na magomvi yasiyokuwa na lazima lakini kutekeleza ahadi ya Mheshimiwa Rais katika eneo hilo la Mheshimiwa Mbunge.

Mheshimiwa Naibu Spika, jambo la pili Mheshimiwa Mbunge anauliza namna ambavyo tuliweza kusaidia kupima maeneo haya kuondoa changamoto mbalimbali katika mazingira ambayo ameyazungumza. Mheshimiwa Mbunge tumeshazungumza juzi na jana na Mheshimiwa Waziri ameshalipokea hili, tumetoa maelekezo maeneo yote ambayo kuna migogoro hii ya ardhi kama kuna changamoto ya fedha, mambo ya mipaka na vitu mbalimbali viangaliwe. Ndiyo maana Mheshimiwa Rais amechukua hatua hata maeneo ya hifadhi zile za Taifa (*National Parks*) ametoa maelekezo Mawaziri wamepita kuchukua changamoto mbalimbali. Mheshimiwa Rais angependa wananchi wakulima na wafugaji wapate maeneo yao, mipaka itambuliwe na waishi kwa amani bila magomvi ili waweze kujiletea maendeleo. Mheshimiwa Mbunge naomba utupe fursa tuifanyie kazi, viongozi wa eneo hili watoe taarifa, tushirikiane pamoja na tuondoe changamoto katika maeneo haya ya mipaka. (*Makofi*)

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na Wizara ya Mifugo na Uvuvi, Mheshimiwa Joseph Mkundi, Mbunge wa Ukerewe, sasa aulize swali lake.

Na. 109

### **Wavuvi wa Kisiwa cha Ukerewe Hawana Elimu wala Mitaji ya Kutosha**

**MHE. JOSEPH M. MKUNDI** aliuliza:-

Je, ni vikundi au wavuvi wangapi katika Kisiwa cha Ukerewe wamepewa elimu na mitaji ili waweze kufanya uvuvi wenye tija?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi, majibu.

**NAIBU WAZIRI WA MIFUGO NA UVUVI** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Mifugo na Uvuvi, naomba kujibu swali la Mheshimiwa Mkundi, Mbunge wa Ukerewe kama ifuatavyo:-

Mheshimiwa Naibu Spika, Serikali imekuwa ikitoa elimu kwa wavuvi wa Kisiwa cha Ukerewe juu ya uvuvi endelevu, matumizi ya zana na mbinu bora za uvuvi zinazokubalika kwa mujibu wa Sheria ya Uvuvi Na. 22 ya mwaka 2003 na madhara yatokanayo na uvuvi haramu. Lengo la elimu hiyo ni kuwawezesha wavuvi wadogo wa kisiwa cha Ukerewe kufanya uvuvi endelevu na hivyo kunufaika na rasilimali za uvuvi zilizopo katika maeneo yao. Zaidi ya wavuvi wadogo na wadau wengine wa uvuvi wapatao 520 kutoka visiwa vya Ghana, Kunene,

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Lyegoba na Hamukoko katika Halmashauri ya Kisiwa cha Ukerewe walipatiwa elimu hiyo kwa njia ya mikutano.

Mheshimiwa Naibu Spika, Serikali imeanzisha Benki ya Maendeleo ya Kilimo (TADB) ili kuwezesha wavuvi kupata mikopo yenye riba nafuu kwa ajili ya kununua zana bora za uvuvi wakiwemo wavuvi wa Kisiwa cha Ukerewe. Ili kuwezesha wavuvi kunufaika na fursa hiyo, Serikali imeendelea kuwahamasisha wavuvi wadogo nchini wakiwemo wa Kisiwa cha Ukerewe, kuunda na kujiunga katika Vikundi vya Ushirika vya Wavuvi na Vyama vya Akiba na Mikopo ili kuwasaidia wavuvi kupata mikopo kutoka taasisi za kifedha.

Aidha, hadi sasa jumla ya shilingi million 250 zipo katika hatua ya mwisho ya kutolewa kwa wavuvi wa Kisiwa cha Ukerewe kama mkopo kupitia Chama cha Ushirika cha Bugasiga kupitia Benki ya Maendeleo ya Kilimo.

Mheshimiwa Naibu Spika, uhamasishaji huo umewezesha kuanzishwa kwa Chama cha Ushirika cha Wavuvi katika Kisiwa cha Ukerewe, visiwa vidogo vya Ghana, Kunene, Lyegoba na Hamukoko ambacho kipo katika hatua za usajili. Uanzishwaji wa chama hiki utawezesha wavuvi kutoka Kisiwa cha Ukerewe kupata mikopo kwa urahisi kutoka Taasisi za Kifedha na hivyo kufanya uvuvi wenye tija.

**NAIBU SPIKA:** Mheshimiwa Joseph Mkundi, swali la nyongeza.

**MHE. JOSEPH M. MKUNDI:** Mheshimiwa Naibu Spika, nashukuru kunipa fursa ya kuuliza maswali ya nyongeza.

Mheshimiwa Naibu Spika, katika jibu la msingi la Mheshimiwa Naibu Waziri limeonesha wavuvi na wadau 520 wamepata elimu hiyo lakini pamoja na kuwapa elimu watu hawa 520 hakuna mfumo rasmi unaoweza kusaidia hii elimu waliyoipata ku-*disseminate* kuwafikia wadau wengine ambao ni sehemu kubwa ya wakazi wa Jimbo la Ukerewe.

Mheshimiwa Naibu Spika, Mheshimiwa Naibu Waziri mwaka jana alitembelea Jimbo la Buchosa akatumia mfumo mzuri sana kutoa elimu kwa wavuvi wa eneo lile. Swali la kwanza, je, Mheshimiwa Naibu Waziri yupo tayari kuja Ukerewe ili kwa pamoja tushirikiane kuwapa elimu wadau wetu hawa wavuvi waweze kujua hasa nini kinachopaswa kufanyika kwenye eneo la uvuvi kuwaondolea adhabu wanazopata bila kuwa na elimu ya msingi kujua wajibu wao ni upi?

Mheshimiwa Naibu Spika, swali la pili, hatua iliyofikiwa na kikundi hiki cha Bugasiga ni nzuri na ilipelekea kupata mkopo wa shilingi milioni 250 na nina kila sababu ya kuipongeza Serikali kuwezesha jambo hili. Changamoto zilizopo ni kwamba mkopo huu unatolewa kwa ushirika unaolazimisha sasa dhamana inayotakiwa iwe ni kwa mtu mmojammoja na matokeo yake sasa mkopo unaonekana kama ni wa mtu mmoja na sio ushirika.

Mheshimiwa Naibu Spika, sasa Serikali kwa nini isitengeneze mfumo kwamba wadau hawa kupitia ushirika wapewe mikopo lakini sasa wao wenyewe waunde SACCOS ili SACCOS zile zikopeshe mdau mmoja mmoja na wawajibike kwa SACCOS halafu SACCOS ndio iwajibike kwenye ushirika? Nashukuru sana. (Makofi)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi, majibu.

**NAIBU WAZIRI WA MIFUGO NA UVUVI:** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Michael Mkundi, Mbunge wa Ukerewe, kama ifuatavyo:-

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Mheshimiwa Naibu Spika, kwanza natoa shukrani kwa Mheshimiwa Mbunge kutupongeza Wizara ya Mifugo na Uvuvi kwa kazi nzuri tuliyoifanya katika eneo la Kanda ya Ziwa ya kutoa elimu na akatolea mfano wa Jimbo la Buchosa ambalo hivi sasa tunacho Chama cha Ushirika cha *Zilagula Fisheries Cooperative* ambacho na chenyewe kimeomba mkopo wa shilingi milioni 300 na kitakwenda kupata kupitia TADB lakini na vyama vingine takribani milioni 50 kila chama shilingi milioni 10. Nataka nimhakikishie Mheshimiwa Mbunge kwamba zoezi la utoaji elimu ni endelevu na sisi Wizara ya Mifugo na Uvuvi tupo tayari tutakwenda Ukerewe mara tu baada ya kuahirishwa kwa Bunge hili kwenda kutoa elimu ile kwa wavuvi wa pale Ukerewe ili waweze kunufaika.

Mheshimiwa Naibu Spika, swali la pili linahusu juu ya mfumo wa mikopo kupitia ushirika na SACCOS. Naomba tulichukue wazo lake hili ni ushauri mzuri ambapo Wizara tutaufanyia kazi. Kwa kuwa tayari tunalo Dawati letu la Sekta Binafsi linalofanya kazi nzuri sana ya kuratibu mikopo hii na kuratibu namna ya kuweza kuwasaidia vyama vya ushirika, nataka nimhakikishie kwamba ushauri huu tunauchukua na tunakwenda kuufanyia kazi kwa maslahi mapana ya wadau wetu wa uvuvi ili waweze kusonga mbele. (Makofi)

**NAIBU SPIKA:** Mheshimiwa Ester Bulaya, swali la nyongeza.

**MHE. ESTER A. BULAYA:** Mheshimiwa Naibu Spika, nakushuru kwa kunipa nafasi na mimi niweze kuuliza swali dogo la nyongeza.

Mheshimiwa Naibu Spika, maeneo ambayo kuna wavuvi ni pamoja na Jimbo la Bunda Mjini, wapo wavuvi ambao wanavua kupitia Ziwa Victoria. Hakika vijana wengi wa Jimbo la Bunda Mjini wamehamasika kujajiri wenyewe kupitia Sekta ya Uvuvi lakini changamoto ni zana za uvuvi nyavu pamoja vitu vingine.

Mheshimiwa Naibu Spika, sasa ningependa Serikali inijibu ili kuwapa moyo vijana ambao wameamua kujajiri wenyewe kutokana na uvuvi kupitia Ziwa Victoria, ni lini sasa watawawezesha mitaji ili waweze kuvua kisasa waache ugomvi na DC Bupilipili ambaye anawakamata kila siku?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi, majibu.

**NAIBU WAZIRI WA MIFUGO NA UVUVI:** Mheshimiwa Naibu Spika, naomba kujibu swali la nyongeza la Mheshimiwa Ester Bulaya, Mbunge wa Bunda Mjini, kama ifuatavyo:-

Mheshimiwa Naibu Spika, Serikali inayo progamu kama nilivyojibu katika majibu ya msingi ya kuwawezesha wavuvi. Kupitia Wizara ya Mifugo na Uvuvi, moja ya jambo ambalo tulliligundua ni kwamba wavuvi na hata wafugaji wetu hawakopesheki. Ndiyo maana vijana wengi wanaojihusisha na shughuli hizi wamekosa fursa ya kuweza kupata mikopo na hatimaye kuweza kuboresha shughuli zao.

Mheshimiwa Naibu Spika, sababu kubwa za kukosa mikopo zipo mbili; ya kwanza mabenki yanataka dhamana na pili ni bima kwa maana shughuli za mifugo na uvuvi hazina bima. Nataka niwahakikishie Wabunge wote wa Bunge hili Tukufu la Jamhuri ya Muungano wa Tanzania, Wizara imefanya kazi nzuri na sasa mabenki yametukubalia.

Naomba nitoe shukrani zangu za dhati kwa Benki ya Posta Tanzania imefungua na kuanzisha Akaunti Maalum ya Wavuvi (*Wavuvi Account*) yenye lengo mahsusi la kuweza kuwasaidia kwa unafuu sana wavuvi wote. Kwa hiyo, nitawaelekeza Benki ya Posta waje pale Bunda Mjini waweze kuwapata vijana na waweze kushirikiana nao.



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Mheshimiwa Naibu Spika, hili la pili la dhamana, tumefanya kazi kubwa ya kuhakikisha tunalishawishi Shrika letu la Bima la Taifa na limekubali mwezi huu wa pili tutasaini nao mkataba maalum utakaowawezesha sasa kuwa na bima ya mifugo na uvuvi. Hii itakuwa ni hatua kubwa sana kuelekea katika kuhakikisha wavuvi na wafugaji wetu wote wanaweza kupata mikopo katika benki kama vile ambavyo wanaweza kupata Watanzania wengine baada ya kuwa na uhakika wa dhamana na bima.

**NAIBU SPIKA:** Mheshimiwa Mbaraka Dau, swali la nyongeza, kwa kifupi.

**MHE. MBARAKA K. DAU:** Mheshimiwa Naibu Spika, nakushukuru sana. Matatizo ya wavuvi wa Ukerewe yanafanana sana na matatizo ya wavuvi wa Kisiwa cha Mafia. Mheshimiwa Waziri mwenye dhamana mezani kwake kuna barua kutoka kwangu na kwa wavuvi wangu tukiomba ruzuku ya msaada wa zile mashine.

Je, ni lini majibu yake yatatoka?

**NAIBU SPIKA:** Mheshimiwa Waziri wa Mifugo a Uvuvi, majibu.

**WAZIRI WA MIFUGO NA UVUVI:** Mheshimiwa Naibu Spika, nimshukuru sana Mheshimiwa Mbunge kwa swali lake hili la nyongeza akiulizia suala la zile mashine za ruzuku, tukitoka hapa Bungeni aje pale ofisini kwa ajili ya utaratibu wa kupata zile mashine. *(Makofi)*

Mheshimiwa Naibu Spika, kuhusu suala hili la vijana na wavuvi wetu kuhakikisha wanaheshimika katika mablenki na mahali popote pale, Wizara ya Mifugo na Uvuvi imeandaa *Uvuvi Database* ambapo ndiyo kilikuwa kipengele kikubwa sana kilichokuwa kinawafanya wavuvi wetu wasiaminike kwenye mablenki kwa sababu ya shughuli zao za kuhamahama na kila mtu mwenye benki anakuwa na mashaka juu ya fedha zake atakapozipeleka.

Mheshimiwa Naibu Spika, tulipoanzisha *Uvuvi Database* sasa hivi benki yotote ile ikitaka kumkopesha mvuvi ambaye yupo Buchosa, Ukerewe, Mafia na maeneo mengine watamuona mpaka na kazi zake anazozifanya. Hii inaenda kuongeza imani kubwa kwa wavuvi wa nchi yetu na ile dharau iliyozeleka ya kwamba wavuvi hawakopesheki sasa itakuwa mwisho. *(Makofi)*

**NAIBU SPIKA:** Ahsante. Tunaendelea na swali la Mheshimiwa Hamadi Salim Maalim, Mbunge wa Kojani. Kwa niaba yake swali litaulizwa na Mheshimiwa Masoud Abdallah.

Na. 110

### Changamoto za Uvuvi Maeneo ya Mwambao

**MHE. MASOUD ABDALLAH SALIM (K.n.y. MHE. HAMADI SALIM MAALIM)** aliuliza:-

Uvuvi si suala la Muungano na wavuvi wengi wa Visiwa vya Unguja na Pemba wanapokuwa katika maeneo mbalimbali ya mwambao wa Afrika Mashariki hukumbana na changamoto nyingi ikiwemo kukamatwa wanapokuwa katika shughuli zao za uvuvi, kutozwa tozo zisizo za lazima na kadhalika:-

Je, Serikali imejipangia mikakati gani ili kupunguza changamoto hizo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi, majibu.

**NAIBU WAZIRI WA MIFUGO NA UVUVI** alijibu:-

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, kwa niaba ya Mheshimiwa Waziri wa Mifugo na Uvuvi, naomba kujibu swali la Mheshimiwa Hamadi Salim Maalim, Mbunge wa Kojani, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli kuwa uvuvi katika maji ya ndani na maji ya kitaifa sio suala la Muungano kwa mujibu wa Katiba ya Jamhuri ya Muungano wa Tanzania ambapo kila upande wa Muungano una sheria, kanuni na miongozo inayosimamia masuala ya uvuvi.

Mheshimiwa Naibu Spika, Sheria ya Uvuvi Na. 22 ya mwaka 2003 na Kanuni zake za mwaka 2009 pamoja na marekebisho yake ya mwaka 2018 na 2019 zinaelekeza mvuvi anapohamisha shughuli zake za uvuvi kutoka eneo moja kwenda eneo lingine anapaswa kuwa na leseni na vibali vya kujishughulisha na shughuli za uvuvi na kujitambulisha kwa mamlaka za eneo husika. Vilevile, tozo mbalimbali zinatozwa kwa kuzingatia Sheria, Kanuni na Miongozo iliyopo.

Mheshimiwa Naibu Spika, Wizara imeweka mikakati ya kupunguza na kuondoa kabisa changamoto wanzokumbana nazo wavuvi katika maeneo mbalimbali ya mwambao wa Afrika Mashariki ikiwa ni pamoja na kuendelea kuwaelimisha wavuvi kuzingatia sheria, kanuni za uvuvi na miongozo iliyopo pamoja na kuheshimu mipaka ya nchi kwa kutovua katika maji ya nchi jirani bila kufuata taratibu zilizowekwa. Aidha, katika kuboresha shughuli za uvuvi na mazao yake, Serikali ipo katika hatua ya kufanyia marekebisho sheria na kanuni za uvuvi ili ziweze kuendana na wakati katika kutunza na kuendeleza rasilimali za uvuvi ili sekta hii iweze kuchangia ipasavyo kwenye Pato la Taifa na la mtu mmoja mmoja.

Vilevile, Serikali imekuwa ikifanya vikao vya ujirani mwema na nchi jirani ili kutatua changamoto zinazojitokeza. Serikali kupitia Mheshimiwa Rais wa Serikali ya Mapinduzi ya Zanzibar Dkt. Ally Mohamed Shein alitukutanisha na viongozi wa Mamlaka za Pwani ya Kenya siku ya tarehe 26 hadi 28 Jijini Nairobi wakati wa Mkutano Mkubwa wa *Blue Economy*.

**NAIBU SPIKA:** Mheshimiwa Masoud Abdallah, swali la nyongeza.

**MHE. MASOUD ABDALLAH SALIM:** Mheshimiwa Naibu Spika, nakushukuru. Nina maswali mawili madogo kwa Mheshimiwa Naibu Waziri, kama ifuatavyo:-

Mheshimiwa Naibu Spika, swali la kwanza, Mheshimiwa Naibu Waziri ametuambia kwamba kila upande wa Muungano una sheria, kanuni na miongozo yake ya shughuli za uvuvi lakini wakati huohuo wavuvi wetu wanaotoka Zanzibar kuja kuvua huu upande wa pili wa Tanzania Bara maeneo ya Bagamoyo, Tanga na maeneo mengine baadhi ya maeneo wanatozwa tozo ya Sh.10,000 hasa pale Tanga askari wa *Marine Park* wanalazimisha kutoa tozo hiyo kwa mwezi kwa kila mvuvi. Je, hiyo ni sheria, kanuni ama miongozo kuwatoza tozo ndugu zenu wa damu wa Zanzibar ya Shilingi 10,000? (*Makofi*)

**NAIBU SPIKA:** Mheshimiwa mbona umeuliza maswali mengi kwa wakati mmoja sasa majibu yatakujaje? Umeuliza maswali matatu tayari sasa unataka kuongeza swali la pili. Wacha akujibu hayo matatu uliyouliza mwanzo. Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi.

**MHE. MASOUD ABDALLAH SALIM:** Mheshimiwa Naibu Spika, lilikuwa ni swali moja tu.

**NAIBU SPIKA:** Sawa ni moja lakini lina vipengele na wewe unajua Kanuni zetu. Mheshimiwa Naibu Waziri wa Mifugo na Uvuvi.

**NAIBU WAZIRI WA MIFUGO NA UVUVI:** Mheshimiwa Naibu Spika, naomba kujibu maswali ya nyongeza ya Mheshimiwa Masoud, kama ifuatavyo:-

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Mheshimiwa Naibu Spika, wavuvi wanaotoka upande wa Tanzania Visiwani kuja Tanzania Bara katika mwambao na wanatozwa tozo mbalimbali. Ameuliza maswali hapo akitaka kujua hizi tozo zipo kwa mujibu, moja, wa sheria; mbili, wa kanuni; tatu, miongozo.

Mheshimiwa Naibu Spika, kwa kuwa jambo hili laweza kuwa ni geni, naomba tu nichukue hoja hii ya Mheshimiwa Mbunge. Nataka nimhakikishie kwa sababu ameitaja *Marine Park and Reserve Unit* ambayo iko ndani ya Wizara yangu, nitalifuatilia kutaka kujua uhalali na inatozwa kama alivyouliza katika maswali yake hayo matatu kwa mujibu wa ama sheria, kanuni au mwongozo gani. Ahsante sana.

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na Wizara ya Ujenzi, Uchukuzi na Mawasiliano, Mheshimiwa Salum Mwinyi Rehani, Mbunge wa Uzini sasa aulize swali lake.

Na. 111

### Mamlaka ya Hali ya Hewa Kutoa Taarifa Sahihi

**MHE. SALUM MWINYI REHANI** aliuliza:-

(a) Je, ni lini Mamlaka ya Hali ya Hewa itakuwa inatoa taarifa sahihi na za wakati kuhusiana na mabadiliko ya hali ya hewa nchini?

(b) Je, ni lini Mamlaka ya Hali ya Hewa kwa kushirikiana na Idara ya *Earthy Warming* watakuwa wanatoa taarifa za hali ya upatikanaji wa mvua na ukame ili kuwaepusha wakulima wengi kulima na kupata hasara kwa kukosa mvua wakati wao wanajua hali itakavyokuwa?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**NAIBU WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO (MHE. ENG. ATASHASTA J. NDITIYE)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Ujenzi, Uchukuzi na Mawasiliano, napenda kujibu swali la Mheshimiwa Salum Mwinyi Rehani, Mbunge wa Uzini, lenye sehemu (a) na (b), kama ifuatavyo:-

(a) Mheshimiwa Naibu Spika, Serikali kupitia Mamlaka ya Hali ya Hewa (*TMA*) imeendelea kuboresha usahihi wa taarifa za hali ya hewa kwa kuhakikisha uwepo wa vifaa muhimu katika vituo vya utabiri wa hali ya hewa nchini. Kwa sasa usahihi wa taarifa zinazotolewa umefikia asilimia 87.

Mheshimiwa Naibu Spika, aidha, *TMA* imeanzisha Jarida la Klimatolojia ambalo hutolewa kila mwaka kuhusu tathmini ya viashiria vya mabadiliko ya hali ya hewa nchini. Pia, mwaka 2015, Mamlaka iliandaa taarifa inayoonesha mwelekeo wa mabadiliko ya hali ya hewa ikiwa ni pamoja na mwelekeo wa unyeshaji mvua na joto kwa miaka 30 ijayo. Kimsingi tangu mwaka 2015, kiwango cha usahihi katika tabiri za hali ya hewa kimekuwa zaidi ya 80% ambacho ni kiwango cha chini kinachokubalika na Shirika la Hali ya Hewa Duniani (*WMO*).

(b) Mheshimiwa Naibu Spika, *TMA* hutoa taarifa mbalimbali za hali ya hewa kwa umma ikijumuisha zile za utabiri wa kila siku, misimu ya mvua na tahadhari ya hali mbaya ya hewa nchini. Taarifa zinazotolewa zinajumuisha ushauri na tahadhari pale inapoona dalili za kuwepo kwa matukio ya mafuriko au ukame wakati wa misimu ya mvua. Aidha, *TMA*

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inashirikiana na vyombo mbalimbali vya habari na Serikali ikiwemo Wizara ya Kilimo (Idara ya Usalama wa Chakula, Kitengo cha *Early Warning*) ili kuhakikisha kwamba taarifa za hali ya hewa zinawafikia Maafisa Ugani na watumiaji kwa wakati. Taarifa hizi pia husambazwa kupitia ofisi zote za hali ya hewa nchini.

Mheshimiwa Spika, katika taarifa zinazotolewa, wakulima hushauriwa kupata ushauri kutoka kwa wataalam mbalimbali wakiwemo Maafisa Ugani. Mamlaka ya Hali ya Hewa pia imeanzisha mfumo wa kusambaza Taarifa za Hali ya Hewa kwa wakulima kupitia njia ya ujumbe katika simu za viganjani (*farm sms*).

**NAIBU SPIKA:** Mheshimiwa Salum Rehani, swali la nyongeza.

**MHE. SALUM MWINYI REHANI:** Mheshimiwa Naibu Spika, nashukuru. Kwa kuwa moja ya vitu ambavyo nchi hii inatakiwa kuwa navyo ni iwe inaelewa mambo mengi yanayohusiana na hali ya hewa kwa sababu tuna vifaa ambavyo vimeunganishwa na *satellite* duniani lakini kinachosikitisha ni kwamba mara nyingi matukio mengi ambayo yanatakiwa yatolewe kwa tahadhari, kwa mfano tuna tishio la nzige sasa hivi, lakini tuna tishio la kweleakwelea na viwavi jeshi, kwa hali ya hewa inavyoonesha na hali ya hewa ya mvua hicho kitu *time* yoyote kinaweza kutokea katika maeneo yetu. Sasa matatizo haya huwa yanatokea katika maeneo mengi na hakuna taarifa zinazotolewa. Je, ni lini Serikali itakuwa ina utaratibu wa kuweza kutujulisha kama nchi, yale matukio ya hatari kama haya yanavyoweza kutokea na kuweza kujilinda na kuwa tayari kuweza kukabiliana nayo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**NAIBU WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO (MHE. ENG. ATASHASTA J. NDITIYE):** Mheshimiwa Naibu Spika, napenda kujibu swali moja la nyongeza la Mheshimiwa Mbunge, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli kwamba tumekuwa tukiwasiliana na wenzetu duniani kwa kutumia taaluma ya *satellite* na ndiyo maana hivi karibuni Serikali imeendelea kuwekeza katika vifaa vya kisasa kwa Mamlaka ya Hali ya Hewa.

Mheshimiwa Naibu Spika, sakata la nzige na masakata mengine ambayo yanatokea huwa tunayaona na bahati nzuri huwa tunatoa taarifa kwenye vyombo mbalimbali vya habari. Hata taarifa zinapokuja huwa zimeanzia kwanza Mamlaka ya Hali ya Hewa.

Mheshimiwa Naibu Spika, kwa hiyo nimhakikishie Mheshimiwa Mbunge kwamba taarifa huwa tunakuwa nazo na tunazitoa mapema kabla. Ni vyema niwashauri Waheshimiwa Wabunge kwamba kabla ya kufanya kitu chochote baada ya taarifa ya habari wawe na muda mzuri wa kuangalia taarifa za hali ya hewa ambazo huwa zinatolewa kwa usahihi kabisa.

Mheshimiwa Naibu Spika, ahsante.

**NAIBU SPIKA:** Ahsante sana. Tunaendelea na swali la Mheshimiwa Hassan Elias Masala, Mbunge wa Nachingwea.

Na. 112

**Barabara ya Masasi – Nachingwea – Nanganga**

**MHE. HASSAN E. MASALA** aliuliza:-

Je, ni lini Barabara ya Masasi – Nachingwea – Nanganga itajengwa kwa kiwango cha lami?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, Wizara ya Ujenzi, Uchukuzi na Mawasiliano.

**NAIBU WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO (MHE. ELIAS J. KWANDIKWA)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Ujenzi, Uchukuzi na Mawasiliano, napenda kujibu swali la Mheshimiwa Hassan Elias Masala, Mbunge wa Nachingwea, kama ifuatavyo:-

Mheshimiwa Naibu Spika, barabara ya Masasi – Nachingwea – Nanganga yenye urefu wa kilometa 106 ni barabara ya mkoa na inasimamiwa na Wizara yangu kupitia Wakala wa Barabara Tanzania (TANROADS) Mkoa wa Lindi.

Mheshimiwa Naibu Spika, kwa kutambua umuhimu wa barabara hii, Wizara yangu kupitia TANROADS iliifanyia upembuzi yakinifu na usanifu wa kina ambao ulikamilika mwaka 2018. Baada ya kukamilika kwa usanifu huo, Serikali sasa inatafuta fedha kwa ajili ya kuijenga barabara hiyo kwa kiwango cha lami kwa awamu kulingana na upatikanaji wa fedha.

**NAIBU SPIKA:** Mheshimiwa Hassan Elias Masala, swali la nyongeza.

**MHE. HASSAN E. MASALA:** Mheshimiwa Naibu Spika, kabla ya kuuliza maswali mawili ya nyongeza, naomba kwa ruhusa yako unipe nafasi nitoe pole kwa wananchi wa Mkoa wa Lindi, hasa wananchi wa Kilwa pamoja na Mchinga ambao wamepata maafa ya mafuriko. Sisi kama Wabunge wa Mkoa pamoja na Taifa tunaungana nao na tuko pamoja nao. Pia nikumbushe hoja ambayo ilitolewa na Mbunge mwenzangu jana juu ya kuona umuhimu wa Bunge kuchangia Mkoa wa Lindi, hasa wale wahanga ambao wamepata maafa. Kwa hiyo, kupitia Kiti chako tutaomba mwongozo wako. (Makofi)

Mheshimiwa Naibu Spika, baada ya hilo, naomba niulize maswali mawili ya nyongeza, kama ifuatavyo:-

Mheshimiwa Naibu Spika, swali la kwanza, Mheshimiwa Rais wetu alifanya ziara tarehe 16 Oktoba, 2019 na katika ziara hiyo Mheshimiwa Naibu Waziri aliambatana na Mheshimiwa Rais. Moja ya ahadi kubwa ambayo aliitoa na ambayo wananchi wa Masasi, Nachingwea na Ruangwa wanasubiria ni kuona utekelezaji wa kile ambacho alikitolea maagizo juu ya kuanza kwa ujenzi wa lami kwa barabara hii ambayo kwa muda mrefu wananchi kwao imekuwa kero. Sasa naomba kufahamu kauli ya Serikali kwa nini mpaka sasa bado maagizo yale hayajaanza kufanyiwa kazi?

Mheshimiwa Naibu Spika, swali langu la pili, Wilaya ya Nachingwea inaungana na Wilaya ya Tunduru Mkoa wa Ruvuma. Kwa muda mrefu wananchi wa maeneo ya Tarafa ya Kilimarondo ambao wanaunganishwa na Mto Lumesule wamekuwa wanapata changamoto kubwa sana ya kupata mawasiliano. Naomba kauli ya Serikali kupitia Wizara, wana mpango

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gani juu ya kufungua barabara hiyo ya Kilimarondo kwenda Namatunu kutokea Lumesule kwenda kuunganisha Tunduru ili tuweze kufungua barabara hii tuweze kunufaika kiuchumi?

Mheshimi Naibu Spika, ahsante sana.

**NAIBU SPIKA:** Mheshimiwa Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO:** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Mbunge, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza kabisa Wizara yangu inatekeleza ahadi zote za Ilani ya Chama cha Mapinduzi lakini pamoja na viongozi wetu wakuu wa Serikali. Ni kweli Mheshimiwa Rais aliahidi na sisi Wizara tunalifanya kazi.

Mheshimiwa Naibu Spika, zipo hatua, baada ya ahadi lazima tujipange na kuandaa bajeti ndiyo tuendeleo kutekeleza. Kwa hiyo, nimuombe Mheshimiwa Mbunge na sasa hivi ndiyo tunaandaa bajeti, kwa hiyo tutaendelea kutekeleza hilo lakini pia kumbuka kwamba tunapenda kwanza kukamilisha ujenzi wa barabara zote za mikoa halafu baadaye ndiyo twende kwenye *regional roads*. (Makofi)

Mheshimiwa Naibu Spika, pia *feeder roads* kwa vile kuna *TARURA* kuna ambazo zitaingia kwenye *TARURA* lakini kuna ambazo zitatekelezwa na Wizara ya Ujenzi. Kwa hiyo, barabara hiyo aliyoisema kwenda Kilimarondo tutaipitia na kuona kwamba itekelezwe na taasisi gani. (Makofi)

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Dkt. Kafumu, swali la nyongeza.

**MHE. DKT. DALALY P. KAFUMU:** Mheshimiwa Naibu Spika, nakushukuru. Bajeti ya mwaka jana nilipata fedha kwa ajili ya kujenga barabara ya kutoka Igunga kwenda Itumba na barabara ya kutoka Mbutu kwenda Kininginila lakini niliuliza swali Bunge lililopita kwamba kwa nini barabara hizi hazijajengwa na Waziri aliniahidi kwamba wataanza kujenga mara moja lakini hadi sasa barabara hizi hazijaanza kujengwa. Nini kinachojiri huku?

Mheshimiwa Naibu Spika, ahsante sana.

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**NAIBU WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO (MHE. ELIAS J. KWANDIKWA):** Mheshimiwa Naibu Spika, napenda kujibu swali la nyongeza la kaka yangu, Mheshimiwa Dkt. Kafumu, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza nimpongeze Mheshimiwa Dkt. Kafumu, nafahamu kwamba tumeongea mara nyingi juu ya mtandao wa barabara katika Jimbo lake la Igunga na kwa kweli eneo lake hili ni bonde, kuna mabonde makubwa sana. Nimhakikishie Mheshimiwa Dkt. Kafumu kwamba tumejipanga na nimwombe tu baada ya Bunge hili tukutane ili angalau tuweze kupitia kwa upana kabisa juu ya barabara zake na kuona namna ambavyo tumejipanga kuzishughulikia. Ipo mipango mizuri tu, namwomba sana tuonane ili aweze kupata ufahamu wa kutosha.

Mheshimiwa Naibu Spika, ahsante sana.

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Alfredina Kahigi, swali la nyongeza.

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**MHE. ALFREDINA A. KAHIGI:** Mheshimiwa Naibu Spika, ahsante sana kwa kuniona na kunipa nafasi ya kuuliza swali dogo la nyongeza.

Mheshimiwa Naibu Spika, katika Wilaya yetu ya Bukoba Vijijini tuna barabara ya kutoka Kanazi – Ibwela – Nakibimbiri – Katoro mpaka Kyaka. Barabara hiyo ni mbovu sana hasa kipindi hiki cha mvua haipitiki. Je, ni lini barabara hiyo itajengwa kwa kiwango cha lami? *(Makofi)*

Mheshimiwa Naibu Spika, ahsante.

**NAIBU SPIKA:** Mheshimiwa Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO:** Mheshimiwa Naibu Spika, naomba kujibu swali moja la nyongeza la Mheshimiwa Mbunge kuhusiana na uharibifu wa barabara Mkoa wa Kagera, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kutokana na mvua zinazoendelea kunyesha barabara nyingi sana zimeharibika na niliagiza *TANROADS* wafanye makadirio, mpaka tarehe 31 Januari tunahitaji shilingi bilioni 25 kwa ajili ya kurejesha miundombinu ya barabara katika hali waliyokuwa nayo.

Mheshimiwa Naibu Spika, kuhusiana na barabara ambayo ameulizia, kwa sababu ndiyo ametupa taarifa sasa hivi tutaiangalia na kumuagiza Meneja wa *TANROADS* ili kwanza tuone, je, ni barabara ya *TARURA* au ni barabara ambayo inahudumiwa na *TANROADS* tuweze kuifanyia kazi na Mheshimiwa Mbunge tutamjibu kadiri inatakyowezekana.

**NAIBU SPIKA:** Mheshimiwa Halima Mdee, swali fupi.

**MHE. HALIMA J. MDEE:** Mheshimiwa Naibu Spika, nashukuru sana.

Mheshimiwa Naibu Spika, leo ni mara ya 15 nauliza kuhusiana na barabara muhimu sana ya Chuo cha Ardhi – Makongo – Goba. Mara ya mwisho nilijibiwa tukiwa tunaelekea kwenye Uchaguzi wa Serikali ya Mtaa ambapo Mkuu wa Mkoa alienda na mkandarasi wakaweka vifaa pale wakawaambia wananchi barabara itajengwa watalipwa fidia. Leo baada ya uchakachuzi mkandarasi ameondoka, ile lami kilometa moja ambayo tulijenga Halmashauri imekwanguliwa, wananchi hawajui mustakabali wao.

Mheshimiwa Naibu Spika, mimi kama mwakilishi wao, naomba Waziri anipe jibu na jibu liwe la ukweli na uhakika, ni lini barabara ya Makongo inayoanzia Chuo cha Ardhi – Makongo Juu – Goba itajengwa kwa kiwango cha lami na wananchi kulipwa fidia yao wanayostahili? *(Makofi)*

**NAIBU SPIKA:** Mheshimiwa Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO:** Mheshimiwa Naibu Spika, naomba kujibu swali moja dogo la nyongeza la Mheshimiwa Mbunge, kama ifuatavyo:-

Mheshimiwa Naibu Spika, Barabara ya Makongo tayari tumeanza kuijenga, kama unavyosema ni kweli mitambo ilienda lakini huwezi ukajenga barabara katika kipindi cha mvua nzito, huo ndiyo utaratibu, hiyo ndiyo sayansi yake, kwa sababu udongo unakuwa umeloana, kuna kiwango maalum kinachohitajika kwenye maji ya ujenzi wa barabara, huwezi ukafanya ushindilaji kama *moisture content* iko *high*.

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Mheshimiwa Naibu Spika, lakini kuhusiana na suala la fidia, kwa vile tumeshasaini mikataba tayari fidia ni lazima ilipwe. Huwezi ukajenga barabara bila kulipa fidia lakini pia fidia italipwa kwa mujibu wa sheria. Kama kuna mtu alijenga ndani ya hifadhi ya barabara hatuwezi kumlipa lakini yule ambaye tumemfuata, alikuwa yuko nje ya hifadhi ya barabara, huyo lazima tutamlipa, kwa hiyo fidia italipwa kwa mujibu wa sheria.

**NAIBU SPIKA:** Mheshimiwa Shaabani Shekilindi, swali fupi.

**MHE. SHAABANI O. SHEKILINDI:** Mheshimiwa Naibu Spika, ahsante. Barabara ya kuanzia Mombo – Soni - Lushoto ni nyembamba mno hata kuhatarisha maisha ya watu pamoja na mali zao. Je, ni lini upanuzi wa barabara ya Soni – Mombo - Lushoto utaanza ili kuondoa kadhia wanayoendelea kuipata wananchi wa Lushoto?

**NAIBU SPIKA:** Mheshimiwa Waziri wa Ujenzi, Uchukuzi na Mawasiliano, majibu.

**WAZIRI WA UJENZI, UCHUKUZI NA MAWASILIANO:** Mheshimiwa Naibu Spika, naomba kumjibu Mheshimiwa Mbunge kuhusiana na barabara ya Mombo – Lushoto, kwamba ni nyembamba, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli barabara ile ni nyembamba lakini imepita katika milima mirefu na udongo ule uko *sensitive* sana kwenye *erosion*. Kwa hiyo, tulijenga katika hali ile lakini baadaye tuta-*redesign* na kuipanua huku tukiwa waangalifu kwa sababu ni lazima ukate milima. Sasa utakapokata milima maana yake unaifanya tena ielekee kwenye mwelekeo ikinyesha mvua nyingi iweze kubomoka. Mwaka jana Mheshimiwa Mbunge ni shahidi, udongo uli-*slide* ukaifunika barabara moja kwa moja.

Kwa hiyo, ile barabara lazima ijengwe kwa uangalifu sana kwa sababu udongo wake mvua ikinyesha mara nyingi unaporomoka.

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na Wizara ya Maliasili na Utalii. Mheshimiwa Joseph George Kakunda, Mbunge wa Sikonge, swali lake litaulizwa kwa niaba na Mheshimiwa Almas Maige.

Na. 113

### Ujenzi Wa Uwanja Wa Ndege – Sikonge

**MHE. ALMAS A. MAIGE (K.n.y. MHE. JOSEPH G. KAKUNDA)** aliuliza:-

Utalii wa uwindaji, utalii wa picha na ufugaji wa mapori ya misitu na Hifadhi ya Ugunda, Isuvangala na Ipembampazi ni miongoni mwa fursa kuu za utalii kwenye Jimbo la Sikonge:-

Je, ni lini Serikali itakamilisha ujenzi wa Uwanja wa Ndege uliokuwa umeanza kujengwa karibu na Mlima wa Ipole ambao ulijumuisha pia ujenzi wa nyumba za kufikia watalii (*tourist rest houses*) kwenye Kijiji cha Ugunda?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Maliasili na Utalii, majibu.

**NAIBU WAZIRI WA MALIASILI NA UTALII** alijibu:-



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Mheshimiwa Naibu Spika, kwa niaba ya Mheshimiwa Waziri wa Maliasili na Utalii, naomba kujibu swali la Mheshimiwa Joseph George Kakunda, Mbunge wa Jimbo la Sikonge, kama ifuatavyo:-

Mheshimiwa Naibu Spika, Serikali kupitia Wizara ya Maliasili na Utalii imeendelea kuimarisha miundombinu katika maeneo mbalimbali ya hifadhi nchini ili yaweze kufikika kwa urahisi na muda wote wa mwaka. Lengo kuu ni kuwezesha watalii kuyafikia maeneo hayo na hivyo kuiongezea mapato Serikali. Aidha, katika kuimarisha ulinzi wa rasilimali za wanyamapori katika Pori la Akiba Ugalla, mwaka 2005, Wizara ilifanya maandalizi ya ujenzi wa uwanja mdogo wa ndege (*airstrip*) karibu na Milima ya Ipole. Kazi ya awali iliyofanyika ikiwa ni maandalizi ya kutengeneza uwanja husika ilikuwa ni kuweka mipaka kwa kufyeka mifi.

Mheshimiwa Naibu Spika, mwaka 2006, Wizara ya Maliasili na Utalii iliomba Mamlaka ya Viwanja vya Ndege ifanye tathmini ya eneo hilo ili kuona kama linakidhi vigezo vinavyotakiwa kwa mujibu wa sheria. Mamlaka ya Viwanja vya Ndege ilibaini kuwa eneo pendekezwa lipo katikati ya milima na hivyo kupelekea usalama kuwa mdogo kwa ndege kutua na kuruka. Kutokana na ushauri huo, Wizara ya Maliasili ilisitisha maandalizi ya ujenzi wa uwanja husika na kujikita zaidi kuimarisha viwanja vilivyopo ndani ya Pori la Akiba Ugalla.

**NAIBU SPIKA:** Mheshimiwa Almas Maige, swali la nyongeza.

**MHE. ALMAS A. MAIGE:** Mheshimiwa Naibu Spika, pamoja na majibu mazuri ya kitaalam kuhusu uUwanja wa Ndege wa Ipole nilitaka kujua sasa, je, lini uwanja unaopendekezwa katika mapori ya Ugala utamalizika?

Mheshimiwa Naibu Spika, lakini pia nina swali la pili, Serikali ina mpango gani wa kuyatangaza maeneo ya Kwihara pamoja na yaliyokuwa makazi ya Marehemu Mirambo kwa ajili ya utalii? Ahsate sana.

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Maliasili na Utalii majibu.

**NAIBU WAZIRI WA MALIASILI NA UTALI:** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Almas, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza naomba kumpongeza Mheshimiwa Almasi pamoja na kwamba ameuliza kwa niaba ya Mheshimiwa Joseph Kakunda, pia amekuwa ni mshauri mzuri na mdau mzuri sana wa mambo ya utalii. Kama nilivyojibu kwenye jibu letu la msingi ni kwamba tulisitisha ujenzi wa Uwanja wa Ndege ya Ipole kutokana na ushauri wa kitaalam tuliopata kutoka Wizara ya Mawasiliano. Tulielekeza Wilaya kuangalia eneo lingine ambalo linafaa kwa ajili ya ujenzi. Kwa bahari mbaya eneo lote linalozunguka maeneo hayo ni ardhi oevu na ni eneo ambalo ni chepechepe yaani *wetland* na imekuwa vigumu kupata eneo ambalo tunaweza tukajenga uwanja kwa sasa.

Mheshimiwa Naibu Spika, lakini katika Hifadhi mpya ya Ugala tunavyo viwanja viwili vidogo vya ndege, kiwanja cha Siri na kiwanja cha Muhuba ambavyo vipo kama takribani kilometa 100 kutoka uwanja wa Ipole ulipokuwa. Kwa sasa Wizara yetu imebadilisha hadhi ya Pori la Akiba la Ugala na kuwa Hifadhi ya Taifa, tumeelekeza TANAPA kuboresha viwanja hivyo ili viweze kutumika wakati wote kwa huduma ambazo zilikuwa zimekusudiwa.

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Mheshimiwa Naibu Spika, swali lake la pili ni mpango wa kuyatangaza makazi au maeneo ya kale ya Mtemi Mirambo. Kama tulivyofanya nchi nzima tumeelekeza maeneo mengi ya mali kale kuchukuliwa na Taasisi zetu zote zinazofanya utalii nchini. Eneo hili la Mirambo kama tulivyofanya kule Iringa tutawaelekeza TANAPA kuwekeza pale utalam na nguvu ili kuhakikisha kwamba tunayahusisha katika *product* ya utalii kuwawezesha watalii wanaotua Tabora na maeneo mengine ya Mkoa wa Tabora kuyafahamu maeneo haya ya historia.

**NAIBU SPIKA:** Mheshimiwa Jerome Bwanausi, swali la nyongeza.

**MHE. JEROME D. BWANAUSI:** Mheshimiwa Naibu Spika, nashukuru kwa kunipa nafasi. Kwa kuwa wananchi wa Vijiji vya Myesi, Utimbe, Naliongolo na maeneo ya Mchoti wamekuwa wakipoteza maisha, pia kujeruhiwa kutokana na wingi wa mamba waliopo katika Mto Ruvuma. Serikali kupitia Bunge Tukufu ilishawagiza TAWA ili waende kuchimba visima kuwaokoa wananchi hawa kutokana na kutegemea Mto Ruvuma kwa matumizi ya maji yao. Je, Serikali inatoa tamko gani kuwaelekeza TAWA waende wachimbe visima hivyo haraka iwezekanavyo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Maliasili na Utalii, majibu.

**NAIBU WAZIRI WA WALIASILI NA UTALII:** Mheshimiwa Naibu Spika, naomba kujibu swali la nyongeza la Mheshimiwa Mwanusi, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza naomba nikiri kwamba itakuwa swali la tatu la aina hiyo nalijibu lenye uhusiano na wingi wa mamba kwenye maeneo mbalimbali ya Mto Ruvuma. Ni kweli kwamba kuna ongezeko la wanyama wa aina mbalimbali wakiwemo mamba na wamekuwa wakiathiri matumizi ya asili ya wananchi ya maji ya Mto Ruvuma.

Mheshimiwa Naibu Spika, tuliekeleza hapa kwamba katika ushauri tuliopata kutoka kwa wanasayansi wa Wizara yetu ni kwamba maeneo ambayo wananchi wanatumia yanaweza kuwekewa kingo maalum ili kuzuia mamba kufika na ushauri wa pili ilikuwa ni kuchimba visima kandokando ya eneo hilo. Kwa kushirikiana na Wizara husika, Wizara yangu ilizungumza na watu wa Wizara ya Maji na waliahidi kupeleka visima maeneo hayo. Naomba nichukue ushauri wa Spika kuwaelekeza tena TAWA kufanya tathmini na kupitia na kuona kama TAWA tunaweza tukafanya kazi ingawa kazi ya msingi kabisa ya kupeleka maji maeneo hayo itafanywa na Wizara ya Maji.

**NAIBU SPIKA:** Waheshimiwa Wabunge, tunaendelea na Wizara ya Elimu, Sayansi na Teknolojia, Mheshimiwa Shally Josepha Raymond, Mbunge Viti Maalum, sasa aulize swali lake.

Na. 114

### Elimu Kumwezesha Mhitimu Kupata Ujuzi na Stadi za Maisha

**MHE. SHALLY J. RAYMOND** aliuliza: -

Elimu ya Msingi ni muhimu kuwawezesha wahitimu kuzalisha na kuwapatia stadi za maisha lakini wapo wahitimu wa Elimu ya Msingi, Sekondari na Vyuo wasioweza hata kuanzisha bustani za mboga mboga na matunda:-

Je, Serikali inachukua hatua gani kuhakikisha elimu inayotolewa inamwezesha mhitimu kupata ujuzi na stadi za maisha ili aweze kujijiri?

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**NAIBU SPIKA:** Mheshimiwa Naibu wa Elimu, Sayansi na Teknolojia, majibu.

**NAIBU WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA** alijibu: -

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Elimu, Sayansi na Teknolojia, napenda kujibu swali la Mheshimiwa Shally Josepha Raymond, Mbunge wa Viti Maalum, kama ifuatavyo:-

Mheshimiwa Naibu Spika, suala la kuwawezesha wanafunzi kupata stadi za maisha na kuzalisha limezingatiwa katika mitaala ya ngazi mbalimbali za elimu hapa nchini kwa lengo la kumwezesha mhitimu kupata ujuzi na stadi za maisha ili aweze kujijiri.

Mheshimiwa Naibu Spika, katika kuwawezesha wahitimu wa ngazi mbalimbali za elimu kupata stadi za maisha na ujuzi ili waweze kuzalisha, Serikali imehuisha mitaala ya Elimumsingi kwa lengo la kuimarisha ufundishaji na ujifunzaji wa stadi mbalimbali za maisha. Kwa mfano, katika shule za msingi, somo la Stadi za Kazi linawajengea wanafunzi stadi za ujasiriamali na hivyo kuwanda kujijiri kwa wale watakaoshia ngazi hiyo ya elimu. Kwa upande wa shule za sekondari stadi za ujasiriamali kama vile, kuweka malengo, kuwasiliana na uthubutu zimezingatiwa kwenye mitaala.

Mheshimiwa Naibu Spika, Serikali pia imewezesha Vyuo vya Maendeleo ya Wananchi 54 kutoa maarifa na ujuzi wa ufundi katika fani mbalimbali kwa wahitimu wa Elimumsingi ili waweze kuzalisha kama vile ushonaji, ufundi umeme, uashi na uselemala. Pia, Serikali imeendelea kujenga uwezo wa walimu wa ufundi katika vyuo hivyo ili kuboresha ujuzi wao katika nyanja mbalimbali za kiujuzi.

Mheshimiwa Naibu Spika, pamoja na jitihada hizi za Serikali, jukumu la kufundisha wanafunzi stadi za maisha ni la jamii nzima. Hivyo, naomba kutoa rai kwa wazazi/walezi na jamii kwa ujumla kuwapa nafasi watoto wetu kufanya kazi mbalimbali za nyumbani kulingana na umri wao ili kusaidia kuwafundisha kwa vitendo.

**NAIBU SPIKA:** Mheshimiwa Shally Raymond, swali la nyongeza.

**MHE. SHALLY J. RAYMOND:** Mheshimiwa Naibu Spika, ahsante sana. Nianze kwanza kumpongeza Rais wetu Dkt. John Pombe Joseph Magufuli kwa kutoa elimu bure ambayo imewezesha kila mtoto sasa atoke akasome na hakuna dadalea tena nyumbani. *(Makofi)*

Mheshimiwa Naibu Spika, katika swali la msingi nimesisitiza elimu ya msingi kuwezesha wanafunzi kwenda kufanya kazi zao baada ya masomo kwa wale ambao hawataendelea. Naomba kuuliza maswali kwa Serikali, la kwanza, kwa kuwa wanafunzi hao tunaowaona barabarani na nyie mkiwa mashahidi wanatoka nyumbani alfajiri saa kumi na moja na kurudi nyumbani saa kumi na mbili hoi bin taabani, kwa maana muda mwingi wako shuleni na shuleni ndiko wanakoweza kufundishwa, kwa nini sasa katika elimu ya msingi walimu wasiwe na mtaala ambao watafufua zile bustani ndogondogo toka wakiwa wadogo wawe na *interest* ya kilimo? *(Makofi)*

Mheshimiwa Naibu Spika, swali la pili, kipindi cha nyuma tulikuwepo na sekondari za mchepuo, tulikuwa na sekondari ya mchepuo wa kilimo, mchepuo wa biashara, mchepuo wa sayansikimu na kadhalika. Baada ya hayo yaliyotokea hapo katikati na michepuo ile kufutia, Serikali haioni sasa ni wakati muafaka wa kurejesha tena aina ile ya mitaala ili mwanafunzi akitoka pale pamoja na kulelewa nyumbani na wazazi, kulelewa shuleni, lakini taifa ka kesho liwe bora kama nyie mlio hapa? *(Makofi)*

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri Elimu, Sayansi na Teknolojia, majibu kwa kifupi.

**NAIBU WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA:** Mheshimiwa Naibu Spika, naomba kujibu maswali ya mawili ya nyongeza ya Mheshimiwa Shally Raymond, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kuhusiana na umuhimu wa Serikali kurejesha bustani mashuleni, naomba nimhakikishe Mheshimiwa Mbunge kwamba kwa sehemu kubwa wanafunzi bado wanapata fursa za kujifunza kilimo kidogo kidogo hasa maeneo ya vijijini lakini changamoto wote tunafahamu ni maeneo ya mjini ambapo ardhi ni changamoto kubwa. Ndiyo maana tunaendelea kuisitiza kwamba jamii, familia waisaidie Serikali nao waweze vilevile kutoa stadi hizo kwa vijana, kwa sababu lazima tuseme pia kwamba maisha ya kisasa yanahusika kwa kiasi kikubwa katika kuondoa ari na hamasa ya vijana kujihusisha na vitu kama hivyo. Wazazi wengi wanapenda watoto wao wakacheze na *play station*, kuangalia TV, *video games* kuliko kujifunza stadi za maisha. Ndiyo maana tunasema, ndiyo Serikali itaendelea siyo tu kuboresha mitaala lakini kuweka mazingira wezeshi ili wanafunzi waweze kupata hizo stadi za kazi lakini kama nilivyosema ni jukumu letu wote. Kwa hiyo, tunomba tusaide ili tuweze kufanikiwa.

Mheshimiwa Naibu Spika, kuhusiana na kubadilisha mitaala ili turudi nyuma, naomba nichukue mawazo yake, siyo baya tutaendelea kuboresha mitaala yetu ili iweze kutoa elimu bora na yenye manufaa kwenye vijana wetu. (*Makofi*)

**NAIBU SPIKA:** Mheshimiwa Alex Gashaza, swali fupi.

**MHE. ALEX R. GASHAZA:** Mheshimiwa Naibu Spika, nashukuru kunipa nafasi ili niulize swali la nyongeza.

Mheshimiwa Naibu Spika, takribani watoto 115 waliomaliza darasa la saba mwaka jana na kufanya mtihani kutoka Jimbo la Ngara katika Shule ya Msingi Kumnazi walifutiwa mtihani na wazazi wa watoto hao kwa umoja wao walimwandikia Katibu Mkuu Baraza la Mitihani barua ya tarehe 10 Desemba lakini mpaka sasa hivi hawajapata majibu. Watoto na wazazi wamechanganyikiwa ukizingatia ni watoto yatima na wengi wao ni watoto wa maskini. Nini kauli ya Serikali kuhusu suala hili?

**NAIBU SPIKA:** Mheshimiwa Naibu wa Waziri wa Elimu, Sayansi na Teknolojia, majibu.

**NAIBU WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA:** Mheshimiwa Naibu Spika, pamoja na kwanza swali hili halina uhusiano na swali la msingi ambalo nilikuwa najibu lakini naomba nijibu swali la nyongeza la Mheshimiwa Gashaza, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kuhusu barua ambao wazazi wale wameandika kwa Katibu Mtendaji wa Baraza la Mtihani, naomba nifuatilie nijue barua hiyo majibu yake yanatoka lini. Hata hivyo, ifahamike tu kwa umma na kwa Waheshimiwa Wabunge kwamba ni kosa kujihusisha na uhalifu wa mitihani. Kwa hiyo, pale mtuhumiwa atapobainika kwamba kweli amehusika hatua stahiki zinachukuliwa na hatua hizo inakuwa ni pamoja na kumfutia mtihani na matokeo. Kwa hiyo, ifahamike tu kwamba kwa kweli ni kosa lakini nitaenda kufuatilia halafu nitampa jibu.

**NAIBU SPIKA:** Mheshimiwa Asha Abdullah Juma, Mbunge wa Viti Maalum, sasa aulize swali lake.

Na. 115

**Mkakati na Kuwaendeleza Watoto Wenye Uwezo Mdogo Kujua Kusoma na Kuandika**

**MHE. ASHA ABDULLAH JUMA** aliuliza:-

Wapo watoto wengi wenye uwezo (ubongo) mzito kufahamu kusoma au kuandika na hatimaye kubaki shule kwa muda mrefu:-

Je, Serikali ina mkakati gani juu ya kundi hili kubwa la watoto katika kuwaendeleza kielimu ili waweze kujitegemea?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Elimu, Sayansi na Teknolojia, majibu.

**NAIBU WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Elimu, Sayansi na Teknolojia, napenda kujibu Swali la Mheshimiwa Asha Abdulla Juma, Mbunge wa Viti Maalum, kama ifuatavyo:-

Mheshimiwa Naibu Spika, Serikali inatambua uwepo wa watoto wenye uelewa tofauti wakati wa mchakato wa ufundishaji na ujifunzaji ikiwa ni pamoja na watoto wenye uwezo mzito wa kusoma na kuandika. Uwezo huu mzito wa kusoma na kuandika husababishwa na sababu mbalimbali zikiwemo, mazingira yasiyo rafiki nyumbani na shuleni, migogoro ya kifamilia hasa ya wazazi na walezi, kuugua kwa muda mrefu, hofu na kutojiamini. Kwa sababu ya uelewa wao mzito, watoto hao huchukua muda mwingi katika kujifunza.

Mheshimiwa Naibu Spika, katika kutatua changamoto hii, Serikali imeendelea kutekeleza Mitaala ya Mafunzo ya Ualimu inayomwezesha mwalimu kuzingatia mahitaji ya makundi mbalimbali ya wanafunzi katika ujifunzaji. Kwa mfano, kuwabaini watoto wenye uwezo mzito katika kujifunza, kupata mbinu mbalimbali za kufundishia na kujifunzia ambazo husaidia watoto hao kujifunza. Vilevile, Serikali imeendelea kutoa mafunzo kazini kwa walimu ili kuimarisha mchakato mzima wa ufundishaji na ujifunzaji kwa kuzingatia mahitaji halisi katika darasa. Kwa mfano, mafunzo endelevu ya ujenzi wa Stadi za Kusoma, Kuandika na Kuhesabu kwa Darasa la Kwanza hadi la Nne pamoja na Usimamizi wa Elimu ya Awali kwa walimu waliopo kazini.

Mheshimiwa Naibu Spika, Serikali kupitia Taasisi ya Elimu Tanzania imeandaa Mitaala na Vitabu kwa ajili ya Elimumsingi ili kuboresha maudhui na njia za ufundishaji zinazomwezesha mwanafunzi kushiriki kikamilifu katika tendo la ujifunzaji. Naomba kutoa rai kwa wazazi, walezi na jamii kwa ujumla kutoa ushirikiano kwa walimu ili kuweka nguvu ya pamoja katika kusaidia wanafunzi wenye uwezo mzito katika kujifunza kusoma na kuandika.

**NAIBU SPIKA:** Mheshimiwa Asha Abdullah Juma, swali la nyongeza.

**MHE. ASHA ABDULLAH JUMA:** Mheshimiwa Naibu Spika, ahsante sana kwa nafasi hii. Nashukuru sana kwa majibu mazuri, ya kina na yenye maelezo ya kutosha na kwa kiasi kikubwa suala langu limepata ufafanuzi kwa swali la aliyeuliza kabla yangu lakini nitakuwa na maswali ya nyongeza.

Mheshimiwa Naibu Spika, swali la kwanza, je, Serikali ina mpango gani wa kudhibiti baadhi ya utawala wa shule ambao huwa unawazuia watoto wenye uwezo mdogo au uwezo wastani kufanya mitihani yao ya mwisho na kuwalazimisha waende wakajiandikishe kama *private candidates* kwenye vituo vingine wakati wakijua kufanya hivyo ni kuwapunguzia *moral*

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na kuwavuruga kiasi kwamba wanawazidishia kutofanya vizuri lakini pia ni kuwabagua watoto hawa?

Mheshimiwa Naibu Spika, swali la pili, ni kwa kiasi gani Serikali imejipanga kushirikiana na wazazi na walezi kuona kwamba Kamati za Ahule zinasaidia kupunguza kadhia hii kwa watoto hao wenye uwezo pungufu katika masomo yao? Ahsante.

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Elimu, Sayansi na Teknolojia, majibu kwa kifupi.

**NAIBU WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA:** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Asha Abdulla Juma kwa pamoja, kama ifuatavyo:-

Mheshimiwa Naibu Spika, niwaeleze Waheshimiwa Wabunge pamoja na Watazania kwa ujumla kwamba ni kosa kumbagua mtoto yeyote kwa sababu yoyote. Wote ni watoto wa Kitanzania na tena Serikali inatoa msisitizo zaidi kwa wale ambao wana changamoto mbalimbali za ujifunzaji. Kwa hiyo, ikibainika kwamba kuna mwalimu au kiongozi yeyote wa elimu ambaye anawabagua watoto wenye changamoto ya uzito katika kujifunza kwa kweli ni kosa na atachukuliwa hatua za kisheria. Naomba nimtake Mheshimiwa Mbunge kama ana ushahidi kuhusu hili alete kwetu na sisi hatutasita kuchukua hatua. *(Makofi)*

Mheshimiwa Naibu Spika, pia kuhusu nafasi ya Kamati na Bodi za shule katika kutatua changamoto hii, naomba nimhakikishie Mheshimiwa Mbunge ni kwamba lengo zima la kuanzisha Kamati za shule katika Shule za Msingi na Bodi katika Shule za Sekondari ni pamoja na kuangalia changamoto kama hizi ili kuhakikisha kwamba sheria, taratibu na miongozo ya Serikali inatiliwa mkazo katika usimamizi wa elimu. Kwa hiyo, tuendeleo kuwaunga mkono kwa sababu ndiyo kazi yao hasa.

**NAIBU SPIKA:** Waheshimiwa Wabunge, muda wetu umekwenda sana, tunaendelea na Wizara ya Maji, Mheshimiwa David Ernest Silinde, Mbunge wa Momba sasa aulize swali lake.

Na. 116

### **Mpango wa Serikali wa Kutatua Kero ya maji –Jimbo la Momba**

**MHE. DAVID E. SILINDE** aliuliza:-

Je, Serikali ina mpango gani kwa sasa kutatua kero ya maji kwa uhakikia katika Jimbo la Momba?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Maji, majibu.

**NAIBU WAZIRI WA MAJI** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Maji, naomba kujibu swali la Mheshimiwa David Ernest Silinde, Mbunge wa Momba, kama ifuatavyo:-

Mheshimiwa Naibu Spika, katika juhudi za kutatua tatizo la maji katika Jimbo la Momba, Serikali inaendelea kutekekeza miradi mitatu katika Vijiji vya Ndalambo ambapo ujenzi umekamilika kwa asilimia 95, Kijiji cha Chitete ujenzi umekamilika kwa asilimia 12 na

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Tindingomba ujenzi umekamilika kwa asilimia 80. Miradi hii ikikamilika, itahudumia jumla ya watu wapatao 23,397 na kuongeza upatikanaji wa huduma ya maji safi, salama kwa wananchi.

Mheshimiwa Naibu Spika, aidha, Serikali imeanza kutekeleza miradi ya vijiji vitano kupitia Programu ya Malipo kwa Matokeo (*PfR*) katika Vijiji vya Mkulwe, Chiwanda, Kasinde, Ikana na Namsinde II kwa gharama ya Sh.805,885,340. Kukamilika kwa miradi hii, kutawezesha jumla ya watu 31,984 kupata huduma ya maji.

**NAIBU SPIKA:** Mheshimiwa David Ernest Silinde, swali la nyongeza.

**MHE. DAVID E. SILINDE:** Mheshimiwa Naibu Spika, ahsante sana. Pamoja na majibu ya Serikali kuonyesha baadhi ya miradi ambayo inayofanyika katika Jimbo la Momba lakini bado tatizo la maji ni kubwa sana.

Mheshimiwa Naibu Spika, Sera ya Maji inataka kwamba mwananchi achote maji umbali wa mita 400 na Jimbo la Momba lina zaidi ya vitongoji 400 na kiukweli mpaka sasa hivi tukienda katika *level* ya vitongoji peke yake vyenye maji haviwezi kufika hata 30. Kwa hiyo, nilichokuwa nataka kabla ya kwenda kwenye Uchaguzi Mkuu Serikali watupe hapa jibu la uhakika ni lini wananchi wa Momba maji yatatoka? Kwa sababu wananchi wanachohitaji pale ni maji pekee. Hilo ni swali la kwanza. (*Makofi*)

Mheshimiwa Naibu Spika, swali la pili, sisi kama Bunge hapa tuliitaka Serikali iongeze tozo kwenye mafuta kwa lengo moja tu la kupata fedha kwa ajili ya kupeleka kwenye miradi ya maji. Je, ni kwa nini ile tozo ambayo Bunge tuliipendekeza mpaka sasa Serikali haijaitokeleza? Ahsante. (*Makofi*)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Maji, majibu.

**NAIBU WAZIRI WA MAJI:** Mheshimiwa Naibu Spika, napenda kujibu swali la Mheshimiwa Mbunge, kama ifuatavyo:-

Mheshimiwa Naibu Spika, maji ni uhai na sisi kama viongozi wa Wizara ya Maji tunafanya jitihada kubwa sana za usiku na mchana katika kuhakikisha tunatatua tatizo hili la maji. Tumbainisha Mkoa 17 na Halmashauri 86 ambazo zimekuwa na changamoto kubwa sana ya maji ikiwemo Jimbo la Momba. Zaidi ya Sh.5,641,000,000 tumezipoleka kwenye Mkoa wa Songwe na katika Jimbo lake zaidi ya shilingi bilioni 1.3 zipo kwa ajili ya kutekeleza miradi mikubwa mitano katika kuhakikisha tunatatua tatizo la maji. Azma ya Mheshimiwa Rais ni kumtua mwanamama ndoo kichwani, nataka kumhakikishia Mheshimiwa Mbunge kwamba tutajipanga kuhakikisha miradi hii kwa wakati ili wananchi wake waweze kupata huduma ya maji.

Mheshimiwa Naibu Spika, pamoja na Serikali kutoa fedha nyingi sana, moja ya changamoto kubwa sana ya Wizara ya Maji ilikuwa katika suala zima la usimamizi wa miradi ya maji na uendeshaji. Miradi ilikuwa ikitekelezwa kwa gharama kubwa sana zaidi ya mfano wake. Mfano, ukienda katika Jimbo la Nkasi kulikuwa na mradi ambao unatekelezwa *estimation* yake ni shilingi bilioni 6 lakini Mheshimiwa Makame Mbarawa na timu ya Wizara imepitia na kugundua mradi ule unatakiwa kutelezwa kwa shilingi bilioni 3.

Mheshimiwa Naibu Spika, kwa hiyo, tumeona kwamba pamoja na utekelezaji wa miradi lakini kwenye *estimation* za utekelezaji wa miradi zimekuwa kubwa sana. Sisi kama Wizara ya Maji tumepanga miradi yote kutekelezwa kwa *Force Account* kwa maana ya kutumia wataalam wetu wa ndani. Kwa hiyo, zile fedha ambazo tutakazopatiwa na Serikali

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zitatuwezesha kutekeleza miradi kwa wakati na tuta-save gharama kubwa sana. Kwa hiyo, nina imani fedha hizi zitaweza kutusaidia kutekeleza miradi mingi kwa kutumia wataalam wetu wa ndani na kuzuia ubadhirifu unaofanywa na wataalam wetu.

Mhshimiwa Naibu Spika, ahsante sana.

**NAIBU SPIKA:** Ahsante sana. Tunaendelea na Wizara ya Kilimo, Mheshimiwa Joseph Kizito Mhagama, Mbunge wa Madaba, swali lake litaulizwa kwa niaba na Mheshimiwa Sikudhani Chikambo.

