

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 2<sup>nd</sup> October 2018

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

**Hon. Speaker:** I will make a communication later.

### PETITION

#### LICENSING OF OIL MARKETING COMPANIES BY ENERGY REGULATORY COMMISSION

**Hon. Speaker:** Hon. Members, Standing Order No.225(2) (b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a Petition signed by Messrs. Pius Omollo and Mr. Agoi Vedell on behalf of oil marketers in the country regarding licensing of oil marketing companies by the Energy Regulatory Commission (ERC).

The Petitioners aver that for the past years, ERC has been licensing oil marketing companies prior to engaging in the business of supplying fuel and it has emerged that unlicensed and illegal agents have stormed oil markets occasioning distortion of market prices and massive losses. The Petitioners further aver that oil marketing companies have incurred massive losses due to the fact that the local oil marketers have invested in infrastructure and the pricing of the jet fuels is based on open tender system as stipulated in the law.

The Petitioners, therefore, pray that the National Assembly investigates the massive influx of illegal oil marketers in the country with a view to eliminate them or cause them to be licensed in order to operate lawfully.

This Petition, therefore, stands committed to the Departmental Committee on Energy for consideration. The Committee is requested to consider the Petition and report its findings to the House and the Petitioners in accordance with Standing Order No.227 (2).

In the same vein, Hon. Members, there was to be presented to the House a Petition by Hon. Mulyungi, Member for Mwingi Central. I have, however, received information that the Hon. Member is indisposed and, therefore, is not available to present his Petition which he can do either tomorrow or on Thursday.

### PAPERS LAID

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. The Leader of the Majority Party would have been here to table these Papers himself but, I have some information which I would like to extend to the House. The Leader of the Majority Party is

currently bereaved. He lost a sister who had been suffering from cancer. Over the last weekend, she succumbed to the disease and was buried yesterday. Therefore, the Leader of the Majority Party and I talked this morning and he informed me that he will be away today. We expect him to be back in the House tomorrow. That is because members of the Muslim faith do not hold funerals for too long. They have already buried her and I am sure the Leader of the Majority Party will be available tomorrow to carry out the business of the House.

Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Ratification of the Revised Constitution of the African Civil Aviation Commission.

Ratification of the Agreement for the Establishment of the International Anti-Corruption Academy as an International Organisation from the Office of the Attorney-General and Department of Justice.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2017, and the certificates therein;

- (a) Kenya Cereals Enhancement Programme (IFAD Grant No. 2000000623, IFAD Loan No. 2000001121, ASAP Trust Grant No. 2000001122) from the Department of Agriculture;
- (b) Kenya Veterinary Board;
- (c) Standards and Market Access Programme (EU Credit No. KE/FED/023-566) from the Ministry of Livestock;
- (d) State Department of Livestock;
- (e) Kenya Tsetse and Trypanosomiasis Eradication Council;
- (f) Tom Mboya University College;
- (g) Rice-Based Market Oriented Agriculture Promotion Project from the State Department of Agriculture;
- (h) Strengthening Fertiliser Quality and Regulatory Standards in Kenya Project (AGRA Grant No. 2113 SHIP 001) from the State Department of Agriculture;
- (i) Kenya Meat Commission; and,
- (j) Pest Control Products Board.

**Hon. Speaker:** Let us have the Chair of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Urban Areas and Cities (Amendment) Bill (Senate Bill No.4 of 2017).

**Hon. Speaker:** Let us move to the next Order.

## NOTICE OF MOTION

**Hon. Speaker:** Let us have the Member for Soy.

### ESTABLISHMENT OF PUBLIC SCHOOLS LAND EXPANSION POLICY

**Hon. Caleb Kositany** (Soy, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that land is one of the most important resources in the Republic of Kenya from which the country generates goods and services, and a

source of livelihood for many people; further aware that land is a scarce resource which is highly sought for various economic and commercial purposes leaving little or no space for establishment of social amenities, including learning institutions; cognisant of the Ministry of Education guidelines which provides that the amount of school land should be sufficient with the minimum amount of land required being determined by enrolment; concerned that the increasing number of students in learning institutions puts a lot of strain on the available infrastructure; especially those institutions which are established on limited space with no space for future expansion; this House urges the Government to establish policy guidelines on land for expansion of public schools and sets aside a fund for acquisition of such land.

**Hon. Speaker:** Let us move to the next Order.

### ORAL QUESTIONS

Hon. Members, I wish to draw the Members' attention to the revised Standing Orders and, more particularly, Standing Order No.42 on the new method that we agreed to adopt as a House. Therefore, at the back of the Order Paper under Order No.7, there are various Questions that are slated for respective Members to read out after which they will then be referred to the relevant Committees. The reason is that we want everybody to know that those Questions have been asked so that everybody's knowledge and attention is drawn to that.

Therefore, we will begin with Hon. Martin Peters Owino, Member for Ndhiwa.

#### *Question No.001/2018*

##### RESURGENCE OF TSETSE FLIES IN RUMA NATIONAL PARK

**Hon. Martin Owino** (Ndhiwa, ODM) asked the Cabinet Secretary for Wildlife and Tourism:

- (a) whether he was aware that there is a resurgence of tsetse flies emanating from Ruma National Park into Ndhiwa Constituency; and,
- (b) whether he could explain the immediate action the Ministry is taking to ensure that the tsetse flies are contained and that, monitoring and spraying is carried out in the said area.

Hon. Speaker, if you will allow me to ask a supplementary question, I will be happy.

**Hon. Speaker:** Hon. Members, you cannot ask a supplementary question. Your Question is, therefore, referred to the Departmental Committee on Environment and Natural Resources to invite the Cabinet Secretary to come and respond to the issues raised by Hon. Martin Peters Owino.

The next Question is by the Member for Turkana North Constituency. I encourage every Member who has a question to log in so that we can give them speaking time.

#### *Question No.002/2018*

## HARASSMENT OF FISHERMEN BY KWS OFFICERS IN LAKE TURKANA

**Hon. Christopher Nakuleu** (Turkana North, JP) asked the Cabinet Secretary for Wildlife and Tourism:

(a) whether he was aware of harassment of fishermen by Kenya Wildlife Service (KWS) officers and whether there were plans in place by KWS in Loyangalani, Marsabit County, to return the fishing gears and other items confiscated from fishermen in June 2017 to date along Sibiloi and Southern Island areas of Lake Turkana waters;

(b) why fishermen arrested in Lake Turkana are charged in courts of law in Marsabit instead of Lodwar Law Court which are 500 kilometres and 40 kilometres away, respectively; and,

(c) what plans are in place by the Government to demarcate the Lake Turkana waters to identify and isolate legal and illegal fishing grounds to avoid unnecessary arrests and harassment of fishermen and measures put in place by the Government to align Lake Turkana waters with county boundaries to facilitate ease of both governance and administration of justice for offences committed in Lake Turkana waters.

**Hon. Speaker:** Again, the Question is referred to the Departmental Committee on Environment and Natural Resources to invite the Cabinet Secretary to come and respond as appropriate.

Let us have Question No.3 by the Member for Teso South Constituency.

*Question No.003/2018*IDENTIFICATION OF BENEFICIARIES  
OF CASH TRANSFER PROGRAMME

**Hon. Geoffrey Omuse** (Teso South, ODM) asked the Cabinet Secretary for Labour and Social Protection whether he could explain the criteria used to identify the beneficiaries of the cash transfer programme for older persons, the payment procedure and timelines and avail a list of all beneficiaries of the programme in Teso South Constituency since the commencement of the programme.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Labour and Social Welfare to similarly invite the CS on an appropriate date to come and respond.

Member for Rarieda.

*Question No.004/2018*

## STATUS OF LUANDA KOTIENO FISH BANDA

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM) asked the Cabinet Secretary for Agriculture and Livestock whether he could explain the status of the Luanda Kotieno Fish Banda, a post-harvest project located in Rarieda Constituency, which was implemented by the national Government in conjunction with the World Bank and which, to date, is unutilised.

Thank you.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Agriculture, Livestock and Fisheries to similarly proceed as hitherto directed.  
Member for Moyale.

*Question No. 005/2018*

MECHANISMS OF IMPLEMENTING THE KENYA NATIONAL  
AGRICULTURAL INSURANCE PROGRAMME

**Hon. Qalicha Wario** (Moyale, JP) asked the Cabinet Secretary for Agriculture and Livestock whether he could explain the mechanism of the Kenya National Agricultural Insurance Programme implemented in partnership with insurance companies, the procedure for registering farmers and the terms applicable for farmers to qualify for compensation, and the measures the Ministry has put in place to ensure that registered farmers are compensated in a transparent, fair and accountable manner.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question is similarly referred to the Departmental Committee on Agriculture, Livestock and Fisheries to invite the CS.  
Member for Moiben.

*Question No.006/2018*

IMPLEMENTATION STATUS OF  
MAPUTO DECLARATION (2003)

**Hon. Silas Tiren** (Moiben, JP) asked the Cabinet Secretary for Agriculture and Livestock to explain the implementation status of the Maputo Declaration (2003) in the country, and the measures the Ministry is putting in place to ensure the full implementation of the treaty is achieved.

Thank you.

**Hon. Speaker:** Similarly, the Question is referred to the Departmental Committee on Agriculture, Livestock and Fisheries to invite the CS.  
Member for Bonchari.

*Question No.007/2018*

STATUS OF PAYMENT OF PENSION TO RETIRED PUBLIC SERVANTS

**Hon. John Oyioka** (Bonchari, PDP) asked the Cabinet Secretary for Treasury and National Planning:

(a) to explain what the Pension Management Information System (PMIS) entails and how it has facilitated the processing of pension and gratuity with focus on access by the retirees and their dependants;

(b) why the National Treasury has delayed in operationalising the contributory scheme, and the cost implications on the pension payments;

(c) to explain the status of pension payment to retired civil servants (Police Service, Teachers Service Commission, military and mainstream Public Service) for the past five financial years (FY 2012/13 to 2017/18);

(d) to explain the steps taken to mitigate the challenges faced by the pensioners and dependents in accessing information as well as the processing of payment by the Pensions Department of the National Treasury; and,

(e) plans that are there to sensitise the pensioners and dependents on the public service pension policy and whether there are plans to develop a uniform national pension policy to guide pension management as well as spearhead the realisation of Vision 2030.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Finance and National Planning to invite the CS for the National Treasury to come and respond.

Hon. Members, allow me to recognise the presence of students and pupils from the following institutions:

(a) Ilani Primary School – Yatta Constituency, Machakos County; and,

(b) Naning’oi Primary School – Kajiado West Constituency, Kajiado County.

They are welcome to observe the proceedings of the National Assembly this afternoon.

*(Applause)*

## COMMUNICATION FROM THE CHAIR

### SPEAKER’S ROUNDTABLE CONFERENCE 2018

**Hon. Speaker:** Hon. Members, allow me to make this short communication regarding the Speaker’s Roundtable Conference.

As you are aware, the National Assembly has since 2009 engaged the Kenya Private Sector Alliance (KEPSA) in an annual consultative forum dubbed the Speaker’s Roundtable. The forum has provided an important platform for the two institutions to engage and build synergies vital for the creation of an enabling environment to not only spur the economic growth of our country, but to also create employment for the youth.

This year’s Speaker’s Roundtable is scheduled to take place at the Leisure Lodge in Diani, Kwale County, on Friday, 5<sup>th</sup> and Saturday, 6<sup>th</sup> October 2018. The main objective of the Roundtable is to define the role of the National Assembly in the Big Four Agenda. Some of the topics to be covered include:

(a) Re-imagining Kenya: Focus on Revenue, Taxation and Political Economy to Stimulate Growth;

(b) The Role of Parliament, Private Sector and Partners in Achieving the Big Four Agenda for Sustainable and Inclusive Growth;

(c) Collective Actualisation of the Big Four Agenda: The Role of the Private Sector and the National Assembly.

The budget of the conference is co-funded by KEPSA and the National Assembly. This is, therefore, to remind you of the scheduled event whose invitations have already been dispatched through Chairpersons of Departmental Committees as well as the Chairperson of the Budget and Appropriations Committee. Members will depart for Mombasa on Thursday 4<sup>th</sup> and return back to Nairobi on Saturday, 6<sup>th</sup> October 2018.

I thank you.

Chairperson of the Lands Committee, there is a Statement. Are you ready?

## STATEMENT

### ALLOCATION OF LAND IN MWEA SETTLEMENT SCHEME

**Hon. (Ms.) Rachel Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. On behalf of the Committee on Lands, I would like to read a Statement from the CS for Interior and Coordination of National Government concerning a statement on allocation of land in the Mwea Settlement Scheme in Mbeere South Constituency. We had earlier read the response from the Ministry of Lands.

The Member for Mbeere South, Hon. Geoffrey King'ang'i, had requested for a statement on allocation of land in Mwea Settlement Scheme in Mbeere South Constituency, Embu County. The Member specifically sought to be informed on:

(a) When the Ministry of Lands and Physical Planning and the Ministry of Interior and Coordination of National Government would resume the resettlement exercise and how soon the legitimate beneficiaries would be resettled;

(b) Whether the two ministries are aware that illegitimate groups have hijacked the resettlement exercise with the hope of being included as beneficiaries;

(c) Whether the two ministries are aware that the legitimate owners are mobilising themselves to defend their land from infiltration and may forcibly resettle on the land to avoid impending displacement by infiltrators;

(d) What measures are being taken to forestall any potential violence among the groups.

Mwea Settlement Scheme, which is on LR No.26461 and LR No.317/30, is approximately 17,830.6 hectares. It is in Makima Location, Makima Division, Mbeere South Constituency in Embu County. Attempts to administer the scheme have always been met with opposition, including multiple court cases from interested communities that date back to the 1970s with the Government being the respondent. Consequently, the Government, in its endeavour to resolve the issue, has established various task forces and commissions as follows: Akello Task Force of 1990; J. Chesoni Commission of 1995 and Tung'a Verification Task Force of 2001.

