

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Tuesday, 7th May, 2024****Afternoon Sitting**

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 pm.*

[The Temporary Speaker (Sen. Veronica Maina) in the Chair]

PRAYER**DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING**

The Temporary Speaker (Sen. Veronica Maina): Clerk, can you confirm whether we have a quorum?

*(The Clerk-at-the-Table consulted with
the Temporary Speaker)*

Hon. Senators, we do not have a quorum yet. Serjeant-at-Arms, kindly ring the quorum Bell for 10 minutes.

(The Quorum Bell was rung)

The Clerk has confirmed that now we have a quorum. Therefore, we can proceed to the first Order.

The Senate Majority Whip, Sen. (Dr.) Bonny Khalwale, can you lay the Paper?

PAPER LAID**REPORT OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENT
OF YATTA WATER SERVICES COMPANY LIMITED**

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I beg to lay the following Paper on the Table of the Senate today, Tuesday, 7th May, 2024-

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Report of the Auditor-General on Financial Statements of the Yatta Water Services Company Limited for the year ended 30th June, 2023.

(Sen. (Dr.) Khalwale laid the Document on the Table)

(Sen. Cherarkey spoke off the record)

Madam Temporary Speaker, did you hear the Senator for Nandi County, Sen. Cherarkey calling me “Kimunya must go?” I do not wish him to withdraw and apologise, but I beg him to rise to that standard of “Kimunya must go,” especially in these days of Hon. Linturi.

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, I am sure you are conversant with your name and I believe it is not Kimunya.

[The Temporary Speaker (Sen. Veronica Maina) left the Chair]

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

The Speaker (Hon. Kingi): Next Order, Clerk.

NOTICES OF MOTIONS

EXTENSION OF TIME FOR CONSIDERATION OF THE REFUGEES (GENERAL) REGULATIONS, 2024

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir. I beg to give Notice of the following Motion-

AWARE that the Committee on Delegated Legislation is established under Standing Order No.195 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that, pursuant to Standing Order No.195(2) and (3) of the Senate Standing Orders, on 20th February, 2024, the Refugees (General) Regulations, 2024 were laid in the Senate and thereafter stood committed to the Committee on Delegated Legislation for its consideration;

NOTING that the Refugees (General) Regulations, 2024 seek to give effect to the Refugees Act, Cap 173 of the Laws of Kenya and that the Regulations touch on core functions of the county governments as set out in Part II of the Fourth Schedule to the Constitution, including Health, control of pollution, county planning and development, public works and services as well as governance at the local level;

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NOTING that in considering the Regulations, due to the gravity of the impact of the Regulations the Committee on Delegated Legislation met with officials from the Ministry of Interior and National Administration, on Thursday, 2nd May, 2024 and directed the Cabinet Secretary and the Principal Secretary, Ministry of Interior and National Administration to provide evidence of the conduct of public participation on the Regulations and to table a regulatory impact statement pursuant to Part III of the Statutory Instruments Act, 2013, Cap 2A of the Laws of Kenya.

APPRECIATING that under Section 15 of the Statutory Instruments Act, 2013, the Committee on Delegated Legislation is required, within 28 sitting days after the date of referral of a statutory instrument to the Committee or such other period as the House may, by resolution approve, to either accede to the Regulations or, where it does not accede to the Regulations, to recommend to the Senate that the Senate resolves that the statutory instrument be annulled.

NOTING that the 28 day timeline provided to the Committee under Section 15 of the Statutory Instruments Act, 2013 is due to lapse on Tuesday, 7th May, 2024 and noting that the Committee on Delegated Legislation requires further time to exhaustively consider the Regulations particularly with regard to the conduct of public participation by the Ministry of Interior and National Administration and the position of a Regulatory Impact Statement;

NOW THEREFORE, pursuant to Section 15(3) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timeline for the consideration of the Refugees (General) Regulations, 2024 by a further 21 days in order to enable the Committee on Delegated Legislation to exhaustively consider the Regulations.

I thank you.

ADOPTION OF PROGRESS REPORT OF THE *AD HOC*
COMMITTEE ON 1998 USA EMBASSY BOMBING

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. I wish to give Notice of the following Motion-

THAT, the Senate adopts the progress report of the *Ad Hoc* Committee on the compensation to the Kenyan victims of the 1998 bombing of the United States of America Embassy in Nairobi, laid on the Table of the Senate on Thursday, 2nd May, 2024.

I thank you.

The Speaker (Hon. Kingi): Thank you, Senator. Clerk, next order. Statements pursuant to Standing Order No.52, Sen. Wambua, proceed.

QUESTIONS AND STATEMENTS

STATEMENTS

TERROR ATTACK IN MANDERA COUNTY

Sen. Wambua: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on a matter of national and general topical concern, namely; the terror attack of Monday, 29th April, 2024 in Mandera County, which has caused distress to numerous families and victims.

On Monday, 29th April, 2024, at approximately 20 minutes past seven o'clock, the world was treated to the sad news of yet another terror attack in Mandera County. The deafening blast of an Improvised Explosive Device (IED) at Elwak Town, which is a few metres from the local Administration Police camp, left in its wake death, severe and permanent bodily injuries, widespread destruction and a profound sense of existential fear among civilians.

The attack is alleged to have been targeted at teachers and health workers, a majority of whom are non-locals. This is quite concerning as there is a significant population of teachers, health workers and construction workers from Kitui County and from other counties diligently serving in Mandera County.

As fate would have it, 11 casualties of the terror attack were from Kitui County. Seven of the casualties had lost their lives as of yesterday. They are Messrs: Alex Mutati, Sammy Peter, John Mbaku Kilunda Mutemi, Robert Munyiithya Katui, Munyioki Musalu, Joseph Mulelu Mutuku and Muniyao Mului.

Messrs: Mutati, Peter, Musalu, and Mutuku hailed from Nuu Ward in Mwingi Central Constituency and had resided in Elwak for three years and three months, respectively. Mr. Mutati was working in construction sites and was at the time of his death making arrangements to solemnize his wedding. Mr. Mutuku succumbed to his injuries in the Intensive Care Unit (ICU) at Kenyatta National Hospital (KNH), where he had incurred a significant hospital bill.

Messrs: Mutemi and Katui both hailed from Mbondoni area of Kiomo/Kyethani Ward in Mwingi West Constituency. Mr. Mului, from Mwingi Central Constituency, succumbed to his injuries at Wajir General Hospital, with the family having to incur a cost of Kshs140,000 to transport the body to Nairobi for autopsy.

Other victims are nursing serious injuries in various health facilities at a great cost and unfortunately, at a time when medics in public hospitals are on strike. The families of the casualties have been left to their devices to meet the hefty costs occasioned by the terror attack. There are huge bills that the families must settle for autopsy and body reconstruction. Medical bills also continue to accumulate each passing day for those hospitalized.

At KNH, as at yesterday, the personal details and bills for those admitted were as follows-

1. Mr. Festus Muthui Karuvu (ID. No: 20306969) - Kshs35,000
2. Mr. John Karuvu Muthui (ID. No: 37800635) - Kshs145,000

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3. Mr. Peter Kilonzi Ndava (ID. No. 40122031) - Kshs35,000

4. Mr. David Nzyima - Kshs16,000

Mr. Karuvu is from the Kiio area of Kiomo/Kyethani Ward in Mwingi West Constituency and is the father of Mr. Muthui; both of them are admitted to KNH nursing various injuries.

I wish them, together with Messrs: Ndava and Nzyima, quick and full recovery. The prayers of the people of Kitui County and Kenyans of goodwill are with you and with the families of those who were killed in the terror attack.

These families feel neglected by both the national Government and the County Government of Kitui. The families need support to settle bills and to attend to their loved ones. The families and surviving victims want and deserve justice for the loved ones they have lost, which only the national Government is endowed with the capacity to deliver.

I, therefore, as the elected Senator of Kitui County, ask the national Government to give an unqualified commitment to step in and help the victims and their families. I am asking the Government to foot all pending hospital and mortuary bills for the victims, to take care of the burial expenses of those killed in the terror attack and to fast-track investigations into the attack to facilitate closure on the part of surviving victims and families.

These cowardly acts of terror by invisible enemies are meant to inflict grief and terrorize innocent people to live in fear. The terrorists wish to cause divisions along religious and ethnic lines. The people of Kitui County have had long and mutually rewarding commercial and social relationships with the people of Mandera County and have, for decades, engaged in booming livestock trade and exported both skilled and semi-skilled labour across their borders.

Mr. Speaker, Sir, I implore our people from both counties not to allow themselves to be divided by an enemy whose mission is to destroy the foundations of cordial relations and lay evil foundations of hatred, death and destruction. They must not be cowed to submission by an enemy who is pursuing evil outcomes for reasons only the devil can explain to his own.

Long live the cordial relations between the people of Mandera and Kitui counties. In the words of the national anthem - "may peace be found within our borders."

I thank you.

The Speaker (Hon. Kingi): Statements Pursuant to Standing Order No.53 (1). Proceed, Sen. Wafula.

IRREGULAR APPOINTMENTS OF VICE-CHANCELLORS
AND PROMOTION OF TEACHERS

(Statement dropped)

Proceed, Sen. Mumma.

DISASTER RESPONSE UNDERTAKEN TO MITIGATE
EFFECTS OF FLOODS IN NAIROBI

Sen. Okenyuri: Thank you, Mr. Speaker, Sir. I am reading this on behalf of Sen. Mumma who is out of the country.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the disaster response undertaken by the Ministry of Interior and National Administration and the Nairobi City County government to mitigate the effects of flood in Nairobi.

In the statement, the committee should-

(1) Clarify the existence of an inter-governmental agreement between the Ministry of Interior and National Administration and the Nairobi City County government for coordinating flood responses, specifying tasks assigned to each level of government.

(2) Provide up-to-date data on deaths, injuries, displaced households, especially in informal settlements such as Mathare, Kibra, Kawangware, Mukuru and closed schools and affected students.

(3) Detail financial and non-pecuniary support allocated by the national and county governments for affected households, schools and communities, stating the various roles of various Ministries, Departments and Agencies involved in the response, for example, the Kenya Red Cross Society and National Disaster Management Unit (NDOC).

(4) Clarify whether Housing and Urban Planning departments have integrated climate-marked strategies into urban development plans to enhance resilience against disasters such as floods and mention the role and involvement of non-State actors, development partners and public benefit organisations in building resilience mechanisms against disasters such as floods.

(5) Finally, coordinate an Inter-Governmental Disaster Management Conference involving national Government Executives, the Council of Governors (CoG), Parliament and other stakeholders to review national disaster response strategies and identify areas for legal policy, regulatory and institutional improvements.

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

DISTRIBUTION AND USE OF HARMFUL
PESTICIDES AND HERBICIDES IN KENYA

Sen. Chute: Thank you, Mr. Speaker, Sir. I have two statements to read. One is a request for a statement on the distribution and use of harmful pesticides and herbicides in Kenya.

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries, regarding the distribution and use of harmful pesticides and herbicides in Kenya.

In the statement, the committee should-

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(1) Report on the extent of use of pesticides and herbicides manufactured by Syngenta, Bayer Ag and Monsanto, which have been banned in other jurisdictions, including the United States of America (USA) and Europe, for causing a widespread aggressive form of cancer.

(2) Confirm whether the firms have been selling 85 per cent of pesticides and herbicides, classified as highly hazardous by the Pesticides Action Network (PAN) to farmers in Kenya and establish whether the pesticides and herbicides sold by the firm are banned by the European Union and state the reasons for the ban.

(3) Investigate and clarify whether the three firms willingly and knowingly presented pesticides and herbicides with high levels of acute or chronic hazards to human health and the environment and whether the pesticides used in locust control were approved by PAN.

(4) Obtain data on the number of people reported to have suffered adverse effects from the harmful pesticides and herbicides, clarifying whether the three firms have compensated people for the loss of lives, livestock and environmental degradation from their harmful pesticides and herbicides.

(5) Finally, state any measures the Ministry has put in place to protect farmers from such unscrupulous manufacturers and traders.

UNREGULATED SALE OF HARMFUL HAIR RELAXERS AND BLEACHING SUBSTANCES

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Health concerning the unregulated sale of harmful hair relaxers and bleaching substances by the L'Óreal International Cosmetics and Beauty Company.

In the statement, the committee should-

(1) Investigate whether the ingredients used by L'Óreal International Cosmetics and Beauty Company, in the manufacturing and preservation of hair relaxers and bleaching substances contain carcinogenic properties such as formaldehyde.

(2) Establish health risks associated with the usage of these products.