Na. 117

### **Kukosekana kwa Maduka ya Pembejeo Vijijini**

**MHE. SIKUDHANI Y. CHIKAMBO (K.n.y. MHE. JOSEPH K. MHAGAMA)** aliuliza:-

Miongoni mwa mambo yanayokwamisha ukuaji wa sekta ya kilimo nchini ni pamoja na kukosekana kwa maduka ya pembejeo za kutosha maeneo ya vijijini ambako ndiko walipo wakulima wengi. Miongoni mwa sababu za kukosekana maduka hayo ni gharama kubwa ya kufuzu (*certifications*) kama vile TOSC 1 – Sh. 100,000; TPRI – Sh.320,000; TFDA - Sh.100,000; leseni na kadhalika na hivyo kufanya gharama kuwa zaidi ya Sh.600,000:-

Je, ni kwa nini Serikali isiondoe gharama hizi ili kutoa hamasa kwa wajasiriamali kupata mafunzo, kufuzu na kuwekeza maduka ya pembejeo ili kusogeza huduma kwa wakulima wadogo na kuharakisha kasi ya ukuaji wa kilimo?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Kilimo, majibu.

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Kilimo, naomba kujibu swali la Mheshimiwa Joseph Kizito Mhagama, kama ifuatavyo:-

Mheshimiwa Naibu Spika, Serikali ipo katika hatua za kuboresha mazingira ya biashara na uwekezaji nchini kwa kutatua changamoto zinazokabili sekta ya kilimo zikiwemo za biashara ya pembejeo kama zilivyoainishwa kwenye Mpango wa Maboresho ya Mazingira ya Biashara (*Blue print*). Aidha, ni dhamira ya Serikali kuhakikisha kuwa, pembejeo zenye ubora zinapatikana kwa wakulima kwa urahisi na kwa bei nafuu.

Mheshimiwa Naibu Spika, ili kutoa hamasa kwa wajasiriamali wanaohitaji kufungua maduka ya pembejeo vijijini, mwaka 2017/2018, Serikali ilifanya mapitio na kufuta jumla ya tozo tano katika biashara ya mbegu ambazo ni Sh.100,000 ya Cheti cha Usajili na Utambuzi wa Muuzaji; Sh.50,000 Cheti kwa ajili ya aina ya mbegu; Sh.5,000 Cheti cha Majaribio ya Mbegu; Sh.2,500 ada ya nakala ya cheti na Sh. 5,000 ada kwa ajili ya Cheti cha Majaribio.

Mheshimiwa Naibu Spika, viuatilifu ni sumu ambayo huweza kuhatarisha maisha ya binadamu, mifugo na mazingira kama havitatumiwa kwa usahihi. Hivyo muuzaji lazima awe na taaluma maalum ya viuatilifu kwa mujibu wa Sheria Na. 13 ya mwaka 1997 ya Udhidhi wa Visumbufu vya Mimea kama ilivyo kwa maduka ya dawa za binadamu. Aidha, mfanyabiashara anapotaka kufungua duka la viuatilifu hupatiwa mafunzo maalum ya siku sita kwa gharama ya Sh.320,000 kwa mujibu wa Kanuni Na.31, kifungu cha 3 cha Kanuni za Huduma za Afya ya Mimea, hivyo, gharama za mafunzo ya viuatilifu haziwezi kukwepeka.



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**NAIBU SPIKA:** Mheshimiwa Sikudhani Chikambo, swali la nyongeza.

**MHE. SIKUDHANI Y. CHIKAMBO:** Mheshimiwa Naibu Spika, ahsante. Mkoa wa Ruvuma ni miongoni mwa Mikoa ambayo imekuwa ikijishughulisha na kilimo cha chakula na biashara na kwa kufanya hivyo, wakulima wengi wanahitaji kupata mbolea kwa ukaribu.

Pamoja na maelezo mazuri ambayo yametolewa na Naibu Waziri, naomba Serikali ione sasa wakati umefika wa kuondoa hizo tozo zote kwa hao wafanyabiashara ambao watakuwa wamekidhi vigezo ili kuwaruhusu sasa waende wakafungue maduka huko vijijini ambako ndiko waliko wakulima.

Mheshimiwa Naibu Spika, swali la pili, kumekuwa na malalamiko kwa baadhi ya Mawakala ambao siyo waaminifu, wamekuwa wakiuza mbolea kinyume na bei elekezi na hii inapelekea kuwafanya wakulima wetu kununua mbolea na pembejeo kwa gharama ya juu sana. Je, Serikali inakuja na kauli gani kwa Mawakala ambao wamekuwa wakiongeza bei za pembejeo?

Mheshimiwa Naibu Spika, ahsante. (Makofi)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Kilimo, majibu kwa kifupi.

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE):** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Chikambo, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kuhusu suala la tozo, Wizara ya Kilimo sasa hivi inapitia upya tozo na gharama mbalimbali ambazo zinaweza kupunguza na kurahisisha shughuli za biashara katika sekta ya kilimo. Kwa kuwa Serikali inakuja na *Blue print* nataka nimuombe Mheshimiwa Mbunge na Waheshimiwa Wabunge wote kwa ujumla, huo utakuwa ni wakati mzuri sana wakati tunafanya mapitio ya Sheria ya Kurahisisha Mazingira ya Kufanya Biashara kuweza sote kushauriana na kuja na mwelekeo sahihi. Hata hivyo, katika mwaka wa fedha unaokuja, zipo baadhi ya tozo ambazo tutazileta Bungeni kwa ajili ya kuomba namna ya kuweza kuzibadilisha na kurahisisha mazingira ya kufanya biashara. (Makofi)

Mheshimiwa Naibu Spika, kuhusu suala la wafanyabiashara wasio waaminifu, nitumie nafasi hii kwanza kumpongeza sana Mkuu wa Mkoa wa Ruvuma kwa hatua alizochukua za kupita katika maduka na kuwakamata wafanyabiashara ambao wanakwenda kinyume na maelekezo ya Serikali. Kumekuwa na tatizo la wafanyabiashara wa viuatilifu na mbolea, kuhusu suala la bei elekezi, tumeagiza kwamba yeyote anayekwenda kinyume na maelekezo ya Serikali katika kuuza mbolea tofauti na bei elekezi, viongozi walioko katika ngazi za Wilaya na Mikoa waweze kuwakamata na kuwachukulia hatua na kuwapeleka katika vyombo vya Sheria kwa sababu hiyo itakuwa ni dhuluma na wizi kwa wakulima na ni jambo ambalo kama Serikali hatuwezi kuliruhusu.

Mheshimiwa Naibu Spika, vivyo hivyo, tunaendelea kusisitiza wafanyabiashara wote walioko katika sekta ya kilimo wanaouza mbolea na pembejeo na mbegu ambao wamekuwa siyo waaminifu kwa kuuza mbegu feki, kwa kutoa viuatilifu feki, Serikali inafuatilia kwa karibu. Tunatumia nafasi kuwaomba Wakuu wa Wilaya na Wakuu wa Mikoa kuhakikisha wanakagua na nawataka wananchi wanaponunua wahakikishe wanaomba risiti ili watakapokutana na tatizo iwe rahisi sisi Serikali kuweza kuchukua hatua na kuwafuatilia na kuwapeleka katika vyombo vya sheria.

**NAIBU SPIKA:** Mheshimiwa Mary Chatanda.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**MHE. MARY P. CHATANDA:** Mheshimiwa Naibu Spika, nashukuru kwa kunipa nafasi niulize swali la nyongeza.

Mheshimiwa Naibu Spika, kwa kuwa wakulima wanapata adha hii kubwa ya kununua mbolea kwa bei kubwa, kwa nini Serikali sasa isianzishe maduka haya ya pembejeo huko vijijini kupitia Mawakala ili kuwaletea unafuu wakulima kwa ajili ya ununuzi wa mbolea?

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri wa Kilimo, majibu kwa kifupi.

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE):** Mheshimiwa Naibu Spika, naomba kujibu swali la Mheshimiwa Mama Chatanda, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza Serikali haifanyi biashara, tuna *encourage private sector* kufanya biashara na kuwekeza na kuhakikisha kwamba wanafika maeneo ya wakulima vijijini. Jukumu letu ni kujenga mazingira.

Mheshimiwa Naibu Spika, tumeanzisha mfumo wa *Bulk Procurement* ili ununzi uwe wa pamoja kupunguza gharama. Tunaendelea kuuangalia mfumo huo kwa sababu katika soko la dunia kuna nyakati ambazo bei ya mbolea inakuwa juu na kuna nyakati ambazo inakuwa chini. Tunachokifanya sasa hivi ni kuangalia ni nyakati gani ambazo bei ya mbolea inakuwa chini ili tiuweze kuutumia mfumo wa *Bulk Procurement* wafanyabiashara waweze kununua wakati huo, mtaona mwaka hadi mwaka bei za mbolea zimekuwa zikishuka. Hata sisi tunaamini kwamba bado bei hizi hazijashuka kiwango kinachostahili lakini tunaendelea kufanya jitihada hizo na kwa mfumo wa *Bulk Procurement* ndiyo itakuwa njia sahihi ya kuweza kuhakikisha kwamba wakulima wanapata mbolea bora na kwa bei nafuu.

Mheshimiwa Naibu Spika, kuhusu biashara, hatutafungua maduka ya Serikali vijijini bali ni kuhamasisha sekta binafsi na kuwajengea mazingira ili kupunguza gharama na kupunguza utitiri wa *regulatory bodies* ili wafanyabiashara waweze kwenda kufungua maduka haya vijijini na kuwapatia huduma wakulima. Dhumuni la Serikali ni kuwawezesha wafanyabiashara na Watanzania waweze kufanya biashara na wala siyo Serikali kufanya biashara katika eneo hilo. Tuta-*intervene* pale ambapo kuna jambo la muhimu kufanya namna hiyo.

**NAIBU SPIKA:** Mheshimiwa Leah Komanya, Mbunge wa Viti Maalum, sasa aulize swali lake.

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### Vigezo Vinavyotumika Kumpata Mwenyekiti wa Bodi ya Ushirika

**MHE. LEAH J. KOMANYA** aliuliza:-

Je, ni vigezo vipi vinatumika kumpata Mwenyekiti wa Bodi ya Ushirika?

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE)** alijibu:-

Mheshimiwa Naibu Spika, kwa niaba ya Waziri wa Kilimo, naomba kumjibu Mheshimiwa Leah Komanya swali lake, kama ifuatavyo:-

Mwenyekiti wa Bodi ya Ushirika anapaswa kuwa na sifa kuu mbili ambazo ni kuwa mwanachama wa Chama cha Ushirika; na awe na sifa ya kuwa Mjumbe wa Bodi ya Ushirika.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Aidha, sifa nyingine ni sawa na zile za utaratibu wa uteuzi wa Wajumbe wa Bodi ya Ushirika ambazo zimeelezwa katika Kanuni za Maadili, kifungu 134(3) na Jedwali la Pili la Sheria ya Vyama vya Ushirika Na.6 ya mwaka 2013.

Mheshimiwa Naibu Spika, aidha, pamoja na maelezo hayo, Wizara imebaini upo upungufu katika sheria kuhusu taratibu na sifa za kumpata Mwenyekiti wa Bodi ya Ushirika. Wizara inakamilisha mabadiliko ya Sheria ya Ushirika ili pamoja na mambo mengine kuiboresha na kupata viongozi bora. Mabadiliko hayo yatazingatia kuweka mfumo wa kupata viongozi wenye uaminifu na uadilifu, uwezo wa usimamizi, kiwango cha elimu na teknolojia. Aidha, sheria iliyopo ilikidhi mahitaji na mazingira ya wakati huo ambayo inafanyiwa maboresho ili kuendana na mazingira ya sasa. Mwanachama wa Chama cha Ushirika hatapaswa kuchaguliwa kuwa Mwenyekiti wa Bodi ya Ushirika endapo atakuwa na mgongano wa maslahi na Chama cha Ushirika katika kufanya shughuli za biashara zinazofanywa na Chama cha Ushirika husika.

**NAIBU SPIKA:** Mheshimiwa Leah Komanya, swali la nyongeza.

**MHE. LEAH J. KOMANYA:** Mheshimiwa Naibu Spika, nashukuru kwa majibu mazuri ya Serikali ambayo yatakuwa na afya katika Ushirika wetu. Hata hivyo, bado kuna upungufu kwenye kaguzi zinazofanywa katika Vyama vya Ushirika. Mkaguzi wa Vyama vya Ushirika (COASCO) anakagua na ripoti yake inapelekwa kwa Vyama vya Ushirika hivyo kuwepo kwa mgongano wa maslahi. Je, Serikali haioni ni muda muafaka Vyama Vikuu vya Ushirika vikakaguliwa na Mkaguzi wa Mkuu wa Hesabu za Serikali? (*Makofi*)

Mheshimiwa Naibu Spika, Chama cha Ushirika Nyanza, *SHIRECU* na *SIMCU* vina mali nyingi na Serikali inafanya juhudi ya kutoa fedha kwa ajili ya ukarabati wa vinu vya kuchambulia pamba. Nimeshudia Naibu Waziri akifanya ukaguzi wa vinu hivyo kujiridhisha na kuona hali halisi. Hata hivyo, tukumbuke katika maeneo hayohayo kuna vinu vya kuchambulia pamba vinavyomilikiwa na watu binafsi wanaofanya biashara kwa faida hivyo kuwepo na ushindani. Je, Serikali ina mkakati gani wa kuhakikisha Vyama vya Ushirika vinajisimamia na kuwa endelevu? (*Makofi*)

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, majibu kwa kifupi.

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE):** Mheshimiwa Naibu Spika, naomba kujibu maswali mawili ya nyongeza ya Mheshimiwa Leah Komanya, kama ifuatavyo:-

Mheshimiwa Naibu Spika, ni kweli kama Serikali nikiri kumekuwa na udhaifu katika mfumo wa Ushirika na ndiyo maana Serikali imeamua kufanya mapitio makubwa ya Sera pamoja na Sheria ya Vyama vya Ushirika. Kama alivyosema kuhusu suala la COASCO na kushauri kwamba CAG akague Vyama Vikuu vya Ushirika; kwa mujibu wa sheria, CAG anakagua fedha za umma zinazopitishwa na Bunge, Vyama vya Ushirika ni *private entity* kwa muundo wake, ni vyama vya hiari.

Mheshimiwa Naibu Spika, hata hivyo, katika mapendekezo tunayokuja nayo ili kuifanya COASCO iwe na taasisi nyingine inayoifanyia *oversight*, bado ndani ya Serikali tunaangalia ni namna gani tutaifanya COASCO iweze kufikia malengo tuliyonayo ya kuweza kusimamia Vyama vya Ushirika na kuwa na nguvu ambayo tunaitarajia. Ni kweli sasa hivi wakifanya ukaguzi, taarifa pamoja na kuipeleka kwa Mrajisi lakini vilevile wanaipeleka kwa wanachama husika wa Chama cha Ushirika. Hii imekuwa ikileta matatizo na pale ambapo kunakuwa na viongozi wasiokuwa waaminifu huweza kutumia nafasi hiyo vibaya.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, nikiri kwa sasa COASCO wanafanya kazi nzuri, kwa miaka hii miwili wame-*produce report* ambayo imeweza kutuonyesha taswira ya Vyama vyetu vya Ushirika vina hali gani na sisi kama Wizara tumeanza kuchukua hatua. Kutokana na *report* hiyo, tumeona upungufu ambao unatulazimu sisi kama Serikali kuja na mabadiliko katika muundo wa Ushirika na namna ambavyo COASCO itafanya kazi na pale ambapo tunaamini kwamba kuna umuhimu wa kumuingiza CAG hatutasita kuchukua hatua hiyo.

Mheshimiwa Naibu Spika, kuhusu suala la Nyanza, SIMCU na SHIRECU; moja, ni sahihi kwamba *ginnery* nyingi na miradi mingi iliyokuwa chini ya Ushirika imefeli. Nini tunafanya kama Serikali? Tumepitia *ginnery* zaidi ya nane na tumeshazifanyia *feasibility study* ili kuweza kuziinua zikiwemo *ginnery* za Chato, Mbogwe, Kahama (KACU), Lugola na Manawa. *Ginnery* hizi tumezipitia na kuziangalia kama zinaweza kuanza kufanya biashara. Taarifa hii imeshakamilika, tunaifanyia kazi tukishirikiana na Wizara ya Viwanda na Biashara.

Mheshimiwa Naibu Spika, lakini muundo wa uendeshaji tumesema *clearly* kwamba *ginnery* hazitaendeshwa na Wenyeviti wa Vyama vya Ushirika. *Ginnery* zitakuwa ni *business entity* zinatazoendeshwa na *professional people* ambao watazisimamia kibiashara ili ziendeshwe kibiashara. Mara nyingi tumekuwa tukitoa mifano, Kampouni kama Vodacom, Airtel na *multi-nation* zingine, *shareholders* hawaendeshi wana *contract management* na hiyo ndiyo *model* tutakayotumia kuendesha *ginnery* hizi ili ziweze kujiendesha kibiashara, hatutaziendesha kama taasisi za huduma.

**NAIBU SPIKA:** Mheshimiwa Martha Mlata.

**MHE. MARTHA M. MLATA:** Mheshimiwa Naibu Spika, ahsante sana. Kwanza naomba niipongeze Serikali kwa juhudi kubwa ambazo imefanya kwa kurejesha Vyama vya Ushirika. Hata hivyo, kumekuwa na malalamiko mengi sana kuhusu vyama hivi na matatizo yake ni mengi. Wakulima wanapokuwa wamepeleka mazao yao mara nyingine hawalipwi kwa wakati au fedha zao kupotea kabisa. Sasa nataka kuiuliza Serikali, je, itakuwa tayari yenyewe kama Serikali kuweza kufidia pale ambapo Vyama vya Ushirika vimeshindwa kuwalipa wakulima hawa fedha zao kwa wakati ama kuwafanya wakulima wapate bima zao za mazao ambazo zinakuwa ni kwa ajili ya majanga mbalimbali kama mafuriko, nziye, ukame na kadhalika, pamoja na kutokulipwa iwe ni kama janga mojawapo? Ahsante

**NAIBU SPIKA:** Mheshimiwa Naibu Waziri, majibu kwa kifupi.

**NAIBU WAZIRI WA KILIMO (MHE. HUSSEIN M. BASHE):** Mheshimiwa Naibu Spika, naomba kujibu swali la nyongeza ya Mheshimiwa Martha Mlata, kama ifuatavyo:-

Mheshimiwa Naibu Spika, kwanza kuhusu suala la bima; wakati wa Nane Nane Serikali ilizindua Bima ya Mazao. Nitumie nafasi hii kuwahamasisha wakulima kuhakikisha kwamba wanajikatia *insurance* za mazao yao. Pamoja na hatua hiyo kama Serikali na Wizara tumeanza kupitia gharama za bima ya mazao na hivi karibuni tutakutana na *insurance companies* ambazo zinatoa bima katika sekta ya kilimo ili tuweze kukubaliana nao na kutengeneza *road map* itakayo-*guide* suala la *insurance*. (Makofi)

Mheshimiwa Naibu Spika, kuhusu Ushirika, napenda tena kurudia kusema ndani ya Bunge hili Tukufu. Ushirika haununui mazao, wao ni *conduit* ya kumkutanisha mkulima na mnunuzi. Tunatumia Ushirika kama sehemu ambayo wakulima wadogo wadogo watapeleka mazao yao na watakuwa na *bargaining power* juu ya hatima ya mazao yao. Vilevile niseme pale ambapo Chama cha Ushirika kitashiriki katika ubadhirifu wa kumuibia mkulima, tutawachukulia hatua stahiki na kali kama ambavyo tumekuwa tukifanya. Navyoongea sasa

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

hivi viongozi wa ushirika sehemu mbalimbali ambao wamekula fedha za wakulima wako magerezani na wamechukuliwa hatua na kupelekwa kwenye kesi za uhujumu uchumi. Hivi karibuni tumewaweka ndani viongozi wa Chama cha Chai cha MUYULU kilichopo Wilaya ya Lupemba ambao walikuwa wamejibinafsishia mali za wakulima ziwepo magari, mashamba na nyumba na tutaendelea kufanya namna hiyo. *(Makofi)*

Mheshimiwa Naibu Spika, niwaeleze Watanzania na Waheshimiwa Wabunge hatuwezi kukimbia changamoto. Ubadhirifu ulikuwepo hatuwezi kuu mfumo mzuri wa sekta ya kilimo kwa sababu ya viongozi wabadhirifu. Sisi kama Wizara tutasimamia kuhakikisha kwamba ushirika unakuwa safi na kuweza kufikia malengo ya Serikali. *(Makofi)*

**NAIBU SPIKA:** Tumefika mwisho wa kipindi chetu cha maswali, nitaleta kwenu matangazo tuliyonayo. Kwanza tuanze na matangazo yanayohusu wageni walioko hapa Bungeni. Kwanza ni wageni walioko Jukwaa la Mheshimiwa Spika, mgeni wa Mheshimiwa Spika ambaye ni Balozi wa Umoja Ulaya Nchini, Mheshimiwa Manfredo Fant, karibu sana. Ameambatana na Maafisa wawili kutoka Wizara ya Mambo ya Nje na Ushirikiano wa Afrika Mashariki, Ndugu Mona Mahecha ambaye ni Kaimu Mkurugenzi - Idara ya Ulaya na Amerika na Ndugu Antony Mtafya - Afisa Mambo ya Nje. Karibuni sana. *(Makofi)*

Tunao pia wageni watano wa Mheshimiwa Balozi Dkt. Augustine Mahiga, Waziri wa Katiba na Sheria ambao wamekuja kwa ajili ya uwasilishaji wa Muswada wa Sheria ya Usuluhishi wa mwaka 2020. Wageni hawa ni Profesa Sifuni Mchome ambaye ni Katibu Mkuu; Ndugu Amon Mpanju ambaye ni Naibu Katibu; Dkt. Evaristo Longopa - Naibu Mwanasheria Mkuu wa Serikali; Dkt. Zakayo Lukumay ambaye ni Kaimu Mkuu wa Taasisi ya Mafunzo ya Uanasheria kwa Vitendo Tanzania (*Law School*); na Ndugu Emmy Hudson ambaye ni Kaimu Afisa Mtendaji Mkuu RITA. Karibu sana. *(Makofi)*

Waheshimiwa Wabunge Prof. Sifuni Mchome ni mwalimu wangu lakini pia Ndugu Amon Mpanju ambaye ni Naibu Katibu yeye ni mwanafunzi wangu. Pia Dkt. Evaristo Longopa yeye ni Naibu Mwanasheria Mkuu wa Serikali na ni mwanafunzi wangu. Karibuni sana. Kwa hiyo, katika mazingira hayo Profesa Mchome anakuwa babu yao. *(Makofi/Kicheko)*

Tunao pia wageni mbalimbali wa Waheshimiwa Wabunge, wageni 61 wa Mheshimiwa Dkt. Medard Kalemani, Waziri wa Nishati ambao ni Wenyeviti na Makatibu Kata wa CCM wa Wilaya ya Chato, wako pamoja na Wenyeviti na Makatibu wa Jumuiya za Chama wakiongozwa na Mwenyekiti wa CCM Wilaya ya Chato, Ndugu Raphael Masambo pamoja na Katibu wake Ndugu Acheni Maulid. Karibuni sana Viongozi wa Chama cha Mapinduzi kutoka Chato, watu ambao mmetoa Rais safari hii. Hongereni sana na karibuni sana. Kwa hiyo, tunatambua uwepo wenu lakini tunatambua kazi nzuri mliyoifanya ya kutuletea Rais bora kabisa. Naona Mheshimiwa Dkt. Kalemani anataka niseme neno, nitasema baadaye. *(Makofi)*

Waheshimiwa Wabunge, tunaye pia mgeni wa Mheshimiwa Dkt. Harrison Mwakyembe ambaye ni Waziri wa Habari, Utamaduni, Sanaa na Michezo na huyu ni Mwanamuziki nguli na Mtangazaji wa Shirika la Utangazaji la Afrika Kusini, Ndugu Maxi Bushoke ambaye ameambatana na watoto wake Ndugu Ruta Bushoke na Ramson Bushoke. Karibuni sana. Kungekuwa na kipaza sauti huko juu ningewasalimia *punjaan*. *(Makofi)*

Tunaye pia mgeni wa Mheshimiwa Subira Mgalu, Naibu Waziri wa Nishati ambaye ni mpiga kura wake kutoka Bagamoyo, Mkoa wa Pwani, Ndugu Rehema Rashid. Karibu sana.

Tunaye pia mgeni wa Mheshimiwa Jumaa Aweso, Naibu Waziri wa Maji na Umwagiliaji kutoka Kinondoni Jijini Dar es Salaam na huyu ni Ndugu Sebastian Bilinzoz. Karibu sana. *(Makofi)*

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Tunaye pia mgeni wa Mheshimiwa Angelina Mabula, Naibu Waziri wa Ardhi, Nyumba na Maendeleo ya Makazi ambaye ni mpiga kura kutoka Ilemela Jijini Mwanza Ndugu Abubakar Kapera. Karibu sana.

Tunao pia wageni watano wa Mheshimiwa Abdallah Ulega, Naibu Waziri wa Mifugo na Uvuvi ambao ni wapiga kura wake wakiongozwa na Mheshimiwa Diwani Kata ya Mwandege, Mheshimiwa Adolph Kowero. Karibuni sana. *(Makofi)*

Tunao wageni wawili wa Mheshimiwa Allan Kiula kutoka Mkalama, Mkoani Singida ambao ni Mwenyekiti wa CCM, Kata ya Kinyangi, Ndugu Andrea Andrea na Ndugu Seleman Hussein, Mwenyekiti wa CCM Tawi la Ishenga. Karibuni sana. *(Makofi)*

Tunao pia wageni watano wa Mheshimiwa Angelina Malambeka ambao ni makada wa Chama cha Mapinduzi na Viongozi wa UVCCM Wilaya ya Ilala, Jijini Dar es Salaam wakiongozwa na Mwenyekiti wa UVCCM Pugu, Ndugu Hafidh Mharami. Karibuni sana. *(Makofi)*

Tunao pia wageni 33 wa Mheshimiwa John Mnyika ambao ni Makatibu wa CHADEMA wa Mikoa yote ya Tanzania wakiongozwa na Katibu wa CHADEMA Mkoa wa Dodoma. *(Makofi)*

Haya ahsanteni sana Waheshimiwa. Viongozi hawa wameongozwa na Katibu wa CHADEMA, Mkoa wa Dodoma Ndugu Mathias Nyakapala. Karibuni sana. *(Makofi)*

Nadhani hayo makofi yalikuwa yanawakumbusha Waheshimiwa Wabunge wa CCM kupiga makofi viongozi wenu wakitambulishwa hapa. *(Makofi/Kicheko)*

Tunao pia wageni watano wa Mheshimiwa Alex Gashaza ambao ni jamaa zake kutoka Ngara na Arusha wakiongozwa na Kada wa CCM, Mkoa wa Arusha, Ndugu Gerald Majengo. Karibuni sana. *(Makofi)*

Wageni watatu wa Mheshimiwa Mary Chatanda ambao ni wapiga kura wake kutoka Wilaya ya Korogwe, Jijini Tanga ambao ni Ndugu Ziada Hamadi, Ndugu Judith Kazimoto na Ndugu Maria Karisto. Karibuni sana. *(Makofi)*

Wageni 30 wa Mheshimiwa Zainab Mndolwa na Mheshimiwa Najma Giga ambao ni Wanakikundi cha Sanaa ya Maigizo kinachoitwa *Dodoma Art Group* cha Bahi Road Dodoma wakiongozwa na Mwenyekiti wao Ndugu Ahmed Matanza. Karibuni sana. *(Makofi)*

Waheshimiwa Wabunge, nimetaarifiwa kwamba hawa hiki kikundi kimeandaa mchezo ambao watauzindua mwezi ujao na unaitwa Mateso kwa lugha ya Kigogo. Pia nimeambiwa mmojawapo wa wahudumu wetu wa Bunge yupo katika mchezo huo na jina lake anaitwa Jenifa, sijui ni yupi, karibu sana na tunashukuru kwamba unashiriki kwenye mambo hayo. *(Makofi)*

Tunaye pia mgeni wa Mheshimiwa Felister Bura kutoka Jijini Dodoma, Mchungaji John Makweba. Karibu sana. *(Makofi)*

Tunao wageni wawili wa Mheshimiwa Rashid Shangazi ambao ni ndugu zake kutoka Jijini Dodoma, Ndugu Mary Ngerangera na Ndugu Mariam Chambala. Karibuni sana. *(Makofi)*

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Tunao wageni 29 wa Mheshimiwa Venance Mwamoto ambao ni timu ya Mpira Ruaha Football Academy kutoka Mkoa wa Iringa wakiongozwa na Kocha wa timu hiyo, Ndugu Paul Ngalawa. Karibuni sana.

Tunao pia wageni waliopo Bungeni kwa ajili ya mafunzo, wanachama 70 wa Chama cha Wanafunzi wa Kiswahili Vyuo Vikuu vya Tanzania (CHAWAKITA), Tawi la Chuo Kikuu cha St. John cha Tanzania wakiongozwa na Ndugu Rashid Mwakyonya. Karibuni sana. (Makofi)

Tunao pia wageni 12 kutoka Shule ya Sekondari Peter Clever ya Jijini Dodoma. karibuni sana. (Makofi)

Tunao pia wageni 20 kutoka Jumuiya ya Maridhiano Tanzania, Kata ya Chang'ombe Jijini Dar es Salaama ambao ni Waandishi wa Habari za Utawala Bora wakiongozwa na Mwenyekiti wao Ndugu Mohamed Kidula. Karibuni sana. (Makofi)

Tunao pia wanafunzi 50 kutoka Chuo Kikuu cha Jordan kilichopo Mkoa wa Morogoro. Karibuni sana.

Waheshimiwa Wabunge, hayo ndiyo matangazo yanayohusu wageni kwa hiyo tutaendelea na ratiba yetu. Katibu.

### **NDG. MOSSY LUKUVI – KATIBU MEZANI:**

#### **MISWADA YA SHERIA YA SERIKALI**

**Muswada wa Sheria kwa ajili ya kufanya Marekebisho katika Sheria zipatazo 14 kwa lengo la kuondoa upungufu ambao umejitokeza katika sheria hizo wakati wa utekelezaji wa baadhi ya masharti katika Sheria hizo (A Bill for an Act to Amend Certain Written Laws)**

*(Kusomwa Mara ya Kwanza)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, Muswada umesomwa kwa mara ya kwanza. Kwa hivyo, kwa utaratibu tulio nao utapelekwa katika Kamati inayohusika. Katibu.

**MBUNGE FULANI:** Mwongozo.

### **NDG. MOSSY LUKUVI – KATIBU MEZANI:**

**Muswada wa Sheria kwa ajili ya Kuunganisha Sheria ya Hifadhi ya Mimea, Sura 133 na Sheria ya Taasisi ya Utafiti wa Viuatilifu vya Kitropikia, TPRI, Sura 161 ili kuweka mfumo wa pamoja wa kisheria ambao utasimamia hifadhi ya mimea na viuatilifu pamoja na kuanzisha Mamlaka ya Afya ya Mimea na Viuatilifu (A bill for an Act to Make Provisions to Consolidate the Plant Protection Act and The Tropical Pesticide Research Institute Act, Caps. 133 and 161 respective and putting in place a consolidated legal framework for plant health and pesticides and to establish the Tanzania Plant Health and Pesticides Authority)**

*(Kusomwa Mara ya Kwanza)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, Muswada umesomwa kwa mara ya kwanza. Kwa utaratibu wetu utapekewa kwenye Kamati inayohusika. Katibu.

### **NDG. ZAINAB ISSA – KATIBU MEZANI:**

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**Muswada wa Sheria kwa ajili ya kusimamia na kuendeleza uvuvi wa Bahari Kuu pamoja na kuweka masharti bora ya usimamizi, udhibiti na uhifadhi wa rasilimali za uvuvi katika Ukanda Maalum wa Uchumi wa Bahari (A Bill for an Act to make provisions for the requirements of development, management, control and conservation fisheries resources in the Exclusive Economic Zone**

*(Kusomwa Mara ya Kwanza)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, Muswada umesomwa kwa mara ya kwanza. Kwa mujibu wa taratibu zetu utapelekwa kwenye Kamati inayohusika ili mchakato wetu uweze kuendelea. Katibu.

**NDG. MOSSY LUKUVI – KATIBU MEZANI:**

**HOJA ZA SERIKALI**

**AZIMIO**

**NAIBU SPIKA:** Katibu, nadhani kwenye ratiba yako kuna hoja ya Kutengua Kanuni ya Bunge. Sasa namuita Waziri wa Nchi, Ofisi ya Waziri Mkuu, Mheshimiwa Jenista Mhagama.

**HOJA YA KUTENGUA KANUNI ZA BUNGE**

**WAZIRI WA NCHI, OFISI YA WAZIRI MKUU, SERA, BUNGE, KAZI, VIJANA, AJIRA NA WENYE ULEMAVU:** Mheshimiwa Naibu Spika, nakushukuru. Naomba kuleta maelezo ya Hoja ya Kutengua Kanuni za Bunge chini ya Kanuni ya 153(1) ya Kanuni za Kudumu za Bunge, Toleo la mwaka 2016.

KWA KUWA mara ya baada ya Mkutano wa Kumi na Nane wa Bunge kuhitimishwa utafuata Mkutano wa Kumi na Tisa wa Bunge ambao ni Mkutano wa Bajeti na wa mwisho katika uhai wa Bunge la Kumi na Moja. Nitarudia hapo, ni mkutano wa mwisho katika uhai wa Bunge la Kumi na Moja.

NA KWA KUWA Kanuni ya 99(1) ya Kanuni za Kudumu za Bunge, Toleo la Januari 2016 inaelekeza kuwa Mkutano wa Bajeti utaanza mapema mwezi Aprili ya kila mwaka.

NA KWA KUWA, tarehe ya mapema ya mwezi Aprili mwaka 2020 ambayo Mkutano wa Kumi na Tisa wa Bunge unaweza kuanza ni Jumanne tarehe 7 Aprili, 2020 ambapo hata hiyo itakuwa ni Siku ya Kumbukumbu ya Karume yaani Karume Day.

NA KWA KUWA Kamati ya Uongozi katika kikao chake kilichofanyika jana tarehe 6 Februari, 2020 iliridhia kwamba tarehe ya kuanza Mkutano wa Kumi na Tisa wa Bunge isiwe kama inavyofafanuliwa na Kanuni ya 99 (1).

HIVYO BASI ili kuwezesha utekelezaji bora wa shughuli za Bunge kwa Mkutano wa Kumi na Tisa, Bunge katika Mkutano wake wa Kumi na Nane linaazimia kutengua Kanuni ya 99(1) ili Mkutano wa Kumi na Tisa wa Bunge uanze tarehe nyingine itakayotajwa kwenye Hoja ya Kuahirishwa Mkutano huu wa Bunge na Mheshimiwa Waziri Mkuu na badala ya mapema mwezi Aprili.

Mheshimiwa Naibu Spika, naomba kutoa hoja. *(Makofi)*



## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**WAZIRI WA MAMBO YA NDANI YA NCHI:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Waheshimiwa Wabunge, hoja imeungwa mkono na kwa mujibu wa taratibu zetu nitawahoji kuhusu Hoja ya Kutengua Kanuni kama ilivyoenezwa na Mheshimiwa Waziri wa Nchi, Ofisi ya Waziri Mkuu.

*(Hoja ilitolewa iamuliwe)  
(Hoja iliamuliwa na Kuafikiwa)*

*(Hoja ya Kutengua Kanuni Iliridhiwa na Bunge)*

**NAIBU SPIKA:** Walioafiki wameshinda, kwa hiyo Kanuni imetenguliwa na Bunge lakini tarehe mahsusni ataitaja Mheshimiwa Waziri Mkuu atakapokuwa anaahirisha shughuli za Bunge. Katibu.

**NDG. MOSSY LUKUVI – KATIBU MEZANI:**

### HOJA ZA SERIKALI

#### AZIMIO

#### **Azimio la Kufuta Hasara itokanayo na Maduhuli ya Madeni ya Nyuma ya Ada na Leseni za Magari, Riba na Adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019**

**NAIBU SPIKA:** Waziri wa Fedha na Mipango, Mheshimiwa Dkt. Mpango.

**WAZIRI WA FEDHA NA MIPANGO:** Mheshimiwa Naibu Spika, awali ya yote, napenda kutoa shukrani zangu za dhati kwa Mwenyekiti wa Kamati ya Hesabu za Serikali, Mheshimiwa Naghenjwa Livingstone Kaboyoka, pamoja na Wajumbe wote wa Kamati ya Hesabu za Serikali PAC kwa kujadili na kukubali Azimio hili liwasilishwe mbele ya Bunge lako Tukufu ili liridhiwe.

Mheshimiwa Naibu Spika, naomba niwasilishwe mbele ya Bunge lako Tukufu hoja ya kuliomba Bunge likubali kufuta hasara ya maduhuli inayotokana na kufutwa kwa madeni ya nyuma ya ada ya leseni za magari na msamaha wa kodi, riba na adhabu husika kwa mujibu wa Sheria ya Fedha za Umma, Sura 348.

Mheshimiwa Naibu Spika, Serikali kupitia hotuba ya bajeti ya mwaka 2017/2018 ilifuta Ada ya Mwaka ya Leseni za Magari yaani *Annual Motor Vehicle License Fee* ili ada hii ilipwe mara moja tu gari linaposajiliwa na baada ya hapo iendeleo kulipwa kupitia Ushuru wa Bidhaa kwenye mafuta ya petrol na diesel. Aidha, pamoja na hatua hiyo, Serikali ilitoa msamaha wa ada hii, riba na adhabu zinazoambatana na madeni yote ya ada hiyo yaliyolimbikizwa kwa miaka ya nyuma.

Mheshimiwa Naibu Spika, hasara inayoombewa kufutwa inahusisha malimbikizo ya nyuma ya ada, riba na adhabu kwa magari 365,600 yenye jumla ya thamani ya shilingi 398,445,888,750 tu. Kabla ya kufanyika kwa utaratibu wa kuwasilisha maombi ya kufuta hasara hii mbele ya Bunge lako tukufu, Mdhhibiti na Mkaguzi Mkuu wa Hesabu za Serikali (CAG) alihakiki na kujiridhisha kuhusu maduhuli haya ambayo Serikali inaomba kuyaondoa katika orodha ya madeni ya Serikali.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, baada ya kusema haya, naomba sasa nisome Azimio husika, kama ifuatavyo:-

KWA KUWA, kupitia Kifungu cha 5 cha Sheria ya Fedha za Umma, Sura ya 348, Waziri wa Fedha amepewa mamlaka ya kusimamia na kudhibiti matumizi ya Fedha za Umma ikiwa ni pamoja na kugawa na kuidhinisha matumizi ya fedha hizo baada ya kupata idhini ya Bunge;

NA KWA KUWA, kwa mujibu wa Kifungu cha 43(1) cha Sheria ya Fedha za Umma, Sura 348, Bunge linaweza kwa njia ya Azimio la Bunge, kutoa idhini kwa Waziri wa Fedha na Mipango kufuta madai, hasara na upotevu wa fedha na vifaa vya Serikali, madai ya kodi pamoja na riba itokanayo na malimbikizo ya kodi;

NA KWA KUWA, Kupitia Hotuba ya Bajeti ya Serikali ya mwaka 2017/2018, Serikali ilitoa tamko la kutoa msamaha wa ada ya mwaka ya leseni za magari, riba na adhabu zinazoambatana na madeni yote ya ada hiyo yaliyolimbikizwa kwa miaka ya nyuma ili ada hii ilipwe mara moja tu gari linaposajiliwa na baada ya hapo iendelee kulipwa kupitia ushuru wa bidhaa kwenye mafuta ya petroli na dizeli;

NA KWA KUWA, kutokana na hasara ya maduhuli inayotokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari, riba na adhabu, inalazimika kusahihisha vitabu vya hesabu za Serikali kwa kipindi kinachoishia tarehe 30 Juni, 2019 ili kuweka kumbukumbu;

NA KWA KUWA, Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali amehakiki na kujiridhisha kuwa kiasi cha Shilingi Bilioni Mia Tatu Tisini na Nane, Milioni Mia Nne Arobaini na Tano, Laki Nane Themanini na Nane Eflu na Mia Saba Hamsini tu (Sh. 398,445,888,750.00) ndicho kinachopaswa kufutwa;

HIVYO BASI, kwa mujibu wa Kifungu cha 43(1) cha Sheria ya Fedha za Umma, Sura 348, Bunge hili, katika Mkutano wa Kumi na Nane, linazimamia na kuidhinisha Waziri wa Fedha na Mipango kusamehe na kufuta hasara ya maduhuli yasiyoweza kukusanywa yenye jumla ya Shilingi Bilioni Mia Tatu Tisini na Nane, Milioni Mia Nne Arobaini na Tano, Laki Nane Themanini na Nane Eflu na Mia Saba Hamsini tu, (Sh.398,445,888,750.00) yanayotokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari, riba na adhabu ili kusawazisha kumbukumbu katika Vitabu vya Hesabu za Serikali kwa kipindi kinachoishia tarehe 30 Juni, 2019.

Mheshimiwa Naibu Spika, naomba kutoa hoja.

**WAZIRI WA AFYA, MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Waheshimiwa Wabunge, hoja imeungwa mkono. Asante sana Mheshimiwa Waziri.

Sasa nitamwita Mwenyekiti wa Kamati ya Kudumu ya Bunge ya Hesabu za Serikali. Mwenyekiti, hayupo ee? Mwenyekiti, hoja uko nayo hapo ama?

**MHE. NAGHENJWA L. KABOYOKA – MWENYEKITI WA KAMATI YA KUDUMU YA BUNGE YA HESABU ZA SERIKALI:** Mheshimiwa Naibu Spika, ahsante sana kwa kunipa nafasi hii ili kuleta Maoni ya Kamati ya Kudumu ya Bunge ya Hesabu za Serikali kuhusu Azimio la Kufuta na Kusamehe Hasara ya Maduhuli Inayotokana na Kufutwa kwa Madeni ya Nyuma ya Ada na Serikali na Leseni za Magari na Msamaha wa Kodi, Riba na Adhabu Husika.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, Ripoti yetu hii ina Sehemu Tano. Sehemu ya kwanza ni Utangulizi, ya pili ni Madhumuni ya Utaratibu wa Kuwasilisha na Kufuta Hasara za Serikali Bungeni. Sehemu ya Tatu ni Hasara za Maduhuli ya Serikali zinazombewa kibali cha kufutwa, Sehemu ya Nne ni Hasara za Maduhuli ya Serikali Zilizokubaliwa Kuombewa Kibali cha Kufutwa baada ya Uchambuzi wa Kamati na Sehemu ya Tano ni Hitimisho.

Mheshimiwa Naibu Spika, kwa mujibu wa Kanuni ya 53 (6)(b) ya Kanuni za Kudumu za Bunge, Toleo la Januari, 2016, naomba kuwasilisha mbele ya Bunge lako Tukufu Maoni ya Kamati ya Bunge ya Hesabu za Serikali (PAC) kuhusu Azimio la kufuta na kusamehe hasara itokanayo na maduhuli ambayo hayakukusanywa kutokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari kwa kipindi kilichoishia tarehe 30 Juni, 2019.

Mheshimiwa Naibu Spika, Kamati inawasilisha maoni haya kwa kuzingatia kuwa, kwa mujibu wa Kifungu cha 43(1) cha Sheria ya Usimamizi wa Fedha za Umma, Sura 348, Bunge limepewa mamlaka ya kufuta madau au hasara zinazotokana na upotevu wa fedha na vifaa vya Serikali. Hivyo ni jukumu la Kamati kwa maelekezo ya Kamati ya Uongozi ya Bunge kujiridhisha na sababu na umuhimu wa kufuta hasara au upotevu husika kabla ya kupendekeza kwa Bunge kuzifuta.

Mheshimiwa Naibu Spika, Madhumuni ya Utaratibu wa Kuwasilisha Bungeni Azimio la Kufuta Hasara Husika. Madhumuni ya Serikali kuanzisha utaratibu wa kuwasilisha taarifa za upotevu Bungeni kwa lengo la kufutwa yalikuwa yafuatayo:-

(a) Kupunguza mrundikano wa hoja za ukaguzi ambazo zilikuwa zinajirudia mwaka hadi mwaka, kutokana na kutofanyika kwa marekebisho katika vitabu vya Serikali;

(b) Kusafisha Taarifa za Hesabu za Serikali kwa kufunga hoja za ukaguzi ambazo hazijibiki kutokana na upotevu wa fedha au vifaa vya Serikali;

(c) Kuongeza uwajibikaji wa Maafisa Masuuli katika usimamizi wa mali za umma na uwazi zaidi wa jinsi Serikali inavyoshughulikia upotevu wa mali zake; na

(d) Kutoa fursa kwa Bunge kutoa maelekezo na ushauri kwa Serikali juu ya mfumo wa uendeshaji na usimamizi wa fedha na mali za Serikali.

Mheshimiwa Naibu Spika, nitaomba ripoti yangu yote iingie kwenye *Hansard*.

Mheshimiwa Naibu Spika, Hasara ya Maduhuli Yanayopendekezwa Kufutwa; mnamo tarehe 21 Januari, 2020 Kamati ya Kudumu ya Bunge ya Hesabu za Serikali (PAC) ilikutana na Waziri wa Fedha katika Kikao kilichofanyika Ofisi ya Bunge Dodoma. Lengo la Kikao hicho lilikuwa kupokea na kujadili Taarifa ya hasara za Serikali zinazotokana na kutokukusanywa kwa maduhuli ya ada za leseni za magari katika kipindi kilichoishia tarehe 30 Juni, 2019.

Mheshimiwa Naibu Spika, Waziri wa Fedha aliifahamisha Kamati kuwa Serikali kupitia hotuba ya Bajeti ya Mwaka 2017/18, ilifanya marekebisho kwenye Sheria ya Usalama Barabarani, Sura 168 kwa kufuta ada ya mwaka ya leseni za magari (*Annual Motor Vehicle Licence Fee*) ili ada hii ilipwe mara moja tu gari linaposajiliwa na baada ya hapo iendelee kulipwa kupitia ushuru wa bidhaa kwenye mafuta ya petroli na dizeli.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, Serikali ilichukua uamuzi wa kufuta ada hiyo baada ya kutafakari juu ya magari mengi ambayo yalikuwa mabovu na hayatembezi. Aidha, Serikali iliitoa msamaha wa kodi, riba na adhabu zinazoambatana na madeni yote ya ada hiyo yaliyolimbikizwa kwa kwa miaka ya nyuma.

Mheshimiwa Naibu Spika, kutokana na uamuzi huo wa Serikali ambao uliridhiwa na Bunge lako Tukufu, Waziri wa Fedha aliwasilisha kwenye Kamati hasara ya maduhuli ya fedha za Serikali kwa kipindi kinachoishia Juni 30, 2019 yenye thamani ya Sh.398,445,888,750 ambayo ni malimbikizo ya nyuma kutoka kwa wadaiwa 365,600. Hivyo, madai hayo yalijadiliwa na Kamati na hatimaye tunawasilisha Bungeni kwa ajili ya kibali cha kufutwa.

Mheshimiwa Naibu Spika, Hasara/Upotevu Unaopendekezwa na Kamati Kufutwa. Kwa kuzingatia masharti ya Kifungu cha 16 cha nyongeza ya nane ya Kanuni za Kudumu za Bunge, Toleo la Januari, 2016 ambacho kinafafanua kuwa, “*msingi wa kazi za Kamati ya PAC ni taarifa ya hesabu zilizokaguliwa na CAG*”. Hivyo, Kamati ilikutana na CAG tarehe 21 Januari, 2020, Ofisi ya Bunge, Dodoma ili kujadili maombi ya kufuta hasara husika.

Mheshimiwa Naibu Spika, CAG aliithibitishia Kamati kuwa amefanya uhakiki wa hasara zinazoombewa kibali cha kufutwa. Baada ya uhakiki wake, amejiridhisha bila shaka juu ya kiasi na sababu zilizosababisha Serikali kushindwa kukusanya maduhuli husika. Kwa sababu hiyo CAG alipendekeza kwamba, Bunge lako Tukufu liridhie kufuta hasara ya maduhuli ya jumla ya Sh.398,445,888,750 ambayo ni malimbikizo ya nyuma kutoka kwa wadaiwa 365,600.

Mheshimiwa Naibu Spika, baada ya uchambuzi huo, Kamati inaunga mkono azimio la kufuta na kusamehe hasara ya maduhuli ya Sh.398,445,888,750 inayotokana na kufutwa kwa madeni ya nyuma ya ada ya leseni za magari na msamaha wa kodi, riba na adhabu husika.

Mheshimiwa Naibu Spika, hitimisho; Taarifa ya Kamati imechambua kwa kina hasara ya maduhuli iliyowasilishwa kwa Bunge lako Tukufu kupata kibali cha kufutwa, kwa mwaka wa fedha unaoishia Juni 30, 2019.

Mheshimiwa Naibu Spika, napenda kutumia fursa hii kumshukuru Mheshimiwa Job Ndugai, Spika wa Bunge letu na wewe mwenyewe Mheshimiwa Naibu Spika, kwa uongozi wenu makini ambao umeniwezesha mimi kuwasilisha maoni juu ya azimio husika hapa Bungeni.

Mheshimiwa Naibu Spika, mwisho, nawashukuru Wajumbe wote wa Kamati yetu ya PAC kwa kutekeleza majukumu ya Kamati hii kwa moyo na uadilifu mkubwa. Naomba kuwatambua Wajumbe hao kama ifuatavyo:-

Mheshimiwa Naibu Spika, mimi mwenyewe Naghenjwa Livingstone Kaboyoka ambaye ni Mbunge na Mwenyekiti wa Kamati hii, Mheshimiwa Aeshi Khalfan Hilal...

**NAIBU SPIKA:** Mheshimiwa Kaboyoka hairuhusiwi kusoma majina.

**MHE. NAGHENJWA L. KABOYOKA – MWENYEKITI WA KAMATI YA KUDUMU YA BUNGE YA HESABU ZA SERIKALI:** Mheshimiwa Naibu Spika, ahsante sana. Basi naomba wajumbe wangu wote majina yao yaingie katika *Hansard*.

Mheshimiwa Naibu Spika, napenda kumshukuru Katibu wa Bunge Ndugu Stephen Kagaigai kwa ushauri wake kwa Kamati pale alipotakiwa kufanya hivyo. Shukrani kwa Idara ya Kamati za Bunge kwa kuratibu shughuli za Kamati kupitia kwa Kaimu Mkuu wa Idara Ndugu

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Michael Chikokoto, Makatibu wa Kamati Ndugu Erick Maseke na Wilfred Magova kwa kushauri vema na kuratibu shughuli za Kamati pamoja na Waandishi wa Taarifa Rasmi za Bunge.

Mheshimiwa Naibu Spika, Kamati inatoa shukurani kwa Waziri wa Fedha na Naibu wake, ambao wameonesha unyenyekevu mkubwa mbele ya Kamati na heshima kubwa, kwa hiyo, wana mfano wa kuigwa. Pia, tunatoa shukurani kwa Ofisi ya Mdhibiti na Mkaguzi Mkuu wa Hesabu za Serikali, Ofisi ya Msajili wa Hazina, Idara ya Usimamizi wa Mali za Serikali na Kamishna wa Bajeti. Nawashukuru sana kwa ushirikiano mkubwa waliouonyesha katika kuhakikisha Kamati hii inakamilisha kazi zake.

Mheshimiwa Naibu Spika, mwisho, nawashukuru Waheshimiwa Wabunge wote kwa kunisikiliza. Naunga mkono hoja na ahsante.

### **MAONI YA KAMATI YA KUDUMU YA BUNGE YA HESABU ZA SERIKALI (PAC) KUHUSU AZIMIO LA KUFUTA NA KUSAMEHE HASARA YA MADUHULI INAYOTOKANA NA KUFUTWA KWA MADENI YA NYUMA YA ADA YA LESENI ZA MAGARI NA MSAMAHA WA KODI, RIBA NA ADHABU HUSIKA - KAMA YALIVYOWASILISHWA MEZANI**

#### **UTANGULIZI**

**Mheshimiwa Spika,** Kwa mujibu wa Kanuni ya 53 (6)(b) ya Kanuni za Kudumu za Bunge, Toleo la Januari, 2016, naomba kuwasilisha mbele ya Bunge lako Tukufu Maoni ya Kamati ya Bunge ya Hesabu za Serikali (PAC) kuhusu Azimio la kufuta na kusamehe hasara itokanayo na maduhuli ambayo hayakukusanywa kutokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari kwa kipindi kilichoishia tarehe 30 Juni, 2019.

**Mheshimiwa Spika,** Kamati inawasilisha maoni haya kwa kuzingatia kuwa, **kwa mujibu wa Kifungu cha 43(1) cha Sheria ya Usimamizi wa Fedha za Umma, Sura 348,** Bunge limepewa mamlaka ya kufuta madai au hasara zinazotokana na upotevu wa fedha na Vifaa vya Serikali. Hivyo ni jukumu la Kamati kwa maelekezo ya Kamati ya Uongozi ya Bunge kujiridhisha na sababu na umuhimu wa kufuta hasara au upotevu husika kabla ya kupendekeza kwa Bunge kuzifuta.

#### **MADHUMUNI YA UTARATIBU WA KUWASILISHA BUNGENI AZIMIO LA KUFUTA HASARA HUSIKA**

**Mheshimiwa Spika,** Madhumuni ya Serikali kuanzisha utaratibu wa kuwasilisha taarifa za upotevu Bungeni kwa lengo la kufutwa yalikuwa yafuatayo:-

Kupunguza mrundikano wa hoja za ukaguzi ambazo zilikuwa zinajirudia mwaka hadi mwaka, kutokana na kutofanyika kwa marekebisho katika vitabu vya Serikali;

Kusafisha Taarifa za Hesabu za Serikali kwa kufunga hoja za ukaguzi ambazo hazijibiki kutokana na upotevu wa fedha au vifaa vya Serikali;

Kuongeza uwajibikaji wa Maafisa Masuuli katika usimamizi wa mali za umma na uwazi zaidi wa jinsi Serikali inavyoshughulikia upotevu wa mali zake; na

Kutoa fursa kwa Bunge kutoa maelekezo na ushauri kwa Serikali juu ya mfumo wa uendeshaji na usimamizi wa fedha na mali za Serikali.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

### HASARA YA MADUHILI YANAYOPENDEKEZWA KUFUTWA

**Mheshimiwa Spika,** Mnamo tarehe 21 Januari, 2020 Kamati ya Kudumu ya Bunge ya Hesabu za Serikali (PAC) ilikutana na Waziri wa Fedha katika Kikao kilichofanyika Ofisi ya Bunge Dodoma. Lengo la Kikao hicho lilikuwa kupokea na kujadili Taarifa ya hasara za Serikali zinazotokana na kutokukusanywa kwa maduhuli ya ada za leseni za magari katika kipindi kilichoishia tarehe 30 Juni, 2019.

**Mheshimiwa Spika,** Waziri wa fedha aliifahamisha Kamati kuwa Serikali kupitia hotuba ya Bajeti ya mwaka 2017/18, ilifanya marekebisho kwenye sheria ya usalama Barabarani, sura 168 kwa kufuta ada ya mwaka ya leseni za magari (*Annual Motor vehicle Licence Fee*) ili ada hii ilipwe mara moja tu gari linaposajiliwa na baada ya hapo iendelee kulipwa kupitia ushuru wa bidhaa kwenye mafuta ya petroli na dizeli.

**Mheshimiwa Spika,** Serikali ilichukua uamuzi wa kufuta ada hiyo baada ya kutafakari juu ya magari mengi ambayo yalikuwa mabovu na hayatembe. Aidha, Serikali ilitoa msamaha wa kodi, riba na adhabu zinazoambatana na madeni yote ya ada hiyo yaliyolimbikizwa kwa kwa miaka ya nyuma.

**Mheshimiwa Spika,** Kutokana na uamuzi huo wa Serikali ambao uliridhiwa na Bunge lako Tukufu, Waziri wa Fedha aliwasilisha kwenye Kamati hasara ya maduhuli ya fedha za Serikali kwa kipindi kinachoishia Juni 30, 2019 yenye thamani ya **shilingi 398,445,888,750** ambayo ni malimbikizo ya nyuma kutoka kwa wadaiwa **365,600**. Hivyo, madai hayo yalijadiliwa na Kamati na hatimaye tunawasilisha Bungeni kwa ajili ya kibali cha kufutwa.

### HASARA/UPOTEVU UNAOPENDEKEZWA NA KAMATI KUFUTWA

**Mheshimiwa Spika,** Kwa kuzingatia masharti ya Kifungu cha 16 cha nyongeza ya nane ya Kanuni za Kudumu za Bunge, Toleo la Januari, 2016 ambacho kinafafanua kuwa, "msingi wa kazi za Kamati ya PAC ni taarifa ya hesabu zilizokaguliwa na CAG", hivyo Kamati ilikutana na CAG tarehe 21 Januari, 2020 Ofisi ya Bunge Dodoma ili kujadili maombi ya kufuta hasara husika.

**Mheshimiwa Spika,** CAG aliithibitishia Kamati kuwa amefanya uhakiki wa hasara zinazoombewa kibali cha kufutwa. Baada ya uhakiki wake, amejiridhisha bila shaka juu ya kiasi na sababu zilizopelekea Serikali kushindwa kukusanya maduhuli husika.

**Mheshimiwa Spika,** Kwa sababu hiyo CAG alipendekeza kwamba, Bunge lako Tukufu liridhie kufuta hasara ya maduhuli ya jumla ya **shilingi 398,445,888,750** ambayo ni malimbikizo ya nyuma kutoka kwa wadaiwa **365,600**.

**Mheshimiwa Spika,** Baada ya uchambuzi huo, Kamati inaunga mkono azimio la kufuta na kusamehe hasara ya maduhuli ya **shilingi 398,445,888,750** inayotokana na kufutwa kwa madeni ya nyuma ya ada ya leseni za magari na msamaha wa kodi, riba na adhabu husika.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

### HITIMISHO

**Mheshimiwa Spika**, Taarifa ya Kamati imechambua kwa kina hasara ya maduhuli iliyowasilishwa kwa Bunge lako Tukufu kupata kibali cha kufutwa, kwa mwaka wa fedha unaoishia Juni 30, 2019.

**Mheshimiwa Spika**, Napenda kutumia fursa hii kukushukuru wewe binafsi kwa uongozi wako makini ambao umeniwezesha mimi kuwasilisha maoni juu ya azimio husika hapa Bungeni.

**Mheshimiwa Spika**, Nawashukuru Wajumbe wote wa Kamati ya Bunge ya Hesabu za Serikali kwa kutekeleza majukumu ya Kamati hii kwa moyo na uadilifu mkubwa. Mheshimiwa Spika, naomba kuwatambua Wajumbe hao kama ifuatavyo:-

Mhe. Naghenjwa Livingstone Kaboyoka, Mb - **Mwenyekiti**

Mhe. Aeshi Khalfan Hilary, Mb - **M/Mkiti**

Mhe. Felister Aloyce Bura, Mb

Mhe. Dkt. Shukuru Kawambwa, Mb

Mhe. Dkt. Hadji Hussein Mponda, Mb

Mhe. Jamal Kassim Ali

Mhe. Hussein Abraham Makungu, Mb

Mhe. Livingstone Joseph Lusinde, Mb

Mhe. Musa Bakari Mbarouk, Mb

Mhe. Stanslaus Shing'oma Mabula, Mb

Mhe. Hassan Elias Masala, Mb

Mhe. Ignas Aloyce Malocha, Mb

Mhe. Ali Salim Khamisi, Mb

Mhe. Omar Mohamed Kigua, Mb

Mhe. Khadija Nassir Ali, Mb

Mhe. Mariam Nassoro Kisangi, Mb

Mhe. Maida Hamad Abdallah, Mb

Mhe. Josephine Tabitha Chagula, Mb

Mhe. Abdallah Haji Ali, Mb

Mhe. Aysharose Ndogholi Matembe, Mb

Mhe. Juma Hamad Omar, Mb

Mhe. Allan Joseph Kiula, Mb

Mhe. Rashid Abdallah Shangazi, Mb

Mhe. Rhoda Edward Kunchela, Mb

Mhe. Kiswaga Boniventura Destery, Mb

Mhe. Joyce Bitu Sokombi, Mb

Mhe. Anatropia Lwehikila Theonest, Mb

Mhe. Oliver Daniel Semuguruka, Mb

**Mheshimiwa Spika**, Napenda kumshukuru Katibu wa Bunge Ndugu.

Stephen Kagaigai kwa ushauri wake kwa Kamati pale alipotakiwa kufanya hivyo. Shukrani kwa Idara ya Kamati za Bunge kwa kuratibu shughuli za Kamati kupitia kwa Kaimu Mkuu wa Idara Ndugu Michael Chikokoto, Makatibu wa Kamati Ndugu. Erick Maseke na Wilfred Magova kwa kushauri vema na kuratibu shughuli za Kamati pamoja na waandishi wa Taarifa rasmi za Bunge.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**Mheshimiwa Spika**, Kamati inatoa shukurani kwa Waziri wa Fedha na Naibu wake, Wataalam kutoka Ofisi ya Mhasibu Mkuu wa Serikali, Ofisi ya Mdhambi na Mkaguzi Mkuu wa Hesabu za Serikali, Ofisi ya Msajili wa Hazina (TR), Idara ya Usimamizi wa Mali za Serikali na Kamishna wa bajeti. Nawashukuru sana kwa ushirikiano mkubwa waliouonyesha katika kuhakikisha Kamati hii inakamilisha kazi zake.

**Mheshimiwa Spika**, Nawashukuru Waheshimiwa Wabunge wote kwa kunisikiliza. Naunga mkono Hoja.

Mhe. Naghenjwa Livingstone Kaboyoka, Mb.

MWENYEKITI

**KAMATI YA BUNGE YA HESABU ZA SERIKALI (PAC)**

7 Februari, 2020

**NAIBU SPIKA:** Ahsante sana Mwenyekiti. Sasa nimwite Msemaji wa Kambi Rasmi ya Upinzani kwa Wizara ya Fedha; Mheshimiwa David Ernest Silinde.

Mheshimiwa Silinde nimeipitia taarifa yako iko hapa; *paragraph* ya pili na ya tatu zinaondolewa kwenye taarifa yako kwa sababu, jambo unalotaka kulileta hapo ni mambo ambayo yako nje ya huu utaratibu wetu humu ndani. Karibu.

**MHE. DAVID E. SILINDE - K.n.y. MSEMAMI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI KWA WIZARA YA FEDHA NA MIPANGO:** Mheshimiwa Naibu Spika, ahsante sana. Kwa niaba ya Kambi Rasmi ya Upinzani Bungeni, naomba kuwasilisha Maoni ya Kambi Rasmi ya Bungeni, Kuhusu Azimio la Bunge la Kufuta na Kusamehe Hasara ya Maduhuli Inayotokana na Kufutwa kwa Madeni ya Nyuma ya Ada za Leseni za Magari na Msamaha wa Kodi, Riba na Adhabu husika.

Mheshimiwa Naibu Spika, kwanza naomba kumshukuru Mwenyezi Mungu kwa kunipa afya njema na kusimama mbele ya Bunge hili kutoa maoni ya Kambi Rasmi ya Upinzani kuhusu azimio lililo mbele yetu la kufuta na kusamehe hasara ya maduhuli ambayo ilitokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari na msamaha wa kodi, riba na adhabu zinazotokana na ada husika.

Mheshimiwa Naibu Spika, kama ilivyo ada, Bunge limepewa mamlaka kwa mujibu wa Sheria ya Usimamizi wa Fedha za Umma, Sura 348, kifungu cha 43(1) kuwa ndicho chombo chenye uwezo wa kufuta hasa madai, hasara inayotokana na upotevu wa fedha au vifaa vya Serikali.

Mheshimiwa Naibu Spika, kwa kuwa Serikali kupitia kwa Mheshimiwa Waziri mwenye dhamana na Fedha ameleta ombi hilo kwa Bunge la kufutwa na kusamehe hasara ya maduhuri inayotokana na kufutwa kwa madeni ya nyuma ya ada ya leseni za magari (*Annual Motor Vehicle License*) na msamaha wa kodi, riba na adhabu husika, ni dhahiri kuwa Kambi Rasmi ya Upinzani haina sababu za kukataa ombi hilo kutokana na ukweli kwamba, ada zilizofutwa zilikuwa ni mojawapo ya kodi zilizokuwa zinaleta kero kubwa sana kwa wananchi.

Mheshimiwa Naibu Spika, kuna jambo ambalo Kambi Rasmi ya Upinzani inaomba Mheshimiwa Waziri aitolee ufafanuzi kuhusiana na hoja iliyo mbele ya Bunge, nayo ni je, kushindwa kutimizi malengo ya ukusanyaji kwa maana ya *under collection of revenue* ni sawa na upotevu wa maduhuli? Kama haya mambo ni sawa, basi ni wazi kabisa miaka yote Serikali



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inashindwa kukusanya mapato kulingana na bajeti inayokuwa imepitishwa na Bunge na bahati mbaya haijawahi kuleta au kuliomba Bunge kufuta upotevu au hasara hiyo inayotokana na *under collection of revenue*.

Mheshimiwa Naibu Spika, kiasi cha Sh.398,445,888,750 kinachoombwa kufutwa kama malimbikizo ya nyuma kutoka kwa wadaiwa 365,600 ni fedha nyingi sana kutoka kwenye chanzo kimoja kama ambavyo imeelezwa. Ni ukweli kwamba, Kambi Rasmi ya Upinzani haina njia mbadala ya kujiridhisha kutokana na ukweli wa takwimu hizo za fedha kuwa ndizo hasa zinatokana na chanzo husika kama kilivyoelezwa hapo awali, au kuna jambo limejificha.

Mheshimiwa Naibu Spika, wasiwasi wetu unatokana na ukweli kwamba Serikali imekuwa na kawaida ya kutumia fedha ambazo zimekuwa hazikupitishwa na Bunge. Kwa mustakabali huo Serikali inashindwa nini kufuta madeni ambayo matumizi yake yanakuwa na utata? Hii inatokana na ukweli kuwa yenyewe ndiyo muidhinishaji na mtumiaji wa fedha na pale pale ni mkaguzi wa matumizi hayo. Bunge kama chombo cha kuidhinisha pahala pengine jukumu hilo linapokwa na Serikali. Huo ndio msingi mkuu na wasiwasi wa Kambi Rasmi ya Upinzani kuhusu kiwango hicho cha shilingi takribani bilioni 400 kinachoombwa kufutwa, kikiwa kinatoka kwenye chanzo kimoja tu.

Mheshimiwa Naibu Spika, kama uchambuzi wa fedha hizo ungewekwa wazi, kuwa ada ya mwaka ni kiasi gani, riba ni kiasi gani na adhabu ni kiasi gani na kwa wadaiwa wangapi walioshindwa kulipa riba na adhabu na wangapi walishindwa kulipa ada. Kwa njia hiyo ni rahisi kuondoa mashaka, lakini kwa takwimu za jumla ni kuzidisha mashaka kwani uwazi katika mahesabu unakosekana. Jambo hilo linaleta hisia za uwapo wa kujificha katika takwimu za hasara zinaoombewa kufutwa.

Mheshimiwa Naibu Spika, baada ya kusema maneno hayo, kwa niaba ya Kambi Rasmi ya Upinzani, naomba kuwasilisha. Ahsante.