In addition, on 9<sup>th</sup> January 2013, the National Assembly Departmental Committee on Lands and Natural Resources resolved that adjudication of the scheme should be done and that all pending court cases be expedited. Consequently, National Land Commission (NLC), County Government of Embu and local leaders and community members embarked on an alternative dispute resolution mechanism. Each community, from the Mbeere, Embu, Mwea and Kirinyaga nominated 30 elders who participated in dialogue and negotiations. The team unanimously agreed that the land will be shared as follows:

Mbeere 40 per cent, Embu 20 per cent, Mwea Kamba 30 per cent and Kirinyaga Kikuyu 30 per cent. Those whose land in the adjudication section was occupied and others who were residents in the scheme would be considered for allocation. They were later identified as 1,200 and 444 residents, respectively. It was further agreed that each group submits a list of their beneficiaries to the NLC, which appointed a committee to harmonise the list in consultation with communities as per the Land Act, Section 134. In addition, the numbers of the identified people to be settled, the acreages of the plots for public utilities were also unanimously agreed upon.

The Ministry of Interior and Coordination of National Government supported the identification of household residents in the scheme. A notice of intention to plan was issued in the newspaper of 8<sup>th</sup> April 2014 as per the law. Planners and surveyors from the national and county governments in Embu went to the ground and prepared a survey plan as per the agreement with the elders. Later, consents were drafted and parties in court were to withdraw all cases and consent orders were issued by the High Court of Kenya at Embu, ordering that the land be administered as per the plan and the agreed list of beneficiaries. The orders directed the NLC, Cabinet Secretary (CS) and Chief Land Registrar to administer the land as per the survey plan and list of the beneficiaries.

However, Hon. Speaker, the then area MP, Hon. Mutava Musyimi, raised complaints on the scheme with the Ministry of Interior and Coordination of National Government and the State Law Office in June 2016. Consultative meetings were then held and it was established that the process was legal and constitutional. The Kirinyaga County Government obtained conservatory orders *ex parte* as injunction on the issuance of the deeds after the CS for Lands set 26<sup>th</sup> August 2016 as the day for public issuance of the titles at Utau grounds in Mbeere South Constituency.

However, the High Court of Kenya vacated the orders on 16<sup>th</sup> August, 2016 paving way for issuance of titles. The Ministry of Lands released the titles to the Mbeere District Lands Registry for issuance on 1<sup>st</sup> November, 2016 until the 11<sup>th</sup> November, 2016, when the Kirinyaga County Government filed another application seeking for orders in the same court halting the process of issuing titles. They were granted conservatory orders *ex parte* which were shortly vacated on 6<sup>th</sup> December 2016. So far, about 90 per cent of the titles have been issued despite the interruptions. Thereafter, the county government established all the boundaries with beacons for each parcel and had embarked on a resettlement programme.

Hon. Speaker, the officers then embarked on a programme on how the beneficiaries would be shown their land. However, on 18<sup>th</sup> March 2018, a group of youths stoned and shot at security personnel with poisoned arrows. One police officer was injured while five youths sustained bullet injuries. On 13<sup>th</sup> April 2018, hired goons attacked four people who had gone to see their land and burned down their vehicle. As a result, the Ministry of Interior and Coordination of National Government directed that the resettlement be halted to avert further loss of lives and property. The interested group against the resettlement filed a case in court requesting for an order to bar the Ministry of Lands, County Government of Embu and NLC from further showing the beneficiaries their land.

A previous matter in court by the former MP and others praying for the nullification of the title deeds citing that the procedure was not adhered to was recently ruled upon. The court upheld the county government, NLC, Ministry of Lands follow due procedure leading to issuance of title deeds for the scheme. This informs the current reaction by various parties.

Hon. Speaker, the recommendation of the CS is that the exercise may only resume if the concerns that lead to conflicts are amicably resolved by the relevant bodies being the Ministry of Lands, County Government of Embu and NLC to pave way for peaceful resettlement. It should be noted that there are some matters which are still in court. The Ministry has been monitoring the activities of all the interested parties and gathering intelligence with a view to hinder forceful entry by the persons holding title deeds or incitement to forceful entry.

They have also engaged them to be calm as they wait for resolutions of the issue while emphasising that the rule of law must be upheld.

Hon. Speaker, to forestall any potential violence, the Government has employed the following measures:



- (i) Enhance intelligence gathering in the area to address any emerging moves to create violence.
- (ii) Intensified patrols to ensure law and order is maintained.
- (iii) Investigations are undertaken to apprehend perpetrators of violence and incitement.
- (iv) Joint peace meetings held with community elders, relevant stakeholders to appeal for peace and calm.

Hon. Speaker, this document is signed by Fred Matiangi, CS Ministry of Interior and Coordination of National Government. Thank you.

**Hon. Speaker:** Very well. Where is the local Member who sought the statement? Member being absent, not desiring to be present, we proceed. In any case, the statement is available both on HANSARD and hard copy.

Hon. Washiali, do you have some intervention?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. I am aware that we are meant to be proceeding to Order No. 8, which is meant to be the business of the House. However, allow me to stand under Standing Order No. 40 on sequence of proceedings and request you to re-organise the business appearing on today's Order Paper, to allow business appearing under Order No. 10 to come first and the other orders to follow as they are.

I am sure Members who were keen when Papers were being laid may have noticed that the Chair in charge of the Departmental Committee on Transport, Public Works and Housing has just tabled the Report on Urban Areas and Cities (Amendment) Bill, Senate Bill No. 4 of 2017. I am also sure that Members are aware that on the Warehouse Receipt System Bill, Senate Bill No.10 of 2017, a report has not been tabled.

There is some slight confusion. This is because the report that was tabled was one of a Bill that originated in the National Assembly. That is the report that is currently in the Table Room. However, the Report on the Warehouse Receipt System Bill, Senate Bill No. 10 has not been tabled.

I want to urge the Chair of the Departmental Committee on Agriculture and Livestock who is seated next to me, together with his Committee members, to come up with the report. We have already set standards in this House that before we debate any Bill, Members must look at the position taken by the respective committee and have that information in mind.

Hon. Speaker, I, therefore, request you to allow these changes. Let us start with Order No.10, the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) whose Report was tabled a long time ago. I am happy the Chair of the Departmental Committee on Health, Hon. (Ms.) Sabina Chege, is with us ready to second this Bill. I am sure Members had an opportunity to look at this Report. Therefore, if given an opportunity to debate, they will do so with the Committee's position in mind.

I beg to move.

**Hon. Speaker:** Hon. Washiali, I just want a small clarification from you. In the event Members conclude debate on the Health Laws (Amendment) Bill, will it mean the next Order will be the Capital Markets (Amendment) Bill and if so, has its report already been tabled?

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Speaker, I want to assume that the Health Laws (Amendment) Bill...

**Hon. Speaker:** On that we understand. However, in the event the debate on the Health Laws is completed and taken out as you have requested, business appearing as Order Nos.8 and 9, that will mean we proceed to Order No.10. I am asking you the following: If the business

under Order No.10 is concluded and there is time, will the House proceed with debate on the Capital Markets (Amendment) Bill?

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Speaker, the Report on the Urban Areas and Cities (Amendment) Bill has been tabled. I know there are quite a number of Members who are interested because it touches on them. There is no Member without a market or urban centre in his or her constituency. Therefore, I want to urge Members who are interested to quickly go to the Table Office and pick the Report. I hope the officers there have made enough copies. So, as we debate the Health Laws (Amendment) Bill, the Members interested on the Urban Areas and Cities (Amendment) Bill can be looking at the Report. Therefore, we will go to Order No.9 after the Health Laws (Amendment) Bill.

**Hon. Speaker:** Then, for the reasons stated by the Chief Whip of the Majority Party... I can see Hon. Gikaria wants to say something on this. The request has not been made to the House but the Speaker. So, do not urge me to reject it. Just like we always do, what Hon. Washiali has said is fair. Indeed, the Report on the Urban Areas and Cities (Amendment) Bill has just been tabled by the Chair of the Committee. However, since the Report on the Health Laws (Amendment) Bill has been lying in the House and was tabled long ago, it is only fair for the House to proceed with it.

I appreciate the reason why the Clerk's Office wanted us to deal with the Senate Bill. This is purely because we wanted to first look at the Bills from the Senate, so that we do not hold many Bills from there. We should be able to express ourselves in one way or another and conclude the legislative process involving both Houses. Unfortunately, the Report by the Departmental Committee had not been tabled earlier, but has just been tabled.

The re-organisation sought by Hon. Washiali is, indeed, a fair one. The Chair of the Departmental Committee on Health is ready. I can see the Member for Seme is also more than ready to deal with it. Obviously, when you mention Health to Hon. Nyikal, he can speak to it even if you wake him up from his sleep. This is a matter which, I am sure, many of you who have had an occasion to listen to him discussing matters health will agree with me. I am inclined to grant the request for those of you who want to deal with it. I can see Hon. Gikaria and Hon. Okelo want to address me and yet, I have told you the request was not meant for you. Let us hear Hon. Gikaria and then Hon. Okelo.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. First, I want to acknowledge the fact that the request has been made to you. You had rightfully pointed out the point I wanted to raise. As the Chair of the Departmental Committee on Energy, I have been complaining about many Bills from the National Assembly lying in the Senate which we would want them to finish with. Again, if they bring Bills here and we are unable to handle, execute and finish with them, then there will be a problem. At least, we are concerned about the need to finish with what the Senate has brought to the National Assembly. So, as we accuse them, they will not have an opportunity to accuse us.

At the same time, it is very important for us to discuss Order No.8 - the Urban Areas and Cities (Amendment) Bill. I hope we can finish with it soon. We are all affected and, particularly, the Members who come from urban areas. We agree with some of the things that have been pointed out by the Senate and we disagree with others. I was prepared since I got the Order Paper this afternoon, but I will wait until Order No.10 is executed and then we can proceed.

**Hon. Speaker:** I think in the scriptures it is said: "Do not do unto others what you would not want them to do unto you." So, the decision by the Clerk's Office was a good one. The

proposed amendments are not very many. It is just about implementing some of the provisions of the already existing Urban Areas and Cities Act. Hon. Okelo.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Speaker. First, allow me to thank God for giving us another opportunity to come back to this House safe and sound. In support of Washiali's proposal, there is nothing which stops us from interfering with the Order Paper in line with Standing Order No.40. I seek your indulgence because I intend to file a further amendment on this Bill. This is something I ought to have done a little earlier, but the recess kind-of curtailed my efforts to do so. I intend to file this officially tomorrow. A few of the areas which I want to seek your indulgence for incorporation is about the unwarranted detention of women upon giving birth in various health facilities---

**Hon. Speaker:** Hon. Okelo, I do not wish to interrupt you. However, obviously, for the Bill to be read a Second Time, it means it is debate time. I am sure given what you are about to say, you will inform the House of some of your concerns during debate or when the Bill comes for consideration in Committee of the whole House. Before then, you should have put together your proposed amendments.

The House will be informed, having heard you during debate time, so that, indeed, when you are moving the amendments, there is not much debate. People will already have known what it is you are intending to address by your proposed amendments.

**Hon. Jared Okelo** (Nyando, ODM): I stand guided, Hon. Speaker. Thank you very much. I am most obliged. I will take that route. Thank you.

**Hon. Speaker:** Very well. Therefore, business is re-organised in the following order: Business appearing as Order No. 10 be considered as Order No. 8 and business appearing as Order No. 8 be considered as Order No. 9 in that order. That way, if you complete the Health Laws (Amendment) Bill, then you will go to the Urban Areas and Cities (Amendment) Bill.

## BILLS

### *Second Reading*

#### THE HEALTH LAWS (AMENDMENT) BILL

**Hon. Speaker:** Who is moving? Hon. Washiali, are you the Mover?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. Before I move, I take this opportunity to thank the Committee for having written this Report in good time. The Report has been lying in Room No. 8. I am sure Members have looked at it.

Hon. Speaker, I also appreciate and thank you for accepting my request. As you are well aware, it is the Leader of the Majority Party who is supposed to be doing this.

*(An Hon. Member crossed the Floor without bowing at the Bar)*

**Hon. Speaker:** Hon. Member, you just walked... You cannot do that! No! Do not do that. No! No! No! I thought the recess was a short one.

*(The Member walked back to the Bar and bowed)*

Exactly! Now you are doing the right thing. Now you can even walk this way or even right at the back. The Member just felt thirsty. I had not noticed that there was water on both sides of the Table.

Proceed, Hon. Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. I just wanted to thank you for accepting my request of change of orders in the Order Paper because, usually, this is done by the Leader of the Majority Party. Given that he is bereaved, I am sure there is no vacuum. I am fitting in his shoes very well.

Hon. Speaker, I beg to move that the Health Laws (Amendment) Bill 2018 be now read a Second Time.

By way of introduction, the Health Laws (Amendment) Bill 2018 seeks to make amendments to various statutes within the health sector. These amendments are informed by the current health policy as well as the recently enacted Health Act No. 20 of 2017. The Health Laws (Amendment) Bill 2018, which was read for the first time in this House on 26<sup>th</sup> April 2018 proposes to amend the various statutes by streamlining the membership of the boards of various institutions so as to align them with the *Mwongozo* Code of Governance for State corporations. Additionally, the Bill proposes to make other amendments which I now seek to highlight in summary.

The Bill proposes to amend the Radiation Protection Act, Cap 243 to confer corporate status to the Radiation Protection Board established under the Act to make it achieve greater functional and operational autonomy in light of the emerging importance of radiological and nuclear technology in the country.

The amendment to the Pharmacy and Poisons Act Cap 244 seeks to introduce the interpretation of various technical terms as used in the Act. The amendment also imposes stricter penalties for persons found guilty of practising in premises not registered for purposes of the Act.

The Bill proposes to amend the Medical Practitioners and Dentists Act Cap 253 to establish the council so as to be in line with the recommendations of the East African Community (EAC) partner States, which directed for harmonisation of health regulatory bodies. The Bill also seeks to protect the profession and the public from persons who use the title “Doctor” illegally.