(3) Clarify whether the company exercises consumer protection and risk assessment by labelling the chemical used in other products and if they perform risk assessment to minimise the risk of human contact allergic reactions.

(4) Establish all complaints of experienced side effects after the use of L'Óreal Beauty Products and give data of those who have been compensated, if any.

(5) Finally, investigate whether the products are in their market legally and whether they are disproportionately skewed against the black African population.

I thank you.

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.56, the Chairperson Standing Committee on Energy.

OVERFLOWING OF DAMS USED BY KENGEN
TO GENERATE ELECTRICITY

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir. I rise pursuant to Standing Order No.56(1)(a) to make a statement relating to a matter to which the Committee is responsible.

I wish to make a statement on the overflowing of the dams used by Kenya Electricity Generating Company (KenGen) to generate electricity in the country due to the ongoing heavy rains.

Mr. Speaker, Sir, let me begin by acknowledging that the rains we have experienced as a country have come with many destructions to properties, injuries and death.

As a committee and as the Chairperson of the Senate Standing Committee on Energy, allow me to tender my condolences to the families of everyone who has lost their loved ones.

Mr. Speaker, Sir, on Thursday the 2nd May, 2024, the Committee had the opportunity to overfly the Seven Forks Dams that KenGen uses to generate electricity in the country. What we saw was a very critical situation.

Mr. Speaker, Sir, as at six o'clock on 6th May, 2024, Masinga Dam was discharging 850.34 cubic meters of water per second. Kabarua Dam was discharging about 1,076.10 cubic meters of water per second. Gitaru Dam was discharging 1,495 cubic meters of water per second, while Kindarua Dam was discharging 1,174 cubic meters of water per second. Kiambere Dam was discharging 1,316 cubic meters per second. The release of the water is through the cascading manner, meaning that the dam that releases water back to the Tana River is Kiambere Dam, which was discharging 1,316 cubic meters per second.

The general perception has been that KenGen, by practice, releases this water from dams back to the Tana River. However, this is not the case. When the mega-dams were built, a control mechanism called a spillway is built together with the dam. Spillways are structures that either form part of the dam or are constructed just besides the dam. They are used when a reservoir is filled past the floodwater safely and in a controlled way over to a dam around it or through it. For the Seven Forks Dam, it is not different. That water overflowed and is being discharged through the spillways.

Prior to overflowing of the Seven Forks Dam, the Committee was able to fly to Garissa and see the damage that has been caused by the floodwater from Tana River. We saw villages and houses marooned by water, roads washed away, and we also heard of untold suffering that the people of Garissa have endured. The irony of the whole matter is that the last rain that Garissa had experienced before was on the 25th, April 2024, seven days before, yet, Garissa town was flooded with water. This was water from Tana River, which had broken its banks.

Following the consultation with the Cabinet Secretary for Energy and Petroleum and the Managing Director (MD) of KenGen, a temporary measure to mitigate the situation would be to raise the wall of Masinga Dam by one meter. This would significantly delay the overflowing of water downstream.

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A permanent solution, however, is the construction of the dykes at the most vulnerable, sensitive places in the Tana River and the construction of the High Grand Falls Dam. Dykes are flood mitigation structures created in river that prevent water from flowing beyond a certain height. These flood control structures are used to protect coastlines, riverbanks, agricultural fields, homes, urban areas and other properties.

A country like Somalia, with the help of the United Nations Development Programme (UNDP), constructed two dykes in the Bulai Stream, which transformed Hadji village in the hinterland of Gendo region. The Netherlands have also used dykes to control floods between 33 and 60 per cent of Netherlands East located below sea level. Netherlands depends on the dikes and leaves for flood protection.

The other permanent solution is the building of the High Grand Falls Dam. High Grand Falls Multipurpose Reservoir is one of the flagship projects in the Kenya Vision 2030. The proposed dam site is in Tana River. The largest river in Kenya will be located on the left side of the river with the potential to store sufficient runoff of about 5 billion cubic meters during the rainy season of the flood.

Concerning river flow regulation and supply for irrigation domestic and industrial purposes, the Government in September, 2023 signed a Public-Private Partnership (PPP) agreement with a United Kingdom (UK) firm for the construction of the High Grand Falls. It will cost roughly Kshs425 billion to construct and complete the dam, which will be able to hold 5.7 billion cubic meter of water and generate over 700 megawatts of electricity.

The construction of the dam will, therefore, control the floodwaters from Tana River and will prevent destruction of life and property. Even though, with all the rainwater that has been in people's mind in the reduction of cost of electricity, arising from the increased generation through hydropower, notably the cost of electricity has reduced by 13 per cent. This is attributed to the increased power generation through hydro and hence significant reduction of the cost of fuel associated with thermal plants.

Finally, the rain that the country has received has been abnormal. The destruction witnessed has been catastrophic and the death toll has been high. I urge everyone to take utmost care during this rainy season. Let us avoid unnecessary risks and let us keep safe.

Thank you, Mr. Speaker, Sir.

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

The Speaker (Hon. Kingi): Senator for Nandi County, you know you cannot rise on a point of order if there is no Senator on the Floor.

(Sen. Cherarkey spoke off the record)

Proceed.

(Interruption of debate on Statements)

POINT OF ORDER

STATE OF BUNGE TOWER

Sen. Cherarkey: Mr. Speaker, Sir, thank you very much for this opportunity. I rise under Standing Order No.35. I know you are seized of this matter. On three occasions, I have raised an Adjournment Motion on discussion of Bunge Tower and its operations. I handed it in on Tuesday, Wednesday and on Friday because after an in-camera conversation with you, you told me you had not seen my request of an Adjournment Motion.

I submitted my Adjournment Motion on the operationalisation of Bunge Tower because half of your Senators are on medication, especially against allergy. Others do not see sunlight, they might become jaundiced. We are also waiting for the lift for 20 minutes.

Mr. Speaker, Sir, after consultation with Members, I request that since I handed over my Notice of Motion on Friday, which is more than two days, 72 hours to be precise, to be allowed to discuss the Adjournment Motion. The essence is to defend our own welfare and well-being.

My Chair of Senate's County Public Accounts Committee (CPAC) has been on antihistamine for the last five days, and half of our witnesses are following the proceedings. Most of our suits are washed in Jeremy Street in London, but when you walk around, by the time you are coming out, there is a lot of dust on our coats.

Mr. Speaker, Sir, you are our leader. Your predecessor, Speaker *Emeritus*, hon. Kenneth Lusaka, when it reached a time to lead us to the High Court to sue the then Government for non-concurrence, it was him who led us himself while walking by foot up to the High Court in Milimani. He did not drive.

Across our neighbour, Speaker Anita Among, the Speaker of the Parliament of Uganda, presided over a sitting where the sanctions of banning on allegations of corruption by the United Kingdom Government while she was being discussed. My point is simple. Can you kindly allow us to ventilate? If you cover this, one day it will explode, and the consequences might be dire not only to all of us, but to the running of business.

I request that under Standing Order No.35, the Motion be adjourned. I have the requisite number. The Senators will stand if you need the numbers. We are more than 15. I, therefore, request the Senators to stand in support of my Adjournment Motion.

(Sen. Orwoba stood up in her place)

The Speaker (Hon. Kingi): Sen. Orwoba, you are out of order. Take your seat.

Sen. Cherarkey: Mr. Speaker, Sir, in conclusion, because I know we have a lot of issues on the Order Paper---

The Speaker (Hon. Kingi): Senator for Nandi County, you cannot assume the role of the Chair and ask your colleagues to stand in support of a Motion that is not before the House. Take your seat.

Hon. Senator for Nandi County, indeed, I received your Notice of Motion from the office of the Clerk. As you may be aware, it is upon the Speaker to go through a

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Notice of Motion, or a Motion for that matter, and either disallow, approve, or come with other options.

In this regard, your Notice of Motion reached my desk, I looked at it, and as a Speaker, in my opinion, I thought there are better ways of addressing the issues that are affecting you and your colleagues. It is purely administrative. I made a note on the face of your Notice of Motion that a letter be written, indicating all those complaints, and those issues shall be put before the Parliamentary Service Commission (PSC) for discussion and reaction. In the event that the PSC is unable to adequately and, to the satisfaction of hon. Senators, address those issues, then at that particular time, I will allow any Motion for this House to express its dissatisfaction in the manner the services are offered at Bunge Tower.

Procedurally, the Secretariat by now ought to have informed you about my decision as the Speaker. If not, the Clerk may communicate to the hon. Senator in the next 24 hours for action.

Next Order.

Sen. Mungatana, MGH: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Yes, hon. Sen. Mungatana, MGH.

Sen. Mungatana, MGH: There are very important issues that were raised in the statement; I request that you give us an opportunity to make comments.

The Speaker (Hon. Kingi): Very well.

Sen. Mungatana, MGH: Thank you.

(Resumption of debate on Statements)

The Speaker (Hon. Kingi): Before we move to the next Order, I will allow for 30 minutes as per our Standing Orders for hon. Senators to make some interventions on the statements that have been made.

We only have half an hour, but I can see my dashboard is almost full. As you speak, be mindful of your colleagues.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I rise to support the statement that was raised by the nominated Sen. Mumma and read by our very own Sen. Okenyuri. It was directed to the Standing Committee on National Security, Defence and Foreign Relations on the disaster response in Nairobi City County. I was going to request that as the Committee investigates the issues that have been raised by Sen. Mumma, it should also seek clarification on two quick issues.

His Excellency the President visited the Mathare area and directed that the people from the 40,000 household who have been affected be given Kshs10,000 per household to help them in the relocation. I would like the committee to find out if the same amount of money or even more can be extended to other counties such as Tana River, which have been badly affected and people relocated from ordinary places of living.

I thank you.

The Speaker (Hon. Kingi): Sen. Sifuna proceed.

Sen. Sifuna: Mr. Speaker, Sir, allow me to inform the hon. Senator that, in fact, the announcement by the President yesterday was on plans that his Government is

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intending to put in place to help the people of Nairobi City County. This is coming two weeks after people have been moved from their houses, which have been washed away. I was extremely disappointed that instead of addressing the people of Mathare about what the Government has already done, the head of State was talking about things he was going to do. Where does he think these people have been living on for the past two weeks? This rain in Nairobi City County started beating us---

The Speaker (Hon. Kingi): What is your point of order Senator for Nandi County?

Sen. Cherarkey: Mr. Speaker, Sir, I rise under the Fourth Schedule of the Constitution on devolved functions and also Section 148 of the Public Finance Management (PFM) Act. Is it Standing Order Nos.1 and 105, if you want the Senate Standing Orders?

Mr. Speaker, Sir, is it in order for Sen. Sifuna to mislead the House yet issues of disaster and emergency under the budgeting process under the PFM Act, states that at least two per cent should be allocated to fighting disaster?

The issue of handling disaster is not an exclusive function of the national Government. What Sen Sifuna should be telling the nation is what the Nairobi City County Government has done in Mathare before you---

(Sen. Orwoba spoke off the record)

The Speaker (Hon. Kingi): Sen. Orwoba, under our Standing Orders, we do not allow choruses in this House.

Conclude Senator.

Sen. Cherarkey: Mr. Speaker, Sir, in fact, the national Government only comes to supplement. Sen. Sifuna should be telling the nation what they have done as a county government with their two per cent to address the challenges as we sympathize and empathize with the people who have been affected in this city.

This is money that is allocated under the county revenue. For the information of the House, the Governor of the county said that the national Government has given support to a tune of Kshs500 million. Therefore, you cannot allow Sen. Sifuna to misinform and mislead the country. He should be ruled out of order.

The Speaker (Hon. Kingi): Sen. Sifuna, if I got you correctly you indicated that the head of State visited Mathare two weeks after the floods have ravaged the area; and instead of coming to say what the national Government had done, he came to state what his Government was going to do.

From what the Senator for Nandi County has said, that under Schedule Four of our Constitution, that particular function fairly falls within the county government. Would you still want to pursue that line?

Sen. Sifuna: Mr. Speaker, Sir, I will absolutely insist on that line. If you protect me from these frivolous points of order, I was going to tell you about what the county government has done. I was expressing my disappointment.

The rain in Nairobi started beating us seriously on the 20th April, 2024. By the 24th April, 2024 we the leadership of the county were calling for the national Government

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to declare this a national disaster because our own county was overwhelmed. I hear people parroting about the two per cent of the county resources being directed to the disaster account. It is not as if the county governments receive all the money allocated to them by this House, then separate the two per cent and put it in the account.

As I speak right now, if you are a serious person who follows devolution you know that the county governments have not received money since January. The equitable share of county governments has not reached counties from January. If you hear a person talking about the two per cent---two per cent of what? You should talk about two per cent of money that you have put in the accounts of county governments.