**MAONI YA KAMBI RASMI YA UPINZANI BUNGENI KUHUSU AZIMIO LA BUNGE LA KUFUTA NA KUSAMEHE HASARA YA MADUHURI INAYOTOKANA NA KUFUTWA KWA MADENI YA NYUMA YA ADA YA LESENI ZA MAGARI NA MSAMAHA WA KODI, RIBA NA ADHABU HUSIKA - KAMA YALIVYOWASILISHWA MEZANI**

*“Yanatolewa kwa Mujibu wa Kanuni ya 53(6) (c)*

### **A. UTANGULIZI**

**1. Mheshimiwa Spika**, kwanza naomba kumshukuru Mwenyezi Mungu kwa kunipa afya njema na kusimama mbele ya Bunge hili ili kutoa maoni ya Kambi Rasmi ya Upinzani kuhusu azimio lililo mbele yetu la kufuta na kusamehe hasara ya maduhuri ambayo ilitokana na kufutwa kwa madeni ya nyuma ya ada za leseni za magari na msamaha wa kodi, riba na adhabu zilizotokana na ada husika.

### **[AYA YA PILI NA YA TATU ZIMEONDOLEWA KWA MAELEZO YA KITI]**

### **B. MAONI YA KAMBI KUHUSU AZIMIO**

**4. Mheshimiwa Spika**, kama ilivyo ada, Bunge limepewa mamlaka kwa mujibu wa Sheria ya Usimamizi wa Fedha za Umma Sura 348, kifungu cha 43(1) kuwa ndicho chombo chenye uwezo wa kufuta hasa madai, hasara inayotokana na upotevu wa fedha au vifaa vya Serikali.

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5. **Mheshimiwa Spika**, kwa kuwa Serikali kupitia kwa Mheshimiwa Waziri mwenye dhamana na Fedha ameleta ombi hilo kwa Bunge la kufutwa na kusamehe hasara ya maduhuri inayotokana na kufutwa kwa madeni ya nyuma ya ada ya leseni za magari (**annual motor vehicle license**) na msamaha wa kodi, riba na adhabu husika, ni dhahiri kuwa Kambi Rasmi ya Upinzani haina sababu za kukataa ombi hilo kutokana na ukweli kwamba ada zilizofutwa zilikuwa ni mojawapo ya kodi zilizokuwa zinaleta kero kubwa kwa wananchi.

6. **Mheshimiwa Spika**, kuna jambo ambalo Kambi Rasmi ya Upinzani inaomba Mheshimiwa Waziri aitolee ufafanuzi kuhusiana na hoja iliyo mbele ya Bunge, nayo ni je, kushindwa kutimizi malengo ya ukusanyaji yaani "under collection of revenue" ni sawa na upotevu wa maduhuri? Kama hayo mambo ni sawa basi ni wazi kabisa miaka yote Serikali inashindwa kukusanya mapato kulingana na bajeti inayokuwa imepitishwa na Bunge, na bahati mbaya haijawahi kuleta au kuliomba Bunge kufuta upotevu au hasara inayotokana na hiyo **under collection of revenue**.

7. **Mheshimiwa Spika**, kiasi cha shilingi 398,445,888,750 kinachoombewa kufutwa kama malimbikizo ya nyuma kutoka kwa wadaiwa 365,600 ni fedha nyingi sana kutoka kwenye chanzo hicho kimoja kama ambavyo imeelezwa. Ni ukweli kwamba Kambi Rasmi ya Upinzani haina njia mbadala ya kujiridhisha kutokana na ukweli wa takwimu hizo za fedha kuwa ndizo hasa zinatokana na chanzo husika kama kilivyoelezwa hapo awali, au kuna "magumashi" mengine yameingizwa ili Bunge lipitisha.

8. **Mheshimiwa Spika**, wasiwasi wetu unatokana na ukweli kwamba Serikali imekuwa na kawaida ya kutumia fedha ambazo zinakuwa hazikupitishwa na Bunge, kwa mustakabali huo Serikali inashindwa nini kufuta madeni ambayo matumizi yake yanakuwa na utata. Hii inatokana na ukweli pia kuwa yenyewe ndiyo muidhinishaji na mtumiaji wa fedha na pale pale ni mkaguzi wa matumizi hayo. Bunge kama chombo cha kuidhinisha pahala pengine jukumu hilo linapokwa na Serikali. Na huo ndio msingi mkuu wa wasiwasi wa Kambi Rasmi ya Upinzani kuhusu kiwango hicho cha shilingi takribani bilioni 400 kinachoombewa kufutwa, kikiwa kinatoka kwenye chanzo kimoja tu.

9. **Mheshimiwa Spika**, pia kama uchambuzi wa fedha hizo ungewekwa wazi, kuwa ada ya mwaka ni kiasi gani, riba ni kiasi gani na adhabu ni kiasi gani na kwa wadaiwa wangapi waliohindwa kulipa riba na adhabu na wangapi walishindwa kulipa ada. Kwa njia hiyo ni rahisi kuondoa mashaka, lakini kwa takwimu za jumla jumla ni kuzidisha mashaka na kwani uwazi katika mahesabu unakosekana. Jambo hilo linaleta hisia za uwapo wa "magumashi" katika takwimu za hasara zinachoombewa kufutwa.

10. **Mheshimiwa Spika**, baada ya kuyasema hayo kwa niaba ya Kambi Rasmi ya Upinzani, naomba kuwasilisha.

.....  
**David Ernest Silinde(Mb)**

**K.n.y Msemaji Mkuu wa Kambi Rasmi ya Upinzani Bungeni kwa Wizara ya Fedha na Mipango**  
**07.02.2020**

**NAIBU SPIKA:** Ahsante sana. Waheshimiwa Wabunge kwa mujibu wa taratibu zetu nimeletewa majina hapa ya wachangiaji. Tutaanza na Mheshimiwa Allan Kiula, atafuatiwa na Mheshimiwa Godbless Lema na Mheshimiwa Hassan Massala ajiandae.

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**MHE. ALLAN J. KIULA:** Mheshimiwa Naibu Spika, nashukuru kwa kunipa nafasi ya kuchangia hoja hii iliyopo mbele yetu. Mimi ni Mjumbe wa Kamati ya PAC na hoja hii ililetwa na Waziri tukaijadili na leo tumeleta wasilisho letu.

Mheshimiwa Naibu Spika, ukifuatilia tutakumbuka kwamba, katika Hotuba ya Bajeti ya Mwaka 2017/2018, Bunge ndio pendekezo hili lilikuja na tukalipitisha kwamba, hiyo ada ya mwaka ifutwe, madeni, malimbikizo yote yafutwe na tulipiga makofi sana hapa. Ni kweli, ilionekana kwamba, ada hiyo inaleta kero, tulikubaliana, lakini kiutaratibu sasa wenzetu wale wa TRA hawawezi kufuta bila Bunge kuridhia na vitabu vyao vimeendelea kuwa na hesabu hiyo. Kwa hiyo, leo ni hitimisho tu la uamuzi ambao tuliupitisha wakati huo. Jambo lingine kubwa ni kwamba TRA watasafisha mahesabu yao na kumbukumbu zitakuwa sahihi, kwa hiyo utengenezaji wa mahesabu utakwenda na utakuwa umekaa sawa.

Mheshimiwa Naibu Spika, sasa nimeshangaa kidogo kusikia Kambi ya Upinzani kuleta hoja kwamba mjadala haukufanyika, Kamati ni Bunge dogo, kwa hiyo kule kwenye Kamati tulikojadili sisi tulijadili kwa niaba yenu. Mjumbe pia anaruhusiwa kuhudhuria kwa nini hakuja kule siku ile? Halafu jambo la pili amesema kiwango kinaleta mashaka CAG tunafanya kazi kufuata takwimu tunazoletewa na CAG na CAG alileta kuthibitisha jambo hili. *(Makofi)*

Sasa kama jambo limethibishwa na CAG labda aende yeye kukagua sasa ajipe Mamlaka mwenyewe aende kukagua. Kwa hiyo suala la kumbukumbu kuwa zina mashaka au kutokuwa na mashaka halina mantiki hapa, suala ni kwamba CAG amehakiki deni hili la Sh.398,845,888,750 na madeni yako mengi lakini hili ndiyo linahusiana na kufutwa kwa ada ya mwaka ya magari. *(Makofi)*

Mheshimiwa Naibu Spika, kwa hiyo naunga mkono hoja iliyoletwa na Waziri lakini na maelezo ya Kamati tunaunga mkono na jambo hili tusilifanye refu kwa sababu Bunge ndiyo lenye mamlaka, tufute tuendeleo na kazi zingine. Tunaleta malumbano mengine ambayo hayana tija hapa, vinginevyo sasa tunaanza kufanya kazi ambazo siyo zetu. *(Makofi)*

Mheshimiwa Naibu Spika, naomba kuwasilisha. *(Makofi)*

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Godbless Lema atafuatiwa na Mheshimiwa Richard Mganga Ndassa Mheshimiwa na Felister Bura ajiandae.

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, nakushukuru sana. Kwa kuanza nianze na alipomalizia Mheshimiwa Mbunge tumweleze kwa nini Kambi Rasmi ya Upinzani tuna mashaka. Mimi ni Mbunge awamu ya pili ndani ya Bunge hili na miaka yote yalipokuja masuala yanayohusu pesa nyingi kama hizi tulifilia mashaka suala la Meremeta, Kagoda, Escrow na IPTL. *(Makofi)*

Mheshimiwa Naibu Spika, ni Wabunge wa upande huo huo walisimama wakasema IPTL ile pesa ilikuwa ni pesa ya watu binafsi na Mheshimiwa Rais akaongea na Wazee wa Dar es Salaam akawathibitishia kwamba wakati huo Mheshimiwa Dkt. Jakaya Kikwete kwamba ile pesa ilikuwa ni pesa ya watu binafsi haihusiani na Serikali. Leo tunavyoongea Wakurugenzi wa IPTL wako Magereza kwa zaidi ya miaka miwili kwa pesa ambazo Kambi Rasmi ya Upinzani ilitilia mashaka na mashaka hayo yakapuuzwa ndani ya Bunge na leo kuna watu wanaitwa wezi, wamepewa kesi ya uhujumu uchumi na utakatishaji fedha na wanaendelea kuteseka Magereza. *(Makofi)*

Mheshimiwa Naibu Spika, uzuri jana Mheshimiwa Rais amesema walaaniwe wale wanaowaweka wenzao Magereza muda mrefu. Nami naunga mkono Azimio la Mheshimiwa

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Rais, kwamba walaaniwe wanaosababisha watu kukaa Magereza muda mrefu, hata kama Mheshimiwa Mbowe alaaniwe na hata kama ni Rais mwenyewe ama ni DPP ama ni wewe Mheshimiwa Spika ama ni mimi tulaaniwe wote tunaosababisha watu kukaa Magereza muda mrefu kwa kesi za kubambikiwa. *(Makofi)*

Mheshimiwa Naibu Spika, kwa hiyo, najenga kwanza hoja kwa nini mashaka yetu ni ya msingi kwenye pesa kama hizi. Hii Sheria tulipitisha mwaka 2016/2017 ilikuwa ni Sheria ya kuondoa *Motor vehicle license* kutoka kwenye kulipia dirishani kwenda kwenye mafuta. Sasa wasiwasi wetu nasema uchaguzi ni kesho kutwa na tunaona mnavyolilia hela kwa Mabeberu, sasa tunasema pengine hizi pesa wanataka kwa ajili ya uchaguzi zivasaidie, pengine hizi pesa kwa sababu *Stigler's Gorge* imewekewa mguu sasa pengine wanataka pesa kwa ajili ya kusaidia mambo...

**MHE. GOODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, taarifa.

**MHE. GODBLESS J. LEMA:** Mmeanza?

**MHE. GOODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, taarifa.

**NAIBU SPIKA:** Mheshimiwa Lema kuna taarifa, Mheshimiwa Goodluck Mlinga.

**MHE. GOODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, naomba nimpe taarifa mzungumzaji anayezungumza kweli tunakubali Mheshimiwa Lema ni Mbunge wa awamu ya pili, lakini katika rekodi zangu hapa zinaonesha muda mwingi alikuwa akitumikia adhabu za Bunge na muda mwingine alikuwa jela kwa hiyo hana uzoefu wa kukaa ndani ya Bunge muda mrefu. *(Makofi)*

**NAIBU SPIKA:** Mheshimiwa Lema...

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, napokea taarifa na wale wale wanaosababisha wenzao wafukuzwe Bungeni kwa kuonewa twende kwenye Azimio la Rais na wenyewe walaaniwe. *(Makofi)*

Mheshimiwa Naibu Spika, wale wote ambao wanasababisha wenzao wateseke, waondoke ndani ya Bunge lile lile, yaani mtu yeyote anayeonea alaaniwe. Kwa hiyo napokea taarifa yake na tukubaliane kwamba na wenyewe wale kama walihusika kwenye Kamati kama ni Kiti kumwonea mtu walaaniwe. *(Makofi)*

Mheshimiwa Naibu Spika, kwa hiyo nasema hivi haya ...

**NAIBU SPIKA:** Mheshimiwa Lema kwa sababu wewe huwa unasoma sana Biblia, hiyo laana lazima uiweke mazingira ambayo hata wewe mwenyewe unayesababisha watu wengine wafanye maamuzi na wewe ikupate, kwa hiyo usiwe mtaalam wa kugawa laana halafu wewe mwenyewe hutaki ikupate. Kwa hiyo na wewe mwenyewe pia ikupate kwa yale ambayo unasababisha watu wafanye maamuzi ya kukuweka ndani maamuzi ya kukutoa nje, yote hayo pande zote mbili inakuwa inapendeza zaidi. *(Makofi)*

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, mimi kama ni sababu ya watu kupata tabu nilaaniwe na wewe kama ni sababu ya kufukuzwa watu Bungeni, ulaaniwe, haina shida. *(Makofi/Kicheko)*

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Mheshimiwa Naibu Spika, kwa hiyo ninachosema tunajenga haya mashaka na Waheshimiwa Wabunge watuelewe, haya mashaka tunayajenga kwa sababu moja tu ya kwamba hili Azimio linakuja wakati Assad kaondolewa Ofisini na sisi tuna mashaka makubwa sana na Bunge hili lilikuwa na imani Profesa Assad. Sasa tunasema hizi pesa ni nyingi sana isije ikawa baada ya Bunge hili ama Awamu ya Utawala wenu akatokea Rais mwingine akaandika kitabu kama alivyoandika Mheshimiwa Mkapa. (Makofi)

Mheshimiwa Naibu Spika, Mheshimiwa Mkapa ameandika kitabu amefanya *confession*, lakini Taifa limeumia Taifa limepata hasara, sasa wasiwasi wangu nina ...

**MHE. PETER J. SERUKAMBA:** Mheshimiwa Naibu Spika, taarifa ...

**NAIBU SPIKA:** Mheshimiwa Lema kuna taarifa kutoka kwa Mheshimiwa Peter Serukamba.

**MHE. PETER J. SERUKAMBA:** Mheshimiwa Naibu Spika, nataka kumpa taarifa Mheshimiwa Godbless Lema, taarifa hii ambayo tunaiongelea ambayo ni Ripoti ya CAG aliyeisaini ni Profesa Assad. (Makofi)

**NAIBU SPIKA:** Mheshimiwa Lema kabla sijakuuliza kama unaipokea taarifa hiyo umemtaja hapa Mheshimiwa Rais Mstaafu Mkapa kwamba kwenye kitabu chake kuna jambo amelisema ambalo unaona nchi imeteseka sasa ili uweke kumbukumbu vizuri za Bunge, uwe umelisema na lenyewe maana hicho kitabu hata sisi wengine pia tumesoma ili kumbukumbu zikae sawasawa, maana zisije zikakaa kwamba Mheshimiwa Rais aliyepita alisema jambo lililoumiza nchi watu wanaumia halafu likaachwa hivyo hewani.

Kwa hiyo kwanza unaipokea taarifa hiyo ya Mheshimiwa Peter Serukamba?

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, naipokea.

**NAIBU SPIKA:** Haya.

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika...

**NAIBU SPIKA:** Hilo la pili sasa refusha pale kwenye ule mjadala wako.

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, Mheshimiwa Mkapa ameongea kuhusu Mauaji ya Zanzibar ambapo leo kuna wajane, watoto na ame-confess mwenyewe. (Makofi)

Mheshimiwa Naibu Spika, kwa hiyo ndiyo, ndiyo kwenye kitabu chake.

**NAIBU SPIKA:** Aahha. Mheshimiwa Lema kuna mambo mawili umeyazungumza. Hoja ya ku-confess maana yake ameandika na kama kitu kinachoaitwa *confession* ndio maana huwa tunapenda maneno yatumike ya lugha moja, kinachoaitwa *confession* ni kitu ambacho unakubali kwamba kuna jambo fulani hivi ulishafanya. *Confession* ni lugha ya Kisheria sasa wewe ukisema ame-confess ni kana kwamba wewe unavyoyaeleza hayo mauaji ame-confess nini kwa sababu mimi mwenyewe kitabu nimesoma? Sasa ili tutunze muda wetu vizuri aidha, uyaondoe hayo uendelee na jambo lingine au kama unataka kuyaweka eleza ame-confess nini kwa sababu kitabu na mimi nimekisoma na ameeleza mauaji ya Zanzibar kwa kawaida tu kama alivyoeleza sehemu nyingine. Ameeleza kwamba yalitokea, kwa hiyo akisema yalitokea ni kwamba ni kweli watu walikufa, hakuna mtu anayekataa kwamba kuna watu hawakufa.

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**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, kile kitabu cha Mheshimiwa Rais Mkapa siyo *fiction*, ni kitabu ambacho ameelezea maisha yake ya Uongozi na Utawala wake na akasema vitu ambavyo anavikumbuka ambavyo vimetia doa maisha yake ya utawala ni pamoja na hiyo. *(Makofi)*

Mheshimiwa Naibu Spika, sasa hata hili la Mkapa ambalo ameandika mwenyewe mnataka kuli-defend? *(Kicheko)*

**NAIBU SPIKA:** Mheshimiwa Lema...

**MHE. GODBLESS J. LEMA:** Ndio ...

**NAIBU SPIKA:** Lazima uwe tayari kuelewa unachoelekezwa, usitake kupindua unachoelekezwa, hapana. Nimekueleza hivi ukitumia neno *confession* ni kwamba anakubali jambo Fulani, sasa alichokifanya ameeleza uhalisia kwamba kifo kilitokea na yeye hafurahii, sasa unavyosema ame-confess, ame-confess nini? Kwamba yeye ndiye aliyeya ama alituma mtu kuua. Kwa hiyo uwe unaeleza vizuri jambo namna alivyosema Mheshimiwa Rais kwenye kitabu chake, usiongezee wewe ya kwako kwa sababu kile ni kitabu chake yeye.

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, nimekuelewa, naomba niazime maneno yako halafu ndiyo yaingie kuwa mchango wangu kwamba Mheshimiwa Mkapa amesema kama ulivyosema, halafu tuendeleo. *(Makofi/Kicheko)*

Mheshimiwa Naibu Spika, ni hayo hayo tu, nimeazima lugha yako kwa sababu imekaa kistaarabu, nafikiri unataka niwepo kwenye hili Bunge mpaka mwisho, kwa hiyo nimeazima lugha yako nisiingie hatiani. *(Makofi)*

Mheshimiwa Naibu Spika, kwa hiyo mashaka yetu kuhusu hizi pesa najjuliza tu Mheshimiwa Waziri Mpango toka mwaka 2016.....

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, Taarifa.

**WABUNGE FULANI:** Hapana jamani. Eeh.

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, Taarifa.

**WABUNGE FULANI:** Hapana.

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, Taarifa, huku kushoto kwako.

**WABUNGE FULANI:** Hapana.

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, Dkt. Mollel huku.

**NAIBU SPIKA:** Waheshimiwa Wabunge leo tuna mambo mengi kidogo hii itakuwa ni taarifa ya mwisho.

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, namwelewa Mheshimiwa Lema anapokuwa na wasiwasi na vilevile yeye kama Mjumbe wa Kamati Kuu ya CHADEMA alaaniwe, kwa sababu wakati nina bajeti hapa ya kama trilioni tatu ambayo baada ya ile taarifa yao waliyotoa CHADEMA au Mheshimiwa Mbowe pale Dar es Salaam, walijipanga kwenda kutafuta nje trilioni tatu kuja kufadhili mkakati wao ambao ni mchafu kwenye nchi yetu na ninyi mlaaniwe

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

ambao mnatengeneza mazingira ya fujo kwenye Taifa hili kwa kutumia hela za Mabeberu halafu mnakuja...

**NAIBU SPIKA:** Mheshimiwa...

**MHE. DKT. GODWIN O. MOLLEL:** Mheshimiwa Naibu Spika, halafu mnakuja kusema mwisho wa siku mnataka laana halafu...

**NAIBU SPIKA:** Mheshimiwa Lema malizia mchango wako ...

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, kwanza niwashukuru Chama cha Mapinduzi kutuchukulia Mheshimiwa Dkt. Mollel, Mungu awabariki sana. Hebu *imagine* huyu alikuwa kwetu, halafu ukatokea muujiza yuko kwenu kwa hiyo, niwashukuru sana kwa kweli Mungu awabariki sana na kama kuna wengine mmewaona huku wako kama hivyo tafadhali fanyeni kazi kwa bidii. *(Makofi)*

Mheshimiwa Naibu Spika, hebu *imagine* alikuwa ni Mbunge wetu wa Siha. *(Makofi)*

**MBUNGE FULANI:** Endelea ...

**MHE. GODBLESS J. LEMA:** Mheshimiwa Naibu Spika, halafu ninyi mkatumia mikakati yote akawa wa kwenu, mimi nikushukuru, nishukuru Chama cha Mapinduzi, nimshukuru Katibu Mkuu, nimshukuru na Mwenyekiti wa Chama Taifa na kama mkiwaona wengine kama hawa kwa kweli tusaidieni ili tuweze kujenga chama kizuri. *(Makofi/Kicheko)*

Mheshimiwa Naibu Spika, ninachosema ni nini? Namheshimu sana mimi binafsi Mheshimiwa Waziri wa Fedha, Mheshimiwa Dkt. Mpango, ninachosema kwamba 2016/2017, ndiyo tulipitisha hii Sheria sasa 2016, 2017, 2018, 2019 na 2020 miaka minne baadaye ndiyo mnaleta Azimio la kufuta deni la *almost half a trillion*? Sasa tunasema hapa kuna dili na tukasema hii tabia mmeanza lini?

Mheshimiwa Naibu Spika, ninyi huwa mnapeleka, mlianza kujenga Chato bila Azimio mlihamishia Dodoma hapa bila Azimio, mkaenda huko *Stigler's Gorge* bila Azimio, mkaenda kwenye ndege bila Azimio, sasa hii tabia nzuri mmeanza lini?*(Makofi/Kicheko)*

**NAIBU SPIKA:** Muda wako umeisha, Mheshimiwa kengele imeshagonga, ahsante sana, ahsante sana. *(Makofi)*

Mheshimiwa Richard Mganga Ndassa, atafuatiwa na Mheshimiwa Naghenjwa Kaboyoka, tutamalizia na Mheshimiwa Stanslaus Mabula.

**MHE. RICHARD M. NDASSA:** Mheshimiwa Naibu Spika, nikushukuru sana kwa nafasi hii. Pia nimpongeze sana Mheshimiwa Waziri wa Fedha kwa kuleta Azimio hili la kufuta bilioni 398. Hii siyo mara ya kwanza kufuta deni, nimwombe Mheshimiwa Dkt. Mpango aliridhie ombi langu ili kusudi kuondoa haya mawazo ambayo yanawapelekea wenzetu kufikiri kwamba Chama cha Mapinduzi kinategemea hizi pesa ili kusudi kiweze kufanya uchaguzi. Chama cha Mapinduzi kina vyanzo vyake vingine vingi na siyo pesa hii. *(Makofi)*

Mheshimiwa Naibu Spika, sasa nimwombe Mheshimiwa Dkt. Mpango kwa sababu wenzetu wanafikiri kwamba eti Azimio hili unalolileta la kufuta hizi bilioni eti ni pesa ambazo zitatumika kwenye uchaguzi, la hasha. Sasa nimwombe arudishe nyuma kidogo kwa sababu

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tumekuwa tukifanya jambo hili ili waone kwamba je, pesa tulizofuta hapo awali zilikuwa za uchaguzi?

Mheshimiwa Naibu Spika, la pili, niwaombe wenzangu wa Chama cha wenzetu kule akina Mheshimiwa Lema na wengine, si vizuri sana kuwa mnasingizia Chama cha Mapinduzi eti pesa hizi wanazichukua kwa ajili ya kazi hii. Tukianza kufanya hivyo hatuwezi kufika mbali, nina uhakika kabisa Ofisi ya Bunge inafanya kazi na Ofisi ya CAG na siku zote PAC na LAAC inafanya kazi na Ofisi ya CAG na siyo mara ya kwanza PAC kupewa taarifa kutoka kwa CAG na siyo mara ya kwanza Kamati ya LAAC kupewa taarifa za baada ya kukagua kwamba pesa hizi zinatakiwa zifanye hivi au kuna upungufu kwenye eneo fulani.

Mheshimiwa Naibu Spika, niombe sana tuwe na utaratibu wa kuamini Ofisi ambayo tunafanya nayo kazi kama ilivyo kwa Ofisi ya CAG, LAAC lakini tukianza utaratibu wa kuanza kuhoji chombo ambacho tunafanya nacho kazi nafikiri tutakuwa tunawashusha morari wenzetu wa Ofisi ya CAG.

Mheshimiwa Naibu Spika, Mheshimiwa Waziri Dkt. Mpango nirudie, nimalizie kama atakuwa nafasi yake nzuri tu, hebu alete Maazimio ya nyuma ambayo tumeshawahi kuyafanya kazi kwa kufuta kiasi cha pesa ambacho siku zote tumekuwa tukifanya hivyo, kwa sababu huu ndiyo utaratibu na tumekuwa tukifanya hivyo.

Mheshimiwa Naibu Spika, naunga mkono Azimio lililoletwa na Waziri wa Fedha na nakushukuru sana. *(Makofi)*

**NAIBU SPIKA:** Mheshimiwa Naghenjwa Kaboyoka atafuatiwa na Mheshimiwa Stanslaus Mabula.

**MHE. NAGHENJWA L. KABOYOKA:** Mheshimiwa Naibu Spika, nipende tu kusema kwamba kama Mheshimiwa Godbless Lema alivyosema kwamba Serikali imeanza lini kuwa tabia nzuri, naona hii itakuwa ni mwendelezo wa tabia nzuri. Niseme tu kwa kifupi kwamba, kuna maeneo mengine kwenye magari ya Serikali mengi ambayo yamekaa hayajaletwa kufutwa hapa yanaozea kwenye yards.

Mheshimiwa Naibu Spika, pia kuna dawa ziko kwenye bohari zetu ambazo zime-expire hazijaletwa. Kwa hiyo nimshauri tu Mheshimiwa Waziri kwamba wafanyie kazi ili walete mapema yale maeneo yote ambayo CAG amezungumzia ambayo hawajaleta kwenye Bunge yafutwe ili hoja zisendelee kujirudia rudia. Ahsante sana. *(Makofi)*

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Stanslaus Shing'oma Mabula.

**MHE. STANSLAUS S. MABULA:** Mheshimiwa Naibu Spika, nakushukuru kwa kunipa nafasi ya kuchangia walau kidogo. Kwanza naunga mkono Azimio la kufuta na kusamehe hasara ya maduhuli ambayo Serikali ya Awamu ya Tano kupitia Waziri wa Fedha mwaka 2017/2018, wakati Waziri wa Fedha anakuja hapa kuwasilisha bajeti yake, moja ya jambo kubwa lilikuwa ni kufuta leseni za magari ambazo zimekuwa na usumbufu mkubwa na kero kubwa sana kwa wananchi. *(Makofi)*

Mheshimiwa Naibu Spika, jambo hili ni jambo ambalo kila mmoja ndani ya nyumba hii alipiga makofi na kulishangilia kwa sababu siyo tu liliwahusu watu walioko nje ya nyumba hii, lakini hata sisi miongoni mwa Wabunge tuliopo ndani ya jengo hili tulifaidika na msamaha wa huu kodi na maduhuli haya mengi.



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Mheshimiwa Naibu Spika, sasa ni jambo tu la kushangaza na ndipo huku tunapoanza kufahamiana siku zote kwamba sio kila jambo linastahili kupingwa. Tunaongelea kodi ya shilingi milioni 398, wadaiwa waliokuwa wanadaiwa fedha hizi ni zaidi 365,600. Kwa hiyo, hata ukifanya hesabu ya kawaida sio zaidi ya shilingi milioni moja walikuwa wanadaiwa kila mtu ambaye amesamehewa deni hili.

Mheshimiwa Naibu Spika, sasa ni lazima tufike sehemu tukubali, mimi nikiri kazi nzuri iliyofanywa na Serikali, maelekezo mazuri yaliyofanywa na Wizara ya Fedha kwa kuleta hoja Bungeni na sisi kama Wabunge tukaipokea na kuifanyia kazi. Kazi kubwa iliyofanywa na Kamati kwa niaba ya Bunge ni kupitia na kujiridhisha Mkaguzi wetu ambaye ni jicho amefanya kazi yake sawasawa?

Kama kamati yako imejiridhisha bila shaka kwa maelekezo na maandishi ya Mheshimiwa ya Mkaguzi Mkuu wa Serikali (CAG) tena wakati huo Mheshimiwa Peter Serukamba amesema vizuri dokezo hili limesainiwa na Ndugu Profesa Assad mwenyewe. (Makofi)

Mheshimiwa Naibu Spika, sasa lazima tukubaliane hoja hii tunayoiongea mimi nitoe pongezi kwa Serikali nikupngeze sana Waziri wa Fedha na timu yako kwa kuamua kutuonesha Watanzania huu ndio mfumo wa utawala bora tunaouzungumza katika kujenga na kutetea maslahi ya Watanzania.

Mheshimiwa Naibu Spika, jambo lingine tukubaliane, Mwenyekiti wangu pengine ameteleza, sote tunafahamu hakuna gari la Serikali ambalo linalipiwa kodi. Kodi tunayozungumza hapa ni kodi ambazo sisi kama wananchi tunapoingiza magari tunafanya utaratibu wa kulipa leseni na baadaye tumekuwa tukiendelea hivyo. Lakini mimi niseme ni lazima tujifunze kushukuru hata ambapo hatutamani kushukuru. (Makofi)

Mheshimiwa Naibu Spika, nirudie tena kusema jambo hili ni kubwa na mimi niombe jambo moja Mheshimiwa Waziri huko mbele tunakoenda hizi hoja ambazo zinachafua vitabu kwenye mahesabu, hoja za muda mrefu tuangalie pia mbali na kwenye Halmashauri zetu zipo hoja za muda mrefu zaidi miaka kumi. Sasa tuangalie utaratibu mzuri, CAG awe anazifuta kwa utaratibu huu hii nchi tutaijenga tena tutaijenga sana sana na tutendelea kuwepo sana kwa style hii kama ndio hali yenyewe hii Mungu akubariki sana Mzee Mipango pamoja na msaidizi wako kazi nzuri sana. Ahsante sana. (Makofi)

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Dkt. Mpango uhitimishe hoja yako, Mheshimiwa Waziri wa Fedha na Mipango.

**WAZIRI WA FEDHA NA MIPANGO:** Mheshimiwa Naibu Spika, kwanza naomba nikushukuru wewe binafsi kwa kuendesha mjadala huu vizuri, lakini pia niwashukuru Mheshimiwa Mwenyekiti wa Kamati ya PAC. Lakini pia Mheshimiwa Ernest Silinde aliyetoa Maoni ya Kambi ya Upinzani Bungeni, lakini vilevile Mheshimiwa Allan Kiula, Mheshimiwa Godbless Lema, Mheshimiwa Richard Ndassa, Mheshimiwa Naghenjwa Kaboyoka kwa mara nyingine na Mheshimiwa Stanslaus Mabula. Lakini pia wale ambao wametoa miongozo mbalimbali kama sehemu ya mjadala.

Mheshimiwa Naibu Spika, basi na mimi baada ya shukrani hizo naomba nihitimishe kwanza kwa kutoa ufafanuzi kidogo. Ilihojiwa hapa kwamba mapato yasiyokusanywa basi nayo yahesabike kama hasara, hili sio sahihi. Kwa mujibu wa Kanuni namba 17 ya Kanuni za Fedha za Umma ya mwaka 2001 upotevu au hasara upo wa aina kama nne. Kwanza kuna hasara ya fedha taslimu yaani *cash losses*, lakini kuna hasara ya vifaa (*store losses*), kuna hasara

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kutokana na misamaha yaani *waivers and or abandonment*. Lakini pia kuna hasara kutokana na matumizi yasiyo na faida au tija kiingereza inaitwa *nugatory payments*.

Mheshimiwa Naibu Spika, kwa mujibu wa kanuni hii kodi au mapato yasiyokusanywa sio sehemu ya hasara inayotambuliwa kisheria, lakini labda nilieleze kwa lugha nyepesi kidogo. Kwa mfano kama mwezi uliopita nilipanga niuze ngo'mbe wangu wawili ili nifyatue matofali 1000; nikaenda na wale ng'ombe wawili mnadani nikafanikiwa kuuza mmoja tu nikapata fedha za kutosha kufyatua matofali 500 badala ya matofali 1000 niliyolenga, sasa huwezi kuhesabu hiyo kwamba yule ni hasara kwa kuwa nilipoenda sokoni nilitamani niuze wawili nikauza mmoja. Kwa hiyo kwa kweli sio hasara *by definition* kwa mujibu wakanuni tulizojiwekea, lakini hata katika *logic* ya kawaida.

Mheshimiwa Naibu Spika, ilitolewa hoja hapa kwamba matumizi ya Serikali yanafanyika kinyume na zile ambazo zilipitishwa na Bunge. Hili sio sawa mapato ya Serikali yanakusanywa kwa mujibu wa sheria, sheria zilizotungwa na Bunge, Kodi ya Mapato, VAT, *Local Government Finances Act* na kadhalika. Lakini pia kila mwaka tunaleta hapa Sheria ya Fedha, huo ndio msingi wa kukusanya mapato ya Serikali na matumizi ya Serikali Waheshimiwa Wabunge yanafanyika kwa mujibu wa *Appropriation Act* ambayo nayo inakuja hapa Bungeni na sio tofauti na hii. *(Makofi)*

Mheshimiwa Naibu Spika, labda nieleze tu kwamba ambacho Serikali inaweza kufanya ni *reallocation* (kufanya uhamisho) na huu umeelekezwa kwenye Sheria ya Bajeti Cap. 439 na inasema wazi katika kifungu cha 41(1) imeeleza Afisa Masuhuli akipata ridhaa ya Waziri muhusika anaweza kuhamisha fedha. Lakini pia kifungu cha 41(2) kinaweka mazingira matano ambapo *Accounting Officer* hawezi kufanya uhamisho wa fedha. Kifungu cha 41(3) kinaweka pia mzingira ambayo *Accounting Officer* kuhamisha fedha baina ya *program* au kati ya ndani ya vifungu katika mwaka unaohusika.

Mheshimiwa Naibu Spika, kifungu cha 44(4) kinanipa Waziri mamlaka ya kuruhusu uhamisho wa fedha kupitia kanuni na kifungu cha 41(5) kinaweka mazingira ambayo mamlaka ya Waziri kufanya uhamisho wa fedha yamezuliwa/yamekatazwa lakini siyo hiyotunaleta pia *reallocation warrants* hapa mbele ya Bunge lako tukufu kila mwaka hapa Bungeni. Kwa hiyo, madai kwamba Serikali inafanya matumizi nje ya fedha zilizoridhiwa na Bunge sio sahihi hata kidogo. *(Makofi)*

Mheshimiwa Naibu Spika, labda nieleze tena, Mheshimiwa Lema alikuwa na wasiwasi kwamba fedha hizi ni nyingi labda zinakwenda kwenye uchaguzi, sio kweli, fedha hizi kweli ni nyingi lakini kwamba zinakwenda kwenye uchaguzi hapana.

Mheshimiwa Mwenyekiti wa Kamati ya PAC ameeleza kabisa vizuri dhana kwa nini ni lazima Serikali ije kuomba msamaha huu kwamba Bunge liridhie kufuta hiki ambacho tumekuja kukiomba leo. Lakini niseme hivi taarifa ambayo CAG alikagua ina kurasa 8,503; lakini magari pia yanayohusika ni magari ambayo ni ya kipindi kirefu kwa kipindi ambacho sheria inatumika mpaka pale tulipokuja kama Serikali kulieleza Bunge lako tukufu kwamba tunayafuta ambayo ni *with effect from* tarehe 1 Julai, 2017. Kwa hiyo ndio sababu kwamba kwa nini imechukua muda mrefu, lakini pia ni utaratibu wa kawaida kabisa. Kwa hiyo, ni shutuma za uongo kabisa hatupeleki fedha hizi kwenye uchaguzi hata kidogo na kama ambavyo imeelezwa jamani jipangeni, CCM imejipanga katika kugharamia uchaguzi wake. Sasa na ninyi jipangeni, haya madeni ni *cumulative* ya kipindi kirefu sana. *(Makofi)*

**MBUNGE FULANI:** Rudia hatujasikia.

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**WAZIRI WA FEDHA NA MIPANGO:** Mheshimiwa Naibu Spika, aah, nimesema hivi CCM imejipanga kikamilifu kwa ajili ya uchaguzi wa mwezi Oktoba, na hawa rafiki zetu wajipange. *(Makofi)*

Mheshimiwa Naibu Spika, Mheshimiwa Mwenyekiti wa Kamati ya PAC alieleza vizuri, tunafuata utaratibu huu ili kuondoa hoja za ukaguzi ambazo zimekaa muda mrefu, lakini vilevile kurekebisha vitabu, lakini ni nafasi pia ya kupokea ushauri wa Bunge imeelezwa vizuri sio suala la kuja kugharamia uchaguzi hapa.

Mheshimiwa Naibu Spika, namshukuru sana Mheshimiwa Mabula ametukumbusha kwamba hatua hii imeletwa kwa sababu ilikuwa ni kero kubwa kwa wananchi wetu na lilishangiliwa sana, lakini pia tunataka kusafisha vitabu kama alivyoeleza kwa ajili ya hizi hoja. Sasa hoja za muda mrefu kwenye Halmashauri ni ahidi Bunge lako tukufu kwamba tunaendelea kuzifanyia kazi tukishakamilisha basi zitakuja kwa ajili ya kuomba ridhaa ya Bunge kwa kupitia utaratibu wa kawaida.

Mheshimiwa Naibu Spika, baada ya maelezo hayo naomba kutoa hoja. *(Makofi)*

**WAZIRI WA MADINI:** Mheshimiwa Naibu Spika, naafiki. *(Makofi)*

**NAIBU SPIKA:** Hoja imeungwa mkono Waheshimiwa Wabunge ahsante sana Mheshimiwa Waziri. Kwa utaratibu wetu nitawahoji Waheshimiwa Wabunge wanaoafiki hoja ya Waziri wa Fedha na Mipango Mheshimiwa Mpango ya kufuta hasara itokandayo na maduhuli ya madeni ya nyuma ya ada na leseni za magari, riba na adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019.

*(Hoja ilitolewa iamuliwe)  
(Hoja iliamuliwa na Kuafikiwa)*

**NAIBU SPIKA:** Waliosema ndio wameshinda, kwa hiyo, hoja hii imepita kwa hivyo hili ni Azimio la Bunge kamba sasa hasara itokanayo na maduhuli ya madeni ya nyuma ya ada na leseni za magari, riba na adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019 limepita. Katibu.

**NDG. MOSSY LUKUVI – KATIBU MEZANI:**

### MISWADA YA SHERIA YA SERIKALI

#### Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 *(The Arbitration Bill, 2020)*

*(Kusomwa Mara ya Pili)*

**NAIBU SPIKA:** Waheshimiwa Wabunge nimwite sasa Waziri wa Katiba na Sheria, Mheshimiwa Dkt. Mahiga.

**WAZIRI WA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika, awali ya yote ninapenda kuchukua fursa hii kumshukuru Mwenyenzi Mungu aliyetujalia uzima na kutufikisha siku ya leo. Ninaomba Mwenyenzi Mungu aendeleo kutulinda na kutuwezesha kuendelea kutimiza majukumu yetu tukiwa na afya ya mwili na akili na atupokelee kiongozi wetu wa Bunge letu la Jamhuri ya Muungano wa Tanzania.

Mheshimiwa Naibu Spika, kwa niaba ya Wizara ya Katiba na Sheria ninapenda kuchukua fursa hii kutoa shukrani za dhati kwa Kamati ya Sheria Ndogo ya Bunge chini ya

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uongozi mahiri wa Mheshimiwa Mtemi Andrew Chenge, Mbunge wa Bariadi akisaidiwa na Mheshimiwa William Ngeleja, Mbunge wa Sengerema kwa kazi kubwa na nzuri iliyofanywa na Kamati hiyo ya kuchambua na kutoa maoni katika Muswada wa Sheria ya Usuluhishi ya mwaka 2020 (*The Arbitration Act, 2020*).

Muswada wa sheria hii ulijadiliwa na Kamati hii kwa nyakati tofauti na kuwa na vikao vya mara kwa mara na Serikali ili kupata uelewa wa pamoja. Aidha, uchambuzi wa kina na maoni ya Kamati vimesaidia sana kuboresha maudhui ya muswada huu kwa lengo la kuleta tija ya usuluhishi nchini. Serikali ilikubaliana na mapendekezo mengi katika maoni yaliyotolewa na Kamati na tayari imeshayajumuisha katika muswada kupita Jedwali la Marekebisha ambalo Waheshimiwa Wabunge wamepatiwa.

Mheshimiwa Naibu Spika, Muswada wa Sheria ya Usuluhishi unapendekeza kutufa Sheria ya Usuluhishi Sura ya 15 na kutunga mpya Sheria ya Usuluhishi ya mwaka 2020 (*The Arbitration Act, 2020*). Lengo la sheria hii ni kuweka masharti ya utatuzi wa migogoro kirafiki nje ya mfumo wa mahakama pamoja na kuwezesha utekelezaji wa makubaliano ya kiusuluhishi. Muswada huu umekusudia kutatua changamoto mbalimbali zilizokuwa zinaikabili Serikali katika kusimamia na kushughulikia masuala mbalimbali yatokanayo na mashauri ya usuluhishi pamoja na kutoa mwongozo unaohusu maana ya usuluhishi, misingi ya usuluhishi na chanzo cha makubaliano ya usuluhishi.

Mheshimiwa Naibu Spika, aidha, muswada wa sheria unalenga kuweka utaratibu wa utekelezaji wa mikataba ya kimataifa ya usuluhishi ambayo Tanzania imeridhia na kuweka mfumo wa masharti madhubuti na rafiki katika usimamizi na uratibu wa utatuzi wa migogoro kwa njia ya usuluhishi nje ya mfumo wa mahakama. Vilevile muswada unakusudia kutatua changamoto mbalimbali zilizokuwa zinaikabili Serikali na katika kusimamia, kushughulikia masuala yatokanayo na mashauri ya usuluhishi pamoja na kutoa mwongozo unaohusu misingi inayohusu usuluhishi.

Mheshimiwa Naibu Spika, mambo muhimu yaliyozingatiwa katika muswada huu ni pamoja na:-

- (a) Kuweka utaratibu wa kuwezesha utekelezaji wa sheria na mikataba ya kimataifa ya usuluhishi ambayo nchi imeridhia kwa mujibu sera na sheria ya nchi;
- (b) Kuainisha masharti mahsusi ambapo mahakama inapaswa kuingilia katika usuluhishi;
- (c) Kuweka mfumo madhubutu wa usimamizi na utaratibu wa usuluhishi;
- (d) Kuruhusu na kuratibu uanzishwaji wa vituo vinavyotambulika na kuaminika kimataifa vya usuluhishi; na
- (e) Kuainisha masharti yatakayoruhusu kutengenezwa kwa kanuni ambazo zinataweka pamoja na mambo mengine utaratibu wa tozo za usuluhishi ,fomu za kutumiwa katika usuluhishi na sifa za wasuluhishi.

Mheshimiwa Naibu Spika, muswada huu umegawanyika katika sehemu kumi na tatu.

Mheshimiwa Naibu Spika, sehemu ya Kwanza ya Muswada inahusu masharti ya utangulizi, ambayo yanajumuisha jina la Muswada, tarehe ya kuanza kutumika kwa sheria, matumizi na tafsiri ya maneno na misamiati mbalimbali iliyotumika katika Muswada huu.

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Mheshimiwa Naibu Spika, Sehemu ya Pili ya Muswada inaainisha masharti ya jumla ya usuluhishi, eneo usuluhishi utakapofanyika pamoja na masharti ya kuzingatiwa iwapo usuluhishi utafanyika Tanzania. Sehemu hii pia inaweka sharti la makubaliano ya usuluhishi kuwa katika maandishi. Sehemu ya Tatu ya Muswada inahusu masuala mbalimbali ya mikataba ya usuluhishi ikiwemo kutafsiri makubaliano ya usuluhishi na hatma ya makubaliano iwapo mmoja wa wahusika atafariki na utaratibu wa usitishwaji wa mwenendo wa usuluhishi.

Sehemu ya Nne ya Muswada ina masharti yanayohusu kuanza kwa usuluhishi, uwezo wa mahakama kuongeza muda wa kuanza kwa usuluhishi na kutumika kwa Sheria ya Ukomo wa Muda, Sura ya 89 (*The Law of Limitation Act, Cap 89*).

Sehemu ya Tano ya Muswada inahusu Mabaraza ya Usuluhishi ikiwemo utaratibu wa uteuzi wa wasuluhishi, kutengua uteuzi wa wasuluhishi utaratibu wa kufuata endapo msuluhishi atafariki dunia, ujazaji wa nafasi ya msuluhishi aliyetenguliwa, aliyejiuzulu au aliyefariki, pamoja na kinga kwa msuluhishi anapotekeleza majukumu yake. Sehemu ya Sita ya Muswada inaainisha Mamlaka ya Baraza la Usuluhishi na kuweka utaratibu wa kuhoji mamlaka ya Baraza. Aidha, Sehemu hii pia inaweka utaratibu wa kufuatwa pindi mhusika anapodhamiria kuweka pingamizi la awali kuhusu mamlaka ya Baraza.

Sehemu ya Saba ya Muswada ina masharti yanayohusu mwenendo wa mashauri kwenye Baraza kwa kuainisha wajibu wa Baraza, masuala ya taratibu za ushahidi, uteuzi wa wanasheria au wataalam. Vilevile, inaainisha kuhusu mamlaka ya Baraza na amri ambazo Baraza linaweza kuzitekeleza kwa mhusika aliyeshindwa kutekeleza amri za awali za Baraza hilo. Sehemu ya Nane ya Muswada inahusu masuala ya gharama za usuluhishi ikiwemo gharama ambazo zinaweza kufidiwa, gharama za wasuluhishi na ukomo wa gharama hizo. Sehemu ya Tisa ya Muswada inahusu mamlaka ya mahakama kuhusiana na utekelezaji wa tuzo na haki ya rufaa endapo kuna ukiukwaji wa sheria. Vilevile, inatoa mwongozo kuhusiana na mhusika ambaye ameshindwa kushiriki katika shauri la usuluhishi na kutoa kinga kwa taasisi za usuluhishi.

Sehemu ya Kumi ya Muswada inabainisha masharti ya kuanzishwa kwa Kituo cha Kimataifa cha Usuluhishi ambacho kitashughulikia usuluhishi wa migogoro ndani na nje ya nchi. Aidha, Muswada wa Sheria unabainisha mamlaka na majukumu ya kituo hicho. Vile vile Muswada unaweka masharti kwa kituo cha usuluhishi kuwa na uwezo wa kujifungamanisha na vituo vingine vya Kimataifa vya Usuluhishi.

Mheshimiwa Naibu Spika, Sehemu ya Kumi na Moja ya Muswada inahusu utekelezaji wa tuzo zilizotolewa nje ya nchi kwa kutoa tafsiri ya tuzo na masharti ya utekelezaji wa tuzo zilizotolewa nje ya nchi katika Mahakama na ndani ya nchi hususan Mahakama Kuu. Sehemu ya Kumi na Mbili ya Muswada inahusu masharti ya nyongeza kuhusiana na taratibu za kutoa wito wa kufika kwenye Baraza na taratibu za kufikisha nyaraka Sehemu hii. Pia inatoa masharti kuhusu mamlaka ya mahakama kuongeza muda wa mashauri ya usuluhishi.

Sehemu ya Kumi na Tatu ya Muswada inahusu Marekebisho Yatokanayo, ambapo Sheria ya Mwenendo wa Mashauri ya Madai Sura ya 33, Sheria ya Mwenendo wa Mashauri ya Jinai Sura ya 20, Sheria ya Mamlaka ya Nchi katika Usimamizi wa Maliasili Sura ya 449 na Sheria ya Ubia Baina ya Sekta ya Umma na Sekta Binafsi Sura ya 103 zinapendekezwa kufanyiwa marekebisho.

Mheshimiwa Naibu Spika, Marekebisho katika Sehemu hii yanakusudia kuimarisha mfumo wa utatuzi wa migogoro kwa kupanua wigo wa dhana ya ufifishaji wa makosa ya jinai na kuboresha mfumo wa utatuzi wa migogoro nje ya mahakama kwa kuziwekea utaratibu wa kisheria njia za utatuzi wa migogoro za upatanishiji, maridhiano na majadiliano. Lengo la

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maboresho yanayopendekezwa ni kuhakikisha kuwa kadri inavyowezekana, migogoro mbalimbali katika jamii inatatuliwa nje ya mfumo wa Mahakama kwa gharama ndogo, kwa wakati na kupunguza na kuondoa mrundikano wa mashauri mahakamani hasa kwa mashauri ambayo yangeweza kutatuliwa kwa njia zilizobainishwa katika marekebisho ya sheria hizo.

Mheshimiwa Naibu Spika, malengo mahsusi katika Marekebisho ya Sheria ya Mwenendo wa Mashauri ya Jinai ni kupanua wigo wa kifungu cha 163 ambacho kinaruhusu utatuzi wa migogoro ya kijinai katika jamii kwa njia ya maridhiano pale ambapo mlalamikaji ameridhia kusuluhishwa na mahakama au mtu mwingine anayeweza kuzipatanisha pande zinazohusika katika shauri husika. Aidha, mapendekezo ya marekebisho ya kifungu cha 170 yanalenga kuiwezesha Mahakama kutambua makosa ambayo yanaweza kufifilishwa yafifilishwe kwa kumteua mtu anayeweza kuyafifilisha makosa ambayo Sheria mbalimbali zinaruhusu ufffifilishaji. Utaratibu huu utawezesha kupunguza mrundikano wa mashauri ya jinai na mrundikano wa mahabusu ambao wanatuhumiwa kwa makosa ambayo yangeweza kumalizika kwa njia ya kufifilishwa nje ya mfumo wa mahakama.

Mheshimiwa Naibu Spika, mapendekezo ya marekebisho ya Sheria ya Mwenendo wa Mashauri ya Madai yanakusudia kuweka utaratibu wa utatuzi wa migogoro ya madai nje ya mfumo wa Mahakama hususani kabla ya migogoro husika haijafunguliwa Mahakamani. Eneo hili linakusudia kufanya marekebisho kwa kuongeza vifungu vinavyoweza utaratibu wa kufungua mahakamani mashauri ambayo ni halisia na hayakusudii kumvunjia mtu heshima, kuweka utaratibu wa idhibati na uthibiti; ikiwa ni pamoja na kuwatambua na kuwasajili wanaotatua migogoro nje ya mfumo wa mahakama kwa njia za Usuluhishi, Upatanishi, Maridhiano na Majadiliano. Vilevile mapendekezo haya yanaimarisha marekebisho yaliyofanywa na Bunge katika Sheria ya Mwenendo wa Mashauri ya Madai kupitia Sheria ya Marekebisho ya Sheria Mbalimbali Na. 8 ya Mwaka 2019 ya utatuzi wa migogoro nje ya mfumo wa Mahakama.

Mheshimiwa Naibu Spika, kwa upande wake, mapendekezo ya marekebisho ya Sheria ya Ubia baina ya Sekta ya Umma na Sekta Binafsi na Sheria ya Mamlaka ya Nchi na Usimamizi wa Maliasili za Nchi yanalenga kuwezesha migogoro inayohusu maliasili za nchi kutatuliwa kupitia vyombo vya usuluhishi vilivyoanzishwa kwa mujibu wa Sheria za Tanzania. Marekebisho haya pia yanalenga kuvutia wawekezaji na kuoanisha masharti yanayopendekezwa katika Sheria ya Usuluhishi. Kutokana na umuhimu wa sheria hii na ili wananchi kuweza kufahamu vizuri maudhui na manufaa ya sheria hii kwa taifa, Serikali imeshaandaa utaratibu wa kutoa elimu kwa umma kwa njia mbali mbali ikiwemo magazeti, majarida, redio, televisheni na kadhalika.

Baada ya kusema hayo naomba sasa kupitia kwako niwaombe Waheshimiwa Wabunge wajadili na kisha kuipitisha Muswada wa Sheria ya Usuluhishi ya Mwaka 2020.

Mheshimiwa Naibu Spika, ninaomba kutoa hoja.

MUSWADA WA SHERIA YA USULUHISI WA MWAKA 2020  
(THE ARBITRATION ACT, 2020) - KAMA ULIVYOWASILISHWA MEZANI

ISSN 0856 - 01001X

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THE UNITED REPUBLIC OF TANZANIA

*No. 1*

*25<sup>th</sup> January, 2020*

**SPECIAL BILL SUPPLEMENT**

*to the Special Gazette of the United Republic of Tanzania No.1. Vol.101 dated 25<sup>th</sup> January, 2020*

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THE ARBITRATION ACT, 2020

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NOTICE

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This Bill to be submitted to the National Assembly is published for the general information to the public together with a statement of its objects and reasons.

Dodoma,  
23<sup>rd</sup> January, 2020

JOHN W. H. KIJAZI  
*Secretary to the Cabinet*

A Bill

*for*

**An Act to provide for conduct relating to domestic commercial arbitration, international commercial arbitration and enforcement of foreign arbitral awards, repeal of the Arbitration Act and to provide for matters relating to or incidental thereto.**

ENACTED by Parliament of the United Republic.

PART I  
PRELIMINARY PROVISIONS

Short title and  
commencement

1. This Act may be cited as the Arbitration Act, 2020 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania.

Interpretation

3. In this Act, unless the context otherwise requires:  
“arbitration” means any arbitration whether or not administered by permanent arbitral institution;  
“arbitrator” means a person who facilitates arbitrations;  
“arbitration agreement” means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not;  
“arbitral award” includes an interim award;

- “arbitral tribunal” means a sole arbitrator or a panel of arbitrators;
- “Centre” means the Tanzania Arbitration Centre established under section 77;
- “court” means a court of competent jurisdiction in Mainland Tanzania, Provided that, in the case of international commercial arbitration, it means the High Court in exercise of its ordinary original civil jurisdiction;
- “domestic commercial arbitration” means an arbitration agreement which provides expressly or by implication for arbitration in Mainland Tanzania, and at the time when proceedings are commenced or the arbitration is entered into—
- (a) where the arbitration is between individuals, the parties are nationals of United Republic or are habitually resident in Mainland Tanzania;
  - (b) where the arbitration is between bodies corporate, the parties are incorporated in Mainland Tanzania or their central management and control are exercised in Mainland Tanzania;
  - (c) where the arbitration is between an individual and a body corporate-
    - (i) the party who is an individual is a national of United Republic or is habitually resident in Mainland Tanzania;
    - (ii) the party that is a body corporate is incorporated in Mainland Tanzania or its central management and control are exercised in Mainland Tanzania; or
  - (d) the place where a substantial part of the obligations of the commercial relationship is to be performed, or the place with which the subject matter of the dispute is Mainland Tanzania;
- “foreign award” means an award made in the territory of a State other than the United Republic where the recognition and enforcement of such awards are sought, and arising out of disputes between persons, whether physical or legal, and such award is binding to Mainland Tanzania only in so far as and to the extent which Mainland Tanzania has a reciprocal arrangement born out of an international agreement to which the United Republic is a party;
- “international commercial arbitration” means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in Mainland Tanzania and

where at least one of the parties is-

- (a) an individual who is a national of, or habitually resident in, any country other than Mainland Tanzania;
- (b) a body corporate which is incorporated in any country other than Mainland Tanzania;
- (c) an association or a body of individuals whose central management and control is exercised in any country other than Mainland Tanzania; or
- (d) the Government of a foreign country;

“Minister” means the Minister responsible for legal affairs;

“party” means a party to an arbitration agreement;

“person” includes an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental department, agency, public corporation; or any other legal or commercial entity; and

“record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

## PART II GENERAL PROVISIONS

General principles

4. The provisions of this Act are founded on the following principles, and shall be construed accordingly:

- (a) the object of arbitration is to obtain the fair resolution of disputes by an impartial tribunal without delay or expense;
- (b) the parties shall be free to agree how their disputes are resolved, subject only to such safeguards as are necessary in the public interest; and
- (c) in matters governed by this Act, the court shall not intervene except as provided by this Act.

Scope of application of provisions

5.-(1) The provisions of this Act shall apply where the seat of the arbitration is in Mainland Tanzania.

(2) Notwithstanding subsection (1), the provisions of sections 13 and 68 shall apply even where the seat of the arbitration is outside Mainland Tanzania or no seat has been designated or determined.

(3) The powers conferred under sections 46 shall apply even where the seat of the arbitration is outside Mainland Tanzania or no seat has been designated or determined,

Provided that, the court may refuse to exercise any such power if, in the opinion of the court, the fact that the seat of the arbitration is outside Mainland Tanzania or that when designated or determined the seat is likely to be outside the United Republic makes it inappropriate to do so.

(4) The court may exercise a power conferred by any provision of this Act not mentioned in subsection (2) or (3) for the purpose of supporting the arbitral process where-

- (a) no seat of the arbitration has been designated or determined; and
- (b) by reason of a connection with Mainland Tanzania the court is satisfied that it is appropriate to do so.

(5) The provisions of sections 10 and 11 shall apply where the law applicable to the arbitration agreement is the law of Mainland Tanzania even where the seat of the arbitration is outside Mainland Tanzania or has not been designated or determined.

Meaning of “seat of arbitration”

**6.** In this Act “seat of arbitration” means the juridical seat of arbitration designated-

- (a) in accordance with the law applicable on matters that are subject of the arbitration;
- (b) by the parties to the arbitration agreement;
- (c) by any arbitral or other institution or person vested by the parties with powers in that regard; or
- (d) by the arbitral tribunal if so authorised by the parties.

Mandatory and non-mandatory provisions

**7.-(1)** The mandatory provisions of this Act shall be as provided in the Schedule to this Act and have effect notwithstanding any agreement to the contrary.

(2) The provisions of this Act other than the mandatory provisions, herein referred to as the “non-mandatory provisions” shall allow the parties to make their own arrangements by agreement but provide rules which shall apply in the absence of such agreement.

(3) For the purpose of subsection (2)-

- (a) the parties may make such arrangements by agreeing to the application of institutional rules or providing any other means by which a matter may be decided; and

(b) it is immaterial whether or not the law applicable to the parties' agreement is the law of Mainland Tanzania.

(4) The choice of a law other than the law of Mainland Tanzania as the applicable law in respect of a matter provided for by a non-mandatory provision of this Part is equivalent to an agreement making provision about that matter.

(5) For the purpose of subsection (4) an applicable law determined in accordance with the parties' agreement, or which is objectively determined in the absence of any express or implied choice, shall be treated as chosen by the parties.

Agreements to be  
in writing

**8.**-(1) The provisions of this Act shall apply only where the arbitration agreement is in writing, and any other agreement between the parties as to any matter is effective for the purposes of this Act only if it is in writing.

(2) For the purpose of subsection (1), the expressions "agreement", "agree" and "agreed" shall, in its cognate meaning, be construed accordingly.

(3) There shall be deemed to be an agreement in writing where-

- (a) the agreement is made in writing, whether or not it is signed by the parties;
- (b) the agreement is made by exchange of communications in writing; or
- (c) the agreement is evidenced in writing.

(4) Where parties agree, otherwise than in writing, by reference to terms which are in writing, they are considered to have made an agreement in writing.

(5) An agreement shall be evidenced in writing where the agreement made otherwise than in writing is recorded by one of the parties, or by a third party, with the authority of the parties to the agreement.

(5) An exchange of written submissions in arbitral or legal proceedings in which the existence of an agreement otherwise than in writing is alleged by one party against another party and not denied by the other party in his response shall constitute, as between those



parties, an agreement in writing to the effect alleged.

(7) References in this Act to anything being written or in writing include its being recorded by any means.

### PART III ARBITRATION AGREEMENT

Construction of arbitration agreement

**9.** The reference in an agreement to a written form of arbitration clause or to a document containing an arbitration clause constitutes an arbitration agreement if the reference is such as to make that clause part of the agreement.

Separability of arbitration agreement

**10.** Unless otherwise agreed by the parties, an arbitration agreement which forms or was intended to form part of another agreement, whether or not in writing, shall not be regarded as invalid, non-existent or ineffective because that other agreement is invalid, did not come into existence or has become ineffective, and the arbitration agreement shall for that purpose, be treated as a distinct agreement.

Agreement not discharged by death of party

**11.**-(1) Unless otherwise agreed by the parties, an arbitration agreement is not discharged by the death of a party and may be enforced by or against the personal representative of that party.

(2) Subsection (1) shall not affect the operation of any enactment or rule of law by virtue of which a substantive right or obligation is extinguished by death.

Power to refer parties to arbitration where there is arbitration agreement

**12.**-(1) A court, before which an action is brought in a matter which is the subject of an arbitration agreement shall, where a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, and notwithstanding any judgment, decree or order of the superior court, refer the parties to

arbitration unless it finds that *prima facie* no valid arbitration agreement exists.

(2) The application referred to in subsection (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof:

Provided that, where the original arbitration agreement or a certified copy is not available to the party applying for reference to arbitration under subsection (1), and the agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall, in the manner set out under a written law, apply to court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court.

(3) Notwithstanding any application made in terms of subsection (1) and any issue pending thereto, an arbitration may be commenced or continued and an arbitral award made.

Stay of legal proceedings

**13.**-(1) A party to an arbitration agreement against whom legal proceedings are brought, whether by way of claim or counterclaim in respect of a matter which under the agreement is to be referred to arbitration may, upon notice to the other party to the proceedings, apply to the court in which the proceedings have been brought to stay the proceedings so far as they concern that matter.

(2) An application under subsection (1) may be made notwithstanding that the matter is to be referred to arbitration after the exhaustion of other dispute resolution procedures.

(3) A person shall not make an application under this section unless he has taken appropriate procedural step to acknowledge the legal proceedings against him or he has taken any step in those proceedings to answer the substantive claim.

(4) The court shall, except where it is satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed, grant a stay on any application brought before it.

(5) Where the court refuses to stay the legal proceedings, any provision that an award is a condition precedent to the bringing of legal proceedings in respect of any matter shall be of no effect in relation to those proceedings.

PART IV  
COMMENCEMENT OF ARBITRAL PROCEEDINGS

Power of court to extend time for beginning of arbitral proceedings.

**14.**-(1) Where an arbitration agreement to refer future disputes to arbitration provides that a claim shall be barred, or the claimant's right extinguished, unless the claimant takes within a time fixed by the agreement some steps-

- (a) to begin arbitral proceedings; or
- (b) to begin other dispute resolution procedures which shall be exhausted before arbitral proceedings can be commenced,

the court may by order extend the time for taking that step.

(2) A party to the arbitration agreement may, apply for an order for extension of time, upon notice to the other parties, and after a claim has arisen and after exhausting any available arbitral process for obtaining an extension of time.

- (3) The court shall make an order if satisfied that-
  - (a) the circumstances are such as were outside the reasonable contemplation of the parties when they agreed the provision in question, and that it would be just to extend the time; or
  - (b) the conduct of one party makes it unjust to hold the other party to the strict terms of the provision in question.

(4) The court may extend the time for such period and on such terms as it thinks fit, and may do so whether or not the time previously fixed, by agreement or by a previous order, has expired.

(5) An order under this section does not affect the operation of the Law of Limitation Act.

(6) Leave of the court shall be required for any appeal from a decision of the court under this section.

Cap. 89

Application of law of

**15.**-(1) The Law of Limitation Act shall apply

Limitation Act  Cap. 89	<p>to arbitral proceedings as it apply to other legal proceedings.</p> <p>(2) The court may order that in computing the time prescribed by the Law of Limitation Act for the commencement of proceedings, including arbitral proceedings, in respect of a dispute which was the subject matter-</p> <ul style="list-style-type: none"><li>(a) of an award which the court orders to be set aside or declares to be of no effect; or</li><li>(b) of the affected part of an award which the court orders to be set aside in part, or declares part of the award to be in part of no effect,</li></ul> <p>the period between the commencement of the arbitration and the date of the order referred to in paragraph (a) or (b) shall be excluded.</p> <p>(3) In determining for the purposes of the Law of Limitation Act when a cause of action accrued, any provision that an award is a condition precedent to the bringing of legal proceedings in respect of a matter to which an arbitration agreement applies shall be disregarded.</p>
 Commencement of arbitral proceedings  Cap. 89	<p><b>16.</b>-(1) Parties to an arbitration agreement may agree when arbitral proceedings shall commence for the purposes of this Act and for the purposes of the Law of Limitation Act.</p> <p>(2) Where parties do not have agreement in terms of subsection (1), the following shall apply:</p> <ul style="list-style-type: none"><li>(a) if the arbitrator is named or designated in the arbitration agreement, arbitral proceedings shall be commenced in respect of a matter when one party serves on the other party a notice in writing requiring him or them to submit that matter to the named or designated arbitration;</li><li>(b) if the arbitrator or arbitrators are to be appointed by the parties, arbitral proceedings shall be commenced in respect of a matter when one party serves on the other party or parties notice in writing requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator in respect of that matter.</li></ul> <p>(3) Where the arbitrator or arbitrators are to be appointed by a person other than a party to the proceedings, arbitral proceedings shall be</p>

commenced in respect of a matter when one party gives notice in writing to that person requesting him to make the appointment in respect of that matter.

PART V  
ARBITRAL TRIBUNAL

Arbitral Tribunal

**17.**-(1) The parties may agree on the number of arbitrators to form the tribunal and whether there is to be a chairman or umpire.

(2) Unless otherwise agreed by the parties, an agreement that the number of arbitrators shall be two or any other even number shall be understood as requiring the appointment of an additional arbitrator as chairman of the tribunal.

(3) Where there is no agreement as to the number of arbitrators, the tribunal shall consist of a sole arbitrator.

Procedure for  
appointment  
of  
arbitrators

**18.**-(1) The parties may agree on the procedure for appointing the arbitrator or arbitrators, including the procedure for appointing any chairman or umpire.

(2) In the event the agreement referred to in subsection (1) does not exist the following shall apply:

- (a) if the tribunal is to consist of a sole arbitrator, the parties shall jointly appoint the arbitrator not later than twenty eight days after service of a written request by either party;
- (b) if the tribunal is to consist of two arbitrators, each party shall appoint one arbitrator not later than fourteen days after service of a written request by either party;
- (c) if the tribunal is to consist of three arbitrators-
  - (i) each party shall appoint one arbitrator not later than fourteen days after service of a written request by either party; and
  - (ii) the two arbitrators appointed by the parties shall forthwith appoint a third arbitrator who shall be the chairman of the tribunal;
- (d) if the tribunal is to consist of two arbitrators and an umpire-
  - (i) each party shall appoint one arbitrator not

- later than fourteen days after service of a written request by either party; and
- (ii) the two appointed arbitrators may appoint an umpire at any time after their appointment, and shall do so before any substantive hearing or forthwith where they cannot agree on a matter relating to the arbitration; and
- (e) in any other case, if there are more than two parties, section 20 shall apply as in the case of a failure of the agreed appointment procedure.