The Bill proposes to amend the Food, Drugs and Chemical Substances Act Cap 254 to allow for the operationalisation of the Health Act No. 21 of 2017, which provides for the establishment of a single regulatory body for regulation of health products and health technologies.

Hon. Speaker, the Bill proposes to amend the Nurses Act Cap 257 to provide for the administrative restructuring of the council so as to make it more effective in its operations. The proposed amendments to the Kenya Medical Training College Act Cap 261 seek to clearly define the sources of funds of the college and to ensure that it conforms to the Constitution and the Public Finance Management Act No. 18 of 2012.

The Bill also proposes to amend the Narcotic Drugs and Psychotropic Substances (Control) Act No. 4 of 1994 to abolish the board which, with the operationalisation of the Health Act, would lead to duplication of roles. The Bill further proposes to amend the Nutritionists and Dieticians Act No. 18 of 2007 to provide for comprehensive function of the accreditation committee which is charged with the mandate of training and registration of nutritionists and dieticians. Under the Kenya Medical Supplies Authority Act No. 20 of 2013, the Bill proposes to

modify the composition of the authority to clarify on the mode of appointment of the chairpersons and to provide for the qualifications for a member of the authority.

It further seeks to provide for the appointment of the corporation secretary to the authority. The Bill proposes to amend the Counsellors and Psychologists Act No. 14 of 2014 to streamline the regulation, operations and practice of counsellors and psychologists in line with Article 43(1)(a) of the Constitution. It deletes provisions which establish the Counsellors and Psychologists Society of Kenya, so as to ensure that they shall fall under the purview of the Ministry of Health.

Hon. Speaker, the Bill seeks to further amend the Physiotherapists Act No. 20 of 2014 to provide for the Council to determine the professional competency and standards necessary for the training of physiotherapists. The Bill also seeks to provide for the inclusion of a representative from the Ministry of Health, the director of physiotherapists services and a person with financial expertise to be part of the Physiotherapists Council.

The Bill also proposes to amend the Health Records and Information Managers Act No. 15 of 2016, so as to define in greater certainty the scope of their practice. The Bill also proposes to amend the Clinical Officers (Training, Registration and Licensing) Act No. 20 of 2017 to introduce new provisions to streamline the licensing of clinical officers in private practice.

As I conclude, I wish to assure the Hon. Members that the proposals which are in the Bill comply with the provisions of the Constitution, Kenya Health Policy, as well as the recently enacted Health Act No. 21 of 2017. These amendments will go a long way towards effective service delivery in the health sector and the ultimate achievement of universal health coverage.

Hon. Speaker, as I end my presentation and before I ask the Chair to second, I want to urge those Members who may not be acquainted with the opinions of the Departmental Committee on Health to quickly rush to the Table Office and get their Report, so that they can have it in mind as they debate this Bill. We have just come from a long recess.

Hon. Speaker, I beg to move and request the Chair of the Departmental Committee on Health, Hon. (Ms.) Sabina Chege, to second.

**Hon. Speaker:** Hon. Sabina Chege. The Chair had not logged in her card.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. I apologise. I forgot my password because of the long recess. At the outset, I want to thank you for your kind consideration that we move the Health Laws (Amendment) Bill. As a Committee, we were ready even before we went for recess. I want to thank the team of the Departmental Committee on Health, led by our senior, Hon. (Dr.) Nyikal. I am one of the lucky Chairs who have Members who are very committed and passionate on the issues that we discuss in the Committee.

The statutes which we are amending are 113 in total. We have managed to go through 10. Through the request by the Ministry of Health, we have agreed to first drop the Radiation Protection Act (Cap 243), the Food, Drugs and Chemical Substances Act (CAP 254) and Narcotic Drugs and Psychotropic Substance (Control) Act No. 4 of 1994. This is due to the comprehensive review that is being done by the Ministry of Health. We agreed that we need further consultations. If you look at those Acts that I have mentioned, especially the Radiation Protection Act (Cap 243), those are the issues that are very serious in this nation. We need to do proper legislation on the same. The issue of narcotic drugs and food needs to be looked into. As a country, we had an issue of sugar that purportedly had mercury, and plastic rice and fish. As a Committee, we need to be careful to make sure that the people of the Republic of Kenya are consuming foodstuffs that are okay and those that will not be detrimental to their health. As a

Committee, we requested to come back to the House to discuss the Acts and then we drop the amendments that have been proposed.

The Health Laws (Amendment) Bill No. 14 of 2018 that was read the First Time on 26<sup>th</sup> April 2018 touches on the following laws: The Pharmacy and Poisons Act (Cap 244), the Medical Practitioners and Dentists Act (Cap 253), the Nurses Act (Cap 257), the Kenya Medical Training College Act (Cap 261), the Nutritionists and Dieticians Act (No. 18 of 2007), the Kenya Medical Suppliers Authority Act No. 20 of 2013, the Counsellors and Psychologists Act No. 14 of 2014, Physiotherapists Act No. 20 of 2014, the Health Records Information Managers Act No. 15 of 2016 and Clinical Officers (Training, Registration and Licensing) Act No. 20 of 2017. Generally, the Bill seeks to align various pieces of legislation under the health sector with the comprehensive Health Act 2017 which was passed before the sunset of the 11<sup>th</sup> Parliament. There were emerging realities and the Government policy, including the drive for the Government universal health coverage which is the main agenda in the Big Four Agenda.

When the Committee was considering the Bill, it called for submissions of memoranda from the public in our major dailies on 10<sup>th</sup> May 2018. Subsequently, it received written submissions from several interested members of the public. We appreciated the provisions of the Constitution and the Standing Orders. Great public interest in the Health Laws (Amendment) Bill was shown because the Committee received memoranda and submissions from the Ministry of Health, its agencies and key stakeholders. We had a full two-day session where we interacted with them and canvassed their views. It is also good to know that we received 131 concerns from organisations and individuals. The Committee retreated for a full week to write the Report. So, this is work that has been done thoroughly by the Committee. The Committee's decisions on these amendments and the others that we will further bring to this House are based on constitutional requirements and views from the relevant stakeholders and other members of the public.

During the scrutiny of the Bill, the Committee made several observations. First, the proposed amendments fundamentally affect composition and structures of boards of management and councils. This is to align the State agencies to *Mwongozo* and the Government policy on management of State corporations which is geared towards having lean and efficient boards, parastatals and statutory bodies.

Secondly, the Committee observed that the Health Act 2017 has not been fully operationalised by the Ministry of Health. This is a matter of urgency that it needs to look into. An audit of the Act and other health related laws should be done to expose any lacuna that will hamper operations in the health sector. We appreciate that health is a devolved function, but there is a lot that needs to be done on the policy by the national Government. Further, the Ministry of Health, being the custodian of matters of health in the country, was not entirely consulted on some of the proposed amendments.

Hon. Speaker, I would like to have your attention on this matter. When Ministry officials appear before the Committees of the House and say that they do not own the amendments that have come before the Committee, my Committee became concerned. The big question that Members of the Committee asked, and which I could not answer was: Who was the originator of the amendment? Therefore, we would like to have your direction such that when the Government brings amendments, further and thorough consultations should be done among the Ministries and various agencies so that they do not seem to be pulling in different directions. We should have comprehensive consultations within the Government before any proposed amendments are introduced in the House.

Hon. Speaker, the Committee noted instances of discordance between the Ministry and some of its agencies in some proposed amendments brought to the Committee. It painted a picture of discord within the Ministry and some of the agencies. The Committee made recommendations that are for posterity and meant to benefit *mwananchi*.

There are some things that I would like Members to be attentive to, and that are contained in the Bill. The first one is how drugs are handled in this nation. With regard to the Pharmacy and Poisons Board, we have some pharmaceutical and veterinary services given to animals. Animals are affected generally by the feeds they are given. If we give drugs to animals, it means that we are dealing with an area that is supposed to be handled by veterinary experts and pharmacists. Some of those drugs will affect the health of Kenyans. So, we have now provided that drugs given to animals shall be controlled by the Pharmacy and Poisons Board of Kenya.

We have quacks. For example, we had the infamous “Dr. Wamugo.” We have some fake doctors and fake medicines in circulation in the market. We also have some chemists which sell fake drugs. This Bill seeks to make sure that any unqualified person who acts as a doctor or uses the title “doctor” will face serious consequences, if he or she is found selling fake medicines in the Kenyan market. Anyone selling medicines without the approval of the Pharmacy and Poisons Board will also face the consequences. We cannot allow Kenyans to be exposed to such characters who just want to make money at the expense of this nation.

There were also issues of clinical officers versus doctors. I know my senior will speak on this matter. We need to harmonise how we handle our clinical officers and doctors, and see how they can work together as a team. We have nurses who are midwives and midwives who are not nurses. We felt that they need to be recognised in law.

On the issue of CEOs and corporate secretaries, we defined their roles very clearly. We also prescribed the qualifications of chairs of the boards. We appreciate that the medical sector is serious. We have had instances where some of the chairs appointed by the Government do not qualify and do not add any value in the boards they are appointed to. So, the Committee sought to have a minimum qualification of a person who becomes a chair of a board and the qualification of CEOs. We also noted some CEOs of the boards in one Ministry have been there for many years. We know that the law allows a CEO to work for four years and, based on performance, his term may be renewed for only one more term. The same thing applies to board members. A board member is supposed to serve for a term of three years and a further renewed term of three more years. However, we have some board members and CEOs who have been in office for many years. The Committee sought to address this issue.

Mental health is a serious matter in this nation. So, we listened to psychologists. We hope that once we put these statutes together, we may even have the Ministry of Health attaching, at least, one psychologist in their institutions because we know that drug abuse is a reality in our schools and depression among our teenage children is a reality. It is high time the nation addressed itself on the matter of mental health of its citizens.

On drugs sold in foods, we have seen the kinds of food substances that we allow to come into this nation. We have all kinds of stuff, like rice and sugar, coming in through our ports. We have the Public Health Department, which is in charge of protecting Kenyans from health hazards. We need to investigate and see whether they are playing their role.

As a Committee, we are also concerned that the Government Chemist was recently moved from the Ministry of Health to the Ministry of Interior and Coordination of National Government. The motive and purpose for this shift was not made clear. We hope that this House will raise the matter and address it. Basically, the Government Chemist is meant to be under the

Ministry of Health. It is not clear who advised the Government to move that office to the Ministry of Interior and Coordination of National Government.

I, once again, thank the Speaker and Members of the Committee for the commitment they have showed. We held meetings that ended at 9.00 p.m. We were able to deliver. We hope to handle the other three that we dropped before we go to the next recess.

With those remarks, I beg to second.

*(Question proposed)*

**Hon. Speaker:** Member for Seme.

**Hon. (Dr.) James Nyikal** (ODM, JP): Thank you Hon. Speaker for giving me the opportunity to contribute to this Bill. It is extremely important that, at this point, we review the health laws. Therefore, I stand to support the Health Laws (Amendment) Bill. This is important because the health sector is going through massive challenges which need to be addressed. Some of them relate to the health infrastructure and health laws because of the systems in the health sector.

We have human resource and in it alone, we have very many cadres: nurses, midwives, pharmacists, pharmaceutical technologists, doctors, clinical officers, physiotherapists and nutritionists. Some of the cadres are very closely related and yet, they tend to operate differently, creating complex relationships.

We also have procurement and supplies. We have pharmaceuticals - which are the drugs that we use - and non-pharmaceutical things like syringes, needles and bandages. We also have infrastructure, which includes buildings and installations useful for health services.

We have a big issue on equipment. We have myriad of equipment used in the health sector. We also have to look at the referral system and governance. All these require a coordination mechanism. That can only be done through the health laws.

For that reason, the health laws are many. Generally, we have health laws that regulate personnel, some of which regulate supplies and others which regulate institutions. In the sector, we have many semi-autonomous government agencies like Kenya Medical Supplies Authority, Kenya Medical Research Institute, three referral hospitals, National Hospital Insurance Fund (NHIF) and medical training centres. Because of this, health is complex - laws are numerous and they all have to be tied together. On top of that, we now have devolution, which has created another challenge of coordinating all the complex structures in the various counties using the policies. Before the constitutional change and devolution, all these systems were working together. Now they have to be separated and you have responsibilities at the two levels. There is need for extreme coordination. So, it is complex and health has to be reviewed.

On top of that, we have health as a main agenda. We have come up with universal healthcare and the biggest issue in it is financing. In our Constitution, we have also provided, in the Bill of Rights, that people are entitled to healthcare regardless of whether they can pay or not yet the input into health has to be bought. So, you have a massive issue. Therefore, if you look at the review of the health laws, I can say that the object is one, which is to look at the issue of the national agenda of universal health coverage. Secondly, to look at the complexity of the health sector, and thirdly, to look at the issue of devolution. The fourth issue is to look at the Health Act in an attempt to put all these together. The fifth issue is to adhere to *Mwongozo* that is giving guidance to the corporations. To that extent, if you look at the complexity of the Health Act, my colleagues have indicated that we have very many laws. You have the Radiation



Protection Act, the Medical Practitioners and Dentists Act, the Nurses Act, the Kenya Medical Training College Act, the Nutritional and Dietitians Act and the Pharmacy and Poisons Act. With regard to the Pharmacy and Poisons Act, my colleagues would like to understand that the Act is regulating personnel, namely, the pharmacists and pharmaceutical technologists. At the same time, it regulates drugs. So, we have the two.

In other countries, they have been split. Even when you come to drugs, you have veterinary medicine and human medicine. There is a tendency to think that you can deal with them differently. The danger is that if we misuse drugs in animal health and they get problems like resistance, it will be transferred to human beings. Again, it is important to make sure that the veterinary personnel are involved in this.

If you look at the Clinical Officers Act and the Medical Practitioners and Dentists Act, they are personnel that are doing the same thing at various levels yet we have two Acts separately for them. So, there is need to put all these together.

When you look at the Radiation Protection Act, we have radiation in health which is being used to diagnose and treat people and yet radiation is also important in nuclear medicine, if you are going to have nuclear energy. So, how are we going to put this together? That is extremely important. We have to look at that.

