

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 8<sup>th</sup> September 2020**

The House met at 2.30 p.m.

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

## PRAYERS

**COMMUNICATION FROM THE CHAIR**APPROVAL OF RELEASE OF 50 PER CENT OF THE  
EQUITABLE SHARE OF THE NATIONAL REVENUE

**Hon. Speaker:** Hon. Members, I wish to inform the House that I am in receipt of a letter from the Cabinet Secretary (CS) for the National Treasury and Planning, seeking the approval of the House for the release of 50 per cent of the equitable share of the national revenue that was allocated to the county governments in the Division of Revenue Act 2020 to the 47 county governments.

In the letter, the CS notes that the request was based on a legal opinion from the Attorney-General. The letter advises that a proposal by the National Treasury to release 50 per cent of the equitable share of revenue allocated to county governments in the Division of Revenue Act 2020 may only be done with the express authority of the National Assembly, pending the passage of the annual County Allocation of Revenue Act. The same is a withdrawal of funds from the Consolidated Fund. The advice of the Attorney General is drawn largely from the advisory opinion of the Supreme Court in reference to No.3 of 2019, which guided both Houses of Parliament on the appropriate course of action in the event of an impasse over the passage of a Division of Revenue Bill, as was the case during the last session of the 12<sup>th</sup> Parliament.

Hon. Members, it is notable that the advisory opinion of the Supreme Court was specific to the Division of Revenue Bill 2019, in which case the court allowed the National Assembly to authorise the disbursement of monies to the counties in specific circumstances; one being whenever there is an impasse over the passage of a Division of Revenue Bill. Consequently, as indeed observed by the Attorney-General, the guiding advisory opinion of the Supreme Court in reference to No.3 of 2019 may not be applied to a scenario other than that which was contemplated by the court at the time.

Hon. Members, in view of this and the request by the CS, therefore, the question that arises is: “What decisive steps can the National Assembly take to address the situation, noting that the delay in the passage of the County Allocation of Revenue Bill 2020, due to the stalemate on the third formula on allocation of revenue to counties, is likely to stifle the operations of the county governments?”. In answering this question, one must examine the law, in particular the

Constitution, Public Finance Management Act of 2012, Public Finance Management (National Government Regulations) 2015, and the Supreme Court Advisory Reference No.3 of 2019.

Article 206 (2) of the Constitution requires the express authorisation or withdrawals from the Consolidated Fund, either by the Constitution or by an Act of Parliament. It provides that, “Money may be withdrawn from the Consolidated Fund only:

- (a) In accordance with an appropriation by an Act of Parliament.
- (b) In accordance with Article 222 or 223 of the Constitution.
- (c) As a charge against the Fund as authorised by this Constitution or an act of Parliament”.

Hon. Members, for clarity, on its part, Article 222 of the Constitution authorises the withdrawal of funds from the Consolidated Fund for the operations of the national Government in the event that an Appropriation Bill has not been assented or is not likely to be assented to before the commencement of a financial year. This is the process that is referred to as Vote-on-Account in parliamentary parlance. It is a direct authorisation and does not require the passage of any additional legislation to effect the withdrawal.

Article 222 of the Constitution is the basis for Standing Order No.242 of the National Assembly Standing Orders which outlines the procedure for a vote-on-account. The Constitution, however, does not expressly provide a similar mechanism to intervene for the counties when faced by a similar predicament. The Speaker of the Senate and I have been deliberating on this matter and we have reached a common considered view that replicating the Vote-on-Account procedure for the county governments would, therefore, require appropriate legislative grounding in the Constitution or through an Act of Parliament.

Hon. Members, as you are aware, Parliament passed the Public Finance Management Act of 2012 to operationalise Chapter 12 of the Constitution by providing for the effective management of public finances by the national Government and county governments; the oversight responsibility of Parliament and county assemblies; and the different responsibilities of Government entities and other bodies. Section 17 (4) of the Act embodies the provisions of Article 206 of the Constitution by requiring that where a withdrawal from the Consolidated Fund is authorised under the Constitution or an Act of Parliament for the appropriation of money, the National Treasury must make a requisition for the withdrawal and submit it to the Controller of Budget for approval.

Further, Section 205 (1) of the Act empowers the Cabinet Secretary for the National Treasury to make regulations, not inconsistent with the Act, on any matter that is necessary or convenient to be prescribed under the Act or for the carrying out or giving effect to the Act. In exercise of these powers, the Cabinet Secretary made the Public Finance Management (National Government) Regulations, 2015.

Hon. Members, I am constrained to note that the rest of the provisions of Section 205 of the Public Finance Management Act, 2012 require the express approval of any regulations made under the Act by both Houses before their coming into force. Notably, subsections 4, 5 and 6 of the Section provide;

(4) Regulations under subsection (1) shall not take effect unless approved by a resolution passed by Parliament.

(5) Regulations approved under subsection (4) shall take effect on the day after the date on which both Houses approved them or, if a later date is specified in the regulations, on that later date.

(6) If a House of Parliament does not make a resolution either approving or rejecting any regulations within 15 sitting days after submission to it for approval, the House shall be deemed to have approved those regulations.

From the available records of the House, the *Hansard* of the afternoon sitting of Tuesday 31<sup>st</sup> March, 2015, there are records that the Regulations were tabled before the House by the then Leader of the Majority Party and subsequently committed to the Committee on Delegated Legislation for scrutiny. I directed the Committee to consider the Regulations jointly with the Budget and Appropriations Committee and the then Departmental Committee on Finance and National Planning and make appropriate recommendations to the House. Thereafter, it appears that by attrition of time, the Regulations stood approved by dint of the provisions of Section 205 (6) of the Public Finance and Management Act, 2012.

Hon. Members, Regulation 134 of the said Regulations provides for the transfer of the equitable share of national revenue to the counties before the approval of A County Allocation of Revenue Bill. In particular, it provides,

“if the County Allocation of Revenue Bill submitted to Parliament for a financial year has not been approved by Parliament or is not likely to be approved by Parliament by the beginning of the financial year, the Controller of Budget may authorise the withdrawals of up to 50 per cent of the Consolidated Fund based on the last County Allocation of Revenue Act approved by Parliament for the purposes of meeting expenditure of the county governments of the financial year”.

At face value, it may be argued that this Regulation effectively allows the Controller of Budget to disburse 50 per cent of the equitable share to be allocated to the counties in the previous year’s Division of Revenue Bill pending approval of a County Allocation of Revenue Bill. Conversely, it may also be argued that the Regulations are not the Act of Parliament necessary to authorise withdrawal of funds from the Consolidated Fund as contemplated by Article 206 (2) of the Constitution. In light of the request by the Cabinet Secretary for the National Treasury and the advice given by the Attorney General, the second argument seems to carry more weight. If the Regulations were indeed an adequate mechanism, the Cabinet Secretary and the Attorney General would not need recourse to Parliament and the National Treasury’s request for approval would be with the House today.

Hon. Members, at around the same time as the Regulations were being tabled before the House in 2015 during the 11<sup>th</sup> Parliament, a Bill from the national Government which was prepared by the then Attorney-General at the request of the National Treasury, was introduced in this House by the then Leader of the Majority Party, seeking to insert a new Section 42A into the Public Finance Management Act, 2012. Clause 14 of the then Public Finance Management (Amendment) Bill 2015 (National Assembly Bill No.4 of 2015) effectively sought to authorise the vote-on-account for county governments, in the event that a County Allocation of Revenue Bill is yet to be passed or assented to before the commencement of a financial year. Those proposed amendments clearly affirm the need for the express authorisation of withdrawals from the Consolidated Fund, either by the Constitution itself, or by an Act of Parliament. Though the Bill lapsed with the 11<sup>th</sup> Parliament, it is noteworthy that the Budget and Appropriations Committee had recommended the deletion of the proposal as contained in that particular Bill on account of its obscure nature and its failure to properly provide for the operative basis for the proposed disbursements to counties.

Hon. Members, at this stage, permit me to note that my Office is also in receipt of a Notice of Motion from the Leader of the Minority Party, Hon. John Mbadi, acting as an agent of necessity, seeking a resolution of the House for the disbursement of funds to the county governments

amounting to 50 per cent of the monies allocated to the counties by the County Allocation of Revenue Bill, 2019. The Motion draws on the provisions of Regulation 134 of the Public Finance Management (National Government) Regulations, 2015 and effectively seeks to invoke the vote-on-account process for county governments. The concern which the Leader of the Minority Party seeks to resolve is extremely valid, but as I have noted in this Communication, a vote-on-account in respect of funds of county governments is not tenable at the moment.

Hon. Members, in guiding Parliament on how to cushion county governments while resolving any impasse for the passage of a Division of Revenue Bill, the Supreme Court also urged the Speakers of the two Houses of Parliament to entrench its decision in law by initiating appropriate legislative action. Fortunately, well before the determination of the Supreme Court in the Advisory Opinion Reference No.3 of 2019 was issued, the Budget and Appropriations Committee of the National Assembly introduced the Public Finance (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) to put in place interim measures to allow county governments to access their minimum share of revenue to enable them to offer services to the public, pending enactment of a Division of Revenue Bill. The Bill was considered and passed by the National Assembly on 18<sup>th</sup> September 2019 and forwarded to the Senate for consideration. However, this Bill only sought to deal with a scenario where there is an impasse in the passage of the Division of Revenue Bill. Presently, of the two annual revenue bills, only the County Allocation of Revenue Bill is pending.

Hon. Members, in view of the strict requirements of the law and in order to put in place a credible mechanism to address the concerns of the county governments on the disbursement of funds, pending the passage of the County Allocation of Revenue Bill, both now and in the future; two options now present themselves to the House. On one hand, the Budget and Appropriations Committee may introduce a Bill proposing amendments to the Public Finance Management Act, 2012 to anchor in law the Vote-on-Account option for disbursement of funds to the county governments, in case of future delays in the passage of the County Allocation of Revenue Bill. Alternatively, having already deliberated on and passed an amendment to the Public Finance Management Act to cater for any delay in the passage of the Division of Revenue Bill, the House may opt to await the consideration, amendment and passage of the Public Finance Management (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) by the Senate and expedite its conclusion and presentation for presidential assent.

Hon. Members, noting that the proposed amendments to the Public Finance Management Act, 2012 shall require consideration and passage by the two Houses of Parliament, the second option offers a more convenient avenue of averting a financial crisis at the counties within a shorter timeframe. To this end, I have requested the Leader of the Majority Party and the Leader of the Minority Party to urgently engage the Senate Majority and Minority Leadership with a view of fast-tracking the consideration and passage by the Senate of the Public Finance Management (Amendment) Bill (National Assembly Bill No.63 of 2019), with appropriate amendments providing in law the requisite withdrawals from the Consolidated Fund, in the event of any delays in the passage of the annual County Allocation of Revenue Act. This will ensure that the county governments continue to function whether or not there is a stalemate or delays in the passage of either of the two Annual Revenue Bills, both now and in the future.

Hon. Members, I remain confident that the Senate will rise to the occasion and dispense with the Bill with its usual diligence on matters integral to the protection of devolution. On the part of the National Assembly, the House Business Committee (HBC) and the Budget and Appropriations Committee are already seized of the matter. As the Chairperson of the House

Business Committee, I undertake that the Committee will prioritise the consideration of the Senate's Amendments to the Bill, in accordance with Standing Orders 145 to 148, once the Schedule of the Senate's Amendments is received in this House. In the unlikely event that there is inordinate delay in the consideration and passage of the Bill by the Senate, the Budget and Appropriations Committee further stands directed to urgently cause the publication and introduction of a Bill proposing amendments to the Public Finance Management Act, 2012 to cater for interim disbursements to the county governments, pending the enactment of the County Allocation of Revenue Bill.

Hon. Members, in conclusion, I wish to thank the Leader of the Minority Party for his laudable effort in seeking to address an issue that certainly threatens to cripple the effective functioning of our devolved system of government. Though I note that his Motion, may indeed, be admissible in the event that the Public Finance Management (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) is passed with appropriate amendments and assented to, it is my considered view that the Money-Bill nature of such a Special Motion would call for it to be moved by the Budget and Appropriations Committee. Indeed, this is the current arrangement with regard to the Special Motion for a Vote-on-Account moved under Article 222 of the Constitution and Standing Order No.242.

In summary, Hon. Members, my considered guidance is therefore as follows:

(i) THAT, after consultation, the Speaker of the Senate and I have reached a common considered view that replicating a "Vote-on-Account" procedure to allow disbursement of funds to the county governments pending the passage and assent of the County Allocation of Revenue Bill requires legislative grounding in the Constitution or an Act of Parliament;

(ii) THAT, in the absence of a proper legislative grounding in the Constitution or an Act of Parliament, the intended notice of Motion by the Leader of the Minority Party, the Hon. John Mbadi, noble as it is, is premature at the moment;

(iii) THAT, the Leader of the Majority Party and the Leader of the Minority Party are hereby requested to urgently engage the Senate Majority Leader and the Senate Minority Leader to fast-track the consideration and passage by the Senate of the Public Finance Management (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) with appropriate amendments to entrench the procedure for the withdrawal from the Consolidated Fund in law in the event of any delays in the passage of the annual County Allocation of Revenue Act;

(iv) THAT, the House Business Committee and the Budget and Appropriations Committee shall prioritize the consideration of the Senate's Amendments, if any, to the Public Finance Management (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) over any other business once the Schedule of the Senate's Amendments is conveyed to this House by the Senate; and,

(v) THAT, in the unlikely event that there is inordinate delay in the consideration, amendment and passage of the Public Finance Management (Amendment) Bill, 2019 (National Assembly Bill No.63 of 2019) by the Senate, the Budget and Appropriations Committee shall urgently cause the publication and introduction of a Bill proposing amendments to the Public Finance Management Act, 2012 to cater for interim disbursements to the county governments pending the enactment of the County Allocation of Revenue Bill.

Hon. Members, the House is accordingly guided.

Hon. Mbadi, you may have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Thank you very much, Hon. Speaker. First of all, let me take this opportunity to thank you most sincerely for that one informed and very detailed

ruling. This is a ruling that will stand the test of time. I do not want to talk about the issue in the Senate regarding the new formula because that is political and it seems to have taken a direction that I do not want to dwell on now, especially given that we are trying to look for a solution to this problem.

Hon. Speaker, I want to note that the Leader of Majority Party and I will engage with the Senate. I think the route of engaging the Senate with a view to passing the amendments to the Public Finance Management Act that is before the Senate is the shortest and easier route. We will even agree with them that they should bring an amendment so that they do not pass it without amendment. It will put us in a situation where we need to capture the issue of the County Allocation of Revenue Act (CARA).

Hon. Kimunya and I will make sure that we engage with the two leaders of the Senate, so that in the event that they are not going to succeed in passing the formula today – even if they pass the formula today, this matter may recur five years from today – we agree that they capture the element that we had not foreseen. The amendment Bill that went to the Senate only addressed itself to division of revenue.

Finally, I wanted to make it very clear that, as the Budget and Appropriations Committee, we discussed and talked about my Motion. We agreed to shorten the time because even though I am a Member of the Budget and Appropriation Committee, my bringing a Motion to this House is just like by any other Member. So, in order to be in line with the provisions of Article 114 and Standing Order 114, the Committee, through the Chairman, Hon. Kanini Kega, was to take up any subsequent Motion arising out of it. I wanted to make it clear that we had agreed that I surrender to the Committee any Motion that I had already proposed and it will be dealt with at an appropriate time.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. There is nothing for debate. I just gave Hon. Mbadi the opportunity because he had already moved, as I observed, an agent of necessity to try and save the counties from collapse.

*(An Hon. Member spoke off record)*

It is not yet here. So, we cannot discuss it when it is in the Senate. Let us wait for it to come.

Next Order.

## MESSAGE

### APPROVAL OF NOMINEES TO REGISTRAR AND ASSISTANT REGISTRAR'S OFFICE OF POLITICAL PARTIES

**Hon. Speaker:** Hon. Members, pursuant to provision of Standing Order No.42 (1), of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President seeking the National Assembly's approval of the appointment of Ms. Ann Nderitu as the Registrar of Political Parties, Mr. Ali Abdullahi Suro, Ms. Florence Tabu Biria and Mr. Makore Wilson Muhoji as Assistant Registrars of Political Parties.

Section 34(a) (v) of the Sixth Schedule to the Political Parties Act, 2011 requires that within 14 days following receipt of names of persons forwarded by the Public Service Commission, the President shall nominate one person for appointment to the Office of Registrar of Political Parties

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and three persons for appointment as Assistant Registrars of Political Parties and forward the names of the nominees to the National Assembly for approval.

Further Paragraph 6 of the Sixth Schedule of the Political Parties Act, 2011 provides and I quote: “The National Assembly shall within 21 days of receipt of the names consider the suitability or otherwise of the nominees and approve or reject the nominations.”

Hon. Members, pursuant to the provision of Standing Order No.45, I hereby refer this Message together with the curriculum vitae of the nominees to the Departmental Committee on Justice and Legal Affairs to undertake the necessary approval hearings. The Committee is advised to expeditiously proceed to notify the nominees and the public, commence the approval hearings in good time and table its Report on or before Thursday, 24<sup>th</sup> September 2020 to enable the House to consider the matter within the statutory timelines.

Thank you.