Default to  
appoint  
sole  
arbitrator

**19.**-(1) Unless the parties otherwise agree, where each of the two parties to an arbitration agreement is to appoint an arbitrator and one party refuses or fails to do so within the time specified, the other party, having duly appointed his arbitrator, may give a written notice to the party in default that he proposes to appoint his arbitrator to act as a sole arbitrator.

(2) Where the defaulting party does not within seven days of the notice-

- (a) make the required appointment; and
  - (b) notify the other party of the appointment,
- the other party may appoint his arbitrator as a sole arbitrator whose award shall be binding on both parties as if he had been appointed by the two parties.
- (3) Where a sole arbitrator has been appointed under subsection (2), the party in default may, upon notice to the appointing party, apply to the court which may set aside the appointment.
- (4) Leave of the court shall be required for any appeal arising from a decision made under this section.

Failure of  
appointment  
procedure

**20.**-(1) The parties may agree what next shall happen in the event of failure to appoint the arbitral tribunal.

(2) Where no agreement has been made under subsection (1), a party to the arbitration agreement may, upon notice to the other party, apply to the court which may-

- (a) give directions as to the making of any necessary appointment;

- (b) direct that the tribunal shall be constituted by such appointment, or any one or more of them, as has been agreed;
- (c) revoke any appointment already made; or
- (d) make any necessary appointment.

(3) An appointment made by the court under this section shall have effect as if it was made by the agreement of the parties.

Arbitrator's  
qualifications

**21.** In deciding whether and how to exercise, any of its powers under section 18 or 20, the court shall have due regard to any agreement of the parties as to the qualifications required of the arbitrators.

Chairman

**22.**-(1) Where the parties have agreed that there shall be a chairman, they may agree the functions of the chairman in relation to the making of decisions, orders and awards.

(2) In the event the agreement referred to under subsection (1) does not exist, decisions, orders or awards shall be made by all or majority of the arbitrators, including the chairman.

(3) The view of the chairman shall prevail in respect of subsection (1), where there is no unanimity or majority in relation to any decision, order or award.

Umpire

**23.**-(1) Where the parties have agreed that there shall be an umpire, they may agree on the functions of the umpire and in particular-

- (a) whether he is to attend the proceedings; and
- (b) when he may replace the other arbitrators as the tribunal with power to make decisions, orders and awards.

(2) In the event the agreement referred to under subsection (1) does not exist-

- (a) the umpire shall attend the proceedings and be supplied with the same documents and other materials as are supplied to the other arbitrators; and
- (b) decisions, orders and awards shall be made by the other arbitrators unless and until they cannot agree on a matter relating to the arbitration.

(3) Where arbitrators have failed to reach

agreement as referred to in subsection (2)(b) they shall, with immediate effect, give a written notice to the parties and the umpire shall replace them as the tribunal with power to make decisions, orders and awards as if he were a sole arbitrator.

(4) Where the arbitrators fail to agree and to give notice of that fact or any of them fails to join in the giving of notice under subsection (2) (b), any party to the arbitral proceedings may, upon notice to the other parties and to the tribunal, apply to the court which may order that the umpire replaces the other arbitrators as the tribunal with power to make decisions, orders and awards as if he were sole arbitrator.

(5) The leave of the court shall be required for any appeal arising from a decision made under this section.

Absence of  
Chairman  
or  
Umpire.

**24.**-(1) Where the parties agree that there shall be two or more arbitrators with no chairman or umpire, the parties may agree how the tribunal shall make decisions, orders and awards.

(2) Where there is no agreement in terms of subsection (1), decisions, orders and awards shall be made by all or majority of the arbitrators.

Revocation of  
arbitrator's  
appointment

**25.**-(1) The parties may agree the circumstances upon which the appointment of an arbitrator may be revoked.

(2) Where the agreement referred to under subsection (1) does not exist, the appointment of an arbitrator may be revoked-

- (a) by the parties acting jointly; or
- (b) by the decision of an arbitral or other institution or person vested by the parties with powers in that regard.

(3) Revocation of the appointment of an arbitrator by the parties acting jointly shall be agreed in writing unless the parties also agree to terminate the arbitration agreement.

(4) Nothing in this section shall affect the power of the court to-

- (a) revoke an appointment under section 20; or



- (b) remove an arbitrator on the grounds specified in section 26.

Power of court to  
remove  
arbitrator

**26.**-(1) A party to arbitral proceedings may, upon notice to the other party, to the arbitrator concerned and to any other arbitrator, apply to the court to remove an arbitrator on any of the following grounds:

- (a) that there are circumstances which give rise to justifiable doubts as to his impartiality;
- (b) that he does not possess the qualifications required by the arbitration agreement;
- (c) that he is physically or mentally incapable of conducting the proceedings or there are justifiable doubts as to his capacity to do so; or
- (d) that he has refused or failed to-
  - (i) properly conduct the proceedings;
  - (ii) use all reasonable dispatch in conducting the proceedings; or
  - (iii) make an award and substantial injustice has been or will be caused to the applicant.

(2) Where there is an arbitral or other institution or person vested by the parties with power to remove an arbitrator, the court shall not exercise its power of removal unless satisfied that the applicant has first exhausted any available recourse to that institution or person.

(3) The arbitral tribunal may continue the arbitral proceedings and make an award pending an application to the court under this section.

(4) Where the court removes an arbitrator, it may make such order as it thinks fit with respect to-

- (a) his entitlement to any fee or expense; or
- (b) the repayment of any fees or expenses already paid.

(5) The arbitrator against whom the application is brought shall be entitled to be heard by the court before it makes any order under this section.

(6) Leave of the court shall be required for any appeal arising from a decision made under this section.

**NAKALA YA MTANDAO (ONLINE DOCUMENT)**

Resignation of  
arbitrator

**27.**-(1) The parties may agree with an arbitrator as to the consequences of his resignation as regards to-

- (a) his entitlement to any fees or expenses; and
- (b) any liability thereby incurred by him.

(2) Where the agreement referred to under subsection (1) does not exist, the resigning arbitrator may, upon notice to the parties, apply to the court to-

- (a) grant him relief from any liability thereby incurred by him; and
- (b) make such order as it thinks fit with respect to his entitlement to any fees or expenses or the repayment of any fees or expenses already paid.

(3) Upon the court being satisfied that in the given circumstances, it was reasonable for the arbitrator to resign, it may grant relief referred to under subsection (2) as it deems fit.

(4) Leave of the court shall be required for any appeal arising from a decision made under this section.

Death of  
arbitrator

**28.**-(1) The appointment of an arbitrator shall be personal and shall cease upon his death.

(2) Unless otherwise agreed by the parties, the death of the person by whom an arbitrator was appointed shall not revoke the arbitrator's appointment.

Filling of  
vacancy

**29.**-(1) Where an arbitrator ceases to hold office, the parties may agree-

- (a) whether, and if so, how the vacancy is to be filled;
- (b) whether, and if so, to what extent the previous proceedings should stand; and
- (c) what effect if any, his ceasing to hold office shall have on any appointment made by him.

(2) Where the agreement referred to in subsection (1) does not exist the following provisions shall apply:

- (a) the provisions of sections 18 and 20 shall apply in relation to the filling of the vacancy as in relation to an original appointment;
- (b) the tribunal, when reconstituted, shall determine whether and if so to what extent the previous proceedings shall stand, except that any right of a

party to challenge the proceedings on any ground which had arisen before the arbitrator shall not be precluded; and

- (c) his ceasing to hold office shall not affect any appointment made by him, alone or jointly, of another arbitrator, in particular any appointment of a chairman or umpire.

Joint and several  
liabilities  
of  
parties  
for fees

**30.**-(1) The parties shall, jointly and severally, be liable to pay the arbitrators any reasonable fees and expenses as are appropriate in the circumstances.

(2) Any party may apply to the court, upon notice to the other party and to the arbitrators for an order that the amount of the arbitrators' fees and expenses shall be considered and adjusted by such means and upon such terms as it may direct.

(3) Where an application is made after any amount has been paid to the arbitrators by way of fees or expenses, the court may order the repayment of the exceeding amount if any, provided that the court shall not make such order unless it is reasonable in the circumstances to order repayment.

(4) The provisions of subsections (1), (2) and (3) shall have effect subject to any order of the court under sections 26(4) or 27(2)(b).

(5) Nothing in this section shall affect any liability of a party to pay all or any of the costs of the arbitration or any contractual right of an arbitrator to payment of his fees and expenses.

(6) In this section, references to arbitrators include an arbitrator who has ceased to act and an umpire who has not replaced the other arbitrators.

Immunity  
of  
arbitrator

**31.**-(1) Save as provided for in section 26, an arbitrator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as arbitrator unless the act or omission is proven to have been done in bad faith or professional negligence.

(2) Subsection (1) shall apply to an employee or agent of an arbitrator as it applies to the arbitrator.

(3) This section shall not affect any liability incurred by an arbitrator by reason of his resignation.

PART VI  
JURISDICTION OF ARBITRAL TRIBUNAL

Competence to rule  
on  
jurisdiction

**32.**-(1) Unless otherwise agreed by the parties, the arbitral tribunal may rule on its own substantive jurisdiction, as to-

- (a) whether there is a valid arbitration agreement;
- (b) whether the tribunal is properly constituted; and
- (c) what matters shall be submitted to arbitration in accordance with the arbitration agreement.

(2) The decision under subsection (1) may be challenged by any available arbitral process of appeal or review or in accordance with the provisions of this Act.

Objection to  
substantive  
jurisdiction

**33.**-(1) An objection that the arbitral tribunal lacks substantive jurisdiction at the outset of the proceedings shall be raised by a party not later than the time he takes the first step in the proceedings to contest the merits of any matter in relation to which he challenges the tribunal's jurisdiction:

Provided that, a party shall not be precluded from raising such an objection by the fact that he has appointed or participated in the appointment of an arbitrator.

(2) An objection raised during the course of the arbitral proceedings that the arbitral tribunal exceeds its substantive jurisdiction shall be made as soon as possible after the matter alleged to be beyond its jurisdiction is raised.

(3) The arbitral tribunal may admit an objection later than the time specified in subsection (1) or (2) if it considers the delay justifiable.

(4) Where an objection relates to tribunal's substantive jurisdiction and the tribunal has power to rule on its own jurisdiction, it may-

- (a) rule on the matter in an award as to jurisdiction; or
- (b) deal with the objection in its award on the merits:

Provided that, where the parties agree which

recourse to take, the tribunal shall proceed accordingly.

(5) The tribunal may, in any case, and shall if the parties so agree stay proceedings pending determination of an application made to the court under section 34.

Determination of preliminary point of jurisdiction

**34.**-(1) The court may, on the application of a party to arbitral proceedings and upon notice to the other party, determine any question as to the substantive jurisdiction of the tribunal.

(2) An application under this section shall not be considered unless-

(a) it is made with the agreement in writing of all the other parties to the proceedings; or

(b) it is made with the permission of the tribunal and the court is satisfied that-

(i) the determination of the question is likely to produce substantial savings in costs;

(ii) the application was made without delay; and

(iii) there is good reason why the matter should be decided by the court.

(3) An application under this section shall, unless made with the agreement of all the parties to the proceedings, state the grounds on which the court is vested with power to determine the matter.

(4) Unless otherwise agreed by the parties, the arbitral tribunal may continue the arbitral proceedings and make an award pending determination of an application under this section.

(5) An appeal shall not lie from a decision of the court whether or not the conditions prescribed in subsection (2) have been met, unless the court gives a leave to that effect.

(6) The decision of the court on the question of jurisdiction shall be treated as a judgment of the court for the purposes of an appeal.

(7) A leave of the appellate court shall not be granted unless the court is of the opinion that, the appeal involves a point of law of general importance or for other reasons, it is proper to be determined by the appellate court.

PART VII  
ARBITRAL PROCEEDINGS

General duty of  
tribunal

**35.**-(1) The tribunal shall-

- (a) act fairly and impartially as between the parties, giving each party a reasonable opportunity of putting his case and dealing with that of his opponent; and
- (b) adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters to be determined.

(2) The tribunal shall comply with the general duty referred to under subsection (1), in conducting the arbitral proceedings, in making decisions on matters of procedure and evidence, and in the exercise of all other powers conferred on it.

Procedural and  
evidential  
matters

**36.**-(1) The tribunal shall decide all procedural and evidential matters, subject to the agreement of the parties thereof.

(2) The procedural and evidential matters shall include-

- (a) when and where any part of the proceedings is to be held;
- (b) the language or languages to be used in the proceedings and whether translations of any relevant documents are to be supplied;
- (c) whether and if so, what form of written statements of claim and defence are to be used, when these should be supplied and the extent to which such statements can be later amended;
- (d) whether and if so, which documents or classes of documents shall be disclosed and produced by the parties and at what stage;
- (e) whether and if so, what questions should be put to and answered by the respective parties and when and in what form this shall be done;
- (f) whether to apply strict rules of evidence or any other rules as to the admissibility, relevance or weight of any material oral, written or other sought to be tendered on any matter of fact or opinion, and the time, manner and form in which such material shall be exchanged and presented;

(g) whether and to what extent the tribunal shall itself take the initiative in ascertaining the facts and the law; and

(h) whether and to what extent there shall be oral, written evidence or submissions.

(3) The tribunal may fix the time within which any directions given by it shall be complied with and may, if it thinks fit extend the time so fixed, whether or not it has expired.

Consolidation of proceedings

**37.**-(1) The parties may agree that-

(a) the arbitral proceedings shall be consolidated with other arbitral proceedings, or

(b) concurrent hearings shall be held, on such terms as may be agreed.

(2) Unless the parties agree otherwise, the tribunal shall not have power to order consolidation of proceedings or concurrent hearings.

Legal or other representation

**38.** A party to arbitral proceedings may be represented in the proceedings by a lawyer or other person chosen by him, unless the parties agree to the contrary.

Power to appoint experts

**39.**-(1) Unless otherwise agreed by the parties-

(a) the tribunal may-

(i) appoint experts or legal advisers to report to it and the parties; or

(ii) appoint assessors to assist it on technical matters,

and may allow any such expert, legal adviser or assessor to attend the proceedings; and

(b) the parties shall be given a reasonable opportunity to comment on any information, opinion or advice offered by any such person.

(2) The fees and expenses of an expert, legal adviser or assessor appointed by the tribunal for which the arbitrators are liable shall be expenses borne by the arbitrators for the purposes of this Act.

General power of tribunal

**40.**-(1) The parties may agree on the powers to be exercisable by the arbitral tribunal for the

purposes of and in relation to the proceedings.

(2) Unless otherwise agreed by the parties, the tribunal shall have the following powers:

- (a) to order a claimant to provide security for costs of the arbitration, except that such power shall not be exercised on the ground that the claimant is-
  - (i) an individual ordinarily resident outside Mainland Tanzania; or
  - (ii) a corporation or association incorporated or formed under the laws of a country outside Mainland Tanzania or whose central management and control is exercised outside Mainland Tanzania;
- (b) to give directions in relation to any property which is the subject of the proceedings or as to which any question arises in the proceedings, and which is owned by or is in the possession of a party to the proceedings-
  - (i) for the inspection, photographing, preservation, custody or detention of the property by the tribunal, an expert or a party; or
  - (ii) ordering that samples be taken from, or any observation be made of or experiment conducted upon the property;
- (c) to direct a party or witness to be examined on oath or affirmation as the case may be, and may for that purpose administer an oath or take affirmation; and
- (d) for the purposes of the proceedings, to give directions to a party to preserve any evidence in his custody or control.

Power to make provisional award

**41.**-(1) The parties may agree that the tribunal shall have powers to order on a provisional basis any relief which it would have powers to grant in a final award.

(2) The relief referred to under subsection (1) shall include making-

- (a) a provisional order for the payment of money or the disposition of property as between the parties; or
- (b) an order to make an interim payment on account of the costs of the arbitration.

(3) The tribunal's final award in relation to merits or cost shall take into account the order



referred to under subsection (1).

(4) Unless the parties agree to confer such powers on the tribunal, the tribunal shall not have powers to grant provisional award.

Duty of parties

**42.** The parties shall do all things necessary for the proper and expeditious conduct of the arbitral proceedings, and shall include-

- (a) compliance without delay to any determination of the tribunal as to procedural or evidential matters, or with any order or directions of the tribunal; and
- (b) where appropriate, taking without delay any necessary steps to obtain a decision of the court on a preliminary question of jurisdiction or law.

Power of tribunal  
in case  
of  
default  
by party

**43.**-(1) The parties may agree on the powers of the tribunal in case of a party's failure to take necessary steps for the proper and expeditious conduct of the arbitration.

(2) Unless otherwise agreed by the parties, the tribunal may exercise powers under the following circumstances-

- (a) where it is satisfied that there has been inordinate and inexcusable delay on the part of the claimant in pursuing his claim and that the delay-
  - (i) gives rise, or is likely to give rise, to a substantial risk that it is not possible to have a fair resolution of the issues in that claim; or
  - (ii) has caused, or is likely to cause, serious prejudice to the respondent,

the tribunal may make an award dismissing the claim;

(b) if without sufficient cause, a party-

- (i) fails to attend or be represented at an oral hearing of which due notice was given; or
- (ii) where matters are to be dealt with in writing, fails after due notice to submit written evidence or make written submissions,

the tribunal may continue the proceedings in the absence of that party or, as the case may be, without any written evidence or submissions on his behalf, and may make an award on the basis of the evidence before it;

(c) where without sufficient cause, a party fails to comply with any order or directions of the

tribunal, the tribunal may make a peremptory order to the same effect, prescribing such time for compliance with it as the tribunal considers appropriate;

- (d) where a claimant fails to comply with a peremptory order of the tribunal to provide security for costs, the tribunal may make an award dismissing his claim; and
- (e) where a party fails to comply with any other kind of peremptory order, then, without prejudice to section 44, the tribunal may do any of the following:
  - (i) direct that the party in default shall not be entitled to rely upon any allegation or material which was the subject matter of the order;
  - (ii) draw such adverse inferences from the act of non-compliance as the circumstances justify;
  - (iii) proceed to an award on the basis of such materials as have been properly provided to it; or
  - (iv) make such order as it deems fit as to the payment of costs of the arbitration incurred in consequence of the non-compliance.

Enforcement of  
peremptory  
orders

**44.**-(1) Unless otherwise agreed by the parties, the court may make an order requiring a party to comply with a peremptory order made by the tribunal.

(2) An application for an order under this section may be made-

- (a) by the tribunal upon notice to the parties;
- (b) by a party to the arbitral proceedings with the permission of the tribunal and upon notice to the other parties; or
- (c) where the parties have agreed that the powers of the court under this section shall be available.

(3) The court shall not make an order unless it is satisfied that the applicant has exhausted available arbitral process in respect of failure to comply with the tribunal's order.

(4) No order shall be made under this section unless the court is satisfied that the person to whom the tribunal's order was directed has failed to comply with it within the time

prescribed in the order or, if no time was prescribed, within a reasonable time.

(5) Leave of the court shall be required for any appeal against a decision made by the court under this section.

Attendance of  
witnesses

**45.**-(1) A party to arbitral proceedings may, with the permission of the tribunal or by agreement with the other party, and by using the same court procedures available in relation to other legal proceedings, secure the attendance of a witness before the tribunal to give oral testimony or to produce documents or other material evidence.

(2) The court procedures may be used where-

- (a) the witness is within Mainland Tanzania; and
- (b) the arbitral proceedings are conducted within Mainland Tanzania.

(3) A person shall not be compelled by virtue of this section to produce any document or other material evidence which he could not be compelled to produce in other legal proceedings.

Court powers

**46.**-(1) Unless otherwise agreed by the parties, the court shall, for the purposes of and in relation to arbitral proceedings, have the same power to make orders on matters provided for under subsection (2).

(2) The matters referred to under subsection (1) shall include-

- (a) the taking of the evidence of witnesses;
- (b) the preservation of evidence;
- (c) making orders relating to property which is the subject of the proceedings or as to which any question arises in the proceedings-
  - (i) for the inspection, photographing, preservation, custody or detention of the property; or
  - (ii) ordering that samples be taken from, or any observation be made of or experiment conducted upon the property,

and for that purpose, the tribunal may authorise any person to enter any premises in the possession or control of a party to the arbitration;

- (d) the sale of any goods which are the subject of the

- proceedings; or
- (e) the granting of an interim injunction or the appointment of a receiver.

(3) Where the case is one of urgency, the court may, on the application of a party or proposed party to the arbitral proceedings, make such orders as it thinks necessary for the purpose of preserving evidence or assets.

(4) Where the case is not one of urgency, the court shall act only on the application of a party to the arbitral proceedings and upon notice to the other parties and to the tribunal, made with the permission of the tribunal or the agreement in writing of the other parties.

(5) In any other case, the court shall act only if or to the extent that the arbitral tribunal, and any arbitral or other institution or person vested by the parties with power in that regard, has no power or is unable for the time being to act effectively.

(6) If the court so orders, an order made by it under this section shall cease to have effect in whole or in part on the order of the tribunal or of any such arbitral or other institution or person having power to act in relation to the subject matter of the order.

Determination of preliminary point of law

**47.**-(1) Unless otherwise agreed by the parties, the court may, on the application of a party to arbitral proceedings and upon notice to the other party, determine any question of law arising in the course of the proceedings which the court is satisfied that the matter substantially affects the rights of one or more of the parties.

(2) An agreement between the parties to dispense with reasons for the tribunal's award shall be considered an agreement to exclude the court's jurisdiction under subsection (1).

(3) An application under this section shall not be considered unless where-

- (a) it is made with the agreement of the other party to the proceedings; or
- (b) it is made with the permission of the tribunal and the court is satisfied that-
- (i) the determination of the question is likely to produce substantial savings of costs; and

- (ii) the application was made without delay.
- (4) The application shall identify the question of law to be determined and, unless made with the agreement of the other party to the proceedings, shall state the grounds on which it is said that the question should be decided by the court.
- (5) Unless otherwise agreed by the party, the arbitral tribunal may continue the arbitral proceedings and make an award pending an application to the court under this section.
- (6) Unless the court gives leave, no appeal shall lie from a decision of the court whether the conditions specified in subsection (2) are met.
- (7) The decision of the court on the question of law shall be treated as a judgment of the court for the purposes of an appeal.
- (8) A leave of the appellate court shall not be granted unless the court is of the opinion that, the appeal involves a point of law of general importance or for other reasons, it is proper to be determined by the appellate court.

Rules applicable to  
substance  
of  
dispute

**48.**-(1) The arbitral tribunal shall decide the dispute-

- (a) in accordance with the law chosen by the parties as applicable to the substance of the dispute; or
- (b) if the parties so agree, in accordance with such other considerations as are agreed by them or determined by the tribunal.

(2) For the purpose of this section, the choice of the laws of a country shall refer to the substantive laws of that country and not its conflict of laws rules.

(3) Where there is no such choice or agreement, the tribunal shall apply the law determined by rules of the conflict of laws which are applicable.

Awards on  
different  
issues

**49.**-(1) Unless otherwise agreed by the parties, the tribunal may make more than one award at different times on different aspects of the matters to be determined.

(2) The tribunal may, in particular, make an

award relating to-

- (a) an issue affecting the whole claim; or
- (b) a part of the claims or cross-claims submitted to it for decision.

(3) Where the tribunal make an award on a certain issue or a part of a claim under this section, it shall specify in its award the issue, or the claim or part of a claim, which is the subject matter of the award.

Remedies

**50.**-(1) The parties may agree on the powers exercisable by the arbitral tribunal as regards to remedies.

(2) Unless otherwise agreed by the parties, the tribunal shall have powers to-

- (a) make a declaration as to any matter to be determined in the proceedings; or
- (b) order the payment of a sum of money, in any currency.

(3) The tribunal shall have the same powers as the court to order-

- (a) a party to do or refrain from doing anything;
- (b) specific performance of a contract, other than a contract relating to land; or
- (c) the rectification, setting aside or cancellation of a deed or other document.

Interest

**51.**-(1) The parties may agree on the powers of the tribunal as regards the award of interest.

(2) The tribunal may, unless agreed otherwise by the parties, award simple or compound interest from such dates, at such rates and with such rests as it considers to be just-

- (a) on the whole or part of any amount awarded by the tribunal; or
- (b) on the whole or part of any amount claimed in the arbitration and outstanding at the commencement of the arbitral proceedings but paid before the award was made.

(3) The tribunal may award simple or compound interest from the date of the award or any later date, until payment, at such rates and with such rests as it considers just on the outstanding amount of any award, including any award of interest as provided under subsection (2) and any award as to costs.

(4) References in this section to an amount awarded by the tribunal shall include an amount payable in consequence of a declaratory award by the tribunal.

(5) The provisions of this section do not affect any other power of the tribunal to award interest.

Extension of time  
for  
making  
award

**52.**-(1) Unless otherwise agreed by the parties, where the time for making an award is limited by or in pursuance of the arbitration agreement the court may extend that time for making an award.

(2) An application for an order under this section may be made by-

- (a) the tribunal, upon notice to the parties; or
- (b) any party to the proceedings, upon notice to the tribunal and the other parties,

after exhausting any available arbitral process for obtaining an extension of time.

(3) The court shall make an order on an application under this section if it is satisfied that a substantial injustice would otherwise be done.

(4) The court may extend the time for such period and on such terms as it considers fit, and may do so whether or not the time previously fixed, by or under the agreement or by a previous order, has expired.

(5) Leave of the court shall be required for any appeal arising from a decision of the court under this section.

Settlement

**53.**-(1) Where the parties to arbitral proceedings have settled their dispute, unless stated otherwise by the parties, the tribunal shall terminate the substantive proceedings and where requested by the parties, record the settlement in the form of an agreed award.

(2) An agreed award shall state that it is an award of the tribunal and shall have the same status and effect as any other award on the merits of the case.

(3) The provisions of section 54 to 60 applies also to an agreed award.

(4) Where the parties have settled their

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dispute in terms of subsection (1) without agreement on payment of costs of the arbitration, the provisions of this Act relating to costs shall continue to apply.

Form of award

**54.**-(1) The parties may agree on the form of an award.

(2) Where there is no such agreement the award shall-

- (a) be in writing signed by all the arbitrators or all those assenting to the award;
- (b) contain the reasons for the award unless it is an agreed award or the parties have agreed to dispense with the reasons; and
- (c) state the seat of the arbitration and the date when the award is made.

Place where award treated as made

**55.** Where the seat of the arbitration is in Mainland Tanzania, unless otherwise agreed by the parties, any award in the proceedings shall be treated as made in Mainland Tanzania, regardless of where it was signed, dispatched or delivered to any of the parties.

Date of award

**56.**-(1) A tribunal may, unless otherwise agreed by the parties, decide what is to be considered as the date on which the award was made.

(2) In the absence of a decision of the tribunal, the date of the award shall be considered to be the date on which the award was signed by the arbitrator or, where more than one arbitrator signs the award, the date signed by the last arbitrator.

Notification of award

**57.**-(1) The parties may agree on the requirements as to notification of the award to the parties.

(2) Where there is no agreement by the parties, the tribunal shall notify the parties by service of copies of the award to the them, which shall be done without delay after the award is made.

Power to withhold award in case of non-payment

**58.**-(1) A tribunal may refuse to deliver an award to the parties where parties fail to make full payment of the fees and expenses of the



arbitrators.

(2) Where the tribunal refuses to deliver an award on the grounds referred to under subsection (1), a party to the arbitral proceedings may, upon notice to the other party and the tribunal, apply to court, and the court may order-

- (a) the tribunal to deliver the award on the payment into court by the applicant of the fees and expenses demanded, or such lesser amount as the court may specify;
- (b) that the amount of the fees and expenses properly payable shall be determined by such means and upon such terms as the court may direct; and
- (c) that out of the money paid into court, there shall be paid out such fees and expenses as may be found to be properly payable, and the balance of the money, if any, be paid out to the applicant.

(3) For purpose of subsection (2), the amount of fees and expenses to be properly payable is the amount the applicant is liable to pay under section 30 or any agreement relating to the payment of the arbitrators.

(4) An applicant shall, before making an application under subsection (2), exhaust any available arbitral process for appeal or review of the amount of the fees or expenses demanded.

(5) References in this section to arbitrators shall include an arbitrator who has ceased to act and an umpire who has not replaced the other arbitrators.

(6) The provisions of this section shall apply in relation to any arbitral institution or other institution or person vested by the parties with powers in relation to the delivery of the tribunal's award.

(7) For the purpose of subsection (6), the references to the fees and expenses of the arbitrators shall be construed to include the fees and expenses of an arbitral institution or other institution or person vested by the parties with powers in relation to the delivery of the tribunal's award.

(8) The leave of the court shall be required for

any appeal arising from a decision made under this section.

(9) Nothing in this section shall be construed as excluding an application under section 30 where payment has been made to the arbitrators in order to obtain the award.

Correction of award or additional award

**59.**-(1) The parties may agree on the powers of the tribunal to correct an award or make an additional award.

(2) Where parties fail to agree in terms of subsection (1), the tribunal may, on its own initiative or on the application of a party-

- (a) correct an award so as to remove any clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award; or
- (b) make an additional award in respect of any claim, including a claim for interest or costs, which was presented to the tribunal but was not dealt with in the award:

Provided that, the tribunal shall first afford the other parties a reasonable opportunity to make representations to it.

(3) An application for the exercise of powers under this section shall be made within twenty eight days from the date of the award or such longer period as the parties may agree.

(4) Any correction of an award shall be made -

- (a) in the case of an application of a party, within twenty eight days from the date the application was received by the tribunal;
- (b) where the correction is made by the tribunal on its own initiative, within twenty eight days from the date of the award; or
- (c) in either case, such longer period as the parties may agree.

(5) Any additional award shall be made within fifty six days from the date of the original award or such longer period as the parties may agree.

(6) Any correction of an award shall form part of the award.

Effect of award

**60.**-(1) An award made by the tribunal pursuant to an arbitration agreement shall,

unless otherwise agreed by the parties, be final and binding to both parties and to any person claiming through or under them.

(2) The provisions of subsection (1) shall not affect the right of a person to challenge the award by any available arbitral process of appeal or review or in accordance with the provisions of this Act.

## PART VIII COSTS OF ARBITRATION

Costs of arbitration **61.**-(1) In this Act, references to the costs of the arbitration shall be to-

- (a) the arbitrators' fees and expenses;
- (b) the fees and expenses of any arbitral institution concerned; and
- (c) the legal or other costs of the parties.

(2) Any reference referred to under subsection (1) shall include the costs of or incidental to any proceedings to determine the amount of the recoverable costs of the arbitration.

Agreement to pay costs in any event **62.** An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid where the agreement is made after the dispute in question has arisen.

Award of costs **63.**-(1) Subject to any agreement by the parties, the tribunal may make an award allocating the costs of the arbitration as between the parties.

(2) The tribunal shall, unless the parties otherwise agree, award costs on the general principle that costs shall follow the event, except where it appears to the tribunal that in the circumstances it is not appropriate in relation to the whole or part of the costs.

Effect of agreement or award **64.** Unless the parties otherwise agree, any

about  
costs

obligation under an agreement between the parties as to how the costs of the arbitration shall be borne, or under an award allocating the costs of the arbitration, extends only to such costs as are recoverable.

Recoverable costs  
of  
arbitration

**65.**-(1) Parties may agree on the recoverable costs of arbitration.

(2) The tribunal may, where there is no agreement between the parties as on the recoverable costs of arbitration, determine by award the recoverable cost on such basis as it considers fit, and it shall in doing so, specify-

- (a) the basis on which it has acted; and
- (b) the items of recoverable costs and the amount referable to each party.

(3) Where the tribunal does not determine the recoverable costs of the arbitration, any party to the arbitral proceedings may, upon notice to the other party apply to court, and the court may-

- (a) determine the recoverable costs of the arbitration on such basis as it deems fit; or
- (b) order that the recoverable costs of the arbitration shall be determined by such means and upon such terms as it may specify.

(4) Unless the tribunal or the court determines otherwise-

- (a) the recoverable costs of the arbitration shall be determined on the basis that there shall be allowed a reasonable amount in respect of all costs reasonably incurred; and
- (b) any doubt as to whether costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party.

(5) Nothing in this section shall affect any right of an arbitrator, expert, legal adviser or assessor appointed by the tribunal or any arbitral institution to the payment of their fees and expenses.

Recoverable fees  
and  
expenses  
of  
arbitrator

**66.**-(1) Unless otherwise agreed by the parties, the recoverable costs of the arbitration shall, in respect of the fees and expenses of the

s arbitrators, include such reasonable fees and expenses as are appropriate in the circumstances.

(2) For the purposes of determining the question as to what reasonable fees and expenses are appropriate in the circumstances, and where a matter is not already before the court on an application under section 65(4), the court may, on application by a party and upon notice to the other party-

- (a) determine the matter; or
- (b) order that the matter be determined by such means and upon such terms as the court may specify.

(3) Subsection (1) shall have effect to any order of the court under section 26(4) or 27(2)

(b).

(4) Nothing in this section shall affect the right of the arbitrator to payment of his fees and expenses.

Power to limit recoverable costs

**67.**-(1) Unless otherwise agreed by the parties, the tribunal may direct that the recoverable costs of the arbitration, or of any part of the arbitral proceedings, shall be limited to a specified amount.

(2) A tribunal may at any stage, vary its directive under subsection (1):

Provided that, such variation is done sufficiently in advance prior to-

- (a) the incurring of costs to which variation of the directives relates; or
- (b) the taking of any steps in the proceedings which may be affected by variation of the directives, for the limit to be taken into account.

## PART IX POWERS OF COURT IN RELATION TO AWARDS

Enforcement of award

**68.**-(1) An award made by the tribunal pursuant to an arbitration agreement may, by leave of the court, be enforced in the same manner as a judgment or order of the court.

(2) Where leave of the court is given, judgment may be entered in terms of an award.

(3) Leave to enforce an award shall not be

given where, or to the extent that, the person against whom it is sought to be enforced shows that the tribunal lacked substantive jurisdiction to make the award.

Challenging award  
on  
substantive  
jurisdiction

**69.**-(1) A party to arbitral proceedings may, upon notice to the other parties and to the tribunal, apply to court-

- (a) challenging any award of the arbitral tribunal as to its substantive jurisdiction; or
- (b) for an order declaring an award made by the tribunal on the merits to be of no effect, in whole or in part, on grounds that the tribunal did not have substantive jurisdiction.

(2) An arbitral tribunal may continue the arbitral proceedings and make a further award pending an application to the court under this section in relation to an award as to jurisdiction.

(3) The court may, on determination of an application under this section, make any of the following orders-

- (a) confirm the award;
  - (b) vary the award; or
  - (c) set aside the award in whole or in part.
- (4) Leave of the court shall be required for any appeal against a decision of the court made under this section.

Challenging award  
on  
serious  
irregularity

**70.**-(1) A party to arbitral proceedings may, upon notice to the other parties and to the tribunal, apply to the court challenging an award in the proceedings on the ground of serious irregularity affecting the tribunal, the proceedings or the award.

(2) For the purpose of this section, “serious irregularity” means an irregularity of one or more of the following kinds which the court considers has caused or is likely to cause substantial injustice to the applicant:

- (a) failure by the tribunal to comply with section 35;
- (b) the tribunal has exceeded its powers otherwise than by exceeding its substantive jurisdiction;
- (c) failure by the tribunal to conduct the proceedings in accordance with the procedure agreed by the parties;

- (d) failure by the tribunal to deal with all the issues that were raised before it;
- (e) any arbitral institution or other institution or person vested by the parties with powers in relation to the proceedings or the award exceeding its powers;
- (f) uncertainty or ambiguity as to the effect of the award;
- (g) the award being obtained by fraud or procured in a manner that is contrary to public policy;
- (h) failure to comply with the requirements as to the form of the award; or
- (i) any irregularity in the conduct of the proceedings or in the award which is admitted by the tribunal or by any arbitral or other institution or person vested by the parties with powers in relation to the proceedings or the award.

(3) The court may, where it determines that there is a serious irregularity affecting the tribunal, the proceedings or the award-

- (a) remit the award to the tribunal, in whole or in part, for reconsideration;
- (b) set the award aside in whole or in part; or
- (c) declare the award to be of no effect, in whole or in part:

Provided that, the court shall not exercise its power to set aside or to declare an award to be of no effect, in whole or in part, unless it is satisfied that it will be inappropriate to remit the matters in question to the tribunal for reconsideration.

(4) The leave of the court shall be required for any appeal against a decision of the court made under this section.

Appeal on point of  
law

**71.**-(1) Unless otherwise agreed by the parties, a party to arbitral proceedings may, upon notice to the other party and to the tribunal, appeal to the court on a question of law arising out of an award made in the proceedings.

(2) An agreement between the parties to dispense with reasons for the tribunal's award shall be considered an agreement to exclude the court's jurisdiction under section (1).

- (3) An appeal shall not be brought under this section except-
  - (a) by agreement with the other party to the proceedings; or
  - (b) with the leave of the court.

(4) The right to appeal under this section shall be subject to the restrictions in subsections (2) and (3) of section 72.

(5) Leave to appeal shall be given only if the court is satisfied that-

- (a) the determination of the question will substantially affect the rights of one or more of the parties;
- (b) the question is one which the tribunal was asked to determine;
- (c) on the basis of the findings of fact in the award-
  - (i) the decision of the tribunal on the question is wrong; or
  - (ii) the question is one of general public importance and the decision of the tribunal is open to serious doubt; and
- (d) despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in all the circumstances for the court to determine the question.

(6) An application for leave to appeal under this section shall identify the question of law to be determined and state the grounds on which it is alleged that leave to appeal shall be granted.

(7) The court shall determine an application for leave to appeal under this section without a hearing unless it appears to the court that a hearing is required.

(8) Where a party is aggrieved by an order of the court on application for leave to appeal, he may seek leave of court to appeal against that order.

(9) Where leave to appeal is granted and an appeal has been entertained, the court may, by order-

- (a) confirm the award;
- (b) vary the award;
- (c) remit the award to the tribunal, in whole or in part, for reconsideration in the light of the court's determination;
- (d) set aside the award in whole or in part; or
- (e) declare the award to be of no effect in whole or in part:

Provided that, the court shall not exercise its power to set aside an award, in whole or in



part, unless it is satisfied that it would be inappropriate to remit the matters in question to the tribunal for reconsideration.

(10) The decision of the court on an appeal under this section shall be treated as a judgment of the court for the purposes of further appeal.

(11) A leave of the appellate court shall not be granted unless the court is of the opinion that, the appeal involves a point of law of general importance or for other reasons, it is proper to be determined by the appellate court.

Challenge or  
appeal on  
suppleme  
ntary  
provision  
s

**72.**-(1) The provisions of this section shall apply to an application or appeal under sections 69, 70 or 71.

(2) An application or appeal shall not be brought where the applicant or appellant has not exhausted-

- (a) any available arbitral process of appeal or review; and
- (b) any available recourse under section 59.

(3) Any application or appeal shall be brought within twenty eight days from the date of the award or, where there has been any arbitral process of appeal or review, from the date when the applicant or appellant was notified of the result of that process.

(4) On any application or appeal, where it appears to the court that the award does not -

- (a) contain the tribunal's reasons; or
- (b) set out the tribunal's reasons in sufficient detail to enable the court properly to consider the application or appeal,

the court may order the tribunal to state the reasons for its award in sufficient detail for that purpose.

(5) Where the court makes an order under subsection (4), it may make such further order as it considers fit with respect to any additional costs of the arbitration resulting from its order.

(6) The court may order the applicant or appellant to provide security for the costs of the application or appeal, and may direct that

the application or appeal be dismissed where the order is not complied with.

(7) The power to order security for costs under subsection (6) shall not be exercised on the ground that the applicant or appellant is-

- (a) an individual ordinarily resident outside Mainland Tanzania; or
- (b) a corporation or association incorporated or formed under the law of a country outside Mainland Tanzania.

(8) The court may order that any money payable under the award shall be brought into court or otherwise secured pending the determination of the application or appeal, and may direct that the application or appeal be dismissed where the order is not complied with.

(9) The court may grant leave to appeal subject to conditions under subsections (6), (7) and (8).

(10) Subsection (8) shall not affect the general discretion of the court to grant leave subject to conditions as it may deem appropriate.

Challenge or  
appeal on  
effect of  
order of  
court

**73.**-(1) The following provisions shall have effect where the court makes an order under section 69, 70 or 71 with respect to an award.

(2) Where the award is varied, the variation shall have effect as part of the tribunal's award.

(3) Where the award is remitted to the tribunal, in whole or in part, for reconsideration, the tribunal shall make a fresh award in respect of the matters remitted within three months from the date of the order for remission or such longer or shorter period as the court may direct.

(4) Where the award is set aside or declared to be of no effect, in whole or in part, the court may order that any provision, that an award is a condition precedent to the bringing of legal proceedings in respect of a matter to which the arbitration agreement applies, is of no effect as regards to the subject matter of the award or, as the case may be, the relevant part of the award.

Saving for rights of  
person  
who  
takes no  
part in  
proceedin  
gs

**74.**-(1) A person who is an interested party to arbitral proceedings but who took no part in the proceedings may apply to court-

- (a) on questions that-
  - (i) whether there is a valid arbitration agreement;
  - (ii) whether the tribunal is properly constituted;
  - (iii) what matters shall be submitted to arbitration in accordance with the arbitration agreement; or
  - (iv) whether there is a contravention of laws and norms; and
- (b) for a declaration or injunction or other appropriate relief.

(2) The applicant under subsection (1) shall have the same right as a party to the arbitral proceedings to challenge an award by an application under -

- (a) section 69 on the ground of lack of substantive jurisdiction in relation to him; or
- (b) section 70 on the ground of serious irregularity, within the meaning of that section, affecting him, and section 72(2) shall not apply in his case.

Loss of right to  
object

**75.**-(1) Where a party to arbitral proceedings takes part, or continues to take part, in the proceedings without making, either forthwith or within such time as is allowed by the arbitration agreement or the tribunal or by any provision of this Act or the Law of Limitation Act, any objection that-

- (a) the tribunal lacks substantive jurisdiction;
- (b) the proceedings have been improperly conducted;
- (c) there has been a failure to comply with the arbitration agreement or with any provision of this Act; or
- (d) there has been any other irregularity affecting the tribunal or the proceedings,

he may not raise that objection, before the tribunal or the court, unless he shows that, at the time he took part or continued to take part in the proceedings, he did not know and could not

with reasonable diligence have discovered the grounds for the objection.

(2) Where the arbitral tribunal rules that it has substantive jurisdiction, a party to arbitral proceedings who could have questioned that ruling-

(a) by any available arbitral process of appeal or review;

(b) by challenging the award,

does not do so, or does not do so within the time allowed by the arbitration agreement or any provision of this Act, he may not object to the tribunal's substantive jurisdiction on any ground which was the subject of that ruling.

Immunity of  
arbitral  
institutions

**76.**-(1) An arbitral or other institution or person designated or requested by the parties to appoint or nominate an arbitrator shall not be liable for anything done or omitted in the discharge or purported discharge of that function unless the act or omission is proven to have been done in bad faith.

(2) An arbitral or other institution or person by whom an arbitrator is appointed or nominated shall not be liable, by reason of having appointed or nominated him, for anything done or omitted to be done by the arbitrator or his employees or agents, in the discharge or purported discharge of his functions as arbitrator.

(3) This section shall apply to an employee or agent of an arbitral or other institution or person as they apply to the institution or person himself.

## PART X ARBITRATION CENTRE

Establishment and  
operation  
of Centre

**77.**-(1) There shall be a center to know as the Tanzania Arbitration Centre.

(2) The functions of the Centre shall be-

(a) conduct and management of arbitration;

(b) registration and maintenance of list of accredited arbitrators;

(c) enforcement of the code of conduct and practice

for arbitrators;

- (d) management and provision of continuing education for arbitrators; and
- (e) to perform any other functions as the Minister may direct.

(3) The Centre may affiliate and seek accreditation from other regional and international bodies.

(4) In the performance of its functions the Centre shall be guided by the provisions of this Act and any other written laws.

(5) The Centre may establish branches as may be necessary for the proper and effective performance of its functions.

## PART XI ENFORCEMENT OF ARBITRAL AWARDS

Recognition and enforcement of arbitral awards

**78.**-(1) Upon application in writing to the court, a domestic arbitral award or foreign arbitral award may be recognised as binding and enforceable if it satisfies the following conditions:

- (a) at the request of the party against whom it is invoked, if that party furnishes to court proof that:
  - (i) parties to the arbitration agreement, pursuant to the law applicable-
    - (aa) lacked capacity to enter into the agreement;
  - (bb) was not properly represented;
  - (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication of that law, under the law of the state where the arbitral award was made;
  - (iii) the party against whom the arbitral award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;
  - (iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the reference to arbitration, or it contains decisions on matters beyond the scope of the reference to arbitration, provided that if the decisions on matters

referred to arbitration can be separated from those not so referred, that part of the arbitral award which contains decisions on matters referred to arbitration may be recognised and enforced;

- (v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing any agreement by the parties, was not in accordance with the law of the state where the arbitration took place; or
  - (vi) the arbitral award has not yet become binding on the parties or has been set aside or suspended by a court of the state in which, or under the law of which, that arbitral award was made;
- (b) the making of the arbitral award was induced or affected by fraud, bribery, corruption or undue influence;
- (c) if the court finds that-
- (i) the subject-matter of the dispute is not capable of settlement by arbitration under any written laws; or
  - (ii) the recognition or enforcement of the arbitral award would be contrary to any written laws or norms.

(2) If an application for the setting aside or suspension of an arbitral award has been made to a court referred to in subsection (1)(a)(vi), the court may, if it considers it proper, adjourn its decision and may also, on the application of the party, claiming recognition or enforcement of the arbitral award, order the other party to provide appropriate security.

(3) Enforcement of a foreign award may be refused at the request of the party against whom it is invoked, only if that party furnishes to the court proof that-

- (a) the parties to the agreement referred to in section 83 where, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made;
- (b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
- (c) the award deals with a difference not contemplated by

or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, except that where the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be enforced;

- (d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- (e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

(4) Enforcement of an arbitral award may also be refused if the Court finds that-

- (a) the subject-matter of the difference is not capable of settlement by arbitration under the laws of Mainland Tanzania; or
- (b) the enforcement of the award would be contrary to the public policy of Mainland Tanzania.

(5) Where an application for the setting aside or suspension of the award has been made to a competent authority referred to in subsection (1)(e) the Court may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

Deemed decrees

**79.** Where the court is satisfied that the award is enforceable under this Part, the award shall be deemed to be a decree of that court.

Appealable orders

**80.** Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie from the order refusing to-

- (a) refer the parties to arbitration under section 12; or
- (b) enforce an arbitral award under section 78,

to the court authorised by law to hear appeals from such order.

## PART XII MISCELLANEOUS PROVISIONS

Service of notices

**81.**-(1) The parties may agree on the manner of service of any notice or other document

required or authorised to be given or served in pursuance of the arbitration agreement or for the purposes of the arbitral proceedings.

(2) Where there is no agreement of the parties in terms of subsection (1), a notice or other document may be served on party and the tribunal by any effective means.

(3) A notice or other document shall be treated as effectively served if it is addressed, pre-paid and delivered by post-

(a) to the addressee's last known principal residence or, if he is or has been carrying on a trade, profession or business, his last known principal business address; or

(b) where the addressee is a body corporate, to the body's registered or principal office.

(4) This section shall not apply to the service of documents for the purposes of legal proceedings, for which provision is made by rules of court.

(5) References in this Act to a notice or other document including any form of communication in writing and references to giving or serving a notice or other document shall be construed accordingly.

Powers of court in relation to service of documents

**82.**-(1) This section shall apply where service of a document on a person in the manner agreed by the parties, or in accordance with provisions of section 76 having effect in default of agreement, is not reasonably practicable.

(2) Unless otherwise agreed by the parties, the court may make such order as it considers fit-

(a) for service in such manner as the court may direct; or

(b) dispensing with service of the document.

(3) Any party to the arbitration agreement may apply for an order after exhausting any available arbitral process for resolving the matter.

(4) The leave of the court shall be required for any appeal against a decision of the court made under this section.

Reckoning periods of time

**83.**-(1) The parties may agree on the method



of reckoning periods of time for the purposes of any provision agreed by them or any provision of this Act having effect in default of such agreement.

(2) Where there is no agreement of the parties in terms of subsection (1), periods of time shall be reckoned as follows:

- (a) where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date;
- (b) where the act is required to be done in a specified number of clear days after a specified date, at least that number of days between the day on which the act is done and that specified date; and
- (c) where the period is a period of seven days or less which may include a Saturday, Sunday or a public holiday in the place where anything which has to be done within the period falls to be done, that day shall be excluded.

Power of court to extend time limits relating to arbitral proceedings

**84.**-(1) Unless the parties otherwise agree, the court may by order extend any time limit agreed by the parties in relation to any matter relating to the arbitral proceedings or specified in any provision of this Act having effect in default of such agreement.

- (2) An application for an order may be made by-
  - (a) any party to the arbitral proceedings upon notice to the other party and to the tribunal; or
  - (b) the arbitral tribunal upon notice to the party.
- (3) The court shall not exercise its power to extend a time limit unless it is satisfied that-
  - (a) any available recourse to the tribunal, or to any arbitral or other institution or person vested by the parties with power in that regard, has first been exhausted; and
  - (b) a substantial injustice would otherwise be done.
- (4) The court's power under this section may be exercised whether or not the time has already expired.
- (5) An order under this section may be made on such terms as the court may deem fit.
- (6) Leave of the court shall be required for any appeal against a decision of the court made under this section.
- (7) This section shall not apply to a time limit

Notice and other requirements in connection with legal proceedings

to which section 14 applies.

**85.**-(1) References in this Part to an application, appeal or other step in relation to legal proceedings being taken “upon notice” to the other parties to the arbitral proceedings, or to the tribunal, shall be to such notice of the originating process as is required by rules prescribed by the Chief Justice.

(2) The rules prescribed under subsection (1) shall be made-

- (a) requiring such notice to be given as indicated by any provision of this Act; and
- (b) as to the manner, form and content of any such notice.

(3) Without prejudice to the rules prescribed under subsection (1), a requirement to give notice to the tribunal of legal proceedings shall be construed-

- (a) if there is more than one arbitrator, as a requirement to give notice to each of them; and
- (b) if the tribunal is not fully constituted, as a requirement to give notice to any arbitrator who has been appointed.

(4) References in this Act to making an application or appeal to the court within a specified period shall be to the issue within that period of the appropriate originating process in accordance with rules prescribed under subsection (1).

(5) Where any provision of this Act requires an application or appeal to be made to the court within a specified time, the rules prescribed under subsection (1) relating to the reckoning of periods, the extending or abridging of periods, and the consequences of not taking a step within the period prescribed by the rules, shall apply in relation to that requirement.

(6) The rules made under subsection (1) may provide for-

- (a) matters with respect to the time within which any application or appeal to the court shall be made;
- (b) any matter to be in line with arbitral proceedings as provided for in this Act; or
- (c) any matter of legal proceeding, as provided for in

this Act, to be in line with court legal proceedings.

Application and  
construction

**86.** In applying and construing this Act, an arbitrator shall have regard to positions taken by other arbitrators in similar subject matter as well as positions taken by courts of law in such matters, and justify his decision in the event he decides to differ with the position of other arbitrators or courts.

Electronic  
signatures

Cap. 6

**87.** The provisions governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures made by the Evidence Act or practice direction by the Chief Justice or other laws in force shall apply to proceedings under this Act.

Accreditation

Cap. 33

**88.** An arbitrator who decides to practice at a fee shall be required to register in accordance with the system put in place pursuant to section 64 of the Civil Procedure Code or any other law for the time being in force.

Reciprocal  
enforcement

**89.** A party who intends to enforce a final award shall do so in accordance to the provisions of this Act.

Regulations, rules  
and  
practice  
directions

**90.**-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations on the following matters:

- (a) the scale of fees to be applied in arbitration matters;
- (b) forms to be used in arbitration matters;
- (c) accreditation of arbitrators;
- (d) prescribe fee thresholds to be charged by arbitrators; and
- (e) prescribe anything which is by this Act required or permitted to be prescribed or otherwise provided for.

(3) The Chief Justice in consultation with the Minister may make rules or issue practice

directions as may be necessary with regards to matters that the court may be involved in accordance with this Act.

Repeal, savings  
and  
transition  
al  
arrangem  
ents  
Cap. 15

**91.**-(1) The Arbitration Act, 1931 is hereby repealed.

(2) Anything done or concluded and the repealed Act or regulations shall be deemed to have been done or concluded under this Act.

(3) Any arbitration arrangement concluded before the coming into effect of this Act which has not yet materialized shall be renegotiated and brought in line with this Act.

(4) Any proceedings pending shall be proceeded in the light of this Act.

(5) Any Award which has been granted shall be deemed to have been granted under this Act.

### PART XIII CONSEQUENTIAL AMENDMENTS

#### *(a) Amendment of the Criminal Procedure Act, Cap. 20*

Construction  
Cap. 20

**92.** Item (a) of this part shall be read as one with the Criminal Procedure Act herein referred to as “the principal Act”.

Amendment  
of  
section  
163

**93.** The principal Act is in section 163, by-

(a) designating the contents of section 163 as contents of subsection (1);

(b) adding immediately after subsection (1) as designated the following:

“(2) For the purpose of subsection (1), a court may, with the consent of the complainant, reconcile the parties or otherwise advise the parties to seek the service of a reconciliatory.

(3) The terms approved by the court under subsection (1) may include-

(a) giving of an apology in an appropriate manner;

- (b) giving of a promise or undertaking not to reoffend, or to respect the rights and interests of any victim;
  - (c) mandatory attendance at any counselling services or other program aimed at rehabilitation;
  - (d) a promise or undertaking to alter any habits or conduct, such as the consumption of alcohol or any other prohibited substance;
  - (e) a promise or undertaking not to associate with persons shown to be of bad habit or influence to the accused person, or
  - (f) any other term the court may deem proper to make taking into account the circumstances of the case.
- (4) A court shall only proceed under subsection (2) where it is satisfied that it is in the interests of the complainant to proceed in such a manner, and in any case involving domestic violence, the court shall ensure that the victim of the violence does not submit to any proceedings being undertaken in accordance with this section by reason of pressure being exerted to him or her in any form by the accused person.
- (5) Upon proceeding in accordance with this section the court may-
- (a) order the proceedings to be stayed for a specified period of time upon the accused person entering into any bond to comply with the terms imposed by the court under subsection (2); or
  - (b) dismiss the proceedings.
- (6) The reconciliator shall make proper record of every aspect of the outcome of the proceedings on the court files and in the records of an accused person whose case has been dealt with in accordance with the procedures specified in this section.
- (7) The Minister may, in consultation with the Chief Justice, make rules for better implementation of the provisions of this section.”.

Addition of sections 170A, 170B and 170C

94. The principal Act is amended by adding immediately after section 170 the following:

“Compounding of offences

**170A.**-(1) Where the court takes cognizance of a compoundable offence specified in subsection (6) of section 170 or under any other law for the time being in force, the court may appoint a probation officer or such other officer as may be agreed upon by the parties to facilitate compounding of the offence:

Provided that, the court shall not refer a case for compounding of an offence-

- (a) without the consent of the parties; or
- (b) the court is satisfied that the accused was afforded an opportunity of compounding the offence for which the offence relates.

(2) The officer appointed under sub-section (1) shall endeavor to facilitate compounding of the offence within thirty days.

(3) Where the offence is

compounded, the officer appointed under subsection (1) shall submit a report in this respect to the court duly witnessed and signed by him and by the persons authorized to compound the offence under any law for the time being in force, and the court shall pass an order and discharge the accused.

(4) Where the efforts of the officer appointed under subsection (1) for compounding the offence fail, the court shall proceed with the trial from the stage it was referred to the said officer.

(5) Where the parties have themselves resorted to procedures for compounding of the offence and the offence is compounded in terms of subsection (6) of section 170 or any other law for the time being in force, they may make application to the court in terms thereof, and if the

court is satisfied that the parties have voluntarily compounded the offence and the document recording their agreement has been duly filed in court, the court shall pass an order accordingly and discharge the accused person.

(6) Subsection (6) of section 170 or any other law under which the offence is compoundable shall *mutatis mutandis* apply to the proceedings under this section.

Enforcement of a  
compounding  
order

**170B.**-(1) Where a compounding order has been issued under this Act or any other law for the time being in force for the payment of a fine and the accused person fails in wholly or in part to make such payment within the prescribed time, the officer authorised to compound the offence shall either-

- (a) issue a warrant for the levy of the amount on the immovable and movable property of



the accused person; or  
(b) agree with the accused person on alternative sanction, including the performance of supervised community work in lieu of payment of the prescribed fine.

Cap. 16

(2) Where the options stated in subsection (1) fails, the accused person shall be taken to court to be dealt with in accordance with section 29(d) of the Penal Code imprisonment arising from default to pay a fine.

Regulations

**170C.** The Minister may make Regulations for the better carrying out of the provisions of sections 170, 170A and 170B.”.

*(b) Amendment of the Civil Procedure Code, Cap. 33*

Construction  
Cap. 33

**95.** Item (b) of this part shall be read as one with the Civil Procedure Code herein referred to as “the principal Act”.

Addition of section  
10A

**96.** The principal Act is amended by adding immediately after section 10 the following:

“Bonafide steps to  
resolve  
dispute

**10A.**-(1) For the purposes of this Act, a person shall be deemed to have taken bonafide steps to resolve a dispute if the steps

taken by the person in relation to the dispute constitute a sincere and genuine attempt to resolve the dispute out of court, having regard to the person's circumstances and the nature and circumstances of the dispute.

(2) For purposes of this Act, the following steps may be taken by a person as part of bonafide steps to resolve a dispute with another person-

- (a) notifying the other person of the issues that are, or may be, in dispute, and offering to discuss them with a view to resolving the dispute;
- (b) responding appropriately to any notification referred to under paragraph (a);
- (c) providing relevant information and documents to the other person to enable the other person to understand the issues involved and how the dispute may be resolved;
- (d) considering whether the dispute could be resolved by a process

- other than a court action, including reconciliation, negotiation, mediation, arbitration, warning, diversion, as applicable;
- (e) if a process referred under paragraph (d) is agreed to-
    - (i) agreeing on a particular person to facilitate the process, where feasible; and
    - (ii) attending the process;
  - (f) if a process agreed under paragraph (e) is conducted but does not result in resolution of the dispute, considering a different process; or
  - (g) attempting to reconcile or negotiate with the other person or otherwise engage in independent evaluation, with a view to resolving some or all the issues in dispute, or authorizing a representative to do so, before escalating the matter to mediation or arbitration.
- (3) For avoidance of doubt, the provisions of subsection (1) shall not limit the steps that may constitute taking bonafide steps to resolve a dispute.
- (4) The provisions

of this section shall apply to all proceedings intended to be initiated in court.”.

Addition of sections 22A, 22B, and 22C

**97.** The principal Act is amended by adding immediately after section 22 the following:

; or frivolous proceedings prohibited

**22A.** Without prejudice to the right to access a court or other dispute resolution mechanisms, no person shall engage in proceedings for the purposes of harassing or subduing another person.

Power to make orders

**22B.-** Where, on an application made by-

- (a) the Attorney General;
- (b) if the person has made a vexatious application against another person, that other person; or
- (c) a person who has a sufficient interest in a matter,

under this section, the court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious proceedings,

whether alone or in concert with any other person and whether in the court or in any other dispute resolution mechanism, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, make an order declaring such person to be a vexatious litigant.

Restraint  
of  
proceedin  
gs

**22C.** No suit shall, except with leave of the High Court be instituted by or on behalf of a vexatious litigant in any court, and any suit instituted by him in any court before the making of an order under this Part shall not be continued by him without the leave, and such leave shall not be given unless the High Court is satisfied that the suit is not an abuse of the process of the court and that there is a prima

facie ground for the suit.

Addition of sections 64B, 64C and 64D.

**98.** The principal Act is amended by adding immediately after section 64 the following:

“Accreditation matters

**64B.**-(1) The Minister shall establish and maintain a system of accreditation for reconciliators, negotiators, mediators and arbitrators and keep a register of accredited persons who may be involved in facilitation of reconciliations, negotiations, mediations and arbitrations.

(2) No person shall practice for fee as reconciliator, negotiator, mediator or arbitrator unless such a person is accredited in accordance with subsection (1).

(3) It shall be an offence to practice for fee as a reconciliator, negotiator, mediator, arbitrator or any other category of a dispute resolution practitioner without being accredited.

(4) Any person who commits an offence under this section, on conviction be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding two years or to both.

(5) The Registrar may, where the accused person admits the commission of an offence under this section, compound the offence and impose a fine of not more than five million shillings/ not exceeding one half of the fine imposed under subsection (4).

(6) The Minister may, on advice in writing by the Registrar, extend the accreditation system for reconciliators, negotiators, mediators and arbitrators to other categories of the dispute resolution providers.

nent and functions of Registrar

**64C.**-(1) There shall be appointed within the Ministry responsible for

legal affairs a person not below the rank of a Principal State Attorney to be the Registrar of reconciliators, negotiators, mediators and arbitrators.

(2) The Registrar shall perform the following functions:

- (a) determine the criteria for the certification and accreditation of reconciliators, negotiators, mediators and arbitrators;
- (b) propose rules for the certification and accreditation of reconciliators, negotiators, mediators and arbitrators;
- (c) maintain a register of qualified reconciliators, negotiators, mediators and arbitrators;
- (d) issue annual or periodic practicing certificate to an accredited reconciliator, negotiator, mediator and arbitrator as the case may be; and
- (e) enforce such code of practice for reconciliators, negotiators, mediators and arbitrators as may be prescribed.



societies and regulations

**64D.-**

(1) Accredited reconciliators, negotiators, mediators or arbitrators shall be entitled to establish different societies in accordance with the law regulating establishment of societies.

(2) Every society duly established pursuant to subsection (1) shall notify the Registrar who shall register the society in the Register.

(3) Every society established pursuant to this section shall comply with the minimum standards for reconciliators, negotiators, mediators or arbitrators.

(4) The Minister may make regulations prescribing for-

- (a) minimum standard for reconciliators, negotiators, mediators or arbitrators;
- (b) rules of procedures for reconciliation, negotiations and mediations;
- (c) code of conduct and practice for

- reconciliators,  
negotiators, mediators  
or arbitrators;
- (d) forms or any other  
templates or electronic  
based system for  
purposes of this Act;  
or
- (e) any other areas that he  
deems proper to  
prescribe procedures  
for purposes of this  
Act.

*(c) Amendment of the Natural Wealth and Resources  
(Permanent Sovereignty) Act, Cap. 449*

Construction  
Act No. 5 of 2017

**99.** Item (c) of this part shall be read as one with the Natural Wealth and Resources (Permanent Sovereign) Act herein referred to as “the principal Act”.

Amendment of  
section  
11

**100.** The principal Act is amended in section 11 by deleting the word “established” appearing in subsections (2) and (3).

*(d) Amendment of the Public Private Partnership Act*

Construction  
Cap. 103

**101.** Item (d) of this part shall be read as one with the Public Private Partnership Act herein referred to as “the principal Act”.

Amendment of  
section  
22

**102.** The principal Act is amended in section 22 by deleting the word “established” appearing in paragraph (b).

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SCHEDULE

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*(Made under section 7(1))*

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MANDATORY PROVISIONS OF PART I

- (a) sections 13 (relating to stay of legal proceedings);
- (b) section 14 (relating to power of court to extend agreed time limits);
- (c) section 15 (relating to application of the Law of Limitation Acts);
- (d) section 26 (relating to power of court to remove arbitrator);
- (e) section 28(1) relating to (effect of death of arbitrator);
- (f) section 30 (relating to liability of parties for fees and expenses of arbitrators);
- (g) section 31 (relating to immunity of arbitrator);
- (h) section 32 (relating to objection to substantive jurisdiction of tribunal);
- (i) section 34 (relating to determination of preliminary point of jurisdiction);
- (j) section 35 (relating to general duty of tribunal);
- (k) section 39(2) (relating to items to be treated as expenses of arbitrators);
- (l) section 42 (relating to general duty of parties);
- (m) section 45 (relating to securing the attendance of witnesses);
- (n) section 58 (relating to power to withhold award in case of non-payment);
- (o) section 64 (relating to effectiveness of agreement for payment of costs in any event);
- (p) section 68 (relating to enforcement of award);
- (q) sections 69 and 70 (relating to challenging the award: substantive jurisdiction and serious irregularity);
- (r) sections 72 and 73 (relating to supplementary provisions and effect of order of court)
- (s) section 74 (relating to saving for rights of person who takes no part in proceedings);
- (t) section 75 (relating to loss of right to object); and
- (u) section 76 (relating to immunity of arbitral institutions).

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OBJECT AND REASONS

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This Bill intends to provide for the enactment of the Arbitration Act 2020, with a purpose of facilitating amicable settlement of disputes outside the court system as well as enforceability of arbitration agreements. This Bill responds to the challenges faced by the Mainland Tanzania in managing and addressing many issues emerging in arbitration cases including guidance to, general principles guiding arbitration, meaning and nature of arbitration agreements, commencement and enforcement of arbitral awards and general amendments that intend to introduce and regulate various forms of alternative dispute settlement methods as an integral part of arbitration.

This Bill is divided into XIII Parts.

Part I contains preliminary Provisions which includes short title, commencement date, application and interpretation of various terms and phrases used in the proposed Bill.

Part II provides for General Provisions which elaborate general principles which apply in arbitration matters, conditions to be adhered to, where arbitration is held in Mainland Tanzania, seat of arbitration as well as description of mandatory and non- mandatory provisions. This Part also provides for the requirement of arbitration agreement to be in writing.

Part III deals with various aspects relating to arbitration agreements such as construction of arbitral agreement, separability of arbitration agreement and what happens where a party to an arbitration agreement dies.

Part IV provides for commencement of arbitral proceedings and it contains provisions relating to power of court to extend the time for commencing arbitral proceedings, application of the Law of Limitation Act, Cap. 89 and commencement of arbitral proceedings.

Part V deals with arbitral tribunal and among other matters it contains provisions relating to appointment of arbitrators, chairmen and umpire. The Part also provides for general matters relating to the composition of arbitral tribunal.

Part VI contains provisions providing for jurisdiction of arbitral tribunal, it also outlines the procedure to challenge jurisdiction of the arbitral tribunal. This Part also states the procedure to be pursued when a party to arbitral proceedings intends to raise a preliminary objection as to the jurisdiction of the tribunal in court of law.

Part VII deals with proceedings in the tribunal specifically the general duty of the tribunal, procedural and evidential matters, consolidation of proceedings and appointment of legal representatives or experts. This Part further provides for powers of the tribunal where a party has failed to comply with necessary steps ordered, the part also provides for the grounds on which the court can enforce peremptory orders issued by a tribunal in the event of default by a party.

Part VIII deals with matters relating to costs of arbitration. It also contains provisions catering for recoverable fees and expenses of arbitrators and other matters related thereto such as limit of recoverable costs.

Part IX provides for the power of the court in matters involving enforcement of award, appeal on a point of law. It further provides for procedure relating to saving of interested party who could not participate in the proceedings. Lastly, this Part provides for immunity of arbitral institutions.

Part X provides for the establishment of the Tanzania Arbitration Centre which shall deal with Arbitration disputes arising within and outside Mainland Tanzania. This Part further mandates the Centre to affiliate with other International Arbitration Centres.