Again, with devolution, we now have to see how to support the system. The systems that were intended to be managed from one point are now being managed from two different points. Therefore, there has to be coordination because the service is the same. If you look at things like immunisation, we have to be careful on a policy on it. If you look at the Health Act 2017, there are critical issues. All these Acts have to relate to the Health Act. For example, if you look at the position of the Director-General, the title itself has to be incorporated in all the Acts. It is now a different title and not the Director of Medical Services but the Director-General. So, that change has to go into all the Acts. There are also conflicts that relate to the position of the Director of Medical Services in all the regulatory Acts. The Director of Medical Services is the administrator to some extent of all these Acts yet he is also supposed to be part of the regulation. So, there is a conflict of interest. One of the things we are doing is to split the position of Director as an administrator and the position as a regulator in law. So, you will find those in all the Acts.

If you look at the issue of health technologies, the machines that are being imported, syringes, needles and blood transfusion equipment have to be controlled yet not all of them are within one law. If you look at the X-ray equipment, the tendency will be to look at them under radiation and protection. On syringes, the tendency will be to look at them under the Nurses Act. We have a situation where many of these laws are conflicting and the cadres are fighting over this. When people import, for example, some equipment, more than one cadre are levying charges on them. That is extremely important. We have all regulatory bodies that are regulating the professions. They are over 20 and what is being proposed now is that we have an oversight authority that will bring all these together.

Finally, if you look at the area of *Mwongozo*, many of these laws are not in line with it in terms of the number of board members and the appointment of the CEO and the chairman. There is no similarity on how they are done. Now, these laws are bringing in the need to ensure that there is conformity in how all these laws operate.

**Hon. Speaker:** Hon. Nyikal, I add you more minutes.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Speaker, we now have to harmonise the laws. If you look at the Semi-Autonomous Government Agencies (SAGAs) that regulate human resource, products and institutions, for example, there is need to realise that KEMSA is now

serving counties. Therefore, its membership must include representation from the counties. You then have to harmonise that with the need for *Mwongozo* to keep the membership to nine. Those are areas we need to look at. How are you going to appoint the chairs? If you are looking at a Health Regularity Authority or an Equipment Regulatory Authority which is being proposed, who is going to be the CEO? What are the technical qualifications that are required? What are the processes that we will put in place so that we can get the people we need there?

We have also found that when you have CEOs and secretaries of the board, there is a conflict yet all these institutions need legal advice. So, we have created the position of secretary in many of them, a little distinct from that of the CEO.

I see the light is red again. All I can tell my colleagues is that we have to harmonise our universal healthcare agenda, the complexity of the health Acts, issues of devolution and *Mwongozo*.

With that, I support. Thank you.

**Hon. Speaker:** I see the Member for Nyaribari Chache.

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Thank you, Hon. Speaker, for the opportunity. From the outset, I am supporting this Bill. It is time we made amendments to the health sector because they are key. We need to harmonise them with the changes in the Constitution because most of the functions of the health sector have been devolved yet we have not prepared our laws to conform to the changes of the county functions. If you look at what is going on at the county level, the Members of Parliament have participated by way of constructing health centres. Counties have not taken them up. They argue that they have not been involved in the past and that they were not involved in the planning. We think that by harmonising the laws, that challenge will be mitigated. It will not be an issue as it is presently.

Hon. Speaker, there are many overlapping laws concerning health. We all know that health is a very key component when it comes to enhancing a healthy society. Successful countries in the world have succeeded by addressing the issue of health comprehensively. We cannot do it piecemeal the way we are doing it and expect to achieve a lot. The Jubilee agenda is to ensure healthcare is provided to everybody. To achieve that, there is need for us to harmonise the laws so that the county functions are undertaken by the counties and the national Government also does its bit. Fiscal functions must be done in a seamless manner so that nobody is affected to the extent of saying, "It was not me". As we all know, that which cannot be measured cannot be rewarded. In most times, there is a vacuum or a lacuna in law. People take advantage of that and claim that it was not them. If that is going to be the case, then we are not going to make progress the way we anticipate in terms of providing healthcare. If we cannot fix the healthcare concerns, the country will hurt deeply.

All of us have a role to play to ensure there is good health. You could have all the money in the world, but without good health, you are poor. The hospital bed is today the most expensive thing you can ever occupy on earth. We can do something to ensure hospitals are good and affordable to everybody. We should not have medical services as a preserve of the elite, which is the situation currently. When poor persons go to the hospital, they have to conduct *harambee*. I am sure all of us in this House have at one stage or the other been involved in *harambee* functions. Today I am going to raise money for one needy case of a person who was suffering from cancer. Because we are unable to provide treatment for cancer in the country, we are now forced to raise money for the family. Unfortunately, that person passed on. We have to ensure this succeeds. Even if we do not succeed in anything else, we need to fix healthcare concerns in the country. That way, we will have achieved a lot.

Healthcare is key among the Big Four Agenda of the President. If it is so and we have to achieve it, all of us have a duty to support it. One way we can support it as a law-making House is to make sure that the laws we pass today agree with the laws counties have passed, so that we do not have the back and forth that we normally have. Most of our county hospitals refer patients to the Kenyatta National Hospital (KNH). When you go to our county hospitals, even before they do anything, they refer you to KNH. For that reason, there is congestion at the KNH. We cannot continue that way because we are hurting national hospitals which are meant to be a fall-back for what cannot be done by the county health facilities. We need to address that issue. One way of addressing it is by ensuring that the amendments which are going to be brought forth are passed. I have a number of them to propose. We need to give direction to the counties and create a harmonious way of providing healthcare services.

I have another concern. I am sure it is also a concern for most of the Members of Parliament. It is about health centres which were constructed by the National Government-Constituencies Development Fund (NG-CDF). Most of the health centres we constructed under that Fund are now ghost buildings. They are not utilised at the moment. Most of them have been abandoned by the counties. They are saying it was not their function and that they are not their brainchild. All of us agree that those health centres were meant to mitigate the congestion at the national Government hospitals and the county government hospitals. We need to make a provision as a House even if it means giving leeway for a one-off so that we use the NG-CDF to fix those health centres to a good status. We can surrender them to the counties in a usable state. That way, they will not have excuses. I have a number of health centres in my constituency, for example, Kiogoro Health Centre, Boronyi Health Centre, Nyakebako Health Centre, Nyamagwa Health Centre and Birongo Health Centre, just to mention but a few, which have not been surrendered or taken up by the county government simply because they were NG-CDF projects. I am sure we are capable and we have what it takes to ensure that, that provision is given. We would wish to do that at the earliest opportunity possible so that we can get value for money. The kind of resources and investments we have put in those places must be utilised for the good of the country. The money we used there is public money. It was the taxpayers' money. They need to have value for it so that our people can access good quality health services. Also, we will as a country have opportunity to create employment for our people. We could even privatise those health centres. There are many NGOs which are willing to partner with us. Because of the position of the NG-CDF at the moment, we are incapacitated because we cannot bring them to completion or usable levels so that they can be taken up by the counties or the NGOs which have shown interest in taking them up. I hope that will be one of the provisions that we shall look into. We need to seriously consider it so that we can utilise those ghost projects or white elephant health centres which are not being used. The lacuna is in law because health is considered a county function.

As I finish, we had proposed that we need to come up with emergency health centres on our highways. These will address the problem of accidents. We have lost so many people, not because they were meant to die or that the accidents were so fatal, but because we do not have a provision for emergency treatment. If you go to countries which have succeeded in the provision of health care services, you will find that they have provided for emergency centres. The emergency centres are constructed along roads. We know people have been paralysed and been put on wheelchairs permanently not because they deserve to be there, but because the first 30 minutes of an accident are critical. They define who you are and how you are going to be managed. If they do not handle you well in the event of an accident, even carrying you from the

scene of accident to the hospital is in itself a major contribution to your going forward with treatment.

With those very many words, I support. It is timely. However, I hope there will be amendments to address those gaps that we have between the national Government and the county governments so that we can have seamless service to our people, if we were to achieve the Big Four Agenda, especially on matters health.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, I am surprised I do not seem to see Members who have looked at the Report of the Committee yet this is the Health Laws (Amendment) Bill. I can see many of you coming into the Chamber quite happily. This is health. Health is everything for the nation. Hon. Members, I encourage you to look at the Report of the Committee. Surely, you must have something about health. Many of you represent constituencies where I am sure there are so many issues about health.

Let me now hear somebody from a county; the Member for Baringo County.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Speaker. I would also want to talk about this Bill and specifically on the Pharmacy and Poisons Act, Cap. 244, which is what I understand more. The amendment to Cap 244 has come on time.

The Pharmacy and Poisons Board has been operating for a long time in a manner that was not befitting, by not giving out results that we needed. In the current Bill, the Pharmacy and Poisons Board is being led by a registrar. At the same time, the same registrar works for the Ministry of Health as a pharmacist. We have now created two positions for two persons who will run separate bodies, namely, the Pharmacy and Poisons Board to be run by the CEO and not a registrar and the Director of Pharmaceutical Services in the Ministry of Health. This will ensure that the two bodies are distinct.

At the same time, we have the issue of agriculture or the drugs that are given to animals. We realised for a very long time that nobody is taking care of the agro vets that we have around. Everybody wakes up in the morning and decides to put up an agro vet. Nobody knows who is doing this because we have not been controlling agro vets. As someone has put it, agro vets are drugs that are manufactured just the same way human drugs are manufactured. For instance, the molecule in tetracycline in human is the same as the one in animal drugs. The difference is in percentage. We need agro vets to be manned by qualified people who know what medicines are. We realise that poisons are being sold over the counter without much control. The poisons are taken by our animals and at the end of it all, we end up taking them through products such as meat and milk. This is because we are not getting the right directions from the right people.

We also need to know how to store them. For example, people buy Rat and Rat and all types of poisons and keep them. It does not matter where they are. We have been hearing that people are using these drugs to commit suicide. This is because when they are buying, nobody is even aware that the person who is buying has animals to use them on or he is buying to commit suicide. The Health Laws (Amendment) Bill requires the support of all of us because health concerns every one of us. We are consumers of drugs and services of clinical officers, nurses and doctors. So, it is time we thought of bringing this Bill to this House so that Members can look at it and make the bodies which control different cadres to do so equally. In some boards, the councils have 11 members and in others nine. They have different names as well. We now have to create some uniformity so that people can understand when they go to the Nurses Council. They can also understand when they move from the Nurses Council to the Clinical

Officers Council. They should understand the languages they use because the boards will be made in a way that is similar to the other.

The Pharmacy and Poisons Board, for a very long time, has been having two bodies inside it that control medicine. We have been having drug inspectors as stipulated in Cap 244 and others which were created by the Pharmacy and Poisons Board called pharmaceutical inspectors. We have, therefore, said that it is not in order to have two titles for people who do the same work. We have now decided that we have to merge them so that all of them can have one name. We need to do away with the term “drug inspector” and have them as “pharmaceutical inspectors.” As you know, a drug is a relative term and it can even mean hard drugs. We, therefore, said that it should be specific to pharmaceuticals and we are calling them pharmaceutical inspectors. This will ensure that their job is well elaborated and distinct to pharmaceuticals.

The other issue is drugs that come into this country. We have been told that illegal practitioners under the Pharmacy and Poisons Board cause adverse effects to consumers. If consumers are going to get the drugs from the wrong hands, we are sure that we are going to make very serious mistakes. At the end of it all, we will kill people. This is the reason we have said that we want to make the charges more punitive, so that quacks can be dealt with.

It is also important for the people who do not know, that there are two cadres in the Pharmacy and Poisons Board. We have the pharmaceutical technologists and the pharmacists. The pharmacists are degree holders and the pharmaceutical technologists are diploma holders. Diploma holders in this country are the majority. They are the ones who serve people even in the rural areas. They are the ones who are in contact with the people day in, day out. The pharmacists in this country are still few and most of them are in urban areas. They are the ones who are supposed to be formulating molecules, distributing drugs and currently they have a title of a doctor. They are the ones who do administrative work and they man Level 5 hospitals and above. However, because of their numbers, we are seeing the pharmaceutical technologists; the diploma holders, doing quite some job and we need to support them.

Currently, the pharmaceutical technologists are about 10,000, but less than 1,000 are employed formally in the system. So, there is a big challenge. We have many hospitals around and less than 1,000 pharmaceutical technologists are employed. This is something that both the national and county governments need to look at with a view to increasing their numbers in the hospitals. Nurses in this country are multi-tasking. They are working as nurses, clinical officers and they also dispense drugs. So, it is the right time to ensure that this is in our laws, so that pharmaceutical technologists and pharmacists can do the work for which they studied.

In Cap 244, the board consisted of nine members. Unfortunately, for a very long time, it consisted of one cadre which is degree holders and only one member from the diploma holders' cadre. For a very long time, it has not been fair for one cadre to be represented by one person among the nine.

I support this Bill and request my fellow Members to look at it critically because we are all affected by it. We need to contribute to it so that we can come out with a Bill that defeats the bad practice in the health sector in this country.

**Hon. Speaker:** Well spoken, Member for Baringo. At least, the country knows that the female gender also speaks in the House, more particularly on matters of health though the majority have gone to speak about other things out there. Surely Members, matters of health...

Member for Makeni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker. I really want to agree with you that matters of health are very serious and that all of us, at one point or another, deal with health issues. This comes under the background of the new Constitution which has provisions dealing with health. Following the Constitution, there was a major amendment of the health law and we ended up with the law of 2017 which still turned out not to be sufficient. Owing to devolution, now health infrastructure and medication is being done at the counties. There is still a role for the national Government especially when it comes to policy and its implementation.

I have looked at the proposed amendments and part of them is to make sure that we synchronise the laws which were not in conformity with the Constitution, like the use of the CS, previously a minister, is quite common in this amendment. Bearing in mind the protocols of the East African Community, as a member State, we need to have laws which synchronise with other health laws in the region. As a region with similar climate, we have a peculiarity of health issues and diseases which can be transferred from one region to another by movement of animals or people. There should be a common protocol on how we handle matters related to that, such as the Yellow Fever.