### PETITION

**Hon. Speaker:** The purported Petition has not been received and reviewed. Proceed to the next order.

### PAPERS LAID

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House today Tuesday, 8<sup>th</sup> September 2020:

Legal Notice No.139 relating to tax procedure on Assembled Motor Vehicles and Trailers Amendment Regulations 2020 and the explanatory memorandum.

Legal Notice No.151 relating to Stamp Duty, Valuation of Immovable Property Regulations of 2020 and the explanatory memorandum.

Special Audit, report of the Auditor-General on accounts of the National Land Commission (payments on behalf of other Government entities for the period 2014/2015 and 2016/2017).

The Quarterly Economic and Budgetary Review Report for the Financial Year 2019/2020 period ending on 30<sup>th</sup> June 2020 for the National Treasury and Planning.

Report of the Auditor-General for the National Government for the Financial Year 2017/2018.

Summary of the Report of the Auditor-General for the National Government for the Financial Year 2017/2018

June 2020 Report on investing in Kenya’s people, valuing the benefits of the United States Kenya relationship by the researchers at the College of William and Mary in the United States of America.

A new Report and financial statements of the Kenya Dairy Board for the Financial Year ended 30<sup>th</sup> June 2018.

The Report of the Auditor-General and financial statements of the Kenya Reinsurance Corporation Limited for the year ended 31<sup>st</sup> December 2019 and the certificate therein.

Report of the Auditor-General and financial statements of the Capital Markets Authority for the Financial Year ended 30<sup>th</sup> June 2019 and the certificate therein.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson, Departmental Committee on Lands.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Lands on its consideration of the Lands Registration (Amendment) Bill, (National Assembly Bill No.7, 2020).

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## NOTICE OF MOTION

### ESTABLISHMENT OF DATA BASE CENTRES IN ALL CIVIL REGISTRATION CENTRES

**Hon. (Ms.) Mary Njoroge** (Maragwa, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the Constitution and the Kenya Citizenship and Immigration Act, 2011 provides that every citizen is entitled to any document of registration or identification issued by the State to citizens including a birth certificate; further aware that Article 53(2) of the Constitution of Kenya provides that a child's best interests are of paramount importance in every matter concerning the child; cognisant of the fact of issuance of birth certificate during civil registration association with children is a challenge across the country due to among other issues missing information for the parent and children as a result of missing and improper documentation, damaged manual documents and lack of registration of children born outside hospital environment; deeply concerned over the delays and long queues at civil registration centres and the challenges affecting registration of children by the Ministry of Education using the National Education Management Information System (NEMIS) in the country; this House urges the Government to establish data base centres in all civil registration centres for the purpose of storing all the necessary information required for issuance of birth certificates to all children and put in place administrative mechanisms to ensure that every child is automatically issued with a birth certificate before the child attains the age of three years.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## QUESTIONS BY PRIVATE NOTICE

**Hon. Speaker:** The first Question is by Private Notice. It is by the Member for Alego-Usonga, Hon. Atandi.

### MEASURES TO AID KENYAN WORKERS RETURN TO CHINA

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Hon. Speaker, I rise to ask Question No.20/2020 by Private Notice to the Cabinet Secretary for Foreign Affairs.

- (i) What measures is the Government putting in place to assist the many Kenyan citizens who were living and working in the People's Republic of China and returned to Kenya during the Chinese New Year (Winter and Spring break) and are now unable to travel back to China due to invalidation of all Visas issued before 28<sup>th</sup> March 2020?



- (ii) When will the Government intervene in the matter by diplomatically engaging the Government of the People's Republic of China so as to facilitate the affected Kenyans to travel back to China as soon as possible, considering that some of them are at a risk of losing their jobs, businesses and livelihoods?

Thank you, Hon. Speaker.

**Hon. Speaker:** That question will be replied to before the Departmental Committee on Defence and Foreign Relations. The next Question is by Hon. Dennitah Ghati.

*Question No. 21/2020*

STATUS OF STUDENTS WITH DISABILITIES IN THE COUNTRY

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you, Hon. Speaker. I beg to ask the Cabinet Secretary for Education the following Question.

- (i) Could the Cabinet Secretary outline the mechanisms the Ministry has put in place and the facilities it has availed, if any, to ensure that students with various forms of disabilities are able to effectively and efficiently access online learning during the period of the COVID-19 pandemic when learning institutions are closed?
- (ii) What guidelines and framework have been put in place to guide the eventual re-opening of schools with respect to all public and private institutions providing special education in the Country?

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. The Question will be replied to before the Departmental Committee on Education and Research.

Let us move to ordinary Questions. The first Question is by the Member for Isiolo South, Hon. Abdi Koropu Tepo.

ORDINARY QUESTIONS

*Question No. 155/2020*

INVESTIGATIONS INTO THE DEATH OF THE LATE MS. DIBA  
AND INSECURITY IN ISEMBE NORTH CONSTITUENCY

**Hon. Abdi Tepo** (Isiolo South, KPP): Thank you, Hon. Speaker. I wish to ask Question No. 155/2020 to the CS, Ministry of Interior and Co-ordination of National Government.

Could the CS:

- (i) Provide the status of investigations into the death of the late Ms. Shakalle Hussein Diba, a young mother who was allegedly abducted, raped, stabbed to death, had her eyes gouged out and body burnt and dumped in the neighbouring Isembe North Constituency on 17<sup>th</sup> July 2020?
- (ii) Explain why there is an increase in incidences of insecurity and crime in areas where the National Police Reservists were recently disarmed?
- (iii) State why the number of National Police Reservists in Isiolo South Constituency was scaled down and some reservists disarmed?

- (iv) Consider reinstating, scaling up and arming the National Police Reservists in areas occupied by pastoralist communities to curb insecurity in these areas?

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. The Question will be replied to before the Departmental Committee on Administration and National Security.

The next Question is by the Member for Uriri Constituency, Hon. Mark Nyamita.

*Question No. 158/2020*

MEASURES TO CURB ILLEGAL DUMPING OF HAZARDOUS  
WASTE MATERIALS BY SUKARI INDUSTRIES LIMITED

**Hon. Mark Nyamita** (Uriri, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 158/2020 to the CS, Ministry of Environment and Forestry.

- (i) Could the Cabinet Secretary explain the measures put in place by the National Environment Management Authority (NEMA) to ensure that Sukari Industries Limited, a sugar milling company located at the border of Uriri and Ndhiwa Constituencies, immediately stops the illegal dumping of hazardous waste materials and other environmental pollutants into the nearby river?
- (ii) When will the Ministry respond to and address the various complaints raised regarding the activities of the said milling company including the irregular construction of a concrete wall that has led to perennial flooding in the area during heavy rains and the huge negative impact of company's activities to the health of the residents and ecosystem at large?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

The next Question is by the Member for Tetu, Hon. James Gichuhi.

*Question No. 163/2020*

STATUS OF OUTSTANDING SALARIES AND TERMINAL  
DUES TO WORKERS IN NYAYO TEA ZONES

**Hon. James Gichuhi** (Tetu, JP): Thank you, Hon. Speaker. My question is...

**Hon. Speaker:** Sorry. Before you proceed, Sergeant-at-Arms, direct any Member desiring to come into the Chamber. There are quite a number of empty seats and even if other people may have booked them, it is already past the time we allow. So, any Member that may be desirous of coming in may come and occupy the empty spaces.

Proceed, Hon. Gichuhi.

**Hon. James Gichuhi** (Tetu, JP): Thank you, Hon. Speaker. My Question is addressed to the CS, Ministry of Labour and Social Protection.

When will the persons who worked in Nyayo Tea Zones within Tetu Constituency from 1990 to 1996 be paid their outstanding salaries and terminal dues as recommended by the then Ministry of Labour in 2005 in a Report on the matter and later by the National Assembly in 2011 through a Parliamentary Report?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Labour and Social Welfare.

The next Question is by the Member for Kathiani.

*Question No.168/2020*

REINSTATEMENT OF STEVE NZUKI MUINDE BY THE  
KENYA NATIONAL EXAMINATION COUNCIL (KNEC)

**Hon. Robert Mbui** (Kathiani, WDM – K): Thank you, Hon. Speaker. I rise to ask Question No.168/2020 to the CS, Ministry of Labour and Social Protection.

- (i) What steps is the CS taking to ensure that one Steve Nzuki Muinde of Identity (ID) No.9478799 and Employment P/No.101343 who was irregularly dismissed from service by the Kenya National Examination Council (KNEC) on 30<sup>th</sup> May 2012 is reinstated by the Council since on 14<sup>th</sup> December 2018, the Employment and Labour Relations Court declared his termination as having been irregular and unfair and ordered his reinstatement?
- (ii) Could the Cabinet Secretary consider bringing the matter to its fair and logical conclusion soonest by having the officer's benefits for the period paid to him as well as he be reinstated to work?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Labour and Social Welfare.

The next Question is by the Member for Kuresoi South, Hon. Tonui. He had indicated he might not make it from the village, in which case, since he does not appear to be present and there was indication that he had called the Office, his Question is deferred.

*Question No.167/2020*

RESUMPTION OF CONSTRUCTION OF OLENGURUONE STADIUM

*(Question deferred)*

The next question is by the Member for Ol Jorok, Hon. Michael Muchira. Hon. Muchira wrote to the Office that the Question be deferred.

*Question No.175/2020*

MEASURES TAKEN BY THE MINISTRY TO ADDRESS HUMAN-WILDLIFE CONFLICT

*(Question deferred)*

That should conclude that segment of Order No. 7.

We now move to second segment which is about Statements. Let us have the Member for Tharaka – Nithi County, Hon. Beatrice Nkatha.

## REQUEST FOR STATEMENT

### REQUIREMENT OF TEN YEARS CONTINUOUS SERVICE AS PROBATION PERIOD FOR NEWLY RECRUITED TEACHERS BEFORE APPOINTMENT

**Hon. (Ms.) Beatrice Nyaga** (Tharaka – Nithi CWR, JP): Thank you, Hon. Speaker. Pursuant to Standing Order No. 44(2) (c), I wish to request a Statement from the Chairperson, Departmental Committee on Education and Research regarding a public notice by the TSC requiring ten years of continuous service as a probation period for newly recruited teachers before appointed.

The recently released public notice on recruitment of additional primary and secondary school teachers by the Teachers Service Commission (TSC) on its website and daily newspapers requires that the newly recruited teachers serve continuously for a minimum of 10 years as probation period before being appointed to permanent and pensionable terms of service. The new requirement by the TSC is also contained in the commission's 2020/2021 recruitment guidelines.

Hon. Speaker, if the requirement is enforced, the newly recruited teachers will not qualify for promotions until after September 2030 which is contrary to provisions of Section 42 of the Employment Act. It provides that probation period should not be more than 12 months. In this regard, these teachers will be disadvantaged. The same Employment Act gives the employer powers to terminate the contract of an employee on probation by giving a notice of only seven days. Further, this new requirement by the TSC means that teachers will not qualify for promotions, administrative positions in schools or benefit from career progression.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Education and Research. In the Statement, the Chairperson should address the following:

- (i) What is the rationale and legal basis of the said guidelines?
- (ii) What is the total number of unemployed teachers who have registered with the TSC in counties and constituencies?
- (iii) What criteria is being used by the commission to ensure that transparency, fairness and equity is achieved during the recruitment of the 11,500 prospective teachers in 2020?

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Is the Chairperson of the Departmental Committee on Education and Research in the House? The Request of Statement will be transmitted to the Committee via the Leader of the Majority Party.

There is a Statement to be issued by the Chairperson of the Departmental Committee on Administration and National Security.

## STATEMENT

### STATE OF POLICE REFORMS

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Speaker. I had two Statements to issue, but one is already settled with Hon. Aden Duale. It was on the killing of two residents of Garissa.

**Hon. Paul Koinange** (Kiambaa, JP): The second Statement is on police reforms, requested by Hon. Masara. I wish to state as follows:

The main objectives of the reforms were to ensure transformation of the police organisation into a professional and accountable police service practising a style of policing that is responsive to the needs of local communities for efficiency and effectiveness in service delivery that members of public can trust. The implementation of police reforms is guided by the Constitution, the National Police Service Act of 2011, the National Police Service Commission Act of 2011 and the Independent Policing Oversight Authority Act of 2011, among other relevant Acts of Parliament. Police reforms have been achieved under the institutional, legislative and policy thematic areas.

Under the institutional reforms thematic area, the following key reform institutions have been developed: the establishment of the Independent Policing Oversight Authority (IPOA), an external oversight body to investigate complaints against police by members of the public; the establishment of the Directorate of Internal Affairs Unit (DIAU), an internal oversight to provide an internal mechanism to receive and investigate complaints against police, by the public, and police against police, and; the development of the Internal Affairs Unit (IAU) policy that promotes uniform standards of police discipline and good order in the service and keeping a record of complaints or investigations made.

Under the legislative reforms thematic area, the Government has enacted the National Police Service Act of 2011, the National Police Service Commission Act of 2011 and the Independent Policing Oversight Authority Act, 2011. The implementation of the Acts of Parliament has straightened the National Police Service Commission, the Office of the Inspector General and the Independent Policing Oversight Authority as institutions within the NPS, to deliver their specific mandates.

Hon. Speaker, under the policy thematic areas, the following achievements have been made so far: the service's standing orders have been developed to guide police officers while carrying out their policing duties; the development of the NPS community policing guidelines to address enhanced cooperation between the police and members of the public, and; the development of the discipline's regulations to ensure that police officers adhere to set out standards of discipline.

To address psychosocial and stress related problems among officers, the Government has put in place the following measures: developed a counselling policy which provides the framework of undertaking psychosocial support and counselling services by police officers, and; established the Directorate of Chaplaincy, Counselling and Psychosocial Support to oversee the service. A pilot counselling and rehabilitation centre has been established in Ruaraka, Nairobi and is also to be rolled out of Nairobi.

To transform the previous police force into a police service, the Government has continuously developed and enhanced skills and capacities of its officers through targeted training and capacity building programmes. Further, the Government has put in place the following measures to enhance training and capacity building in the NPS. It has developed a new police training curriculum for basic training and for cadet officers. The curriculum incorporates modules for human rights, community policing and contemporary issues on such areas as terrorism. The programme has also developed the NPS community policing guidelines to ensure a sustainable working relationship between the police and members of the public. The Government has conducted regular and continuous training and re-training of officers on human rights, public order management, crowd control, advanced crime investigation, community policing and cybercrime, among others. They have also developed the National Police Service (NPS) Code of Conduct to ensure that police officers adhere to the prescribed conduct and ethics.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Masara.

**Hon. Peter Masara** (Suna West, Independent): Thank you, Hon. Speaker. I want to appreciate my able Chairman for that response, which has enabled the House to know progress in terms of police reforms. As a person who sought the Statement on three major issues, I want to state that the first one has been ably addressed but the second and third issues need a lot of detail. We had earlier on agreed that I will be furnished with detailed information in the Committee. As you are aware, this House allocates funds to this Government Department. If, indeed, the House needs to help police officers on what I sought – how the National Police Service is addressing socio-related stress – then it needs adequate funding. If you read the response, there is a pilot counselling and rehabilitation centre that has been established in Ruaraka. However, officers in far areas such as Suna West may not access such services in the near future. Parliament should allocate more funds so that the rolling out of such a facility is fast-tracked to ensure that police officers are assisted to discharge their duties properly.

On the third issue of training, since the institution is transforming from being a “police force” to a “police service”, there is need to ensure that officers who were using force are trained to discharge their duties as a service to the public. The response is wanting. However, as a Member of the Committee, I have noted that there is a gap between financing and what is being done. The National Police Service might have done excellent paper work but it is not being well financed. I want to beg this House that in the next financial year, we should allocate this Department enough funds so that police officers get adequate training so that they can discharge services in a friendlier manner to the public as a Police Service and not as a Police Force.

**Hon. Speaker:** As a Member of the Committee, you will be in the lead to seek for those allocations. Let us have Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. I want to thank the Chair for ably responding to that matter. I want to state that, as a country, we focus so much on professionalism, accountability, responsiveness, discipline and hard stuff; that, police officers should have firearms, food, water and everything they need. I want to agree with my colleague that we are leaving out something. When we talk about police reforms, we must focus on the police officers. In this case, I am referring to the mental health of police officers. Are they prepared before they go to war or combat? Are they taken through what they should expect out there? Is there a department that waits for them to come back from war and prepare them before they join their families? This will be relevant to officers who go to serve in war zones for, say, a year. We have seen cases of murder and suicide once such officers come back. This could be because of what they experience out there and the fact that they are not properly prepared to join the community. I want to state that this is an important matter for the Committee. They should not just focus on hard stuff and being tough on police officers, requiring them to be good to Kenyans. The country must realise that police officers are people who need proper counselling before and after combat so that as they come back to the community, they can cope.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I want to join my colleagues in thanking Hon. Koinange for the response. While it might be inadequate in the extent of the issues at hand, it gives an insight of the progress made. At times we stand here to condemn women and men in the police service wholesomely but when you interact with them, you appreciate the other side of the story that the NPS has not had an opportunity to tell the public.

Hon. Speaker, many of those who have been recruited into the NPS are young people who do not have any experience, and they have not been trained in many areas on how to deal with the society. I want to plead with the Committee and the country to continually invest in training and prepare these young men and women in terms of what they will be facing in the society. They should know that they will be dealing with different types of people, and that they will face hardships. Most importantly, they should remember that they are working as a Police Service and not as a Police Force. They should understand how to deal with people. They should understand that there will be people who will be difficult and others who will be compliant.