Part XI provides for recognition and enforcement of domestic and foreign awards. The Part further gives the meaning of those awards, their conditions and enforcement, criteria as well as meaning of various decrees and orders by the court.

Part XII deals with Miscellaneous provisions which relate to the procedure for service of notices, power of court in relation to service of documents, reckoning of time, power of court to extend time relating to arbitral proceedings and other requirement in connection with legal proceedings.

Part XIII deals with Consequential Amendments of certain written laws whereby the Civil Procedure Code Cap.33, Criminal Procedure Act Cap 20, the Natural Wealth and Resources (Permanent Sovereignty) Act, Cap. 449 and the Public Private Partnership Act, Cap. 103 are proposed to be amended

MADHUMUNI NA SABABU

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Muswada huu unapendekeza kufuta Sheria ya Usuluhishi, Sura ya 15 na kutunga Sheria mpya ya Usuluhishi ya Mwaka 2020 (The Arbitration Act, 2020). Lengo la Sheria hii ni kuweka masharti ya utatuzi wa migogoro kirafiki nje ya mfumo wa mahakama pamoja na kuwezesha utekelezaji makubaliano ya kiusuluhishi. Muswada huu umekusudia kutatua changamoto mbalimbali zilizokuwa zinaikabili Nchi katika kusimamia na kushughulikia masuala mbalimbali yanayotokana na mashauri ya usuluhishi pamoja na kutoa mwongozo unaohusu misingi ya usuluhishi, maana ya usuluhishi na chanzo cha makubaliano ya usuluhishi. Sheria inayopendekezwa inalenga kuweka utaratibu wa utekelezaji wa Mikataba ya Kimataifa ya Usuluhishi ambayo Tanzania Bara imeridhia na kuweka mfumo madhubuti wa usimamizi na utatibu wa wasuluhishi.

Muswada huu umegawayika katika sehemu kumi na tatu.

Sehemu ya Kwanza ya Muswada inahusu masharti ya utangulizi, ambayo yanajumuisha jina la Muswada, tarehe ya kuanza kutumika kwa Sheria, matumizi na tafsiri ya maneno na misamiati mbalimbali iliyotumika katika Muswada huu.

Sehemu ya Pili ya Muswada inaainisha masharti ya jumla ya usuluhishi, eneo usuluhishi unapofanyika pamoja na masharti ya kuzingatiwa iwapo usuluhishi utafanyikia Tanzania Bara. Sehemu hii pia inaweka sharti la makubaliano ya usuluhishi kuwa katika maandishi.

Sehemu ya Tatu ya Muswada inahusu masuala mbalimbali ya makubaliano ya usuluhishi ikiwemo kutafsiri makubaliano ya usuluhishi na hatma ya makubaliano iwapo mmoja wa muhusika atafariki.

Sehemu ya Nne ya Muswada ina masharti yanayohusu kuanza kwa usuluhishi, uwezo wa mahakama kuongeza muda wa kuanza kwa usuluhishi na kutumika kwa Sheria ya Ukomo wa Muda, Sura ya 89( The Law of Limitation Act, Cap 89).

Sehemu ya Tano ya Muswada inahusu mambo mbalimbali yanayohusu Mabaraza ya Usuluhishi ikiwemo uteuzi wa wasuluhishi, mwenyekiti na waamuzi. Sehemu hii pia ina masharti yanayohusu muundo wa Baraza la Usuluhishi.

Sehemu ya Sita ya Muswada inaainisha mamlaka ya Baraza la Usuluhishi na kuweka utaratibu wa kuhoji mamlaka ya Baraza. Aidha, Sehemu hii pia inaweka utaratibu wa kufuatwa pindi mhusika anapodhamiria kuweka pingamizi la awali kuhusu mamlaka ya Baraza.

Sehemu ya Saba ya Muswada ina masharti yanayohusu mwenendo wa mashauri kwenye Baraza kwa kuainisha wajibu wa Baraza, masuala ya taratibu za ushahidi, uteuzi wa wanasheria au wataalam. Vilevile, inaainisha kuhusu mamlaka ya Baraza na amri ambazo Baraza linaweza kuzitekeleza kwa mhusika aliyeshindwa kutekeleza amri za awali za Baraza hilo.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Sehemu ya Nane ya Muswada inahusu masuala ya gharama za usuluhishi ikiwemo gharama ambazo zinaweza kufidiwa pamoja na gharama za wasuluhishi na ukomo wa gharama hizo.

Sehemu ya Tisa ya Muswada inahusu mamlaka ya mahakama kuhusiana na utekelezaji wa tuzo na haki ya rufaa endapo kuna ukiukwaji wa sheria. Aidha, inatoa mwongozo kuhusiana na mhusika ambaye ameshindwa kushiriki katika shauri la usuluhishi na kutoa kinga kwa taasisi za usuluhishi.

Sehemu ya Kumi ya Muswada inaainisha masharti kuhusu uanzishwaji wa Kituo cha Usuluhishi ambacho kitashughulika na usuluhishi wa migogoro ya ndani na nje ya Tanzania Bara. Aidha Kituo hicho kitakuwa na uwezo wa kujifungamanisha na vituo vingine vya usuluhishi vya Kimataifa.

Sehemu ya Kumi na Moja ya Muswada inaainisha masharti kuhusu utambuzi na utekelezaji wa tuzo zilizotolewa ndani na nje ya nchi. Sehemu hii inatoa pia tafsiri ya tuzo, vigezo na masharti ya utekelezaji wa tuzo hizo pamoja na namna ambavyo Mahakama itatambua Amri mbalimbali zinazotolewa.

Sehemu ya Kumi na Mbili inahusu masharti ya nyongeza kuhusiana na taratibu za kutoa wito wa kufika kwenye Baraza na taratibu za kufikisha nyaraka . Sehemu hii pia inaelezea mamlaka ya mahakama kuongeza muda wa mashauri ya usuluhishi.

Sehemu ya Kumi na Tatu ya Muswada inahusu Marekebisho Yatokanayo, ambapo Sheria ya Mwenendo wa Mashauri ya Madai, Sura ya 33, na Sheria ya Mwenendo wa Mashauri ya Jinai, Sura ya 20 Sheria ya Mamlaka ya Nchi na Usimamizi wa Maliasilia za Nchi, Sura ya 449 na Sheria ya Ubia Baina ya Sekta ya Umma na Sekta Binafsi zinapendekezwa kufanyiwa marekebisho.

Dodoma,  
22 Januari, 2020

AUGUSTINE P. MAHIGA  
*Waziri wa Katiba na Sheria*

### **JEDWALI LA MAREKEBISHO YA MUSWADA WA SHERIA YA USULUHISHI - KAMA LILIVYOWASILISHWA MEZANI**

#### **SCHEDULE OF AMENDMENT TO BE MOVED BY HON. AUGUSTINE P. MAHIGA, THE MINISTER FOR CONSTITUTION AND LEGAL AFFAIRS AT THE SECOND READING OF THE BILL ENTITLED "THE ARBITRATION ACT 2020"**

\_\_\_\_\_  
*Made under S.O.86(10)*  
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## NAKALA YA MTANDAO (ONLINE DOCUMENT)

A Bill entitled "The Arbitration Act, 2020 is amended generally as follows:

By deleting the word "commercial" wherever it appears in the Long Title.

By deleting the word "tribunal" wherever it appears in the Bill and substituting for it the words "arbitral tribunal".

In Clause 3 -

(a) by deleting the definition of the terms "arbitration," "arbitral award", "arbitrator", "foreign award" and "international commercial arbitration" and substituting for them the following:

"arbitration" means a process by which parties submit a dispute to the decision of a neutral person or persons appointed by mutual consent or in accordance with the provisions of this Act;

"arbitral award" means a decision of the arbitral tribunal on the substance of a dispute and includes any interim or interlocutory;

"arbitrator" means a person who handles arbitration disputes in the manner provided under this Act;

"foreign award" means an award where the juridical seat of arbitration is in a territory or state other than the United Republic;

"international arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in the United Republic and where at least one of the parties is-

(e) an individual who is a national of, or habitually resident in, any country other than the United Republic;

(f) a body corporate which is incorporated in any country other than the United Republic;

(g) an association or a body of individuals whose central management and control is exercised in any country other than the United Republic; or

(h) the Government of a foreign country; "

(b) by adding in the appropriate alphabetical order, the following new definition:

"confidential information-

(a) in relation to arbitral proceedings, means information that relates to the arbitral proceedings or to an award made in those proceedings, and includes-

(i) the statement of claim, statement of defence, and all other pleadings, submissions, statements, or other information supplied to the arbitral tribunal by a party;

(ii) any evidence, whether documentary or otherwise, supplied to the arbitral tribunal;

(iii) any notes made by the arbitral tribunal of oral evidence or submissions given before the arbitral tribunal;

(iv) any transcript of oral evidence or submissions given before



## NAKALA YA MTANDAO (ONLINE DOCUMENT)

- the arbitral tribunal;
- (v) any rulings of the arbitral tribunal;
- (vi) any award of the arbitral tribunal;
- (b) in relation to confidential information, includes publishing or communicating or otherwise supplying the confidential information;"
- (c) by deleting the definition of the term "domestic commercial arbitration";

By adding immediately after Clause 3 the following:

- "D **3A.** An arbitration agreement shall be deemed to be a domestic arbitration if it provides expressly or by implication for arbitration in Mainland Tanzania, and at the time when proceedings are commenced or the arbitration is entered into-

- (e) where the arbitration is between individuals, the parties are nationals of the United Republic or are resident in the United Republic;
- (f) where the arbitration is between bodies corporate, the parties are incorporated in the United Republic or their central management and control are exercised in the United Republic;
- (g) where the arbitration is between an individual and a body corporate-
  - (iii) the party who is an individual is a national of the United Republic or is resident in the United Republic; or
  - (iv) the party that is a body corporate is incorporated in Mainland Tanzania or its central management and control is exercised in Mainland Tanzania; or
- (h) the place where a substantial part of the obligations of the commercial relationship is to be performed, or the place in which the subject matter of the dispute is Mainland Tanzania."

In Clause 4 by deleting paragraph (a) and substituting for it the following:

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the object of arbitration is-

- (i) to obtain the fair resolution of disputes by an impartial tribunal without delay or expense; and
- (ii) to promote consistency between domestic and international arbitration;"

undue delay or incurring of unreasonable expense

By adding immediately after Clause 4, a new Clause 4A as follows:

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**4A.**-(1) The term "court"-

- (a) in relation to domestic arbitration, means the district court, resident magistrate's court, the High Court exercising its original or appellate jurisdiction or the Court of Appeal; or

- (b) in relation to international arbitration, means the High Court in the exercise of its ordinary original civil jurisdiction.

(2) The manner of recognition and dealing with foreign arbitration in the United Republic shall be as prescribed in the respective laws governing arbitration.

(3) For the purpose of subsection (1)(a), jurisdiction of court shall be in accordance with the Magistrate's Court Act and any other written laws."

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In Clause 6, by-

- (a) deleting the words "In this Act" appearing in the opening phrase of the Clause and substituting for them the words " For the purpose of section 5,"; and
- (b) adding the word "or" at the end of paragraph (b); and
- (c) deleting the semicolon and the word "or" appearing at the end of paragraph (c) and substituting for them a fullstop;
- (d) deleting paragraph (d).

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In Clause 8, by-

- (a) deleting the word “made” appearing in paragraph (a) of subclause (3); and
- (b) re-designating the contents of the repeated subclause (5) as contents of subclause (6).

In Clause 9 by inserting the word “arbitration” between the words “the” and “agreement”.

In Clause 12, by-

- (a) inserting the words “of claim” between the words “statement” and “on” appearing in subclause (1); and
- (b) deleting the word “Court” appearing at the end of paragraph (2) and substituting for it the word “court”.

In Clause 13 by inserting the words “in the arbitration agreement to the effect” between the words “provision” and “that” appearing in subclause (5).

By deleting Clause 14 and substituting for it the following:

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**14.** Where the time to commence arbitration proceedings or other dispute resolution procedures has lapsed on the basis of limitation set out in the agreement, a party aggrieved may seek for extension of time in the manner prescribed under the Law of Limitation Act.”

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By deleting Clause 16 and substituting for it the following:

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**16.** Unless the parties otherwise agree, the arbitral proceedings in respect of a particular dispute shall commence on the date on which the request for the dispute to be referred to arbitration is received by the other party.”

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By designating the contents of Clause 14 as contents of Clause 16 and the contents of Clause 16 as contents of Clause 14.

In Clause 19, by-

- (a) deleting the word "court" appearing in subclause (3) and substituting for it the word "Centre"; and
- (b) deleting subclause (4).

In Clause 20,-

- (a) **by** deleting subclause (1) and substituting for it the following:  
“(1) Where an arbitration agreement does not provide for the appointment of arbitrator, parties may agree on the modality of appointment of arbitrator.”
- (b) In subclause (2) by-
  - (i) deleting the word "court" and substituting for it the word "Centre";
  - (ii) adding the word "or" at the end of paragraph (b);
  - (iii) deleting paragraph (c);
  - (iv) renaming paragraph (d) as paragraph (c).
- (c) In subclause (3) by deleting the word "court" and substituting for it the word "Centre".

In Clause 25 by deleting the words "unless the parties also agree to terminate the arbitration agreement" appearing in subclause (3).

In Clause 26, by-

- (a) deleting the word "court" wherever it appears in clause 26 and substituting for it the word "Centre";
- (b) deleting the word "order" appearing in subclause (4) and substituting for it the word "directives"; and
- (c) deleting subclause (6).

In Clause 27-

- (a) by deleting the word "court" wherever it appears in clause 27 and substituting for it the word "Centre";
- (b) in subclause (2)-
  - (i) by deleting the word "and" appearing at the end of paragraph (a);
  - (ii) in paragraph (b) by-
    - (aa) deleting the words "make such order" and substituting for it the word "issue such directives";

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- (bb) deleting a full stop appearing at the end of paragraph (b) and substituting for it a semicolon;
- (iii) adding immediately after paragraph (b) the following:
  - direct on the appointment of another arbitrator in accordance with section 18 to continue arbitration proceedings.";
- "(c) deleting subclause (4).

In Clause 28(1), by-

- (a) deleting the marginal note and substituting for it the following:  
"Cessation of arbitrator's appointment"
- (b) inserting the words "his service" between the words "and" and "shall".

In Clause 30 by deleting subclause (2) and substituting for it the following:

"(2) A party who is not satisfied with the reasonability of the fees and expenses to be paid to the arbitrator may, upon notice to the other party and arbitrators, apply to the court consideration and adjustment of such fees and expenses if-

- (a) the fees and expenses charges exceed the amount agreed upon by the parties;
- (b) the fees and expenses contain items which were not agreed upon by the parties;
- (c) there is significant change of circumstances that lead the change of agreed fees and expenses."

In Clause 34(7) by deleting the words "of general importance or for other reasons, it is proper to be determined by the appellate court" and substituting for them the words "on the basis of want of substantive jurisdiction".

In Clause 36 by inserting the word "evidence" between the words "other" and "sought" appearing in paragraph (f) of subclause (2).

By adding immediately after Clause 36, the following:

"Co **36A.**-(1) An arbitral tribunal shall conduct the arbitral proceedings in camera.

(2) Every arbitration agreement shall be deemed to provide that the parties and the arbitral tribunal shall not disclose confidential information.

(3) Notwithstanding subsection (2), a party or an arbitral tribunal may disclose confidential information-

- (a) to a professional or other adviser of any of the parties;  
or
- (b) if both of the following matters apply:
  - (i) the disclosure is necessary-
    - (aa) to ensure that a party has a full opportunity to present the party's case, as required under arbitration rules as may be prescribed in terms of section 90(3); or
    - (bb) for the establishment or protection of a party's legal rights in relation to a third party; or
    - (cc) for the making and prosecution of an application to a court under this Act; and
  - (ii) the disclosure is no more than what is reasonably required to serve any of the purposes referred to in subparagraph (i); or
- (c) if the disclosure is in accordance with an order made, or a summons issued, by a court; or
- (d) if both of the following matters apply:
  - (i) the disclosure is authorised or required by law; or
  - (ii) the party who, or the arbitral tribunal that, makes the disclosure provides to the other party and the arbitral tribunal or, as the case may be, the parties, written details of the disclosure, including an explanation of the reasons for the disclosure; or
- (e) if the disclosure is in accordance with an order made

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by-

- (i) an arbitral tribunal under section 36B; or
- (ii) the court under section 36C.

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**36B.**-(1) An arbitral tribunal may allow disclosure of confidential information in the following circumstances-

- (a) a question arises in any arbitral proceedings as to whether confidential information should be disclosed other than as authorised under section 36A(3)(a) and (d); and

- (b) at least one of the parties agrees to refer that question to the arbitral tribunal concerned.

(2) The arbitral tribunal may, after giving each of the



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parties an opportunity to be heard, make or refuse to make an order allowing all or any of the parties to disclose confidential information.

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- 36C.**-(1) A court may make an order allowing a party to disclose any confidential information-
- (a) on the application of that party, which application may be made only if the mandate of the arbitral tribunal has been terminated in accordance with rules prescribed in terms of section 90(3); or
  - (b) on an appeal by that party, after an order under section 36B(2) allowing that party to disclose the confidential information has been refused by an arbitral tribunal:

Provided that, the court may make such an order if-

- (a) it is satisfied, in the circumstances of the particular case, that the public interest in preserving the confidentiality of arbitral proceedings is outweighed by other considerations that render it desirable in the public interest for the confidential information to be disclosed;

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- (b) the disclosure is no more than what is reasonably required to serve the other considerations referred to in paragraph (a); and
- (c) the appellate court may make an order prohibiting the respondent from disclosing confidential information on an appeal against the appellant who unsuccessfully opposed an application for an order under section 36B(2) allowing the respondent to disclose confidential information.
  - (2) The appellate court may make an order under this section only if it has given each of the parties an opportunity to be heard.
  - (3) The appellate court may make an order under this section-
    - (a) unconditionally; or
    - (b) subject to any conditions it thinks fit.
      - (4) For avoidance of doubt, the appellate court may, in imposing any conditions under subsection (3)(b), include a condition that the order ceases to have effect at a specified stage of the appeal proceedings.
      - (5) The decision of the appellate court under this section is final.”.

By deleting Clause 38 and substituting for it the following:

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**38.** A party to arbitral proceedings may be represented in the proceedings by an advocate or other person chosen by him.”

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In Clause 40-

(a) in subclause (2) by deleting paragraph (a) and substituting for it the following:

“(a) to order a claimant to provide security for costs of the arbitration;”

(b) by adding immediately after subclause (2) the following:

“(3) The manner of prescribing security for cost shall be as provided in the regulations.”

In Clause 46(2), by-

(a) deleting the word “tribunal” appearing in the closing phrase of paragraph (c) and substituting for it the word “court”.

(b) deleting sub clause (6) and substituting for it the following:

“(6) An order made by the court under this section shall cease to have effect in whole or in part on any order of the tribunal or other institution or person having power to act in relation to the subject matter of the order.”.

In Clause 51 by adding at the beginning of subclause (2) the words “Subject to the rules made pursuant to section 90(3),”.

In Clause 57(2) by deleting the words “without delay after the award is made” and substituting for them the words “not later than thirty days from the date the award was made”.

In Clause 58, by-

(a) deleting the opening phrase of subclause (2) and substituting for it the following:

“(2) Where the tribunal refuses to deliver an award on the grounds referred to under subsection (1), a party to the arbitral proceedings may, upon notice to the other party and the tribunal, apply to the Centre, and the Centre may issue directives-”;

(b) deleting subclause (8); and

(c) renumbering subclause (9) as subclause (8).

In Clause 68 by adding the words “Save as otherwise provided,” at the beginning of sub-clause (3).

In Clause 70(3) by deleting the words “the award aside” appearing in paragraph (b) and substituting for it the words “aside the award”.

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By deleting Clause 71 and substituting for it the following:

“ **71.**-(1) Unless otherwise agreed by the parties, a party to arbitral proceedings may, upon notice to the other party and to the tribunal, state in a form of special case to the court on a question of law arising out of an award made in the proceedings.

(2) An agreement between the parties to dispense with reasons the tribunal's award shall be considered an agreement to exclude the court's jurisdiction under section (1).

(3) Special case shall not be brought under this section except by agreement with the other party to the proceedings.

(4) Where the agreement has been filed, the parties to it shall be subject to the jurisdiction of the court and shall be bound by the statement contained in the agreement.

(5) The case shall be set down for hearing as a suit instituted in an ordinary manner and where the case has been entertained, the court may, by order-

- (f) confirm the award;
- (g) vary the award;
- (h) remit the award to the tribunal, in whole or in part, for reconsideration in the light of the court's determination;
- (i) set aside the award in whole or in part; or
- (j) declare the award to be of no effect in whole or in part:

Provided that, the court shall not exercise its power to set aside an award, in whole or in part, unless it is satisfied that it would be inappropriate to remit the matters in question to the tribunal for reconsideration.

(6) The decision of the court under this section

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shall be treated as a judgment of the court for the purposes of further appeal.”.

In Clause 72 by-

- (a) deleting the reference to sections 69, 70 or 71 appearing in subclause (1) and substituting for it the reference to sections 69 or 71 respectively; and
- (b) deleting subclause (7) and substituting for it the following:  
“(7) The manner of prescribing security for cost under this section shall be as prescribed in the regulations.”.

In Clause 74 by adding at the beginning of subclause (1) the words “Subject to the Law of Limitation Act”.

In Clause 77 -

- (a) by deleting the words “to knows” appearing in subclause (1) and substituting for them the words “to be known”;
- (b) adding immediately after subclause (1) the following:  
“(2) The Centre 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) acquiring, holding, investing and alienating movable or immovable property;
  - (c) exercising the powers and performing the functions conferred upon it under this Act; and
  - (d) entering into any contract or other transaction, and doing or suffering to do all such other acts and things which a body corporate may lawfully perform, do or suffer to be done.  
“(3) There shall be a governing body of the Centre whose membership, qualification, tenure of office, disciplinary procedure of members, conduct of meetings and other matters related thereto shall be as prescribed in the regulations.”
- (c) in subclause (2) by-
  - (i) adding immediately after paragraph (c) the following:  
“(d) to perform the functions as provided under sections 19, 20, 26, 46 and 52;
  - (e) to advise the government on matters related to arbitration;
  - (f) to promote opportunities for educating the public through the various media on arbitration;
  - (g) to publish or assist in the publication of proceedings of the Centre, of books and papers on arbitration;
  - (h) to sponsor study and research in arbitration and provide fellowships, grants to deserving applications;
  - (i) to provide facilities and assistance for the conduct of domestic and international arbitration;

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- (f) to maintain adequate, accurate and timely records of proceedings made in arbitration and to keep such records in safe and secure custody;"; and
- (ii) renaming paragraphs (d) and (e) as paragraphs (g) and (h) respectively;
- (d) renumbering subclauses (2), (3), (4) and (5) as subclauses (4), (5), (6) and (7) respectively.

By deleting the Title to Part XI and substituting for it the following:

"RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS".

In Clause 78, by-

- (a) deleting subclause (1) and substituting for it the following:
  - "(1) Upon application in writing to the court, a domestic arbitral award or foreign arbitral award shall be recognised as binding and enforceable.
  - (2) Notwithstanding subsection (1), a domestic arbitral award or foreign arbitral award shall be refused if-
- (d) at the request of the party against whom it is invoked, that party furnishes to court proof that-
  - (vii) parties to the arbitration agreement, pursuant to the law applicable-
    - (aa) lacked capacity to enter into the agreement; or
    - (bb) were not properly represented;
  - (viii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication of that law, under the law of the state where the arbitral award was made;
  - (ix) the party against whom the arbitral award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case;
  - (x) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the reference to arbitration, or it contains decisions on matters beyond the scope of the reference to arbitration, provided that if the decisions on matters referred to arbitration can be separated from those not so referred, that part of the arbitral award which contains decisions on matters referred to arbitration may be recognised and enforced;
  - (xi) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing any agreement by the parties, was not in accordance with the law of the state where the arbitration took place; or
  - (xii) the arbitral award has not yet become binding on the

**NAKALA YA MTANDAO (ONLINE DOCUMENT)**

- parties or has been set aside or suspended by a court of the state in which, or under the law of which, that arbitral award was made;
- (e) the making of the arbitral award was induced or affected by fraud, bribery, corruption or undue influence;
  - (f) if the court finds that-
    - (iii) the subject matter of the dispute is not capable of settlement by arbitration under any written laws; or
    - (iv) the recognition or enforcement of the arbitral award would be contrary to any written laws or norms.”;
- (b) deleting the words “subsection (1)(e) the” appearing in subclause (5) and substituting for them the words “subsection (3)(e), the”; and
- (c) renaming subclauses (2), (3), (4) and (5) as subclauses (3), (4), (5) and (6) respectively.

In Clause 83 by deleting subclause (2) and substituting for it the following:

“(2) Where there is no agreement of the parties in terms of subsection (1), the provisions of the Interpretation of Laws Act relating to computation of time and reckoning of months shall have effect to the reckoning of period under this Act.”

In Clause 90(2), by-

- (a) adding immediately after paragraph (c) a new paragraph (d) as follows:

“(d) the general management and operations of the Centre;”;
- (b) renaming paragraphs (d) and (e) as paragraphs (e) and (f) respectively.

In the Schedule by adding immediately after item (u) the following:

section 77 (relating to the establishment and operations of the Centre).”.

Dodoma,  
....., 2020

**APM**  
MCLA

**WAZIRI WA NISHATI:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Waheshimiwa Wabunge hoja imeungwa mkono, ahsante sana Mheshimiwa Waziri. Sasa nimwite Mwenyekiti wa Kamati ya Sheria Ndogo Mheshimiwa Andrew John Chenge.

**MHE. ANDREW J. CHENGE – MWENYEKITI WA KAMATI YA KUDUMU YA BUNGE YA SHERIA**

**NDOGO:** Mheshimiwa Naibu Spika, Mnamo tarehe 28 Januari, Mwaka huu, wakati wa Kikao cha Kwanza cha Mkutano wa Kumi na Nane wa Bunge, Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 (*The Arbitration Bill, 2020*) uliwasilishwa chini ya hati ya dharura. Baada ya hapo, alizingatia masharti ya Kanuni ya 84(1) ya Kanuni za Kudumu za Bunge na kuupeleka Muswada kwenye Kamati ya Kudumu ya Bunge ya Sheria Ndogo.

Mheshimiwa Naibu Spika, katika kutekeleza masharti ya Kanuni ya 84(1) ya Kanuni za Kudumu za Bunge, mnamo tarehe 29 Januari, mwaka huu Kamati ilikutana na Serikali ili kupokea maelezo ya Serikali kuhusu Muswada huu. Katika kikao hicho, Mtoa Hoja alijulisha Kamati kuwa Muswada huu unapendekeza kufuta Sheria ya Usuluhishi, Sura ya 15 ya Sheria za Nchi na kutunga Sheria mpya ya Usuluhishi ya Mwaka 2020 (*The Arbitration Bill, 2020*). Lengo la Muswada huu ni kuweka masharti ya utatuzi wa migogoro kirafiki nje ya mfumo wa mahakama pamoja na kuwezesha utekelezaji wa makubaliano ya Kimataifa kuhusu usuluhishi ambayo Jamhuri ya Muungano wa Tanzania ni mwanachama.

Baada ya kupokea maelezo hayo, Kamati ilizingatia masharti ya Kanuni ya 84(2) ya Kanuni za Kudumu za Bunge na kutuma mialiko na kutoa matangazo ya kuwaalika wadau mbalimbali wafike mbele ya Kamati kwa lengo la kuisaidia katika Uchambuzi wa Muswada huu. Kamati ilipokea wadau kutoka *Tanzania Institute of Arbitrators*, Chama cha Wanasheria Tanzania Bara pamoja na *senior partner* wa *IMMA Associates Bw. Gaspar Nyika* na Eng. Samwel Msita aliyekuwa Mkurugenzi Mtendaji wa *National Construction Council*, wote hawa walitoa maoni yao.

Napenda kuchukua fursa hii kuwashukuru kwa dhati wadau hao kwa ushirikiano wao na Bunge lako tukufu, ambao kwa nyakati tofauti, waliwasilisha maoni yao na hivyo kuisaidia Kamati kuboresha Muswada huu. Maoni hayo ya wadau, wasilisho la Serikali, uchambuzi wa mjadala wa Kamati pamoja na mashauriano kati ya Kamati na Serikali yaliwezesha Kamati kufanya marekebisho katika maeneo mengi ya Muswada kwa kumshauri Waziri wa Katiba na Sheria kufanya mabadiliko katika muswada kama maoni na ushauri wa Kamati.

Mheshimiwa Naibu Spika, Maoni na Ushauri Wa Kamati kabla sijazungumzia Maoni na Ushauri wa Kamati, naomba nieleze kwa ufupi kuhusu dhana ya usuluhishi kwa muktadha wa muswada huu. Usuluhishi ni mfumo wa utatuzi wa migogoro hususan ya kibiashara na mengineyo kati ya pande zilizo na mkataba kwa kusimamiwa na mtu au taasisi ambazo si mahakama lakini kwa kuzingatia taratibu zilizoainishwa za kimahakama na kimikataba. Uamuzi unaotolewa katika usuluhishi huitwa tuzo la usuluhishi (*arbitral award*). Usuluhishi unatajwa kuwa njia bora zaidi katika utatuzi wa migogoro kuliko mfumo wa kimahakama kwasababu zilizoarodheshwa katika taarifa ya Kamati.

Mheshimiwa Naibu Spika, Kwa sasa Tanzania inatumia Sheria ya Usuluhishi, Sura ya 15 iliyotungwa mwaka 1931 na kufanyiwa marekebisho mwaka 1932 na 1971 ikichagizwa na mikataba mitatu ya Kimataifa ambayo ni Itifaki ya Geneva ya Usuluhishi ya Mwaka 1923 (*Protocol On Arbitration Clauses, 1923 - Geneva Protocol*), Mkataba wa Geneva wa Utekelezaji wa Tuzo za Kimataifa za Usuluhishi wa mwaka 1927 (*International Convention on the Execution of Foreign Arbitral Awards 1927 - Geneva Convention*) na Mkataba wa Kimataifa wa Kutambua na Kutekeleza Tuzo za Usuluhishi wa Mwaka 1958 (*The International Convention on the Recognition and Enforcement of Arbitral Awards, 1958 - New York Convention*). Sheria hii pia ilizingatia Sheria ya Usuluhishi ya Uingereza ya Mwaka 1889 hali iliyoifanya sheria hii kuwa iliyopitwa na wakati na kuwa na mapungufu makubwa yasiyoendana na maendeleo ya sasa katika ufanyaji wa biashara.



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Mheshimiwa Naibu Spika, ni ukweli usiopingika kwamba Sheria ya Usuluhishi, Sura ya 15 inapaswa kufutwa kwa kuwa mazingira ya sasa yamebadilika sana tofauti na ilivyokuwa awali sheria hiyo ilipotungwa, kwani wakati huo nchi yetu haikuwa ikijihusisha sana na biashara za kimataifa kwa kiasi kikubwa na pia sekta ya uwekezaji nchini haikuwa kubwa kama ilivyo sasa. Hivyo mabadiliko haya ni muhimu sana katika mazingira ya sasa ya nchi yetu ili kuendana na kasi ya ukuaji wa biashara ya kimataifa na uwekezaji nchini ambayo yanahitaji kuwepo na mfumo wa utatuzi wa migogoro ambao unaendana na kasi hiyo.

Mheshimiwa Naibu Spika, baada ya utangulizi huo ambao umeonyesha historia ya chimbuko la Sheria ya Usuluhishi nchini na umuhimu wa kuibadili ili kuendana na mahitaji ya sasa. Naomba niwasilishe maoni na ushauri wa kamati ya Kudumu ya Bunge ya Sheria Ndogo kuhusu Sheria ya Usuluhishi ya mwaka 2020 inayopendekezwa na Serikali.

Mheshimiwa Spika, maelezo ya Jumla kuhusu uchambuzi wa Muswada. Maelezo ya Jumla kuhusu uchambuzi wa Muswada Muswada huu wa Sheria ya Usuluhishi wa mwaka 2020 una jumla ya ibara mia moja na mbili (102) pamoja na jedwali moja. Kamati ilifanya uchambuzi wa kina wa ibara zote na kasha kufanya majadiliano ambayo baadaye yaliwezesha Kamati kufanya marekebisho katika Muswada kwa kumshauri Waziri wa Katiba na Sheria kufanya mabadiliko katika jina refu la Muswada, na katika Ibara 45 za muswada pamoja na jedwali.

Mheshimiwa Naibu Spika, Kamati ilimshauri mtoa hoja kufanya marekebisho makubwa ya kimaudhui na kiandishi na hivyo kuwezesha Serikali kuandaa jedwali la marekebisho la Muswada huu. Ambalo nawaomba Waheshimiwa Wabunge walisome pamoja na Muswada huu.

Mheshimiwa Naibu Spika, lengo la maboresho hayo ya kimaudhui ni kuiwezesha nchi yetu kupata sheria mpya ya usuluhishi ambayo ni bora zaidi inayoendana na dhana nzima ya usuluhishi duniani kwa kuzingatia mazingira ya Tanzania. Aidha, maboresho mengine ya kiandishi yamefanyika ili sheria hiyo iweze kukidhi viwango vya sheria vinavyohitajika kwa ajili yakuwezesha sheria hiyo kutekelezeka kwa urahisi.

Mheshimiwa Naibu Spika, marekebisho hayo kwa ujumla yameambatanishwa na yanasomwa kwa pamoja na taarifa hii.

Mheshimiwa Naibu Spika, Maboresho ya Mamlaka ya Mahakama Kuingilia Mashauri ya Usuluhishi. Kamati inaelewa kuwa mojawapo ya sifa zautaratibu mzuri wa usuluhishi ni kuwezesha mabaraza ya usuluhishi kuendesha mashauri ya usuluhishi kwa taratibu ambazo zinaweka muingiliano mdogo wa mahakama katika mchakato mzima wa usuluhishi. Uchambuzi wa kina uliofanywa na Kamati umebaini kuwa Muswada unatoa fursa nyingi kwa mahakama kuingilia mchakato wa usuluhishi kwenye mabaraza kwa namna mbalimbali. Maoni ya Kamati ni kwamba muingiliano huo unaweza kupunguzwa kama inavyopendekezwa na Kamati.

Mheshimiwa Naibu Spika, Maboresho Makubwa ya Mapendekezo la Kuanzisha Kituo cha Usuluhishi Nchini, Kamati inaipongeza Serikali kwa kuleta wazo la kuanzisha kituo cha usuluhishi nchini ambacho, pamoja na mambo mengine kitahusika na usuluhishi wa migogoro ya kibiashara ya ndani ya nchi na ile ya kimataifa. Hata hivyo, masharti ya uanzishwaji wa kituo hicho yanayopendekezwa na Muswada hayatekelezeki kutokana na upungufu mkubwa hususani Muswada kutobainisha aina au hadhi ya kituo kinachoanzishwa, muundo wake, uendeshaji pamoja na vyanzo vya mapato vya kituo hicho. *(Makofi)*

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Mheshimiwa Naibu Spika, uzoefu kutoka nchi nyingine hususani ambazo ni majirani na Tanzania unaonyesha kuwa vituo vya usuluhishi vya namna hii vinaanzishwa na taasisi zinazoweza kujitegemea na ndiyo shauri kubwa tunapendekeza kama Kamati.

Mheshimiwa Naibu Spika, kutokana na Sheria ya Usuluhishi, Sura ya 15 inayotumika hivi sasa kubainika kuwa na mapungufu katika usuluhishi wa kimataifa pamoja na utaratibu wa kutambua nakutekeleza tuzo za usuluhishi nchini. Muswada huu unakusudiwa kuondoa mapungufu hayo kwa kuweka masharti mapya yaliyoboreshwa. Hata hivyo, masharti yanayopendekezwa hayajitoshelezi kwa sababu Muswada hauna maudhui yanayohu usuluhishi wa kimataifa bali unatoa tu tafsiri ya usuluhishi wa kimataifa.

Mheshimiwa Naibu Spika, kwa sababu ya muda naomba taarifa nzima ya kamati iingie kwenye kumbukumbu rasmi za Bunge ya Hansard. Kuweka Utaratibu wa Masharti ya Usiri kwenye Usuluhishi. Kama ilivyoelezwa awali, mojawapo ya misingi mikubwa ya utatuzi wa migogoro kwa njia ya usuluhishi ni usiri ili kuweza kuwavutia wafanyabiashara na wawekezaji kutumia mfumo huo na kuboresha mazingira ya biashara hapa nchini. Hata hivyo, Muswada huu haujaweka sharti hata moja linaloonyesha namna msingi wa usiri katika usuluhishi utakavyoweza kuratibiwa na kutekelezwa kabisa wakati wa usuluhishi wa migogoro.

Mheshimiwa Naibu Spika, maboresho ya kupunguza kiasi cha masharti ya jumla taarifa Waheshimiwa Wabunge wataiona kwenye Ibara ya 2.2.8 na Kamati kuhusiana na sehemu 13 ina maoni kwamba sehemu hii ya Muswada inarekebisha rekebisha sheria nne ambazo zimetajwa hapo sheria ya mwenendo mashauri ya jinai, mwenendo mashauri ya madai, Sheria ya mamlaka za nchi kuhusiana na umiliki wa maliasili na rasilimali za nchi na sheria ya ubia kati ya sector ya umma na binafsi. *(Makofi)*

Mheshimiwa Naibu Spika, naomba Waheshimiwa Wabunge eneo hili mlipitie vizuri kutokana na uzito wake lakini Kamati inashauri kwamba kutokana na uzito wa Muswada huu usuluhishi. Mapendekezo ya kuboresha sehemu ya 13 ambayo yanapendekezwa na Serikali, Kamati inashauri Serikali kuleta kuleta marekebisho katika sheria zinazopendekezwa katika Sehemu hii wakati mwingine kupitia Muswada wa Sheria ya Marekebisho ya Sheria Mbalimbali ili Bunge lipate muda wa kutosha wa kuchambua na kujadili mapendekezo hayo. *(Makofi)*

Mheshimiwa Naibu Spika, Kamati imebaini dosari mbalimbali za kiuandishi katika Ibara ya 31 za Muswada huu na Waheshimiwa Wabunge mtaziona katika taarifa hizo. Yapo mapendekezo ya jumla ambayo Waheshimiwa Wabunge mtayoona.

Mheshimiwa Naibu Spika, hitimisho naomba naomba kumtambua na kumshukuru, Waziri wa Katiba na Sheria Mheshimiwa Balozi Dr. Augustine Mahiga - Mb, Katibu Mkuu wa Wizara hiyo, Prof. Sifuni Mchome, Mwanasheria Mkuu wa Serikali Prof. Adelardus Kilangi, pamoja na Watendaji wote wa Serikali katika Wizara ya Katiba na Sheria na Ofisi ya Mwanasheria Mkuu wa Serikali kwa ushirikiano wao wa dhati ulioiwezesha Kamati kukamilisha Uchambuzi wa Muswada huu. *(Makofi)*

Mheshimiwa Naibu Spika, kwa namna ya pekee kabisa naomba niwashukuru Wajumbe wa Kamati ya Kudumu ya Sheria Ndogo kwa weledi na umakini wao waliouonesha wakati wa kuchambua Muswada huu na hatimaye kutoa Mapendekezo ya msingi ya kuuboresha. Ambayo mnaona katika Jedwali la marekebisho ambayo ni refu sana naomba Majina yao yaingizwe kwenye Kumbukumbu rasmi za Bunge. *(Makofi)*

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Mheshimiwa Naibu Spika, naomba pia kutambua ushiriki na mchango wa naomba pia kutambua ushiriki na mchango wakipekee wa Mheshimiwa Naibu Spika Dkt. Tulia Ackson (Mb) katika uchambuzina majadiliano ya Kamati katika Muswada huu. (Makofi)

Mheshimiwa Naibu Spika, aidha, nawashukuru Watumishi wote wa Ofisi ya Bunge hususan Katibu wa Bunge Ndugu Stephen Kagaigai kwa Uongozi thabiti ambao umerahisisha utendaji kazi wa Kamati. Vilevile, namshukuru Mkurugenzi wa Idara ya Kamati za Bunge Ndugu Athuman Hussein, Mkurugenzi Msaidizi Ndugu Gerald Magili, Makatibu wa Kamati Ndugu Mkuta Masoli, Ndugu Angela Shekifu, Mkurugenzi wa Idara ya Huduma za Sheria Ndugu Pius Mboya pamoja na maofisa wa sheria Ndugu Stephano Seba Mbutu, Ndugu Nesta Kawamala, na Ndugu Evelyne Shibandiko pamoja na Msaidizi wa Kamati Ndugu Paul Chima waliofanikisha kazi ya Uchambuzi na uratibu wa shughuli za Kamati kwa kuiwezesha Kamati kutekeleza majukumu yake ipasavyo na kuweza kuwasilisha kwa wakati taarifa hii. (Makofi)

Mheshimiwa Naibu Spika baada ya maelezo hayo naomba kuwasilisha. (Makofi)

### MAONI NA USHAURI WA KAMATI YA KUDUMU YA BUNGE YA SHERIA NDOGO KUHUSU MUSWADA WA SHERIA YA USULUHISHI YA MWAKA 2020 (THE ARBITRATION BILL, 2020) - KAMA YALIVYOWSAILISHWA MEZANI

#### 1.0 UTANGULIZI

**Mheshimiwa Spika**, Mnamo tarehe 28 Januari, 2020, wakati wa Kikao cha Kwanza cha Mkutano wa Kumi na Nane wa Bunge, Muswada wa Sheria ya Usuluhishi wa Mwaka 2020 (*The Arbitration Bill, 2020*) umesomwa Bungeni mara ya kwanza. Baada ya hapo, Mheshimiwa Spika ulizingatia masharti ya Kanuni ya 84(1) ya Kanuni za Kudumu za Bunge, Toleo la Januari, 2016 na kupeleka Muswada huo kwenye Kamati ya Kudumu ya Bunge ya Sheria Ndogo.

**Mheshimiwa Spika**, katika kutekeleza masharti ya Kanuni ya 84(1) ya Kanuni za Kudumu za Bunge, Kamati ilikutana na Serikali katika **Ukumbi Na.229** uliopo Jengo la Utawala katika Ofisi za Bunge Dodoma, mnamo tarehe 29 Januari, 2020 ili kupokea maelezo ya Serikali kuhusu Muswada husika. Katika kikao hicho, Mtoa Hoja alijulisha Kamati kuwa, Muswada huu unapendekeza kufuta Sheria ya Usuluhishi, Sura ya 15 na kutunga Sheria mpya ya Usuluhishi ya Mwaka 2020 (*The Arbitration Bill, 2020*). Lengo la Sheria hii ni kuweka masharti ya utatuzi wa migogoro kirafiki nje ya mfumo wa mahakama pamoja na kuwezesha utekelezaji wa makubaliano ya kiusuluhishi.

**Mheshimiwa Spika**, baada ya kupokea maelezo hayo, Kamati ilizingatia masharti ya **Kanuni ya 84(2)** ya Kanuni za Kudumu za Bunge na kutuma mialiko na kutoa matangazo ya kuwaalika wadau mbalimbali wafike mbele ya Kamati kwa lengo la kuisaidia katika Uchambuzi wa Muswada huu. Kamati ilipokea wadau kutoka *Tanzania Institute of Arbitrators (TI Arb)*, Chama cha Wanasheria Tanzania Bara (TLS), Ndg. Gaspar Nyika kutokea IMMA Associates na Eng. Samwel M.I.M Msita aliyekuwa Mkurugenzi Mtendaji wa NCC ambao waliitoa maoni yao.

Napenda kuchukua fursa hii kuwashukuru kwa dhati wadau hao kwa ushirikiano wao na Bunge lako tukufu, ambao kwa nyakati tofauti, waliwasilisha maoni yao kuisaidia Kamati kuboresha Muswada huu. Maoni hayo ya wadau, wasilisho la serikali, uchambuzi na majadala wa Kamati pamoja na mashauriano kati ya Kamati na Serikali yaliwezesha Kamati kufanya marekebisho katika muswada kwa kumshauri Waziri wa

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Katiba na Sheria ambaye ndiye mwenye hoja kufanya mabadiliko katika muswada kama maoni na ushauri wa kamati unavyobainisha.

### 2.0 MAONI NA USHAURI WA KAMATI

**Mheshimiwa Spika**, kabla sijazungumzia Maoni na Ushauri wa Kamati, naomba nieleze kwa ufupi kuhusu dhana ya Usuluhishi kwa mukatadha wa muswada huu. Usuluhishi ni mfumo wa utatuzi wa migogoro hususan ya kibiashara kati ya pande zilizo na mkataba kwa kusimamiwa na mtu au taasisi ambazo si mahakama lakini kwa kuzingatia taratibu zilizorahishwa za kimahakama. Uamuzi unaotolewa katika usuluhishi unaitwa tuzo ya usuluhishi (*arbitral award*). Usuluhishi unatajwa kuwa njia bora zaidi katika utatuzi wa migogoro kuliko mfumo wa kimahakama kwa kuwa mfumo huo:

(a) Unawezesha utatauzi wa migogoro kwa njia ambayo ni ya haraka, kirafiki na yenye ufanisi zaidi na hivyo kuchukuliwa kuwa unaboresha mazingira ya ufanyaji biashara;

(b) Unawezesha usiri (*confidentiality*) wa taarifa za wahusika kwa kuwa mfumo huu haufanyiki kwa uwazi (*no public hearing*);

(c) Una uwezekano wa kupata watatuzi ambao wana utaalamu mahsusi katika eneo lenye mgogoro unaoatuliwa; na

(d) Taratibu za uendeshaji wa mashauri ya usuluhishi zinaweza kubadilishika kuliko za mahakama (*flexibility*).

Usuluhishi una misingi yake ambayo sheria yoyote inayohusu usuluhishi huoenekana kuwa na ufanisi iwapo itatungwa kwa kuzingatia misingi hiyo. Misingi hiyo ni:

(a) Makubaliano ya kutumia usuluhishi;

(b) Usiri;

(c) Hiari ya pande husika kuchagua wasuluhishi; na

(d) Pande husika kufungwa na tuzo ya usuluhishi.

**Mheshimiwa Spika**, Kwa sasa Tanzania inatumia Sheria ya Usuluhishi, Sura ya 15 iliyotungwa mwaka 1931 na kufanyiwa marekebisho mwaka 1932 na 1971 ikichagizwa na Mikataba mitatu ya Kimataifa ambayo ni Itifaki ya Geneva ya Usuluhishi ya Mwaka 1923 (*The Protocol On Arbitration Clauses, 1923 - Geneva Protocol*), Mkataba wa Geneva wa Utekelezaji wa Tuzo za Kimataifa za Usuluhishi wa mwaka 1927 (*International Convention on the Execution of Foreign Arbitral Awards 1927 - Geneva Convention*) na Mkataba wa Kimataifa wa Kutambua na Kutekeleza Tuzo za Usuluhishi wa mwaka 1958 (*the International Convention on the Recognition and Enforcement of Arbitral Awards, 1958 - New York Convention*). Sheria hii pia ilizingatia Sheria ya Usuluhishi ya Uingereza ya mwaka 1889 hali inayoifanya sheria hii kuwa iliyopitwa na wakati na kuwa na mapungufu makubwa yasiyoendana na maendeleo ya sasa katika ufanyaji wa biashara.

**Mheshimiwa Spika**, ni ukweli usiopingika kwamba Sheria ya Usuluhishi, Sura ya 15 inapaswa kufutwa kwa kuwa mazingira ya sasa yamebadilika tofauti na ilivyokuwa

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awali sheria hiyo ilipotungwa, kwani wakati huo Tanzania haikuwa ikijihusisha na biashara za kimataifa kwa kiasi kikubwa na pia sekta ya uwekezaji nchini haikuwa kubwa kama ilivyo sasa. Hivyo mabadiliko haya ni muhimu sana katika mazingira ya sasa ili kuendana na kasi ya ukuaji wa biashara ya kimataifa na uwekezaji ambayo yanahitaji uwepo wa mfumo wa utatuzi wa migogoro ambao unaendana na kasi hiyo ya ukuaji.

**Mheshimiwa Spika**, baada ya utangulizi huo mfupi ambao umeonesha historia ya chimbuko la Sheria ya Usuluhishi nchini na umuhimu wa kuibadili ili kuendana na mazingira ya sasa, naomba sasa kuwasilisha Maoni na Ushauri wa Kamati ya Kudumu ya Bunge ya Sheria Ndogo Kuhusu Muswada wa Sheria ya Usuluhishi ya Mwaka 2020 (The Arbitration Bill, 2020), kwa mujibu wa Kanuni ya 86 (5) ya Kanuni za Kudumu za Bunge, ili kuboresha zaidi Sheria hii hatimaye ifikie malengo yanayokusudiwa.

**Mheshimiwa Spika**, baada ya kuzungumzia masuala ya awali katika utangulizi wa Taarifa hii, napenda kuwasilisha mbele ya Bunge lako tukufu maoni na ushauri wa Kamati kuhusiana na Muswada huu.

### 2.1 Maelezo ya Jumla kuhusu uchambuzi wa Muswada

**Mheshimiwa Spika**, Muswada huu wa Sheria ya Usuluhishi wa mwaka 2020 una jumla ya ibara mia moja na mbili (102) pamoja na jedwali moja. Kamati ilifanya uchambuzi wa kina wa ibara zote na kisha kufanya majadiliano ambayo baadaye yaliwezesha Kamati kufanya marekebisho katika muswada kwa kumshauri Waziri wa Katiba na Sheria kufanya mabadiliko katika jina refu la Muswada, jumla ya ibara 45 pamoja na jedwali la muswada kwa mujibu wa kanuni ya 84(3) ya Kanuni za Kudumu za Bunge.

**Mheshimiwa Spika**, Kamati ilimshauri mtoa hoja kufanya marekebisho makubwa ya kimaudhui na kiuandishi na hivyo kuwezesha Serikali kuandaa jedwali la marekebisho la Muswada huu. Lengo la maboresho hayo ya kimaudhui ni kuiwezesha nchi yetu kupata sheria mpya ya usuluhishi ambayo ni bora zaidi inayoendana na dhana nzima ya usuluhishi duniani kwa kuzingatia mazingira ya Tanzania. Aidha, maboresho mengine ya kiuandishi yamefanyika ili sheria hiyo iweze kukidhi viwango vya sheria vinavyohitajika kwa ajili ya kuwezesha sheria hiyo kutekelezeka kwa urahisi.

### 2.2 Maoni na Mapendekezo kwa kila Ibara

**Mheshimiwa Spika**, Marekebisho hayo kwa ujumla yameambatanishwa na yanasomwa kwa pamoja na taarifa hii. Baadhi ya marekebisho yaliyopendekezwa na Kamati ili kuboresha muswada huu yanahusu masuala yafuatayo:

#### 2.2.1 Maboresho ya Mamlaka ya Mahakama Kuingilia Mashauri ya Usuluhishi

Mheshimiwa Spika, Kamati inaelewa kuwa mojawapo ya sifa za utaratibu mzuri wa usuluhishi ni kuwezesha mabaraza ya usuluhishi kuendesha mashauri ya usuluhishi kwa taratibu ambazo zinaweka muingiliano mdogo wa mahakama katika mchakato wa usuluhishi. Uchambuzi wa kina uliofanywa na Kamati umebaini kuwa muswada unatoa fursa nyingi kwa mahakama kuingilia mchakato wa usuluhishi kwenye mabaraza kwa namna mbalimbali. Maoni ya Kamati ni kwamba muingiliano huo unaweza kupunguzwa kwa kufanya yafuatayo:

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(a) makubaliano ya wahusika wa usuluhishi kuhusu ada mbalimbali kutekelezwa bila kutoa fursa kwa mahakama kuingilia katika makubaliano hayo.

(b) Kuondoa utaratibu unaoweza rufaa mahakamani kutoka kwa mhusika wa usuluhishi ambaye kwa sababu zake binafsi hakuteua msuluhishi na hivyo kupelekea msuluhishi kuteuliwa na mshirika wake.

(c) Kuondoa dhana inayopendekezwa na muswada ya kubadilisha tuzo za usuluhishi kuwa hukumu za mahakama na badala yake kuweka masharti yanayoweza utaratibu wa kawaida wakukazia hukumu za mahakama kutumika kwenye kukazia tuzo za usuluhishi bila kuzibadilisha kuwa hukumu za mahakama.

(d) Kupunguza wigo wa masuala ya kisheria yanayoweza wahusika wa usuluhishi kukata rufaa mahakamani dhidi ya tuzo ya usuluhishi iliyotolewa na baraza.

**Mheshimiwa Spika**, Kwa misingi hii niliyotaja hapa, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho katika ibara 19, ibara ya 20, ibara ya 26, ibara ya 30, ibara ya 46 na ibara ya 52 ya muswada kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho.

### 2.2.1. Maboresho Makubwa ya Pendekezo la Kuanzisha Kituo cha Usuluhishi Nchini

**Mheshimiwa Spika**, Kamati inaipongeza Serikali kwa kuleta wazo la kuanzisha kituo cha usuluhishi nchini ambacho, pamoja na mambo mengine kitahusika na usuluhishi wa migogoro ya kibiashara ya ndani ya nchi na ile ya kimataifa. Hata hivyo, masharti ya uanzishwaji wa kituo hicho yanayopendekezwa na muswada hayatekelezeki kutokana na mapungufu makubwa hususani muswada kutobainisha aina au hadhi ya kituo kinachoanzishwa, muundo wake, uendeshaji pamoja na vyanzo vya mapato vya kituo hicho.

**Mheshimiwa Spika**, uzoefu kutoka nchi nyingine hususani ambazo ni majirani na Tanzania unaonyesha kuwa vituo vya usuluhishi vya aina hii vinaanzishwa kama taasisi zinazoweza kujitegemea na kujitendelea kwa namna inayoendana na kasi ya mabadiliko na maendeleo ya biashara. Kwa msingi huu, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho makubwa katika Sehemu ya Kumi ya muswada kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho ili kituo kinachoanzishwa kiwe na tija kwa taifa.

### 2.2.3. Kuweka Masharti Bora zaidi kuhusu Usuluhishi wa Kimataifa pamoja na Kuboresha Utaratibu wa Kutambua na Kutekeleza Tuzo za Usuluhishi wa Kimataifa Nchini

**Mheshimiwa Spika**, kutokana na Sheria ya Usuluhishi, Sura ya 15 inayotumika nchini hivi sasa kubainika kuwa na mapungufu katika usuluhishi wa kimataifa pamoja na utaratibu wa kutambua na kutekeleza tuzo za usuluhishi nchini, muswada huu unakusudiwa kuondoa mapungufu hayo kwa kuweka masharti mapya yaliyoboreshwa. Hata hivyo, masharti yanayopendekezwa hayajitoshelizi kwa sababu muswada hauna maudhui yanayohusu usuluhishi wa kimataifa bali unatoa tu tafsiri ya usuluhishi wa kimataifa.

Aidha, masharti ya muswada kuhusu utaratibu wa kutambua na kutekeleza tuzo za usuluhishi wa kimataifa nchini yanakinzana. Muswada huu pia haujatekeleza ipasavyo wajibu wa kimataifa kwa kuzingatia mikataba ya kimataifa inayohusiana na kutambua na kutekeleza tuzo za usuluhishi hususani Mkataba wa New York wa mwaka 1958 ambao Tanzania iliuridhia mnamo tarehe 13 Oktoba, 1964. Kwa msingi huu, Kamati

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ilimshauri mtoa hoja na kukubaliana kufanya maboresho katika ibara ya 78 ya muswada kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho.

### 2.2.4. Kuboresha Tafsiri pamoja na Masharti yanayohusu Usuluhishi wa Ndani na Usuluhishi wa Kimataifa

**Mheshimiwa Spika**, kama ilivyoielezwa awali, muswada huu unapendekeza utaratibu bara zaidi unaowezesha usuluhishi wa ndani ya nchi kufanyika na ule wa kimataifa kutekelezwa hapa nchini kama itakavyokuwa kwa usuluhishi wa ndani. Hata hivyo, mfumo wa uandishi wa muswada pamoja na tafsiri inayowekwa kuhusu usuluhishi wa ndani na usuluhishi wa kimataifa kwa pamoja havikidhi haja au matamano ya Serikali na wadau wengine katika masuala ya usuluhishi kwa kuzingatia ufafanuzi uliotolewa kwenye Kamati. Mathalani, muswada unavyopendekezwa unaonyesha usuluhishi wa ndani ni mkataba wa usuluhishi badala ya mchakato mzima wa usuluhishi. Muswada unaonyesha pia kuwa Tanzania Bara ndiyo itakayowajibika au kufungwa na tuzo ya usuluhishi wa nje ingawa katika hali ya kawaida wanaofungwa na tuzo ni wahusika wa usuluhishi, wajibu wa nchi ni kuwezesha utekelezaji wa tuzo ya wahusika wa usuluhishi. Kwa msingi huu, Kamati ilimshauri na kukubaliana na mtoa hoja kufanya maboresho katika ibara ya 3 ya muswada kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho.

### 2.2.5. Lugha ya Usuluhishi na Lugha ya Mahakama

**Mheshimiwa Spika**, Ibara ya 36 (2) (a) (b) inapendekeza uendeshaji wa shauri la usuluhishi uzingatie makubaliano ya wahusika na kisha kuamua kuhusu lugha itakayotumika. Hata hivyo, uchambuzi wa Kamati umebaini kuwa pendekezo hilo halijitoshelezi na kuona kuwa ni vema kuwepo kwa ibara mahsusi inayobainisha uhuru wa wahusika wa usuluhishi kuchagua lugha wanayoitaka. Aidha, inapotokea jambo lolote la usuluhishi linapelekwa mahakamani, makubaliano ya usuluhishi na nyaraka nyingine zozote ambazo hazipo kwenye lugha ya mahakama ni vema kuwa na sharti linaloweka utaratibu wa nyaraka hizo kutafsiriwa kwa lugha ya mahakama.

Kwa msingi huu, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho kwa kuongeza ibara mpya ya 8A inayohusiana na lugha katika usuluhishi kama maboresho hayo yanavyoonekana kwenye jedwali.

**2.2.6. Maboresho ya Masharti ya Dhamana (Security for Costs) Mheshimiwa Spika**, Ibara ya 40 (2) inapendekeza kulipa baraza uwezo wa kutoa amri zinazohusu dhamana ya usuluhishi lakini amri hiyo haitatolewa kwa mtu au kampuni ya nje ya nchi. Masharti haya yanapendekezwa pia katika ibara ya 72(7). Kwa kawaida, mantiki ya dhamana hii ni kulinda maslahi ya mdaiwa inapotokea mdai ameshindwa kwenye shauri na hana uwezo wa kumlipa mdaiwa ili kuepusha ufunguaji wa mashauri yenye nia mbaya.

**Mheshimiwa Spika**, haijawa bayana kuhusu sababu za muswada kupendekeza amri ya dhamana hiyo kutotolewa kwa mtu au kampuni ya nje ya nchi, ambapo katika hali ya kawaida, wageni ndiyo wenye viashiria vya ugumu hususan katika kukaza tuzo ya usuluhishi. Kwa msingi huu, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho katika ibara ya 40 na ibara ya 72 ya muswada kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho.

### **2.2.7. Kuweka Utaratibu wa Masharti ya Usiri kwenye Usuluhishi (Confidentiality)**

**Mheshimiwa Spika,** kama ilivyoelezwa awali, mojawapo ya misingi mikubwa ya utatuzi wa migogoro kwa njia ya usuluhishi ni usiri ili kuweza kuwavutia wafanyabiashara kutumia mfumo huo ili kuboresh mazingira ya biashara. Hata hivyo, muswada huu haujaweka sharti hata moja linaloonyesha namna msingi wa usiri katika usuluhishi unavyoweza kuratibiwa na kutekelezwa kabla, wakati na baada ya usuluhishi. Kwa msingi huu, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho katika ibara ya 4 ya muswada na kuongeza ibara nyingine mpya zinazoweka masharti yanayojitoshesha kuhusu usiri kama maboresho hayo yanavyoonekana kwenye Jedwali la Marekebisho.

**2.2.8. Maboresho ya Kupunguza Kiasi cha Masharti ya Jumla Mheshimiwa Spika,** ibara ya 7 ya muswada inayopendekezwa kwenye muswada ikisomwa pamoja na Jedwali la Marekebisho la muswada inapendekeza masharti ambayo ni lazima yazingatiwe kwenye usuluhishi na kwamba masharti hayo hayataathiriwa na makubaliano yoyote ya wahusika. Kwa kuwa usuluhishi ni mfumo ambao unatoa fursa zaidi kwa wahusika wa mkataba kuamua namna usuluhishi wa mgogoro baina yao unavyopaswa kufanyika. Kamati ilimshauri mtoa hoja na kukubaliana kupunguza masharti ya lazima kama yanavyoainishwa na ibara ya 7 ikisomwa pamoja na jedwali la muswada ili kuepusha usuluhishi kutawaliwa na taratibu nyingi za kisheria kama ilivyo mfumo wa kimahakama.

### **2.2.9. Maboresho yatakayowezesha Sheria inayopendekezwa kuwa Mashsuski kwa ajili ya Usuluhishi**

**Mheshimiwa Spika,** Sehemu ya Kumi na Tatu ya muswada inapendekeza kufanya marekebisho katika sheria nyingine ambazo ni Sheria ya Mwenendo wa Mashauri ya Jinai, Sura ya 20, Sheria ya Mwenendo wa Mashauri ya Madai, Sura ya 33, Sheria ya Mamlaka ya Nchi kuhusiana na Umliki wa Maliasili za Nchi, Sura ya 449 na Sheria ya Ubia baina ya Sekta ya Umma na Sekta Binafsi, Sura ya 103.

**Mheshimiwa Spika,** kwa kawaida katika utungaji wa sheria, baadhi ya sheria nyingine zinaweza kufanyiwa marekebisho kulingana na masuala yatokanayo na sheria mpya inayotungwa yenye kushabihiana. Katika hali ya kawaida, masuala ya usuluhishi ni mojawapo ya eneo la sheria lenye misingi mingi ya kifundi ambayo inapohitajika kuzingatiwa kwenye sheria nyingine, misingi hiyo inahitaji uchambuzi wa kina. Kwa msingi huo, kutokana na uzito wa mapendekezo ya maboresho ya Sehemu hii ya Kumi na Tatu, Kamati inaishauri Serikali kuleta marekebisho katika sheria zinazopendekezwa katika sehemu hii wakati mwingine kupitia Muswada wa Sheria ya Marekebisho ya Sheria Mbalimbali ili Bunge lipate muda wa kutosha wa kuchambua na kujadili mapendekezo hayo.

### **2.2.10. Maboresho ya Uandishi kwa Ujumla**

**Mheshimiwa Spika,** Kamati imebaini dosari mbalimbali za kiandishi katika ibara takribani 31 ikiwemo zilizofanyiwa marekebisho ya kimaudhui kwa kuwa uandishi wa ibara hizo unaweza kuathiri tasfiri ya sheria katika utekelezaji. Kwa msingi huu, Kamati ilimshauri mtoa hoja na kukubaliana kufanya maboresho katika jina refu la muswada, ibara ya 3, ibara ya 4, ibara ya 5, ibara ya 6, ibara ya 8, ibara ya 9, ibara ya 12, ibara ya 14, ibara ya 15, ibara ya 16, ibara ya 17, ibara ya 20, ibara ya 22, ibara ya 23, ibara ya 25, ibara ya 26, ibara ya 27, ibara ya 28, ibara ya 34, ibara ya 35, ibara ya 36, ibara ya 38, ibara ya 39, ibara ya 40, ibara ya 46, ibara ya 72, ibara ya 76, ibara ya 77 na ibara ya 78, ibara ya 83 na ibara ya 93.



### 2.3 Mapendekezo ya jumla

**Mheshimiwa Spika**, Kamati ilibaini masuala mbalimbali ya jumla ambayo ni muhimu yakaboreshwa kwa lengo la kuleta tija katika maboresho ya mazingira ya ufanyaji biashara nchini hususan utatuzi wa migogoro ya kibiashara kwa haraka kama ifuatavyo: -

a) **Kuandaa Sera kuhusu Mfumo wa Mashauri ya Usuluhishi Mheshimiwa Spika**, Kamati imebaini kuwa mfumo wa masuala ya usuluhishi nchini na duniani kwa ujumla unapitia mabadiliko ya maboresho na hivyo masuala ya usuluhishi hayafahamiki ipasavyo kwa wafanyabiashara na wananchi kwa ujumla. Kamati inaona kuwa ni vema Serikali ikafanya utafiti wa kisera ili kuandaa sera mahsusi kwa ajili ya mfumo wa utatuzi wa migogoro nje ya mahakama ikiwemo usuluhishi. Hatua hii itawezesha kuweka mfumo wa utoaji wa elimu kwa umma kuhusu masuala hayo na pia utafiti wa kisera utawezesha kuibua masuala muhimu katika usuluhishi ambayo pengine hayajazingatiwa katika muswada huu.

b) **Utungaji wa haraka wa Kanuni kuhusu utaribu wa Uendeshaji wa Mashauri ya Usuluhishi**

**Mheshimiwa Spika**, masharti mengi katika muswada huu wa sheria ya usuluhishi ni ya jumla sana ambayo yanahitaji uwepo wa sheria ndogo ili utekelezaji wake uweze kuwa na ufanisi. Kamati ilimshauri mtoa hoja kuhakikisha kuwa kanuni za utekelezaji wa sheria itakayopitishwa na Bunge hili kutungwa mapema iwezekanavyo ili kuwezesha mfumo ulioboreshwa wa usuluhishi unatekelezwa haraka ikiwa ni mojawapo ya hatua ya kuboresha mazingira ya ufanyaji wa biashara nchini. Aidha, serikali iangalie uwezekano wa kuandaa kanuni za mfano zinazohusu mwenendo wa masuala ya usuluhishi ambazo wahusika wa usuluhishi wanaweza kuwa na hiari ya kuzitumia katika baraza la usuluhishi watakalounda.

c) **Kuweka Utaribu Maalum katika Mahakama utakaowezesha Rufaa za Usuluhishi kutolewa Uamuzi kwa Haraka**

**Mheshimiwa Spika**, muswada unapendekeza masharti mbalimbali ambapo wahusika katika usuluhishi wanaweza kuomba nafuu kwa njia ya rufaa au marejeo katika mahakama yoyote nchini kulingana na suala linalotafutiwa usuluhishi na mamlaka ya mahakama. Muingiliano huo unaweza kusababisha lengo la sheria la kutatua migogoro kirafiki na kwa uharaka nje ya mfumo wa mahakama kutofikiwa ipasavyo. Ni vema serikali ikachukua hatua za makusudi katika kuandaa na kuwezesha mfumo wa mahakama nchini kuendana na malengo ya sheria hii.

### 3.0 HITIMISHO

**Mheshimiwa Spika**, kwa mara nyingine naomba nikushukuru sana wewe kwa kutoa kibali ili Kamati ya Sheria Ndogo iweze kuufanyia kazi Muswada huu.

**Mheshimiwa Spika**, naomba kumtambua na kumshukuru, Waziri wa Katiba na Sheria Mhe. Balozi Dr. Augustine Mahiga - Mb, Katibu Mkuu wa Wizara hiyo, Prof. Sifuni Mchome pamoja Watendaji wote wa Serikali katika Wizara ya Katiba na Sheria na Ofisi ya Mwanasheria Mkuu wa Serikali kwa ushirikiano wao wa dhati ulioiwezesha Kamati kukamilisha Uchambuzi wa Muswada huu kwa wakati.