This Bill constitutes of 10 different statutes which we are supposed to amend, beginning with the Radiation Protection Act, which is a new technology now being used. Radiation eventually affects human beings in one way or another if not properly used. Now there are strict laws so that radiation can be used properly, even when it produces energy or is being used for medical purposes. We also have the Medical Practitioners and Dentists Act. All of the Acts have to be amended so that they are consistent with each other because this is a regime under which a law applies to the medical practitioners. For the common person in the village, they are unable to tell the difference between a doctor and a nurse or a technologist. Everybody they find in a health facility, they just call them a doctor. There is quite a big difference. All this has now been featured in the Nurses Act and the Kenya Medical Training College Act.

We have quite a number of colleges being built in the country. These colleges do not train doctors, but nurses. At the same time, there are nurses who are graduates and others who are diploma holders. That is why we came up with the *Mwongozo* Code, a code of conduct and governance, as the basis of making the law such that it ties up with issues of nutrition and diet. A lot of people end up losing their health because of the nutrition they are on. Some diseases catch up with people in old age because of what they eat. There are also issues related to HIV and AIDS and other communicable diseases which have come up. There is also the Counsellors and Psychologists Act, 2014 which we enacted. In total, you find that Parliament has been very much engaged with health issues for quite some time; actually since the new Constitution was enacted. Previously, there was a different administration.

The management of this sector has to tie with the national Government and county governments. There has to be a link between those two so that there is a smooth flow of activities. The Clinical Officers (Training, Registration and Licensing) Act, 2017 also has to be amended so that clinical officers and other officers comply with this code of conduct. Medicine which affects animals eventually affects human beings. Regulation is key in all these Acts. It is a way of making sure that there is agreement on practice. There is a time there was a lot of issues with the training of technologists. I remember in the early 2000 to 2002, there were quite a number of court cases relating to some students who made efforts to study in this area and they would find that the colleges they wanted to go to were not licensed. They would be to school for two years, but their papers would not be acceptable in the market. There would be a lot of arrests

of some of these young people who were found in chemists. Eventually, Parliament had to handle the matter and find a way of synchronising the system so that the colleges which had been in practice were recognised. This is part of the reason we have come up with this Bill.

There is the Public Health Act and the role of the Director of Medical Services. Is it administrative? To what extent does that particular office affect the workings of the health sector in the country? How does the office, under the new Constitution, tie to the counties? How do you synchronise activities in the counties with the national Government, including budgeting and procurement of medical equipment? When you procure the equipment as the national Government, how do you distribute them to the counties? All that has now been provided for in this Bill. The financing of health services has been an issue in the counties. There is no uniformity. Each county has its own practice. The practice in Makueni has been very successful; a lot of families are benefitting. That can be borrowed by other counties. How do you make sure that all these work together? What can be done at the national level vis-à-vis the local level?

A lot of Kenyans go for medication outside the country and take away a lot of our money, which can be paid to the equally qualified doctors in the country. In fact, a lot of Kenyans who go for treatment abroad end up spending more or repeating some of the tests which had been carried out locally at huge expense to their families. Hospital bills have now become such a serious matter. There are *harambees* almost every weekend for somebody who has died and cannot be buried because of pending hospital bills. Therefore, this idea of universal healthcare is quite important. In the Makueni scenario, they are able to take care of bills of the person and even funeral expenses and transportation. How do you replicate that at the national level such that families do not go bankrupt after one of their members become sick? Many families in the country are unable to afford medical treatment.

Most importantly, as I finalise, issues of fake drugs, generics and the procurement and distribution of drugs in this country have really been a challenge. This is the time Parliament should rise to the occasion to ensure a smooth running so that Kenyans can receive treatment at the best price.

With those remarks, I beg to support and urge Members to do so.

**Hon. Speaker:** Let us have the Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Speaker. From the outset, let me declare that I am a Member of the Health Committee. We put in a lot of hours on the Health Laws (Amendment) Bill. It is our delight that for the first time, health became part of the Agenda Four. Never before have we had health in the front line and we are so grateful to the President. One of the issues we deferred, which is very important, is the National Quality Control Laboratories. This is one of the units that control the products from the manufacturing unit. This unit needs to be empowered and facilitated well financially because it is the gate between consumers and fraudulent manufacturers. So, we referred this to the Ministry of Health. I hope they will come up with effective proposals to make this unit work properly.

We also looked into issues of appointments. Sometimes we have blanket appointments that make institutions ineffective. So, even for those who are going to be appointed by the President, we have put qualifications that will help the President to look into effectiveness and qualification of the persons to be appointed. We also looked at the duration in terms of the amount of time one should stay in office. We suggested that in executive offices, what you cannot do within four years, you cannot do it even if you are given 10 years. Therefore, we agreed that contracts of executive officers can only be renewed if the performance of those officers show that they deserve to be retained.

We also looked at the penalties. Most of the offences attract small penalties. They include offences like operating without a licence and stocking of drugs that are not classified according to that institution. So, we jerked up those penalties to, at least, Kshs1 million. I think this will be a deterrent to many scrupulous traders, especially in respect to drug stocking. We also looked at the representation. Of course, health is devolved. County governments are the custodians of health facilities. They undertake procurement of drugs and other medical supplies. Therefore, we made sure that counties are also represented in all the regulatory bodies so that they can have an opportunity to air their views.

We also looked into the issue of association in their representation and streamlined it so that each quota is represented geographically as well as in terms of gender balance. We also looked at training institutions as apart of these associations and regulatory authorities. So, the training part is also brought on board so that we have fair representation.

As alluded by Hon. Nyikal, the issue of human resource is challenging. We have to see how to harmonise the cadres. Clinical officers would like to remain clinical officers regardless of their qualifications. Even if they become professors, they prefer to remain clinical officers. However, we felt that even if they remain clinical officers, they should have some rights in operation procedures, which are currently reserved to doctors. So, a lot needs to be done in that area. We looked into human resource issues from the village unit to tiers 2, 3, 4, 5 and 6. We redefined and looked into the responsibilities of personnel in the various cadres. We realised that most pharmaceutical inspectors were police officers with limited training in pharmaceutical products. As you know, production has become so complex. So, we recommended that these be under the Pharmacy and Poisons Board. They should be employed directly and retrained. We set out the qualifications they should have. This is a very important component because right now, many Kenyans are exposed to drugs whose quality we cannot ascertain. There are so many drugs out there. We do not have competent inspectors. They are also very few in the country. Pharmacies and chemists are sprawled across the country. The number of inspectors that we have cannot cope. We hope this law will be looked into carefully.

We did not touch on the finance bit. We are hardly at 6 per cent, while the Abuja Declaration puts it at 15 per cent. Even if we set it at 6 per cent at the national level, we do not know what the county governments will set it at. In some county governments, it is very low while in others it is high. That needs to be looked into. Even if it means ringfencing the funds for health, it should be done because it is important.

Hon. Speaker, we spent quite some time doing this work. I want to encourage my colleagues to support the Committee in terms of coming up with as many ideas as they can.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, in order to ensure that during the Committee of the whole House we do not have more debate, it is important for you to be present so that you can understand where Members of the Committee are coming from. I must congratulate this Committee. You reported here that you received 131 submissions from members of the public and other stakeholders. At all times, that should come out clearly because Kenyans who appear before our committees need to know that what they say is taken on board as proposals are made in the law-making process. People should not think that appearing before committees of Parliament is a matter of routine and that it does not mean anything to the House. It is good. I must appreciate the work of the Committee.

Let us have the Member for Gichugu.



**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Speaker. I rise to support the Report. In my support, I recognise that the Health Laws (Amendment) Bill seeks to align the existing laws with the new Constitution, which is overdue. It has come at a time when the Government is committed to fulfilling its promise to Kenyans on matters health as one of the Big Four Agenda. The amendment to the Pharmacy and Poisons Act is very important because it seeks to eliminate quacks in the profession. It imposes a higher penalty for practising in unregistered premises and by people who may have been hiding and offering services to unsuspecting citizens. We have seen a lot of these in the swoops and crackdowns that are done by the Pharmacy and Poisons Board. This sends a very strong message and deters anybody who is thinking about venturing into such illegal acts. The penalty is important and will make people not want to venture into such acts.

Looking at the Medical Practitioners and Dentists Act, the amendments sought, which the Committee has approved, seek to protect professionals and the public from illegal practitioners in this area. As we talk about matters of health, we have seen people masquerade as professionals in the health areas. Just like other professions, they should tighten their knots in order to protect the public. This will give practitioners in the health field dignity and space to work without people tarnishing their names by practising in areas and on matters they are not competent in.

As I support, I have seen how devolution took over matters on health from the national Government. I was not supporting the devolution of health matters because they are national matters. However, with the new Constitution, health matters were devolved. This Amendment Bill seeks to realign the operations at the national level and county governments. It has also given the Council of Governors (CoG) some roles in running of matters of health at the local level.

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

*[The Temporary Deputy Speaker*

*(Hon. (Ms.) Jessica Mbalu) took the Chair]*

Without belaboring my points, I concur with the Members who have supported this Bill. I also support the Committee and congratulate them for the work well done. They brought a very big and voluminous Report. I support this Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Gichimu, Member for Gichugu. Next on the request list is the Member for Kisumu East.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me time to address this matter. First, I support this long overdue revision and update of the Health Laws (Amendment) Bill. The Committee has done a commendable job by looking at nearly eight or nine Acts. They have revised, renewed and looked at them in light of recent developments in the health field. This will help in harmonising, synchronising and aligning them not only with the Constitution, but also with devolution.

The health sector has faced many problems. Unfortunately, health professionals, the Medical and Dentists Board and the Pharmacy and Poisons Board have been static and very conservative. They have not allowed or given space for the developments taking place in the health field. As much as I support this Bill, I feel we have not gone far enough, but I think it is a good start. The paramedics, lab technicians, X-ray technicians and pharmacy technicians are all targeted.

When I remember Russia as a very young child, I can recall there was Russia Hospital in Kisumu. We thought a medical doctor then was a specialist in everything. Hon. Temporary Deputy Speaker, that was during your youth and mine when a doctor was a dentist, optician and everything. However, nowadays we have specialists. In the old Russia Hospital they would go to see a specialist first, so a doctor was never a general practitioner, but had to specialise in certain fields. Regarding this aspect, I have noted lacunas or gaps which have not been properly addressed especially when they...

I want to bring your attention to the Medical Practitioners and Dentists Board, which has been locking out people because of being conservative. At times, there are people who call themselves specialists, yet they have not undergone training, but the Medical Practitioners and Dentists Board goes ahead to register them. I have a case in mind, which I will not mention because I have taken it to the Departmental Committee on Health. There is a certain eye doctor who has not undertaken the specialist training required and has taken advantage of the gaps to register his practice. That practitioner has gone ahead and brought doctors from abroad as businessmen whom I am not saying are quacks, to operate on Kenyans and yet they are not supervised by any specialist. So, ophthalmologists, the Medical Practitioners and Dentists Board and many other specialists are run by some bureaucrats who use the gaps to register people who are not suitable.

Under the Pharmacy and Poisons Act, there is another major thing which we all know as one of the four pillars, not only by the current President, but even of his late father. It is one of the four pillars that we had when we gained Independence. I am very pleased that President Uhuru Kenyatta has taken over and ran with the pillars which even his late father, our founding President Jomo Kenyatta, had given much importance. However, under the present system... I am a son of a doctor and I have been in the medical field as a volunteer for nearly 40 years of my life. I have never seen the sort of advantage medical professionals take on the poor as it is today.

This is a country where the poor cannot afford to be sick. The poor are taken for a ride and there are gaps that have been left by the so-called authorities that are meant to be looking after the rights of the poor. The Kenya Medical Practitioners and Dentists Board, the Pharmacy and Poisons Licensing Board and others have been making money and have been allowing quacks and private doctors coming from abroad to practise. In the same way, they have disallowed those medical doctors from abroad who want to come and give free medical support to this country. They have disallowed them. They really make their lives very difficult because money is the main aspect here. When you go and see a medical practitioner nowadays, whether you are a poor man or not, they want Kshs5,000 just to let you in.

The other issue that is of great concern to us is drugs. I am pleading with the Chair at a later stage to address the issue of drugs. There was a time, I think in the 10<sup>th</sup> Parliament, where it was discussed and suggested that drugs should be prescribed by a doctor in generic terms. Generic terms means not in the brand term, but in the chemical term. This is because when you give the name of a brand, a brand is sometimes about 15 or 20 times more expensive than the real thing. I see there are two or three doctors in the House. I know they know what I mean. So, we would like the Departmental Committee on Health to look at this issue and perhaps talk to the medical practitioners that in future when you go to a doctor and they prescribe drugs, those drugs must be prescribed in generic terms so that we can go and find the right drug and not necessarily the one that is the most expensive.

There are counterfeit drugs in this country. The Pharmacy and Poisons Board is a cartel. It is a real cartel and it only allows those ones that pay them huge amounts of money to get drugs

registered. I hope with the amendments to the health laws, this cartel type of approach is going to be curtailed.

I have looked at the health laws and they are yet to address certain elements of devolution that should help us to improve our medical health management at the county level. I am afraid that this is not yet there, but it should come. Then there are other issues which are not totally covered in the health laws and those are about public health. There is need for public health to be addressed as well.

With those very many remarks, thank you for giving me time. I support. I hope the Committee looks at some of these other issues. Great job! Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Kwanza, Hon. Wanyonyi Kelvin.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you, Hon. Temporary Deputy Speaker. There is a saying that a healthy nation is a wealthy nation. I say that because this Bill is addressing most of the issues that are actually affecting our nation. When I was elected in 2013, I had to do a lot of construction in my constituency and completed some of the health centres that were not completed by my predecessor. I agree with one of the Members who said that county governments have not taken up this issue seriously or they are not funded well enough. We had cases where some of the facilities that were put up by us are not even furnished. Drugs and personnel are not there.