Mr. Speaker, Sir, my disappointment is in the fact that from the 24th of last month, people have been sleeping outside. Then you tell us that you are going to give Kshs10,000 to the affected households. We have lost over 10,000 households. Where do you think these people have been sleeping? That is my disappointment. I want to dissuade Sen. Mungatana, MGH. Do not wait for Ruto's money because it is not coming for your people.

As the Senator of Nairobi City County, I can confirm that no money has reached the people of the county from the national Government. So, do not tell us about two per cent---

The Speaker (Hon. Kingi): Sen. Cherarkey and Senator of Nairobi City County, in this House, we use parliamentary language. If you are referring to a colleague, you refer to them as hon. Senator. If you are referring to the head of State, then you refer to him as His Excellency the President of the republic of Kenya. We do not have a Mr. Ruto. Kindly abide.

Sen. Sifuna: I want to advice---

The Speaker (Hon. Kingi): I have not yet concluded, Sen. Sifuna. Take your sit.

Sen. Sifuna: Let me make the correction you have asked me to make---

The Speaker (Hon. Kingi): Proceed then.

Sen. Sifuna: I ask the hon. Senator for Tana River County, the very able Danson Mungatana to not wait for President Ruto's money because it is not coming. I thank you.

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

Sen. Cherarkey: Mr. Speaker, Sir, I want to make a comment on Sen. Mumma's Statement. I thank the national Government for supplementing the devolved function.

Mr. Speaker, Sir, you, being a former Governor, know about disaster management, disaster response and you are also a distinguished lawyer in this Republic. I have seen that in your county, flooding has started. I call upon county governments to ensure that the two per cent of the total revenue be allocated. It is under the law. Whether the national Government releases the money today or even in January, they must allocate because that is what the budget is all about.

Mr. Speaker, Sir, I thank the President because despite this being a devolved function, he promised Kenyans Kshs10,000 as a way of alleviating them. The Council of Governors (CoG) and individual governors of Kitui, Siaya, Nandi and Vihiga counties should tell this country what they did with the two per cent that was supposed to manage disaster in this Republic.

The Speaker (Hon. Kingi): Order, Senator for Nandi County.

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What is your point of order, Senator for Homa Bay County?

Sen. M. Kajwang’: Mr. Speaker, Sir, the distinguished Senator for Nandi, who was the powerful Chair for Justice and Legal Affairs Committee, has obviously not read the Constitution. Is he in order to mislead this House that disaster management is a function of county governments and that the national Government can only come in to assist when, in the Fourth Schedule of the Constitution, function No. 24, the functions assigned to the national Government is disaster management?

Where a function is shared between the national and county governments, then the national Government takes the lead. It sets the policy and the structures for county governments to follow. My friend Sen. Cherarkey needs to go slow on county governments and turn his guns on the culprits, the national Government, that is obviously clueless in the midst of a disaster.

The Speaker (Hon. Kingi): Senator for Nandi.

Sen. Cherarkey: Mr. Speaker, Sir, I will rebuttal in 30 seconds. When you read the Fourth Schedule, Part II on county governments, function 12 is fire fighting services and disaster management.

(Sen. Sifuna consulted loudly)

The Speaker (Hon. Kingi): Order, Senator for Nairobi City County.

Senator for Nandi, if the Chair is speaking, you keep quiet.

Senator for Nairobi City County, we will not degenerate into a shouting match. This is a House of order so we must be orderly.

Senator for Nandi, you know that there are those functions that are a preserve of one level of government and those that are shared. Disaster management is one of such functions as per our Constitution. So, please be guided as you make your contribution.

Sen. Cherarkey: Mr. Speaker, Sir, we should introduce monthly *maandamano* and heckling for Sen. Sifuna.

My points is---

The Speaker (Hon. Kingi): Senator for Nandi, proceed to withdraw that statement.

Sen. Cherarkey: I withdraw, but the point has been made.

(Loud consultations)

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

Sen. Cherarkey: I withdraw and apologise, but the point has been made.

The Speaker (Hon. Kingi): Senator for Nandi, would you wish to be informed by the Senator for Mombasa County?

Sen. Cherarkey: No, I am sufficiently informed. You can see how I am prosecuting my points.

The Speaker (Hon. Kingi): Then proceed.

Sen. Cherarkey: The notion I want to correct is that while I agree that the issue of disaster management is a concurrent function, my good brother, the Chairperson of

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Public Accounts Committee (PAC) has been reading to governors daily about the two per cent emergency fund, but when it comes before the Floor, *anaturuka*.

My point is to thank the President. You heard the Governor of Nairobi City County yesterday say that - it is on HANSARD - the national Government has given in cash and kind over Kshs500 million to assist the people of Nairobi City County. We also have the people of Nakuru and Kilifi counties who have been affected.

We must thank the national Government and His Excellency President William Ruto for standing with the people. He even went and prayed for the victims in Mai Mahiu. My sister, the Deputy Majority Leader was there. He also went to Mathare himself. Sen. Sifuna has not even gone to Mathare, Mukuru kwa Njenga and Mukuru kwa Rueben.

(Sen. Sifuna consulted loudly)

The Speaker (Hon. Kingi): Order, Senator for Nairobi!

Sen. Cherarkey: What can he tell us---

The Speaker (Hon. Kingi): Senator for Nandi County, please take your seat.

Senator for Nairobi, if you have a point of order, you know what to do. You need not shout.

Senator for Nandi, conclude.

Sen. Cherarkey: Mr. Speaker, Sir, in conclusion on the issue of disaster----

(Loud consultations)

The Speaker (Hon. Kingi): Let the Senator conclude.

Sen. Cherarkey: Let me conclude on Sen. Chute's statement. As farmers, we are aware that there are many herbicides and acaricides that have been banned in the USA. We have seen increased cases across the country. When Bayer AG Syngenta and Herbicides---

The Speaker (Hon. Kingi): Sen. Sifuna, what is your point of order?

Sen. Sifuna: Mr. Speaker, Sir, under Standing Order No.105 on responsibility for statements of fact, is the Senator for Nandi sure about the things he is telling this House? That I have not visited any of the places that have been affected by these floods? I know for a fact I have. So, when he stands here, can he substantiate that Sen. Sifuna has not been to these places?

The Speaker (Hon. Kingi): Senator for Nandi County, if you are not sure about any facts, do not put them on the Floor of the House. On the particular matter touching on the hon. Senator for Nairobi City County, you alleging that he has not visited any of these sites. If you cannot substantiate that particular matter, proceed to withdraw.

Sen. Cherarkey: Mr. Speaker, Sir, I mentioned three places. I did not say he has not visited them. The HANSARD can bear me witness. I said I am not sure if the Senator of Nairobi has visited Mathare the way the President has.

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The Speaker (Hon. Kingi): Senator for Nairobi City County, the Senator for Nandi is not sure. You may or may not have, which is quite okay. Proceed and conclude Senator for Nandi County.

Sen. Cherarkey: I learnt proper English.

In conclusion on the issue of cancer; I am co-sponsoring a Bill with *Mheshimiwa* Rahim Dawood on Cancer Prevention (Amendment) Act. I am happy you have approved it. Farmers are using Calcium Ammonium Nitrate (CAN). We do not know if the fake fertiliser has some cancer-causing agents. Maybe our only doctor in the House, Sen. (Dr.) Khalwale will tell us. The point I am trying to make is that; let the Standing Committee of Health conclude on this issue.

I call upon Senators who have not visited the victims of floods to visit them and take pictures so that, we can have records of their donations like Sen. (Prof.) Tom Ojienda.

I thank you.

The Speaker (Hon. Kingi): Sen. (Prof) Tom Ojienda, you may have the Floor.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

Sen. (Prof.) Tom Ojienda Odhiambo, SC: Thank you, Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Sen. (Prof) Ojienda, just a minute. What is your point of clarification, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am sorry to interrupt the proceedings. As you can hear, we are unable to concentrate on debate. There is a lot of picketing outside there and it has been happening every day we sit. I have come to learn that those are doctors demanding to present a memorandum.

Could you please order the Clerk, your Deputy Speaker or the Senate Majority Leader to go and receive the memorandum, so that they can go away and we continue with our business?

(Loud consultations)

Are we whips, Members in the House?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, we are not even sure who these people are. You have proceeded to assume that they are doctors.

Serjeant-at-Arms, kindly confirm who these people are and what exactly do they want to report to us. From there, we can see exactly how we can handle the situation so that hon. Senators can concentrate on the business before the House.

Sen. (Prof) Tom Ojienda, you may have the Floor.

Sen. (Prof.) Tom Ojienda Odhiambo, SC: Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to the statement on the flooding disaster response in Nairobi City County.

The flooding in this country this year is unprecedented because the volumes of water that we have received from the precipitation in most parts of the county have led to a disaster and loss of lives. It is fresh in our minds that in Mai Mahiu, many lives were lost out of a disaster that has never been seen in this country before.

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In my own County of Kisumu, we have not only lost crop and livestock, but also lives. For the first time since 1964, the volume of water in Lake Victoria has moved from less than 2.4 million to 2.6 million cubic litres per second, leading to a backflow that has affected Kabonyo/Kanyagwal, Nyakach and other sub-counties in Kisumu County.

Mr. Speaker, Sir, the response of the Government must be commended because it has ensured that relief is supplied to the sub-counties.

(Applause)

Our Deputy County Commissioners (DCCs) and County Commissioners are out there bringing help to our people. We must laud them. My colleague from Homa Bay County, Sen. M. Kajwang' knows that.

Homa Bay and Migori counties have also suffered from the same floods. We must commend the President for taking a personal effort to visit Mathare and assuring them of improving the living conditions of the residents by constructing houses so that people are moved away from the riparian land.

(Sen. Cherarkey applauded continuously)

The Speaker (Hon. Kingi): Senator for Nandi, honestly! We have enough noise out there.

Sen. (Prof.) Tom Ojienda SC: Mr. Speaker, Sir, we acknowledge that disaster management is a dual function, both of the national and county governments. It is time we had a framework where the national Government and county governments deal with disasters in a manner that does not lead to some of the hitches we have seen in certain places.

I hope that going forward we must plan for disasters and stop these floods, once and for all. That can only be achieved by ensuring that we build enough dams in some of the counties. The floods in Kisumu can easily be controlled by completing some of the dam projects like the Soin-Koru Dam, so that we do not have back flows because the volumes in the lake are swollen.

The Senator for Siaya, Dr. Oburu, is nodding in support of the suggestion that we need to complete the Soin-Koru Dam. The support is that we should complete these dams, but we should ensure that all riparian land is cleared of habitations or habitats that inhibit the free flow of Nairobi River. This will limit some of these deaths that we are seeing.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Keroche Tabitha.

Sen. Tabitha Keroche: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I support the Statement read by Sen. Mumma on what is happening with the floods in the country.

Nakuru County is one of the most affected counties and we have experienced the worst tragedy. By yesterday, 60 bodies had been recovered and 36 were still missing. We

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are talking of around 100 deaths in that land and 147 families are misplaced. It is the worst you can ever imagine.

I was there. That is why you never saw me here last week. I am proud of His Excellency the President for coming personally to give hope to the people who were affected.

(Applause)

He promised and swore that the affected people will be taken care of and will be given new homes. The Government will check to see whether where they were living is safe or risky. If it is risky, the President promised to give land and build them homes.

Mr. Speaker, Sir, if your county has not gotten such a tragedy, just pray to not get it. It is very traumatizing to the people. They were left with nothing. For the ones who were swept by the water, the water removed clothes and they were left with nothing. Their documents are all gone.

His Excellency the President promised to give them back their titles and Identification Cards (IDs). He knew that there would be no school fees for those children and he told them that he will give them school fees for the children to go back to school.

He promised to settle them and ensure they start new lives so that, even if they were grieving, they would not be traumatized because they have no homes. I thank the President, the Deputy President and the Government of Kenya Kwanza. My work is to ensure that all is done as the Senator for Nakuru County. I promised the victims that I will walk the journey with them.

I am sure that if it was only the county governments left to serve or work on these disasters, some would be clueless as they do not understand what needs to be done to the affected people. We have seen a lot of Public Relations (PR). You can look around and see the PR.

This is a serious matter to me and we are relying on the national Government. There was money put aside in Nakuru County - Kshs605 million. This is because Kshs300 million budget was set in the financial year 2022/2023 and we were added about Kshs305 million. This means that we already have Kshs605 million and the money is enough to ensure that these people are given new lives. However, we will continue working to ensure that they will get what they were promised by the President and walk with them the journey.