I urge the NPS and the country to ensure that we invest in training and taking care of police officers' welfare, if we want to realise those reforms.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. I want to state that the response from Hon. Koinange is quite convincing. I want to request the Committee to consider the issue of police officers who become disabled in the line of duty. One of the qualifications for being a police officer is that you must be physically fit. It is a job that requires physical strength. When officers lose physical strength, they get stranded. They require psychosocial counselling. As we counsel other officers, let us remember those officers who get disability in the line of duty.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Speaker. I thank the Chair for that response. Looking back in history, we have seen a lot of changes within our police force. Their training should, however, relate to the society where that police force is being employed. In terms of enforcing the law, the citizenry has seen a force that goes beyond that boundary. While the response might not be adequate, we must appreciate that there has been tremendous progress.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I thank Hon. Koinange for that response. I want to comment on the pilot project for psychosocial support. Having a pilot project in one centre is a big disservice to the NPS. The NPS should have a bigger sample and spread the project across the country. They should have about five centres in different parts of the country. They need to look at police healthcare. One of the big challenges of police healthcare is that, as much as we are giving them insurance, they do not have any hospital where they can go if they are injured or fall sick. If you look at the military, they have a memorial hospital. That is an area that Hon. Koinange and his Committee should look at and see how best they can assist them.

Thank you.

**Hon. Speaker:** Member for Wajir East.

**Hon. Rashid Kassim** (Wajir East, WDM-K): Thank you, Hon. Speaker, for giving me this opportunity. I thank the Chair of the Departmental Committee on Administration and National Security for bringing these reforms. One thing that needs to be acknowledged is that this Government contributed towards having a Police Force and towards the remarkable changes that are taking place in the country since it has been at the helm. There is recruitment of about 10,000 police officers every year. Its impact has narrowed the police-to-citizen ratio from the usual police-to-citizen ratio of 1 to 400. That is a remarkable improvement in police reforms.

On the Commission and what it intends to do in training, I suggest that as far as the reforms are concerned, we have a psychotherapy as part of the training. The men and women in groups that have been trained so far are young. They are from the ages of 24 to 30 years. This is a tender age and they are parents. So, as far as the psychotherapy is concerned, I suggest that it is embedded in the training curriculum, so that young men and women are aware of the predicaments and challenges ahead of them. Failure to understand that, the young men and women will not be able to comprehend what is expected of them in terms of the security challenges they will confront. I had serious issues in my constituency in the last two years when a number of young men aged 24 to 30 years were killed through improvised explosive devices (IEDs). It was been a big challenge. In the last few months we have lost about 33 promising young men. Their families were looking up to them. I suggest as part of the reforms that, if the challenges are understood, we should not to take the young men and women after training to the hot spots. Instead, the mature and experienced men and women should be taken to the hot spots, especially those areas that have challenges of Al-Shabaab and other insecurities. Whatever arises should not only be confined to young men but it should also involve the current police men and women. At times, it becomes difficult to console parents. So, the reforms should be looked at backwardly from parents who toiled for many years taking these young men to school to educate them. We need to look at this critically and take their levels of deployment seriously.

I had a serious conversation with my regional commissioner last week when young men were deployed to North Eastern, particularly in my constituency towards the border. One of them refused and said he cannot confront that because his mindset had not been adequately prepared. So, as these reforms are being considered, they should be holistic so that these young men are adequately prepared for the challenges ahead of them.

Thank you.

**Hon. Speaker:** Member for Mavoko.

**Hon. Patrick Makau** (Mavoko WDM-K): Thank you, Hon. Speaker. I have listened to the Chair of the Departmental Committee on Administration and National Security and I think the information is adequate. However, I agree with Members who have suggested that, like KDF, the police should have a memorial hospital. The Kenya National Police have many training institutions, for example, Kiganjo, Utawala, Magadi and Western. If some of the psychosocial clinics can be established in these colleges, there will be peace. When members of the Police Force fall victims, they can be taken there. It will be cheaper to introduce them because there is existing infrastructure.

Policemen, unlike KDF, are within the populace. Obviously, we have seen some transition from the time the Police Force became Police Service; there is some change. However, I agree with Members that we are not doing it traditionally with most of our police trainees. Before, police men were born and not made. Today, we see young men from well to do families who have been brought up in towns joining the force. When they are exposed to, for example, North Eastern, they break down. That is why we are supposed to introduce some background checks if we want the police to be a service. If you have a child born in Nairobi and another in North Eastern, the one born in North Eastern will be hardy when it comes to police service delivery. So, if we have the ones we call “town boys” and the “ushago boys” we can categorise them. By doing that, it will mean that they will be deployed to areas they are comfortable. Otherwise, the generation we have today will look like they are being punished when they are sent there. The Committee should check on those balances so that we can have a commendable and responsible Police Force with little mental problems.



Thank you.

**Hon. Speaker:** Very well. Next Order!

## PROCEDURAL MOTION

### LIMITATION OF DEBATE

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 97(1) and notwithstanding the resolution of the House of February 18, 2020, the House further orders that, during the Sittings of the House of September 8, 2020 up to and including October 15, 2020, each speech in debate on Bills, Motions (including Special Motions), Sessional Papers and Committee Reports, shall be limited as follows: a maximum of two and half hours with not more than ten (10) minutes for the Mover in moving and five (5) minutes in replying and a maximum of five (5) minutes for any other Member speaking, except for the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Committee who shall be limited to a maximum of ten (10) minutes, and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee, in that order.

This is something we do at the beginning of every sitting after recess to set out how business will be conducted. The timings reflect the limited sittings that we will have and I will be moving a Motion later on to define those new sittings between now and October 15<sup>th</sup>. We do not have much time, therefore the usual luxury of having 10 minutes per Member will not allow as many Members as possible to contribute to debates hence we may end up delaying processing of Bills and other businesses that will be before the House.

The House Business Committee (HBC) met and agreed to limit time including for the leadership – traditionally we have more time – to five minutes, so that at least key issues can be highlighted. Without having to repeat what other Members have said, five minutes is enough to add an extra point that one would want to make on a Bill. Similarly, for us the leaders, we should be able to set the tone in ten minutes. So, this is a fairly straightforward Motion. I urge that we pass it without a lot of fuss so that we can get into our five minutes of contributing to business before us.

I beg to move and ask the Hon. John Mbadi, the Leader of the Minority Party to second.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): I second.

*(Question proposed)*

**Hon. Members:** Put the question!

*(Question put and agreed to)*

**Hon. Speaker:** Next order!

## MOTION

### ALTERATION OF THE CALENDAR OF THE HOUSE

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28(4), and taking cognisance of the continued spread of Covid-19 pandemic in the country, this House resolves to further alter its Calendar for the Fourth Session (Regular Sessions), as amended on 28th July 2020, and therefore orders as follows with respect to the sittings of the House during the period of 9th September to 15th October 2020—

- (a) that the House will hold afternoon sittings on Tuesdays commencing at 2.30 p.m. and morning and afternoon sittings on Thursdays commencing at 10.00 a.m. and at 2.30 p.m., respectively;
- (b) that with effect from Wednesday, 9th September 2020, the sittings of the House of Wednesdays (Morning and Afternoon) stand suspended; and
- (c) that notwithstanding the provisions of Standing Order 40(3), on Thursday mornings, business not sponsored by the Majority Party, the Minority Party or a Committee shall have precedence over all other business, in such order as the House Business Committee shall determine.

Hon. Speaker, Members will remember that during the last sittings, we sat only on Wednesdays, which meant we only had two sittings per week. The House Business committee (HBC) looked at the pending business, specifically Bills and Motions that pertain to private Members, and decided that we need to create one extra sitting. We will henceforth be sitting three times a week, with the Thursday morning sittings specifically dedicated to processing private Members' Bills and other business. So, the variation between what we had last time and what we will have this time is that we will not be sitting on Wednesdays. We will sit on Tuesday afternoons. Members will have some committee business on Tuesday mornings and other committee business on Wednesdays. After Thursday, Members can then travel to their constituencies to attend to other constituency matters. That leaves us with free Wednesdays to prepare the House to conform to the health protocols in terms of any fumigation that will be required so that we are able to protect ourselves from health hazards.

Again, this is a straightforward Motion. We have created one extra session. What we have noted is that there is quite a lot of pending business that relates to Members' private Bills that is with the Committees. I want to take this opportunity to urge the Chairs and members of the Committees to fast-track whatever is pending before the Committees so that we get their reports. Unless we have the Committee reports, it will be very difficult to process the Bills on the Floor of the House. We may be frustrating Members who have put in a lot of effort in coming up with Bills. Some of those Bills have a national importance, but they are stuck in the Committees. If we could fast-track all of them and bring reports, we will use Thursday mornings to process them. And if need be, we will be able to create time either on Tuesday or Thursday afternoons to transact as many of those Bills as possible, so that whatever efforts Members have put at least can also contribute to the national good. All those Bills are meant to help in enhancement of national legislation. Members, we are asking you to support this Motion. There is an extra sitting but dedicated to you so that we are able to clear what is in the pipeline.

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I beg to move and, once again, ask the Leader of the Minority Party to second.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. In addition to what the Leader of the Majority Party has said, our Standing Orders provide that we should be sitting every Tuesday afternoon from 2.30 p.m., Wednesdays from 10.00 a.m. and 2.30 p.m. and Thursdays from 2.30 p.m. But with the Covid-19 pandemic, we moved to a situation where we were sitting only on Wednesdays, both morning and afternoon. What the HBC has agreed on is that in the next five weeks, from now to 15th October, we will have three sittings in a week: Tuesday at 2.30 p.m. and Thursday morning and afternoon. That is one additional sitting per week, as the Leader of the Majority Party has said.

We also realised that we were not being very fair to private Members business. Always, Wednesday mornings were meant for private Members' Bills. With this change, Thursday mornings will be reserved for private Members' Bills. And they are very many. I sit on the Budget and Appropriations Committee. If you look at only the money Bills coming from individual Members of Parliament, it is so impressive. And we need to encourage Members. We may also need to look for ways of expediting the Bills because Thursday mornings are not sufficient to deal with all the Bills that have been proposed by individual Members.

I want to ask the House to agree with us on this Motion. Of course, after 15th October, we will re-evaluate, taking into account the advice from the Ministry of Health and the flattening of the curve. Chances are that we may get back to normal, God willing. It requires our total commitment as a nation to be able to realise that.

I thank you, Hon. Speaker. I second.

*(Question proposed)*

**Hon. Speaker:** Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. Even as I rise to support the Procedural Motion, I wanted to raise something on a point of order in relation to Standing Order 141(2) that states as follows:

"A Bill that has been published, read a First Time or in respect of which the Second Reading has not been concluded-

(b) at the end of two consecutive Sessions of the same Parliament shall lapse at the end of the second Session and may be republished in the same or different form in accordance with Standing Order 114 (Introduction of Bills) in relation to money Bills".

Hon. Speaker, you have heard what the Leader of the Majority Party has said. The same has been mentioned by the Leader of the Minority Party in seconding this Motion. It is that there are very many Private Members' Bills that are either in committees or have been published. I can ascertain that as the immediate former Chairman of the Budget and Appropriations Committee (BAC). I wish to thank the House Business Committee because it has made effort to expedite many of the Private Members' Bills. However, Hon. Speaker, you will appreciate that, as Hon. John Mbadi has said, we have about five to six weeks to 15<sup>th</sup> October. To actually be precise, including today, we have exactly 18 Sittings in this first half of this Session. If we are to follow our Calendar and go for the short recess in mid-October, we will consequently have another 18 Sittings. Therefore, with only Thursday mornings Members sitting to consider Private Members' Bills, it means on average not more than six Bills will see the light of day in this Session. Therefore, at the

end of this Session, many of those Bills will lapse and so, I wanted to request whether it would be in order for the House Business Committee to reconsider either to have sittings on Tuesday mornings for Private Members' Bills to allow at least maybe another five Bills to see the light of day before the end of this Session.

An alternative, Hon. Speaker, is for the House Business Committee to create a provision where we can move a Motion that no Bill that was published and has gone through the First and Second Reading in this Session because of the COVID-19 pandemic will lapse at the end of the year. In addition, we all understand that COVID-19 has disrupted lives including our legislative Calendar.

Second, on a different matter but still on a point of order, I rise in relation to Standing Order 22 and Article 132 of the Constitution in regard to the President's Address on Special Sittings.

Standing Order 22(1) states as follows:

"The President shall address a Special Sitting of Parliament once every year and may address Parliament at any other time".

Hon. Speaker, you will appreciate that Article 132 of the Constitution that stipulates the functions of the President also obligates His Excellency the President - and the Constitution is explicit - to address a joint sitting of Parliament at least once every year. More so, it obligates the President to address the nation on matters that touch on implementation of the national values. Among those national values, one that is very dear to me is the issue that is in Article 10, I think (d), on sustainable development. Again, I appreciate that COVID-19 has in a big way not just been a whole pandemic, but has now metamorphosed into a humanitarian crisis of unmeasured proportions and an economic crisis that threatens sustainable economic development. I would therefore be very eager to listen and hear what my beloved President, President Uhuru Kenyatta, has, in terms of realigning his agenda and his national priorities for this nation in terms of ensuring that our sustainable development and the economic recovery of our economy is guaranteed.

Therefore, we appreciate that the President may not have been able to come and address this House between March and now. He has been very good since 2013 and has, at least, in the First Session every year, come to address the House. We also appreciate the challenges that have been there. However, we must also be emphatic to say that there should be no excuse for those working for His Excellency the President not to arrange alternative ways through which the President can address the nation on the state of the nation especially in the realisation of our national values. Moreover, for me specifically, the question of economic recovery. As I said, I am very keen to hear how the President will realign our national priorities to refocusing on sustainable economic development that has been threatened by this pandemic.

It would be a matter of interest to the nation and to us as leaders to hear how we shall realign our priorities to ensure that our economy recovers. I just read a few weeks ago from the Kenya National Bureau of Statistics that an estimated 1.6 million Kenyans that were in informal employment have lost their jobs. Millions more have lost jobs in the small and medium-sized businesses (SMEs) sector and other businesses that have collapsed because of this pandemic. Therefore, it will be imperative that the President addresses the nation on the state of the nation and our plans moving forward with this new normal.

In addition, with this new normal, I am sure it is possible. We have attended Parliamentary Group Meetings at the Kenyatta International Convention Center (KICC) to the tune of almost 300 members of the Jubilee Coalition. Therefore, it is possible for us to have a mega tent at the parliamentary gardens or at the KICC or even at the auditorium at the KICC, of course, with your permission, Hon. Speaker. You can gazette a sitting outside the precincts of Parliament or even at

the Bomas of Kenya or at Kasarani and have the President address the nation on the state of our nation. I, therefore, want to request you, Hon. Speaker... You are a man of wisdom. I know in your own wise ways, you can cause the appearance of His Excellency the President of the Republic of Kenya before a joint sitting of the two Houses to address the nation on the state of our nation. I think at this particular time, it is important that we realign our priorities, our thinking and all our actions to ensure that the livelihoods of the Kenyan people are protected.

Moreover, one of the ways is for our leader, the President, to come and address us and tell us how he intends to move the country forward. Even as we support him through legislative action, even as the House Business Committee sits to prioritise business, if you were to ask me, business that relates to sustainable development and recovery of our economy would take priority and precedence over any other business in this Session.

With that, Hon. Speaker, I beg for your guidance.

**Hon. Speaker:** Well, I will give you a chance. No problem. I just wanted to respond to this because with regard to the first issue about the possibility of a morning sitting on Tuesdays, the House Business Committee did deliberate, but was constrained by the fact that many committees also schedule meetings on Tuesday mornings. The fact that we were now going to affect them by the Thursday morning sittings, it was going to cause a little bit of disruptions. However, I believe after consultation with various committees, if it is possible, the House Business Committee may consider if there is sufficient persuasion. If many committees agree to that kind of situation, it can be addressed. However, there is need for us to allow for a one day break particularly on Wednesdays. It was not possible to do a Tuesday and a Wednesday because of the health protocols. That is why we opted for Thursdays.

Let the leadership consult and we will see whether it is possible if the House resolves. However, with regard to the other issue about Article 132, not just Standing Order 22, consultations are at very advanced stage to have that happen. It is a matter that we have been discussing since the COVID-19 pandemic outbreak. We have been trying to see how best that can happen. There is consultation between the leadership of both Houses to see when that is going to happen. However, it is on the cards and shall happen soon. We do not need to go beyond that.

Let us have the Member for Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker for giving me the opportunity. I wish all the Members a happy Session as we get back.

Hon. Speaker, I agree with Hon. Ichung'wah, my former Chairman of the Budget and Appropriations Committee where he performed very well. I am now seeing that he is planning to perform as opposition very well. Having said that, in relation to the Private Members' Bills, I agree with him on the issues he has raised that the composition of this Parliament is very unique and different from the previous Parliament. I have said it before and will repeat now that this is my third term here. This Parliament has a younger population, mostly well-educated and even the ones who are not very educated are sharp. Therefore, we have a much higher number of Private Members' Bills and they are doing very well. I sit in the BAC and this morning alone we were considering almost eight Bills. It is just that some Members did not show up, but we dealt with all the Bills for those who turned up.