Therefore, my only conclusion is that this was not the right time for us to devolve healthcare to county governments. From what I have heard, most Members are saying the same. When you go anywhere, you will find facilities are available, but they are abandoned. You will find our patients moving miles and miles and kilometres to look for healthcare. In my case, I want to declare here that every day, I bury more than six people in my constituency and this is because of the poor health services that were prematurely devolved to county governments. I have no regrets to make that statement because it is true. If you go to the vote, 90 per cent of Members here will tell you that healthcare was prematurely devolved to county governments.

The other thing which the Chairlady stated when seconding, and I quite agree with her, is that public health is supposed to be under the Ministry of Health. For some reason, a few months ago, it was moved to the internal security docket. I am yet to know the reason because there is a lot of importation which was done by the Ministry of Health. At points of entry, public health officers are supposed to inspect all the imports that come into this country. I do not know why this was moved and I am yet to be told why it was moved to the internal security docket. It is misplaced.

Thirdly, I also agree that most of the pharmaceutical practitioners should be the ones to dispense drugs. We have quacks out there. I think we should have some punitive measures to curtail this. Maybe that is the cause of many deaths that I see. The agro vets are all over the place and even my grandmother can have an agro vet out there to sell drugs which at the end of the day, are consumed by human beings. No wonder I have so many deaths in my constituency. I do not know why. We see people moving from one place and others going to India. What do we get? We get people brought back in coffins. Something should be done about this. Therefore, I suggest that the Departmental Committee on Health should enforce the regulations and ensure there are strict inspections on chemists and agro vets. We should merge the departments of veterinary and health and have inspectors jointly going round to do spot check and ensure that the shops where pharmaceutical products are sold, either for animals or for humans, are safe.

These shops should be inspected and if somebody is found selling counterfeits, the only answer is to take him to court because that is murder. He is a murderer.

So, I want the Committee to come up with amendments here and be very strict so that we can, at least, have inspectors regularly checking the establishments, be they agro vets or chemists and see what they are selling. There are a lot of counterfeits out there. If today you have a headache, you walk into a store, they will give you a drug you do not even know. I know Panadol, but a counterfeit written “Panadol” is there. That is something we should look at very seriously.

Last, but not least, let us also do some training. A lot of our youths are taking a lot of drugs in schools. Children are taking a lot of drugs in schools and colleges and, therefore, we should have psychiatrists in schools so that they can have regular check-ups in some of the schools and see the cause of the problem. The killing we are seeing around here is caused by nothing else other than psychological issues and we have to face the facts. Something somewhere is not right. Therefore, we should take care of that. Otherwise, I support this Bill. I do not know whether I got the Chairlady wrongly, although she is here in the House. She said that some of the proposals by the Committee are not being owned by the Ministry of Health. We oversee this Ministry. Therefore, we should take it seriously. If anything, somebody should be taken to task to own what Members of Parliament propose because they represent our people out there. Therefore, the Ministry of Health cannot say that they cannot own up what the Departmental Committee on Health has come up with.

Hon. Temporary Deputy Speaker, I thank you. I support the amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Simiyu Eseli, Member for Tongaren, is the next one in the request list.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I must confess that I am a Member of the Departmental Committee on Health. In fact, this is the third Departmental Committee on Health that I have belonged to in this National Assembly since I was first elected. I must confess that this is one time the Departmental Committee on Health burnt the midnight oil to try and get things right.

Change is inevitable. We all have to accept it and the best ways to manage it so that it is useful to us. That change in our case means amending the health laws or any other law for that matter. We should not fear to amend it. This Bill amends the health laws, but the Committee has also proposed amendments. I am sure the House will know them when we get to the Committee of the whole House. We hope that Members will support us. I believe that when we are amending the health laws, we should not fear. We should also not fear to amend the Constitution. The health laws, which we have, fail to move with the times. We have health laws that are outdated and remain in the past. They do not cater or address our present problems and anticipate the future. A good law should deal with the current issues and anticipate the future. This Bill attempts to correct that anomaly. That is why you will find that the Medical Practitioners and Dentists Board is being changed to the Kenya Medical and Dental Council, so that we can adequately address the changes that we want to make.

We need these amendments because they are mainly regulatory. We have the issue of regulating the human resources like pharmacists, doctors and dentists and also the pharmaceutical and non-pharmaceutical products and the infrastructure in our respective health facilities. We must get this right. We are not saying that these amendments will be the final ones or are cast in stone. As time moves on, we might find need to amend them again. One thing that

came out very clearly is that when you look at the health-related SAGAs, you find that they have boards, but the methods of appointing them are questionable. I will suggest and recommend that the criterion of appointing people to health SAGA boards should not be based on being a dumping ground for beneficiaries of political patronage. That is dangerous to health care. We need to really look at whom we are appointing to these boards. They should have people with special skills that can help advance healthcare in this country such as public health specialists and health systems management specialists. We have most of these cadres in this country. However, when we come to appointing members to the boards of some of these health SAGAs, political patronage comes in. It becomes a dumping ground for people who have no business near healthcare at all. That has impacted negatively on the healthcare system in this country.

We must re-look at our healthcare system critically, especially now with devolution. Many counties have a problem with this health function. We should re-look at it because we know very well that healthcare does not give the political leaders in the counties political *bonga* points that they require so fast. We should devolve to them more infrastructure work like roads which elicit immediate *bonga* points, so that they can stop neglecting healthcare. Healthcare in some counties is a very neglected area. As the previous speaker mentioned, the death rate and the industrial unrest in the health sector have gone up. However, we cannot blame the counties entirely for the industrial unrest because as I said earlier, health is the most devolved function. The question we should ask is whether the resources followed that devolution. When you look at the current Budget, you find that the Ministry of Health still retains a very big chunk of the health budget. That means that the counties are starved of this money which they can use to enhance the healthcare systems down there. Therefore, I believe that those who are committed have done something about it.

The other area that has not been addressed in the Health Laws (Amendment) Bill is healthcare financing, which is such a critical area that needs to be addressed as urgently as possible. The last Budget came up with the Robin Hood Tax which did not stipulate what the money is for except saying that it will go to the National Health Insurance Fund (NHIF) to help with the universal healthcare. That is not the way we want to run this thing. We re-classified our country to a lower middle-income economy. Once we did that, we lost a lot of donor support. Once we lose it in the area of vaccinations and treatment of the Human Immunodeficiency Virus (HIV), we will not have it very soon. We need to look critically at healthcare financing to cover things like the HIV management treatment, tuberculosis (TB) management, malaria control and vaccinations for children. Unless we re-look at our healthcare financing, I believe we will still not have done justice to the healthcare system in this country because it is sick.

There was one curious thing when it came to the Pharmacy and Poisons Board and the National Quality Control Laboratories. Somebody somewhere tried to sneak in an amendment to make Pharmacy and Poisons Board swallow the National Quality Control Laboratories. This particular incident was very interesting because the Ministry disowned it. It was very clear that it is not the one that recommended that amendment. So, who did it? Whoever did that is trying to play games with the healthcare of Kenyans. Although the National Quality Control Laboratories is under the Pharmacy and Poisons Board, they have a measure of autonomy. This enables them to create checks and balances. Somebody tried to sneak in an amendment that will swallow the National Quality Control Laboratories. Whoever did that had ulterior motives. When I look at the whole import of that sort of amendment, my take is that somebody wants substandard pharmaceuticals to be licensed in this country without any third party to look into what is happening. Whoever did that, *ashindwe*, because that is a terrible thing to do. It is important for

us to look at our healthcare because we are here for the good of our people. If anything of the sort can happen in this House and it gets to the point of appearing in a Bill like this, then something is terribly wrong. I wish to thank the Minister and the staff of the Ministry for agreeing to withdraw that amendment for now, as we wait for the food and drugs law which will be coming in future.

Hon. Temporary Deputy Speaker, the Departmental Committee on Health has a lot of work in the sense that, sooner or later, with the passage of the Health Law (Amendment) after the Constitution and now with these amendments, we will soon be looking at various health functions that will again have to be harmonised with the current situation. As I said at the beginning, we need to move with the times and healthcare is quickly evolving that we might have to be looking at these laws and amend them to keep them up to date and in tandem with our needs in this country.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Those are very good points for discussion and debate. Member for Isiolo North.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to speak to this Bill. I support the proposed amendment.

I thank the Members of the Departmental Committee on Health. Of course, we expected this from them because the membership of the Committee includes very senior health experts. Most of the amendments, as earlier speakers have alluded to, relate to aligning old pieces of legislation with the current Constitution. Of course, this is quite in order.

As a country, universal healthcare is one of the key pillars that we have prioritised. For our people to access quality healthcare as envisioned under universal healthcare, there are a number of things which have to be right. We need quality drugs and various cadres of health professional: doctors, pharmacists, clinical officers and nurses to be properly regulated. We also need proper regulation of dispensing of drugs.

I have had the opportunity to look at various amendments to the various pieces of legislation. I would like to start by highlighting what is proposed under the Radiation Protection Act. The proposed amendments actually relate to turning the old board into a corporate body which, in my view, is very good. We also know substances whose use the board regulates need a corporate body to deal with because of what is happening in our country and globally. Radioactive substances need to be protected very well. If they land in bad hands, they can be used for terrorism-related activities. Therefore, I thank Members of the Departmental Committee on Health for the various amendments they have proposed under the Radiation Protection Act. I particularly like the proposed composition of the new board where the National Intelligence Service (NIS) is incorporated because of the sensitivity of radioactive materials, the threat of terrorism and the risk of these materials landing into the wrong hands. Inclusion of NIS is key. The Cabinet Secretary is required to appoint two other persons who have specialised knowledge in handling radiation sources. This is also a very important insertion in the Act to make sure that our safety as far as these materials are concerned is improved.

The amendment under the Kenya Medical Training College Act, most of it relates to aligning the old Act of 1990 to the current situation. We know Kenya Medical Training Colleges have campuses across the country and are under one board of management and one CEO but they have been using the old name; the Principal in the case of the CEO. He should be the CEO

because he is responsible for all the campuses across the country. The board of directors are responsible for all the 60 and more campuses across the country.

One interesting thing I would like to point out is inclusion of students' representatives in the academic council. We have reached a point where we need to treat students as key stakeholders in academic institutions. Therefore, their representation particularly in the academic board is welcome. Of course, when the board discusses sensitive issues related to all students like examinations, the proposed amendment allows the CEO to exempt the students from such sensitive matters.

On the proposed amendment to the Pharmacy and Poisons Act, I am particularly impressed by the broadened definition of "drug" which encompasses health products and medical substances, including traditional and alternative medicine.

I represent a constituency whose people have to travel over 50 kilometres to reach the nearest health facility. Therefore, the healthcare they have access to is alternative medicine which is administered by our traditional medicine men and women. It is high time as a country we tried to see how this can be regulated. The expanded definition of "drug" under the proposed amendment also covers cosmetics and nutrition formulations. This is also important. We realise that incidents of cancer are on the rise. Although I do not have any scientific research findings to back my claim, there is suspicion that abuse of drugs including cosmetics contribute to some of these cancer cases, especially skin cancer. Therefore with the broadened definition, all these health products and medical substances will be subjected to very strict regulation.

The amendments also relate to running of pharmacies. We have many quacks, who are not trained as pharmacists or even as pharmaceutical technologists, but run pharmacies across the country. Acquisition of drugs across the counter has become very easy because people who own pharmacies in town and in remote places are not trained therefore they are not bound by professional ethics. The proposed penalties for people who sell drugs in unregulated or unlicensed premises have been increased. I feel the hefty proposed penalties will go a long way to act as deterrence.

On the proposed composition of the new Pharmacy and Poisons Board, the membership has to be at least nine members, there is a suggestion that among the nine there have to be three non-public officers with some specified experience of running a community pharmacy, hospital pharmacy or training institution. If we have professionals who have experience at different levels being incorporated into such bodies which regulate the use of drugs in our country, we will be more secure as a country in dealing with counterfeits.

There is also a provision requiring whoever imports a poison to seek marketing authorisation from the board prior to bringing those substances into the country. This is also something that is very good as long as it is enforced properly.

At the moment, if you look at what is happening in the country, in human and veterinary drugs, we have a lot of counterfeits that are defeating the objective of treating diseases. If you are given a counterfeit which is not effective, you run the risk of any of the organism causing diseases becoming resistant, especially to antibiotics and so on. Therefore, with these proposed amendments, I am sure as a country, we are going to be safer and our health is going to improve. I am sure that moving forward, as long as the various bodies which are set up to enforce whatever has been proposed are adequately resourced to do regulatory work, we are going to have a country where we shall get rid of counterfeits in form of drugs as well as quacks in terms of people who claim to be professionals when they are not.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla Jennifer.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendments to the health laws. It is such a vast topic that I could talk way beyond the 10 minutes. Most importantly, issues regarding health touch on all Kenyans. If we are not paying for medical bills, in very unfortunate circumstances, we are attending funerals of people who have died of various diseases. Indeed, when it comes to health and funerals, we spend more money in donations and even on school fees. A successful nation must be a healthy nation before anything else. Before we can go to school to study...I have noticed that the light is red, I am wondering...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Do not be controlled by the light. As long your microphone is on, just carry on.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you. Before we can go to school or work, we need to be healthy. I have noted in the amendments that the Pharmacy and Poisons Act proposes to do away with the National Drug and Quality Control Board and establish a scientific advisory board. As Kenyans grapple with high cases of cancer, like my honourable colleague said, we do not have with us the scientific data. It is not lost on us that numerous Kenyans are now dying of cancer. Of course, it can be argued that perhaps it was always there. We did not have the means with which to detect but I highly doubt that is the reason. It seems inexplicable why it has happened. It is my humble submission that something needs to be done because something may have been introduced within our ecosystem, in the medicine or in the food that is causing high rates of cancer. Personally, I would have appreciated if we had seen an executive authority like the Food and Drug Administration Authority that is in the United States of America. This Department is responsible for promoting public health through supervision of handling of food and drugs over the counter as well as veterinary products.

In as much as the issues regarding health have been devolved to the counties, it is so crucial and important that we have this executive authority at the national level.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Vice-Chairperson of the Departmental Committee on Health and Member for Kesses.