Mr. Speaker, Sir, the big question we need to ask as Senators is who were the people who were given the work of risk assessment by the Meteorological Department? Do they have the capacity to ensure that people are informed on relocation and give risks and assessments on time the minute they are given?

If you look at the Mai Mahiu tragedy, if you walked around and talked to the people, this is something that could have been prevented. It was given by the public and the Meteorological Department. We, therefore, need to check the root of where everything is coming from.

I have learnt and as Senators, I am sure you are learning how these dams are managed. There is a department that is supposed to check those dams when they are over

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filling. There are some gate valves that are supposed to be opened on time so that this water will overflow and will not become dangerous to the people. How do we wait for a dam to overflow and there are people mandated to ensure that these dams do not become a danger to the people?

Mr. Speaker, Sir, you have heard of Ndakaini Dam. It is one of the biggest dams we have. We have never heard of Ndakaini overflowing or killing people. This is a call to all the people employed or given mandate to be checking our dams. We have seen River Malewa. I am sure you are all worried because there is no going upcountry, especially for those who go beyond Naivasha. River Malewa divides Kenya and people will not be able to travel. The Senate should ask about these people and which department that is.

The Speaker (Hon. Kingi): There is a point of information, Sen. Tabitha Keroche.

Sen. Tabitha Keroche: Mr. Speaker, Sir, maybe you can give me those people, so that we give the committee responsible for this. This will be to ensure that the people in this country who are meant to make sure that floods are controlled on time are doing their work correctly and effectively.

The money given for this Fund should be used effectively to save our people and governors should not put that money in their pockets.

I thank you, Mr. Speaker, Sir.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to comment on the Statement from Sen. Mumma, which was read by the nominated Senator from Kisii.

The rains have caused a lot of damage not only in Nairobi, but all counties. Let me speak particularly about Machakos County. That is why I urge that money that has been allocated to the people of Mathare should be extended to other counties, especially Machakos. Talking about Syokimau and many other parts of Machakos, people have nowhere to sleep. People decided to build on riparian land and now the water has to find its way through people's houses. Therefore, people have decided to move out while others do not know where to go.

My county government has moved majority of them to some dispensaries and schools, but still some have not gotten places to stay. Therefore, they are suffering. Those living in rural areas are having a hard time because most of their houses, toilets and almost everything has collapsed. They have nowhere to go, nothing to eat, and nothing to cover themselves with because all their clothes were swept away by water.

Mr. Speaker, Sir, disaster management is a shared responsibility between the national and county governments. I call upon the national and county governments to release funds that are supposed to help these people. I also call upon chiefs and Deputy County Commissioners (DCCs) in the counties to make sure that people who are affected are the ones going to benefit from the funds and not those who are not affected.

As I speak, Masinga Dam is almost overflowing. If it overflows, I do not know the damage it will cause because it will go as far as Kitui and spread to many other places. The water is a lot that no one or building can resist it. It might cause a lot of damage. Therefore, I call upon national and the county government to see what they can do about Masinga Dam before it overflows.

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I am called every day by people from Syokimau. If schools were opened, children would not go to school because even parents there are not going to work due to lack of access. The roads are impassable and houses are covered by water.

Mr. Speaker, Sir, disaster management funds should have been released like yesterday. They should make sure that every county is given its allocation and well taken care of.

I thank you and support the Statement.

The Speaker (Hon. Kingi): Hon. Senators, we have expended the 30 minutes allowable under the Standing Orders on intervention on Statements. We will now move to the next Order.

Clerk, please call out the next Order.

MOTION

EXTENSION OF TIME FOR CONSIDERATION OF THE REFUGEES (GENERAL) REGULATIONS, 2024

The Speaker (Hon. Kingi): Let us have the Chairperson of the Committee on Delegated Legislation.

Sen. Gataya Mo Fire: Mr. Speaker, Sir, I beg to move the Motion in an amended form-

AWARE that the Committee on Delegated Legislation is established under Standing Order No.195 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate;

RECALLING that, pursuant to Standing Order No.195(2) and (3) of the Senate Standing Orders, on 20th February, 2024, the Refugees (General) Regulations, 2024 were laid in the Senate and thereafter stood committed to the Committee on Delegated Legislation for its consideration;

NOTING that the Refugees (General) Regulations, 2024 seek to give effect to the Refugees Act, Cap 173 of the Laws of Kenya and that the Regulations touch on core functions of the county governments as set out at Part II of the Fourth Schedule to the Constitution, including health, control of pollution, county planning and development, public works and services as well as governance at the local level;

NOTING that in considering the Regulations, due to the gravity of the impact of the Regulations, the Committee on Delegated Legislation met with officials from the Ministry of Interior and National Administration, on Thursday, 2nd May, 2024 and directed the Cabinet Secretary and the Principal Secretary, Ministry of Interior and National Administration to provide evidence of the conduct of public participation on the Regulations and to table a regulatory impact statement pursuant to Part III of the Statutory Instruments Act, 2013, Cap 2A of the Laws of Kenya;

APPRECIATING that under Section 15 of the Statutory Instruments Act, 2013, the Committee on Delegated Legislation is required, within 28 sitting days

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after the date of referral of a statutory instrument to the Committee, or such other period as the House may, by resolution approve, to either accede to the Regulations or, where it does not accede to the Regulations, to recommend to the Senate that the Senate resolves that the statutory instrument be annulled;

NOTING that the 28 days' timeline provided to the Committee under Section 15 of the Statutory Instruments Act, 2013 is due to lapse on Tuesday, 7th May, 2024;

NOW THEREFORE, pursuant to Section 15(3) of the Statutory Instruments Act, 2013, the Senate resolves to extend the timeline for the consideration of the Refugees (General) Regulations, 2024 by a further 21 days in order to enable the Committee on Delegated Legislation to conclude consideration of the Regulations.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Are you moving? What do you intend to do?

Sen. Gataya Mo Fire: Mr. Speaker, Sir, I beg to move and request Sen. Mungatana to second the Motion.

Sen. Mungatana, MGH: Mr. Speaker, Sir, thank you for giving me the opportunity to second this Motion. This is basically a procedural Motion. So, I will not take a lot of time, except to urge Cabinet Secretaries and all other regulation-making bodies that it will be useful for them to consider coming for consultative pre-publication, as the Ministry of Interior and National Administration has done in this case for the refugee Regulations.

When there are issues, we can discuss and agree or correct instead of publishing then getting back later. When you do that, you will be giving us two options only, which is to either accede or reject those Regulations and that wastes a lot of time.

Mr. Speaker, Sir, I take this opportunity to appeal to all regulation-making bodies to come for pre-publication consultations with the Committee on Delegated Legislation.

I beg to second.

(Sen. Tabitha Keroche consulted with Sen. Olekina)

The Speaker (Hon. Kingi): Order, hon. Senators. Sen. Tabitha Keroche, kindly take your seat. You may extend your greetings after we are done with this session.

(Sen. Tabitha Keroche sat at her place)

Hon. Senators, I will proceed to propose the question.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, this is a procedural Motion. If you so allow, I will proceed to put the Question

(Question put and agreed to)

(Sen. Kinyua consulted loudly)

Sen. Kinyua, you cannot vote twice.
Next Order!

BILL

Second Reading

THE MATERNAL, NEWBORN AND CHILD HEALTH
BILL (SENATE BILLS NO. 17 OF 2023)

(Sen. Ogola on 16.4.2024)

(Resumption of debate interrupted on 2.5.2024)

(The Clerk-at-the-Table consulted with the Speaker)

The Speaker (Hon. Kingi): Hon. Senators, I will invoke Standing Order No.45(2) and rearrange the sequence of today's Order Paper. We will proceed to Order No.17 and thereafter, I will give further directions.

Clerk, proceed to call that Order.

MOTION

STATUS OF PENDING BILLS IN COUNTIES

AWARE THAT, as at 31st December, 2023, according to the County Governments Budget Implementation Review report for the first half of the financial year 2023/2024, County Governments had accumulated a total of Kshs156.34 billion in pending bills with Nairobi City County accumulating the largest share of Ksh107,037,053,000 followed by Kiambu and Mombasa Counties at Kshs5,711,614,412 and Kshs3,922,131,877 respectively;

CONCERNED THAT, the accumulated pending bills in counties have significantly affected service providers in the counties leading to closure of businesses, stalling of county projects, adversely affecting economic growth in counties, service delivery and ultimately slowing down the country's economic growth;

FURTHER CONCERNED that most of the service providers in the counties are battling court cases lodged against them by their financiers and suppliers while others are languishing in poverty exacerbated by the increased cost of living, with increased mental health disease incidences and others dying as a result of the effects of colossal amounts of debt owed to them by county governments;

NOW THEREFORE, the Senate-

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2. Recommends that all county governments pay verified pending bills amounting to less than Kshs1 billion by the end of this financial year and those above Ksh1 Billion by the end of the financial year 2024/2025; and,

2. Resolves that-

(i) pursuant to the provisions of Regulation 41(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015, county governments prioritize payment of pending bills as a first charge on the County Revenue Fund failure to which the subsequent quotas budget releases will not be done;

ii. County Governments shall only pay pending Bills contained in their respective procurement plans pursuant to Regulation 50 (2) & (3) of the Public Finance Management (County Governments) Regulations;

iii. Supplementary budgets for county governments are prepared in the 3rd Quarter to curb instances of arbitrary re-allocations out of the approved budget estimates; and,

iv. County governments shall conduct public participation while formulating supplementary budgets, failure to which the Controller of Budget (CoB) shall not approve the supplementary budgets.

(Sen. Olekina on 28.3.2024)

(Resumption of debate interrupted on 2.5.2024)

Sen. Olekina: Mr. Speaker, Sir, pursuant to Standing Order No.97(3), I beg to surrender seven minutes to Sen. M. Kajwang' and Sen. Faki to make certain amendments to the Motion.

The Speaker (Hon. Kingi): Proceed, Sen. M. Kajwang'.

Sen. M. Kajwang': Thank you, Mr. Speaker, Sir. First, I would like to thank Sen. Ledama Olekina for bringing this Motion to the House. This is a matter that this House has been seized of ever since it was established.

During the first years of devolution, we did not have a pending bills problem. However, five years after devolution, we started seeing debts owed by county governments to various service providers piling up.

I wish that this Motion could be amended.

Therefore, I would wish to move that the Motion by Sen. Ledama Olekina on the Status of Pending Bills in Counties be amended as follows-

The Motion be amended in paragraph two as follows-

(i) by deleting all the words immediately after the word "county governments" and inserting the following words in place thereof, "prepare and submit to the Controller of Budget a payment plan prioritizing payment of pending bills as a first charge on the county revenue fund, failure to which the subsequent quarter budget releases will not be done."

(ii) by inserting a new sub-paragraph immediately after sub-paragraph one as follows, "the Controller of Budget takes into consideration the efforts made by a

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county government to clear inherited pending bills when approving exchequer releases.”

Furthermore, the Motion be amended in paragraphs 2(iii) by inserting a new sub-paragraph immediately after sub-paragraph four as follows-

“county governments in consultation with the Controller of Budget to provide a budget for completion of all existing projects and that initiation of new projects to cease until completion of the existing projects.”

The justification for this amendment: On the first amendment, counties are required to present their medium-term debt strategies to the county assemblies along with the county fiscal strategy plans, and this is provided for under Section 123 of the Public Finance Management (PFM) Act that requires that on or before the 23rd of February in each year, the county's treasury submits to the county assembly a statement setting out the debt management strategy of the county government over the medium term.

I believe that this amendment is reasonable, that the plan that will be submitted to the CoB is a plan that is drawn from the medium-term debt strategy. Therefore, this amendment does not impose any additional requirements on the county governments.

Finally, by asking the CoB to review past efforts to clear inherited pending bills is to give effect to the powers and functions of the CoB as provided for in Article 228(4), where the CoB has a responsibility to ensure prudence and responsibility even before authorizing withdrawals from the Consolidated Fund.

Mr. Speaker, Sir, I wish to move that the Motion be amended as has been proposed, and would wish to ask Sen. Faki to second that amendment.

Sen. Faki: Asante Bw. Spika kwa kunipa fursa hii kuunga mkono Hoja ya Sen. M. Kajwang’ ya kufanya marekebisho ya Hoja ya Sen. Olekina kuhusiana na malumbukizi ya madeni.

Imekuwa muda mrefu sasa tunazungumzia maswala ya madeni ambayo yako katika kaunti zetu na ambayo yamefikia zaidi ya Kshs60 bilioni.