Hon. Speaker, it will be very frustrating for Members to put in so much energy and then it comes to naught. In this Parliament, I have not brought any Bill. I have just carried Bills that lapsed in the last Parliament. It would be very unfortunate if we keep going round in circles. One of the bottlenecks that I have noticed is at the committee level.

I can give an example, I have a Child Justice Bill that has been in the Departmental Committee on Justice and Legal Affairs. I have the Assisted Reproduction Technology Bill, on which I have appeared before the Health Committee. They have assured me that they are considering it, but it has stayed pretty long in that committee. That Bill came twice for Second Reading and was stepped down because the Committee was not ready. If the Bill process is going ahead of the committee, I think it will be fair if you let the Bill proceed so that the committee report can follow. This is so that we do not get frustrated at the committee level when we have worked so hard. The committee can put their views like every other Member if they are not ready with their reports. Having said that, I have a special request for the HBC to consider my two Bills, especially the Assisted Reproduction that is ready and has been stepped down twice when I am ready to proceed. Could they prioritise it because it is frustrating? The same thing happened in the last Parliament.

Having said that, I want to comment on the second point of order as raised by Hon. Ichung'wah. He has indicated, rightfully so, that the President has not come because of COVID-19. He is implying that because we are flattening the curve, maybe we could make special arrangements for the President to come and address both Houses.

Hon. Speaker, maybe what the Ministry of Health is not telling us is that we are probably flattening the curve because testing has not increased as before and we are also not tracing anymore. I know people that have died this week and so I am seeing more people dying as we are flattening the curve. It does not necessarily mean that less people are dying and we must be very careful. Let us not give the country an impression that all is well. We are not the ones that created COVID-19, but it is a challenge that we must live with.

There might be issues that have been raised about corruption, but that does not make COVID-19 go away. We must still ensure that we protect the vulnerable. As we were considering the suggestions for the two Houses, consider also that the President can address this House virtually which is also something that we can amend. So that we do not get the people who have found new ways of abusing the President while using me as an example that because Hon. Milly abused the President, so it is fair for them to do likewise.

I want to teach them that in the Opposition by the time I was going that direction, we were dealing with serious issues and not being pinched. So, I want them to be brave, if you are pinched, you do not start abusing the President and the mother. I will deal with you if I see you abusing the President and using my name as an excuse. I am here now to defend the President. I will defend him and deal with you. Stop abusing the President and his mother using me as an excuse. I will deal with them. I will move from abusing the President to abusing you.

I thank you, Hon. Speaker.

**Hon. Speaker:** Let us just deal with the matters that are within our authority, so that I do not have to deal with those others, which may be...

*(Laughter)*

Let us not deal with that. Let us hear the Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker for this opportunity. First and foremost I agree that Private Members' Bills have been frustrated. I listened to the Leader of the Majority Party and I agree with whatever he has mentioned. Let us concentrate on committee work Tuesday mornings because Members travel. Unlike Members from Nairobi

and its environs such as Kiambu, some of us come from very far. So, I agree with the HBC proposal. People travel on Mondays.

Some of us admiring to go for higher offices are required to be away. We take time to travel. Indeed, what the HBC has proposed must have had some soul searching and we support committee meetings on Tuesday mornings. In the afternoon, let us have the House sitting. On Wednesdays, let us leave it out for purposes of health protocols and also for particular committees which may find it fit to sit. The BAC is very busy when it comes to the processing of Bills. So, we leave that out and go to Thursdays where Private Members' Bills can be prioritised in the morning. Those of us who have been praying on Wednesdays, because it helps in creating quorum, we will be forced to move our prayers from Wednesdays to Thursdays. We request that the Chapel be fumigated for purposes of the protocols. We have prayers in the Chapel and at the Continental Building.

We need prayers at such a time and that is why the curve is flattening. Hon. Milly mentioned something very important and I have seen it in the media, which is claims that the curve is not flattening. When it comes to sampling, irrespective of the sample size or contact tracing, the critical matter here is positivity. Whether it is a small sample size or big, positivity is constant. I am happy to note that positivity has gone down. In line with the World Health Organisation (WHO) recommendations which talk of less than five per cent, I think, we are almost there as a country in the last two weeks.

Hon. Speaker, my humble request as we move forward is that Bills should be prioritised particularly, the Elections Act. Last time, Bills relating to elections came in very late. We have heard people talking about a referendum. Let us prioritise the referendum Bills so that we are not cornered. We should not rush.

I can remember the Kreigler Report which talked about 24 months. Right now, we have less than 24 months to elections. As we move forward, the HBC should prioritise Bills which concern issues of elections and referendum. So, if the referendum will be there, let us have a Bill which will provide a clear framework as we move forward.

As I conclude, when it comes to processing Bills, I know we have pre-publication scrutiny. For many Bills, we are told by a committee that they died and we are not informed. We need a clear mandate which committees should understand when it comes to pre-publication scrutiny. You find somebody saying that they will kill your Bill at this level and you ask why they want to kill it without a reason.

Some committee Members are frustrating serious Members who are coming up with Bills. So, it is important for clarity to be there, especially now that we have many new chairs of departmental committees. I know they have undergone orientation so as to understand their mandate as far as processing of Bills is concerned. Coming to my case, I brought the Basic Education (Amendment) Bill and a Public Participation Bill and I do not know where they are.

It will be important for the HBC to publish and tell us at what level our Bills are so that when it comes to pre-publication, the respective Members are informed on what they had proposed. Some people have forgotten about their Bills because they were detailed. So, they need to be informed. Otherwise, I support what the HBC is doing. Hon. Speaker, we are here to support the good work you are doing.

Thank you.

**Hon. Speaker:** Well, Hon. Members, the proposal by the HBC is that every Bill and Motion does not go beyond two-and-a-half hours. But in appropriate cases, the House can always look at a proposed amendment. Sometimes, it may be a technical thing that does not require a lot

of time being spent. I appreciate that Members need, sometimes, *bonga* points, even if they are just giving thanks. This is because it is fashionable to be heard.

These limitations contained herein do not, in any way, mean that the House cannot make appropriate adjustments. The Mover can be called upon to reply when in the opinion of everybody there has been sufficient debate on any particular Bill, Motion or report. But, of course, this does not mean that you cannot move an amendment to say that you sit until conclusion of business appearing on the Order Paper. The House does not necessarily have to adjourn at 7.00 p.m. in appropriate cases.

This is what the HBC has really addressed itself to. On the issue of the many Private Members' Bills which are pending at various stages, some before committees, I have said time and again that at the committee level, do not give instructions out there. I have seen some report today purporting that instructions were given by some committee. Bring a report here and it is the House that can give instructions. Not you sitting there and saying you will kill a Member's Bill. This already begins to create a lot of unnecessary tension.

Maybe, it is just one Member who is saying "we are going to kill". Maybe this could explain why some Members do not appear before committee to make a decision if they have already been told while having tea out there that their Bill will be killed. Please, do not commit murder of Bills out there. Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I support the amendments to the alteration of the Calendar. There is a feeling outside there that Members are not doing enough to support the ordinary *mwananchi* during these hard times of the pandemic. Many are concerned about the few hours we are sitting and the so many issues that are not addressing the economic situation. This brings a more or less feeling that Parliament has heightened the fear. They fear to die of Coronavirus more than the ordinary *mwananchi* and that is why we do not seem to be doing much.

Yes, we passed several amendments to the tax laws to lower the taxes and the rest, but the impact according to the common *mwananchi* has not yet being felt. The truth be told, people are suffering outside there because of the Coronavirus pandemic. This calls upon Parliament to show leadership and ensure that we address the emerging issues. This is a matter of perception we must address.

There are very many pending Bills in committees. Many reports from committees point to a situation of either lack of adequate capacity at the secretariat level or lack of commitment from Members. Or, as we were told when we came here in 2017, that by 2020, many of us will have ran back to our constituents because opponents are breathing on our backs and we do not have enough time.

A way must be found to facilitate committees with adequate time to move the so many pending Bills and activities. For example, I sit in the Committee on Delegated Legislation and as we stand today, we have about 33 subsidiary legislations that require to be approved. Today, I have heard quite a number read and probably the number will swell to around 40.

Virtual meetings will not take us anywhere. Meeting once a week for one or two hours will not take us anywhere. Yes, the blame will lie on the Committee on Delegated Legislation, but overly, it is Parliament that will have been seen to let Kenyans down. Yet Kenyans are risking their lives with the Coronavirus pandemic to undertake their daily chores to feed themselves and see how to survive. They wonder why Parliament has taken this pandemic with fear yet, it is a shared responsibility which all of us must take part of the risk.



Hon. Speaker, I want to urge you and the House leadership to rethink through the programme of Parliament, so that we can expedite and move quite a number of these issues, so that Kenyans can see that we stand with them in these hard times.

Thank you, Hon. Speaker.

**Hon. Speaker:** Kenyans have always said that the number of times we sit normally are not enough. So, it is not just during this time. But I also think there is an adage that ‘it is better to be sure than to be sorry’. So, we have already considered a situation where we will consult with the Ministry of Health to see if they can reconfigure the sitting arrangement here in the Chamber. But of course, it is important that we take caution. Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. In fact, you have just taken words out of my mouth. I was thinking that one of the things we need to look at is our sitting arrangement. If you look at the way people sit in *matatus* and aeroplanes, and compare with the way we are seated now, we also need to review our sitting arrangement. One bench has four seats. If it is possible, one person can sit on one end and another person on the other. That way, we might be able to have more people accommodated even in the Chamber. I think that is something which needs to be looked into keenly.

When it comes to the length of debate, we are looking at reducing the amount of time Members take to speak. Each Member has five minutes while the Leader of the Majority Party and the Leader of the Minority Party have 10 minutes. We have not actually rethought about the time span of two-and-a-half hours, so that we can be able to accommodate Bills. That is something the House Business Committee should also look at.

Hon. Speaker, there is a committee to which you and I belong - the Procedure and House Rules Committee - which has not even sat since we were put into that Committee in the last Session. I think that is also something that needs to be looked at.

There is also the issue that Hon. Millie and Hon. Ichung’wah have raised about Private Members’ Bills. I have a Bill which has been with the Departmental Committee on Health for close to two years on the Kenya Food and Drugs Authority, which looks at how drugs in the market are regulated in terms of pharmaco-vigilance and many other things. It also looks at how we have fake drugs in the market. Nobody seems to be prioritising the Bill. Considering that health is a very critical issue, the Committee should have looked at that Bill as a matter of priority. So, the House Business Committee should look at some of those Bills. It is high time the Procedure and House Rules Committee set a timeline within which committees should process Private Members’ Bills and other Bills, just like the way we process petitions from the public or Members. We give them 75 days. We should have a time limit within which committees should deal with Private Members’ Bills and other matters that this House is required to consider.

Thank you, Hon. Speaker.

**Hon. Speaker:** I want to give the Floor to Hon. Otiende Amollo, but even as I do so, there is something that is coming out clearly. I have observed it. I think many committees enjoy when they have human beings whom they can open their eyes wide and tell: “We are going to summon or impeach you”. I think those are the only sessions that many committees seem to enjoy. When a committee is called upon to consider a legislative proposal from a Member, Members think that there is nobody to shout at. I have looked at those records. You find that the attendance at those kinds of sessions is usually very low. I think that is something which chairs of committees must address. After that, please, report your findings to the Liaison Committee. I do not see why so many Private Members’ Bills are lying before committees. The only reason is that if you call your colleagues to come and explain what motivated them to come up with the Bills, you may not shout

at them. Even if you shout at them, they will not be intimidated about anything because what they have done is to just make proposals and you may not shout at people merely because they have made proposals to make law. Please, even as you interrogate or inquire into those things... I was watching these committees where other functionaries and State officers appear and those are the ones which appear to be very exciting and have huge attendance. Please, remember that even you could be having a proposal before another committee. So, please, even as you continue to intimidate those who you may want to intimidate, consider the Bills that have come from your colleagues. It is important. That is part of the reason there is so much delay.

Let us have Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I support this particular Motion because we are seriously pressed for time. It is important to add this. As we balance safety and convenience, we must also balance it with the duty to which we were elected. The only way to do that is to make sacrifices here and there while observing the health protocols. Sitting on Tuesday, skipping Wednesday and then sitting on Thursday, at least, allows a day for fumigation and observance of the health protocols.

I also agree that there are a lot of pending Members' Bills and Motions that we need to consider. So, reserving that for Thursday morning is actually quite apt. Speaking about the COVID-19 trends, it does appear to me that while ordinarily we should aspire for the curve to be flattening, ours appears to be falling. I think our falling curve in ordinary parlance is supposed to be a good thing. While many might question whether that is legitimate or not, I think the ultimate test of whether it is legitimate or not is a rise in COVID-19 deaths. We are not seeing a sharp rise in COVID-19 deaths, which to me suggests that we are on the right trajectory. We must have taken measures that have enabled us to kind of contain it. While we should continue to take those measures, we should also be worried that we were taking those measures so that we can continue with life. Therefore, we must balance it out.

Secondly, if that is not so, then we may have started to go where we are usually told about - something called 'herd immunity'. The situation of COVID-19 in Africa, Kenya included, baffles even scientists. So, as the scientists struggle to get the answers, for us, let us take the safety of continuity with those measures, but continuity with life. So, I seriously support this. I sympathise with the sentiments expressed by the Member for Kikuyu in terms of the address by His Excellency the President. There are only two things to note, that while he was imploring you, Hon. Speaker, to cause that address, I note the words in the Standing Orders. Standing Order No.22(3) says "whenever the Speaker has been informed". So, it is you to be informed. It does not say who. So, I believe that as long as you wait to be informed through the appropriate mechanisms, it is okay. It will not be a default by the Speaker. More importantly, the question of default under Article 132 and Standing Orders 21 to 24 only comes in if at the end of the year that address has not happened. This is because you have the entire year.

To close, I support the idea of now starting to reconsider even our sitting arrangement, in view of the current trend in the COVID-19 figures. Indeed, in Parliament, we were extra cautious. In fact, instead of 1.5 metres, my estimation is we are, at least, two metres apart throughout. It might even be more than two metres. Maybe, we now need to consider reducing the distance because as it is, a Member is taking space that is ordinarily for almost 10 Members. We need to reconsider this sitting arrangement. As we do so, let us also ask ourselves, and I have always wondered, why we did not consider the Speaker's Gallery and the Public Gallery to be part of this arrangement. Actually, I have sat out there. When you sit in the cold out there and it is raining,

you do not feel like you are part of the National Assembly. Perhaps if we were up there or in here with reduced distances, we could still contain this issue.

Lastly is on the observations by Hon. (Dr.) Wamalwa, which I think are quite apt. It is true there are certain issues we need to confront seriously and soon.

Hon. Speaker, you have spoken to that. It is true we need to look at certain Bills and Motions. First, we need to look at Bills and Motions that relate to the constitution of the electoral body. Secondly, we need to look at Bills and Motions that relate to facilitative legislation, whether it is legislation towards appointment, legislation towards revocation, legislation towards reconstitution or whether it is legislation for referendum. Thirdly, we, of course, need to be alive to the fact that the timelines that we have must relate to what we intend to do. We in the Building Bridges Initiative (BBI) process must be conscious and fast-track what needs to be fast-tracked and brought before this House or out there. I can assure the House that on behalf of the Justice and Legal Affairs Committee, we are consciously aware of these constraints and we discuss them every single day. Indeed, we have already had a series of meetings and we continue to have them. The only imploration I will have to you and the House authorities is to allow a little more leeway for committees like the Justice and Legal Affairs Committee even to retreat, not a continuous retreat... We have recently had a retreat of leaders; a retreat within the precincts of the city, to allow this as a matter of necessity not of comfort for the Members.

Otherwise, I can assure the House that we are consciously aware of this and we are working round the clock.

*(Question put and agreed to)*

**Hon. Speaker:** It, therefore, means that starting Thursday this week, there will be sittings starting at 10.00am.

Next Order.

## BILL

### THE HEALTH (AMENDMENT) BILL

*(Hon. Swarup Mishra on 12.8.2020)*

*(Resumption of Debate interrupted on 12.8.202)*

**Hon. Speaker:** Hon. Members, there is a balance of one hour 56 minutes on this Motion and the following Members have contributed; Hon. Swarup Mishra was the Mover, Hon. Caleb Hamisi, seconded, Hon. Chris Wamalwa, Hon. Sheikh Mohamed Mahmud, Hon. Robert Mbui, Hon. Millie Mabona, Hon. Dr. Makali Mulu and Hon. Dr. James Nyikal. Those were the Members who had contributed at the time business was adjourned.

Going by the order on the screen, the first person is Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I rise to support this amendment Bill. I have looked at the content of the Health Act 2017 especially Section 79 and I realised that this amendment tallies and falls on or not falls within.

First of all, this amendment deals with what is called medical referrals or medical tourism. I noticed that Kenya is what I would call a net exporter and a net importer. A net exporter to the

extent that, at least, 10,000 Kenyans seek medical referral outside annually, about 96 per cent of whom seek it in India at a cost of about Kshs1.5 billion. From my research, this covers cancer, surgery and cardiovascular diseases. But Kenya is a net importer in the sense that a lot of people who are unwell within the East and Central Africa region find it convenient to come to Kenya for referral for medical treatment. It appears to me that we must do two things. First, we must make sure we improve on qualities internally so much so that we can increase the number of those who seek referral within Kenya at affordable prices as a net importer. Secondly, we must ensure that unwarranted references abroad are things to be avoided, especially references to institutions that are not competent and overcharge. On that account, I think this amendment is apt. This amendment enables us to scrutinise the institutions which doctors are referring people to and how we can cross-check them.