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to talk about this amendment Bill. I support these amendments. Before I talk, let me brief you about health and myself. I am a doctor by profession – gynaecologist obstetrician. I used to work in the public sector in one of the largest universities as head of department and senior lecturer. I was at the Moi University School of Medicine. Also, in the private sector, I was the founding chairman of Mediheal Group of Hospitals.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You are also the Vice-Chairperson of the Departmental Committee of Health of the National Assembly.

**Hon. Swarup Mishra** (Kesses, JP): Thank you. To achieve ideal health in the nation, we should have four things: adequate infrastructure, well updated, upgraded and branded equipment, excellent health personnel and human touch. Health cannot be practised in a commercial way.

Today, we have amended few laws and we have brought some new changes. As my colleague, Hon. Eseli, said, changes are inevitable. Changes can bring mountains. It is good. Having said that, we have to bring amendments all the time about health as and when they are necessary.

We are trying our best to create infrastructure and provide equipment at the county and national Government levels in and outside Nairobi but we seriously lack health personnel. About



75 to 80 per cent of ideal and adequate health personnel are in Nairobi, the capital city. The rest of the country lacks health personnel. So, we have to develop and improve our health education system because we have more medical and training colleges and schools for both medics and paramedics so as to give service. As we know, a very good aircraft cannot be flown if the crew is not adequate. An air hostess cannot replace the pilot. We must have the right people in the right positions. So, we have to develop more and make the health education system stronger.

Apart from that, the preventive aspect of health is important because prevention is better than cure. As we know, public health is an important segment of the health system. The preventive aspect of healthcare should be stronger. We have to allocate more budget to it. In future, we can diagnose the disease. If we want quality life, and we want to increase the lifespan in a qualitative and quantitative way, then preventive aspect of health practice is mandatory.

Let me also talk about medical tourism. Many people go to India for treatment. For diseases which can be treated and healed effectively in our country, people seek treatment in India and other countries for no reason. I do not know why. It has become commercialised. Other countries make Africa an objective destination of their revenue collection in the name of health for Africa. An example is the joint replacement therapy, In-Vitro Fertilisation, advanced neurosurgery, spine surgery, transplant surgery of kidney and retina. All are practised in an effective way in the Republic of Kenya in private and public sector.

We are unnecessarily taking people to another continent just to drain our revenue. It has also become business. African students who study in India, for example, are used as agents to siphon business from Africa to India. Their prime goals and objectives are not achieved. They are not studying there. They are getting money as agents at a commission. Where is our future? Every tall building in Kenya has a wellness clinic meant to convince Africans to go to India for treatment.

Now, as you know, any surgical procedure on a human being needs a follow-up. We do not know what surgery has taken place, who has done it, and there is no proper advice. So, I will call this medical tourism. Very soon, as the MP for Kesses and the Vice Chairperson of the Departmental Committee on Health, I will move a Bill called the Medical Trafficking Bill just like there is drug trafficking and human trafficking. We have to prevent this medical trafficking not only in Kenya but the whole of Africa just to help our people.

Apart from that, we should also encourage manufacturing. Africa is not known as a manufacturing continent and for that matter, even Kenya. Now, as we know, there are 38 companies manufacturing medical pharmaceuticals in Kenya and that is very encouraging. But we, as Government and Parliament, should know how to encourage more manufacturers in the field of pharmaceuticals and medical equipment and furniture. That is so that it not only gives better quality products of fair prices to our hospital industry but also creates real employment in our country and continent.

Apart from that, health is paramount. We have to be very particular about getting the right equipment. China is 50 years behind the western world like Europe and the USA. How come we are bringing that equipment? As a developing country, we do not have enough force to get maintenance, repairs and so on. We have to take all these things seriously. We have to make a national policy on where and how we should procure our extremely high end medical equipment. This is because we are buying equipment which is not proven or in practice because of getting loans or whatever. We should not be carried away in behest.

I will not take much time. There should be a health summit to achieve universal healthcare which is the wish of His Excellency Uhuru Kenyatta. We should arrange for a very

good health summit. We should pre-arrange in the right way and at the right time with the leadership of the central Government and the county governments, stakeholders like medics, paramedics, pharmaceutical and medical equipment-making companies and the public sector.

Thank you very much, Hon. Temporary Deputy Speaker for allowing me this chance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well spoken. Of course, it is from experience. Thank you so much Vice Chairperson of the Departmental Committee on Health. The other one is the Member for Kiminini, Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you Hon. Temporary Deputy Speaker for granting me this opportunity to discuss this very important Bill. It gives a provision for the dos and don'ts in healthcare.

Before I make my remarks, I was somewhere when this Bill was being moved by Hon. Washiali. It will be nice next time for the Committee responsible to be given an opportunity to move. He had difficulties pronouncing some of the terminologies. I was seated with some professors of medicine and some of the remarks that were being uttered were very disappointing. As we move on, it is important we allow respective Committee Members to move.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Wamalwa, it is not what you observe from outside that you can comment on. What is important is that it was moved on behalf of the Leader of the Majority Party.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): I was just stressing it because I know my friend Hon. Washiali was ambushed today when he was moving this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): He did not say that he was ambushed. Did he declare that he was?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): He was. He was given a short notice. He was doing it on behalf of the Leader of the Majority Party. How I had wished, in such circumstances, we allow that opportunity to the respective Committees which have gone through matters and participated in these deliberations! That is what I recommend. This is something to be looked into as we move forward.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Because you have raised the issue, it is true Hon. Washiali moved on behalf of the Leader of the Majority Party. He did very well as far as parliamentary proceedings and procedures are concerned. For the record, it was seconded by the Chairperson of the Departmental Committee on Health. Now, you have heard the Vice Chairperson. Your points are noted. Carry on.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): I never said he never moved well. He moved it very well. What we are saying is that we should let Chairpersons move in future and the Vice Chairpersons can second. That is for purposes of ownership. You have seen this outcry has been going on for too long. It is not just when it comes to this issue of the Departmental Committee on Health. We have seen it even in other Committees.

This Bill is very critical. We have heard a lot of outcry although we know healthcare is partly devolved. We know Level 6 hospitals are under the national Government. I wish we have a Level 6 referral hospital in every county. This will add a lot of value, particularly when it comes to the Big Four Agenda of the Government on issues of universal healthcare. We know healthcare practitioners are already suffering outside there. Some of them do not want to go to counties. They do not want to be devolved. It is because when it comes to further training, it is only done at the national Government. It is the one in charge of training and policy formulation. For the future, maybe it is something we should look into. I remember at the constitutional amendment time, the healthcare practitioners wanted a healthcare commission. Unfortunately, it

was not granted. Teachers managed to get theirs. It is good when you have your own healthcare commission.

*(Hon. (Dr.) James Nyikal gestured at Hon. (Dr.) Chris Wamalwa)*

I can see my friend, Hon. the former Principal Secretary is agreeing with me. It is because matters of healthcare in counties have a lot of challenges. We have seen this happening in my own county. You will find that issues are not running; issues of human resource management are becoming a problem. So, it is indeed important that we look at such piecemeal amendments as we move on.

There is the issue of the Kenya Medical Supplies Agency. It is the only body in this country which has been getting drugs for purposes of supply. When counties realise that they have a lot of outstanding bills with KEMSA, they have been trying to see how they can source medication through another body or elsewhere. Sometimes it is from a given chemist where there is the aspect of collusion. This has led to wastage of funds in the county governments. We need to bring this issue of regulation in future. I need Hon. Nyikal to note that *Mwongozo* was done at State House. It was never debated on the Floor of the House. We cannot continue amending everything and saying we are relying on or aligning it to the *Mwongozo*. To me, *Mwongozo* was like a regulation. There is no way you can amend a statute to align it to a *Mwongozo*. The objective of the *Mwongozo* Code which was being spearheaded by Hon. Abdikadir was to look for a way of consolidating these parastatals which heavily rely on the Exchequer for purposes of sustainability. They went ahead to bring in just a small section of the code of conduct. To me, I find it opposite if we are going to align all these Acts with *Mwongozo*; something which was not debated, was not passed by this Parliament but was just passed at State House. This is very wrong.

As we move on, how do we move the Government Chemist from the Ministry of Health to the Ministry of Interior and Coordination of National Government? This is an oversight. The matter is misplaced. When this issue comes at the right time, we need to amend it so that the Government Chemist goes back to the Ministry of Health. The Government Chemist is located at Kenyatta National Hospital. The core business of the Government Chemist is to ascertain quality, particularly of drugs or other things medical in nature. When you move it to the Ministry of Interior and Coordination of National Government, it beats logic. That is why it is very critical that at the right time, such amendments should be put in place. I want to support the issue of the Director General. Initially we used to have Director, Medical Supplies. Dr. Nyikal was once Director, Medical Supplies. We are moving to the DG. We support this because it is in line with organisational management. When you look at theories of management in the chain of command, the DG comes in as the overall person on a Human Resource perspective. I support that.

Dr. Nyikal talked so much about India. He said that people should not go to India. Why are people going to India? India has introduced medical tourism. A procedure which will be done in India costs Kshs 500,000 and in Nairobi Hospital it costs about Kshs 3 million. There is no way we can bring such a law in place. People are free to go where services are pocket-friendly. It is high time our medical practitioners went to India to benchmark. Hip-joint replacement and advanced level of technology is a problem in this country. It is a problem when it comes to simple diagnosis. I have seen many patients go for diagnosis when it comes to issues of cancer. They could be diagnosed at level one or two. When you get to India you realise that

you do not even have the cancer. This tells you that we have a big problem in this country. We wonder whether people who operate the equipment in our hospitals have been properly trained. When you miss the diagnosis, obviously, you will miss on treatment. These are the critical issues that should be addressed. It is high time the Government allowed some doctors to go to India to benchmark.

Healthcare issues have been devolved to counties and we now have the Cuban doctors here. The amount of money these Cuban doctors are being paid is not cheap. They are being paid for housing and I am told they are given security. In this country we have our own medical practitioners who have trained on diseases which are prevalent in this area, yet they are not employed. Some of those Cuban doctors will have to learn some of these diseases. Why are our medical doctors not being a priority? I know some medical doctors who have not been employed and yet we are getting doctors from Cuba. We should look at these issues and try to advance and promote our locals. Where will they go? The amount of money the Cuban doctors are being paid is not the same amount of money being paid to the local doctors.

As I move on, I want to comment briefly on the issue of Food and Drug Authority (FDA). I am happy that the amendment proposed will ensure that FDA is in line with international practices.

There is the issue of National Hospital Insurance Fund (NHIF). When we talk of universal health care, you cannot manage it without the issue of NHIF. The NHIF as a parastatal needs to undergo a lot of restructuring. This is where we are talking about the issue of funding the universal health care. Kenyans are highly taxed and the NHIF plays a very critical role. It is, therefore, important that the issues of reforms are critical...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Chris Wamalwa. The Member for Butula Constituency, Hon. Oyula Maero.

**Hon. Joseph Oyula** (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill. I stand to support the amendments under the Health Laws (Amendment) (National Assembly Bill No. 14 of 2018). These amendments are meant to realign the various Acts to be in line with the Constitution. This alignment will help stabilise various units such as the pharmacists, physiotherapists and others.

As we realign these units and bring them in line with the Constitution, there is one area that needs to be looked into by the Ministry of Health. The personnel section of the Ministry of Health is still in turmoil. That is why we have a lot of strikes by medical practitioners; the doctors, nurses and many others. The Ministry of Health needs to come up with amendments to ensure that a commission is established to bring all the medical personnel together, like we have the Teachers Service Commission (TSC). The issue of devolution which has led to the sending of doctors, nurses and others to the counties was done without taking into account how the affected personnel were going to be remunerated. The counties are remunerating the medical personnel at different rates, yet they were trained together. It is my opinion that a commission be set up to bring all medical personnel together the same way we have teachers under a commission. This will reduce the number of strikes in this country.

Kenya is producing a lot of medical personnel. All the medical training colleges all over the country are producing a lot of personnel every year. Yet, when you go to our institutions; dispensaries, health centers and hospitals, there are no personnel, especially at the lowest level. Apart from the nurses, clinical officers and doctors who are not available because of the salaries that are paid by the Government and the various counties; if a commission was established to handle all health matters together, we would not be having all these disparities.

Out of the nurses and clinical officers that the country produces, a lot of them leave the country to look for better remuneration. This is something that we need to control so that we can have a proper health management in this country. You will find that in some sub-counties, like my sub-county, you only have one doctor. We only have one doctor who is specialised in everything because the facilities we have are very poor and doctors want to have proper facilities to do their work well. The Government should look at the facilities that are in various counties. We have a lot of our people going to India because of the poor facilities that are in our health institutions. As we support these amendments, I would want the Departmental Committee on Health to look further into bringing all the personnel of the Ministry of Health together under one roof, like we have the TSC.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Member for Butula Constituency. The Member for Masinga Constituency, Hon. Mbithi Mwalyo.

**Hon. Joseph Mwalyo** (Masinga, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to air my views on the Health Laws (Amendment) Bill. First of all, I would like to thank the Committee that has worked hard to bring these amendments. I believe these amendments are being done to better our healthcare facilities and to run those facilities in a professional manner. In my view, as we pass these amendments, we need to look into very serious issues that are happening in our hospitals, especially in the counties and in the constituencies. This is because all the doctors have concentrated on the Level 5 hospitals, but Level 3 and 4 hospitals have no doctors.

When you go to hospital, the first thing they do is to add you water because there would be nobody to check what you are suffering from. Because that might be the basic training, it is what they start with. I am just amazed that in my constituency there is a Level 3 hospital and not even a single doctor visits that hospital not even once. Were they to do a rotational routine and come to see patients time and again, then the patients would be used to those days that doctors visit. The only person available there is one clinical officer and one nurse. It is very sad at a time like this, when the Government has allocated a lot of money to healthcare, that our mothers and wives go to deliver and then the babies die because of mishandling. Therefore, as the amendments sail through, we should add an amendment that there should be at least one doctor in every Level 3 and Level 4 hospital so that they can deal with the serious cases that patients complain about.