Ripoti za *auditor* zimekuwa zikizungumzia malumbukizi haya ya madeni lakini hakujakuwa na mwafaka wowote ama jambo lolote ambalo Seneti imeweza kufanya kuhakikisha ya kwamba madeni haya yanapungua na vile vile pia yanakuwa mambo ya kusahau.

Marekebisho haya yatatoa nafasi kwa Seneti na vile vile kwa *Controller of Budget*, na pia *National Treasury* kuzuia pesa zinazokwenda katika kaunti zetu iwapo hawataweza kulipa madeni.

Tumeona visa vingi vya serikali za kaunti kuomba pesa ili kulipa madeni, lakini wanapopata pesa zile wanatumia kufanya miradi ama wanatumia kwa safari zao, na hivi basi madeni yanaendelea kubakia na madeni haya yanazuia utenda kazi wa kaunti zetu.

Wakenya wengi ambao wamefanya biashara na serikali za kaunti wamefilisika, mali yao imeuzwa na vile vile wamekuwa hawawezi kufanya biashara na hivyo basi, pesa nyingi na mali imepotea kutokana na ukosefu wa uadilifu katika serikali za kaunti. Marekebisho haya yataweka meno ambayo yatasaidia kuuma wakati kutakuwa na upungufu iwapo hawataweza kulipa madeni hayo kwa muda unaofaa.

Bw. Spika, ninaunga Mkono.

(Question of the amendment proposed)

The Speaker (Hon. Kingi): Hon. Senators, you may now proceed to make your interventions.

Senator Orwoba, you have the Floor.

Sen. Orwoba: Mr. Speaker, Sir, my button is on for the Maternal Health Care Bill that I was waiting to contribute to before you rearranged the Order Paper.

The Speaker (Hon. Kingi): Take your seat, Sen. Orwoba.

Sen. Wambua, please, proceed.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I believe that we are speaking to the amendment.

The Speaker (Hon. Kingi): That is the Motion that is before the House.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I am fully in support of the amendment as moved and seconded on the Floor.

When we were debating the original Motion, Members raised concerns over the issue of the CoB all the time just approving payments and releases to county governments, even when there was a serious and consistent accumulation of pending bills.

I fully support the proposal in the amendment that now before the CoB authorizes any further exchequer releases to county governments, the CoB must satisfy himself or herself that the county governments have no pending bills and where there are pending bills, then those pending bills become the first charge on the county revenue fund.

I know at the initial stages, this will present serious challenges to the cash flow in county governments. I want to take the example of Kitui County, where we have a budget pending bills of around Kshs400 million and the Nairobi City County Government, where there is a pending bill of Kshs107 billion.

Then the question that we should ask ourselves would be; if the CoB must insist on the full settlement of pending bills, how many years will it take for county governments to begin to receive any exchequer releases from the Treasury? That challenge is cured by subsection (ii), which states that the Controller of Budget will take into consideration the efforts made by a county government to clear inherited pending bills when approving exchequer releases. By dint of that provision, then a demonstration on the part of county governments that they are making efforts to clear pending bills would result in an arrangement between the office of the Controller of Budget (CoB) and the county executives on a percentage or a quantum of release that would ensure sufficient cash flow, to deal with issues outstanding in the counties even as they move towards the payment of pending bills.

Lastly, this amendment is timely. The other thing that this amendment should do is to provide a timeframe within which we should not have any pending bills in any county government. The Public Finance Act is clear that before county governments commit themselves to any expenditure, there must be satisfaction in writing that the money for the projects earmarked is available and ringfenced, so that once the projects are completed, payments are made.

It is possible for a county government to operate without pending bills.

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With those few remarks, I support the amendment.

Sen. Cherarkey: Mr. Speaker, Sir, I rarely support what Sen. M. Kajwang' brings to the Floor of the House, but in the interest of the nation--- I always support him in the Committee, but not on other issues. I beg to support him on this amendment.

Mr. Speaker, Sir, having served as the distinguished Governor of Kilifi for 10 years, you are aware that there are many Kenyans who have diabetes, high blood pressure, are unwell, their property has been auctioned and whose children and families are suffering. They are suffering because their only mistake was to take a tender from the county government, do it with all their resources, but they were not paid.

While I am seized of Petition E003 at the Kitale High Court on the verification of pending bills in the case of Trans Nzoia County, we agree that the issue of verification of pending bills is the domain of the office of Auditor General. This was restated in the matter that came before Kitale High Court.

My civil litigation, Prof. Nixon Sifuna, in his ruling out of desperation, has advised the ones owed to seize county government vehicles and auction them to recover monies. I can imagine a hypothetical situation where the Parliamentary Service Commission (PSC) is being owed and the Deputy Minority Whip is driving his Prado along Moi Avenue and someone who supplies water to the Senate has not been paid. Prof. Nixon Sifuna, in his ruling, advises that you freeze and seize that vehicle and auction it. I do not know what happens to the Speaker and President's cars, but these are heavily guarded. I want to advise Kenyans with funny ideas to go for the small vehicles of the Deputy Minority Whip because you are sure you can hold on until you get payment. However, it is hard for your cars and those of senior Government officials.

I agree with the amendment that the counties should prepare and submit a payment plan to the Controller of Budget. The National Treasury issued two circulars. Article 219 of the Constitution clearly states that all money that has been appropriated should be released without undue delay.

Under the law, the first charge is pending bills. Sen. M. Kajwang's amendment is to ensure that money is released. From August, 2023 to 17th April, 2024, Nandi has received Kshs5.48 billion and most of that money has been used to pay some pending bills, which no one can account for.

In my county, the governor calls the Members of the County Assembly (MCAs) and tells them that Nandi has a pending bill of Kshs850 million. When our brother, Sen. Olekina, brought a pending bill schedule, Nandi County had Kshs305 million. I want to ask the office of the Auditor-General and the Controller of Budget to give the country the true status of the account of the pending bills.

Secondly, the Controller of Budget takes into consideration efforts made by county governments to clear inherited pending bills. If you constructed a road worth Kshs1.5 million in 2013, the floods are ravaging the nation. There is a roads supervisor and a certificate you will have to raise. How will you be able to verify the construction of that road?

I agree with this proposal. However, I would like to advise my Chairperson, Sen. M. Kajwang', to come up with a law that before the county or any national entity, including the Parliamentary Service Commission, develop a procurement plan or look for

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services and goods, they must have the money. This will cushion Kenyans who are suffering daily because of the loans they have taken.

On the final amendment, the county governments, in consultation with the Controller of Budget, provide a budget for the completion of all existing projects. The initiation of new projects ceases until the completion of existing projects.

My Chairperson is aware of this issue. In Nandi, we have over 500 incomplete projects. Only one has been completed and this is from an Early Childhood and Development Center (ECD).

The Nandi Creameries in Kabiyeet is yet to be completed. The Kapsabet New Mother and Baby project is yet to be completed. Kapsengere Dispensary Hospital is yet to be completed. Kobujoi Health Center is yet to be completed. The Chepterwai Nyayo Ward project is yet to be completed. I am just mentioning a few projects. Rivatex in Mosoriot is yet to be completed. The coffee milling machines in Tinderet are yet to be completed.

I agree with the proposal on incomplete projects. If it comes to Nandi and any other county, let those projects be completed. Those projects are for the benefit of the people of Machakos and do not benefit the governor in office at the moment.

I agree with my Chairperson on this amendment. I hope he can track Narok, among other places. The Governor of Narok County appeared before the Committee on County Public Accounts the other day. We asked him a few questions on how those projects, including the roads, have been implemented.

This is one of the best amendments. If there is a good job that has been done by Sen. M. Kajwang' on the Floor of this House, I know his prowess in other things. However, I am impressed with the prowess he has extended to this House.

Sen. (Dr.) Khalwale: Which things?

Sen. Cherarkey: The “bullfighter” is inviting me to a very dangerous ground in which I do not want to engage.

Sen. M. Kajwang' is an expert in other things that are known out there. Sen. (Dr.) Khalwale---

The Speaker (Hon. Kingi): Senator for Nandi, have you concluded your contribution?

Sen. Cherarkey: Mr. Speaker, Sir, I am concluding. To put Sen. (Dr.) Khalwale in the picture, Sen. M. Kajwang', is an expert in climate change matters among other things, including the climate change that we see elsewhere. I support these amendments and I think every right-thinking member of society should support them.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, this Motion that has been moved, debated and had a vote taken on it, had a remainder of 15 minutes. We have already overshot the runway. Therefore, I will call upon the Mover to reply.

Hon. Senators, let us stick to our Standing Orders.

Sen. M. Kajwang': Mr. Speaker, Sir, I beg to reply and beg to invoke Standing Order No.66 (3) to defer putting of the question.

The Speaker (Hon. Kingi): Indeed, putting of the question on this Motion is deferred.

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(Putting of the question on the Motion as amended deferred)

We will go back to order on the Maternal, Newborn and Child Health Bill.
Call that order Clerk.

BILL

Second Reading

THE MATERNAL, NEWBORN AND CHILD HEALTH BILL (SENATE BILLS NO.17 OF 2023)

(Sen. Ogola on 16.4.2024)

(Resumption of debate interrupted on 2.5.2024)

Sen. Mungatana, MGH: Mr. Speaker, Sir, I had a balance of a few minutes.

The Speaker (Hon. Kingi): You have 13 minutes.

Sen. Mungatana, MGH: I will just spend maybe five or so minutes.

Mr. Speaker, Sir, this Bill establishes a proper system for the care of new borns and women who have just given birth.

In this country, we have never legislated on issues that pertain to our women or to the detail that this Bill has sought to do, yet our women are the ones who bear the brunt of most economic activities.

Mr. Speaker, Sir, I came to learn that even when the governors and the Members of Parliament (MPs) are giving the National Government Constituencies Development Fund (NG-CDF), forms to fill, it is our women who are on those queues for getting those forms done because of their children. However, when it comes to legislation, we have sort of put them behind. I this opportunity to just thank Sen. Ogola for this job that she has done.

Mr. Speaker, Sir, I support this Bill. One of the reasons is that it has given a clear way on how to deal with the mental issues and postpartum care that is required when our women have gone through the process of childbirth. In our custom amongst the Pokomo people, though the custom is slowly disappearing, there used to be a proper way of looking after the mothers who are about to give birth and immediately after. We used to have those who we call *Hakavis*. A woman who was about to give birth would be taken care of by the older women. The older women would come and station themselves with the expectant mother. They would be given proper care, special food and massage. They would be taken care of in every possible way, so that the baby could come out safely.

Even after the baby comes out, the woman is also supported since they are taken care of physically by the older women who have gone through the experiences. After a period of 30 days, when you come to meet your wife after they are in that ceremony of

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coming out, she looks extremely beautiful and different from even before she gave birth. That kind of support is no longer there.

In the modern world that we live in here in Nairobi, Mombasa and in the towns that we are creating, the traditional support systems do not exist anymore. Therefore, this Bill is in response to the reality that is on the ground. We no longer have traditional support methods for our mothers who have given birth. We, therefore, have women who undergo postpartum depression and some who are suicidal and women who do not know how to take care of their children who they have just given birth to. Also, there is no mechanism for support as we used to have traditionally.

This Bill is a very good attempt at supporting our women. I thank Sen. Ogola for what she has done. I urge all the Senators who will speak to the issues to support this Bill. If possible, if there are amendments that you have thought about, please bring them. Nonetheless, we must make this Bill to pass as soon as we can.

I beg to support.

(Applause)

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

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Bill.

Mr. Speaker, Sir, mothers go through a lot, especially after they have delivered. They lose a lot of blood during childbirth and that is when they seriously need a lot of care, so that they can recover from what they have lost.

Additionally, as they continue to breastfeed their babies, they are also losing nutrients as they are feeding for two people. This Bill is very timely and it is high time that we continue thinking about mothers. Just as Sen. Mungatana has said, we need to look after the women who have delivered, just like the women of before used to do. A cow could even be slaughtered for them to be fed properly. Additionally, they could be given a lot of wheat, maize and many other things, so that they can recover from the loss of feeding two people during pregnancy and the loss of blood during delivery.

Mr. Speaker, Sir, this Bill is very important, and I support.

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

Sen. Orwoba: Thank you, Mr. Speaker, Sir, for giving me this opportunity to add my voice to a very important Bill. A Bill that is going to touch on the lives of women; that has never been legislated on. We have never really legislated on any matters that touch on women, and that is why I am eager to push that we see this to fruition.

I get the feeling from the Floor of the House that some of our male colleagues may not understand what maternal healthcare is. For the avoidance of doubt, so that we do not have some Senators such my mentor, Sen. (Dr.) Khalwale, telling me that it still touches on men, maternal healthcare is the health of a woman while she is pregnant, when she gives birth and after that.