We live in country, and this is a fact because I have been told by three doctors, where referral abroad has become a business even when it is not necessary. There are doctors who have established links with certain institutions and they routinely refer patients there at a commission. That is unethical! Once they do that, they have no responsibility in terms of what happens thereafter. So, some people who are referred need not be referred, others are not properly treated, and some are referred and charged exorbitant prices with no one to regulate them. To the extent that you find it necessary to even regulate academic institutions abroad and say only when you go to these institutions will you be recognized. We should have a situation where, through the Cabinet Secretary, we have guidelines and have the person referring to have what we call in law, a residual duty, as a referee. You as the person referring this other person, is it an institution that can treat? Is it necessary? Is it reasonable? So that when it becomes outrageous, you can be held residually responsible.

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

*(The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair)*

I believe it is quite hard to adopt this amendment because it is not out there in the air, it gives the responsibility to a Cabinet Secretary, but it says the Cabinet Secretary will also consult with the Kenya Medical Practitioners and Dentists Board (KMPDB) and the National Hospital Insurance Fund (NHIF) and it has been shown that in most of the referrals, a lot of the expenses are paid by the NHIF to the extent of 88 per cent. So, this consultation, with the board and the NHIF becomes quite important.

Hon. Temporary Deputy Speaker, I support. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Can we have the Leader of the Majority Party, Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I rise also to support this Bill by Hon. Mishra and thank him for bringing this timely Bill. As Hon. Otiende Amollo has said, Kenya has reached a point where we should not be talking of referring anyone outside the country because we do not have capacity. We should have generated that capacity long time ago. We should be talking of excess capacity and ask people around the world to come and partake of those services especially looking at the emphasis we put on health, first of all, within our Constitution where Article 43(a) entitles every person to the highest attainable standard of health. That is then operationalised within Section 7 of the Health Act of 2017, which further

reinstates that every person has the right to emergency treatment, which includes among other things, arranging for referral especially within the country, where the first provider does not...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Leader of the Majority Party. Serjeant-at-Arms, there are some Members at the entrance of the Chamber. I cannot hear exactly what the Leader of the Majority Party is saying. Can the Members be asked to consult in low tones, so that we can hear what Hon. Amos Kimunya is saying?

Proceed, Hon. Amos Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I am sorry you missed what I said, but in the interest of time, it is in the *Hansard*. I will not repeat.

I was just emphasising that if within our laws we have recognised the need for high quality care, we should go one step further and provide that in this country, so that Kenya can become a net exporter of medical services rather than an importer. We are actually importing services from other countries by sending patients there.

Within our Vision 2030, when we identified the three pillars that are required, namely, Economic, Social and Governance pillars, health was given prominence. The national Government was to make strategic investments in health service provision to improve the quality of life of its population. Further commitments have also been captured within the Kenya Health Policy 2014 to 2030, which aims to achieve Universal Health Coverage (UHC) by scaling up the priority health services to the population in need.

Hon. Temporary Deputy Speaker, we know health is devolved courtesy of the 2010 Constitution and there have been changes. We must acknowledge that health as we knew it is not exactly the same bearing in mind the current challenges that it is facing in the counties. I am very worried with the ongoing talks by unions that they will be calling their members to strike because the Senate has failed to give counties money. I am not happy with what is happening there today because they seem to be going around in circles on what we had proposed for them to do in order to unlock the funds to the counties. I am not sure when a body will ever get to its destination when it moves round in circles. But be that as it may, that is their responsibility. That is the only thing they have to do once every five years. If they fail to do, the warning shots have been fired out there by the Council of Governors (CoG) and others. They have failed to protect devolution and may well find themselves facing a situation that they faced similarly in 1964 where their relevance was called to question and they ended up being dissolved.

Hon. Temporary Deputy Speaker, this Bill seeks to help better regulate the issue of referrals. I am particularly happy in terms of the provision to ensure that adequate measures are taken to investigate and establish the quality of the facilities where people are being referred to. As Hon. Swarup Mishra said, there have been allegations about some cartels that could be facilitating these transfers for motives other than quality care. I am also happy that now, these responsibilities for regulations, which were within the board of practitioners before, are coming to the Cabinet Secretary, who is not an interested party. Perhaps, we will be able to see some sanity in the way that issue is regulated.

More importantly, for Kenyans seeking treatment outside the country, there will be an obligation for the referring person to have contact with the Kenyan Government representation in that country, so that we do not end up in a situation where, even Members of Parliament may come here to say some people should be rescued from a country where they are stuck and nobody even

knew they were going there. But because they went for medical purposes, perhaps, the funds got exhausted and now the embassy is being told to help evacuate that person. Now, this will be done upfront so that the embassy knows that all precautions have been taken before the person travels.

Like I said, what touches me, even as we are discussing this issue of referrals outside the country, is that we need that introspection within ourselves. Why do we not concentrate on providing the capacity in Kenya? What is it that is out there that we cannot do here in Kenya? What equipment is available out there that we cannot provide within Kenya? What medical personnel are out there that cannot be provided? I have looked at the health care system in this country and I know we have the capacity. I have also been a user of services in this country and I know that even for some very complicated surgeries, their capacity is here. But our first place of call is to go abroad.

You may recall, Hon. Temporary Deputy Speaker, His Excellency former President, Hon. Mwai Kibaki, after his accident - I know we were in Government together - some Members had suggested that he should go for follow up in London where he had been treated earlier and he said "but we have capacity in this country". He ended up going to a hospital within Nairobi for further treatment. I believe that is the kind of thing that we need to see. The leadership and the tone has been set at that level and hence, if we concentrated with more commitment and faith in our systems, we can achieve this so that we will only be referring what is not possible or we will just be talking of internal referrals from one level system to the other.

So, Hon. Temporary Deputy Speaker, I believe this is timely and we should give it our support. I do not want to take all the time that I have because it is a straightforward matter. The earlier we can fast-track this, then we get to harmonise the regulations to accord with the new Section 79, the better for the health care of this country. I know the Departmental Committee on Health has looked at it. They have been in support and hence, Members, I would like to ask each one of us to support the Bill and, at least, set the pace for modernising our health care system in order to be a net exporter of medical services as other countries have done. If we have done M-Pesa and all the big things we have done, there is no reason why we cannot be the first point of call for anyone in Africa or anyone within the region wanting to get quality health care. We can do it and we should do it.

I thank you. I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Ms.) Haika Mizighi.

**Hon. (Ms.) Haika Mizighi** (Taita Taveta CWR), JP): Asante, Mhe. Naibu Spika wa Muda, kwa kunipa fursa hii ili niweze kuchangia swala hili ambalo ni muhimu kabisa, na nampongeza Mhe. Swarup Mishra kwa kuleta swala hili wakati sawa kabisa.

Tunajua ni kweli, Mhe. Naibu Spika wa Muda, ya kwamba Wakenya wengi sana wanasafiri kwenda nchi za nje kwa ajili ya kutafuta matibabu. Ni wakati sasa, karne hii, hata hapa nchini Kenya, tuweze kubadilisha hilo. Tunajua linawezekana kwa sababu hili suala la matibabu ya nje ya nchi limekuwa kama biashara sasa. Wakenya wanatumwa kutibiwa nje mwa nchi mara kwa mara na wakati mwingine, haijalishi kama wana uwezo ama hawana. Hilo limetubidi kupata matatizo ya kuwa kwa michango mara nyingi sana kwa ajili ya kuwafanyia michango, ilhali maswala mengine ni yale ambayo yanaweza kutibiwa humu humu nchini. Tumeona vyema, wakati huu wa janga hili la *Coronavirus*, ya kwamba watu wengi ambao walipaswa kwenda nchi za nje kutibiwa hawakuweza kwenda na wengine wao walitibiwa humu humu nchini na wakapata afueni.

Kwa hivyo, inaonekana kuwa mengine yanaweza kufanyika humu nchini. Naunga mkono Mswada huu. Ni vyema kuwa sasa tuwe na mwongozo dhabiti kama nchi zingine ambazo zinatusaidia kwa masuala haya ya matibabu,

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Oundo Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. The “CJ” is telling me his issues. Nevertheless, he is a good friend of mine.

I stand to support the proposed amendment to the Health Act by our colleague, Hon. Mishra, in respect of the issue of referrals. The medical fraternity has a process for referrals. There is a possibility that it is being abused. There is a possibility that quite a number of referrals are not properly done, therefore, jeopardising the lives of very many patients in this country.

However, the one that seems to have very many issues is referrals abroad. As many of my colleagues have attested, it seems to be driven by some form of a cartel. In the last few years, my constituents and friends from other places have lost many people who had purportedly gone to India for treatment. It would seem, as my colleague, Hon. Otiende Amollo, said, close to 90 per cent of those referrals are invariably to India. This begs the question of what is in India that cannot be found in Kenya. Therefore, I support the proposal.

I have also read the proposal by the Departmental Committee on Health on exactly how to proceed with this particular amendment. We need to have a very structured procedure involving the patient, doctors, the Kenyan Government and health insurers. Ultimately, the responsibility of the Government of Kenya is to take care of its people. When a patient is stranded abroad, it is obvious that for the family, the first point of call will be the Government with the cry, “*Serikali saidia!*” That should not continue to be the case if we have a very clear tracking system to know which patient has gone out, who has gone to treat them and what the issues at hand are.

I echo the sentiments of my colleagues. After many years since Independence and investments in the health sector, probably at this point in time, we should not be talking about referrals abroad. The country should have developed adequate capacity and invested heavily in infrastructure to enable the country to attain basic medical procedures that hitherto would have to be undertaken outside this country. It is a collective shame starting from the national Executive to the devolved Executive that at this particular time, we are still talking about referrals for basic procedures outside this country. Probably, it is even important that we put a caveat that anybody holding an executive position in this country - be it the President, the Deputy President, Cabinet Secretaries, governors and the rest - should not be allowed to go for referrals outside this country. They are not more important than ordinary Kenyans. Ordinary Kenyans are not people of lesser gods than themselves, more so, the governors. The health function is now devolved and all the funds go to county governments. It would be a travesty of justice and immoral for a governor to be flown out of the country to South Africa just to clear excess water in their eye. As a country, we need to be proud of ourselves and make sure we get value for our money.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, allow me to join my colleagues in supporting this amendment by Hon. Mishra, a practising doctor.

As I proceed, this proposed amendment will empower our medical practitioners to comfortably compete with their colleagues in the First World economies. Once our people fall sick, at the most complicated levels, they tend to fly to India, the United Kingdom or the United States of America. Once this Bill is enacted, we will have professionals in Kenya opening up their market of knowledge to compete with their equivalents in developed economies. Why should we take our patients to India, UK or the USA? It is because we do not have facilities? We tend to

believe that since we were colonised by the whites, a white man has a better brain than a black man. That is very wrong. Our people have the intelligence and ability. There are good doctors in Kenya. When you go to the Nairobi Hospital, the Karen Hospital and the Aga Khan Hospital, you will find the best professors serving there. Therefore, let this open up the sky for our good doctors so that they are able to compete.

As we support the Bill, what are we saying? Let us also be cautious that while subjecting our hospitals to competition, let it not open up a window where the agencies that license doctors ease up their ability to contain the qualifications of doctors who must really adhere to their training levels. Recently, we saw final year students from the University of Nairobi complaining that they were not seriously taken through the syllabus. It is our duty as legislators to allocate money to universities to educate our doctors. Let that money be used wisely and correctly because at the end of the sixth year, once our doctors graduate, they have to be the best in the region. We hope that we will now be able to compete with other doctors. We cannot compete if our training is compromised. Let us make sure that the resources we allocate to training our doctors go into the right hands and let universities produce the best, so that when we are competing, we are doing so from the same level.

Once this Bill passes, it will not just be a medical Bill. It will have other effects. The effects of the Bill are that you will require permits to travel. We need to look at the enforcement of the work permits. We do not want to see a surge of foreigners coming in under the guise of aiding local hospitals yet we have able doctors. Let us tighten the issuance of permits. Let us not open the window so that foreign doctors compete with our home-grown doctors.

We also need to tighten the legal frameworks in terms of paper work. You will find that in order for you to compete properly, you will be required to have proper paperwork. This refers to permits and a passport to travel. People should not just say they are Kenyans and they acquire a Kenyan passport yet in the real sense, they are not Kenyans. We must make sure that the Ministry of the Interior and Coordination of National Government tightens up the regulations so that only true Kenyans compete with others.

This Bill seeks to open up medical tourism. We will look at the advantages that it will offer us. Universal healthcare is a pillar that the President is working on. He has the ability to give us Universal Healthcare Coverage.

Hon. Temporary Deputy Speaker, this Bill opens up competition. In terms of medical knowledge, medics must practise from a good hospital. It is important now that county governments put up Level 6 hospitals so as to support efforts by the national Government. We need to have specialised regional hospitals. Let us not duplicate referral hospitals. For example, if we have a Level 6 hospital in Meru best known for spinal treatment, let us have another special hospital, say, for neurosurgery in western Kenya. In as much as these hospitals will be supporting UHC - a very good pillar under the Agenda Four by our President - they will all be operating under Level 6 status. They will discourage our doctors from 'exporting' patients out of Kenya. 'Export', in the Bill, means taking a patient out of the country and one has to pay for it. To 'import' is where we will be getting patients from outside Kenya. Therefore, we cannot effect this Bill if we do not put up good infrastructure, including hospitals that will allow patients from other countries to come into the country.

Hon. Temporary Deputy Speaker, on the economic perspective, hospitals cannot provide enough beds to those who bring patients. Every patient is, at least, accompanied by one or two people at most. It, therefore, means that caregivers will have to stay in hostels near the hospitals.



So, if a Level 6 hospital performs well in a region, for example, Kakamega County, the locals in that neighborhood will get opportunity to build hostels which will house the caregivers. Therefore, this is an all-rounded Bill which I want to support. I ask my colleagues to support it too. It will give economic impetus to our country and enable us grow in a bigger way.

Finally, Hon. Temporary Deputy Speaker, I just want to thank Hon. Mishra for thinking big and in the right direction. I wish to support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. T.J. Kajwang', you may proceed.

**Hon. T. J Kajwang'** (Ruaraka, ODM): Thank you, Hon. Temporary Deputy Speaker, for recognising me, but I was not going to contribute to this Bill. I am waiting for the matters under the Public Investments Committee (PIC). But I thank you very much for recognising me.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It is just because you were top on my list and so I picked you. Never mind, we will get to that business. Let me get to the next Member, Hon. Adan Keynan.

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Temporary Deputy Speaker. First of all, I want to thank Hon. (Dr.) Mishra. This is a good proposal. However, we need to expand our horizon of thinking. This country is not short of legislations. If you reflect on the many things that we have done since colonial and Independence times, you will realise that in terms of legislative framework and enactment of the law, we are the best. However, in terms of implementation... Hon. (Dr.) Mishra, and the House at large, some of the things that we seek to legislate are supposed to be covered under the Hippocratic Oath taken by doctors. For example, there is the issue that Hon. (Dr.) Oundo referred to as unconstitutional because it limits the rights of patients as is clearly covered under the Bill of Rights in our Constitution.

That notwithstanding, Hon. (Dr.) Mishra, this amendment, if it will be implemented, is very good. There are also certain things that we need to guard against, that is, complicity and conflict of interest. Whereas we are supposed to develop the public sector and also encourage the private health sector through investments, this phenomenal called 'medical tourism' is an effect of globalisation. The world has become a global village. Kenyans want to find out what is happening in other parts of the world.

The other day, this country was voted the best in terms of provision of human resource capital, which includes in the medical field. So, we need to create a perceptual confidence in our institutions. I am sure one of my friend's, Hon. T.J. Kajwang's offspring is going to be a lawyer and instead of the University of Nairobi, he has sent him or her to the United Kingdom thereby spending about Ksh10 million. We require some bit of perceptual satisfaction instead of the reality. These are things that we need to address because the only people who can develop this country are Kenyans themselves.

Look at what the Emirates have done! They have built a whole city for medical tourism. India and Turkey have also built different cities for medical tourism. Look at what Israel is doing too. This is the Kenyan impact of the global village. We cannot just sit here and legislate everything, even that which only requires a change of attitude, practice and thinking. These are some of the things that we need to inculcate in our children, professionals and society at large.

As much as this Bill is good, if the practitioners under the KMPDB will not be guided by the ethics under the Hippocratic Oath, this legislation will be a nullity, waste and void. I am glad you are a doctor.

Hon. Temporary Deputy Speaker, one thing that we need to do... Yes, this is good because it seeks to cure a lacuna in the medical field. However, you also need to ask yourself: How can we

determine the genuineness of a doctor in deciding whether Hon. T.J. Kajwang' or myself or someone else requires specialised treatment, God forbid, in a particular facility outside Kenya? That can only be informed by the ethics and the consciousness of that particular individual during the recommendation. Even if we develop policies as anything under this particular proposal, we need to go back to the drawing board and ensure that we have a societal change that can be seen in our politics, economy, education and, generally, in the way we interact.