It is also very difficult for somebody to work on an empty stomach. They keep complaining to us that they have not been paid for a month or two. If someone has children, they have already been sent away from school. Imagine a doctor who is unable to educate his or her children. It is very sad. Therefore, as we amend this law, let us do it for the better, not just for the sake of amending it and keeping it in the archives. I would like the Committee, as it concludes this matter, to take matters of health very seriously. The regulations should be able to bring to book some of the doctors who have never been to a training school but they call themselves doctors. You find them injecting people without knowing which proper place to inject, more so in the chemists. Anybody who has gone to a small training would like to open a chemist to start selling drugs. You do not even know which drug to give. You do not even know how to read a doctor's prescription but you keep giving drugs. Some patients are affected by these drugs because they are given without knowing what it is they are being given. Therefore, I would like good regulations that will be able to curtail all these chemists and the technicians that work in them.

The other thing is that we need to either amend or come up with a law that will make every Kenyan to have NHIF card. If it is possible, the Government can even subsidise and the cost lowered from Kshs500 a month to, maybe, Kshs100 or Kshs200. It could help. How many people in the rural areas can afford Kshs500? Even if you pay for a few, what about the rest? Therefore, I would like us to link it to NHIF so that we can regulate it so that everybody can afford healthcare and patients can be treated in those Levels 3 and 4 hospitals with the cards only, because they have no money to even pay for drugs.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Rangwe, Hon. Ochieng' Gogo.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Temporary Deputy Speaker. Your chair is honoured. It is a privilege that I am here today to contribute to these amendments and I rise to support them. When it comes to healthcare systems in this country, I empathise with the position of Kenyans. I empathise with our very own because I recently overheard, though I have not seen one anywhere in Rangwe, that there are doctors from Cuba. But there are so many young people who are fully trained as doctors for five years and very many nurses who are trained for the duration that is required but they have no placement. Doctors are the most poorly paid professionals in this country. As we look at these amendments, it is a shock that healthcare was devolved. But depending on the functions that are done in the counties, there are health facilities that are completely run down. There are healthcare facilities that honestly you would not want to put someone with blood and flesh to stay in. So this matter needs to be taken seriously.

As much as we are looking at the highest echelon of management, it is better that we concentrate on service delivery at the grassroots level. A case where a woman goes to deliver and there is no water, I am expecting you have children, and if you do, you know how much blood comes out. And it comes out from every other woman that delivers. The delivery is done and there is no water.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Are you suspecting that I have children? Yes, I have.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Yes. You are honoured, Hon. Temporary Deputy Speaker. That will make you see where I am coming from. What I am trying to say is that we really need to take our healthcare system seriously, because the Kenyan doctors and paramedics work hard and they take an oath to serve people. Unfortunately, when we were reviewing our Constitution, of course, doctors were busy in hospitals delivering people and trying to take care of people's lives. Where did they go? They were thrown to the counties. What happens? No salaries. A doctor works for this month and the next, *hana mshahara*. Sorry for that. How are they expected to live? We have people who have done medicine and paramedics like nurses who stay awake the whole night to take care of the sick. Who cares about what they earn?

When we look at what the Government gives to take care of certain levels of development funded by the National Government Constituencies Development Fund (NG-CDF), it is restricted to education and security and yet when you go home as a Member of Parliament, people just cry about hospitals, "*Mama tulettee hospitali.*" "Bring us hospitals. We need hospitals." That is what they tell us. You get so helpless. You go to the county governments, not that we do not work together, nobody wants to hear you. People have good titles like Minister for Health but there is no service delivery. This I must indicate here. So, as much as we are

amending these laws, it is important also to thank the health fraternity for what they have done with so little. We need to thank our paramedics. We need to also thank people who have gone out of their way to study medicine even though they do not get employment. Where are we going as a country? Healthcare is one of the Big Four Agenda! Where are we going?

Having said that, there are wellness clinics and we need to come out and sensitise people on lifestyle. A number of us, me included, rarely have time to exercise. We do not go for check-ups. Prevention is better than cure. Literally even at the constituency levels, people do not know that you can just go and have your blood pressure checked. I thank the CS, Madam Kobia, who came up with Huduma Mashinani. Systems were run in constituencies and the old people felt so nice and the longest line was for healthcare needs because they do not access some of these facilities in hospitals and even when they go for medication. At times there is only one doctor who stays there but not throughout and when you go to hospital, you are told there is no doctor.

So, as we are restructuring the echelons at the highest levels, it is very crucial that we provide medicine for the very few who are there to use. It is very crucial that we even provide cleaning facilities. In some of these hospitals what will tell you that you have reached a hospital is the stench. How can we talk of management yet our hospitals are stinking? People are losing hope in hospitals. Children are dying in hospitals. There was a case of power going off – although I do not have conclusive evidence – and children died in nurseries. They were then put in a bag yet we are here talking about high level management and changing management systems. I think we are cheating ourselves as a country. Why can we not have generators that can sustain electrical systems from the main line? If we really want to be Kenyans, we must take care of our sick. Among the people who get so sick are the elderly who have no source of income. They just die because there are no systems in place to only take care of the elderly. We should have a hospital wing that takes care of the elderly. There are medical personnel who are very good at dealing with the elderly.

We have so many cases of people hanging themselves. We do not have psychiatrists in these basic systems yet we have very many trained psychiatrists who can go to these levels and mitigate these problems. So, it is important that next time when we are doing the Budget, as much as we have put a lot of money in Technical and Vocational Educational and Training (TVET) to have our young people trained on mechanical, electrical and plumbing work, we need to put more money on training more nurses and doctors so that we send them where they are supposed to be.

Why not increase the NG-CDF so that a portion is allocated to healthcare? Why not increase the amount so that we improve the very basic systems that exist in our constituencies.

So, with the many remarks I rise to support and I hope that Kenya will be where it should be. Your seat is honoured. Thank you

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for speaking with passion on this Bill. Let us have the Member for Runyenjes.

**Hon. Eric Njiru** (Runyenjes, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to this important Bill. I start by supporting this Health Laws (Amendment) Bill of 2018. I thank the Committee that was handling this matter because the health of our citizens is our wealth and nothing can be equated to the health of the great people of this country. We want to believe that with these laws in place we will streamline the health sector in our nation. I wish to support my fellow Members who support the idea of having every Kenyan citizen getting the NHIF because many Kenyans do not get good healthcare because they cannot afford it. As we invest as a country in housing and education, we must not

leave this sector behind. We must invest in it. It is high time the Ministry of Health and its leadership invested more in our doctors and students interested in studying medicine. This country does not lack people who can be trained in the healthcare sector and so I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other request to this, I call upon the Member for Mumias East who is the Mover to reply.

**Hon. Benjamin Washiali** (Mumias East, JP): I take this opportunity to thank you more sincerely to have been patient with Members to a level where all the Members are...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, I can also see Hon. Kibunguchy. The Bill was debated procedurally to the end and I do not know if you have a request. If the Member replying is philanthropic enough to give you time, he is in order to do so but just carry on and reply.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you. I was saying that you had given opportunity to all Members who wished to speak but now that my good brother, who is a doctor by profession has requested to speak, I will give him four minutes to say something before I conclude.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): That is quite in order and procedural. Hon. Kibunguchy, you are a beneficiary of four minutes from the Mover.

**Hon. (Dr.) Wamalwa Kibunguchy** (Likuyani, FORD-K): Thank you, Hon. Temporary Deputy Speaker. Let me thank my colleague and county man for giving me the four minutes and let me assure him that come 2022 - I garner he wants to be the Governor of Kakamega - he will have my support.

I will pick up from what the gracious lady said as I was walking in. As a medical doctor the biggest mistake that we made in this country was to devolve health to counties. Health is so crucial that it should have been handled in the same way we handle education and security. It should be under the national Government.

I will go on record and say that if we shall ever have a referendum in this country, one of the things we are going to push very hard is to make sure that health reverts back to the national Government. Secondly, we have seen doctors and nurses experiencing things in this country that were not there before, like tribalism and nepotism in the health sector. For example, you can find a qualified doctor not being employed in a certain county just because he is not from there or is from a minority tribe in the county. Thirdly, for the sake of my colleagues in the medical field we need to create a health services commission to take care of the welfare of doctors and nurses in this country. So they can be busy in hospitals doing what they are trained to do and not in the streets talking about *haki yetu*.

Finally, I laud the Government for having come up with the Universal Healthcare System. I want to congratulate the counties which have rolled out some form of universal health care like Makueni. I want to urge other counties and especially my county Kakamega which is the largest rural county in this country that they are late and need to start the NHIF for the people as soon as possible. In terms of training it will be prudent and equitable for the Government to ensure that every constituency has a medical training college to train our nurses.

With those few remarks, I thank my colleague for giving me time to say one or two words.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you Member for Likuyani Constituency. Hon. Washiali Jomo, you have about six minutes remaining.



**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. I am very grateful to Members of Parliament. Despite what Hon. Wamalwa said, when I was moving this Bill, given that Members have come from long recess, I did not imagine that their interest in this Bill would be at this level. However, in excess of about 20 Members of Parliament have contributed on it and all of them have supported it. This gives us a lot of encouragement. Of course, the Chair would not have opposed but I am aware that right from the first Member who contributed on this all the way to the last Member, they have all supported it.

This shows Members were waiting for this Bill and I appreciate them for that. Of course, there are issues which Members have mentioned especially what Hon. Gladwell said about tetracycline and even the aspect of animals transferring medicament given to them to human through milk and meat products. I want to encourage Members who strongly feel there is something which requires to be amended in the Bill to not hesitate but bring those amendments when we get to the Committee of the whole House.

I take note of what Hon. Hulufu talked about, the aspect of CEOs and Principals of KMTCS. I think this is a very important point which we need to capture. As I conclude, despite Standing Order No. 53(2), I want to request you to defer putting of the Question as per Standing Order No.53(3) to the following day. Of course as you can see, the House is not constituted in a manner that will welcome that kind of order to take place.

Hon. Temporary Deputy Speaker, I wish to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your wish to reply and your request to defer putting of the Question is quite in order. Pursuant to the same Standing Order No.53, I order that the putting of the Question be done tomorrow at 2.30 p.m. or thereafter as per the order of business or as will be ordered by the House Business Committee (HBC) this evening. So, we are not in a position to put the Question today.

Next Order!

*(Putting of the Question deferred)*

### *Second Reading*

#### THE URBAN AREAS AND CITIES (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The representative of the Leader of the Majority Party, Hon. Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Temporary Deputy Speaker, for the sake of HANSARD I wish to correct that this is Order No.8 because the Supplementary Paper has not been drawn to make the changes. I made a request which the Speaker allowed that we debate Order No.10 and then go back to Order No.8.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Yes, our next Order is No.8 as per the previous request.

**Hon. Benjamin Washiali** (Mumias East, JP): The justification of going to Order No.10 was that the Report on Urban Areas and Cities (Amendment) Bill had just been tabled. As we speak, many Members have been approaching me and requesting for more time to look at this Report so that they can debate this Bill from point of information as cited by the Departmental Committee on Transport, Public Works and Housing. Therefore, I request we postpone this Order to tomorrow so that Members can contribute effectively.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): That order is stood down for now.

*(Bill deferred)*

Next Order!

*Second Reading*

THE WAREHOUSE RECEIPT SYSTEM BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Again the Leader of the Majority Party in this capacity, Hon. Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker.

Again, like I said earlier, there is a bit of confusion between the Warehouse Receipts System Bill (Senate Bill No.10 of 2017) and another Bill of the same title but originating in the National Assembly. We already have a Report on the Bill originating in the National Assembly but what appears on the Order Paper is the Senate Bill No.10, in respect of which there is no Report. I was just sharing with the Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives. He agreed with me and promised that he will, quickly, get the Committee to sit. Given that we already have a similar Bill, I am sure it will take them a very short time to do a Report, which will then be tabled so that Members can look at it and debate the Warehouse Receipts System Bill (Senate Bill No.10 of 2017) effectively.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Yes, it is true that the current procedure is that the relevant Departmental Committee should have tabled a Report in the House so that we can debate the Bills. So, again as requested by the Mover, I order that the Warehouse Receipts System Bill (Senate Bill No.10 of 2017) is stood down for now.

*(Bill deferred)*

Next Order!

*Second Reading*

THE CAPITAL MARKETS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): This is to be moved by the Chairperson of the Departmental Committee on Finance and National Planning. Is he in the House? He is not. I am sure following the postponement of the other Bills on the Order Paper, the Chairperson was not ready to move debate on this Bill. So, I order that the Capital Markets (Amendment) Bill (National Assembly Bill No.19 of 2018) be stood down for now.

*(Bill deferred)*

Next Order!

*Second Reading*

## THE INSURANCE (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Again, this is by the Chairperson of the Departmental Committee on Finance and National Planning. The Chairperson not being present and, of course, taking note of the other Bills that we stood down, I do order that the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018) be stood down for now.

*(Bill deferred)*

Next Order!

*Second Reading*

## THE COUNTY GOVERNMENTS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to request that Order No.13 is stood down because the Committee has not written a Report yet. We had set standards even in previous debates that we need a Report to be tabled so that Members can discuss or debate this Bill with the opinion of the Committee in mind. Therefore, I wish to request that we stand down this Order No.13, which is the County Governments (Amendment) Bill (Senate Bill No.11 of 2017).

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): As we wait for the Committee to table the Report on the same, we have also said that, that is the procedure of the House. We must have the reports of the Committee tabled for us to debate the Bill. I also encourage the chairpersons of these committees to ensure that we have the tabling of the reports done as soon as possible for us to be able to make progress in terms of debating the Bills. So, I do order that the County Governments (Amendment) Bill (Senate Bill No.11 of 2017) be stood down for now.

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other business in today's Order Paper, and the time being 6.25 p.m., the House stands adjourned until Wednesday, 3<sup>rd</sup> October 2018, at 9.30 a.m.

The House rose at 6.25 p.m.