Therefore, unless there is a man in the House who has given birth, maternal healthcare is literally touching on the lives of women and women only. I say this is because there is some laxity taken when we are legislating around the lives of women. I

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am very happy that Sen. Ogola has taken her time to articulate the issues, which many men might not know that women undergo through this period of pregnancy, giving birth and after.

Most of the spouses who sit here, all they can tell you is that “when my wife was pregnant, she had mood swings and we took her to the hospital and she gave birth.” They will also tell you that perhaps they are giving her three weeks to recover and everything will go back to normal. Therefore, that is probably what most of the men know. They do not know that when a woman is carrying life or a human being in her body, there is so much that goes on.

You cannot bungle it together and call it healthcare, whether you are sick or not. It is a special kind of condition, so we need to have a Bill that caters for it. First, we need to acknowledge that only women can give birth and bring forth life. Therefore, we need a specific piece of legislation that touches on this very important act of nature, which if it did not happen, it would be the end of humanity.

Having said that, maybe it is important to point out that most of the infant deaths and deaths of women when giving birth, are attributed to lack of the skills during the period of pregnancy, giving birth and afterwards. You will find that access to skilled birth attendance has improved from 62 to 70 per cent, but that does not mean much. It only means that, at least, the Kenya Kwanza Government has pushed to have our community health promoters, the women who are in the village, who assist other women to give birth, are equipped with the right equipment such as razorblades or basic things such as thermometers to check on temperatures and other equipment that they can use in the village at the point where the woman is unable to reach a health facility.

Eighty per cent of the maternal deaths are attributed to poor quality of care. We have brought four Statements to the floor of the House that touch on the deaths of either newborn babies or women who have gone to hospital to give birth, but unfortunately did not make it.

Those Statements have been handled by the Committee on Health, but if you look at the reports that have been tabled, they indicate clearly that access to skilled labor was a problem. One was tabled to me by a lady from Dagoreti North, who passed away while giving birth.

The second thing is that issues that should be brought up as red flags when giving birth were ignored, and most importantly, women do not have access to health care centres. I know that some Members of the House might not see this as an important Bill or maybe they thought we should push other pieces of legislation. However, let me point this out, that within the several months that we have been here, we have had Senators who have given birth. So, this is not a Bill that is in isolation of us, Senators. We have had two children in this House.

In fact, I was surprised we have not celebrated it and even put some time out, as a House, to appreciate that even legislators who come here to represent their people have wombs and give birth. We are women. We should not be seen as people who are just legislating for a year. We are also legislating for ourselves. Who knows, I could be pregnant, you never know.

The thing we need to focus on, even as we pass this Bill---

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

Sen. Orwoba: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Are you?

Sen. Orwoba: Who knows? Pregnancy is a very interesting act of nature and sometimes we might not know when we are pregnant because it is in God's control.

Mr. Speaker, Sir, as we are pushing this Bill, I was wondering who is going to play oversight. Allow me a few minutes to talk about the oversight that we play as nominated Senators. We are legislating on Bills that touch on women. If passed to law, someone with the understanding of what it means to be a mother, to lose a child or bleed sometimes for three weeks after childbirth, has to go and ensure that indeed, those policies that county governments are putting in place under maternal healthcare and the regulations that will be drafted on this piece of legislation, are followed. Someone has to go and oversight.

The women in this House should not be taken for granted. There are some issues that we pick up as women legislators that can sometimes be missed by our men legislators, not because they do not have the understanding, but because, as I said, it is only us women who can give birth, and so, it is only us who understand the needs when it comes to issues as maternal healthcare.

I urge Sen. Ogola, as we move forward, perhaps to look at an amendment that will ensure that the oversight role that is supposed to be taken care of by this House, will touch--- Since both Sen. Ogolla and I are nominated to represent women, these are some of the key issues that we should be looking at when we are doing our oversight.

Mr. Speaker, Sir, it is so shocking in 2024, to go to some of these institutions and look at the equipment they are using, and there is absolutely no upgrade in the innovation of equipment. I hear our Cabinet Secretary for ICT and Digital Economy talking about the era of digital super highways and all these digital things. I always wonder whether they are looking at the element of the digital economy with regard to the healthcare sector and maternal health.

We have incidences of some women who do not want to be a particular antenatal clinic, so they keep hopping around. If we had a database of monitoring all our pregnant women from the time they register the pregnancy to when they go to for their first antenatal visit, we would be able to send reminders to some of those women who are so busy and tell them to come for antenatal clinics when they are about to clock the third trimester. This is where the digital world would come in. I know you have asked me whether I am pregnant, and I have told you that I do not know.

I have not seen anything in terms of the use of innovation to improve on maternal health, including things that the first world countries are dealing with. I have had the privilege of living in four European countries, one of them being Denmark. I can tell you how the Danes treat their pregnant women, no wonder they are the happiest in the world. They are treated with respect, care and high admiration because they are bringing forth life to this world.

Even the element of dignity and respect should be legislated because I feel as though our society has forgotten that without all these women, humanity will be finished.

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There is the element of how a pregnant woman is ensuring that our population is continuing.

We have elected Members who go down to get votes. In fact, they should be very keen because it is women who are making sure that their electorate suffice the numbers that they require. We need to get to a point that is all hands-on deck. It is the Ministry of ICT and Digital Economy to ensure that the digital economy is also impacting the lives of pregnant women. Currently, I have seen the Cabinet Secretary for Health, Hon. Nakhumicha, say that we replace the *Linda Mama* Initiative with an all-around medical cover. If the Cabinet Secretary had talked to other women, we would have told her that was not a good idea. This is because maternal healthcare requires its special kind of attention, which you cannot put in an all-around family policy.

Sometimes I look at the medical cover, which we are privileged to have here in the Senate----

*(Sen. Cherarkey and Sen. Tabitha Keroche
consulted loudly)*

Mr. Speaker, Sir, protect me from the Senators of Nakuru and Nandi counties. I understand that maybe the Senator for Nakuru County is not interested in this maternal healthcare perhaps because she is not giving birth, but this is a very important Bill. So, please, protect me.

Mr. Speaker, Sir, it is time we have all hands on deck. Having removed the Linda Mama Programme, which acted as a sort of maternal healthcare insurance policy for women and banded it up to a family policy, we lost something there. I do not know how we are going to retrieve it.

I am privileged to have a medical cover here. The kind of policy that I have as a woman is not the same one that Sen. Cherarkey will have. I will be covered on issues to do with sexual reproductive health rights to an extent that I could have six or seven checkups. That is what Linda Mama was trying to provide, but from a public space.

Even as we legislate on maternal healthcare, I can caucus with Sen. Ogola and other women legislators and see how we can convince and persuade our Cabinet Secretary for Health to perhaps table something in Cabinet, to ensure that women are taken care of in the manner in which we require, especially for those who want to get pregnant, those about to give birth and those that have given birth.

I do not want to belabour the point on how as women we are special, but let me end by saying this. I believe that each and every single person in the House was brought into this earth by a woman. As we are deliberating on these issues, let it not be that they are only touching on women. These issues touch your families and they are actually the centre or continuity of humanity. We must discuss issues that seem to be irrelevant, such as the proposals of how it will look like on county level, the policies to be instituted and how the healthcare centres must have the minimum equipment due for childbirth and taking care of infants who might be born without good health.

I urge the Senators that this is a matter that touches on each and every one of us. The importance of this Maternal Newborn and Child Health Bill should be stressed. I

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hope that when it comes to the Floor of the House, even though I do not have a vote, I will rally all Members to support.

I thank you. I support.

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support this very important Bill by my good friend, Sen. Ogola. I have perused through the Bill. Though I am particularly impressed with the thought in terms of policy and responsibilities, one thing that we forget - and this is what I mentioned to Sen. Ogola - is that in this country today, our doctors are on strike and we are here legislating to care for those children.

Mr. Speaker, Sir, hypothetically, suppose there is a child out there who needs what we are proposing here, but cannot be given because we failed to bring proper negotiations on the table and putting those children ahead. Sometimes, when I read all our proposals, I think we miss the boat. A lot of them are futuristic. I support future work and I am particularly happy with Sen. Ogola having even cared for future mothers. This is something most people do not even consider. We are only thinking of today, but not tomorrow.

There are three important things in this Bill that I hope to demystify briefly. There is maternal which is separate; new born and the third part is the issue of child health. Sen. Ogola has taken the mother and proposed measures to ensure that they are taken care of, whether she is sane or not. In most cases when you pass in the streets, you will find a pregnant street woman or a pregnant mad woman. I thank my dear sister for thinking about every member of this society.

We are all here today courtesy of children who were born - our electorates; the people who voted for us to be in this House in order for us to think about further generations. It is imperative that the first thing I request Sen. Ogola to do is to provide proper healthcare.

Clause 8(1) states-

“Every healthcare provider shall provide a child from the time of birth to age 12 the following;

(a) comprehensive newborn care including postnatal follow up as may be prescribed;

(b) health services that ensure child survival growth and development including optimal child nutrition, childhood vaccination, growth promotion and monitoring, developmental promotion monitoring and child protection services;”

I persuade her to allow us to amend that Clause, to make sure that the new born child is attached to the mother’s insurance policy until they are one year old.

I am happy to see that the Bill takes into consideration different cultures and backgrounds. That is very good because we shall never forget that we come from somewhere. In Maasai culture, when the child is born and the umbilical cord is cut, you are told “hold your life and I shall hold my life”. In Maasai we say, “*Imbung’a oltau lino, maimbung’a lalai.*”

Mr. Speaker, Sir, today because of the many challenges we have created for ourselves, our healthcare is in a dilapidated state. I stated that I will divide this Bill into three sections as I debate and try to persuade hon. Senators to fully support this. Those

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mothers need care. This Bill talks about future mothers, pregnant mothers and those who have delivered, and I love that. I request that we combine them, so that they shall maintain the same policy. The care we are seeking to provide these mothers ought to be intertwined with the children.

If today any of our citizens go to the hospital and delivers, the policy now covers both the mother and the unborn child. The moment the child is put on a table, the hospital asks that you provide a medical cover for that child. Who knows if that child will survive for 30 or 90 days?

I propose that we now become future-centric and amend insurance policies and the Act, so that they cover the child and mother for one full year, until the time the child can survive. We lose a many children because the mothers cannot afford to pay for their own insurance policy together with the child's.

Mr. Speaker, Sir, there is only one Clause I am not sure of. I want Sen. Ogola to elaborate this further. Clause 8(2) and (3), under subsection (1) talks about the issues that I have been trying to explain on the care that is supposed to be given to the child and the mother.

Clause 8(2) states that where the child under subsection (1) is severely malformed at the time of birth, the health care provider may refer the child to a relevant medical practitioner for comprehensive assessment, diagnosis and treatment.

It further states, on Clause 8(3)(1) that-

“A healthcare provider shall not provide health care services to the child under sub section (1) unless the health care provider has obtained consent from the parent or guardian of the child.”

The word is “shall not”.

Mr. Speaker, Sir, that is contradictory because we are saying, let us provide that child with the best care and then, you put it into a condition where it depends on the consent of the mother. If she does not consent, that child is not treated. We will actually cause many problems.

I persuade my sister to delete that section. She should also ensure that everything that we are talking about on making sure that we are providing our mothers and children with the best cover, is to ensure that that the State takes responsibility for that child until it is one year old.

In future, we might actually say, ‘until that child is emancipated.’ That time, we will be looking at about 18 or 19 years old. Since we are realistic on the state of our finances as a country, there is nothing bad in amending the Insurance Act, to ensure that child and mother are together for one year and the policy covers.

Mr. Speaker, Sir, I have noted that in this Bill, the Cabinet Secretary has been given a lot of responsibility. I dare say that the reason we are having many problems in this country today, particularly with this issue of the strike by the doctors is that although a function has been fully devolved, in Levels 1 to 5 hospitals, we are still relying so much on bureaucracies of a Cabinet Secretary. It is about time this House asks serious questions. Are we ready to deal with the issue of devolution? We keep on saying that form follows functions. Even this Bill says that county governments shall provide money for the maternal new born and the child health programmes.

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Should we now be talking about costing that? How much it will cost per child to be provided with these services. Then, this House allocates that money and we deduct it from the money being allocated to the Ministry of Health (MoH).