I am told that between 1970 and 1974, Kenya was a lending nation. This is one thing that I keep referring to. We are still struggling to be classified as a middle-income country and yet the countries that we were with at that time, today, have joined the list of the league of developed nations. It is all because of our attitude. So, Hon. Mishra, I congratulate you for bringing this Bill, but I think you should think out of the box and ensure that those of you who are in that field are ethical and practise in line with what that profession requires. If that is done, these many referrals in the name of cartels that deny us our hard-earned foreign exchange will stop.

If you ask the Governor of the Central Bank of Kenya (CBK) about what can be developed, his answer will be the Foreign Exchange reserve. We all know that this country does not have a lot of gold reserve. We are still struggling to develop our oil fields. The little that we get as a result of our Diaspora earnings, fish earnings and camels that we sell through Ethiopia and Somalia - we do not have developed markets for our camels here - is used up in other areas. We would have saved it for other development purposes. These are things that we must be prepared to address.

Otherwise, Hon. Temporary Deputy Speaker, this is good. It is timely and progressive, but I hope that once it gets assented to by the President, it is implemented. I see it talks about the Cabinet Secretary coming up with regulations. They should be proactive and cover all aspects not only of legislation, but also all aspects of the medical field. The proposed law should not tie the hands of medical practitioners and should not also disadvantage patients. It should seek to contribute to the development of the medical field.

Finally, this giant facility that we have, and we need to even thank our forefathers for it, in the name of Kenyatta National Hospital is right now, luckily, being managed by my former schoolmate, Dr. Kamuri. I know he is well travelled. Once upon a time, it was a giant institution, not only in East Africa, but in the entire East, Central and the horn of Africa. Today, if you ask yourself how many Kenyans have the guts to be referred from one of the clinics to KNH - I know Dr. Kamuri is doing tremendous development at the KNH - the funny question that one will ask is: How many hours am I going to spend there? These are things that we must cure professionally, so that as a country we can leap forward.

Thank you, Hon. Temporary Deputy Speaker. Congratulations to Dr. Mishra.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us hear from a doctor in the name of Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I want to thank Hon. Mishra who happens to have been my senior. When I started internship, he was already a Gynaecologist. He taught me how to perform caesarean sections.

This is a good amendment to the health laws. The law provides that the Cabinet Secretary shall provide policy guidelines on referrals both within the country and outside the country. We need to be very keen there. It goes further to say that when providing the guidelines a patient must be referred to another health facility that must have the necessary equipment and technical knowhow. A patient is not just being referred to another facility, but it must be made sure that the facility has what the patient requires.

It goes further to provide that if a patient is referred outside the country, then you must have a protocol in which you are able to communicate with the Kenyan embassy in the country you are referring the patient to. That means that the embassy in that country is able to know the hospitals that have the necessary skills and facilities for which a patient is referred to.

When I look at the healthcare as a healthcare provider - I am a General Surgeon by profession - Kenyatta National Hospital has all the necessary skills in the country. We can say that we have the skills we require. All the best professors and best doctors are there. But what limits is mostly equipment and space for which some practices can be done. If somebody were to get a good service, we need to debunk our minds. The Kenyatta National Hospital apparently is supposed to be a referral hospital. People should not go there when they have a cough. You should go to Kenyatta National Hospital with a referral letter giving the reason why you are being referred there. If we had a good referral system in Nairobi and the country, then Kenyatta National Hospital should be able to perform its supposed role. We have other Level 6 hospitals like the Nakuru Provincial General Hospital, the Moi Teaching and Referral Hospital, the Coast Provincial General Hospital and the Embu General Hospital. We should put those facilities into their proper use with a good referral system.

This is a good amendment Bill that needs the Cabinet Secretary to look at. It also provides that the Cabinet Secretary shall consult with the NHIF and the Kenya Medical Practitioners and Dentists Board to make sure that a patient is referred to where there are necessary skills.

One of the biggest challenges we face in the medical profession is that of relatives. They may have heard of myths and other stories that a certain case could be attended to better in India or in other places. They may have that feeling. You know life is not something you take for granted. There is no second chance. It is only lived once. So, if it is not handled well and lost, there are no other means of resuscitating it. That is why you find relatives thinking that there may be a better way even when they have been advised. They may be told that the patient is a case of advanced cancer like stage three and that there is nothing that can be done apart from palliative care to relieve the pain for the time being, but the relatives will say that they want their patient to be taken to India. So, these are some of the things you have to take into account. You have to balance between the relatives' expectations and capability. It is good that the amendment Bill has a provision, so that at that end of the day, somebody takes the options. Even when a patient is taken to a hospital, he must be counselled. Counselling is given so that the patient can make a decision. There are no hard facts about medicine like that this is the only thing that must be done.

Issues of cartels referring patients is neither here nor there. But let us have a good working system in the country. In the past when some of us were training in the medical school, we used to get patients brought from as far as Namibia for open heart surgery. Others came from Zaire and other places to Kenya for medical tourism. The Cabinet Secretary and Government should put in place a good working healthcare system that can support our general population.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): That is a doctor. At some point you confused Hon. T.J. Kajwang' whether you are a general practitioner or a Gynaecologist. You seem to have mentioned both. Are you both?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Speaker, when you graduate from medical school after the first degree, you are a medical doctor, general practitioner. When you go back to specialise for another five or six years, you can specialise as a General Surgeon, like myself, or a Gynaecologist like Dr. Mishra or you can also specialise in Orthopaedics

and other specialities like physicians and stuff like that. Hon. Kajwang', since we left the University of Nairobi, you can see how much books we have chewed.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You have chewed books.

**Hon. Kathuri Murungi** (South Imenti, Independent): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is out of order, Hon. Kathuri.

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Temporary Deputy Speaker. Hon. (Dr.) Pukose is my friend, indeed. But when one goes back to specialise, then you call yourself a General Surgeon, but what do you specialise in? I want a clarification from him so that I can guide my son who is very ambitious to become a doctor to understand what a General Surgeon is when one goes to specialise.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kathuri, all you need to tell your son is to chew books like the Member has. You can consult over tea with Hon. Pukose.

Let us now have Hon. Maanzo Kitonga.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Temporary Deputy Speaker for giving me an opportunity to contribute on this very important matter.

Recently, Kenyans who had gone for treatment in India were stuck there for months due to the COVID-19 outbreak. Had it not been for the kindness of the Government of Kenya, probably, these people would still be away. Most of them had been through with their treatment and were stuck in a foreign country.

We have every expertise in this country and the only weakness identified is equipment. Again, one of the other things which make our people seek medical treatment abroad is partly the attitude of the local Kenyans. I had an experience of a case from my constituency where doctors advised that the condition could only be managed. The family put people together and raised money and the patient was taken to India. In a way, they went through a surgery for a condition where probably surgery should not have been done. Even though the patient was recovering, he said he had gone through more pain than he had ever experienced before. He was suffering from Osteoarthritis. So, as a country, we need to change our attitude. We need to trust more of what we can find here. We also need to invest in research so that we can participate in global activities like trying to find medication or something to fight COVID-19 and other diseases. If researched well, our traditional medicines can contribute towards the improvement of our health sector.

Health is now a devolved function and we are sending a lot of resources to the counties. We also have many other places where people who seek medical attention go to. Mombasa has done very well recently when it comes to fighting COVID-19. The Governor did very well. There is also a bit of research going on there. That tells us that if we devolve some organizations dealing with research, like the Kenya Medical Research Institute (KEMRI), to many parts of the country, we will improve our status. Enough money should be set aside for the improvement of public hospitals so that even our neighbours from Tanzania, Somalia and the rest of the countries can easily reach our hospitals.

If you look at East Africa and Africa generally, we are doing much better. Kenyatta National Hospital (KNH) has been praised for best cures, best experience and a little bit of

equipment. So, we should improve the status of KNH. Many Kenyans know that if you go to KNH, you will get good medical care. If that is done, we will be able to deal with health issues.

Part of the problem, as has been described by Hon. Mishra, whom I would like to congratulate for this great effort, is repetition of work. When you leave our hospitals here and go to seek medical care in other countries, the hospitals out there begin the whole process all over again and treatment takes time. There are logistical challenges with international travels for sick people. We had a matter in this House where a Member was complaining that Kenya Airways declined to take up a patient who needed to be flown by a specialized aircraft. That was too much expense for a matter that could have been handled locally. There is no proper information about the credibility of doctors in the country that you are going to. You will be going to meet strangers. As a lawyer, I am aware that they do not have a legal responsibility as such because you are in a foreign country. If something goes wrong there, by the time you will get legal redress, it will be a big challenge. You may not have background information on the credibility of the doctors out there.

Middlemen operating in this area have conned many Kenyans and people all over the world. We can only do well if we trust our own doctors like Dr. Pukose and Dr. Mishra, among other doctors in this House. If we do that, we will be building our own country and building confidence in our own people. Patients who travel abroad for treatment lack emotional and moral support from relatives. When you are unwell in a foreign country with one member of your family, and you are experiencing cultural shock and different climate, you will miss your family's emotional support – which is very important for recovery. You will lack the support of your relatives through their visitations and other things. The cost of treatment is also high and the experience is intensive. That money would have been used locally. We are also shipping money away. The moment we change our money into dollars in Kenya and take it away, it also affects our economy. There is also the issue of post-treatment follow-ups and possible miscommunication. One of the countries which is very good in some aspects of medication is Mexico. You will have the challenge of communication barrier. It is very difficult to communicate through an interpreter and things like that. A lot of it is being messed up by Non-Governmental Organizations (NGOs). Therefore, we must have a law and regulations in place to control how this matter is going to be dealt with.

We are making this amendment so that non-medical and non-technical staff do not take up patients and end up with mis-diagnosis and mis-management. Since you are outside your own jurisdiction, you will have no political method of addressing such matters when they arise. You cannot bring the matter to Parliament. We have seen petitions brought to the Senate and the National Assembly where people sought redress on how some given patients were treated. If you are in a foreign country, how can you do that? There are also fraudulent practices. You could find the system through which to channel a complaint is difficult. For instance, there is the police system and all that if you have been conned. There has also been misuse of the National Health Insurance Fund (NHIF) in this regard. This involves the issue of insurance and all that exchange.

Finally, there is the issue of added cost of air travels, accommodation and unaccountable inflated bills, which you cannot fight in a foreign country. Kenyans who have been living in other countries have gone through tough times during the Covid-19 Pandemic. Every country gave their people priority and our people were calling saying: “We are unwell, but we cannot be treated. We have been told to stay at home until we stop breathing.” This is because the authorities in those countries decided to take care of their own people. They ignored foreigners working in their

countries. We are very lucky because God loves us. The Covid-19 pandemic has not hit Africa as badly as it has done in other parts of the world.

I would like to ask this House to support this Amendment Bill. The Covid-19 Pandemic experience has taught us a big lesson. We now have to do it at home because you cannot travel anywhere due to the Covid-19 Pandemic. Not everyone will get preference out there, and not all of us have that opportunity.

With those remarks, I support the Bill and urge Members to support it.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to support this very important Bill. I want to start by congratulating my senior, Dr. Mishra, for bringing such a very important Bill to this House.

There is medical tourism in this country. We export and we also import. However, our importation has been going down since the 1970s. In the 1980s up to the 1990s, people were travelling from far and wide within Africa to come for medical tourism at our medical facilities, especially at KNH. However, in the recent past, we have seen a trend in which our export of medical tourism has increased. As other Hon. Members have said, sometimes, it is due to cartels who collude with foreign countries to make money. I am not aware of them. I know that well trained doctors should be ethical, and they should know what is right or wrong. Sometimes, members of the public contribute to this when they are advised to seek a second opinion. Their understanding of “second opinion” is seeking treatment outside this country.

I support this Bill so that we can control and increase our earnings in terms of medical tourism. I implore upon Hon. Mishra to go further and find out where the rain started beating us, as a country. I believe that the rain started beating us in the late 1990s through to 2000. When I was the President of the Students Organization of Nairobi University, there was the introduction of parallel degree programmes, which was commercialization of education. Through those programmes, we equated knowledge with money.

The introduction of the parallel degree programmes brought about a situation where grade “A” without money became grade “C” and grade “C” with money became grade “A”. That is because you could train in any field as long as you have money. We ended up having academic failures training in very important professions like medicine simply because they had money, but not the knowledge. For you to afford Kshs600,000 per year, translating to almost Kshs5 million by the time you complete a course in medicine, it means you are a millionaire and you accessed very good secondary education but you still failed. Some children who studied under trees in day secondary schools are from very poor backgrounds, but they still managed to pass with good grades like “B” and “A– (Minus). That means those children are very knowledgeable, but because they did not have money to train as doctors, they were left out due to the commercialization of education.

So, I implore upon Hon. (Dr.) Mishra to go and look at that situation because I was there and I opposed parallel degree programmes and the commercialization of education, until I was suspended from the University of Nairobi. Hon. Maanzo was my lawyer. He was not able to succeed in bringing me back. I was only brought back by a Government amnesty through the regime of Hon. Mwai Kibaki. What I am saying is that we should broaden and even bring the Ministry of Education, Science and Technology (MOEST) into play. That is so that we can train our doctors well. That is how a country can have confidence in us.

The other issue is that we need to control and have a framework that is in-built. We can have a unit in the training of our medical doctors and nurses in medical colleges. That is so that it is in-built in our medical personnel to know that this is a matter of ethics and our country. We will also need to make our country proud because our human resource is high.

Taking into consideration that one brain channeled to proper use is more worth than all the goldmines that are in Libya or any other country, if we channel our trained personnel into proper use, we can have a medical pool of tourism which will empower our country economically.

As I prepare to sit, allow me to say something. It is because there was a very emotive issue that was raised by Hon. Millie Odhiambo. No one should use Hon. Millie Odhiambo as an excuse to abuse our President. We are all different. If a hyena defecates in public, it is normal. But a pride of a lion cannot allow it to behave that way. A dirty pig is understandable, but not a leopard. Therefore, let us allow each of the Members to live their identity.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am sure Members were lost on that philosophical quote. A Member is asking whether that was English or Kiswahili. You seem to have turned philosophical a bit. Nevertheless, Hon. Member, you will get a chance to speak. There is no question about it. But it is Hon. Oduol Adhiambo for now.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I will, from the outset, support this Bill and thank Dr. Mishra.

Indeed, as we look at the new section or the amendment, we see that it is very relevant. It is because a policy guideline which is really what is informing this is a function of the national Government. We can see clearly that when we are talking about referrals, particularly when we want to look at them on health grounds, we would want to think of clients. That they would receive appropriate care and at a cost that is affordable and not unnecessarily costly. That there would be appropriate facilities that can also be used to address the concern and, most importantly, they will be timely addressed.

As I support the Bill, I would also want to draw the attention of Members. As legislators, our concern should not only stop at the point of coming up with regulations because, as we have noted, Kenya truly has very key challenges in the area of health. One of them is cost. As we address this and as I support this Bill, I would like to ask Members of the National Assembly to also take into account that we need to address ways in which we can ensure that we will reduce the cost. There will be too many Kenyan citizens who would want to access the services and they might not be able to get them in a way that they can afford. When we look at examples of countries where Kenyans go, taking India for example, they have come up with very clear strategies through which Indian citizens pay less. The Kenyans or foreigners who go to their country pay a little more. So, as we look at the way we would want to address the concerns of our citizens, I think we truly, from this amendment, have caught the right basis of referrals. I would like to emphasize that we would want to ensure that we not only address facilities where they are not adequate, that we not only also look at how it is that we come to address the state of health facilities in the counties where we have many of our citizens, but most importantly, that we are aware that we do not want to begin to look at what would be affecting just a certain section of the population. It is because those that might be going for referrals outside the country would, by the very nature of the expenses incurred, be those that have a much higher capacity. So, I support this Bill.

I, however, would want that, as Members whose responsibility would not only be legislation but also of oversight, that we look at what is happening in the health sector and that we

also, as those that are concerned with representation, do a little more research and bring a lot more of the concerns that our people have on the ground.

I conclude by saying that I had a personal experience last year because of my daughter who I, unfortunately, lost in February. She was a student in South Africa and had to start her treatment in South Africa. When we brought her here later on, it was quite clear that the Kenyan facility, doctors and the medical attention that was here was really exceptional and very good. So, I think this is a very good Bill because it will help us to, in a way, be much more proud and aware of what we have here in the country. It will also help many more people to not only want to stay here, but also get those who are outside Kenya to come to the facilities. I hope it will also help us to know that where we have poor facilities in the counties or where we do not have the necessary equipment in the different counties, it is not for lack of competence by the doctors. It is not for lack of interest or lack of policy, but it is because we need to be a little more vigilant as we come up with the Budget and as we also do oversight. So, we should not be talking about cartels because we should put an end to this from our oversight role.

With this, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Tuitoek Kamuren, you have the Floor.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also say I rise to support this amendment Bill and thank Dr. Mishra for bringing it at the right time.

The issues that we are facing in the medical sector, especially in terms of services to our citizens, include challenges in terms of accessing quality healthcare. Dr. Pukose talked about the stages in which we sometimes find ourselves in when we are faced with difficult diseases like cancer and other challenging diseases which require advanced medical care. What I have seen is that most of our medical facilities are not up to standard. I think this is an area in which we should learn a lot from India. I think Dr. Mishra, when he brought up this Bill, should have really had an idea that we want to improve the quality of our health facilities in terms of acquiring the best diagnostic equipment as possible and attracting the best personnel in terms of medical specialization in different areas. I think by saying we want to limit these referrals outside the country, especially to countries like India, it is so that we can also improve our own medical facilities.