**Mheshimiwa Spika**, Kwa namna ya pekee kabisa naomba niwashukuru Wajumbe wa Kamati ya Sheria Ndogo kwa weledi na umhiri wao waliouonesha wakati wa kuchambua Muswada

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huu na hatimaye kutoa Mapendekezo ya msingi ya kuuboresha. **Naomba Majina yao yaingizwe kwenye Kumbukumbu rasmi za Bunge (Hansard).**

1. Mhe. Andrew John Chenge, Mb - **Mwenyekiti**
2. Mhe. William Mganga Ngeleja, Mb - **Makamu Mwenyekiti**
3. Mhe. Aida Joseph Khenani, Mb
4. Mhe. Khamis Mtumwa Ali, Mb
5. Mhe. Rashid Ali Abdallah, Mb
6. Mhe. Mlinga Goodluck Asaph, Mb
7. Mhe. John John Mnyika, Mb
8. Mhe. Halima James Mdee, Mb
9. Mhe. Elibariki Emmanuel Kingu, Mb
10. Mhe. Ridhiwani Jakaya Kikwete, Mb
11. Mhe. Sabreena Hamza Sungura, Mb
12. Mhe. Sadifa Juma Khamis, Mb
13. Mhe. Anne Kilango Malecela, Mb
14. Mhe. Zainab Athman Katimba, Mb
15. Mhe. Salome Wycliffe Makamba, Mb
16. Mhe. Twahir Awesu Mohammed, Mb
17. Mhe. Taska Restituta Mbogo, Mb
18. Mhe. Mary Deo Muro, Mb
19. Mhe. Easther Lukago Midimu, Mb
20. Mhe. Catherine Nyakao Ruge, Mb
21. Mhe. January Yusuf Makamba, Mb

**Mheshimiwa Spika**, naomba pia kutambua ushiriki na mchango wa kipekee wa Mhe. Naibu Spika Dkt. Tulia Ackson (Mb) katika uchambuzi na majadiliano ya Kamati katika muswada huu. Aidha, nawashukuru Watumishi wote wa Ofisi ya Bunge hususan Katibu wa Bunge **Ndg. Stephen Kagai** kwa Uongozi thabiti ambao umerahisisha utendajikazi wa Kamati. Vilevile, namshukuru Mkurugenzi wa Idara ya Kamati za Bunge Ndg. Athuman Hussein, Mkurugenzi Msaidizi Ndg. Gerald Magili, Makatibu wa Kamati Ndg. Mkuta Masoli, Ndg. Angela Shekifu. Mkurugenzi wa Idara ya Huduma za Sheria Ndg. Pius Mboya pamoja na maofisa wa sheria Ndg. Stephano Seba Mbutu, Ndg. Nesta Kawamala, na Ndg. Evelyne Shibandiko pamoja na Msaidizi wa Kamati Ndg. Paul Chima wali ofani kisha kazi ya Uchambuzi na uratibu wa shughuli za Kamati kwa kuiwezesha Kamati kutekeleza majukumu yake ipasavyo na kukamilisha taarifa hii kwa wakati.

**Mheshimiwa Spika**, naomba kuwasilisha.

**Andrew J. Chenge**  
**MWENYEKITI**  
**KAMATI YA KUDUMU YA BUNGE YA SHERIA NDOGO**  
7 Februari, 2020

**MHE. RIDHIWANI J. KIKWETE:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Ahsante sana Mwenyekiti wa Kamati ya Sheria Ndogo nimuite sasa Msemaji wa Kambi ya Upinzani kuhusu Wizara ya Katiba na Sheria Mheshimiwa Salome Makamba, Mheshimiwa Salome Makamba ili nisikukatishe katishe saa ya kuanza kusoma nimeipitia hii taarifa hapa kifungu cha 7 na cha 8 kisomwe kwenye taarifa yako kwa sababu

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mambo hayo yalitolewa jana hapa yalitolewa ufafanunuzi na Mheshimiwa Waziri Mkuu na sasa hakuna haja ya kuyarudia kwa sababu yanaweka kumbukumbu ambayo haikai sawa sawa kwa mujibu wa taratibu za Bunge letu, Mheshimiwa Salome Makamba.

**MHE. SALOME W. MAKAMBA - MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI, KATIKA WIZARA YA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika yafuataya ni maoni ya Kambi Rasmi ya Upinzani Bungeni kuhusu Muswada wa Sheria ya Usuluhishi ya mwaka 2020 (*The Arbitration Act, 2020*)

Mheshimiwa Spika, kwa mara nyingine tena, Serikali imeleta Bungeni, kwa hati ya dharura; Muswada wa Sheria wenye lengo la kufuta Sheria ya zamani ya Usuluhishi na kutunga upya Sheria ya Usuluhishi ya 2020 na kufanya marekebisho ya baadhi ya Sheria yatokeanayo na mabadiliko hayo. Miongoni mwa Sheria zitakazofanyiwa marekebisho ili kuendana na Sheria Mpya ni pamoja na Sheria ya Mwenendo wa Makosa ya Jinai, Sheria ya Mwenendo wa Mashtaka ya Madai, Sheria ya Mamlaka ya Nchi juu ya Mali na Rasilimali na Sheria ya Ubia kati ya Sekta ya Umma na Sekta Binafsi.

Mheshimiwa Naibu Spika, itakumbukwa kwamba, si mara ya kwanza Kambi Rasmi ya Upinzani kupinga tabia ya Serikali kuleta Miswada bungeni kwa hati ya dharura na kwamba na hasa kama mambo hayo asili yake si ya dharura. Kwa sababu kubwa ya kukemea tabia hiyo, ni kutokana na kukosekana kwa muda wa kutosha kufanya tafiti juu ya tatizo linalopelekea sheria husika kutungwa; kutoshirikisha wadau wa jambo husika kikamilifu; mambo ambayo hupelekea sheria kutungwa harakaharaka bila umakini na hatimaye, Sheria iliyotungwa kuonekeana kuwa na mapungufu mengi kabla hata utekelezaji wake haujaanza. (*Makofi*)

Mheshimiwa Naibu Spika, Sheria ya Usuluhishi inayofutwa na Muswada huu ilitungwa tangu mwaka 1932 na Wakoloni. Ina umri wa miaka 85. Kulikuwa na muda mrefu wa kutosha kuifanyia marekebisho ili iendane na mahitaji ya wakati. Kambi Rasmi ya Upinzani inauliza; hivi kuna jambo gani kubwa la dharura lililotokea katika nchi yetu kiasi cha kuifuta sheria nzima na kuleta Muswada wa sheria mpya tena kwa hati ya dharura? Kumefanyika utafiti gani na lini kuthibitisha kwamba tunahitaji sheria mpya katika mazingira ya sasa?

Mheshimiwa Naibu Spika, msingi wa maswali haya ni kuonyesha umuhimu wa kutunga sheria kwa kufuata utaratibu. Kambi Rasmi ya Upinzani Bungeni inapenda kuisisitiza Serikali kuacha kujificha nyuma cha kivuli cha "Hati ya Dharura" ili kuwanyima wadau na wananchi kwa jumla fursa ya kushiriki katika mchakato wa kutunga sheria bora. Aidha, ijifunze kutenganisha kati ya mambo ya dharura na mambo ambayo kwa asili yake si ya dharura. (*Makofi*)

Mheshimiwa Naibu Spika, yapo mambo ya dharura ambayo Serikali hii inatakiwa kuyashughulikia ikiwa ni pamoja na kuleta Muswada wa Marekebisho ya Katiba ili mosi, kuwe na Tume Huru ya Uchaguzi, pili kuwaondoa Wakurugenzi wa Halmashauri za Wilaya, Manispaa...

**NAIBU SPIKA:** Hiyo ni *paragraph* ya ngapi Mheshimiwa Salome unayosoma ni *paragraph* unasoma.

**MHE. SALOME W. MAKAMBA - MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI, KATIKA WIZARA YA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika, umefuta ya saba na ya nane. Nitarudia yapo mambo ya dharura ambayo Serikali hii inatakiwa kuyashughulikia ikiwa ni pamoja na kuleta Muswada wa Marekebisho ya Katiba ili;

(i) Kuwe na Tume Huru ya Uchaguzi;

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(ii) Kuwaondoa Wakurugenzi wa Halmashauri za Wilaya, Manispaa, Majiji pamoja na Watendaji wa Kata kuwa wasimamizi wa Uchaguzi na;

(iii) Kuruhusu Matokeo ya Mgombea Urais kupingwa Mahakamani. Nasisitiza jambo hili kwa kuwa tuko kwenye mwaka wa Uchaguzi Mkuu; haya ndio mambo ambayo hayawezi kusubiri hasa katika mwaka huu. (Makofi)

Mheshimiwa Naibu Spika, chombo cha Usimamizi wa Sheria Inayopendekezwa Serikali ya Kumi ya Muswada huu inapendekeza kuanzishwa kwa Kituo cha Usuluhishi wa Migogoro cha Tanzania (*Tanzania Arbitration Center*). Hili ni jambo jema kwa kuwa chombo hiki kitakuwa ni cha kudumu kwa ajili ya kuratibu na kusimamia michakato ya usuluhishi wa migogoro pindi itakapotokea.

Mheshimiwa Naibu Spika, kwa kuwa Kituo cha Usuluhishi kinachopendekezwa kuanzishwa na Muswada huu ni chombo cha kudumu, basi sheria inayopendekezwa haina budi kuweka utaratibu wa namna chombo hicho kitakavyoundwa, ikiwa ni pamoja na idadi na sifa za wajumbe au watendaji katika chombo hicho.

Mheshimiwa Naibu Spika, Ibara ya 77 ya Muswada huu na nafasi zake zote inapendekeza kuanzishwa kwa Kituo cha Usuluhishi na inaruhusu Kituo hicho kutafuta mahusiano na kuingia ubia na vyombo vingine vya kikanda na kimataifa; na pia Kituo kinaweza kuanzisha matawi katika maeneo mbalimbali ya nchi kama itakavyoonekana hapa juu.

Mheshimiwa Naibu Spika, Kambi Rasmi ya Upinzani inaitaka Serikali kufanya marekebisho ya Ibara ya 77 kwa kuonesha muundo wa Kituo, kuundwa bodi ya wakurugenzi itaayojumuisha wasuluhishi wa Serikali na wa Kujitegemea pia kukipa Kituo nguvu ya kutekeleza majukumu mengi ambayo kwa sasa yanafanywa na Mahakama.

Mheshimiwa Naibu Spika, sambamba na hilo, Kambi rasmi ya Upinzani Bungeni inashauri Kituo hiki cha Usuluhishi kiwe chombo huru cha usimamizi na uratibu wa wa migogoro, kama ilivyo kwa Chama cha mawakili. Ili kuweze kuwa na wanataaluma huru na watakaofanya kazi kwa weledi, wenye uwezo wa kutoa haki bila kuegemea upande wowote (*impartiality*). Aidha, Kambi Rasmi ya Upinzani Bungeni inashauri na kupendekeza kuwe na mipaka ya kiutendaji kati ya chombo hicho na mahakama ili chombo hicho kisiingiliwe na mahakama au Serikali katika kufikia umuzi wake.

Mheshimiwa Naibu Spika, *Eneo la Matumizi ya Sheria Inayopendekezwa* kwa mujibu wa Ibara ya 2 ya Muswada huu, Sheria inayopendekezwa itatakiwa kutumika Tanzania Bara pekee. Hata hivyo, Ibara ya 3 ya Muswada huu imetafsiri na kufafanua maana ya Usuluhishi wa Migogoro wa Ndani wa Kibiashara kwamba utahusu watu au pande mbili ambazo wadau wake watakuwa ni raia wa Jamhuri ya Muungano kwa asili ni wakazi wa Tanzania Bara.

Mheshimiwa Naibu Spika, hapa ndipo migogoro wa kisheria unapoanza katika tafsiri hii ni kwamba raia wa Jamhuri aah sorry! Hapa ndipo mgogoro wa sheria hii unapoanza katika tafsiri hii ni kwamba raia wa Jamhuri ya Muungano anahusika na Sheria inayopendekezwa kwa mujibu wa Katiba ya nchi Jamhuri ya Muungano ni pande mbili Tanzania Bara na Zanzibar na kwa sababu hiyo ikiwa Mzanzibari ambaye ni raia wa Jamhuri ya Muungano atakuwa na mgogoro wa kibiashara wa ndani ambayo inahitaji usuluhishi kwa mujibu wa Muswada huu atahitaji kuongozwa na sheria hii inayopendekezwa.

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Mheshimiwa Naibu Spika, pamoja na mwingiliano huu mkubwa usioweza kutenganishwa, bado Serikali inalazimisha kuitenga Zanzibar kwa kuifanya sheria hii itumike Tanzania Bara peke yake bila kufikiri kwa kina kuwa migogoro ya ndani kwa tafsiri ya Muswada huu ni pamoja na migogoro ya Zanzibar. Kambi Rasmi ya Upinzani inaitaka Serikali kulieleza Bunge hili; kama kuna mgogoro kati ya mfanyabiashara wa Zanzibar na mfanyabiashara wa Bara; mgogoro huo utashuluhishwa namna gani ikiwa sheria hii haitatumika Zanzibar?

Mheshimiwa Naibu Spika, Kambi Rasmi bungeni inataka Serikali kulieleza Bunge hili...

**NAIBU SPIKA:** Mheshimiwa Salome Makamba subiri kidogo Waheshimiwa Wabunge kwa mujibu wa kanuni zetu tunapaswa kumaliza saa saba lakini nitatumia kanuni ya 5 kwa hiyo kwa mamlaka niliyonayo na hii sitawahoji mpaka tutakapomaliza shughuli hizi ndiyo tutaahirisha Bunge. Mheshimiwa Salome Makamba!

**MHE. SALOME W. MAKAMBA - MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI, KATIKA WIZARA YA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika, Kambi Rasmi ya Upinzani Bungeni inaitaka Serikali kulieleza Bunge hili; kama Sheria hii haitatumika Zanzibar, je migogoro ya Zanzibar itahesabiwa kama ni migogoro ya nje? (International Commercial Arbitration)? Ukienda kwenye tafsiri ya International Commercial Arbitration, kwa mujibu wa muswada huu, ni kwamba, usuluhishi wa mgogoro wa kibiashara wa kimataifa maana yake ni usuluhishi wa migogoro inayohusu mahusiano ya kisheria iwe ni ya kimkataba au vinginevyo inayotambulika kuwa ni ya kibiashara chini ya sheria inayotumika Tanzania Bara, ambapo moja kati ya wadau wanao husika lazima awe raia, kwa asili ni mkazi wa nchi nyingine yeyote nje ya Tanzania bara. Hapo Jamhuri ya Muungano haikutajwa.

Mheshimiwa Naibu Spika, kwa tafsiri hiyo, Zanzibar inahesabiwa kama ni nchi nyingine nje ya Tanzania Bara. Kwa sababu hiyo, Muswada huu unaitambua Zanzibar kama nchi huru inayojitegemea na ambayo inaweza kuingia mikataba ya Kimataifa na nchi nyingine ikiwemo Tanzania Bara kwa ustawi na maendeleo yake.

Mheshimiwa Naibu Spika, kama ni hivyo, Kambi Rasmi ya Upinzani inaitaka Serikali kutoa maelezo mbele ya Bunge hili, ni kwa nini katika usuluhisho wa migogoro ya ndani Zanzibar inahesabiwa kuwa ni sehemu ya Jamhuri ya Muungano lakini katika migogoro ya Kimataifa... *Jesus!*

Mheshimiwa Naibu Spika, samahani.

*(Hapa Mheshimiwa Mtoa Hoja aliomba muda kidogo aweke taarifa yake vizuri)*

**MHE. SALOME W. MAKAMBA - MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI, KATIKA WIZARA YA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika, kama ndivyo hivyo Kambi Rasmi ya Upinzani inaitaka Serikali kutoa maelezo mbele ya Bunge hili, ni kwa nini katika usuluhisho wa migogoro ya ndani Zanzibar inahesabiwa kuwa ni sehemu ya Jamhuri ya Muungano lakini katika migogoro ya Kimataifa inatengwa kama siyo sehemu ya Jamhuri ya Muungano?

Mheshimiwa Naibu Spika, hapa kuna mgogoro wa Kikatiba. Ukisoma tafsiri ya *International Commercial Arbitration*, utaona kwamba angalau mmoja kati ya wadau wa Usuluhishi wa Kibiashara wa Kimataifa lazima awe raia kwa asili, ni mkazi wa nchi nyingine yoyote nje ya Tanzania Bara. Kwa tafsiri hiyo utagundua kwamba Tanzania Bara inahesabiwa kama nchi inayojitegemea jambo ambalo ni kinyume kabisa na Katiba ya nchi yetu. Haya

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ndiyo yaliyokuwa miongoni mwa kero za Muungano yaliyopelekea Tume ya Marekebisho ya Katiba chini ya Jaji Warioba kupendekeza Muundo wa Muungano uwe wa Serikali tatu.

Mheshimiwa Naibu Spika, kwa kuwa katika msingi wa Katiba ya Jamhuri ya Muungano, Katiba hairuhusi ubaguzi wa aina yoyote miongoni mwa raia wake; na kwa kuwa Katiba yenyewe imeelekeza kwamba sheria yoyote itakayotungwa kinyume na masharti ya Katiba itakuwa batili kwa kiwango kile kile ilichokiuka masharti hayo; Hivyo basi, Kambi Rasmi ya Upinzani Bungeni inataka Serikali kuuondoa Muswada huu Bungeni na kwenda kuufanyia marekebisho ili uendane na masharti ya Katiba.

Mheshimiwa Naibu Spika, Ibara ya 4 ya Muswada huu imeeleza msingi na malengo ya kutungwa kwa sheria ya Usuluhishi. Lengo kuu ni kuhakikisha kuwa migogoro inasuluhishwa kwa haki, kwa wakati, bila upendeleo na bila gharama za ziada kutokana na ucheleweshaji. Pamoja na makusudio hayo mema Vifungu vingi vya Muswada huu vina milolongo mirefu ya michakato na makubaliano kati ya wadau wanaohusika kwenye shauri kiasi kwamba kuna hatari ya kupoteza muda mwingi na kutumia gharama kubwa zaidi kuliko ambavyo shauri lingeshughulikiwa katika mfumo wa Mahakama.

Mheshimiwa Naibu Spika, ukisoma kuanzia Ibara ya 9 mpaka ya 39 utaona kuna mlolongo wa michakato mbalimbali kama vile kuandaa makubaliano ya usuluhishi, kuanzisha michakato ya usuluhishi, kuanzishwa kwa Baraza la Usuluhishi, michakato ya uteuzi wa wasuluhishi, kumchagua Mwenyekiti au Mwangalizi wa Mwenendo wa Usuluhishi, utaratibu wa kumwondoa msuluhishi ikiwa upande mmoja haumwamini, kujiuzulu kwa msuluhishi, kufariki, kujaza nafasi iliyoachwa wazi na mambo mengine kadhalika na kadhalika.

Mheshimiwa Naibu Spika, michakato yote hiyo inahitaji makubaliano ya wadau kwa kila hatua na ikiwa upande mmoja haujaridhika na mchakato, basi kuna nafasi ya kuweka pingamizi Mahakamani. Yote hayo yanachukua muda mwingi na gharama pia. Milolongo hii ya michakato mirefu ya kushughulikia usuluhishi inaongeza gharama na inakwenda kinyume na msingi wa kutungwa kwa sheria hii.

Mheshimiwa Naibu Spika, Muswada huu haujatoa mamlaka kamili kwa Baraza la Usuluhishi (*Arbitral Tribunal*). Kwa mfano, Ibara za 68, 69 na 70 za Muswada ambazo zinaeleza bayana kwamba uamuzi wa Baraza la Usuluhishi unaweza kupingwa Mahakamani ikiwa mdau mmojawapo ataweka pingamizi Mahakamani kwa kutoridhishwa na uamuzi wa Baraza. Kambi Rasmi ya Upinzani ina mashaka na mantiki ya Muswada huu, kwa kuwa kila mchakato wa usuluhishi unaonesha wadau ndio waamuzi wakuu wa kila jambo na makubaliano yao ndiyo yanawezesha hatua nyingine kufuata.

Mheshimiwa Naibu Spika, ikumbukwe kwamba lengo kuu la Muswada huu ni kuweka utaratibu wa kutatua migogoro ya kibiashara nje ya mfumo wa Mahakama. Kwa kuzingatia azma hiyo, Kambi Rasmi ya Upinzani inashauri na kupendekeza kwamba, Mahakama isiingilie uhuru wa Mabaraza ya Usuluhishi isipokuwa pale Mabaraza hayo yatakapopeleka shauri Mahakamani.

Mheshimiwa Naibu Spika, mwisho, kwa ujumla Muswada huu una upungufu sana na ni kutokana na kuandaliwa haraka haraka bila kufanyiwa utafiti wa kutosha na bila kushirikisha wadau kikamilifu. Hata hivyo, mwenendo huu wa Serikali wa kuleta Muswada ya sheria kwa dharura mithili ya zima moto kunatoa tafsiri kwamba sheria hizi zinatungwa kukabilliana na matukio au madhara ambayo tayari yameshatokea, hivyo Serikali inajaribu kulazimisha kupambana nayo kwa kuyatungia sheria.

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Mheshimiwa Naibu Spika, kabla ya kuhitimisha hotuba hii ya Kambi Rasmi ya Upinzani Bungeni, tungependa kusisitiza mambo yafuatayo:-

- (i) Kuacha utamaduni wa kuleta Bungeni Miswada kwa hati ya dharura kwa masuala ambayo kwa asili siyo ya dharura; *(Makofi)*
- (ii) Kuleta Bungeni kwa hati ya dharura Muswada wa Marekebisho ya Katiba ili kukidhi hoja ya dharura ya kuunda Tume Huru ya Uchaguzi kwa ajili ya kusimamia Uchaguzi Mkuu wa Oktoba, 2020; *(Makofi)*
- (iii) Kuacha mara moja kuleta Bungeni Miswada ya Sheria yenye mgogoro wa Kikatiba kuhusu Muungano wa Tanganyika na Zanzibar; *(Makofi)*
- (iv) Kuanzisha mara moja mchakato wa kutunga Sera ya Usuluhishi wa Migogoro ikijumuisha migogoro ya aina mbalimbali, yaani ya kijamii, kisiasa, kiuchumi na kitamaduni; na
- (v) Kuunda chombo huru cha kusuluhisha migogoro ya aina mbalimbali *(Independent Mediation and Arbitration Commission)*.

Mheshimiwa Naibu Spika, nahitimisha hotuba yangu kwa kutoa rai kwa Serikali kujenga utamaduni wa kuleta Bungeni Miswada ya kisheria baada ya kufanya utafiti wa kutosha na kubaini mahitaji ya msingi ya jamii yanayohitaji mwongozo wa sheria. Sheria inayotungwa kujibu changamoto za madhara ambayo tayari yameshatokea, haiwezi kuwa endelevu. *(Makofi)*

Mheshimiwa Naibu Spika, baada ya kusema hayo naomba kuwasilisha. *(Makofi)*

### **MAONI YA KAMBI RASMI YA UPINZANI BUNGENI, KUHUSU MUSWADA WA SHERIA YA USULUHISHI YA MWAKA 2020 (THE ARBITRATION ACT, 2020) - KAMA YALIVYOWASILISHWA MEZANI**

(Chini ya Kanuni ya 86(6) ya Kanuni za Kudumu za Bunge, toleo la Januari, 2016)

#### **A. UTANGULIZI**

**1. Mheshimiwa Spika**, kwa mara nyingine tena, Serikali imeleta Bungeni, kwa hati ya dharura; Muswada wa Sheria wenye lengo la kufuta Sheria ya zamani ya Usuluhishi, Kutunga upya Sheria ya Usuluhishi ya 2020 na kufanya marekebisho ya baadhi ya Sheria yatokeanayo na mabadiliko hayo. Miongoni mwa Sheria zitakazofanyiwa marekebisho ili kuendana na Sheria Mpya ni pamoja na Sheria ya Mwenendo wa Makosa ya Jinai, Sheria ya Mwenendo wa Mashtaka ya Madai, Sheria ya Mamlaka ya Nchi juu ya Mali na Rasilimali Asili na Sheria ya Ubia kati ya Sekta ya Umma na Sekta Binafsi.

**2. Mheshimiwa Spika**, itakumbukwa kwamba, si mara ya kwanza Kambi Rasmi ya Upinzani kupinga tabia ya Serikali kuleta miswada Bungeni kwa hati ya dharura na hasa kwa mambo ambayo kwa asili yake si ya dharura. Na sababu kubwa ya kukemea tabia hiyo, ni kutokana na kukosekana kwa muda wa kutosha kufanya tafiti juu ya tatizo linalopelekea sheria husika kutungwa; kutoshirikisha wadau wa jambo husika kikamilifu; mambo ambayo hupelekea sheria kutungwa haraka haraka bila umakini na hatimaye, Sheria iliyotungwa kuonekana kuwa na mapungufu mengi kabla hata utekelezaji wake haujaanza. Matokeo yake Bunge linaanza kuletewa miswada ya marekebisho ya sheria hizo kabla hata mwaka mmoja wa utekelezaji wake kumalizika.

3. **Mheshimiwa Spika**, Sheria ya Usuluhishi inayofutwa na Muswada huu ilitungwa tangu mwaka 1932 na Wakoloni. Ina umri wa miaka 85. Kulikuwa na muda mrefu wa kutosha kuifanyia marekebisho ili iendane na mahitaji ya wakati. Kambi Rasmi ya Upinzani inauliza; hivi kuna jambo gani kubwa la dharura lililotokea katika nchi yetu kiasi cha kuifuta sheria nzima na kuleta muswada wa sheria mpya tena kwa hati ya dharura? Kumefanyika utafiti gani na lini kuthibitisha kwamba tunahitaji sheria mpya katika mazingira ya sasa?

4. **Mheshimiwa Spika**, msingi wa maswali haya ni kuonyesha umuhimu wa kutunga sheria kwa kufuata utaratibu. Na utaratibu mzuri wa kutunga sheria ni kuanza na Sera. Sera ndizo hutoa mwongozo mzuri wa kutunga Sheria kwa kuwa Sera hutokana na mahitaji halisi ya jamii kwa wakati husika. Kambi Rasmi ya Upinzani Bungeni inaitaka Serikali kulieleza Bunge kama ina sera ya Usuluhishi wa Migogoro na sera hiyo ni ya mwaka gani? Na je, Sera hiyo imetumika kama msingi wa kutunga sheria inayopendekezwa.

5. **Mheshimiwa Spika**, Kambi Rasmi ya Upinzani Bungeni inapenda kuisisitiza Serikali kuacha kujificha nyuma cha kivuli cha "Hati ya Dharura" ili kuwanyima wadau na wananchi kwa jumla fursa ya kushiriki katika mchakato wa kutunga sheria bora. Aidha, ijifunze kutenganisha kati ya mambo ya dharura na mambo ambayo kwa asili yake si ya dharura.

6. **Mheshimiwa Spika**, yapo mambo ya dharura ambayo Serikali hii inatakiwa kuyashughulikia ikiwa ni pamoja na kuleta Muswada wa Marekebisho ya Katiba ili mosi, kuwe na Tume Huru ya Uchaguzi, pili kuwaondoa Wakurugenzi wa Halmashauri za Wilaya, Manispaa, Majiji pamoja na Watendaji wa Kata kuwa wasimamizi wa uchaguzi na tatu kuruhusu Matokeo ya Mgombea Urais kupingwa Mahakamani. Nasisitiza jambo hili kwa kuwa tuko kwenye mwaka wa Uchaguzi Mkuu; haya ndio mambo ambayo hayawezi kusubiri hasa katika mwaka huu wa uchaguzi.

#### [AYA YA SABA NA YA NANE ZIMEONDOLEWA KWA MAELEKEZO YA KITI]

#### B. MAONI MAHSUSI KUHUSU MUSWADA WA SHERIA YA USULUHISHI YA MWAKA 2020

##### (i) Mawanda ya Muswada (Scope)

9. **Mheshimiwa Spika**, muswada huu umejikita katika usuluhishi wa migogoro ya kibiashara ya ndani na nje ya nchi. Hata hivyo, muswada huu haujataja aina nyingine za migogoro mathalani migogoro ya kijamii, kisiasa na kitamaduni ambayo ipo kwa kiwango kikubwa katika jamii zetu. Muswada huu umeonesha wazi kuwa utashughulika na migogoro ya kiuchumi (kibiashara) pekee jambo ambalo litaacha sehemu kubwa ya migogoro ikishindwa kutatuliwa nje ya mfumo wa mahakama.

10. **Mheshimiwa Spika**, sote tunatambua kwamba miongoni mwa migogoro hatari ambayo inaweza kuingiza nchi katika balaa la vita ama vya wenyewe kwa wenyewe au taifa dhidi ya taifa jingine ni migogoro ya kisiasa. Taifa letu lina mfano hai ambapo kwa nyakati tofauti Marais Wastaafu wa Awamu ya Tatu na ya Nne wamewahi kuwa wasuluhishi wa migogoro ya kisiasa katika nchi jirani za Kenya na Burundi.

11. **Mheshimiwa Spika**, kutoijumuisha migogoro ya namna hii ni kutofikiri vema juu ya hatma ya amani na usalama wa nchi yetu kwa miaka mingi ijayo. Kwa sababu hiyo, Kambi Rasmi ya Upinzani inaitaka Serikali kurudi nyuma ikafanye tafiti na kuja na sera itakayotoa mwelekeo wa aina ya Sheria ya Usuluhishi itakayokidhi mahitaji.

##### (ii) Chombo cha Usimamizi wa Sheria Inayopendekezwa



**12. Mheshimiwa Spika**, Sehemu ya Kumi ya Muswada huu inapendekeza kuanzishwa kwa Kituo cha Usuluhishi wa Migogoro cha Tanzania (Tanzania Arbitration Center). Hili ni jambo jema kwa kuwa chombo hiki kitakuwa ni cha kudumu kwa ajili ya kuratibu na kusimamia michakato ya usuluhishi wa migogoro pindi itakapotokea. Vyombo vingine vinavyopendekezwa na muswada huu kama vile Mabaraza ya Usuluhishi (Arbitral Tribunals) ni vya muda tu (ad hoc), ambapo shauri likimalizika na vyombo hivyo vinakoma.

**13. Mheshimiwa Spika**, kwa kuwa Kituo cha Usuluhishi kinachopendekezwa kuanzishwa na Muswada huu ni chombo cha kudumu, basi sheria inayopendekezwa haina budi kuweka utaratibu wa namna chombo hicho kitakavyoundwa, ikiwa ni pamoja na idadi na sifa za wajumbe au watendaji katika chombo hicho.

**14. Mheshimiwa Spika**, ibara ya 77 ya Muswada huu na fasili zake zote inapendekeza kuanzishwa kwa Kituo cha Usuluhishi wa Migogoro, inapendekeza kazi za kituo hicho; inaruhusu Kituo kutafuta mahusiano na kuingia ubia na vyombo vingine vya kikanda na kimataifa; na pia Kituo kinaweza kuanzisha matawi katika maeneo mbalimbali ya nchi kama itakavyoonekana inafaa kwa ajili kuongeza ufanisi wa shughuli zake.

**15. Mheshimiwa Spika**, pamoja majukumu na mamlaka ya Kituo yaliyoonyeshwa katika ibara ya 77; bado muundo wa chombo hicho haujawekwa bayana na muswada huu. Aidha, namna ya kuupata uongozi wa kituo haujawekwa bayana ikiwa ni pamoja na muda wao wa kuhudumu (tenure of service).

**16. Mheshimiwa Spika**, Kambi Rasmi ya Upinzani inaitaka Serikali kufanya marekebisho ya ibara ya 77 kwa kuonesha muundo wa Kituo, kuuunda Bodi ya Wakurugenzi itakayojumuisha wasuluhishi wa Serikali na wa Kujitegemea pia kukipa Kituo nguvu ya kutekeleza majukumu mengi ambayo kwa sasa yanafanywa na Mahakama.

**17. Mheshimiwa Spika**, sambamba na hilo, Kambi Rasmi ya Upinzani Bungeni inashauri Kituo hiki cha Usuluhishi kiwe chombo huru cha usimamizi na uratibu wa migogoro, kama ilivyo kwa Chama cha Wanasheria (Tanganyika Law Society) ili kuweze kuwa na wanataaluma huru na watakaofanya kazi kwa weledi, wenye uwezo wa kutoa haki bila kuegemea upande wowote (impartiality). Aidha, Kambi Rasmi ya Upinzani Bungeni inashauri na kupendekeza kuwe na mipaka ya kiutendaji kati ya chombo hicho na mahakama (separation of powers) ili chombo hicho kisiingiliwe na mahakama au Serikali katika kufikia uamuzi wake.

**(iii) Eneo la Matumizi ya Sheria Inayopendekezwa**

**18. Mheshimiwa Spika**, kwa mujibu wa ibara ya pili ya Muswada huu, Sheria inayopendekezwa itatakiwa kutumika Tanzania Bara pekee. Hata hivyo, ibara ya 3 ya Muswada huu imetafsiri na kufafanua maana ya Usuluhishi wa Mgogoro wa Ndani wa Kibiashara (Domestic Commercial Arbitration) kwamba; utahusu watu au pande mbili ambazo wadau wake watakuwa ni raia wa Jamhuri ya Muungano au kwa asili ni wakazi wa Tanzania Bara.

**19. Mheshimiwa Spika**, hapa ndipo mgogoro wa sheria hii unapoanza! Katika tafsiri hii, ni kwamba raia wa Jamhuri ya Muungano anahusika na sheria inayopendekezwa. Kwa mujibu wa Katiba ya Nchi, Jamhuri ya Muungano ni pande mbili, Tanzania Bara na Zanzibar. Kwa sababu hiyo, ikiwa Mzanzibari (ambaye ni raia wa Jamhuri ya Muungano) atakuwa na mgogoro wa kibishara wa ndani ambao unahitaji usuluhishi kwa mujibu wa muswada huu, atahitaji kuongozwa na sheria hii inayopendekezwa.

**20. Mheshimiwa Spika**, pamoja na mwingiliano huu mkubwa usioweza kutenganishwa, bado Serikali inalazimisha kuitenga Zanzibar kwa kuifanya sheria hii itumike Tanzania Bara peke

yake bila kufikiri kwa kina kuwa migogoro ya ndani kwa tafsiri ya muswada huu ni pamoja na migogoro ya Zanzibar. Kambi Rasmi ya Upinzani inaitaka Serikali kulieleza Bunge hili; kama kuna mgogoro kati ya mfanyabiashara wa Zanzibar na mfanyabiashara wa Bara; mgogoro huo utasuluhishwa namna gani ikiwa sheria hii haitatumika Zanzibar?

**21. Mheshimiwa Spika,** Kambi Rasmi ya Upinzani Bungeni inaitaka Serikali kulieleza Bunge hili; kama sheria hii haitatumika Zanzibar, je, migogoro ya Zanzibar itahesabiwa kama ni migogoro ya nje (International Commercial Arbitration)? Ukienda kwenye tafsiri ya International Commercial Arbitration, kwa mujibu wa muswada huu, ni kwamba usuluhishi wa mgogoro wa kibiashara wa kimataifa maana yake ni usuluhishi wa migogoro inayohusu mahusiano ya kisheria iwe ni ya kimkataba au vinginevyo inayotambulika kuwa ni ya kibiashara chini ya sheria inayotumika Tanzania Bara ambapo mmoja kati ya wadau wanaohusika, lazima awe raia au kwa asili ni mkazi wa nchi nyingine yoyote nje ya Tanzania Bara. Hapa, Jamhuri ya Muungano haikutajwa!!

**22. Mheshimiwa Spika,** kwa tafsiri hiyo, Zanzibar inahesabiwa kama ni nchi nyingine nje ya Tanzania Bara. Kwa sababu hiyo, Muswada huu unaitambua Zanzibar kama nchi huru inayojitegemea na ambayo inaweza kuingia mikataba ya kimataifa na nchi nyingine ikiwemo Tanzania Bara kwa ustawi na maendeleo yake.

**23. Mheshimiwa Spika,** kama hivyo ndivyo; Kambi Rasmi ya Upinzani inaitaka Serikali kutoa maelezo mbele ya Bunge hili, ni kwa nini katika usuluhishi wa migogoro ya ndani Zanzibar inahesabiwa kuwa ni sehemu ya Jamhuri ya Muungano lakini katika migogoro ya kimataifa inatengwa kama si sehemu ya Jamhuri ya Muungano?

**24. Mheshimiwa Spika,** hapa kuna mgogoro wa kikatiba. Ukisoma tafsiri ya '**International Commercial Arbitration**'; utaona kwamba angalau mmoja kati ya wadau wa Usuluhishi wa Kibiashara wa Kimataifa lazima awe raia au kwa asili ni mkazi wa nchi nyingine yoyote nje ya **Tanzania Bara**. "...where at least one of the parties is – (a) an individual who is a national of, or habitually resident in, any country **other than Mainland Tanzania**".

**25. Mheshimiwa Spika,** kwa tafsiri hiyo utagundua kwamba Tanzania Bara inahesabiwa kama nchi inayojitegemea jambo ambalo ni kinyume kabisha na Katiba ya Nchi yetu. Katiba ya nchi yetu inaitambua Jamhuri ya Muungano wa Tanzania na Serikali ya Mapinduzi ya Zanzibar. Kwa asili, hatuajawahi kuwa na nchi inayoitwa Tanzania Bara; ila tulikuwa na nchi ya Tanganyika ambayo ilimezwa na Muungano. Kwa hiyo, hii Tanzania Bara inayotajwa na muswada huu kama nchi (Sovereign State) ni ile nchi ya Tanganyika ambayo kwa miaka mingi imekuwa ikidaiwa na Watanganyika ambao walinyimwa haki yao ya kuwa Taifa kwa kisingizio cha Muungano.

**26. Mheshimiwa Spika,** haya ndiyo yaliyokuwa miongoni mwa kero za Muungano yaliyopelekea Tume ya Marekebisho ya Katiba chini ya Jaji Warioba kupendekeza Muundo wa Muungano uwe wa Serikali Tatu.

**27. Mheshimiwa Spika,** kwa kuwa katika msingi wa Katiba ya Jamhuri ya Muungano, Katiba hairuhusu ubaguzi wa aina yoyote miongoni mwa raia wake; na kwa kuwa Katiba yenyewe imeelekeza kwamba sheria yoyote itakayotungwa kinyume na masharti ya Katiba itakuwa batili kwa kiwango kilekile ilichokiuka masharti hayo; hivyo basi Kambi Rasmi ya Upinzani Bungeni inaitaka Serikali kuuondoa muswada huu Bungeni na kwenda kuufanyia marekebisho ili uendane na masharti ya Katiba ya nchi yetu.

**(iv) Misingi ya Sheria Inayopendekezwa**

**28. Mheshimiwa Spika**, ibara ya 4 ya Muswada huu imeeleza misingi na malengo ya kutungwa kwa Sheria ya Usuluhishi. Lengo kuu ni kuhakikisha kuwa migogoro inasuluhishwa kwa haki, kwa wakati, bila upendeleo na bila gharama za ziada kutokana na ucheleweshaji.

**29. Mheshimiwa Spika**, pamoja na makusudio hayo mema vifungu vingi vya muswada huu vina milolongo mirefu ya michakato ya makubaliano kati ya wadau wanaohusika kwenye shauri kiasi kwamba kuna hatari ya kupoteza muda mwingi na kutumia gharama kubwa zaidi kuliko ambavyo shauri lingeshughulikiwa katika mfumo wa mahakama.

**30. Mheshimiwa Spika**, ukisoma kuanzia ibara ya 9 mpaka ya 39 utaona kuna mlolongo wa michakato mbalimbali kama vile kuandaa makubaliano ya usuluhishi; kuanza kwa michakato ya usuluhishi, kuanzisha Baraza la Usuluhishi, michakato ya uteuzi wa wasuluhishi, kumchagua Mwenyekiti au Mwangalizi wa Mwenendo wa Usuluhishi, utaratibu wa kumwondoa msuluhishi ikiwa upande mmoja haumwamini, kujiuzulu kwa msuluhishi, kufariki kwa msuluhishi, kujaza nafasi iliyoachwa wazi na msuluhishi, utaratibu wa kupinga uamuzi wa Baraza la Usuluhishi, mchakato wa usuluhishi na kadhalika.

**31. Mheshimiwa Spika**, michakato yote hiyo inahitaji makubaliano ya wadau kwa kila hatua, na ikiwa upande mmoja haujaridhika na mchakato basi kuna nafasi ya kuweka mapingamizi mahakamani. Yote hayo yanachukua muda mwingi na gharama pia.

**32. Mheshimiwa Spika**, milolongo hii ya michakato mirefu ya kushughulikia usuluhishi inachukua muda mrefu na hivyo kuongeza gharama mambo ambayo yanakwenda kinyume na msingi wa kutungwa kwa sheria hii.

**(v) Mamlaka ya Baraza la Usuluhishi (Arbitral Tribunal)**

**33. Mheshimiwa Spika**, muswada huu haujatoa mamlaka kamili kwa Baraza la Usuluhishi. Kwa mfano, ibara za 68, 69 na 70 za muswada huu ambazo zinaeleza bayana kwamba; uamuzi wa Baraza la Usuluhishi unaweza kupingwa mahakamani ikiwa mdau mmojawapo ataweka pingamizi mahakamani kwa kutoridhishwa na uamuzi wa Baraza.

**34. Mheshimiwa Spika**, Kambi Rasmi ya Upinzani ina mashaka na mantiki ya muswada huu; kwa kuwa kila mchakato wa usuluhishi unaonyesha kuwa wadau ndio waamuzi wakuu wa kila jambo, na makubaliano yao ndiyo yanawezesha hatua nyingine kufuata. Kwa sababu hiyo, haiingii akilini kwamba mwenendo wote wa shauri umekwenda sawasawa, halafu pale mwishoni mdau mmoja apinge uamuzi uliofikiwa. Ni rai ya Kambi Rasmi ya Upinzani Bungeni kuyapatia Mabaraza ya Usuluhishi mamlaka kamili ili yaweze kufanya uamuzi; vinginevyo yatakuwa hayana maana yoyote na yatakuwa yanapoteza muda na gharama bila sababu kinyume na misingi ya muswada huu yaliyoainishwa katika ibara ya 4.

**35. Mheshimiwa Spika**, Ikumbukwe kwamba lengo kuu la muswada huu ni kuweka utaratibu wa kutatua migogoro ya kibiashara nje ya mfumo wa mahakama. Kwa kuzingatia azma hiyo, Kambi Rasmi ya Upinzani Bungeni inashauri na kupendekeza kwamba, mahakama isiingilie uhuru wa Mabaraza ya Usuluhishi isipokuwa pale mabaraza hayo yatakapopeleka shauri mahakamani kwa ajili ya kuomba kupewa tafsiri ya sheria pale ambapo yatakuwa yamepata mtanziko wa kisheria. Kwa mantiki hiyo, Kambi Rasmi ya Upinzani Bungeni inashauri ibara za 68, 69 na 70 za Muswada huu zifutwe.

**(vi) Kuanzishwa kwa Nafasi ya Msajili wa Wasuluhishi, Wapatanishi na Waamuzi (Appointment of Registrar of Reconciliators, Negotiators, Mediators and Arbitrators)**

**36. Mheshimiwa Spika**, muswada huu unapendekeza marekebisho ya sheria mbalimbali ili kuendana na mahitaji ya sheria inayopendekezwa. Miongoni mwa sheria inayopendekezwa kufanyiwa marekebisho ni pamoja na Sheria ya Mwenendo wa Mashtaka ya Madai (Civil Procedure Code Cap. 33). Ibara ya 98 ya Muswada huu inapendekeza sheria husika kufanyiwa marekebisho kwa kuongeza ibara mpya ya 64(C) inayoelekeza kwamba, kutakuwa na Msajili wa Wasuluhishi, Wapatanishi na Waamuzi atakayeteuliwa katika Wizara inayohusika na masuala ya sheria na ambaye ngazi yake ya cheo haitakuwa chini ya cheo cha Wakili Mkuu wa Serikali.

**37. Mheshimiwa Spika**, Msajili anayependekezwa na muswada huu ndiye atakayekuwa na mamlaka ya kuamua vigezo vya kuwathibitisha na kuwapa vibali vya kufanya kazi wasuluhishi, wapatanishi na waamuzi, ndiye atakayeweka kanuni utendaji wao wa kazi, ndiye atakayetunza daftari la wasuluhishi, wapatanishi na waamuzi wenye sifa; ndiye atakayetoa leseni (practicing certificate) kwa wasuluhishi, wapatanishi na waamuzi kwa mwaka au kwa muda na ndiye atakayesimamia nidhamu yao.

**38. Mheshimiwa Spika**, Mheshimiwa Kambi Rasmi ya Upinzani ina mashaka na uhuru wa Msajili huyu kufanya kazi bila kupendelea upande wowote (impartiality) hasa wakati ambapo kuna shauri kati ya Serikali na mdau mwingine ambaye hatokani na mfumo wa Serikali. Kumpa Msajili mamlaka makubwa ya kuwadhhibiti hawa wasuluhishi, waamuzi na wapatanishi kunakwenda kinyume na ibara ya 4 ya muswada huu ambayo imesisitiza juu ya usuluhishi wa migogoro kwa haki na kwa wakati, bila upendeleo na bila gharama itokanayo na ucheleweshaji. Kambi Rasmi ya Upinzani Bungeni haioni mantiki ya kifungu hiki hivyo inashauri kifutwe na majukumu haya yapelekwe kwenye Kituo cha Wasuluhishi (Arbitration Centre) kama tulivyoshauri hapo awali.

**C. HITIMISHO**

**39. Mheshimiwa Spika**, kwa ujumla muswada huu una mapungufu mengi sana kutokana na kuandaliwa haraka haraka bila kufanyiwa utafiti wa kutosha na bila kushirikisha wadau kikamilifu. Hata hivyo, mwenendo huu wa Serikali wa kuleta miswada ya sheria kwa dharura mithili ya 'zimamoto' kunatoa tafsiri kwamba sheria hizi zinatungwa kukabiliana na matukio au madhara ambayo tayari yameshatokea kwa hiyo Serikali inajaribu kulazimisha kupambana nayo kwa kuyatungia sheria.

**40. Mheshimiwa Spika**, sheria inayotungwa namna hiyo (kujibu matokeo) kamwe haiwezi kuwa bora. Mchakato wa utunzi wa sheria bora huanza na upembuzi wa mahitaji msingi ya kijamii (societal needs assessment); na baada ya upembuzi huo ndipo tatizo la msingi hutajwa (problem statement) na hatimaye kutunga sera ya kushughulikia tatizo hilo. Baada ya sera kutungwa, ndipo sheria hutungwa kwa minajili ya utekelezaji wa sera. Utunzi wa sheria wa namna hiyo, kwa asili, ni shirikishi na jumuishi na utekelezaji wake huwa rahisi kwa kuwa hakuna hila wala nia ovu ndani yake.

**41. Mheshimiwa Spika**, uharaka huu wa Serikali unaipa mashaka Kambi Rasmi ya Upinzani Bungeni kuwa pengine Serikali ina hofu ya kushtakiwa katika mahakama za kimataifa kwa ukiukaji wa mikataba iliyoingia na makampuni ya kibiashara ya nje; na ina hofu ya kushindwa katika kesi hizo na hivyo kutakiwa kulipa mabilioni ya fedha kwa kuvunja mikataba, ndiyo maana inakimbilia kuleta muswada haraka haraka ili kukwepa mkono wa sheria.

**42. Mheshimiwa Spika**, kabla ya kuhitimisha hotuba hii, Kambi Rasmi ya Upinzani Bungeni ingependa kusisitiza mambo yafuatayo:-

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- i. Kuacha utamaduni wa kuleta Bungeni miswada kwa hati ya dharura kwa masuala ambayo kwa asili si ya dharura.
- ii. Kuleta Bungeni kwa hati ya dharura, Muswada wa Marekebisho ya Katiba ili kukidhi haja ya dharura ya kuunda Tume Huru ya Uchaguzi kwa ajili ya kusimamia Uchaguzi Mkuu wa Oktoba 2020.
- iii. Kuacha mara moja kuleta Bungeni miswada ya sheria yenye mgogoro wa kikatiba kuhusu Muungano kati ya Tanganyika na Zanzibar (kama ambavyo imetokea kwenye muswada huu).
- iv. Kuanza mara moja mchakato wa kutunga Sera ya Usuluhishi wa Migogoro (ikijumuisha migogoro ya aina mbalimbali – kijamii, kisiasa, kiuchumi na kitamaduni).
- v. Kuunda chombo huru cha kusuluhisha migogoro ya aina mbalimbali (Independent Mediation and Arbitration Commission).

**43. Mheshimiwa Spika,** nahitimisha hotuba yangu kwa kutoa rai kwa Serikali, kujenga utamaduni wa kuleta Bungeni Miswada ya Sheria baada ya kufanya utafiti wa kutosha na kubaini mahitaji msingi ya jamii yanayohitaji mwongozo wa sheria. Sheria inayotungwa kujibu changamoto za madhara ambayo tayari yameshatokea, haiwezi kuwa endelevu (sustainable).

**44. Mheshimiwa Spika,** baada ya kusema hayo, naomba kuwasilisha.

Salome Wyclif Makamba (MB)  
**MSEMAJI MKUU WA KAMBI RASMI YA UPINZANI BUNGENI,  
KATIKA WIZARA YA KATIBA NA SHERIA**  
7 Februari, 2020

**NAIBU SPIKA:** Ahsante sana Mheshimiwa Salome Makamba.

Waheshimiwa Wabunge, tutaendelea na uchangiaji. Nimeshaletewa majina hapa. Tutaanza na Mheshimiwa Taska Mbogo atafuatiwa na Mheshimiwa Catherine Ruge na Mheshimiwa Magdalena Sakaya ajiandae.

**MHE. TASKA R. MBOGO:** Mheshimiwa Naibu Spika, ahsante kwa kunipa nafasi ya kuchangia Muswada huu.

**NAIBU SPIKA:** Waheshimiwa Wabunge, kengele itagonga mara moja tu. Kwa hiyo, ukisikia kengele, ndiyo hiyo ya mwisho. Ahsante sana.

**MHE. TASKA R. MBOGO:** Mheshimiwa Naibu Spika, ahsante kwa kunipa nafasi ya kuchangia Muswada huu. Kwanza kabisa, napenda kuipongeza Kamati yangu ya Sheria Ndogo kwa kushughulikia huu Muswada kwa muda wa siku kumi mpaka hapa ulipofikia. (Makofi)

Mheshimiwa Naibu Spika, pili, napenda kuipongeza Serikali ya Jamhuri ya Muungano wa Tanzania kwa kuleta Muswada huu wakati muafaka, wakati tunauhitaji kwa sababu Sheria ya *Arbitration* iliyokuwa inatumika ilikuwa ni sheria ya muda mrefu ambayo ilitungwa na Wakoloni, yaani watawala wetu toka mwaka 1931. Sasa kwa kuleta sheria hii, kubadilisha hii sura ya 15

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kwa kuleta Sheria ya Usuluhishi inaifungua nchi yetu ili kushirikiana na nchi nyingine katika kutatua migogoro ambayo itajitokeza. (Makofi)

Mheshimiwa Naibu Spika, sheria iliyokuwepo mwanzo ilikuwa haitekelezi yale matakwa ya usuluhishi wa Kimataifa. Kwa kuja na sheria hii wawekezaji wengi watashawishika kuja nchini Tanzania kuwekeza kwa sababu tumefungua uwigo wa kusuluhisha matatizo yetu nje ya Tanzania na ndani ya Tanzania kwa kutumia sheria zetu. (Makofi)

Mheshimiwa Naibu Spika, napenda pia niipongeze Serikali kwa kuja na wazo la kufungua *Arbitration Centre* katika Ibara ya 77. Kama nilivyosema hii *Arbitration Centre* itatusaidia sana kuleta wawekezaji wengine kwa sababu walikuwa wanaogopa kuja kuwekeza nchini Tanzania kwa sababu tulikuwa hatuna *Arbitration Centre* ambayo inapotokea matatizo yoyote wanashindwa waende wapi.

Mheshimiwa Naibu Spika, ushauri wangu katika kuanzisha hii *Arbitration Centre*, naiomba Serikali ijaribu kutunga sheria ambayo zitai-*guide* hii *Arbitration Centre* kama zilivyo Sheria za TIC lakini pia itunge *rules* ambazo zitaendana na hii *Arbitration Centre*. Zaidi ya hapo naiomba Serikali ije na Sera ya Usuluhishi kwa sababu mpaka sasa hivi Serikali ya Tanzania haina Sera ya Usuluhishi wa Migogoro. Kwa hiyo, naiomba Serikali ijitahidi ije na hiyo sera. (Makofi)

Mheshimiwa Naibu Spika, pia naiomba Serikali isomeshe vijana wetu kwa kiwango cha juu ili wanapokwenda kuitetea nchi yetu kwenye migogoro ya Kimataifa waweze kwenda kutuwakilisha vyema kwa maana ya kwamba Serikali itumie rasilimali zake kuwasomesha vijana suala la kusuluhisha migogoro ya Kimataifa. Tumeona mambo mengi yametokea, vijana wanapokwenda ku-*defend case* zetu huko nje, wakati mwingine zipo *case* ambazo Serikali ya Jamhuri ya Muungano wa Tanzania ilishindwa kwa sababu tu ilikuwa vijana wetu hatujawapeleka kwenye hilo eneo sahihi.

Mheshimiwa Naibu Spika, kwa sababu ya muda napenda nizungumzie Ibara ya 13 ya Muswada huu, Ibara hii inazungumzia *consequence* ambapo kuna marekebisha ya sheria kama *criminal procedure* pamoja na *civil procedure*. Katika ile Ibara ya 93 ukienda nayo ukiisoma moja kwa moja mpaka ile *subsection* ya pili nafikiri wajumbe mnazo unakuta kuna mahali ambapo imetoa *room* kwa migogoro ambayo inatokea ya *domestic violence* kusuluhishwa nje ya Mahakama. Ninaona kuweka *room* ya kusuluhisha migogoro ya *domestic violence* nje ya Mahakama tutakuwa tunarudisha nyuma mambo ya *gender* ya wanawake ambayo tumekuwa tukiyapigania siku zote mpaka tukaweka ile sheria ya *sexual violence*. (Makofi)

Mheshimiwa Naibu Spika, hapa kumewekwa *room* kwamba ile *domestic violence* inaweza ikatumika vibaya, maana yake mtu anaweza akampiga mke wake hata akamvunja mguu lakini akaruhusiwa kutoa ile *case* Mahakamani. Naomba Serikali ijaribu kuainisha hizo *domestic violence* ambazo inataka kuzitoa kwenye kusuluhishiwa nje ya Mahakama ni *domestic violence* za aina gani?

Mheshimiwa Naibu Spika, nafahamu Ibara ya 107 ya Katiba ya Sheria ya Jamhuri ya Muungano wa Tanzania inaruhusu ule usuluhishi, inaruhusu haki kuipata Mahakamani. Sasa tungeomba Serikali inapotuambia kwamba *domestic violence* zinaweza zikasuluhishwa nje za Mahakama, ni *domestic violence* za aina gani? Je, mtu hata akivunjwa mkono, basi aombwe msamaha aitoe ile *case* Mahakamani?

Mheshimiwa Naibu Spika, kwa hiyo,...

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(Hapa kengele ililia kuashiria kwisha kwa muda wa Mzungumzaji)

**NAIBU SPIKA:** Ahsante sana Mheshimiwa.

**MHE. TASKA R. MBOGO:** Mheshimiwa Naibu Spika, ahsante. Naunga mkono hoja. (Makofi)

**NAIBU SPIKA:** Shukrani. Mheshimiwa Catherine Ruge, atafuatiwa na Mheshimiwa Magdalena Sakaya na Mheshimiwa Zainab Katimba, ajiandae.

**MHE. CATHERINE N. RUGE:** Mheshimiwa Naibu Spika, nakushukuru kwa kunipa fursa ili nami niweze kuchangia Muswada huu wa Usuluhishi au *Arbitration Act of 2020*. Mchango wangu utajikita zaidi kwenye sehemu ya 13 ya Muswada huu au *consequential amendment*. Serikali ilileta Muswada huu kwa hafi ya dharura ukiambatana na sheria nyingine nne ambazo zilitakiwa zifanyiwe mabadiliko sambamba na Muswada huu.

Mheshimiwa Naibu Spika, Kamati tuliijadili kwa maana ya *Arbitration Act* lakini kwa eneo hili la sehemu ya 13 ya *consequential amendment* tuliishauri Serikali iende ikajipange na ilete sheria hizi kwa ajili ya mabadiliko kwa Bunge lijalo kwa kupitia *Miscellaneous Amendment* ili Bunge liweze kupata fursa ya kuchambua, kujikita, kujadili na kujiridhisha mabadiliko haya yanayoenda kufanyika.

Mheshimiwa Naibu Spika, naomba ni-register masikitiko yangu kwamba Serikali ilipuuza ushauri wa Kamati na wameamua kulazimisha kuleta sehemu ya 13 Bungeni. Leo tukiwa tunajadiliana asubuhi, Serikali ilikuja ku-table kabla hatujafikia consensus. Wazungu wanasema, *the devils are in the details*. Ukiangalia kifungu cha 100 cha Muswada huu ambacho kinakwenda kufanya marekebisho kwenye Sheria ya *Permanent Natural Resources Wealth and Resources (Permanent and Sovereignty) Act, 2017* ambayo ililetwa 2017, nitaomba nirejee hiki kifungu cha 11 cha sheria hii ambacho *marginal note* inasema ni *prohibition of proceeding foreign court*.

Mheshimiwa Naibu Spika, ukisoma vifungu viwili vinavyoenda kurekebishwa kwenye sheria hii iliyoletwa 2017 ambayo ilikuwa inajikita zaidi kwenye Sheria ya Madini na Makinikia, ilikuwa inasema, "*Disputes relating arising from extraction, exploitation or acquisition and use of natural wealth and resources shall be adjudicated by Judicial bodies or other organs established in the United Republic and accordance with laws of Tanzania*. Migogoro yote inayohusiana na Maliasili na Utalii litafanywa kwenye ardhi ya Tanzania na vyombo vilivyoanzishwa hapa na kupitia sheria za Tanzania.

Mheshimiwa Naibu Spika, kwa hiyo, sasa Serikali imetumia Muswada wa *Arbitration* kama kichaka cha kwenda kubadilisha Sheria ya Madini ambayo mlikuwa hapa kwa mbwembwe na kusema kila kitu kitafanyika humu ndani kwa kutumia Mahakama zetu na sheria zetu. Leo hii mmeamua... ambapo mlisema kila kitu kitafanyika Tanzania. Kwa kifupi, mmerudi na mmekwenda kupiga magoti kwa mabeberu. (Makofi) **[Maneno Haya Yameondolewa Kwa Maelekezo ya Kiti]**

Mheshimiwa Naibu Spika, tunajua nyuma ya hiki kitu kuna nini. Ni mkataba au ni makubaliano yaliyofanyika na Barrick. Kama ni uongo, wekeni hadharani. Haiwezekani neno moja tu linaenda kuondolewa (*establish*) na linaenda kubadili muktadha mzima wa Sheria ya Maliasili ya Mwaka 2017. (Makofi)

Mheshimiwa Naibu Spika, kwa kifupi, Serikali hatukuona umuhimu wa jambo hili kufanyika kwa udharura huu. Kwanza hatuna Sera ya *Arbitration*. Sheria iliyopo ina zaidi ya miaka 80 au

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miongo minane, lakini leo hii hamjafanya *gap analysis* kujua ni mambo gani ni changamoto kwenye *issue* za *Arbitration* ili muweze kuja na sera na *then* mje na sheria. Ni kwa nini mnakuja mnakuja haraka haraka kwa hati ya dharura kwa mambo ya msingi kama haya, kwa mustakabali mkubwa wa nchi yetu tunapokwenda kuongelea suala la madini? (Makofi)

Mheshimiwa Naibu Spika, ukienda kwenye Ibara ya 63(2) ya Katiba ya Jamhuri ya Muungano wa Tanzania inasema, "kazi ya Bunge ni kuishauri na kuisimamia Serikali," nasi kama Kamati tulifanya hivyo, tuliishauri Serikali lakini Serikali imekaidi. (Makofi)

Mheshimiwa Spika aliwahi kusema, "Bunge hili ni la vijana, hatuwezi kukubali vijana makini twende kuwa *rubber stamp* kwa mambo ya Serikali. Hilo halikubaliki." Kwa hiyo, naungana na maoni ya Kamati, Serikali irudi iende ikajipange na ije na huu Muswada mkiwa mmejipanga na Wabunge tupate fursa ya kuweza kuuchambua huu Muswada. (Makofi)

Mheshimiwa Naibu Spika, naomba niende kifungu...

(Hapa kengele ililia kuashiria kwisha kwa muda wa Mzungumzaji)

**NAIBU SPIKA:** Haya, muda wako umeisha Mheshimiwa. (Kicheko/Makofi)

**MHE. AMINA S. MOLLEL:** Mheshimiwa Naibu Spika, Mwongozo wa Spika.

**NAIBU SPIKA:** Mheshimiwa Amina.

### MWONGOZO WA SPIKA

**MHE. AMINA S. MOLLEL:** Mheshimiwa Naibu Spika, wakati mchangiaji aliyemaliza muda, miongoni mwa maneno ambayo aliyatumia ni kwamba Serikali imekula matapishi yake. Sasa hizi siyo lugha za Kibunge. Kwa hiyo, nakuomba kwa heshima yako hayo maneno yafutwe katika *Hansard*. Ahsante.

**NAIBU SPIKA:** Waheshimiwa Wabunge, twende vizuri. Kuna maneno ambayo ni lugha ya kawaida, lakini mtaani zaidi kuliko mahali ambapo watu wanaheshimiana. Kwa hiyo, yanaweza kuwa ni maneno ya kawaida, misemo ya kawaida ya Kiswahili lakini hapa ndani ndiyo maana tunakatazana kwa kutumia kanuni zetu kuhusu matumizi ya lugha ya Kibunge.

Kwa hiyo ni muhimu sana kufanya hivyo, na kwa namna hiyo hiyo kama hayo maneno yanaleta ukakasi ama yanaleta pengine tafsiri isiyopendeza kwa maana ya hii nyumba yetu basi hayo maneno mawili yataondoka kwenye taarifa rasmi ya Bunge.

Nilikuwa nimemwita Mheshimiwa Zainabu Katimba atafatiwa na Mheshimiwa Salome Makamba, Mheshimiwa Ridhiwani Kikwete ajiandae

**MHE. ZAINABU A. KATIMBA:** Mheshimiwa Naibu Spika, ahsante kwa kunipa nafasi ili na mimi niweze kuchungia katika muswada huu.

Mheshimiwa Naibu Spika, Muswada huu umekuja kufuta Sheria ya Usuluhishi Sura ya 15 na kutunga Sheria mpya ya Usuluhishi ya mwaka 2020. Sheria ile tuliyokuwa nayo mwanzo sura ya 15 ilikuwa ni sheria ambayo tuliiridhi kutoka kwa wakoloni na imepitwa na wakati sana na haiendani na matakwa tuliyokuwa nayo sasa hivi. Kwa hiyo niseme naipongeza sana Serikali kwa kuleta Muswada huu kwa ajili ya kutunga sheria hii. Muswada huu umekuwa ni muhimu na



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ulikuwa ni wa lazima kutokana na kwamba tumekuwa tukihitaji sheria ambayo itakidhi matakwa ya wakati.

Mheshimiwa Naibu Spika, kuna umuhimu mkubwa sana; sisi tunafahamu kwamba Katiba ya Jamhuri ya Muungano wa Tanzania Ibara ya 107 A inatamka bayana kwamba mahakama ndizo zimepewa nguvu kubwa ya kuhakikisha kuwa haki inatendeka ndani ya nchi. Hata hivyo tunafahamu kwamba taratibu za kimahakama zinaweza zikawa zinachukua muda mrefu zaidi lakini kunaweza kukawa na *technicalities* nyingi zaidi na ndio maana kuna umuhimu sana, na mara nyingi katika mfumo kunapokuwa na migogoro inapendekezwa kwanza zitumike njia mbadala na za kirafiki za kutatua migogoro kabla ya kwenda mahakamani.

Mheshimiwa Naibu Spika, sasa Sheria hii ya Usuluhishi ndiyo inakuja kuweka misingi na masharti yatakayoongoza masuala ya usuluhishi katika nchi yetu, kwa hili ni jambo zuri sana kwa sababu tunafahamu umuhimu wa kutatua migogoro nje ya mahakama kirafiki; kwa sababu inasaidia pia kuondoa mlundikano wa kesi nyingi mahakamani lakini inakuwa ni njia ya kutatua migogoro kwa amani zaidi tofauti na kupambana katika mahakama.

Mheshimiwa Naibu Spika, mimi naomba nitoe ushauri katika baadhi ya maeneo katika muswada huu. Nijielekeze kwa ujumla kwanza kusema kwamba kuna taratibu tofautitofauti za utatuzi wa migogoro nje ya mahakama yaani *alternative dispute resolution methods*, zipo nyingi. Muswada huu unaenda kutunga sheria kwa ajili ya usuluhishi (*arbitration*) lakini hatuna sheria ambazo ziko *detailed* zinaelezea taratibu za utatuzi wa migogoro kwa kutumia njia nyingine kama *mediation, negation* hizo zote hamna sheria ambayo inajitosheleza ambayo imechambua na imeweka masharti ya namna gani tunaweza tukatumia njia hizo mbadala kutatua migogoro.

Mheshimiwa Naibu Spika, muswada huu unaweka masharti ya kimsingi kwa ajili ya usuluhishi pekee. Kwa hiyo huko mbele tuangalie ni namna gani tutakuwa tuna sera ambayo itatuwezesha kuwa na sheria zitakazotoa masharti ya taratibu zingine za kutatua migogoro nje ya mahakama.

Mheshimiwa Naibu Spika, lakini tukienda kwenye sehemu ya kumi ya muswada huu ambayo imeanzisha kituo cha usuluhishi (*arbitration center*) mimi nadhani kifungu hichi ni muhimu sana lakini nilikuwa nadhani kuna haja ya kukiongezea nyama. Kwa misingi ya kwamba hii *arbitration center* ielezewe muundo wake, ielezewe na mambo mengine mengi kama vile tulivyokuwa tuna *Tanganyika Law Society (TLS)* ambapo tunajua kuwa ni chombo kinatambulika ambacho kinaongoza masuala ya mawakili. Kwa hiyo hii *arbitration center* ibebe sura hiyo hiyo na iweze kufafanuliwa vizuri, aidha kwenye sheria hii hii au kwenye sheria tofauti ambayo itaweza kuongeza mambo mengi zaidi.

Mheshimiwa Naibu Spika, mwisho kabisa ni kwenye sehemu ya kumi na tatu...

*(Hapa kengele ililia kuashiria kwisha kwa muda wa Mzungumzaji)*

**NAIBU SPIKA:** Kengele imeshagonga Mheshimiwa, ahsante sana. Waheshimiwa Wabunge nilikuwa nimemtaja Mheshimiwa Salome Makamba atafatiwa na Mheshimiwa Ridhiwani Kikwete, Mheshimiwa Peter Msigwa ajiandae

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Naibu Spika, nakushukuru kwa kunipa nafasi na mimi nichangie muswada huu muhimu kwa taifa letu.