Mr. Speaker, Sir, if today you take a look at the budget of the MoH, you will be shocked. It is almost equivalent to the allocation of almost 30 counties. What do they do? Just a bunch of policies, talking and running up and down. They cannot even sit down and agree with the doctors. The person who is running that docket is completely incompetent. She cannot even sit down and have a discussion on issues that are affecting Kenyans. Let us not have double standards. If we are here because of the interests of our people, we must then be able to legislate knowing clearly the consequences and the non-intended consequences.

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

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

Mr. Temporary Speaker, Sir, I know many of my colleagues want to contribute to this. I persuade my sister to re-look at this Bill because as I perused it, I realised that there are many responsibilities given to the Cabinet Secretary on this issue of health.

The same Bill talks about us respecting our cultures. Apart from this business of nowadays where we say a county is cosmopolitan just because of interests, our county governments have been divided based on cultures, tribal groups and affiliations. We need to give more responsibilities to county governments. We should literally start by allocating them more money.

The big problems we have in county governments today are being brought by the duplication of functions. Where, for example, the national Government says and within a fortnight, we have passed a legislation on Community Health Promoters (CHPs). Then, without actually thinking, the President says that they will pay these CHPs 50 percent and county governments should pay 50 percent. County governors then rush to take the money without looking at the entire budget.

We need to cost that. We have institutions in this country that can help us cost these services such as the Kenya Institute for Public Policy Research and Analysis (KIPPRA) and the Commission of Revenue Allocation (CRA). These are independent bodies.

Once it is brought here, before we even vote, the first thing that each of us should be reminded is that we are just a conveyer belt. We are moving, we will not live in this world forever. We will be here today, convey certain information and help the community for the future. It is about time that we start looking at everything as being future centric.

The United Nations (UN) talked about the Sustainable Development Goals (SDGs). In this country, the former President and the Prime Minister came up with Vision 2030. I think that Vision 2030 has already been forgotten. Other countries are now talking of Vision 2050. It is about time all of us look at all that we want for this country and become realistic. We move each and every function that has been devolved. Make

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sure that, everyone who has a fiduciary duty or a responsibility remembers that they will not live in this world forever.

Right now, all our hospitals are closed. Do not let anybody lie to you that hospitals are open. It is only us, the rich, who can be able to afford hospitals. No one gives a hooting hell about the strike of the doctors. When we fall sick, we will get on a plane with business class tickets and go to Dubai for treatment. As for the people who brought us here, what do they do, they wallow in poverty and die. It is about time that we seriously rethink.

As I conclude, I fully support this Bill.

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

The Temporary Speaker (Sen. Wakili Sigei): Sen. Eddy, what is your point of order?

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I am rising on a polite point of order under Standing Order No.101(4).

My senior, Sen. Olekina, who is also my leader in the House, has talked about something that is very serious. Matters of healthcare are not to joke with. I know he is very emotive, but it is not in order for him to impute that when all these Members of Parliament (MPs) are sick, they will go to London, Lisbon or the USA for treatment. There are a few who might be very privileged. I do not want to assume that he is one of them because I know he is a very humble man.

I know Sen. (Dr.) Khalwale prefers being treated in Malinya and not Lisbon. Sen. M. Kajwang' really loves being treated in Homa Bay. Sen. Oketch really prefers Migori hospitals and Sen. Beatrice also likes being treated in Got Kweru, somewhere in Migori.

Sen. Hamida was sick the other day and I saw her very keen on Kenyatta National Hospital (KNH). Maybe, Sen. Olekina wanted to talk about the Executive because they have more affinity to going outside the country, but not these esteemed Members of Parliament.

Through your indulgence, Mr. Temporary Speaker, Sir, I beg that the Senator withdraws the inference that we like boarding planes and going far.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Your point is made.

Sen. Ledama Olekina, you are out of order to the extent where you have referred to the item on colleague Senators and items that are not a subject of this Bill, and to the extent that has been made by Sen. Eddy.

Sen. Olekina: Mr. Temporary Speaker, Sir, the best thing would have been to ask me whether I am on order or out of order. However, I stand firmly with my position that we are hypocrites. This is because when we fall sick, our policy can cater for us, for up to 45 days outside this country.

We have a Commissioner here and she can attest to that. Let us stop being hypocrites and call a spade a spade. Right now, we are here, but when the doctors were outside there at the gate, we did not go. All of us could not go. I have attended to them severally and a few of us have attended to them. However, if we really cared about the future of this country, we would have called off the Sitting and gone out to receive that Petition.

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

Sen. Olekina: Mr. Temporary Speaker, Sir, I will conclude because the point of order by my good friend, Sen. Eddy Oketch, is frivolous.

(Laughter)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Olekina, remember the Chair ruled to the point of order that had been raised and the Speaker did indicate that you were out of order.

Therefore, Sen. Oketch, I will not allow you to interrupt this. I want Sen. Olekina to conclude by limiting himself to what is relevant to this Bill.

Sen. (Dr.) Khalwale: On a point of information, Mr. Temporary Speaker, Sir.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I am happy to be informed by my brother, the Chief Whip. Please, inform me.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I applaud the Senator for Narok for his stand on the plight of patients and doctors in this country.

I would like to inform him that it was only this afternoon that I rose on a point of order to draw the attention of the Chair on what was going on outside. He responded and the Chair of the Committee on Health went and officially received the memorandum. This is very commendable.

Through this information, I will further appeal to the Speaker. Those doctors standing out there are telling us that they recognize us as the only institution, constitutionally mandated to represent them as voters. Therefore, the Speaker should move further and table the memorandum in this House. This is because we have been waiting for a way the grievances of the doctors can come to the House and right now, they have come through the Committee.

The Temporary Speaker (Sen. Wakili Sigei): The information has been made.

Sen. (Dr.) Khalwale: I am concluding, Mr. Temporary Speaker, Sir. They have come and we will discuss them. We want doctors to go back to the wards and treat patients. We are tired of buying coffins and attending funerals for preventable deaths.

I speak this as the Chief Whip of the Government and I know that the President of the Republic of Kenya does not want a single person to die. He wants doctors to be in hospitals. If the problem is the Cabinet Secretary, fix it. If the problem is the Principal Secretary, fix it.

If the problem is money, then Parliament is there. Let us vote for it. Doctors must be paid and patients should stop dying like chicken!

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

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I appreciate the Chief Whip for informing me. I am fully informed. I was seated right here when he called the attention of the Speaker on the issue of the doctors. To that I say, *kongole*.

My time has been interfered with, but I am concluding. Please give me one more minute. I fully, fully support this Bill. I hope that as I support this Bill, my dear sister will come to our Committee on Health, so that when we are looking at this Bill, we will

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incorporate a few amendments at the Committee of the Whole that can make it functional. This is because as it is there are many things that do not take care of this generation but they take care of future generations.

They are good and I support that. However, we need to think about our priorities in this country. Health should be our number one priority. We have challenges today and they will be made worse because we seem to have missed our priorities even on this issue of the floods. There will be many people who will suffer from cholera and many of them will be either new-born babies, mothers and all of us.

Let us be serious for once and sit down together and say, enough is enough! Let us care for this country and let us build---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Olekina, your time is up and your microphone is taken.

The Deputy Majority Leader?

Sen. Tabitha Keroche: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I also rise to support this Bill and congratulate Sen. Ogola for coming up with such a beautiful Bill. However, I am surprised to hear Sen. Gloria say that elderly women like me do not support this Bill. The elderly women are the ones who will support this Bill because we are talking about future mothers and those are our children.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Olekina?

Sen. Olekina: Mr. Temporary Speaker, Sir, is the Deputy Majority Leader in order to refer to herself as an elderly woman, when we know that she is still a very young lady, active and a distinguished Senator?

(Laughter)

Seriously, she is not! *Bado ni manyanga.*

The Temporary Speaker (Sen. Wakili Sigei): Sen. Ledama, resume your seat. For your information, she made reference to an earlier contribution by a Member and as a matter of fact, she is disputing that fact.

Proceed, Sen. Keroche.

Sen. Tabitha Keroche: Thank you, Mr. Temporary Speaker, Sir. We, the older women, are the ones who are supporting this Bill because the future mothers are our daughters and sons. We know very well how our economy is currently and most of the mothers are the ones taking care of our children even if they are married or when they are marrying.

This means that when we say they be given free maternal, newborn and child healthcare, it is for the relief of mothers because their children – the future mothers - will get catered for. I remember during our time, that used to happen in our hospitals. If you walked into a hospital and you were pregnant, you would get all these free things. Even when we took our children to the clinic, there were certain times we could get all those things freely.

Mr. Temporary Speaker, Sir, this means that we will get this Bill back to where we came from and we will celebrate in this country. The future of every child depends on how that child's health is taken care of in its early stages.

Mr. Temporary Speaker, Sir, I had promised that I will not take a lot of time because I know most of us want to contribute. We will continue praying that this Bill is approved and materialises, so that our children and future mothers can benefit.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Tabitha Keroche. Proceed, Sen. M. Kajwang'.

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, I rise to proudly support this Bill by Sen. Beatrice Ogola. For the record, this is a third Bill that has been sponsored by a Member of the Homa Bay delegation in this Thirteenth Parliament.

(Applause)

Sen. Beatrice Ogola has brought the Maternal, Newborn and Child Health Bill. I brought the Technical and Vocational Education and Training Bill as well as the County Boundaries Bill.

Mr. Temporary Speaker, Sir, you will realise that Bills sponsored by our female colleagues touch on core socio-economic issues in this Republic. That is why this House would be better off with more women and not necessarily more men.

If you look at the Bills that I have highlighted - the ones I have sponsored - they are hardware or conflict kind of Bills. This Bill by Sen. Beatrice Ogola touches on core things that a nation should do. That is about the children, the women, and reproductive rights.

When we think about maternal and child health, we must ask ourselves how Kenya performs against global standards. The Sustainable Development Goals (SDGs) have put a target that under five years child mortality should not exceed 21 children out of 1,000 live births. In 2022, Kenya doubled that number. We are doing badly because 41 children out of 1,000 births die under the age of five. The global average is 38. In as much as we have reported progress in certain parts of this Republic---

When Sen. Ali Roba was in Mandera, the interventions that he undertook using devolved funds improved child and maternal mortality, but it is still below the global standard and double the SDGs which we all aspire to achieve.

Mr. Temporary Speaker, Sir, in Article 43 of our Constitution, we have economic and social rights. Every person has a right to the highest attainable standards of health. Sen. Beatrice Ogola has put it in her Bill, that every person has a right to the highest attainable standard of maternal, newborn and child health services. This Bill gives effect to Article 43 of the Constitution of Kenya. This is an extremely important initiative.

I was looking at a report by the Institute of Economic Affairs (IEA). They are saying that preventable childhood deaths are unacceptable and I agree with them. Many of us as parents, whether it is direct or through proxy, as a guardian, uncle or auntie, know the pain of losing a child. We should not visit that upon our people. This is a country of inequality and inequity, where those who are better off always find themselves

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next to a tarmac or an electricity pole. In the past, it used to be a telephone line. Away from the tarmac, many people are losing children under the age of five.

We are talking of 41 out of 1,000 births, but you might find that the number is much higher in certain parts of Northern, Eastern and Southern Kenya. If this Bill is well implemented and has enforceable provisions, it should ensure that children do not die out of preventable reasons.

Where I come from, we have the problem of malaria. Many of us suffered repeated bouts of malaria while growing up. It is just by the grace of God that we are still alive. Perhaps we were close to certain facilities and could get medication.

Malaria is still a leading killer of children under the age of five. Unfortunately, the national Government does not have its own budget for malaria. Malaria support in this country comes from donors. I do not want to speculate because many people have said that the national Government does not care about malaria because it is a disease for the tropics around Lake Victoria and the coast. It is not a disease for the highlands.

I refuse to agree with that characterization because I do not want to imagine that we have had governments that have decided to let people who live in opposition areas die of malaria. However, the fact that the national Government tends not to have its own line budget, relying mostly on presidential funds from the United States (US) and funds from multilateral and bilateral sources tells you that the Government is sometimes insensitive. I could survive if malaria hits me today but results could be different for a child under the age of five.

We must ask ourselves to what extent has the national Government devolved immunization access to county governments. Immunization and its politics is almost similar to that of fertilizer. In a country that gives farmers sand and soil and other things that cannot generate productivity, we will be surprised one day to find that we are injecting our children with water and placebo. I do not want that to be the case and I hope that I will never be proven right. However, if our morals are to the point where we can fool farmers by giving them seed that cannot germinate and fertilizer knowing well that it is stones and sand, do you think something can prevent us from giving our children water and placebo and things that are not useful?

I hope that this Bill by Sen. Beatrice Ogola will make sure that immunization services, which are part of child and newborn health, are properly transferred to county governments. If that happens, county governments must be compelled to provide proper budgetary allocations for those kinds of services.