We must improve the services of our doctors so that they can provide health care at high standards. We must also improve our facilities. As at now, specialized equipment like scanners and Magnetic Resonance Imaging (MRI) being used to address specialized challenges in the health sector are not available in many facilities. Since we have devolved the health sector, counties are facing a lot of challenges. They do not have adequate equipment to serve our citizens. As we encourage the sector to reduce referrals, we must improve the locally available facilities. By doing so, we shall be saving in terms of foreign exchange. If our doctors provide services locally, then it will not be necessary to travel abroad to seek specialized treatment, and we shall be saving on the National Hospital Insurance Fund (NHIF). At times, NHIF covers for patients seeking treatment abroad. I know of a case where NHIF paid Kshs10 million for a patient to seek treatment abroad. This Bill will help in limiting people from seeking treatment abroad. Although it is a right to seek treatment abroad, we want to ensure that this Bill will help the Government and the counties to improve their equipment and medical services provision to the citizens.

I want to request Hon. (Dr.) Mishra that, as he comes up with this Bill, he should encourage our doctors who ran facilities to attract doctors from abroad to come here. We should encourage



medical tourism. We all want the best medical services and once we pass this Bill, we want to call upon the Government and the counties to improve the healthcare facilities. During the COVID-19 period, many of our facilities were not ready to have isolation centres and ICUs. They did not even have enough ventilators. As we reduce referrals abroad, we must call upon the Government to ensure that we access quality health care locally.

As a colleague mentioned, the issue of travelling abroad is challenging especially when the condition of a patient is at an advanced stage - stage 3 or 4 for cancer patients. If we have better facilities locally, we will help reduce stress among such patients.

With those remarks, I beg to support.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Ms.) Wanjiru Chege, what is your intervention?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Speaker, I want to bring to your attention that, as the Chair of the Departmental Committee on Health, I have not contributed to this Bill. I want to request that you allow me do so. Can I proceed?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Ms.) Chege, it is no doubt that when it is an individual Member's Bill, just like the Leaders of the Majority and Minority Parties, the Chair takes priority. Would you like to listen to two Members and then I give you a chance?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): No problem, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You certainly take priority if you are a Chair of a Committee. Let us have Hon. John Paul Mwirigi.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. This is an important Bill as far as the health of our people is concerned. Most of the referrals are made not because the patient cannot be treated in that hospital, but because the facility lacks enough facilities. Most hospitals in this country lack enough infrastructure, personnel and medical units. It is laughable that a Level 4 hospital lacks a male ward. Nyambene Level 4 Hospital in my constituency does not have a male ward and yet, we have both male and female patients in that region. Once this Bill is passed, the Government must fast-track improvement of health infrastructure so that minor cases can be treated locally.

Secondly, the Government must come up with a way of helping its citizens because there are those who cannot afford to seek treatment abroad. If we have a good facility in the country, those citizens who cannot afford to seek treatment abroad can get treatment locally.

Hon. Temporary Deputy Speaker, some referrals are made for individual gains. There is need for the Ministry of Health to develop a mechanism where they consult the Kenya Medical Practitioners, Pharmacists and Dentists Union and the NHIF to know the credibility of some of those referrals. Some patients are referred by the hospitals so as to get a percentage because the patient will be charged a lot of money, which will be a disadvantage to them.

The Ministry of Health should develop a mechanism to ensure that once a referral is made, they consult our embassies in the country a patient is referred to so as to get clear information about the hospital. This will help us know whether the hospital has enough facilities and whether the personnel are qualified to handle the referral.

Hon. Temporary Deputy Speaker, the Government must realize that many qualified doctors are now opening private clinics because of poor pay. The Government should focus on the

personnel who qualify to offer those services in our hospitals and recruit them. That way, our people will get good services in the hospitals when they seek medical attention. I beg this House to consider supporting this Bill, so that health facilities within the county can be improved by the Government of the day.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Wanyonyi Kevin.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. My contribution will basically be on the objective of this particular Bill. The objective of the Bill is to give a guideline for referral cases, which is important. I want to thank Hon. Mishra for coming up with this Bill to have regulations that will guide cases that are referred to other places like South Africa, UK and India. I had a chance to go to India in 2016 on a different issue with the Departmental Committee on Agriculture and Livestock. I had a chance to visit one of the hospitals and I found four Kenyans in that hospital. That year, there was a friend of mine who worked at the Kenya Embassy in India. When I went there, I was shocked that the Embassy was not aware that the patient I found in the hospital was in India getting treatment. There was somebody who was looking after that patient. Unfortunately, because the patient was referred to India when she was at an advanced stage, she passed on. I did not know the patient, but she happened to be from my county of Trans Nzoia. As usual we had to fundraise, but getting the body of the deceased to Kenya was another issue.

Therefore, the essence of this Bill is that when patients are referred to those countries, be it India or South Africa, the embassies should know and fast-track their treatment there. The Ministry of Health and the Ministry of Foreign Affairs should work with the embassies to know what is happening. We have cases where a patient, for example, goes to India and... I have heard Members here say there are no cartels! I know there are fellows who are doctors and all they have is a link in India and they are the ones who refer patients to India. With advanced technology, we have virtual treatment. I saw that in Kitale. One of the patients in my constituency had cancer of the blood and the doctor managed to treat the patient with another doctor in India virtually using technology. He was told what to do and it worked. So, this Bill should be fast-tracked. I want to thank you hon. Member for having brought it. We can move faster for the Bill to be actualized.

If anybody is referred to another country for treatment, the Ministry of Foreign Affairs through our embassy in the country and the Ministry of Health through Kenyatta National hospital should know, so that we remove the cartels that have been punishing our people. This is not news. I do not know why Members have been saying other things. It is not news; it is true. Doctors who may not be specialists in an area have links with other fellows who have been doing those things. Let us fast-track and actualize this Bill which was lacking. For us to be able to do this, we should know the details. Some of the equipment can be found here. Kenyatta National Hospital, Mama Lucy Kibaki Hospital and the Nairobi Hospital are well equipped. The personnel here are quite skilled. I remember listening to Dr. Pukose and I agree with him. Our doctors here are quite skilled. They are even better than some of the people that they are referring to in India. Therefore, the best we can do is to encourage them. Of course, most of them demand so much, but it is better to pay a local doctor here than pay three times a doctor overseas and you lose the patient. Kenya's African culture has it that you cannot bury the dead outside the country. We have to do all we can to bring the body back here for us to take two or three days to bury the person who died outside the country. Let us have as a policy to know the details. If you are referring a patient to, for example, South Africa, what equipment is there and what personnel do they have that we do not have here? That

will save us the embarrassment. In this country, we have medical practitioners here who are knowledgeable. Why should I take my niece, sister or neighbour to South Africa to just give birth?

Last but not least, we, as a county, should import as much equipment as possible. The Ministry of health is our life. Somebody said that your life is just that, you lose it you will never get it. As a House and the Departmental Committee on Health – and the Members are here – we should look at what is lacking, get the equipment here and refer some of our men and women out there to learn how to run them. That will be better than what we are doing today – taking people to India. I was embarrassed as a Kenyan to see this lady in India, who was looking after her father, sleeping on the corridor to ensure the dad got treatment. We ended up losing the patient. With those few remarks, I thank you. Let us actualize this amendment for posterity.

Thank you. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, this Bill falls squarely under the Departmental Committee on Health. Part of the resolutions of this House is that the Chair of a committee must be give priority to contribute. Let us have Hon. Sabina Chege. That is not to end debate. There will still be a chance for those who want to speak to it. For now, let us have Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker, I will be brief. First of all, I congratulate Hon. (Dr.) Mishra, who has been my Vice-Chair, for coming up with this Bill. The Health (Amendment) Bill (National Assembly Bill No. 64 of 2019) was submitted to our Committee and we engaged stakeholders. It is a noble Bill. I have heard Members talking about their experiences. It is true that most of us have gone through such experiences where Kenyans are forced to go and seek treatment elsewhere. However, as Members have mentioned, we have good expertise here, though we need to support them more by coming up with proper policies and improving our hospital facilities.

Dr. Mishra, being among the experts in the industry who is also running a private medical facility, can give us insights on what we need to improve on as a nation. I want to bring to the attention of this House that, currently, we have the Kenyatta National Hospital that I encourage Members to visit and see a state of the art facility. We will be coming up with a state-of-the-art imaging center such that issues of cancer are no longer going to be referred out of Kenya, especially the popular PET scan that was not available. Only recently, Agha Khan University Hospital got it and, most of the time, bookings are full.

As we talk about referrals, as a nation, we need to relook at how we refer our patients not only out of the country, but also within because health is a devolved function. If we are able to improve the facilities, not just at the referral hospitals or with equipment, but right from our dispensaries, there are many diseases that we can treat and many diseases that we can protect our people from, especially the non-communicable diseases. We used to have proper healthcare, starting with our volunteer community health workers all the way up. Sometimes, people wait for too long. Some of the cancers that kill our people should not actually kill - for example, cervical cancer and breast cancer, if detected early. We should be able to save many lives. Right now, we are faced with the Covid-19 pandemic. Covid-19 came as a lesson. I know there is a lot of politics around Covid-19, but I would like Kenyans to see the positive side. We are going to improve our healthcare infrastructure. Each and every county has gone through hard questions on the state of their healthcare. I have seen many counties improve their facilities. We have also allocated money to the counties to improve their facilities. I want to urge Members, when you go home, you should visit those facilities to see whether the money that was allocated by this House is being utilized

properly. I am very sure we are going to improve the healthcare of this nation. We all know that a healthy nation is a wealthy nation.

The Committee has received a lot of concerns from stakeholders. When we get to the Committee of the whole House, we will be amending some of the proposals in this Bill - not to water it down but to make it much better. I want to thank Members of this House for their support of the Bill. Once again, thank you Hon. (Dr.) Mishra for coming up with this Bill. Above all, we need to selfishly protect our people and make sure that our health facilities are up to task. That will mean we do not have to take our people out of the country. I went to India and found many Kenyans. Our oncologists are not many. We are working on a policy on how to train more. Our patients who are referred out of the country need to have money for accommodation. Some go to apartments; others go to hotels; others are even kicked out. Some go there expecting to be treated within few days but the treatment ends up taking longer than expected. A majority of the patients organize fundraisers. Kenyans have suffered out there. It is our duty as a Parliament to make sure we protect our people and give them the best healthcare as we work together with the county governments. Because I have seen a lot of politics going on with the Building Bridges Initiative (BBI), I would like Members to take keen interest on what is going to be proposed on the healthcare of Kenyans so that we mean well and give the best to this nation.

I thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us now hear Hon. Tong’i.

**Hon. Richard Tong’i** (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to also support this Bill. I want to acknowledge what my colleagues have said. This is a forward-looking Bill. The amendments are coming from a doctor, our friend Hon. Mishra. He has taken time to go through the system and understands the challenges that we face as a country. This is a Bill that is going to cure the challenges that we face as a country.

As my colleagues have said, the amount of foreign exchange we lose to foreign countries in the name of fundraising for our friends, brothers and sisters going for treatment abroad is a lot. In the process, we lose out on employment opportunities. That is because if those patients were treated in Kenya, it would follow that we would have built and developed our hospitals to a level that they can take up some of those patients. That would mean we employ more people to manage those patients. In the process, we would create employment for our people. Unemployment is a bigger challenge that we face as a country.

I want to thank Hon. Mishra for this forward-looking Bill. The amendment is timely because of the challenges that we are facing as a country. And now we have learnt, because of Covid-19, that sometimes nature has a way of balancing things. If we refuse to think and come up with policies to guide and help our people, nature has a way of helping us to think and equip our systems. Right now, even if you have money and you want to be treated outside the country, it is not possible because of the Covid-19 challenges. If you are sick with Covid-19, you cannot fly out. It means, therefore, you have to rely on the resources we have in the country. If that is true, and you never know what else is going to happen in the future, we have a duty as a Parliament and as leaders to ensure that we equip and develop our local capacity. Therefore, we want to include in this Bill a provision where, if we are going to get experts to come and attend to our patients in Kenya, they must be given a rider. If they are consultants, we must have a rider that they use the local capacity of up to a maximum of say, 45 per cent, for purposes of incentives. That way, we will transfer the technology and the know-how to our local professionals so that in future, when the experts are not there, we are able to pull through and make things happen.

Look at Hon. Mishra. In a short period of time, he has been able to establish one of the best hospitals, not just in Kenya, but in East and Central Africa, by using local experts. That is a demonstration of the capacity we have as a country. If we have many people coming up with such facilities, Kenya is going to have good medical facilities for our people so that they do not have to go abroad. If foreign doctors want to treat our people, they can come and use our local services, lease our hospitals and use our people. That way, we get foreign currency, we create employment for our youth and we increase our visibility in the region in terms of medical services. It is good because it is going to create a perception that, as a country, we are prepared and ready to manage whatever situation there is.

Because I can see the interest that my colleagues have in this Bill, we need to support it. I would wish to stop there so that I am not selfish to my colleagues who have been here, just like me, from 2.30 p.m., waiting for an opportunity to speak to this Bill and support it. As I conclude, I want to mention that, at the opportune time, we also need to have in place internal mechanisms of referral. If we are not going to refer patients out of the country for treatments, it should also follow that every county must develop their own capacity so that if a county has to refer a patient to another county, it has to be an absolutely necessary case, of course, within the purview of the public health facilities. But if it is a private hospital, if you have the money, you can go to any within the country. But for public hospitals, we want to encourage the counties to develop their capacities so that all patients can be attended to at the county level. In special cases, a patient can be referred to another county for further treatment. That way, we will encourage positive competition among ourselves.

Hon. Temporary Deputy Speaker, I support. I want to thank Hon. Mishra for this forward-looking Bill which is going to address some of the challenges that we are facing as a country, including loss of a lot of money in the name of foreign exchange just because our patients are treated out of the country for conditions which would be best managed in the local set up, if only we encouraged our people to invest more on local capacity.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Before I get to my left, let us have Hon. Wachira Mukami.

**Hon. (Ms.) Rahab Mukami** (Nyeri CWR, JP): Thank you, Hon. Temporary Deputy Speaker. First and foremost, I want to congratulate my friend Hon. Mishra. At least today I have learnt from Dr. Pukose that Hon. Mishra is a gynecologist. I did not know that.

The Bill is long overdue. Personally, I have an experience. Two years ago, I lost my sister who had cancer. I went to India with her and stayed with her for three good months. You cannot imagine what Kenyans go through in India. I remember we were not able to pay the bills and so, we were told that we would be buying medicine from outside the hospital. Remember, I was sleeping with my sister in the hospital. If we pass this Bill, we are going to help Kenyans. Most people do not know what happens in India. The doctors normally link with brokers and other cartels in India. What happens when you go to India is that you are charged a lot of money because they need to pay the cartels some commission. So, I want to support what Dr. Mishra has proposed.

However, here in our country, we have a challenge because of our hospitals. I want to give an example of Nyeri General Hospital. It is a referral hospital but it does not have Magnetic Resonance Imaging (MRI) equipment. So, even as we tell people to use our facilities locally, we need to make sure that we have the best personnel and equipment in our hospitals so that they can take care of our patients. We need to protect our people.

Another thing I learned in India is about professionalism. In India, doctors normally take their work very seriously. Dr. Mishra knows what I am talking about. I am not talking about his hospital. In this country, most of the hospitals overcharge patients. When you go to a private hospital for consultation, you are charged about Kshs3,000. The doctor is just there to check you hurriedly and take the money to their construction site. In India, doctors normally check on patients as teams of doctors. One doctor cannot make a conclusion that you should go for an operation. They normally work together in teams. I urge our doctors to take their work seriously and know that they are dealing with human beings. They must do a lot of research so that they can treat our people better. If they do so, our people will not go to those hospitals.

With those remarks, I support Dr. Mishra's Amendment Bill. I am sure that, if we work together, we will move this country to another level.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Obara Akinyi

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I also rise to support the Bill. We have been told, and we can see that this Bill is an amendment to provide guidelines for the Cabinet Secretary to manage referral cases so as to prevent the abuse of the process. Many cases have been cited here today of patients who have gone to India, most of the times, for the simple reason that the cost of treatment is manageable. I know of several cases where the cost of a medical procedure in India was a fraction of what it would cost in Nairobi, air travel inclusive. You actually pay a fraction. With the experience of the COVID-19 pandemic over the last six months, I have also come to realize that this country is teeming with experts in various areas. Go to the Nairobi Hospital Specialist Clinic and you will find three floors of nothing but specialists in different areas. Go to the Aga Khan Hospital and you will see the same. Even in Eldoret, where Dr. Mishra comes from, you will find an old street of nothing but specialists. What we need now is the mindset that we can use the specialists in this country for the benefit of our citizens.

Hon. Temporary Deputy Speaker, at the same time, the Committee on Health needs to establish why people travel out of the country to seek medical treatment. Why do they prefer to go to India, for instance? It is because of the prohibitive costs at some of local hospitals. If you go to Nairobi Hospital and check the cost of some simple procedures, you will wonder why. Maybe, this is something the Committee on Health can start looking at. Why must Kenyans who go to Nairobi Hospital be charged so much? The facilities at private hospitals can only be there if people do not go to Kenyatta National Hospital, where the queues are so long that one might not even get a chance to be attended to. Therefore, this is something the Committee can look at. How do we manage the costs of treatment at some of the hospitals that we have to ensure that they are not part of the cartels that we are talking about, Dr. Mishra? This is because they are behaving like cartels. Why are they charging so much that Kenyans cannot even afford to go for treatment, if they do not have an insurance cover?