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Mheshimiwa Naibu Spika, Kanuni za Kudumu za Bunge zinaipa mamlaka Kamati ya Bunge kushauriana na Serikali juu ya mambo mbalimbali kwa niaba ya Bunge zima.

Mheshimiwa Naibu Spika, mimi ni Mjumbe wa Kamati ya Sheria Ndogo. Sheria hii imeletwa kwenye kamati yetu tuna kama siku 14 hivi; na tangu imeletwa kwenye Kamati moja kati ya mambo ambayo yalikuwa ni mabishano makubwa kwenye Kamati ni kujumlisha Sheria ya Usuluhishi pamoja na mabadiliko madogo ya sheria mbalimbali nne ndani ya muswada huu na kulazimisha ziingie ndani ya Bunge hili kwa pamoja.

Mheshimiwa Naibu Spika, hotuba ya Kamati imesomwa, yapo mambo ambayo yapo kwenye mabadiliko madogo ya sheria hizi nne ambazo Kamati ilikuwa ina hoja za msingi kuyakataa. Kamati ilitaka ipate muda zaidi ya kuyapitia mambo hayo ili iweze kujiridhisha kama zamu hii hatuji kufanya zoezi la majaribio kwa kupitia sheria ambazo baadaye zitarudishwa tena hapa ndani ya miezi michache kwa ajili ya kupitiwa.

Mheshimiwa Naibu Spika, nitoe mfano mdogo tu katika hii *part 13* ya Muswada huu wa Sheria ambayo inabadilisha hii sheria inayohusiana na *Permanent Sovereignty* kwenye rasilimali za taifa.

Mheshimiwa Naibu Spika mwaka 2017 ndani ya Bunge lako ililetwa miswada 3 kwa hati ya dharura; na tukasema, miswada hii ina maslahi mapana kwa nchi yetu. Tanzania sio kisiwa tumeridhia mikataba mbalimbali duniani. Tukasema ni lazima ijadiliwe kwa maslahi mapana ya nchi yetu na kwa kuzingatia mikataba ya kimataifa tukaambiwa sisi tunatetea mabeberu.

Mheshimiwa Naibu Spika, sasa moja kati ya kitu kilichopitishwa katika miswada ile ni Kifungu cha 11 cha Sheria ambacho leo kinakuja kufanyiwa marekebisho. Kwamba chochote kinachohusika na usuluhishi au kusikiliza kesi za mikataba ni lazima kiwe kimeanzishwa kwa mujibu wa Sheria za Tanzania.

Mheshimiwa Naibu Spika, wameenda ku-*test* haifanyi kazi kwa sababu tunayo ICC iko Arusha pale ni *tribunal* ya Kimataifa haijaanzishwa kwa Sheria za Tanzania. Sasa leo wamerudi kwa dirisha la mlango wa pili wameleta hii sheria ya usuluhishi wanataka kufuta hiyo kwamba lazima ianzishwe na sheria za Tanzania ili kuruhusu *international arbitration* ziweze kufanya kazi Tanzania.

Mheshimiwa Naibu Spika, tunaposema Serikali kutumia dirisha la hati ya dharura kunaweza kuleta sheria mbovu ndani ya nchi hii, na mfano mzuri huu.

Mheshimiwa Naibu Spika, tunajua hii inatokana na mkataba wa juzi ambao Mheshimiwa Kabudi ameingia na Barrick, inayoitwa Twiga leo, tunajua. Hebu angalia, leo wametubadilishia sheria hii lakini Sheria ya *Natural Wealth and Resources Contract Review and Negotiation of Unquestionable Terms* ya mwaka huo 2017 inasema Serikali inapoingia mkataba wowote wa kimataifa ni lazima ndani ya siku 6 za Bunge hili tulete mkataba huu hapa; umeletwa lini? Mkataba haujaletwa, na sisi kama Bunge tuna uwezo wa kuishauri Serikali kwamba mkataba huu si mzuri hauna maslahi kwa Watanzania Serikali mwende mka-*renegotiate* ili mlete mkataba wenye maslahi mapana na kulinda rasilimali za Tanzania. Lakini Serikali mpaka leo, tunasikia kwenye *corridor* tu mara tuna 16% mara tutagawana faida 50 kwa 50, kwa mtaji upi tulioweka?

Mheshimiwa Naibu Spika, kwa hiyo haya mambo hayafanyiki kwa bahati mbaya. Sisi tuliambiwa kwamba tunatumwa na mabeberu, tumepewa hela ndio maana tunangangania sheria za kizalendo za kutunza rasilimali za nchi zisifike ndani ya Bunge hili kwa hati ya dharura, tuliambiwa hivyo. Mimi nilizimiwa mic humu ndani, lakini leo wamerudi haifanyi kazi. *Once again*

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wamerudi hapa na *arbitration act*, tena wanatamba kweli kwamba hii *arbitration act* ina miaka mingi tangia mwaka 1932 unajua lazima tuibadilishe tunawaambia sawa ilikuja na mkoloni mwaka 1932 je, hudhani kwamba lazima tuibadilishe *arbitration act* kwa kuanza na sera ili iweze kuwa na muktadha na mahitaji ya Watanzania katika mambo ya migogoro ya kisiasa, kijamii, kuichumi, mjumlisha vyote *i-accommodate the context* ya Tanzani? Hawana majibu Mheshimiwa...

*(Hapa kengele ililia kuashiria kwisha kwa muda wa Mzungumzaji)*

**NAIBU SPIKA:** Ahsante sana Mheshimiwa kengele imeshagonga na nimekuachia hapo dakika ili umalize sentensi.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Naibu Spika, nakushukuru sana.

**NAIBU SPIKA:** Ahsante sana. Mheshimiwa Ridhiwani Kikwete atafatiwa na Mheshimiwa Peter Msigwa, Mheshimiwa Goodluck Mlinga ajiandae

**MHE. RIDHIWANI J. KIKWETE:** Mheshimiwa Naibu Spika, na mimi nikushukuru kwa kupata nafasi ya kueleza machache katika mchango wangu juu ya hii hoja tunayojadili sasa hivi.

Mheshimiwa Naibu Spika, mimi naomba kwanza nianze kwa kuwatoa wasiwasi wenzangu. Aliwahi kusema konkara mmoja wa Eastern Europe anaitwa Bwana Ganji Skan alipokuwa anaingia katika Mji mmoja unaitwa Antanapolicy aliwaambia wananchi kwamba *“The only time you can say you are late is when you’re on death bed”*. Kwa hiyo nataka niwaambie wenzangu kwamba hatujachelewa, na nafasi yetu tuliyonayo kama Wabunge ni kutunga sheria; na nafasi yetu pia kama Bunge ni kuishauri Serikali juu ya mambo ambayo ni ya msingi na tunaona kwamba yanatakiwa yawekwe katika sera na sheria ili nchi yetu iweze kwenda vizuri.

Mheshimiwa Naibu Spika, kwa hiyo nilikuwa naomba sana kwa wenzangu, hasa dada Salome nimemsikia anaongea kwa nguvu, na ndugu yangu Catherine ni ukweli mnaweza kuwa na uchungu lakini hamjachelewa nafasi ni yenu msemi na Serikali yenu ipo; Serikali sikivu inayoweza kuwasikiliza na ikafanya yale ambayo kwa maslahi ya Watanzania wanayataka.

Mheshimiwa Naibu Spika, tunasimama leo kurekebisha sheria ambayo inatoa mamlaka makubwa kwa nchi yetu kuweza kufanya mambo ambayo wananchi wetu wamekuwa wanayalilia. Ni ukweli usiofichika kwamba sheria hii baada ya kuisoma kwa muda mrefu na kujadiliana na Serikali ni wazi kabisa kwamba sheria hii inalenga kulinda maslahi mapana ya wananchi wetu. Kwa mfano, ndani ya vifungu vya sheria viko vifungu ambavyo vinatoa nafasi kwa mtu ambaye hakushirikishwa katika makubaliano au mijadala hiyo naye akapewa nafasi ya kuingia na kuwa sehemu ya majadiliano. Hii ni nafasi ambayo inawapa watu wanyonge nafasi ya kuweza kuingia katika mijadala na kulinda rasilimali zao, hususan katika rasilimali zao ardhi. Kwa mfano tulipokuwa tunajadiliana tuliainisha wazi kwamba inakuwaje kwa mtu ambaye hakushiriki mijadala ule halafu baadaye mali inayokuja kuuzwa ni mali ambayo yeye anaishi juu yake.

Mheshimiwa Naibu Spika, sheria hii ambayo tunaitunga leo inakwenda kutoa nafasi ya mnyonge huyu kuweza kujadiliana na kuweza kuonafasi yake na pia kujua hii hatma ya maisha yake. Pamoja na hilo sheria inaanza kituo cha usuluhishi wa mijadala hii.

Mheshimiwa Naibu Spika, wameeleza waliotangulia hapa kwamba sheria hii ipo tokea mwaka 1938; lakini ni ukweli kwamba vitu hivi havikuwepo. Leo hii tunapata nafasi ya kutunga chombo ambacho kinakuja kusimamia mijadala ya usuluhishi wa migogoro ya sheria za

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kimataifa. Ni *opportunity* pekee ambayo nchi yetu inapewa kupitia *proposal* hii au *bill* hii ambayo imeletwa na Serikali yetu hapa ili kuweza kutunga chombo au kuanzisha chombo ambacho kitahakikisha kwamba rasilimali zetu au mustakabali mzima wa usuluhishi unaoenda kuangaliwa.

Mheshimiwa Naibu Spika, pamoja na hilo pia ni ukweli kwamba yapo mapungufu ambayo yameelezwa kama taarifa ya Kamati ilivyojieleza. Mimi kwangu ni kumweleza tu Mheshimiwa Waziri wangu wa sheria ayaangalie na kuyachukua mapungufu hayo ili aweze kutengeneza kitu ambacho kitakuwa na faida ya kweli kwa watu. Kwa mfano liko eneo ambalo linaeleza mara kwa mara *role* ya mahama zetu katika kuingilia makubaliano hayo. Mimi ninaamini kwamba *Sheria ya Arbitration* inalenga zaidi katika kuwawezesha watu wenyewe walioingia katika mikataba kuweza kuamua hatma yao. Sasa unapokuwa unairuhusu mahakama iwe na *role* kubwa ya kushiriki katika makubaliano binafsi ipo wakati unaweza ukajuta ile dhana nzima ya sheria ya masuluhisho inaweza kukwama kwa sababu ya nafasi ambayo mahakama inayo.

Mheshimiwa Naibu Spika, nikuombe sana Mheshimiwa Waziri, katika mijadala yetu umekuwa msikivu na umekuwa unatusikiliza sana na yako baadhi ya maeneo ambayo tumekubaliana; hebu ipe nafasi ile *center* iweze kushughulika na mambo kabla haujaamua kwenda kuishirikisha mahakama yetu.

Mheshimiwa Naibu Spika, pamoja na hilo katika mjadala wetu tuliona mambo makubwa ambayo tunafikiri yanalenga kufungua milango ya kiuwekezaji nchini kwetu. Sheria hii kwa upande mmoja au mwingine inafungua mlango mmoja na kufunga mlango mwingine kama si kuwa inaweza kukwamisha nia ya dhati ya wawekezaji kuja kuwekeza nchini kwetu.

Mheshimiwa Naibu Spika, mimi ninaamini nafasi nzuri imefunguka hii na muda tunao wa kufanya marekebisho.

Mheshimiwa Naibu Spika, napenda kuunga mkono hoja, ahsante sana. (*Makofi*)

**NAIBU SPIKA:** Asante sana Mheshimiwa Peter Msigwa atafatiwa na Mheshimiwa Goodluck Mlinga tutamalizia na Mheshimiwa William Mganga Ngeleja.

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Naibu Spika, nikushukuru, na mimi nitoe mchango wangu kidogo kuhusiana na suala hili.

Mheshimiwa Naibu Spika, takwimu zinaonyesha kwamba afrika inachangia zaidi ya asilimia 40 ya migogoro duniani lakini wataalamu wa kusuluhisha migogoro hii wako Ulaya. Kwa bahati mbaya sana sheria hii ilitungwa tangu wakati wa mkoloni na ina zaidi ya miaka 85 imekuwepo hapa nchini. Wenzangu wamezungumza hapa kumekuwa na *gap* kubwa sana la mabadiliko dunia ime-*change* kwa kiwango kikubwa; na kwa bahati mbaya sana Serikali imekuwa ikikaa kimya kuhusiana na suala hili.

Mheshimiwa Naibu Spika, swali langu nalotaka kujjuliza, ni kwa nini Serikali ina tabia ya kuleta mabadiliko kama haya kwa dharura? na tumepata somo ambalo mara ya mwisho wakati zinaletwa hizi sera za madini kwa mbwembwe zililetwa kwa mbwembwe na vigelegele humu ndani. Lisu alizungumza sana hapa sisi ni *member* wa Miga hayo mambo mnayoyafanya hayatakwenda kufanya kazi; humu ndani watu wote mlituzomea wengine wakasema tulikuwa Morena kupokea hela za mabeberu. Leo mmeleta *amendment* hizi mnataka ku-*fit in* kwa sababu wamewa-*squeeze* hao mabeberu wamewaweka kwenye kona ambao mwanzoni mlisema sisi tunatumiwa nao. Sasa mnakuja kwa mgongo wa nyuma wenzangu wamesema

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kichaka, mnakuja kwa mbwembwe nyingi kwa muswada wa dharura tena ule ule; ni kwa nini hampendi kusikia?

Mheshimiwa Naibu Spika, kwenye *west minister parliament role* ya upinzani ni kuongea maovu mliyonayo ambayo ninyi kwenye chama chenu hamwezi kuzungumza kwa sababu mnaogopana; kwa hiyo sisi hapa tuko kuwasaidia pengine mnamwogopa mtu kusema sisi hapa tunasema. Sasa mnatuminya tuiseme hamuwezi kurekebisha wakija mabeberu kuwabana tena mnarudi hapa. Wazungu wanasema *you have thrown in the toe*; yaani mmeona kwamba hii haifanyi kazi sasa wenzenu tulijua *three years back*, sasa nani anafaa kuendesha nchi hii? *We knew this three years back* na ninyi mko kwenye *role* mnashindwa kuona vitu vidogo vidogo kama hivi. Ninachoweza kusema muswada huu mnajaribu kutoroka, mna-*justify* kwamba sheria na mambo mliyotuletea hapa hayafanyi kazi tena pamoja na kwamba mlitunga kwa mbwembwe nyingi mwaka 2017.

Mheshimiwa Naibu Spika, mmegundua kwamba miswada na sheria mlizozileta hapa zimeshindwa kuzuia *arbitration* kimataifa, yaani Tanzania pamoja na miswada mliyoleta bado tunashitakiwa kimataifa na inatuletea shida. Kwa hiyo mnakuja kwa mlango wa nyuma ili muondoe aibu mliyokuwa nayo. Hatujauliza wadau hii inaonyesha kwamba *you're not visionary* viongozi wazuri wanakuwa *proactive* yaani hamuangalii mbele mpaka mgongwe ukuta ndio mnarudi mnatakiwa kuona mapema. Mara nyingi tumesema kwa nia nzuri hata masuala ya kusema sijui kifungu kiondoke mnafanya makosa yale yale ya jinsi tulivyonunua ndege.

Mheshimiwa Naibu Spika, tumenunua ndege kubwa hapa marubabi hawana uzoevu wa kutosha mlilazimisha ndege kubwa kutembea nchini ili waongezewe *millage* wakubalike kimataifa *how do we do that* tunaendesha nchi kwa hivyo? Yaani tunaanza na kufanya mambo kabla ya ku-*plan* na kujandaa. Tukisema hivi, tuna nia nzuri, tunaishauri nchi. Mlianzisha wakaanza kuruka kwenda Mwanza, Bombadier mnairusha ili *milleage* ziongezoke, *wa-fit* Kimataifa kwamba wanaweza kuendesha ndege, ndivyo mnavyofanya. (Makofi)

Mheshimiwa Naibu Spika, mmeenda kujifungia huko, mmeingia mkataba na Barrick, baada ya kuwa-*squeeze* halafu sasa ndiyo mnakuja kusema tunaleta marekebisho, mnatuona kama sisi hatuelewi. Tunawashauri kwa nia nzuri, achene *role* ya Upinzani ifanye kazi yake *that's why we are here!* Tulipoingia kwenye mfumo wa vyama vingi, *role* ya upinzani ni jicho! Sio siri kuna mambo mengine ukiangalia wengi hapa mnajitetea, yaani mko *so defensive* mkiguswa kidogo mnajificha, hili lisizungumzwe, mtazungumzia wapi, sisi tunawafanya mpumue. Tupeni nafasi hiyo mpumue. Tunajua hata ninyi wenyewe hampumui huko, tupeni nafasi. (Makofi)

**WABUNGE FULANI:** Ya kwanza!

(Hapa kengele ililia kuashiria kwisha kwa muda wa Mzungumzaji)

**WABUNGE FULANI:** Pumua!

**NAIBU SPIKA:** Haya ahsante sana Mheshimiwa Msigwa. Sasa nimuite Mheshimiwa Goodluck Mlinga, tutamalizia na Mheshimiwa William Ngeleja halafu atafuatia Mheshimiwa Mwanasheria Mkuu wa Serikali.

**MHE. GODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, ahsante sana, nataka niliambie tu Bunge lako tukufu kuwa Marekani imepata uhuru mwaka 1776 ina miaka zaidi ya 300 tangu ipate uhuru na Bunge. Kama wangukuwa kutunga sheria kuna mwisho, basi Bunge la Marekani leo hii lisingetunga sheria. (Makofi)

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Mheshimiwa Naibu Spika, naomba kwa dhiti kabisa niipongeze Serikali, nimpongeze Mheshimiwa Rais kwa sababu bila ridhaa yake Serikali isingeweza kuleta Miswada namna hii. Na huu ni muendelezo wa mapinduzi makubwa ya kimaendeleo katika nchi yetu. *(Makofi)*

Mheshimiwa Naibu Spika, nataka niambie Serikali, msione haya kuleta Muswada hata kama tutaupitisha asubuhi, jioni mkagundua una upungufu, uleteni tutaubadilisha! Hiyo ndiyo kazi ya Bunge. Kwani mishahara na posho tunapata kwa sababu gani? Ni kwa sababu hiyo! Msione haya. Wenzetu wapinzani hata Katiba zao walipoona hazikidhi haja zao, walizibadilisha. Mfano mkubwa, kikomo cha Mwenyekiti kilikuwa miaka kumi, leo hii wamebadilisha Mwenyekiti amekuwa Mswati. *(Makofi)*

Mheshimiwa Naibu Spika, wakati tunatoa pongezi kwa Mheshimiwa Rais katika Mkutano uliopita, walitukejeli, walisema sisi wanafiki na hata uchaguzi wa Rais ulipokwisha wakasema hawamtambui. Nikashangaa juzi wanamuandikia barua, mnamuandikia barua mtu ambaye hamumtambui? *(Makofi/Vigelele)*

Mheshimiwa Naibu Spika, sisi tuliowahi kufika Dar es Salaam mapema pale Kariakoo kuna msemu unasema tajiri hanuniwi! Ukivuka maji ukienda Zanzibar wanasema wewe susa sie twala! Ndiyo kilichowakuta hao. Leo hii Wapinzani badala ya kushauri vitu vya msingi katika Taifa letu, kama hivi vilivyolewa, wanasema wanahitaji muafaka. Nataka nimuambie Rais wangu mpendwa, muafaka wa Watanzania ni Watanzania kupata umeme kila kijiji. Muafaka wa Tanzania ni Watanzania kupata elimu bure na bora, muafaka wa Tanzania ni Watanzania kupata huduma bora za afya kwa kujenga vituo vya afya kila kata, muafaka wa Tanzania ni Watanzania kupata maji safi na salama na sio kupatana na Wahuni wa kisiasa.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Naibu Spika, Kuhusu utaratibu!

### KUHUSU UTARATIBU

**NAIBU SPIKA:** Mheshimiwa Mlinga kuna Kanuni inavunjwa, Kanuni inayovunjwa Mheshimiwa Salome.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Naibu Spika, nasimama kwa Kanuni ya 64(1)(h) inahusu kuzungumza mambo yasiyo kwenye mjadala. Namuomba Mheshimiwa Mlinga, namuheshimu sana na bahati nzuri tumekuwa naye kwenye Kamati na tumejadili kwa muda wa karibu wiki mbili Muswada huu. Awasaidie Wabunge wengine ambao hawakuwepo kwenye Kamati yetu ambao hawakuona matatizo yanayotokea...

**NAIBU SPIKA:** Sasa Mheshimiwa Salome, unanielezea namna Kanuni ilivyovunjwa. Sasa usianze wewe mwenyewe kutoa hukuma, awasaidie n.k. eleza namna Kanuni ilivyovunjwa na unanieleza mimi, sio yeye.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Naibu Spika, sawa. Nasema hivi, anachokizungumza mzungumzaji ambaye ni Mwanakamati mwenzangu ambaye Muswada huu uliletwa kwenye Kamati yetu, hakipo kwenye mjadala huu. Ajelekeze ili kuwasaidia Wabunge wenzake...

**NAIBU SPIKA:** Wewe usiendele. Umshaomba utaratibu ili mimi nitoe maelekezo. Sasa unianza kutoa wewe mwenyewe maelekezo tena. Haya, Mheshimiwa Mlinga, Kanuni ya 64(1)(b) inataka uzungumze jambo lililoko kwenye mjadala. Mheshimiwa Mlinga, malizia muda wako.

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**MHE. GOODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, ahsante, tafadhali muda wangu ulindwe.

Mheshimiwa Naibu Spika, huu ni mjadala, Kifungu kwa kifungu tulijadili kwenye Kamati, siwezi ku-stick. Kuna Wabunge kama akina Mheshimiwa Msigwa hawajasoma sheria. Leo hii nikigonga kipengele kwa kipengele maana mimi ni Mwanasheria, nitawatoa nje. Naomba niendeleo. *(Makofi/Kicheko)*

Mheshimiwa Naibu Spika, wakati kwenye maoni ya Kambi Rasmi ya Upinzani kwenye mjadala huu walikuwa wanazungumzia suala la Tume Huru ya Uchaguzi. Wote mashahidi, hivi Tume Huru ipi ya uchaguzi ambayo tunahitaji? Ni ile ambayo mgombea wa CHADEMA alipata kura 6,000,000? Ni ile ambayo CHADEMA walipata Wabunge 75? Ni ile ambayo CUF walipata Wabunge 42? Ni ile ambayo hata chama cha ACT, chama cha mfukoni walipata Mbunge mmoja? NCCR walipata Mbunge mmoja? Tume Huru ipi ambayo mnahitaji? *(Makofi)*

*Mheshimiwa Naibu Spika, niliongea na Mbunge mmoja wa CHADEMA, nilimuuliza Tume gani Huru ambayi mnahitaji zaidi ya hii ambayo imewaingiza humu Bungeni? Akanijibu jibu rahisi? Akanijibu chizi karogwa tena, sikumuelewa maana yake nini? Ndani ya Bunge hili, tuko Wabunge 390 Watanzania tuko zaidi ya milioni 55...[Maneno Haya Siyo Sehemu ya Taarifa Rasmi za Bunge]*

**NAIBU SPIKA:** Mheshimiwa Mlinga, muda wako umekwisha. Lakini pia...

**MHE. GOODLUCK A. MLINGA:** Mheshimiwa Naibu Spika, naomba kuunga mkono hoja.

**NAIBU SPIKA:** Ahsante sana. Waheshimiwa Wabunge, haya nimezungumza hapa kuna maneno ambayo yanaweza yakatumika nje ya humu ndani ikiwa ni pamoja na hayo ya chizi kurogwa tena. Kwa hiyo tutaendelea na...

Sasa hayo, chizi karogwa tena inabidi yaondolewe kwenye Taarifa zetu Rasmi za Bunge. Mheshimiwa William Ngeleja, atafuatiwa na Mheshimiwa Mwanasheria Mkuu wa Serikali halafu tutamuita mtoa hoja ili ahitimishe.

**MHE. WILLIAM M. NGELEJA:** Mheshimiwa Naibu Spika, ahsante sana Mheshimiwa Naibu Spika. Nimesimama kuchangia Muswada huu ulioko mbele yetu lakini la kwanza kabisa ninaunga mkono hoja hii iliyoko mbele yetu. Pamoja na yale tunayoyapendeleza kupitia marekebisha ya Muswada huu yaliyowasilishwa na Serikali lakini pia na ushauri wa Kamati kama ambavyo Taarifa yetu ya Kamati iliyowasilishwa na Mheshimiwa mtemi Andrew Chenge, Mwenyekiti wetu wa Kamati ya Sheria Ndogo. *(Makofi)*

Mheshimiwa Naibu Spika, tunaongea jambo kubwa sana katika maslahi ya Taifa letu na jambo jema siku zote linabaki kuwa jema lakini sote tunafahamu katika historia ya maendeleo ya mwanadamu kwamba yako mambo ambayo huwezi kuyakwepa. Moja, ni mabadiliko. Kama wanadamu, kama jamii hatuwezi kukwepa mabadiliko. Ni mabadiliko peke yake ndiyo yanayobaki kuwa *permanent* katika uhai wake lakini mambo mengine yote tutabadilisha. *(Makofi)*

Mheshimiwa Naibu Spika, ninasema huu utangulizi nikijenga hoja yangu kwangu mabadiliko yaliyowasilishwa na Serikali katika huu muktadha wa kutunga sheria mpya ya usuluhishi Tanzania yameletwa katika wakati muafaka na yanastahili tuiunge mkono Serikali yetu lakini pia tunatambua kwamba Serikali yenyewe itakuwa sikivu kwa yale ambayo tunashauri yakiwa na maslahi kwa nchi yetu. *(Makofi)*

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Mheshimiwa Naibu Spika, Sheria iliyokuwepo ni ya mwaka 1931, leo ni sheria yenye miaka *almost* 89. Katika hali ya kawaida kabisa, ya tafsiri ya kawaida na tathmini unaona kabisa kwamba sheria iliyokuwepo imeshapitwa na wakati na hii ndiyo sababu yangu ya kwanza kabisa kuiunga mkono Serikali katika Muswada huu kwamba ni wakati muafaka sasa kuwasilisha sheria nyingine, kutunga sheria nyingine ya usuluhishi inayoweza kutusogeza mbele zaidi ya tulivyokuwa. (Makofi)

Mheshimiwa Naibu Spika, wakati tunajadili uwasilishwaji wa Muswada huu na vifungu vyake ni muhimu sana kutambua usikivu na kuipongeza Serikali kupitia Mheshimiwa Waziri Dkt. Mahiga. Amefanya kazi kubwa sana akishirikiana na Mheshimiwa Mwanasheria Mkuu pamoja na Katibu Mkuu akiwa mwandishi mkuu wa sheria, tumeshirikiana kwa uzuri sana. (Makofi)

Mheshimiwa Naibu Spika, unavyoona hii *schedule of amendment* imetokana na ushauri tunaoshauriana na tukakubaliana kimsingi kwamba badala ya sisi Kamati kuwasilisha mapendekezo ya marekebisho ya Muswada utakaokwenda kuwa sheria, Serikali yenyewe iyachukue, iya-*absorb* iyalette mbele yetu. Ni jambo kubwa linalo-*reflect* maridhiano tuliyokuwa nayo katika kuelewa muktadha na maslahi ya Taifa hili. Kwa hivyo hili si jambo la kusema kwanini Serikali imeleta sasa. Ni kwa sababu inazingatia maslahi mapana ya nchi yetu. (Makofi)

Mheshimiwa Naibu Spika, ukiangalia sheria inayopendekezwa kutungwa mojawapo ya tofauti yake na sheria iliyokuwepo ni kwamba hii inapanua wimbo wa *scope/concept* nzima ya usuluhishi. Sheria tuliyokuwa nayo imejielekeza katika baadhi ya mambo tu lakini hii wanatanua dhana nzima ya kwenda kusuluhisha migogoro inayotokana katika *level* mbalimbali;

(i) Ni kwamba kwa sasa hivi utaangalia hata kama unazungumzia ukifanya tathmini ya Muswada huu kwa namna ambavyo *intervention* zinafanyika za usuluhishi ama hata za Kimahakama, zinaanzia Mahakama za Wilaya. Unaweza kuona jinsi ambavyo ilivyo sasa. Imetanuliwa sana ili wananchi wengi wafaidike na hii maana yake, lengo ni kupunguza gharama ambazo zinawakabili wananchi inapojitokeza migogoro kama hii;

(ii) Kuongeza kasi ya usuluhishi wa migogoro kama hii. Kwa hivyo hili ni jambo la msingi nan i mojawapo ya sababu za msingi sana. (Makofi)

Mheshimiwa Naibu Spika, Muswada huu nimesema kama nilivyosema unafungua wigo. Lakini una maeneo yake mahsusi, moja unajielekeza kutatua usuluhishi wa migogoro ya ndani pia una muktadha mwingine wa usuluhishi wa migogoro ambayo inahusu muktadha wa Kimataifa imeelezwa vizuri kuliko ilivyokuwa awali. Sasa katika mazingira hayo, kuna sababu gani ya kutoiunga mkono Serikali? (Makofi)

Mheshimiwa Naibu Spika, jingine la muhimu Muswada huu unapendekeza kuanzisha kituo cha usuluhishi Tanzania. Mheshimiwa Salome Makamba nimekusikia, unazungumzia kituo cha usuluhishi kilichoko pale Arusha, ni moja. Lakini hili leo tunasikia kuna vituo vya usuluhishi wa migogoro London, unakwenda Paris, unakwenda Singapore, mazingira ambayo Serikali imekuja nayo katika kupendekeza Muswada huo inalenga huko ambako tunatazamia wote kufika kwamba hata sisi Tanzania baada ya miakadhaa tutakuwa na kituyo chetu cha usuluhishi wa migogoro am bao hata Mataifa mengi yatakuja hapa. Jambo jema kama hili kuna sababu gani ya kuipinga Serikali? (Makofi)

Mheshimiwa Naibu Spika, ndiyo maana tunasema kwenye Kifungu cha 77 pale ambacho kinapendekezwa kinaelezea umuhimu wa kuanzishwa hicho kituo na namna gani hiki



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kituo kitashirikiana na Taasisi zingine za Kimataifa tunazozitambua kupitia *conventions* mbalimbali ambazo Serikali kwa niaba ya Taifa letu tumeridhia kuwa sehemu ya hiyo mikataba au maridhiano ya Kimataifa. Kwa hiyo, tunakwenda vizuri na ndiyo maana nasema ni muhimu sana kuiunga mkono Serikali katika eneo hili. (Makofi)

Mheshimiwa Naibu Spika, kwenye kifungu cha 99 na 100 kwenye lile suala la maliasilia. Naomba nimalizie kwa dakika moja...

**NAIBU SPIKA:** Malizia sentensi Mheshimiwa, kengele imeshagonga.

**MHE. WILLIAM M. NGELEJA:** ... kwamba Serikali imelifafanua vizuri sana katika hatua tuliyokuwa nayo usimamizi wa migogoro yote inayohusu rasilimali zetu, madini, gesi, mafuta n.k itaendelea kutekelezwa kusimamiwa kwa sheria zetu za Tanzania lakini tukitambua pia mikataba mingine tuliyoridhia, *convention* zile za Kimataifa ambazo tumeziridhia na mratibu wake mkuu atakuwa ni hiki kituo chetu ambacho tunakwenda kukianzisha cha Tanzania *Arbitration Centre*.

Mheshimiwa Naibu Spika, naunga mkono hoja, ahsante sana. (Makofi)

**NAIBU SPIKA:** Ahsante sana. Nimuite Mwanasheria Mkuu wa Serikali halafu mtoa hoja ajiandae.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Naibu Spika, nakushukuru kwa kunipa nafasi ya kuweza kuchangia katika kuhitimisha hoja ya Mheshimiwa Waziri wa Katiba na Sheria kuhusiana na sheria hii ya usuluhishi wa migogoro au *arbitration*. Nianze kwa kusema jambo moja na la msingi sana kwamba Muswada wa sheria hii ulikabidhiwa Kamati ya Sheria Ndogo inayoongozwa na Mheshimiwa Chenge. Kamati hiyo imefanya kazi kubwa na nzuri sana. Ninaipongeza sana. Imetoa mapendekezo mengi na imefanya majadiliano ya kina tena katika mazingira mazuri kabisa ya maelewano na Serikali. (Makofi)

Mheshimiwa Naibu Spika, na hata upande wa Serikali umechukua nafasi ya kutoa ufafanuzi na maelezo na kuweza ku-clarify maeneo mengi ambayo pengine yalikuwa hayaeleweki. Na ushuhuda wa hayo yote ninayoyazungumza ni kwenye ukubwa wa jendwali la marekebisho ambalo limeletwa na Serikali. Maana yake ni kwamba hii inaonesha ni kwa kiasi gani upande wa Serikali umeyabeba yale maoni mbalimbali ya Kamati na katika maeneo machache pengine ambapo mabadiliko hayo hayakuingizwa kwenye jedwali basi upande wa Serikali ulitoa ufafanuzi wa kina kuelezea maeneo hayo na Kamati ikaridhika.

Mheshimiwa Naibu Spika, baada ya kusema hayo nijielejkeze katika hoja chache ambazo pengine ni za msingi na ya kwanza iko katika hotuba ya Kambi Rasmi ya Upinzani inayosema sheria hii haitumiki Zanzibar na kwa sababu hiyo inaendeleza au inaweka ubaguzi. Si kweli kwa sababu tunaelewa vizuri hili ni suala la utungaji wa sheria na suala la utungaji wa sheria linaongozwa na Katiba. kwa hiyo, Katiba yetu imetueleza kwa sababu tuna Bunge la Jamhuri ya Muungano wa Tanzania, tuna Baraza la Wawakilishi, hivi vyombo vinafanyaje kazi katika utungaji wa sheria na kwa hiyo, nilikuwa napenda kwa ajili ya kuweka mambo vizuri nirejee kwa haraka katika Katiba na Katiba yetu inatuambia nini?

Mheshimiwa Naibu Spika, naomba tuelekee katika Ibara ya 64(4)(a) inasema; sheria yoyote iliyotungwa na Bunge kuhusu jambo lolote haitatumika Tanzania Zanzibar ila kwa mujibu wa masharti yafuatayo (A) sheria hiyo iwe imetamka wazi kwamba itatumika Tanzania Bara na vile vile Tanzania Zanzibar, Sheria hii haikutaja hivyo. Lakini ni sababu gani sheria hii haikutaja hivyo? Ni kwa sababu Zanzibar inayo sheria yake ya usuluhishi wa migogoro, *arbitration Act* na

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kwa hiyo, Bunge hapa la Jamhuri ya Muungano wa Tanzania haliwezi likaingia tu na kutunga sheria ambayo itatumika Zanzibar kwenye mazingira ambayo Zanzibar ina sheria yake.

Mheshimiwa Naibu Spika, pia ni vyema ikafahamika unapozungumza sheria ya usuluhishi wa migogoro inagusa pia mifumo ya Mahakama na tunafahamu Mahakama sio jambo la Muungano isipokuwa kwenye Mahakama ya Rufaa. Lakini ngazi nyingine za Mahakama sio suala la Muungano na kwa sababu si suala la Muungano Ibara nyingine za Katiba zinahusika, 64(2) inasema; Mamlaka yoyote ya kutunga sheria katika Tanzania Zanzibar juu ya mambo yote yasiyo mambo ya Muungano yatakuwa mikononi mwa Baraza la wawakilishi na hata tukienda kwenye Ibara ya 106(3) inaeleza muktadha huo huo yaani madaraka yote ya kutunga sheria katika Zanzibar juu ya mambo yote yasiyo mambo ya Muungano yatakuwa mikononi mwa Baraza la Wawakilishi la Zanzibar na hii ndiyo tafsiri sahihi ya Katiba na sio ile tafsiri ambayo hotuba ya Kambi Rasmi ya Upinzani ilieleza haikuangalia vifungu hivi vya Katiba.

Mheshimiwa Naibu Spika, jambo la pili ambalo ningependa kuligusia ni hili suala lililoeleza kwamba sheria hii inajumuisha mabadiliko ya sheria za kawaida nne kwenye sheria hii ya *arbitration* kwa kutumia *consequential amendments* na kwamba njia sahihi ilitakiwa kuwa *miscellaneous amendments*. Ni vyema ikafahamika *consequential amendments* au *miscellaneous amendments* zote ni njia zinazotumika kurekebisha sheria.

Mheshimiwa Naibu Spika, *Consequential Amendments* inatumika wapi? Inatumika pale unapokuwa una sheria fulani lakini kuitunga kwake ni lazima kutaathiri sheria nyingine, unalazimika kufanya *Consequential Amendments* kwenye hizo sheria nyingine ili ui-harmonize na hii sheria unayotunga.

Mheshimiwa Naibu Spika, *Miscellaneous Amendments* ni marekebisho ya kawaida, unafanya marekebisho mbalimbali ya vifungu vya sheria. Kwa hiyo, hapa cha msingi ni yale marekebisho yaliyokusudiwa kwa sababu mwisho wa siku utumie *Consequential Amendments* au *Miscellaneous Amendments* utafika kwenye *point* ile ile, utakuwa umefanya marekebisho.

Mheshimiwa Naibu Spika, kama nilivyosema, hizo sheria zote ambazo zinarekebishwa kwa *Consequential Amendments* maana yake zinaguswa na Sheria ya *Arbitration* na hatuwezi tukaziacha huko hivyo mpaka tutakapokuwa na *Miscellaneous Amendments*.

Mheshimiwa Naibu Spika, jambo la tatu ni tafsiri pengine isiyo sahihi kuhusu Sheria ya *Natural Wealth and Resources (Permanent Sovereignty) Act* na kifungu cha 11 kimegusiwa. Nilitaka tu niseme, kwanza siku zote tunapima matumizi ya sheria au changamoto zilizopo katika sheria baada ya kuanza kuzitumia na baadhi ya wachangiaji wameeleza vizuri kabisa hapa. Siyo Bunge hili tu, ni Mabunge yote wakati wote yanaleta *Miscellaneous Amendments* au *amendments* za aina nyingine, kwa sababu baada ya kuanza kuitumia sheria, basi imeonekana kwamba kuna changamoto unazotakiwa kuziondoa. (Makofi)

Mheshimiwa Naibu Spika, nilitoa ufafanuzi kwenye Kamati kwamba tunapokwenda kwenye kifungu cha 11(1) cha Sheria ya *Natural Wealth and Resources (Permanent Sovereignty) Act* kimsingi hakikuwa kimefunga kabisa kuweza kutumia mifumo mingine. Nilieleza na labda nisome tena hapa nirudie, inasema: "*pursuant to Article 27(1) of the Constitution, permanent sovereignty over natural wealth and resources shall not be a subject of proceedings in any foreign court or tribunal.*"

Mheshimiwa Naibu Spika, nilieleza kwenye Kamati na ninajua Wajumbe wa Kamati waliniielewa vizuri. Tunapotumia neno "*foreign court or tribunal*" tunazungumzia Mahakama au Baraza lililopo katika *domestic setting* ya nchi ile. Yaani tunazungumzia Mahakama au Baraza

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katika nchi nyingine. Ndiyo maana hata msemu unapotumika wa kisheria, *foreign law* haujumishi sheria au mifumo ya Kimataifa. *Foreign law* inahusiana na sheria za nchi tu fulani husika. Kwa hiyo, nikasema kimsingi ilipotungwa hii sheria palikuwa na hiyo *space*, lakini sasa *subsection (2)* na *(3)* haiku-reflect vizuri hiyo *space* iliyokuwa imetokea.

Mheshimiwa Naibu Spika, kwa hiyo, siyo kweli kwamba marekebisho haya sasa yanataka kutambua mifumo ya Kimataifa, siyo kweli hata kidogo. Mifumo hii ya Kimataifa kwa namna moja au nyingine ilikuwa imeshatambuliwa ndani ya sheria hii, lakini sasa hivi marekebisho haya yanataka tu kuliweka hilo vizuri zaidi.

Mheshimiwa Naibu Spika, mwisho, nilisikia sentensi moja kwamba Afrika inazalisha migogoro lakini watalaam wa kutatua migogoro wapo Ulaya. Siyo kweli. Bara la Afrika limeshaamua na hata ile *Principle* yenyewe ya *Permanent Sovereignty of Natural Resources*, migogoro tunaitatua wenyewe hapa.

Mheshimiwa Naibu Spika, ahsante sana. (*Makofi*)

**NAIBU SPIKA:** Ahsante sana Mheshimiwa Mwanasheria Mkuu wa Serikali. Sasa namwita Mheshimiwa Waziri wa Katiba na Sheria, aje ahitamishe hoja yake.

**WAZIRI WA KATIBA NA SHERIA:** Mheshimiwa Naibu Spika, ninaomba kuchukua tena fursa hii kukushukuru kwa kunipa nafasi ya kufanya majumuisho ya mjadala huu ambao ulikuwa unaendelea, Muswada wa Sheria ya Usuluhishi wa Mwaka 2020.

Mheshimiwa Naibu Spika, jumla ya Waheshimiwa Wabunge waliochangia katika mjadala huu ni wanane na nataka kutoa shukrani nyingi sana kwa Wajumbe ambao ni Wanakamati na wengine sio Wanakamati.

Mheshimiwa Naibu Spika, nataka kutoa shukrani za pekee kwamba katika mjadala huu ndani ya Kamati na humu ndani ya Bunge imekuwa ni somo darasa kwetu sote. Ni lazima tuwe na mawazo wazi na ya chanya na tuwe tayari kufikia mawazo mapya na kukubali kwamba sheria yoyote ni kitu hai, kwa maana ya kwamba kinaendelea kuboreshwa muda hata muda, wakati hata wakati. (*Makofi*)

Mheshimiwa Naibu Spika, hii sheria ambayo imetungwa hapa au tutaikubali ipite hapa kwa wengi wetu ni fursa ya pekee kabisa, tunaandika historia hapa ya kushiriki katika mjadala huu. Hili ni Bunge la mwisho la kawaida, Bunge litakalofuata litakuwa ni la bajeti. Sasa kushiriki katika mjadala huu na pengine mkaelewa hata uharaka wake ni kuwapa fursa Waheshimiwa Wabunge kutoa mawazo yenu katika Muswada huu muhimu ambao nchi yetu inahitaji kwa kipindi hiki. (*Makofi*)

Mheshimiwa Naibu Spika, ndiyo maana natoa shukurani kwamba mchango huu ni kitu endelevu. Huu Muswada ukishapita tutaendelea katika Mabunge mengine yatakayofuata. Natoa shukrani hizi kwa sababu kati ya mawazo ambayo yametolewa ni kwamba Serikali itazame uwezekano wa kuwa na utaratibu wa kutengeneza namna ya kusuluhisha migogoro mingine katika jamii na hata katika siasa. Nadhani hilo ni wazo zuri, lakini hapa tunajikita kwenye usuluhishi wa masuala yanayohusiana na biashara.

Mheshimiwa Naibu Spika, pia nataka kumhakikishia Mbunge ambaye alikuwa na wasiwasi kwamba suala la *domestic violence* linaweza lisipewe uzito unaostaili na siyo katika jumla ya masuala ambayo ni ya kibiashara. Nadhani hilo linaweza kutatuliwa katika vikao au taratibu nyingine.

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Mheshimiwa Naibu Spika, kitu kinachofurahisha ni kwamba wote tulipokuwa tunajadiliana, pengine kati ya Miswada mingi ambayo imewahi kujadiliwa katika Bunge hili na imechukua muda mrefu ni hili la usuluhishi. Imechukua karibu wiki mbili na Wajumbe wa Kamati ya Sheria Ndogo wamekuwa wasikivu sana mpaka tukafikia mahali ambapo tumefikia muafaka.

Mheshimiwa Naibu Spika, siyo kwamba yale mengine ambayo yamekuwa yana utata hayatarudiwa huko mbele ya safari, lakini hii ni kawaida kabisa kwa sheria zote kurudiwa tena huko mbele ya safari. Kitu muhimu ni kwamba tuone umuhimu wa sheria hii baada ya miaka 85 katika nchi yetu lakini pia tufurahie fursa ambayo tumeipata Wabunge kutoa michango yetu kwenye hii sheria ambayo inakuja mwishoni mwa uhai wa Bunge letu la Kumi na Moja la kawaida kwa sababu Mkutano utakaofuata wa Kumi na Tisa utakuwa ni kuhusu bajeti.

Mheshimiwa Naibu Spika, kwa haya machache natoa shukrani za pekee kabisa kwa Mheshimiwa Spika na Wabunge wote kwa michango yenu ambayo mmeitoa na kwa kweli kwa uvumilivu wenu kwamba mmekubali hata hii *break* isitokee tuendelee ili tuweze kumaliza mjadala huu. asanteni sana. *(Makofi)*

Mheshimiwa Naibu Spika, baada ya mazungumzo hayo, naomba kutoa hoja.

**WAZIRI WA VIWANDA NA BIASHARA:** Mheshimiwa Naibu Spika, naafiki.

*(Hoja ilitolewa iamuliwe)*

**NAIBU SPIKA:** Waheshimiwa Wabunge, hoja imeungwa mkono. Katibu.

**NDG. STEPHEN KAGAIGAI – KATIBU WA BUNGE:**

### **KAMATI YA BUNGE ZIMA**

#### **Muswada wa Sheria ya Usuluhisi wa Mwaka 2020 (The Arbitration Bill, 2020)**

**MWENYEKITI:** Waheshimiwa tukae. Katibu.

Jina Refu *(Long Title)*

*(Jina refu lililotajwa hapo juu lilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho yake)*

Neno “*Tribunal*” linafutwa na popote linapotokea kwenye Muswada huu na badala yake linawekwa neno *Arbitral Tribunal*.

*(Neno lililotajwa hapo juu lilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho yake)*

Ibara ya 1

Ibara ya 2

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

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Ibara ya 3

**MWENYEKITI:** Mheshimiwa Salome Makamba.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, mabadiliko yangu ni kwenye tafsiri ya neno “*Arbitrator*” ambapo nimejaribu ku-*design* tafsiri tofauti na hii ambayo ipo ya Serikali, kwa sababu ya Serikali naiona kama haieleweki sana. Kwa hiyo, nimefuta ile tafsiri ya Serikali iliyopo na kushauri yafuatayo; kwamba muingize pale “*Arbitrator means the adjudicating and presiding officer of a dispute submitted to arbitration.*”

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, Serikali imefanyia pia rejea kifungu hicho kupitia jedwali la marekebisho Ibara ya C ambapo imeweka tafsiri ya neno “*Arbitrator*” mpya ikisoma *means a person who handles arbitration disputes in the manner provided under this Act* na ndiyo pia tafsiri inayokubalika kwa ujumla kisheria.

**MWENYEKITI:** Mheshimiwa Salome Makamba, kuna marekebisho ya Serikali hapo uyaangalie.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, hiyo tafsiri anayoisema AG ndiyo iliyopo kwenye Muswada, nami kwa sababu hiyo, ndiyo maana nimeomba, *unless* kama sijaona, sijui alikuwa anasoma wapi? Hapa kwenye marekebisho ya Serikali jedwali ninalo sijayaona hayo marekebisho yake.

**MWENYEKITI:** Hujaona neno “*Arbitrator*” ama hujaona nini kwenye jedwali la Serikali?

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, kwenye jedwali la Serikali sijaona tafsiri ya neno “*Arbitrator*” kama wamefanya marekebisho.

**MWENYEKITI:** Lipo hapo. Wewe kaa uangalie vizuri, utalionna ndiyo hilo lililosomwa.

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge  
Zima pamoja na marekebisho yake)*

Ibara Mpya ya 3A

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 4

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge  
Zima pamoja na marekebisho yake)*

Ibara mpya ya 4A

Ibara ya 5

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 6

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge  
Zima pamoja na marekebisho yake)*

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Ibara ya 7

(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)

Ibara ya 8

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, kwenye ibara hii inayoongelea *agreements to be in writing*. Ibara ya 8 inatoa ruhusa kwamba *agreements, especially*; ibara ya 8 (3)(a), inasema: "*the agreement is made in writing whether or not it is signed by the parties.*" Hoja yangu hapa, tukiruhusu mikataba au makubaliano ambayo hayajasainiwa na *parties* tunafungua mwanya kwa watu ambao wanaweza kuwa hawana nia nzuri waka-draft mkataba wao wenyewe halafu wakaupeleka kwenye malalamiko kwamba namdai mtu fulani. (Makofi)

Mheshimiwa Mwenyekiti, kwa sababu hiyo, najua kwamba sheria hii imetungwa kwa maana ya *domestic* na *international*; na ninajua kwamba *domestic arbitration* watu wengi siyo kwamba wamesoma sana mambo ya sheria, lakini ukiruhusu kwa dhana hiyo unatengeneza wigo wa matapeli kuweza kutengeneza mikataba feki ambayo hajijasainiwa na matokeo yake utaongeza *arbitration* nyingi zaidi.

Mheshimiwa Mwenyekiti, kama sitaridhika na hoja ya Mwanasheria Mkuu na mtoa hoja, nitaomba Wabunge wenzangu waniunge mkono.

**MWENYEKITI:** Mheshimiwa Mwanasheria Mkuu wa Serikali.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, nilikuwa namsihi sana Mheshimiwa Salome Makamba kusoma kifungu chote cha 8, kwa sababu kifungu chote cha 8 kinazungumzia juu ya *agreements* na imesema: "*agreements to be in writing,*" ndiyo ujumbe kwa ujumla unaotokea hapo. Sasa kifungu kidogo cha 8 (3) kinazungumzia mazingira yapi? Kinazungumzia juu ya *deemed agreements* na ndiyo maana kinasema: "*there shall be deemed to be an agreement in writing where...*" na imeeleza mazingira hayo matatu.

Mheshimiwa Mwenyekiti, sasa ukizungumzia mazingira yale ya kusaini, hauhitaji ku-*deem that to be an agreement*. Haya mazingira yote matatu unayapitia, unayaangalia na ukishayapitia yote hayo, ndiyo *you deem* kwamba *there is an agreement*. Ni vema tu nikayapitia kwa haraka haraka tukiacha hilo ambalo ni la mkataba...

**MWENYEKITI:** Hamna neno Mheshimiwa AG, kwa sababu anayo pale pia. Kwa hiyo, huna haja ya kumsomea.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, asante sana.

**MWENYEKITI:** Mheshimiwa Salome.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, maelezo ya AG ndio yamefanya hiki kifungu kizidi kuwa *complicated* kuliko kilivyokuwa mwanzo, kwa sababu anasema: "*there shall be deemed to be an agreement in writing where (a) the agreement is made in writing whether or not it is signed by the party.*"

Mheshimiwa Mwenyekiti, sasa yeye mwenyewe anajichanganya anasema, ikiwa *signed there is no need* ya kuweka *deemed*; wameweka hapa. Kwa hiyo, dhana nzima ya kifungu kwa

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maelezo yake ndiyo inazidi kufa, kwa sababu *if it is in writing and it is signed, it is an agreement already*.

**MWENYEKITI:** Umeeleweka Mheshimiwa Salome.

Waheshimiwa Wajumbe, hiki kifungu kinatumia haya maneno *deemed* – kaa tu Mheshimiwa – kinatumia maneno *deemed* kwa sababu kama ni mkataba halisi basi upo mkataba halisi na utaratibu wake upo, ni yale mazingira ambayo wao wenyewe, kwanza tofauti yake kidogo labda na ule utaratibu wa mahakama wakati akielezea hoja yake ameeleza kuhusu feki na mazingira ambayo pengine kuna kudanganyana namna hii, mkishafika hapo inabidi muende mahakamani kwa sababu *arbitration* lazima ninyi wenyewe muwe mnataka kwenda huko kwenye hayo; hakuna mtu kwenye *arbitration* anayemlazimisha mtu mwingine.

Kwa hiyo sasa kama mtu ataleta andiko maana yake litaanzia hapo hilo andiko, ukitokea ubishani watakwenda mahakamani; na uzuri wewe nawe ni Mjumbe wa Kamati kwa hiyo vifungu umevisoma zaidi kuliko Wabunge wengine.

Kwa hiyo Waheshimiwa Wajumbe, anachokisema AG kuhusu hapa mwanzoni panaposema *deemed* ni yale mazingira ambayo mazingira mengine yasingehesabu kwamba huo ni mkataba lakini sheria inataka itambue mazingira haya, huo utahesabika kwamba ni mkataba. Kwa sababu kama umeshasaini na kila kitu kiko sawa huo ni mkataba halisi, hakuna ku-deem hapo.

Mheshimiwa Sabreena Sungura.

**MHE. SABREENA H. SUNGURA:** Mheshimiwa Mwenyekiti, nashukuru. Na mimi ninatoa mapendekezo *in clause eight by adding the words audio or video recording just after the word writing, and a comma wherever it appears in the clause, also by adding words audio or video recording in the marginal note just after the word writing*. Hivyo basi, kipengele hiki cha nane kitasomeka kama;

*"The provision of this Act shall apply only where the arbitration argument is in writing, audio or video recording and any other agreement between the parties as to any matter is effective for the purpose of this Act only if it is in writing"*.

Mheshimiwa Naibu Spika, lakini pia kwenye *marginal note, agreement to be in writing* itaongezeka tena hii *statement ya audio or video recording*.

Mheshimiwa Mwenyekiti, *purpose* ya hii ni nini; nchi yetu si kisiwa sasa hivi kutakuwa kuna wafanyabiashara wakubwa, Serikali haifanyi biashara lakini kuna wafanyabiashara wakubwa, ina mashirika, tutafanya biashara na watu wengine huko duniani. Tunategemea kwamba, na sasa hivi nchi yetu imeingia kwenye teknolojia ndiyo maana tuna *e-government*, Bunge sasa hivi linatumia *system* hiyohiyo ya *electronic*. Kwa hiyo basi huko baadaye inawezekana pia wafanyabiashara wetu wakawa wanafanya *video conferences, audio conferences* na wafanyabiashara wenzao huko wakawa na *ma-arbitrators, negotiators, reconciliators* ama *mediators*. Kwa hiyo basi, hiyo itumike kama sehemu na yenyewe kuwa ni moja ya *agreements*; na hii pia msingi wake unatoka kule kwenye *UNCITRAL Model Law* ambayo na yenyewe wamependekeza mapendekezo haya.

Mheshimiwa Mwenyekiti, ninaomba Serikali iseme na kama sitoridhika basi ntaomba Wajumbe wachangie mada hii ba Bunge liweze kuamua.

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**MWENYEKITI:** Mheshimiwa Mwanasheria Mkuu wa Serikali.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, ukikisoma kifungu hicho katika ujumla wake kinazungumza juu ya *agreements to be in writing*, na huo ndiyo bado msimamo wa sheria zetu. Tuisahau kwamba hii *agreement* pia itafungwa na Sheria yetu ya Mikataba, na sheria yetu ya mikataba bado inazungumza *agreements in writing*. Sasa kwa sababu kule bado hatujabadilisha, utakapoongeza hayo maneno anayopendekeza Mheshimiwa Sabreena unakuwa umevuruga kabisa Sheria yote ya Mikataba.

**MWENYEKITI:** Mheshimiwa Sabreena, nadhani unakubaliana na maelezo ya Mheshimiwa Mwanasheria Mkuu wa Serikali.

**MHE. SABREENA H. SUNGURA:** Mheshimiwa Mwenyekiti, hapana. Sisi tumesema Tanzania si kisiwa na duniani tume-*practise* hata hii sheria ambayo sisi tumei-*adapt* hii *system* imetumika, hata kwenye sheria za ushahidi wanatambua hii *audio or video recording* kama moja ya *evidence*. Sasa kwa nini kwenye *agreement* tunajifunga? Kwa nini wenzetu ambao sheria tumei-*adapt* wanatumia hii *system*, sisi tunsema kwamba kwa sababu kule hatujabadilisha basi na huku tusibadilisha?

Mheshimiwa Mwenyekiti, naomba Wajumbe wajadili juu ya suala hili na waweze kuamua; naomba kutoa hoja.

**MWENYEKITI:** Waheshimiwa Wajumbe, hili hata halihitaji mjadala. Sheria tunayoitunga sasa hivi ni Sheria ya Mikataba ambayo tayari kule ipo, hatuwezi kubadilisha hii kwa sababu hii sio sheria mama kwa ajili ya mikataba, sheria mama ya mikataba ndiyo inasema hivyo. Kwa hiyo kama ni mabadiliko hapa lazima tuanzia kule ndipo tutabadili hii, huwezi kuja kubadilisha. Ni kama unataka kubadilisha kanuni kabla hujabadilisha sheria, haiwezekani, unanzia kwenye sheria ndiyo inapeleka kwenye hii. Kwa hiyo hii hapa sio sheria mama ya mikataba, sheria mama ya mikataba inatambua maandishi pamoja sasa hii ya kwetu ndiyo inaweka haya mazingira kwamba yakandikwa kwa namna hii nayo itaitwa mikataba.

Waheshimiwa Wajumbe, huo ndio utaratibu wenyewe, uzuri humu ndani kuna walimu, wanafunzi, wote tuko humuhumu.

**MHE. SABREENA H. SUNGURA:** Mheshimiwa Mwenyekiti...

**MWENYEKITI:** Umshaongea mara mbili Mheshimiwa.

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 9

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 10

Ibara ya 11

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 12

Ibara ya 13



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Ibara ya 14

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 15

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 16

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 17

Ibara ya 18

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 19

Ibara ya 20

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 21

Ibara ya 22

Ibara ya 23

Ibara ya 24

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 25

Ibara ya 26

Ibara ya 27

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 28

**MWENYEKITI:** Mheshimiwa Salome Makamba!

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, pendekezo langu kwenye Ibara ya 28(2), *marginal note* inasema *death of arbitrator* na ibara ndogo ya (2) inasema *unless otherwise agreed by the parties, the death of a person by whom an arbitrator was appointed shall not revoke the arbitrator's appointment.*

Mheshimiwa Mwenyekiti, sasa *marginal note* inahusiana na *death of arbitrator* lakini kifungu kidogo cha (2) kinahusiana na kifo cha mtu ambaye amemteua *arbitrator*. Kwa hiyo nashauri ibadilike hii ibara ya 28(2) iwe na *marginal note* yake tofauti, na ninapendekeza iwe *death of the party.*

Mheshimiwa Mwenyekiti, ahsante.

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**MWENYEKITI:** Mheshimiwa Mwanasheria Mkuu wa Serikali.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, kwanza kuna tatizo la msingi katika mapendekezo ya Mheshimiwa Makamba. Ukisoma *Schedule of Amendments* ya kwake Ibara ya 4 inasema;

*"The clause 28(2) will be new clause 29 with new marginal note read as death of the party".*

Mheshimiwa Mwenyekiti, kwa bahati mbaya kwenye maelezo yake Mheshimiwa Makamba hakueleza hiyo sehemu ya kwanza ya hayo mabadiliko anayoyapendekeza. Na sasa hapa mimi nachanganya kwa sababu sijui tunazungumzia 28(2) au tunazungumzia 29, na nini kimetokea mpaka akaibadilisha 28(2) kuwa 29.

Mheshimiwa Mwenyekiti, labda tunge-resolve hilo kwanza kabla ya kwenda kwenye mapendekezo yake.

**MWENYEKITI:** Sawa. Sasa acha tusaidie ili ikae vizuri; Mheshimiwa Salome Makamba alikuwa anatamani, japokuwa sicho alichokiandika hapa kwenye maelezo yake, kwamba hii *sub-clause two* iwe peke yake kwa sababu yenyewe inazungumzia kifo cha mmoja wapo wa wale waliopeleka hoja yao kwa *arbitrator*, na kwa sababu kifungu kidogo cha kwanza kinazungumzia kifo lakini cha *arbitrator* si cha yule mmoja wapo. Hata hivyo kwenye jedwali lenu naona mmeleta marekebisho, kwa hiyo Mheshimiwa AG wewe tupeleke kwenye marekebisho ya jedwali lako, hoja yake inaishia hapo ukitueleza tu haya ya kwako uliyorekebisha.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, ahsante. Kama ni hivyo basi *concern* hiyo imekuwa *taken care of* na marekebisho yaliyoletwa na Serikali na imesema kutakuwa na *deleting the marginal note and substituting it with the following, succession of arbitrator's appointment*. Kwa hiyo limeshafanyiwa kazi.

**MWENYEKITI:** Nadhani unayo sasa yale marekebisho ya Serikali, yanaondoa ule utata. Unayo marekebisho ya Serikali?

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, ndiyo, ninayo.

**MWENYEKITI:** Shukrani, tunaendelea. Sasa niwahoji; ibara ya 28 pamoja na marekebisho ya Serikali inaafikiwa?

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 29

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 30

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

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Ibara ya 31  
Ibara ya 32  
Ibara ya 33

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 34

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 35

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*  
Ibara ya 36

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

**NDG. NENELWA WANKANGA – KATIBU MEZANI:** Baada ya hapo kuna Ibara mpya tatu zinaongezwa; 36A, 36B na 36C

Ibara Mpya ya 36A  
Ibara Mpya ya 36B  
Ibara Mpya ya 36C

*(Ibara mpya zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 37

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 38

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 39

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 40

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 41  
Ibara ya 42  
Ibara ya 43  
Ibara ya 44  
Ibara ya 45

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

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Ibara ya 46

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 47

Ibara ya 48

Ibara ya 49

Ibara ya 50

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 51

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 52

Ibara ya 53

Ibara ya 54

Ibara ya 55

Ibara ya 56

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 57

Ibara ya 58

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 59

Ibara ya 60

Ibara ya 61

Ibara ya 62

Ibara ya 63

Ibara ya 64

Ibara ya 65

Ibara ya 66

Ibara ya 67

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 68

**MWENYEKITI:** Mheshimiwa Peter Msigwa!

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Mwenyekiti, nikushukuru. Mimi nazungumzia Ibara ya 68(2) ambapo dhana nzima ya kuleta marekebisho ya sheria hii ni kupunguza misongamano mahakamani. Sasa hawa watu kama ambavyo wamekubaliana wenyewe, wamemtafuta msuluhishi wao wenyewe, wameamua wenyewe wamefikia suluhu. Sasa ni kwa

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nini tena kifungu hiki, ambacho Serikali haijarekebisha, inataka tena ku-execute yale makubaliano? kwamba lazima iwepo ruhusa ya mahakama?

Mheshimiwa Mwenyekiti, sasa mimi ili kupunguza huu msongamano nataka kweli *execution* itokane na mahakama lakini sio lazima iwe ruhusa kwa sababu wao wenyewe walikubaliana. Kwa hiyo nilitaka mabadiliko hapo yafanyike iondolewe kabisa hiyo kusiwepo kwamba lazima ruhusa iwe ya mahakama, na nisiporidhika, nitaomba wenzangu wanisaidie.

**MWENYEKITI:** Mwanasheria Mkuu wa Serikali.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, nadhani Mheshimiwa Mchungaji Msigwa ametoa mapendekezo hayo kwa sababu ya kutofahamu mfumo mzima wa *arbitration* unafanyaje kazi. (Makofi)

Mheshimiwa Mwenyekiti, duniani kote mnapofikia mwisho wa *arbitration* halafu ile tuzo au *award* inatolewa inaruhusiwa kwenda kufanya *application* kwenye mahakama itakayokuwa na mamlaka ili kuweza kuitekeleza ile *arbitration*; hilo linafanyika kila mahali, kote. Kwa hiyo ukiondoa hapa uwezo wa mahakama kuweza kuitekeleza au ku-enforce ile *award* maana yake ni kwamba itabaki ni *award* tu inayoning'inia hewani lakini haina nguvu zozote kwa sababu haya mabaraza hayana nguvu kama ilivyo mahakama. Tuseme ni baraza liko nje ya nchi linatoa *award*; utaitokelezaje Tanzania? Ni lazima uje ku-apply Mahakama Kuu ya Tanzania, Mahakama Kuu ya Tanzania itaipokea na itaifanya kuwa ni hukumu yake. (Makofi)

**MWENYEKITI:** Mheshimiwa Mch. Msigwa.

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Mwenyekiti, mimi siongelei *execution*, naongelea *leave*, kwamba hawa wameshamalizana, wamekubaliana, *arbitrator* walimtafuta wenyewe. Ninachozungumzia ni *leave*, kwa maana ya kwamba huyu mtu tena aanze kufanya *applications* hizo, huo ni usumbufu mkubwa wakati inatakiwa iwe *executed* apate haki zake huyo mtu anayetakiwa kupata haki zake; ndiyo hicho ninachokizungumza.

Mheshimiwa Mwenyekiti, kwa hiyo mimi natoa hoja wenzangu wanisaidie kujadili hili suala, naomba wengine waniunge mkono.

**MWENYEKITI:** Yaani hili halihitaji hata mjadala ndugu zangu; kwa sababu tutakuwa tunajadili nini? Yaani hoja ni kwamba ukikisoma hiki kifungu kwanza kimetumia neno *may*, by *leave of the court*, maana yake kama wameyamaliza wameshamalizana.

Mheshimiwa AG, naona ulikuwa unataka kuzungumza jambo.

**MWANASHERIA MKUU WA SERIKALI:** Mheshimiwa Mwenyekiti, nimsaidie tu kidogo Mheshimiwa Mchungaji Msigwa. Unaposema *by leave of the court* ni maneno kwa ufupi lakini yanayoonesha kuna mchakato, utaomba, utajenga hoja halafu mahakama ndiyo inakukubalia, lakini haya ni maneno ya kisheria. Unaposema *by leave of the court* maana yake utalazimika kwenda kufanya *application* mahakama ikusikilize, mahakama itoe maamuzi, ndiyo maana yake.

**MWENYEKITI:** Waheshimiwa Wabunge, huu utungaji wa sheria, ndiyo maana tunakwenda kwenye mchakato mrefu ili hata sisi tunaotaka kuleta mabadiliko au mapendekezo fulani lazima na sisi tuwe tumejiridhisha kwenye ile misingi ya sheria; hatuwezi kwenda nje ya hiyo misingi.

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Na ninachosikitika ni kwamba Mheshimiwa Salome amekalia Kiti cha *Chief Whip* na ni mwanasheria na anabisha hiyo misingi, sasa sijui yeye alifundishwa na mwalimu nani hii misingi.

Haya Waheshimiwa Wabunge, nitawahoji.

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Mwenyekiti...

**MWENYEKITI:** Ngoja niwahoji tusonge mbele.

**MHE. MCH. PETER S. MSIGWA:** Please, dakika moja tu.

Mheshimiwa Mwenyekiti, samahani, ninachosema, kama itahitajika kuomba *leave* maana yake mahakama bado ina uwezo wa kukataa, *that's what he is saying*, kwamba inaweza kukataa wakati wao wameshakubaliana mambo yao yameisha. Sasa ikiomba *leave* maana yake mahakama ina uwezo wa kukataa, ndiyo hicho mimi nakikataa, kwamba tumemaliza...

**MWENYEKITI:** Waheshimiwa, ngoja tuelewane vizuri; kifungu kidogo cha (3); ndiyo maana ukisoma inabidi uzisome zote; kinaeleze mazingira ambayo mahakama inaweza kukataa kile walichokubaliana hawa watu na itakataa kwa sababu hizo zilzotajwa hapo. Sasa unasema maana yake mahakama inaweza kukataa, ni kweli itakataa.

Mheshimiwa Salome, nikupe nafasi.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, hiki kifungu cha 68(2) kinasema *where leave of the court is given, judgment may be entered in terms of an award*.

**MWENYEKITI:** Nimesema cha tatu, unless unaanzisha jambo jipya. Mimi nimezungumza cha tatu kwa sababu yeye amesema maana yake inaweza kukataliwa na mimi nikamjibu ndiyo; endelea.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, twende tu polepole, ujue wewe ni *mentor* wangu, twende tu polepole. Hoja yetu kwenye cha pili hujanipa ruhusa ya kuongea sasa hivi unataka niongee cha tatu, niruhusu tu nikuelezee vizuri utanielewa.