Secondly, I have noted that the Bill recognizes the critical role that the national Government plays in health care services with a view of improving the services. Again, during the COVID-19 Pandemic, what have we seen? The counties have been exposed. What we thought were properly managed health services in the counties came to be nothing. I am happy that it is becoming clear that the standard setting role of the national Government in health care services is critical. What do they have with the monies they are being given? Have you seen what has happened during the COVID-19 pandemic? The authorities in every county government said they had 300 beds but, when an audit was done, it was found out that all that was said was a lie. That is

why the national Government needs to have an aerial view of what is happening in the counties for the sake of the citizens of this country.

Therefore, like other Members, I support this Amendment Bill and urge that we go a step further to make sure that some of these prohibitive costs are brought down to manageable levels by the people of this country.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, this Bill was time-specific. The time allocated to the Bill lapses at 6.41 p.m. – that is in the next 13 minutes. Therefore, the Mover must be called upon to reply because he must have approximately 15 minutes. If the Mover is kind enough, he can donate part of his time to the few remaining Members.

It is up to you, Hon. Mishra.

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Speaker. I will donate 13 minutes of my 15 minutes. I will donate only two minutes to each Member.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): So, to whom do you donate?

**Hon. Swarup Mishra** (Kesses, JP): Hon. Murgor, Hon. Eric and Hon. Joshua.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): So, you give two minutes to each Member?

**Hon. Swarup Mishra** (Kesses, JP): Yes.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You do not have a lot of time to donate. Please, remember. So, let us have Hon. Murgor. Two minutes.

**Hon. James Murgor** (Keiyo North, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to this Bill. I would also like to congratulate my colleague, Hon. Mishra, for bringing this Bill, which is actually long overdue. This Bill will definitely help this country both in local and external referrals. Previously, when some of us were young doctors, there was a system which regulated local referrals. However, that system seems to have disappeared somewhere. That is why you find hospitals like Kenyatta National Hospital, Moi Teaching and Referral Hospital (MTRH) and the upcoming hospital at Kenyatta University getting overwhelmed by patients who have either referred themselves there or simply because the personnel at the lower levels are not working.

Hon. Speaker as a doctor, when a lady needs a caesarean section operation, and we have medical officers in Level 4 hospitals, when you find such a patient being referred to MTRH or KNH, then it means there is a problem somewhere. That is because a medical officer is capable of doing a caesarean section operation. On the external referrals, it is very important...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You only had two minutes. Hon. Muchangi, you equally have two minutes.

**Hon. Eric Njiru** (Runyenjes, JP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to support the amendment. I begin by congratulating Hon. Mishra for coming up with it.

It is coming at a time when we, as Kenyans and the Government, must re-look at the health sector especially because of the pandemic that we are currently experiencing. This amendment is going to help Kenyans in many ways. I believe almost every village in this country has experience the issue of raising funds to take patients outside the country. In some instances, I have seen a patient who has gone all the way to India and came back more sick because he was misdiagnosed. I believe by this amendment we will have a way of regulating who goes out of the country for treatment or rather the manner in which people go out of the country. So, I support this amendment

and believe it will go a long way in helping our health institutions to upscale their efforts and offer better services.

I thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Gichimu, your two minutes start now.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker. I support this Bill. A lot has been said in terms of the merits of the Bill. Let me also add some value on how these regulations, which have been termed as policies, ought to be made.

They ought to be made in such a way that there are no bureaucracies because of the urgent situations of medical issues. That is because when those regulations come, they ought to make it very easy for them to be obliged by the users. Another thing that needs to be looked into is that when obliging the counties to do their jobs because the medical issues are devolved, they should also be made not to abdicate their responsibilities because you find very minor cases being referred to Kenyatta National Hospital by counties who do not want to do their health responsibilities at their level.

Another issue that needs to be looked into is empowering the country at large and the counties in equipping them with the requisite equipment for treatment and especially in the cancer sector. I have seen a lot of money has been mobilized for COVID-19, but we have not seen that being done in other cases like cancer. I think this is the right avenue for that to be done by the Government.

I thank you and support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbithi. Two minutes please.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity. Thank you, Hon. Mishra for donating two minutes to me. This is a very important Bill. This country has been referring patients to other countries and they end up not being cured because, maybe, their sicknesses were detected late and they are at advanced stages. So, as we pass this Bill, I would like us to equip both big and small hospitals so as to decongest the referral hospitals in this country. Referral hospitals should treat specialized cases but the other small facilities such as the Level 4 hospitals, clinics and dispensaries should prevent the sicknesses before they advance.

Therefore, we need to look at this. It is very expensive to transport people abroad and it is equally expensive to bring the bodies here when they die there. Our culture dictates that we bury our people at home. We do not bury our people the way Muslims do. Our Christian culture is such that we transport the bodies to their ancestral homes. So, it is very expensive.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbithi, do not extend the grace. The grace by Hon. Mishra was only for two minutes. Hon. Mishra you have not more than five minutes to reply

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Speaker. I came to Kenya in 1997. I was born biologically in India where I stayed for 28 years. When I was a medical student in India, Indians used to go to Europe and America for higher medical services. In 1994, India started to become a destination for medical tourism. While in Kenya, when I used to go to India on holidays to see my parents, relatives and friends, every plane had 30 per cent African patients going to India. So, I felt so sad on hearing a lot of stories full of agony, melancholy and with a lot of economic stress. So, as a doctor whose first salary I got from Kenya by the grace of God, God has empowered us today to make this Bill to see the way forward.



I am overwhelmed and humbled by the support that my colleagues have extended to me in this august House. It will be written in history as far as the health of Africa is concerned that we Africans are the best people in the world with the best hearts. We know how to welcome and forgive. With these hearts, Kenya will be the destination for medical tourism and travels. People will be treated well at home with a lot of dignity, pride, love and also care. So, this is the beginning of a great journey and, with all due respect to this august House, we Africans will make it for the best health facilities and Africa will be the best healer in the name of God.

I thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well Hon. Mishra, we shall pend putting the Question on that particular Order to a subsequent time. We shall not put the Question. That shall be done at another time.

*(Putting of the Question deferred)*

Next Order.

### MOTION

#### AUDITED FINANCIAL STATEMENTS FOR STATE CORPORATIONS

THAT, this House adopts the Twenty Third Report of the Public Investments Committee on its consideration of the Auditor General's Reports on Financial Statements of State Corporations, laid on the Table of the House on Thursday, 2<sup>nd</sup> July 2020.

*(By Hon. Abdullswamwad Nassir on 5.8.2020)*

*(Resumption of Debate interrupted on 5.8.2020- Afternoon sitting)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, that Order is a Resumption of Debate interrupted on Wednesday August, 5<sup>th</sup> Afternoon Sitting. There are those who had spoken to this and shall not get a chance to speak again.

Hon. Nassir had moved and seconded by Hon. Ibrahim. Hon. Ndindi Nyoro, Hon. T.J. Kajwang', Hon. Godfrey Osotsi, Hon. Gichimu Githinji, Hon. Hassan Maalim, Hon Ronoh Kipkogei and Hon. Chepkut had spoken to this and, obviously, they will not get a chance to speak again. Top on the list here is Hon. Nyikal Wambura.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this discussion. Let me start by congratulating the Committee for the massive work it did. It has brought a huge Report on the management of our State corporations.

I will not go into the details of each of the State corporations they have talked about. I am congratulating them because they have done something that I have never seen before. They have brought out the general weaknesses that are affecting the management of all of our State corporations. I think this is very commendable. This is because in the past, we have looked at each corporation and its problems. This is the first time I am seeing a Report giving generic problems which, if solved, all corporations will do well.

For example, one common thing they found among all corporations is lack of security or ownership of properties like buildings, land and equipment. Most corporations lack properly secured properties, do not have title deeds and often this leads to losses. If you look at mono-corporations, they have huge tracts of land without title deeds. This has led to massive losses and irregular acquisitions of land. In the end, people have suffered because those lands were acquired using improper ways and innocent buyers have gotten into problems. For this, they have made recommendations addressing how those agencies can be assisted.

They found issues concerning management of contracts. We all know that procurement in particular is the conduit of massive losses that this country suffers in our State corporations. They have brought out issues like single-sourcing, mis-procurement, delay in procurement and not linking procurement to time processes like buildings. So that, in the end, money is lost. In some cases, because of mis-procurement, corporations lose money because they have to pay out since procurement was not properly done. I find this commendable.

Even when there are losses, they found out that many corporations do not use the court processes properly. There are delays in taking matters to court. When they go to court, they do not use the appropriate offices. They found out they use private law firms and when they use the Attorney-General's Office, there is poor or weak representation. Again, the State corporations lose resources because of this.

They also found out that financial management in our corporations is a general area of weakness. What they noticed and brought out is that many corporations seem to rely on State grants and funds. They seem to behave as if even if they do not manage their funds well, they will be bailed out. For example, with regard to Kenya Airways (KQ), we know the number of times we have bailed them out. We are now planning to take it over. State corporations seem to realize that even if they mismanage their funds, they will not run down. They will be bailed out using State grants. This is an issue they have brought out.

Even in the accounting management, you find that most State corporations are reluctant or unwilling to submit their accounting documents for proper auditing - again, resulting in huge losses. So, they have made appropriate recommendations in all these areas and I applaud them.

As I end, I want to say if those general weaknesses are addressed and recommendations implemented by the State corporations and agencies that oversee them like ministries, this will go a long way in resolving some of the issues we experience. I find this Report educative in giving us an overview of what the problems are in our State corporations.

I call upon the Committee on Implementation to take this Report and ensure it is implemented. They should take the agencies charged with implementation to task. If this is done, we will not have to keep chasing every State corporation. They looked at about 40 corporations and have addressed the same general issues. So, the Committee on Implementation should take this Report and implement the recommendations since this will go a long way.

With that, Hon. Temporary Deputy Speaker, I support this Report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Nyaga Muchiri.

**Hon. John Nyaga** (Manyatta, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to this Report. I happened to be a Member of PIC in the 11<sup>th</sup> Parliament and in the current Parliament. However, I was elbowed when there was rearrangement of committees.

My Chairman then, Hon. Abdullswamad, guided the Committee very well and I hope he will be the next Governor of Mombasa. *Inshallah!* We burnt the midnight oil in coming up with quite a number of recommendations. We invited all the organizations involved in procurement

services. I want to mention a recommendation we made concerning State corporation's chief executive officers (CEOs). This is because they are taking advantage and misusing their authority.

We found one who had done procurement of services before the expiry of a contract. We asked him the reasons behind that because he completely refused to heed to the advice of internal and external lawyers like Iseme Kamau who advised him against doing so. He also refused to take legal advice from the Attorney-General. We found this to be very serious because the CEO did not consult his board members and arbitrarily did things the way he wanted, while forgetting that, that is a public organization. Therefore, action should be taken against him.

Again, we found that when he was procuring that service, he awarded a contract to companies banned by the previous board which was there before he joined the company. This proves he had a conflict of interest. As a Committee, we gave a number of recommendations. But I would like to zero-in on one. We decided that the Ethics and Anti-Corruption Commission (EACC) and the Director of Criminal Investigations (DCI) should take action against the person who is culpable, since they have experts who can do forensic investigations. Then, afterwards, the matter can be taken to court. If not so, they can settle the matter at that point if no one is found culpable.

I would want to make reference to the recommendations we did. I was a Member of a Committee that visited Japan in the 11<sup>th</sup> Parliament to see the operations of some of their companies. We found some of them had infrastructure. The Auditor-General himself accompanied us and even in the 12<sup>th</sup> Parliament, the Auditor independently decided to go there because there were complaints against some companies which were awarded that work by the Kenya Bureau of Standards (KEBS). Fortunately, he found out that those companies had submitted forged documents to KEBS. It is sad to note that the same companies have been awarded this business. Therefore, it is...

**Hon. T.J. Kajwang'** (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Muchiri. What is out of order, Hon. T.J. Kajwang'?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Speaker, listening to my friend as he is pursuing the discussion on this Motion, I wonder whether he is discussing the Motion on the Report or he is discussing the Special Report. There are two Motions that are before the House. One is the regular report of the financial year and the other is a special one. I hear him to be speaking facts which are in the Special Report rather than the one in the regular report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Muchiri, are you moving on a tangent? You need to be back to this Report.

**Hon. John Nyaga** (Manyatta, JP): Hon. Temporary Deputy Speaker, I stand to be guided. There is a Special Report which was conducted by the Auditor-General.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Special Report will possibly come at some point certainly. So, do not anticipate debate on that one. Focus on the one we have now.

**Hon. John Nyaga** (Manyatta, JP): Thank you, Hon. Temporary Deputy Speaker, for the guidance. I would like to urge this House to support the work which was done by this Committee in the main Report so that we can correct quite a number of issues which are affecting our State corporations. I rest my case.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I rise to support the adoption of the Report by PIC. Just across me is the indomitable Chair, the MP for Mvita, whom I have just learnt is vying for governorship. I do not know but should it be so, I wish him well. If I were a voter in Mombasa, I would not hesitate to vote for him. Thank you, Hon. Abdullswamad.

Two aspects have impressed me in this Report - the general perspective to the Report and the specific perspective to the Report. Generally, the Committee has given work to the Committee on Implementation in terms of pursuing the DCI, EACC and investigative agencies to make sure they conclude the matter since they are the experts on various audited figures. What I would want to ask them also is to add on the Report by the Auditor-General. In as much as they were working on the figures by the Auditor-General, her opinion is very important so that the institutions can use it.

I would want to be very specific and take an example of about three or four parastatals which have been mentioned in the 23<sup>rd</sup> Report of PIC. When you look at that Report, there is the view on Kenya Plant Health Inspectorate Service (KEPHIS). When you look at what the Report has come up with, it is the colossal sum of 330 acres which, in the books of KEPHIS are owned by KEPHIS. However, KEPHIS itself is only occupying 120 acres which they have fenced. Two hundred and ten acres are allotted to people who the Committee is not able to establish, but is asking the National Land Commission (NLC) to pursue and make sure they get the land back to KEPHIS. This is an agency under the Departmental Committee on Agriculture and Livestock. The role it plays is very key in terms of having that land so that they can have some test samples and plant some produce which they can use as samples to research on. This land could have been grabbed or given away by the Government. I feel that kind of position should be reversed. The appetite by the Government to give out land which ordinarily belongs to institutions must stop.

Therefore, as we adopt this Report, I will be asking the Committee on Implementation to make sure that they engage NLC to the letter so that this land is reversed back to KEPHIS or it is given to the rightful owners. That way, the operations of the organization will be resumed once and for all. At the same time, it is my prayer that all institutions are fenced. If they have fences, it stops grabbers or anyone with an appetite for land from trespassing.

Another agency which has been singled out is the Kenya Ports Authority (KPA). There are quite a number of title deeds valued at about Kshs313,400,000 belonging to the organization. However, the institution has been invaded by third parties and private developers due to lack of title deeds for most of its parcels of land. It is the same thing that the Committee is pointing out, that the KPA land has been invaded. It does not mean KPA in Mombasa alone. It also means KPA in Nairobi, KPA in Kisumu, KPA in Nakuru and KPA in Eldoret. The organisation is all over. Once the land of KPA is invaded, it means future plans of the country in terms of port authority operations are going to be hampered. Therefore, I feel this is a good thing especially touching on land. Let it be addressed through the Committee on Implementation.

The third agency I would want to talk about is the Kenya Investment Authority. We can see the figures which the Chair has brought up from a small figure of Kshs217,152 to Kshs10,251,977. I can see a good mathematician, Hon. Babu Owino, is here. He can look at the number and see how many times it has been raised. This is an abnormal figure that is being attributed to an officer of the Government who is the former CEO and now the current Deputy Governor of Kericho. I feel this is a serious thing which I want to support the Committee in terms of making sure that if, indeed, there was misdeed, it is important as pointed out by the PIC

chairman, that the person is investigated. Let his side of the story be told so that things can become better.

The final agency I would want to talk about is the Kenya Airports Authority (KAA) whereby procurement law was not adhered to when there was a scope change in the contract for the runway project. This makes it hard to determine. The contract was not to be paid because of missing progress reports for the temporary offices. Stores and other facilities fee of Kshs23,624,978 was paid despite the offices being non-existent during the contract period. Paying Kshs23,624,978 for a non-existent project as far as the PIC Report is concerned is something that each one should condemn. The only rightful authorities to tell us whether this happened are the DCI and EACC. Let them read through the books. Now that the Chair has pointed out, let us have it audited to the letter and if they are found culpable, they be held to account.

With that, I beg to support the Report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, it is 15 seconds to 7.00 p.m. and the House must rise. Hon. Babu, you cannot speak now. The good news is that there is a reminder of one hour and twenty minutes before this agenda item ends. So, you will still get a further opportunity when the HBC resolves to bring it on again.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 10<sup>th</sup> September 2020, at 10.00 a.m. Hon. Members, please note that it is on Thursday and not on Wednesday.

The House rose at 7.00 p.m.