**MWENYEKITI:** Sasa hoja itakuwa ni mpya kabisa Mheshimiwa Salome.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, basi sawa, wahoji Wajumbe tupitisha twende nyumbani, hakuna shida, wewe pitisha tu.

**MWENYEKITI:** Waheshimiwa Wajumbe nadhani nimeshaeleza msingi wetu wa kutunga sheria na ninadhani tumeuelewa huo msingi. Ushiriki wetu kama Bunge haimaanishi tutaipeleka tu kwa sababu kuna mawazo, hapana, tutatunga sheria kwa misingi ileile ya utungaji wa sheria.

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima pamoja na Marekebisho ya Serikali)*

Ibara ya 69

**MWENYEKITI:** Mheshimiwa Peter Msigwa!

**MHE. MCH. PETER S. MSIGWA:** Mheshimiwa Mwenyekiti, naomba mpitisha tu.

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge Zima bila mabadiliko yoyote)*

Ibara ya 70

**MWENYEKITI:** Mheshimiwa Salome Makamba.

**MHE. SALOME W. MAKAMBA:** Mheshimiwa Mwenyekiti, pitisha.

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima pamoja na marekebisho yake)*

Ibara ya 71

Ibara ya 72

Ibara ya 73

Ibara ya 74

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge zima pamoja na Marekebisho yake)*

Ibara ya 75

Ibara ya 76

*(Ibara Zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)*

Ibara ya 77

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima pamoja na Marekebisho yake)*

Title ya Sehemu ya Kumi na Moja

*(Title iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima pamoja na marekebisho yake)*

Ibara ya 78

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati Ya Bunge zima pamoja na Marekebisho yake)*

Ibara ya 79

Ibara ya 80

Ibara ya 81

Ibara ya 82

*(Ibara Zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)*

Ibara ya 83

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati Ya Bunge zima pamoja na Marekebisho yake)*

Ibara ya 84

Ibara ya 85

Ibara ya 86

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Ibara ya 87  
Ibara ya 88  
Ibara ya 89

(Ibara Zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)

Ibara ya 90

(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima pamoja na Marekebisho yake)

Ibara ya 91

(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)

Ibara ya 92

**MWENYEKITI:** Ibara ya 92 Mheshimiwa Sabreena Hamza Sungura.

**MHE. SABREENA H. SUNGURA:** Mheshimiwa Mwenyekiti, nashukuru kwa kunipa kwanza kabisa ningependa kama hatutakubaliana na majibu ya Serikali Waheshimiwa Wabunge humu ndani bila kujali vyama wote msimame mniunge mkono ili tuweze kutetea maslahi ya nchi. Mapendekezo yangu hapa nilikuwa napendekeza kwamba hii *part thirteen* yote iondolewe kwenye Muswada huu *content* za hii *part* ina *content* ya *criminal procedures act* ina imefanya *amendment* kwenye *civil procedure act*, imefanya *amendment* kwenye *nature resource*, imefanya *amendment* kwenye *PPP act*.

Mheshimiwa Mwenyekiti, lengo la kuondoa *part* hii kwenye ni kwa sababu kwanza *declare interest* mimi ni Mjumbe wa Kamati, pili hatukupata muda wa kupitia kipengele hata kimoja kwenye *part* hii, na Serikali ilishindwa kutupitisha kinaga ubaga kwenye *part* hii kwa kipengele kimoja badala ya kingine. Kwa hiyo sisi kama Wajumbe kwanza hatujui lolote kuhusiana na eneo hili, ukiacha Wabunge wenzetu ambao siyo Wajumbe wa Kamati. (Makofi)

Mheshimiwa Mwenyekiti, pia maeneo haya yameenda kufanya *amendment* kwenye sehemu ambazo ni *very special* kwenye Sheria hizi nyingine, ukienda kwa mfano kwenye Sheria ya *criminal procedure act* yamefanyika mabadiliko kule ya *section 163*, ambayo na yenyewe yanpendekeza, lengo ni zuri la Serikali kutaka kwamba watu wa-*solve* hizi *disputes amicably* nje ya *court*, lakini kuna yaani kama wawakilishi wa Wabunge tungepata kuchangia maeneo haya yangeweza kuwa na *impact* kubwa sana kwa Taifa.

Mheshimiwa Mwenyekiti, pia kwenye Sheria ya *CPC*, kuna vingele ambavyo ni muhimu sana, kuna mambo ya *certification and accreditation* ya hawa *arbitrator*, japo wadau walipendekeza kwamba *arbitrator*, *mediators* na *re-conciliators* na wengine wengine wote wangukuwa kila mtu na Sheria yake, lakini humu tumewaleta wote kwenye kapu moja tumewaweka puu! Pia Wabunge wamekosa nafasi sasa ya kuangalia sifa zipi zitakuwa ni *mediator*, sifa zipi ni za *arbitrator* sifa zipi ni za huyu, *legislation* yao inafanyikaje, kuna makosa humu yamewekwa kwamba mtu kama hajawa *certified* hajawa, *credited* akienda kufanya hizo shughuli za *mediation* na mambo mengine *reconciliation* atachukuliwa hatua, kuna vifungo, kuna faini Wabunge hatukuoata nafasi ya kupitia hili suala. (Makofi)

**MWENYEKITI:** Sawa Mheshimiwa umeeleweka.

**MHE. SABREENA H. SUNGURA:** Mheshimiwa Mwenyekiti, kwa hiyo naomba....



## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**MWENYEKITI:** Umeeleweka.

Mheshimiwa Mwenyekiti, Serikali waondoe hii *part* ili wakileta mabadiliko mengine huko mbeleni...

**MWENYEKITI:** Mheshimiwa Sungura umeeleweka, kengele imegonga nimekuongeza na nyingine sasa naona unataka kurudi nyuma tena. Waheshimiwa Wabunge Kanuni mnazo kwenye vishikwambi vyenu Kanuni ya 86 fasili ya 11 ili tuokoe wakati inasema hivi.

Kamati au Mbunge anaweza kuwasilisha kwa Katibu kwa maandishi mabadiliko anayokusudia kuyafanya katika Muswada huo wakati wa Kamati ya Bunge zima akionesha bayana mabadiliko yanayokusudiwa kufanyika katika kila Ibara inayohuka, kila Ibara inayohusika.

88(2) inazungumza pia hivo hivo na ninyi mnazo hapo mnaweza kusoma na nitasoma sehemu ya mwisho inasema “mabadiliko hayo yatashughulikiwa kwa mpangilio utakaofuata na kwa kuzingatia mtiririko wa Ibara za Muswada wa Sheria unaohusika”.

Mheshimiwa Sabreena Sungura amesema hapa mabadiliko yake, anasema ifutwe sehemu yote sasa Bunge lilitakiwa lipate fursa ya kuangalia kila kifungu ana sababu zipi za kusema kifutwe, sasa yeye anasema sehemu yote ifutwe na sababu anayoitaja anasema Kamati haikupata fursa ya kupitia. Lakini sasa kama vifungu vingine vilipitiwa Bunge lilitakiwa sasa lishauriwe vingine kwanini havikupitiwa na kwa mazingira hayo haya marekebisho yake yaliyoletwa hajaenda kifungu kwa kifungu kama ambavyo Kanuni yetu inataka na ndiyo hii hapa ninayoisoma. *(Makofi)*

Kwa sababu hayaenda kifungu kwa kifungu Bunge linakosa sasa fursa ya kuangalia kila kifungu kina mapungufu gani ili likikatae au likubali haliwezi kuhojiwa kwa sehemu. Kwa hiyo, Waheshimiwa Wabunge tunaendelea, marekebisho ya Mheshimiwa Sabreena Sungura kwenye hiyo sehemu kwa mujibu wa hizi Kanuni mbili nilizowasomea hapo hatutaweza kuyatazama. Katibu!

*(Ibara iliyotajwa hapo juu ilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)*

Ibara ya 93  
Ibara ya 94  
Ibara ya 95  
Ibara ya 96  
Ibara ya 97  
Ibara ya 98  
Ibara ya 99  
Ibara ya 100  
Ibara ya 101  
Ibara ya 102

*(Ibara zilizotajwa hapo juu zilipitishwa na Kamati ya Bunge zima bila mabadiliko yoyote)*

Jedwali

*(Jedwali lililotajwa hapo juu lilipitishwa na Kamati ya Bunge zima pamoja na marekebisho yake)*

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

**MWENYEKITI:** Bunge linarejea.

*(Bunge lilirudia)*

**NAIBU SPIKA:** Waheshimiwa tukae, mtoa hoja, taarifa!

**WAZIRI WA SHERIA NA KATIBA:** Mheshimiwa Naibu Spika, kwa mujibu wa Kanuni ya 89(1) ya Kanuni za kudumu za Bunge Toleo la Januari 2016 napenda kutoa taarifa kwamba Kamati ya Bunge zima imeupitia Muswada wa Sheria ya usuruhishi wa mwaka 2020 *the arbitration bill of 2020*, Ibara kwa Ibara na kuukubali pamoja na marekebisho yaliyofanyika.

Mheshimiwa Naibu Spika, naomba kutoa hoja kwamba Muswada wa Sheria ya usuruhishi wa mwaka 2020 *the arbitration bill of 2020* kama ulivyorekebisha katika Kamati ya Bunge zima sasa ukubaliwe.

Mheshimiwa Naibu Spika, ninaomba kutoa hoja.

**WAZIRI WA AFYA, MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Waheshimiwa Wabunge hoja imeungwa mkono, ahsante sana Mheshimiwa Waziri. Sasa nitawahoji!

*(Hoja ilitolewa iamuliwe)  
(Hoja iliamuliwa na kuafikiwa)*

**NAIBU SPIKA:** Kwa hiyo, Muswada umeipita na nimuite Katibu!

**NDG. JOSHUA CHAMWELA - KATIBU MEZANI:** Muswada wa Sheria kwa ajili ya kufanya marekebisho katika sheria ya usuluhishi kwa lengo la kuweka masharti ya utatuzi wa migogoro kirafiki nje ya mfumo wa Mahakama pamoja na kuwezesha makubaliana ya kuisuluhishi yaani *A bill for an Act to amend the arbitration Act for the purpose or facilitating amicable settlement of dispute outside the court system as well as enforceability of arbitration agreements.*

*(Kusomwa Mara ya Tatu)*

*(Muswada wa Sheria wa Serikali Ulipitishwa na Bunge)*

**NAIBU SPIKA:** Waheshimiwa Wabunge kwa upande wetu sisi kama Wabunge tumeshamaliza kazi yetu na tuwatakie kila la kheri upande wa Serikali kwenye kutekeleza yale ambayo yako humu, pia Mheshimiwa Rais atakapopata fursa basi kwa mujibu wa Katiba yetu Ibara ya 97 na yeye atafanya kwa nafasi yake na Wabunge wanatarajia mambo haya yataenda kwa mujibu wa Sheria hii ambayo wameipitisha.

Lakini jambo la jumla kabisa nadhani niungane na Mheshimiwa Mlinga kwamba Bunge hili pamoja na mengine yote utaratibu uliowekwa wa kuleta hati za dharura ni kweli pengine unatoa muda mfupi, lakini Hati za Dharura zimewekwa mahususi kabisa kwa sababu inaangalia mazingira ambayo Bunge litatakiwa kuangalia mambo ya haraka, kama kungekuwa umuhimu huo hakuna hicho kifungu kisingekuwepo, sasa kipo kwa sababu ya hayo mazingira na hayo mazingira ndiyo yanayotufanya tufanye hivyo. *(Makofi)*

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Mtaangalia kwenye ratiba ya leo ili tusiwe na upotoshaji, ratiba ya leo kuna Sheria hapa zimesomwa kwa mara ya kwanza, maana yake si kila Sheria inayokuja Bungeni inakuja kwa Muswada wa dharura ama kwa Hati ya Dharura hapana, lazima na sisi tufike mahali ambapo tunaona kuna jambo linaweza kufanyika. Pia maamuzi tunaweza kufanya na tukayabadilisha wenyewe. Ndiyo maana hakuna mwingine anayetubadilishia hayo maamuzi lazima yarudi hapa na Serikali inatoa sababu kwa nini mazingira yamebadilika na kwanini mambo yanatakiwa kubadilishwa na sisi tunapata fursa ya kujadili. *(Makofi)*

Kwa hiyo, hata hii yunayoipitisha leo hapa hata Mheshimiwa Rais akishasaini ikashindikana sijui kifungu gani bado itarudi hapa kwa sababu ndiyo kazi yetu, na wala sisi tunavyotengeneza siyo miungu kwamba haitabadilika itabadilika kulingana na mazingira, na ndiyo maana Kanuni zetu na Sheria zetu na Katiba zetu zimeeleza mazingira hayo. *(Makofi)*

Kwa hiyo, tusijiweke namna fulani hivi kuna watu wnatoka kuliweka Bunge kama ni chombo cha kinyonge hivi watu wanyonge wanyonge hapana, ni kazi yetu kutunga Sheria na ndiyo maana saa ya kubalisha tunaletewa sisi wenyewe tubalishe yale ambayo hayaendi sawa sawa, kwa sababu kwa namna hiyo hiyo sisi tukiona pia mambo hayaendi sawa ndiyo maana Kanuni zinaturuhusu hata sisi wenyewe kuleta hiyo Miswada. Kwa hiyo inaweza kuleta Serikali, lakini pia sisi wenyewe. *(Makofi)*

Kwa hiyo, tuwatakie kila la Kheri upande wa Serikali na sisi tutamaliza kwa nafasi yetu Mheshimiwa Rais na yeye akifanya kwa nafasi yake basi Sheria itaanza kazi na tunaamni wananchi watafaidika zaidi, lakini pia Mahakama yetu tutakuwa tumeirahisishia kwa kubadilisha yale mambo ambayo yalikuwa hayajakaa sawa. *(Makofi)*

Baada ya kusema hayo Waheshimiwa Wabunge tutaendelea sasa na ratiba iliyo mbele yetu.

Katibu!

**NDG.NENELWA WANKANGA - KATIBU MEZANI:**

### TAARIFA YA KATIBU WA BUNGE

**NDG.STEPHEN KAGAIGAI-KATIBU WA BUNGE:** Mheshimiwa Naibu Spika, kwa mujibu wa kanuni ya 29 fasili ya 2 ya kanuni za kudumu za Bunge toleo la Januari, 2016 naomba kutoa taarifa kwamba shughuli zote zilizowekwa kwenye orodha ya shughuli za Mkutano wa Kumi na Nane wa Bunge, sasa zimemalizika. *(Makofi)*

**NAIBU SPIKA:** Waheshimiwa Wabunge hiyo ndiyo taarifa ya Katibu nikuite tena.

Katibu!

### HOJA YA KUAHIRISHA BUNGE

**NAIBU SPIKA:** Hoja ya kuahirisha Bunge Waheshimiwa Wabunge nimuite sasa Mheshimiwa Waziri Mkuu wa Jamhuri ya Muungano wa Tanzania, aje azungumze nasi, karibu Mheshikiwa Waziri Mkuu. *(Makofi)*

**WAZIRI MKUU:** Mheshimiwa Naibu Spika, kwanza kabisa namshukuru Mwenyezi Mungu mwingi wa rehema kwa kutuwezesha kuhitimisha shughuli zote zilizopangwa katika Mkutano huu wa Kumi na Nane wa Bunge lako Tukufu tukiwa buheri wa afya. Aidha kwa kuwa huu ni

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

mkutano wa kwanza tangu mwaka huu uanze ninakutakia wewe Mheshimiwa Naibu Spika, Mheshimiwa Spika, pamoja na wewe Naibu Spika, Waheshimiwa Wenyeviti wa Bunge Waheshimiwa Wabunge wenzangu, watumishi wa Bunge na watazania wote kheri ya mwaka mpaya wa 2020. (Makofi)

Mheshimiwa Naibu Spika, kwa masikitiko makubwa naungana na Waheshimiwa Wabunge wenzangu tutoa salamu za pole kwa wananchi wa Jimbo la Newala Vijijini kwako, kwa Bunge lako Tukufu na kwa familia ya Mbunge aliyekuwa Mbunge Rashid Ajal Akbari aliyefariki tarehe 15 Januari, 2020.

Mheshimiwa Naibu Spika, naungana na Mheshimiwa Rais wetu mpendwa Dkt. John Pombe Magufuli kutoa pole kwa ndugu, jamaa na marafiki wa familia za watu waliopoteza maisha kutokana na madhara ya mvua kubwa zinazoendelea kunyesha nchini katika maeneo mbalimbali na kwa familia za watu 20 waliofariki tarehe 1 Februari, 2020 katika ibada huko Mjini Moshi Mkoani Kilimanjaro.

Mheshimiwa Naibu Spika, sambamba na matukio hayo watazania wamepokea kwa mshituko taarifa kuhusu vifo vya wanajeshi wetu kumi wa Jeshi la Wananchi Tanzania vilivyotokea tarehe 03 Februari, 2020 wakati wakishiriki mazoezi ya kijeshi huko Msata Mkoani Pwani na askari watatu wa Jeshi la Polisi Tanzania waliofariki kwa ajali Mkoani Njombe. Natumia nafasi hii kutoa pole kwa Jenerali Venance Mabeyo Mkuu a Majeshi ya Ulinzi na Inspekta Jenerali Simon Sirro Mkuu wa jeshi la Polisi Tanzania na kwa familia ndugu, jamaa na marafiki, wa askari hao.

Mheshimiwa Naibu Spika, nitumie fursa hii pia kuwapa pole watazania wenzangu waliopoteza ndugu jamaa, na marafiki na wengine kusababishiwa madhara mbalimbali kutokana na ajali za barabarani na matukio mengine tunamuomba Mwenyezi Mungu aziweke roho za marehemu wote mahala pema peponi amina na awape pia nafuu majeruhi wote waweze kupona haraka.

Mheshimiwa Naibu Spika, wakati tunahitimisha shughuli zilizopangwa katika Mkutano huu wa Kumi na Nane wa Bunge lako tukufu naungana na waheshimiwa Wabunge wenzangu walionitangulia kumpongeza Mheshimiwa George Boniface Simbachawene, Mbunge wa Kibakwe kwa kuteuliwa kwake kuwa Waziri wa Mambo ya Ndani na Mheshimiwa Mussa Azzan Zungu, Mbunge wa Ilala kuwa Waziri wa Nchi, Ofisi ya Makamu wa Rais anayeshughulikia Muungano na mazingira. (Makofi)

Mheshimiwa Naibu Spika, vilevile nawapongeza Waheshimiwa Mabalizi wote ambao wamepangiwa vituo vha uwakilishi hivi karibuni, natumia nafasi hii kuwakumbusha tena kuwa pamoja na mambo mengine tutaendelea kupima utendaji wa kazi wao kwa namna wanavyovutia uwekezaji kutangaza utalii kutafuta masoko ya bidhaa zetu sambamba na kujenga taswira nzuri ya Tanzania katika maeneo yao ya uwakilishi.

Aidha, Viongozi wote mlioteuliwa, tambueni kuwa mnalo jukumu kubwa la kuwahudumia Watazania hususan katika kutatua kero mbalimbali zinazowakabili Watazania hao.

Mheshimiwa Naibu Spika, natumia pia nafasi hii kukupongeza wewe binafsi, Waheshimiwa Wabunge wenzangu, Watendaji wa Bunge kwa ubunifu na uthubutu ambao umekuwa chachu ya mageuzi makubwa ya kiutendaji katika Bunge hili. Katika hili, nitakuwa mchoyo wa fadhila nisipongeza Bunge lako Tukufu kwa kukabidhi majoho kwa Maspika

## NAKALA YA MTANDAO (ONLINE DOCUMENT)

Wastaafu ikiwa ni ishara ya kutambua mchango wao kwa Bunge hili na Taifa kwa ujumla. Hongera sana Mheshimiwa Spika na sasa Mheshimiwa Naibu Spika, unamwakilisha.

Mheshimiwa Naibu Spika, katika Mkutano huu wa Kumi na Nane tunaouhitimisha leo, jumla ya maswali 118 ya msingi na mengine 320 ya nyongeza yaliulizwa na Waheshimiwa Wabunge na kupatiwa majibu kutoka Serikalini. Kadhalika, maswali 14 ya msingi moja la nyongeza ya papo kwa papo yaliulizwa na kujibiwa na Waziri Mkuu.

Mheshimiwa Naibu Spika, katika Mkutano huu, Bunge lako Tukufu lilipitisha kwa hatua zake zote Muswada wa Sheria ya Marekebisho ya Sheria Mbalimbali (Na. 8) wa Mwaka 2019 na Muswada wa Sheria ya Usuluhishi wa Mwaka 2020.

Mheshimiwa Naibu Spika, Miswada ifuatayo nayo ilisomwa kwa mara ya kwanza katika Bunge lako Tukufu:-

- (i) Muswada wa Sheria ya Marekebisho ya Sheria Mbalimbali wa Mwaka 2020.
- (ii) Muswada wa Sheria ya Afya na Mimea wa Mwaka 2020.
- (iii) Muswada wa Sheria ya Kusimamia na Kuendeleza Uvuvi wa Bahari Kuu wa Mwaka 2020.

Mheshimiwa Naibu Spika, vilevile, Serikali kupitia Wizara ya Fedha na Mipango iliwasilisha katika Mkutano huu Azimio la kufuta hasara itokanayo na maduhuli ya madeni ya nyumba; ada na leseni za magari, riba na adhabu kwa kipindi kinachoishia tarehe 30 Juni, 2019.

Mheshimiwa Naibu Spika, wakati wa Mkutano huu pia Kamati za Kudumu za Bunge 15 ziliwasilisha Bungeni Taarifa za mwaka za kazi. Taarifa hizo zilisheni uchambuzi wa kina, maoni, ushauri pamoja na mapendekezo mbalimbali kwa Serikali. Nitumie nafasi hii kuwapongeza Wenyeviti, Makamu Wenyeviti na Wajumbe wote wa Kamati hizo kwa kazi nzuri mliyoifanya kuanzia maandalizi ya kazi za Kamati hadi kuwasilisha Taarifa zenu katika Bunge lako Tukufu.

Mheshimiwa Naibu Spika, Serikali imepokea hoja zilizoibuliwa wakati wa Vikao vya Kamati za Kudumu za Bunge ambazo ninaamini kuwa zimeibuliwa kwa malengo mazuri ya kuhakikisha kwamba tunaboresha utendaji kazi na uwajibikaji Serikalini. Serikali inahidi kuzifanyia kazi hoja hizo hususan wakati huu tunapoelekea kwenye maandalizi ya Mpango na Bajeti ya Mwaka 2020 mpaka 2021.

Mheshimiwa Naibu Spika, kama itakavyokumbukwa, mwezi Juni, 2019 Bunge lako Tukufu lilipitisha Mpango na Bajeti ya Serikali wa Shilingi Trilioni 33.1. Kati ya fedha hizo, matumizi ya kawaida yalikuwa ni shilingi Trilioni 20.85 na matumizi ya maendeleo yalikuwa shilingi trilioni 12.2.

Mheshimiwa Naibu Spika, vilevile mwezi Novemba, 2019 Serikali iliwasilisha katika Bunge lako Tukufu Muhtasari wa mapitio ya utekelezaji wa Mpango wa Maendeleo kwa Mwaka 2019/2020 na mwelekeo wake kwa mwaka 2020 - 2021. Kwa msingi huo, nimeona ni vema kuwaeleza Waheshimiwa Wabunge wenzangu na Watanzania wote baadhi ya mambo makubwa na mafanikio yaliyopatikana hadi kufikia mwishoni mwa mwezi Desemba, 2019 ambapo ni nusu ya mwaka wa fedha wa 2019/2020.

Mheshimiwa Naibu Spika, jitihada kubwa zinazofanywa na Serikali ya Awamu ya Tano chini ya Uongozi mahiri wa Jemadari wetu, Mheshimiwa Dkt. John Pombe Joseph Magufuli, Rais

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wa Jamhuri ya Muungano wa Tanzania zimedhihirika wazi katika nyanja mbalimbali za kiuchumi na kijamii. Viashiria vingi vya kiuchumi vinaonyesha matokeo mazuri.

Mheshimiwa Naibu Spika, katika kipindi cha Julai hadi Septemba, 2019, uchumi wa Tanzania ulikua kwa asilimia 6.8. Aidha, ukuaji wa uchumi kwa nchi nyingine za Jumuiya ya Afrika Mashariki katika robo tatu ya mwaka 2019 ulikuwa kama ifuatavyo:-

- (i) Nchi jirani ya Kenya asilimia 5.1
- (ii) Nchi jirani nyingine ya Uganda asilimia 2.7
- (iii) Na Rwanda asilimia 11.9

Mheshimiwa Naibu Spika, pamoja na mambo mengine, juhudi za Serikali katika kuimarisha uwekezaji kwenye miundombinu ya msingi ya barabara, reli, viwanja vya ndege, kutengemaa kwa upatikanaji wa huduma za maji, kuimarika kwa huduma za usafirishaji, habari na mawasiliano, kuongezeka kwa uzalishaji wa madini hususan dhahabu na makaa ya mawe na kuongezeka kwa uzalishaji wa mazao ya kilimo kumekuwa chachu ya mafanikio hayo. *(Makofi)*

Mheshimiwa Naibu Spika, ukuaji huo wa uchumi umechangia kuongezeka kwa uzalishaji katika sekta rasmi na isiyo rasmi na hivyo kuiwezesha Serikali kukusanya mapato zaidi. Kwa mfano, katika kipindi cha Julai hadi Desemba, 2019 mapato ya kodi yaliongezeka hadi kufikia wastani wa shilingi trilioni 1.52 kwa mwezi ikilinganishwa na wastani wa shilingi trilioni 1.30 katika kipindi kama hicho mwaka 2018.

Mheshimiwa Naibu Spika, kutokana na juhudi kubwa zinazofanywa na Serikali ya Awamu ya Tano ikiwemo kuimarisha mifumo ya ukusanyaji wa mapato na kurahisisha ulipaji wa kodi, mapato ya kodi kwa mwezi Desemba, 2019 yaliweza kuvunja rekodi na kufikia shilingi trilioni 1.92. *(Makofi)*

Mheshimiwa Naibu Spika, kwa upande wa matumizi, katika kipindi cha Julai hadi Desemba, 2019, Serikali imetumia shilingi trilioni 15.32, sawa na asilimia 91.2 ya lengo. Fedha hizo zimetumika kwa ajili ya utekelezaji wa miradi mbalimbali ya maendeleo, ulipaji wa mishahara ya Watumishi, ugharamiaji wa deni la Serikali, ulipaji wa madai ya ndani yaliyohakikiwa, watumishi, wazabuni na wakandarasi na uendeshaji wa shughuli za Serikali katika Wizara, Idara zinazojitegemea, Sekretarieti za Mikoa na Mamlaka za Serikali za Mitaa.

Mheshimiwa Naibu Spika, kuimarika huko kwa mapato kumewezesha Serikali kuendelea kuwahudumia wananchi kupitia ujenzi na uboreshaji wa miundombinu mbalimbali kwa ajili ya shughuli za kiuchumi na kijamii.

Mheshimiwa Naibu Spika, naomba japo kwa uchache, nitaje mafanikio yaliyopatikana katika utekelezaji wa Bajeti ya Serikali kwa kipindi cha Julai hadi Desemba, 2019 ikiwa ni miezi sita ya Mwaka wa Fedha kama ifuatavyo:-

(i) Tumeendelea na ujenzi wa reli ya kati ya kisasa kwa sehemu ya Dar es Salaam mpaka Morogoro, kilometa 300 ambayo hadi Desemba, 2019 ilifikia asilimia 70. Aidha, kazi ya ujenzi kwa sehemu ya Morogoro mpaka Makutupora kilometa 422 zinaendelea vizuri na Serikali imerejesha huduma ya reli ya abiria na mizigo ya Kaskazini kwa Dar es Salaam mpaka Moshi na jitihada zinafanywa kufika mkoani Arusha.

(ii) Kuendelea na ujenzi wa Mradi wa kufua Umeme wa Maji wa Julius Nyerere ambapo kazi zilizokamilika ni pamoja na ujenzi wa daraja la muda namba mbili, utafiti wa miamba na

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udongo, uchimbaji wa mtaro wa chini kwa chini wenye urefu wa mita 147.6 na mtambo wa kuchakata kokoto namba moja.

(iii) Kuendelea na mradi wa usambazaji umeme Vijijini (REA) ambapo hadi Desemba, 2019 jumla ya vijiji 8,236 kati ya vijiji 12,268 vya Tanzania Bara vimeunganishwa na umeme sawa na asilimia 67.1. Aidha, kufuatia malalamiko ya ucheleweshaji wa baadhi ya miradi ya REA, namuagiza Waziri wa Nishati kuhakikisha kwamba Wakandarasi wote waliosambazwa kwenye Wilaya zote nchini kwenye mpango wa REA wanakamilisha majukumu yao kwa wakati kama ambavyo tumekubaliana. (Makofi)

(iv) Kuendelea kuboresha Shirika la Ndege Tanzania kwa kununua zile ndege mpya 11. Hadi Desemba, 2019, ndege nane zimepokelewa na malipo ya awali ya ununuzi wa ndege nyingine tatu yamefanyika. Aidha, Serikali imeendelea kutoa mafunzo kwa Marubani, Wahandisi na Wahudumu pamoja na kulipa madeni mengine. (Makofi)

(v) Kuzinduliwa kwa Jengo la Tatu la abiria katika Kiwanja cha Ndege cha Kimataifa cha Julius Nyerere na kuanza kutumika kuhudumia abiria na pia kuendelea na uboreshaji wa Kiwanja cha Ndege cha Mwanza na viwanja vya mikoa mbalimbali.

(vi) Kuendelea na ujenzi wa barabara kwa kiwango cha lami zikiwemo barabara kuu, barabara za Mikoa na za Wilaya. Mtandao wa barabara kuu umefikia kilomita 8,502 na mtandao wa barabara za Mikoa kilomita 1,756. Pia, Serikali imeendelea na ujenzi wa Ubungo *inter-change* ambapo hadi Desemba, 2019 umeshafikia asilimia 62 ya ujenzi huo na ujenzi wa barabara ya njia nane kutoka Kimara hadi Kibaha wenye urefu wa kilometa 63.

(vii) Kukamilika kwa ujenzi wa madaraja ya Sibiti (Singida), Momba (mpakani mwa Songwe na Rukwa), Mlalakuwa (Dar es Salaam), Lukuledi (mkoani Lindi) na kuendelea na ujenzi wa daraja la Salender na daraja la Kigogo - Busisi lenye urefu wa mita 3,200 na upana wa mita 28.45

(viii) Kuboresha elimu ya msingi kwa kuendelea kutekeleza programu ya elimu bila ada ambapo Serikali inagharamia chakula kwa Wanafunzi 189,226 wa kutwa na Bweni, Posho ya Madaraka kwa Walimu Wakuu 23,843, fidia ya ada kwa wanafunzi 1,874,331 na ruzuku ya uendeshaji wa shule. Katika kipindi cha Julai hadi Desemba, 2019, Serikali imetoa jumla ya shilingi bilioni 128.1 kwa ajili ya kugharamia elimu msingi bila ada.

(ix) Kuimarisha elimu ya juu, ufundi na ustawi wa jamii kwa kuendelea kutoa mikopo kwa wanafunzi wa elimu ya juu ambapo hadi Desemba, 2019 jumla ya shilingi bilioni 266.4 zimetolewa kwa wanafunzi 130,072. Kati yao, wanafunzi 49,493 ni wa mwaka wa kwanza na 80,579 wanaoendelea. Aidha, Serikali inaendelea kujenga Mabweni ya wanafunzi wa kike, kukarabati majengo ya Vyuo Vikuu na Vyuo vya Ualimu, kuboresha Vyuo vya VETA kwa kujenga na kuboresha majengo ya Vyuo na kununua vifaa vya kufundishia na kujifunzia. Vilevile, Serikali imeimarisha Vyuo vya Maendeleo ya Jamii na Ustawi wa Jamii kwa kuanzisha vituo vitano vya ubunifu sanjari na kutekeleza programu ya uanagezi ili kupata ujuzi wa kujiajiri unaoendana na ushindani wa soko la ajira.

(x) Kuboresha utoaji wa huduma za afya kwa kugharamia ujenzi na uboreshaji wa miundombinu ya vituo 487 vya kutolea huduma za afya ikijumuisha Vituo vya Afya 320, Hospitali za Halmashauri za Wilaya 70, hospitali za zamani tisa na Zahanati 88. Aidha, Serikali imejenga na kuboresha miundombinu ya Hospitali za Rufaa za kule Mkoani Njombe, Simiyu, Mara, Geita, Songwe, Katavi, Seko Toure, Burigi, Mwananyamala na Hospitali za Rufaa za Kanda ya Kusini kule

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Mtwara, Kanda ya Nyanda za juu kule Mbeya, Hospitali ya Kibong'oto na ujenzi wa *Isolation Centre* katika Hospitali ya Taifa Muhimbili. (Makofi)

Pia, Serikali imekamilisha ujenzi wa nyumba 320 za watumishi wa Sekta ya Afya pamoja na kugharamia ununuzi wa dawa, chanjo, vifaa, vifaa tiba na vitendanishi. Jumla ya shilingi bilioni 334 zimetumika. Vilevile, katika kipindi hicho, jumla ya Madaktari bingwa 311 wameendelea kulipiwa gharama za masomo ya Uzamili katika Vyuo Vikuu vya ndani na nje ya nchi. Kadhalika, katika kipindi cha nusu ya pili, Serikali inakusudia kuajiri zaidi ya watumishi 4,000 wa Sekta ya Afya. (Makofi)

- (xi) Kuendelea kuboresha huduma ya maji safi na salama vijijini na mijini ambapo utekelezaji wa miradi 631 unaendelea ukijumuisha miradi 558 ya Maji Vijijini na 73 ya Maji Mijini. Miongoni mwa miradi mikubwa inayoendelea kutekelezwa ni pamoja na mradi wa maji Arusha, mradi wa maji wa Same, Mwangi, Korogwe na mradi wa kutoa maji kutoka Ziwa Victoria kwenda katika Miji ya Isaka, Tinde, Kagongwa, Tabora, Igunga, Uyui na Nzega. Katika kipindi cha Julai hadi Desemba, 2019, jumla ya shilingi bilioni 325.9 zimetolewa kwa ajili ya utekelezaji wa miradi mbalimbali ya maji ikiwemo uchimbaji wa visima vifupi, vya kati na virefu. (Makofi)
- (xii) Kuimarisha juhudi za ujenzi wa viwanda kwa kuboresha Shirika la Viwanda Vidogo (SIDO), ukarabati na upanuzi wa Kiwanda cha Ngozi na bidhaa za ngozi cha Karanga Mjini Moshi na kuimarisha Shirika la Nyumbu ili kuongeza uzalishaji ikiwemo kuzalisha magari ya zimamoto. Aidha, kumekuwa na ongezeko la ajira na uzalishaji viwandani hususan katika viwanda vya saruji, marumaru, chuma, kusindika matunda na mazao ya chakula ikijumuisa ubanguaji wa korosho. Kwa mfano, jumla ya tani 4,254 za korosho zilibanguliwa kupitia viwanda 17 ambavyo vinazalisha ajira za moja kwa moja 4,066.
- (xiii) Kuendelea na ujenzi wa Meli mpya yenye uwezo wa kubeba abiria 1,200 na tani 400 za mizigo katika Ziwa Victoria ambapo utekelezaji wake umefikia asilimia 37, ujenzi wa chelezo umefikia asilimia 46, ukarabati wa meli ya Mv. Victoria umefikia asilimia 95 na Mv. Butiama asilimia 60. Tuendelea na ujenzi wa kivuko kipya cha Nyamisati, Mafia, kuendelea kukarabati vivuko vya Mv. Sengerema asilimia 40, Mv. Kigamboni umefikia asilimia 60 na Mv. Utete imefikia asilimia 95. Hatua nyingine ni kukamilika kwa ujenzi wa kivuko kipya cha Kigogo, Busisi.
- (xiv) Upanuzi wa Bandari ya Dar es Salaam unaendelea ambapo ujenzi wa gati Na. 1, 2 na 3 na gati la kupakia na kupakua Magari (Ro-Ro) umekamilika na kuwezesha meli ya kwanza yenye uwezo wa kubeba Magari 6,000 kuhudumiwa katika gati hilo. Aidha, uboreshaji wa Bandari za Tanga, Mtwara na Bandari za Maziwa Makuu unaendelea.

Mheshimiwa Naibu Spika, lengo la Serikali ya Awamu ya Tano ni kuwahudumia wananchi sambamba na kuratibu vyema utekelezaji wa miradi mbalimbali ya kimkakati na kielelezo. Kama nilivyotangulia kueleza, miradi hiyo inayohusisha sekta ya miundombinu wezeshi; nishati, maji, afya na elimu imekuwa chachu ya kuboresha maisha ya Watanzania kupitia ukuaji wa sekta rasmi na isiyokuwa rasmi.

Mheshimiwa Naibu Spika, Serikali ya Awamu ya Tano imefanya maboresho makubwa na uwekezaji katika Sekta ya Elimu Nchini. Uwekezaji huo ni pamoja na kutoa Elimu Singi bila Ada, ujenzi na ukarabati wa miundombinu ya shule sambamba na kuimarisha ushirikiano baina ya wadau wa elimu na wananchi. (Makofi)

Mheshimiwa Naibu Spika, matokeo chanya ya maboresho hayo ni kuongezeka kwa kiwango cha ufaulu katika upimaji wa Kitaifa kwa Darasa la Nne; pia kidato cha Pili na Mitihani ya Kitaifa ya Kidato cha Nne kwa kipindi cha kuanzia mwaka 2015 hadi 2019. Aidha, Shule za



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Kata nazo zimeendelea kufanya vizuri na kuongeza matumaini kwa Watanzania walio wengi. (Makofi)

Mheshimiwa Naibu Spika, matokeo ya upimaji wa Kitaifa wa Darasa la Nne mwaka 2019 yamebainisha kuwa jumla ya wanafunzi 1,531,120 walifaulu ikilinganishwa na wanafunzi 1,213,132 waliofaulu mwaka 2018. Ufaulu huo ni sawa na ongezeko la asilimia 26.21. Kwa upande wa Kidato cha Pili, wanafunzi 514,251 walifaulu upimaji wa Kitaifa kwa mwaka 2019 ikilinganishwa na wanafunzi 452,273 waliofaulu upimaji huo mwaka 2018. Hilo sawa na ongezeko la asilimia 13.7.

Mheshimiwa Naibu Spika, mwaka 2019, wanafunzi 340,914 kati ya wanafunzi 422,722 walifaulu Mtihani wa Taifa wa Kidato cha Nne. Aidha, ubora wa ufaulu wa wanafunzi hao umeongezeka kwa mwaka 2019. Kwa mfano, wanafunzi 135,301 sawa na asilimia 32.01 walipata ufaulu mzuri wa daraja la kwanza hadi la tatu.

Mheshimiwa Naibu Spika, maboresho ya miundombinu ya elimu yamefanyika, maboresho ya uwekezaji katika Serikali, katika Sekta ya Elimu yamekuwa ni chachu ya kuongezeka kwa Kiwango cha ufaulu na wakati mwingine kuleta changamoto kwenye miundombinu ya Elimu. Hata hivyo, Serikali imeendelea kukamilisha usajili wa shule mpya, kuongeza vyumba vya madarasa 1,218 na mabweni 14 ili wanafunzi wote waliofaulu kuingia Kidato cha Kwanza mwaka 2020 waweze kuanza masomo kwa wakati.

Mheshimiwa Naibu Spika, nirejee tena kusisitiza kuhusu maelekezo niliyoyatoa mwezi Desemba, 2019 kwa Wakuu wa Mikoa na Wilaya kuhakikisha kuwa miundombinu ya shule inakamilika kwa wakati na wanafunzi wote waliofaulu kupata fursa ya kuanza masomo ya Kidato cha Kwanza.

Mheshimiwa Naibu Spika, katika msimu wa 2019/2020 mvua zimeendelea kunyesha katika Mikoa mbalimbali kwa kiwango cha kuridhisha. Hata hivyo, baadhi ya maeneo mvua zimenyesha kwa wingi na kuathiri ustawi wa mazao na shughuli za kilimo. Serikali kupitia Mamlaka ya Hali ya Hewa imeendelea kutoa taarifa za mwenendo wa mvua na kutumia taarifa hizo kuwashauri wakulima kuzalisha mazao kulingana na kiasi cha mvua katika maeneo yao.

Mheshimiwa Naibu Spika, kwa upande mwingine, Serikali imejiandaa kukabiliana na tishio la Nzige wa Jangwani ambao tayari wamevamia nchi jirani. Serikali inafuatilia kwa karibu na kubaini endapo kuna viashiria au uwepo wa nzige hao kwa ajili ya kuchukua hatua za kuwadhhibiti kwa wakati endapo watajitokeza hapa nchini. Serikali imeendelea kujipanga vizuri katika kudhibiti tishio hilo la nzige pamoja na vizumbufu vyote vya mazao vitakavyotokea katika msimu huu wa kilimo.

Mheshimiwa Naibu Spika, katika kuongeza uzalishaji na tija kwenye kilimo, Serikali imeendelea kuboresha mifumo ya uzalishaji na upatikanaji wa pembejeo bora za kilimo. Hadi kufikia tarehe 30 Januari, 2020 upatikanaji wa mbegu za kilimo ni tani 71,155. Kati ya hizo, tani 58,509 zimezalishwa hapa nchini, tani 5,175 zimeingizwa kutoka nje ya nchi na tani 7,469 ni bakaa ya msimu wa 2018/2019.

Mheshimiwa Naibu Spika, kwa upande wa mbolea makisio ya mahitaji kwa msimu wa mwaka 2019/2020 ni tani 586,604 ikilinganishwa na tani 514,138 mwaka wa fedha 2018/2019. Upatikanaji wa mbolea hadi sasa kufikia tarehe 30 Januari 2020 ni tani 410,410,099 sawa na asilimia 70 ya mahitaji yetu. Aidha, kwa kuwa mbolea hizo hutumika kulingana na hatua za

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ukuaji wa mazao Serikali inaendelea kuhakikisha kuwa asilimia 30 iliyobaki inapatikana na kusambazwa kwa wakulima kwa wakati.

Mheshimiwa Naibu Spika, vilevile viwatilifu vimeendelea kusambazwa kwa ajili ya kudhibiti visumbufu vya mazao hapa nchini, mathalani hadi kufikia tarehe 30 Januari 2020 zipo jumla ya tani 2,258 za *Sulphur* ya unga na lita 160,271 za viwatilifu vya maji kwa zao la korosho kwa ajili ya msimu ujao wa mwaka 2020/2021. Katika zao la Pamba hadi kufikia tarehe 30 Januari, 2020 Ekipaki laki 800,002 zimesambazwa kwa wakaulima na wanunuzi wa Ekipaki milioni 8,200,000 za viwatilifu za unyunyuzi 20,000 unaendelea.

Mheshimiwa Naibu Spika, upande wa masoko jitihada za Serikali za kuongeza uzalishaji wa mazao ya chakula na biashara zinaenda sambamba na kuhakikisha upatikanaji wa masoko ya uhakika kwa mazao ya kilimo yanayozalishwa nchini inaendelea. Serikali imeendelea kuimarisha mifumo ya masoko ikiwemo mfumo wa stakabadhi ghalani ambayo imeonesha matokeo chanya na kuwapatia faida wakulima walio wengi.

Mheshimiwa Naibu Spika, kupitia mfumo huu wa stakabadhi ghalani bei ya mazao ya Ufuta na Cacao imeongezeka kwa mfano bei ya Ufuta imeongezeka kutoka wastani wa shilingi 1000 kwa mwaka 2017/2018 hadi kufikia shilingi 3200 kwa kilo moja kwa mwaka 2019. Aidha, bei ya Cacao imeongezeka kutoka shilingi 3200 msimu wa 2018/2019 hadi shilingi 5000 kwa kilo katika msimu wa fedha katika msimu wa 2019/2020.

Mheshimiwa Naibu Spika, Serikali inaendelea kukabiliana na changamoto zilizopo katika masoko ikiwemo miundombinu hafifu, matumizi duni ya mfumo wa TEHAMA, utunzaji hafifu wa kumbukumbu na malipo kwa wakulima wasiokuwa na *account* au wenye kutumia *account* za benki za wakulima wenzao. Hivyo nitoe wito kwa wakulima kufungua *account* zao wao wenyewe kwa wakati na kuacha kutumia *account* za wakulima wenzao ili wasicheleweshewe malipo yao na kuepuka udanganyifu kutoka kwa baadhi ya Viongozi wa vyama vya Ushirika.

Mheshimiwa Naibu Spika, Serikali inaendelea kuchukua hatua mbalimbali za kuboreshaji utoaji huduma za ugani nchini ili kuongeza tija katika kilimo, hatua hizo ni pamoja nakuwahamisha Maafisa Ugani wote kutoka Makao Makuu ya halmashauri kwenye ngazi za vijiji, kata na tarafa. Na hadi kufikia Disemba 2019 jumla ya Maafisa Ugani 753 katika ya 1120 wamehamishwa kwenda katika ngazi hizo. Nitumie nafasi hii tena kuziagiza halmashauri zote nchini kuhakikisha kwamba zinahamisha Maafisa Ugani wote waliobaki Osifi Kuu ya Halmashauri ambao bado hawajahamishwa. (Makofi)

Mheshimiwa Naibu Spika, Serikali inaendelea kuimarisha pia ushirika na tumeendelea kufanya haki ya kuondoa ama kufanyia kazi malalamiko kutoka kwa wakulima kuhusu mwenendo usioridhisha wa baadhi ya vyama vya ushirika pamoja na watendaji wake. Lengo la Serikali ni kujenga ushirika imara na wenye kumpatia tija mkulima. Hivyo kupitia Tume ya Maendeleo Ushirika Serikali imeweka mikakati mbalimbali ya kuimarisha vyama vya ushirika ili viwe na tija kwa wakulima. Mikakati hiyo inalenga kujenga mfumo thabiti wa usimamizi na uhamasishaji.

Mheshimiwa Naibu Spika, hatua nyingine zilizochukuliwa ni Serikali kufanya mabadiliko ya kiutandaji, kuajiri Maafisa Ushirika wapya na kuhamisha Maafisa kutoka Makao Makuu kwenda ofisi za mikoa na halmashauri ili kuimarisha usimamizi wa vyama vya ushirika.

Mheshimiwa Naibu Spika, naomba nitumie nafasi hii kutoa maelezo kwa maeneo ya msisitizo yapo baadhi ya masuala ambayo ningependa kuyawekea msisitizo kupitia hotuba yangu hii, masuala hayo ni hali ya mvua zinazoendelea kunyesha nchini, zoezi la usajili wa line

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za simu, uboreshaji wa daftari la uandikishaji wapiga kura na ushughulikiaji wa malalamiko ya wananchi na utatuzi wa migogoro ya ardhi hapa nchini.

Mheshimiwa Naibu Spika, nikianza na mvua zinaendelea kunyesha hpa nchini, mvua kubwa zinazoendelea kunyesha katika maeneo mbalimbali nchini kuanzia Oktoba 2019 hadi Februari 2020 zimesababisha vifo kwa watu waishio maeneo ya mabondeni, uharibifu wa nyumba, miundombinu ya usafirishaji ikiweo barabara, reli na madaraja. Jumla ya barabara 73 na madaraja katika mikoa 18 zimeathirika, aidha, reli za Tanga hadi Arusha na Dar es Salaam hadi Mwanza na Kigoma kwa nyakati tofauti nazo zililazimika kufungwa kwa muda.

Mheshimiwa Naibu Spika, Serikali imeendelea kuchukua hatua mbalimbali kwa lengo la kuhakikisha kuwa huduma za usafiri na usafirishaji kwa njia ya barabara na reli katika maeneo yaliathirika zinarejea haraka. Serikali itafuatilia kwa karibu taarifa zinazotolewa na Mamlaka ya Hali ya Hewa Tanzania ili kuwafahamisha wananchi mwenendo wa hali ya hewa na kutoa tahadhari kupitia vyombo mbalimbali vya habari na mitandao ya kijamii. Nitumie fursa hii kuwataka wananchi wote kuchukua tahadhari kwa kuhama sehemu za mabondeni na kuzingatia taarifa za utabili wa hali ya hewa zinazoendelea na Mamlaka ya Hali ya Hewa hapa nchini. (Makofi)

Mheshimiwa Naibu Spika, zoezi la usajili wa *line* za simu itakumbukwakwamba tarehe 27 Disemba, 2019 Mheshimiwa Rais wa Jamhuri ya Muungano wa Tanzania Mheshimiwa Dkt. John Pombe Magufuli alitoa ufafanuzi kwa wananchi kuhusu umuhimu wa kusajili *line* zote za simu kwa mujibu wa sheria. Aidha, alisisitiza kuwa ameongeza muda wa usajili hadi tarehe 20 Januari, 2020 na kwamba baada ya muda huo kuisha TCRA na Mamlaka nyingine husika zitishe huduma kwa *line* za simu ambazo zitakuwa hazijasajiliwa kwa mujibu wa sheria.

Mheshimiwa Naibu Spika, hadi kufikia tarehe 02 Februari, 2020 kulikuwa na jumla ya *line* za simu milioni 43.9, *line* milioni 31.4 sawa na asilimia 71.6 zilikuwa zimesajiliwa kwa alama za vidole. Zoezi la usajili wa *line* za simu kwa alama za vidole ni endelevu, uzimaji wa *line* za simu unaendelea. Kwa msingi huo nitoe wito kwa wananchi kwamba mara baada ya kupata namba ama kitambulisho cha uraia kupitia NIDA nenda kwa wakala wa Mtandao wako ili usajili *line* yako.

Mheshimiwa Naibu Spika, ninawahimiza wananchi wote ambao hawajasajili *line* zao za simu kwa sababu mbalimbali na wale ambao wanaendelea na zoezi la kupata vitambulisho vya uraia na wamekwishapata namba za Mamlaka ya Vitambulisho vya Taifa NIDA waendeleo kusajili *line* zao za simu kwa mujibu wa sheria ili kuepuka usumbufu wa kusitishiwa huduma za mawasiliano.

Mheshimiwa Naibu Spika, ninatoa wito kwa NIDA kusogeza huduma za kutoa namba za vitambulisho karibu na wananchi mpaka kwenye ngazo za vijiji kadri inaavyowezekana, lengo ni kutoa fursa kwa wananchi wengi zaidi kupata namba za vitambulisho kwa ajili ya kuwawezesha usajili na kusajili *line* zao za simu na vilevile kupata vitambulisho vya Taifa kwa matumizi mengine muhimu.

Mheshimiwa Naibu Spika, nizungumzie daftari la kuandikisha wapiga kura. Tume ya Taifa ya Uchaguzi imeendelea na zoezi la uboroeshaji wa daftari la kudumu la wapiga kura kwa awamu ya kwanza, hadi kufikia tarehe 02 Februari, 2020 imekamilisha uandikishaji wa wapiga kura katika Kanda ndogo 12 kati ya 14 zilizopangwa kati ya ratiba ya uboreshaji wa awamu ya kwanza.

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Mheshimiwa Naibu Spika, kanda ndogo 12 zilizokamilika zinahusisha Mikoa ya Arusha, Kilimanjaro, Manyara, Mara, Simiyu, Mwanza, Geita, Shinyanga, Kagera, Kigoma, Katavi, Rukwa, Tabora, Singida, Dodoma, Songwe, Mbeya, Iringa, Ruvuma, Njombe, Lindi, Mtwara, Tanga, Morogoro kwa Wilaya ya Ulanga na Malinyi na Tanzania Zanzibar. Aidha, Kanda ndogo 13 inayohusisha Mkoa wa Morogoro zoezi la uboreshaji linaanza tarehe 03 Februari, 2020 na litakamilisha tarehe 09 keshao kutwa Februari, 2020.

Mheshimiwa Naibu Spika, uandikishaji wa wapiga kura ni wa siku saba kwa kila kituo cha kuandikisha wapiga kura. Aidha, zoezi la uboreshaji linahusisha uandikishaji wa wapiga kura wapya ambao hawajawahi kuandikishwa katika daftari la kudumu la wapiga kura, urekebishaji wa taarifa za wapiga kura walioandikishwa katika Uchaguzi Mkuu wa mwaka 2015 na kuondoa taarifa za wapiga kura waliopoteza sifa ikiwemo waliofariki.

Mheshimiwa Naibu Spika, idadi ya wapiga kura walioandikishwa kuanzia kanda ndogo ya kwanza hadi kanda ndogo ya 12 walikuwa milioni 18,058 977. Jumla ya wapiga kura milioni 2,012,212 wamejitokeza kuboresha taarifa zao sawa na asilimia 11.14 ya idadi ya wapiga kura waliandikishwa mwaka 2015 katika kanda ndogo zote 12. *(Makofi)*

Mheshimiwa Naibu Spika, idadi ya wapiga kura wapya waliojiandikisha katika kanda ndogo zote 12 ni milioni 5,666,343 ambayo ni sawa na asilimia 31.38 ya idadi ya wapiga kura waliandikishwa mwaka 2015 katika kanda ndogo zote 12. Hii ni sawa na ongezeko la wapiga kura kwa asilimia 14.38 na makadirio ya awali ya asilimia 17. Vilevile idadi ya wapiga kura walioondolewa na kupoteza sifa ni 14,894 ambayo ni sawa na asilimia 0.08 ya idadi ya wapiga kura waliandikishwa mwaka 2015 katika *ruti* zote 12 wakiwemo waliofariki.

Mheshimiwa Naibu Spika, nitumie nafasi hii kutoa wito kwa Tume kuongeza kasi ya uandikishaji kadhalika natoa rai kwa wananchi kutumia haki yao hiyo ya kikatiba na kujitokeza kwa wingi kwa lengo la kuboresha taarifa zao na kujiandikisha upya kwa wale wenye umri wa miaka 18 au atakaofikia umri huo wa miaka 18 ifikapo Oktoba, 2020. *(Makofi)*

Mheshimiwa Naibu Spika, nizungumzie migogoro ya ardhi, katika kipindi cha hivi karibuni tumeshuhudia ongezeko la shughuli mbalimbali za kiuchumi na kijamii na hivyo kuongezeka kwa mahitaji ya ardhi kwa ajili ya kilimo, ufugaji na uwekezaji. Hali hiyo imesababisha migogoro, malalamiko na kero mbalimbali zilizohusiana na matumizi ya ardhi katika baadhi ya maeneo nchini.

Mheshimiwa Naibu Spika, Serikali inaendelea na juhudi mbalimbali za kuhakikisha kuwa migogoro ya ardhi nchini inatatuliwa kwa njia ya amani, aidha katika kushughulikia migogoro ya matumizi ya ardhi Mheshimiwa Rais wetu mpendwa Dkt. John Pombe Magufuli ametoa kibali kwa vijiji 920 kati ya vijiji 975 vilivyokuwemo ndani ya hifadhi na mapori na maeneo ya hifadhi kuhalalishwa rasmi kwa ajili ya shughuli za kiuchumi na kijamii. *(Makofi)*

Mheshimiwa Naibu Spika, hivi sasa Serikali imeanza utekelezaji wa agizo la Mheshimiwa Rais Dkt. John Pombe Magufuli la kusogeza huduma za ardhi karibu na wananchi kwa kuanzisha ofisi za ardhi za mikoa 26 na kuimarisha ofisi za ardhi za halmashauri zote badala ya ofisi za ardhi za kanda. *(Makofi)*

Mheshimiwa Naibu Spika, nizungumzie masuala ya michezo, michezo na sanaa imeendelea kuwa na mchango mkubwa kwenye Pato la Taifa na hata katika kutengeneza ajira. Kwa mfano mwaka 2018 mpaka 2019 Sekta ya Sanaa ilichangia asilimia 0.29 katika ukuaji wa Pato la Taifa. Niwapongeze wasanii wetu kwa kuendelea kulitangaza vyema Taifa letu na fursa zake na hivyo kuchangia maendeleo ya nchi yetu kupitia Utalii na uwekezaji, wasanii wa

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muziki wa Bongo flewa, Maigizo, Uchongaji na Uchoraji wamechomoza katika kuongeza Pato la Taifa. (Makofi)

Mheshimiwa Naibu Spika, kwa upande wa michezo mpira wa miguu umeendelea kuongeza Pato la Taifa na ajira kwa vijana wetu. Kwa upande wa mpira wa miguu napenda nitumie nafasi hii kumpongeza mchezaji wetu Mbwana Samatta kwa kuweka historia ya kuwa mtanzania wa kwanza kusajiliwa na kucheza ligu Kuu ya Uingereza katika *club* ya *Aston Villa*. Tunamtakia kila kheri katika Ligi Kuu ya Uingereza ambayo ni moja ya ligi ngumu duniani na maarufu na yenye ushindani mkubwa duniani. Nitoe rai kwa wachazaji wote hapa nchini nao wajifunze kupitia mafanikio ya Mbwana Samata kwa kuongeza bidii, nidhamu na kiu ya mafanikio kama ambavyo Mbwana Samata amefanikiwa. (Makofi)

Mheshimiwa Naibu Spika, natumia pia nafasi hii kuzipongeza timu zetu za wanawake wa umri wa miaka chini ya 20 na 17 kwa kuendelea kufanya vyema kuelekea kufuzu kushirikia kombe la dunia mwaka 2022, wakati timu ya wanawake chini ya miaka 20 ikipata ushindi wa nyumbani na ugenini dhidi ya Uganda timu ya wanawake chini ya umri wa miaka 17 nayo ilihondosha Burundi kwenye mashindano kwa jumla ya magoli sita kwa moja. Naipongeza pia Kilimanjaro *Queens* kwa kuchukua ushindi wa pili wa *SECAFA*, kwa mafanikio haya ya soka nchini kwa wanawake na wanaume nalipongeza Shirika la Soka nchini *TFF* kwa usimamizi mzuri bila kumsahau mlezi wa timu za wanawake Mheshimiwa Samia Suluh Hassan Makamu wa Rais wa Jamhuri ya Muungano wa Tanzania. (Makofi)

Mheshimiwa Naibu Spika, niendeleo kuwapongeza pia vijana wetu wa kiume chini ya miaka 20 ambao walifanikiwa kuwa mabingwa wa michuano ya mpira wa miguu ya *SECAFA* nchini Uganda,. Nampongeza sana kijana wetu Kelvin John mshambuliaji hatari chipukizi kwa kusajiliwa pia na timu ya Jenki ya Ubelgig kwenye kikosi chao cha umri chini ya miaka 20 na kwa sasa anasomeshwa na timu hiyo nchini Uingereza ikiwa ni maandalizi ya kuichezea kikosi cha kwanza cha Jenki cha nchini Ubelgij. (Makofi)

Mheshimiwa Naibu Spika, kwa upande wa ndondi nako tumeendelea kupata mafanikio makubwa wote mtamkumbuka mpiganaji wetu Mwakinyo na sasa nitumie nafasi hii kumpongeza bondia mwingine Salim Mtango kutoka huko Tanga ambaye tarehe 31 Januari, 2020 alimtwanga bondia Suliati Takataku kutoka Thailand kwa *technical knockout* kwenye ulingi wa mapambano uliochezwa mkoani Tanga hakika Tanga inaendelea kutoa mabondia wengi wazuri na muendeleo kutufikisha hapa. (Makofi/Vigelegele)

Mheshimiwa Naibu Spika, kama unavyofahamu timu yetu ya Bunge nayo ilishiriki michezo ya Wabunge ya Afrika Mashariki iliyochezwa Kampala Uganda kuanzia tarehe 08 hadi tarehe 18 Disemba, katika michezo hiyo timu yetu ya Bunge ilifanikiwa kupata jumla ya medali 18, medali hizo zilihusisha dhahabu tano, fedha 10 na shaba 3. Nitumie fursa hii pia kuipongeza timu yetu ya Bunge kwa mafanikio hayo pamoja na kulitangaza vyema Bunge letu huko nje. (Makofi)

Mheshimiwa Naibu Spika, nitumie nafasi hii angalau kuwatambua kwa majina Waheshimiwa Wabunge waliotutetea medali za dhahabu kama ifuatavyo; wa kwanza Mheshimiwa Naibu Spika wewe mwenyewe Dkt. Tulia Ackson, wa pili Mheshimiwa Anatropia Theonest, wa tatu Mheshimiwa Ester Matiko, wanne Mheshimiwa Yosepha Komba na wa tano Mheshimiwa Rose Tweve. Hongera sana Waheshimiwa Wabunge kwa kutuletea medali za dhahabu hapa kwenye Bunge letu. (Makofi)

**WABUNGE FULANI:** Wanawake na maendeleo.

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**WAZIRI MKUU:** Mheshimiwa Naibu Spika, napenda pia kutambua juhudi za bwana Nick Raynold maarufu kama Bongozozo na fujo isiyomiza katika kutangaza nchi yetu, vivutio vyetu vya Utalii pamoja na lugha ya Kiswahili ameonsha uzalendo wa kulitangaza Taifa letu na ndani ya nchi akiwa sio Mtanzania. Hivyo natumia nafasi hii kuwapongeza wanamichezo wote na wasanii wote ambao wamekuwa wakifanya kazi kubwa ya kulitangaza Taifa letu sambamba na kujipatia kipato. *(Makofi)*

Mheshimiwa Naibu Spika, narudia tena kuwa nyote mtakubaliana na mimi kuwa kwa sasa michezo na sanaa ni chanzo kikubwa cha ajira na kipato hususani kwa vijana wetu. Aidha, nisisitize kuwa michezo ni kinga na tiba kwa magonjwa yasiyoambikiza ikiwemo Kisukari, Shinikizo la Damu, na unene uliopitiliza kutokana na faida hizo niendeleo kutoa rai kwa wananchi kushiriki kikamilifu katika michezo. Aidha, Serikali kwa upande wake itaendelea kuweka mfumo bora wa kisera na kisheria ili kuhakikisha kwamba Sekta ya michazo na sanaa inakuwa na kuchangia ipasavyo katika Pato la Taifa. *(Makofi)*

Mheshimiwa Naibu Spika, naomba nihitimishe hotuba yangu kwa kuwashukuru Waheshimiwa Wabunge kwa michango yenu mbalimbali muhimu katika kuboresha maisha ya wananchi na nishukuru nimshukuru Katibu wa Bunge na wasaidizi wake kwa huduma nzuri na msada mkubwa ambao wamekuwa wakitupatia kwa kipindi chote tukiwa hapa Bungeni. *(Makofi)*

Mheshimiwa Naibu Spika, nawashukuru pia watendaji wa Serikali na Taasisi mbalimbali kwa kuendelea kutekeleza majukumu yao kwa weledi, umahiri na ufanisi mkubwa na hivyo kufanikisha shughuli zilizopangwa na Bunge lako Tukufu bila kuwasahau wana habari kwa uchambuzi wa hoja na mwenendo mzima wa Bunge na kufikisha habari hizo kwa wananchi wetu.

Mheshimiwa Naibu Spika, vilevile nivishukuru vyombo vya Ulinzi na Usalama kwa huduma ambazo wamekuwa wakizitoa kwa washiriki wa Bunge hili lakini pia niwashukuru madereva wote waliotuhudumia wakati wote tukiwa hapa Bungeni, nawatakia pia kheri katika safari ya kurejea majumbani kwetu.

Mheshimiwa Naibu Spika, baada ya kusema hayo sasa naomba kutoa hoja kwamba Bunge lako Tukufu liahirishwe hadi tarehe 31 Machi, 2020 siku ya Jumanne saa tatu kamili asubuhi katika ukumbi huu hapa Jijini Dodoma, naomba kutoa hoja. *(Makofi)*

**WAZIRI WA AFYA, MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO:** Mheshimiwa Naibu Spika, naafiki.

**NAIBU SPIKA:** Waheshimiwa Wabunge hoja imeungwa mkono.

*(Hoja ilitolewa iamuliwe)  
(Hoja iliamuliwa na kuafikiwa)*

**NAIBU SPIKA:** Waheshimiwa Wabunge kwa niaba yenu nyote tumpongeze Mheshimiwa Waziri Mkuu kwa hotuba aliyoitoa na kwa mambo mazito yote aliyotukumbusha yale yaliyofanyika na yale aambayo amezitaka Taasisi mbalimbali kuchukua hatua nadhani yatatusaidia sisi kama wawakilishi wa wananchi pia kupeleka taarifa kwao kwamba ni maagizo gani Mheshimiwa Waziri Mkuu ametoa kwa Taasisi mbalimbali. *(Makofi)*

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Lakini pia niwashukuru ninyi wote kwa niaba ya Mheshimiwa Spika kwa kazi nzuri mliyoifanya katika hizi wiki mbili za Bunge zilizotanguliwa na wiki mbili za Kamati mmefanya kazi nzuri mmeliwezesha Bunge kufikia mahali pazuri pwa kuishauri vizuri Serikali na katika mazingira yote Kamati zote zilizoleta taarifa hapa kulikuwa na mapendekezo, kulikuwa na maazimio, na hayo yote Serikali wakati ikieleza wakati wa kuchangia wameeleza namna ambavyo wamepokea mchango mzuri sana kutoka kwa Wabunge mbalimbali. Kwa hiyo, kwa niaba ya Mheshimiwa Spika nawashukuru wote Wabunge kwa namna mlivyoshiriki katika zoezi zima la kuhakikisha mambo yanaenda vizuri.

Pia Mheshimiwa Waziri Mkuu tunakushukuru kwa taarifa hiyo iliyotoka Waheshimiwa Wabunge tukumbuke tu kwamba kikanuni Mheshimiwa Jenista alileta asubuhi hoja ya kutengua Kanuni ambayo Waheshimiwa Wabunge mlihojiwa na mliafiki. Kwa hivyo Mheshimiwa Waziri Mkuu alipotutajia tarehe 31 mwezi wa tatu ni kwa muktadha wa Kanuni ambayo tulitengua asubuhi ili badala ya kukutana mwanzo mwa mwezi Aprili basi tutakutana mwishoni wa mwezi huu ili kuweza kutoa fursa kwa Waheshimiwa Wabunge kuendeleza ratibu ya Bunge la Bajeti kama ambavyo Katiba yetu lakini pia sheria zetu na taratibu zetu kwa maana ya Kanuni inatutakaa.

Baada ya kusema hayo Waheshimiwa Wabunge niwatakie kila la kheri na niwatakie safari njema mpaka tutakapoonana wakati mwingine, japo nawaona Wabunge wanawake wanataka niseme kwamba medali za dhahabu zote zilizokuja zimeletwa na Waheshimiwa Wabunge wanawake, na mimi nikiwemo jamani ahsanteni sana. *(Makofi/Vigelegele)*

Nawatakia safari njema mpaka tutakapoonana tena. Baada ya kusema hayo Waheshimiwa Wabunge nahairisha shughuli za Bunge haya naaimbiwa tuimbe kwanza niakribishe kwaya yetu wimbo wa Taifa na wimbo wa Afrika Mashariki. *(Makofi)*

*(Hapa Wimbo wa Taifa na Wimbo wa Jumuiya ya Afrika Mashariki Ziliimbwa na Kwaya ya Bunge)*

**NAIBU SPIKA:** Waheshimiwa Wabunge nahairisha shughuli za Bunge mpaka tarehe 31 Machi, 2020 saa tatu asubuhi.

*(Saa 09.50 Alasiri Bunge liliahirishwa mpaka Siku ya Jumanne, Tarehe 31 Machi, 2020 Saa Tatu Asubuhi)*