I know the national Government tends to want to do big procurements for vaccines. We saw that during the COVID-19 outbreak. We must confirm that vaccines that our children are consuming is not water or placebo but the right thing. When it comes to the health of mothers, the Linda Mama Programme that was initiated in 2013 was perhaps one of the good things that came out of the Uhuru administration. We must give credit where it is due. It was launched in 2013.

The objective was to enhance or broaden access to maternal health support services. Statistics show that because of the Linda Mama Programme, more women are now giving birth in skilled care facilities. Perhaps half of us here were born at home.

I watched as my younger brother was born one Saturday morning. I was sleeping, but was woken up and told to leave for my mother to give birth on the same bed. The young boy born on that day is a doctor. He was delivered by a woman who did not even go to primary school. There is indigenous knowledge. They are called *wakunga* in Kiswahili and *nyamrerwa* in Luo. I am sure in every other culture there are those skilled persons not in the modern sense, but with indigenous knowledge.

They know which plant to use when you have a boil. They will get some plants, squeeze or boil them, apply it on the boil and it will burst within two or three days. They know what to use for respiratory problems for children. Nowadays, many children are born with respiratory problems because of climate change and degraded environment. Those women without Kenya Certificate of Primary Education (KCPE) or Kenya Certificate of Secondary Education (KCSE) would boil some concoction in a pot and cover us in it and it would not just heal but cure those kinds of problems.

We saw it when COVID-19 came. The things that those women used to do for us back in the days became the new norm. They would take trees like the neem tree and boil it. As bitter as it was, when you drank it, it would flush out the diseases.

How do we incorporate that indigenous knowledge into our mainstream health interventions? The Community Health Workers (CHW) that the President launched not too long ago and the programme that this Senate passed a legislative framework to support, cannot fit in the shoes of those traditional women, health attendants, and midwives who were able to help my mother give birth to a doctor today. This is because there is a curriculum, training, and knowledge. You have to be trained on a few things. We must find a way of integrating those indigenous knowledge holders within the modern structures.

Mr. Temporary Speaker, Sir, even if we go to the top of the pyramid when it comes to childcare, we know that those experts who are trained to deal with issues of children are called paediatricians. They take care of children. I would be very happy to be informed by the Senator for Kakamega because he is a medical expert. Whereas gynaecologists take care of the women, I am not very sure who takes care of the men when it comes to reproductive issues. If you told me as a man to go and see a gynaecologist, I would be a bit hesitant.

I hope that there are gynaecologists who can take care of the problems that men have. However, I am sure that paediatricians take care of children. If you look at the number of paediatricians in this country and compare it with the number of children that we have, the ratio is completely imbalanced.

Furthermore, we do not have a national paediatric institution. What we have in this country is Gertrude's Children's Hospital, which has been around. It is a non-profit and provide very good services. However, it cannot then have the soul, and the DNA that you need out of a national paediatric referral institution. This House must move a Motion and resolve that this country must have a national institution dedicated to children, a national paediatric facility. Other countries have done it. We have Kenyatta National Referral Hospital (KNH) specializing in everything and about anything. However, we need to have an institution that specializes in childcare. For example, what Gertrude's Children's Hospital has done, but with the support from public coffers. If someone has

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gone to school for six years, become an intern, or specialized as a paediatrician, why should we begrudge those people their salary and pay?

Advocates are charging Kshs10,000 for a letter because it is regulated by the Advocates Remuneration Order. We have seen Members of this House charging Kshs1 billion for legal services. It is justifiable as long as you are complying with the Act and gone through taxation.

We have seen in pending bills of counties of Kshs1 billion owing to legal professionals. We are therefore saying we cannot begrudge advocates their fees. They are professionals and are regulated. Today, the richest people in the world are software merchants. They are making billions out of software. Why should we feel bad when doctors are asking to be paid something proportional to the amount of time that they spend in school? We should resolve that if the Government cannot find money to pay the doctors, we should be willing as Members of Parliament (MPs) and Members of the County Assembly (MCAs) to forego our earnings, so that it can go to those doctors and health workers.

In some countries that we have visited, like Cuba, being a Senator is not a full-time job. It is not what you do from morning to evening, from Monday to Monday. You are either an advocate doing your job or coming to the Senate to deliberate on matters that affect the country. You are a doctor, like Dr. Khalwale here. That is your core profession and occupation. Coming to the Senate is just like going to church.

I belong to the Seventh-day Adventist church. We have elders, just like Sen. Maanzo. He used to be an elder. I think he did something, then he is no longer an elder. He was dewhipped from the church.

(Laughter)

Sen. Manzo is not a full-time elder. He does not wake up on Monday, Tuesday and Thursday to do elder duties. He is a very reputed advocate. He is a businessman. Those are the things that keep him busy, that put money in his pocket, but he comes to the Senate for the love of the people of Makueni and the people of Kenya. However, we have turned it the other way around. We are first Senators and politicians. Then our any other business is being an advocate or a doctor.

I think we need to change that. Doctors have no luxury of that nature. A doctor is a doctor from morning to evening. He is on call at night. When a doctor, is flying on a plane, if there is an emergency mid-flight and the cabin crew asks whether a doctor is there, the Hippocratic oath that they take compels them to respond. A doctor is a doctor full-time. A politician and a Senator can never be our profession or occupation. Let us find other things to do. However, let us come here to debate on things that affect the nation. Let us release some of those resources so that we can remunerate those who deserve to be remunerated as such.

As I conclude, we have seen improvements in outcomes on HIV/AIDS in Homa Bay County, where I come from. Through Linda Mama, we have been able to prevent mother-to-child transmission of HIV/AIDS. I hope that policies of the Cabinet Secretary and the current Government, does not include dismantling Linda Mama. It should be about improving it, doing studies on the weaknesses and gaps, and making sure that we

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do it better because access to high-quality maternal, newborn, and child health services is a constitutional right for all Kenyans. Even in the United States of America (USA), the debate, besides immigration, economy, Israel and China, is now on Roe *versus* Wade, the decision by the Supreme Court on the issue of abortion.

In the 11th Parliament, Sen. Sijeny brought a Bill to this House, which the House rejected. However, the Bill was important because it was talking about reproductive rights and reproductive health. Let us not be afraid to insist on high-quality reproductive health services for our children and adolescents. Sen. Beatrice Ogola has addressed that in this Bill.

Mr. Temporary Speaker, Sir, I support. I will continue sharing with Sen. Beatrice Ogola on how we can ensure that the roles of national and county governments are distinct. For the delivery of health services, and for these lofty obligations to be fulfilled, we must put more power, push more power, resources, and more responsibilities on the county governments.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey?

Sen. Cherarkey: Thank you, Mr. Temporary Speaker. Sir. From the onset, I want to congratulate my committee colleague the specially elected Sen. Beatrice Ogola from Homa Bay Delegation. It is rare to see commandeering between delegations like Sen. M. Kajwang' and Sen. Beatrice Ogola. However, anybody who would not want to be friendly with Senator Beatrice---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, did you say commandeering?

Sen. Cherarkey: No. It depends---

The Temporary Speaker (Sen. Wakili Sigei): Withdraw your earlier statement then say it appropriately.

(Sen. Oketch Gicheru spoke off record)

Yes. What do you mean by small English? The warm and hospitable relationship they have.

The Temporary Speaker (Sen. Wakili Sigei): It is called camaraderie.

Sen. Cherarkey: Yes, Mr. Temporary Speaker, Sir. I want to remain relevant to the debate of the House.

I do not know why Sen. Eddy Oketch is excited, anyway, he is normally excited when I am speaking. However, I am impressed by the relationship that they have, a professional relationship; it is rare. I have seen some delegations here fighting. Even your former Senator, there were so many letters that were flying around just to allow to vote and I know Sen. M. Kajwang understands what we went through in the last session.

Sen. Beatrice Ogola continues to distinguish herself as a “he” for “she” and “she” for “he” in this House. I have had a misnomer to try and paint us good sons and gentlemen of Africa to behave as if we do not support “he” for “she” and “she” for “he”.

I want to put the record straight that anything that allows our society to flourish--- I see people saying it is important even for us men we need to be taken care of because under Article 26 life begins at conception.

You also need a man who is well fed and well kept, so that you get quality seeds.

(Laughter)

You get the quality at the conception because also you do not want to have men who are shooting blanks. We want men who are shooting “live bullets” because I have heard some women Senators saying here that men do not care about women. We care, but how will you get pregnant without men who can shoot “live bullets” and ensure that you get pregnant? The other day we fired our chairperson who was Mr. Stephen Letoo. We have given chairman Hon. Oparanya, the former governor to be the chairperson of the men's conference, so that some of these issues we can highlight during the men's conference.

The point that I am trying to make is that this is a conversation we cannot have in isolation. It is also about the one-third gender rule. I want to call upon my colleagues, female or women Senators, that let us have a conversation where we rally men and women together so that we work. We want a father who is loving.

Article 53 talks about parental care. When you look at the Children's Act No.29 of 2022 and I was lucky to be taught about the children and the law by my good brother and my mentor, Professor Wabwire, who taught us about the Children's law. We need men and women; we need fathers and mothers because when a child is born, the Constitution talks about parental care in Article 53. We should stop this misnomer that the business of a man ends after impregnating a woman. We should also know that the role of the father continues beyond the pregnancy.

I saw somebody say that men only come in when they see their wives or women getting pregnant and they are being told a child is born. That is not true. There are many men in this city and across the country that are accompanying their women to antenatal clinics and are even taking care of the children. This is a conversation that involves everyone. We must appreciate the fact that women play a critical role.

According to research, we have been told that children who do not have a father figure end up with some weird behaviors. We have been told that on several occasions. The father figure is an authority and that is why the drafters of the Constitution--- I am not casting aspersions on single parents, either single fathers or mothers. What I am putting across is that the father figure and parental responsibility is a joint effort; it is a 50-50 effort.

We want to urge men, especially people who are yet to get married, who are yet to start procreating, like Sen. Oketch Gicheru, to learn these things from the elders, like some of us. We have our brother, Sen. (Dr.) Khalwale who can be of great help because I know his expertise goes beyond what I have seen and imagined. That is the essence; we must agree and have a shared conversation.

I read the Children's Act and realized that Sen. Ogola was right. As a senior lawyer in this country, I am aware that the Children's Act extrapolates Article 53 of the

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Constitution on the rights of children. For example, parental care, right to naming, rights to basic compulsory free education, right to basic nutrition, shelter and healthcare, protection from abuse, neglect, and harmful cultural practices. Therefore, children should be protected from abusive cultures. In this country, we still have cultures and communities that practice Female Genital Mutilation (FGM), which still poses a big challenge in the emancipation and freedom of the girl child in this republic. We still have communities where young girls less than 10 years old are offered for matchmaking and marriage. I know this is dominant in other communities. Those are cultures that are harmful to the growth of the child.

The Childrens Act of 2022 extrapolates rights for children. I am happy Sen. Ogola has indicated that children should be taken care of from the age of zero to 12 years when the child enters teenage, adolescence, culminating into adulthood. However, we have heard that 16 years can be the consent age in some other jurisdictions. Therefore, I wanted to propose an amendment that protection should start from conception and then proceed to newborn childcare.

I will make four points before I allow my colleagues to continue. We need to look into the issue of postpartum because of the economic challenges and the nature of the well-being of most women in the country. I am happy that in the last session, the Government had opened a mental wellness center in Rongai, Kajiado County and the President went and launched it. We debated the Mental Health Bill on the Floor of this House for a long time. We are losing many young Kenyans because of depression.

I read a sad story of a young girl who decided to jump into a river with a child strapped on her back. She left a note saying that she could not die alone and leave her child. I know Members have seen this in the news. That could have been postpartum depression. We must look at the mental well-being of women. There are body changes in a woman when they get pregnant. They also struggle when giving birth, which can affect their mental wellness. We must address this to avoid suicidal thoughts.

Sometimes, some men become deadbeats and others shoot like snipers and disappear. This might bring depression and stress to most of our young girls and ladies. Since I am a man, I would like to advise that before a lady gets pregnant for anyone, they must be sure of the guy. They should check the quality of the genes or seeds. Also, check whether that person can hang around. The nature of men is that they are hunters and gatherers.

This is beside the point. I would like to make a point on Clause 5 of the Bill. Article 53 of the Constitution talks about the rights of children. I do not know whether our Standing Orders will allow it in the future, but we used to have a former Majority Leader who used to read his submissions. When you go to the USA - I know Sen. Eddy is an expert on issues to do with the USA - you will find Senators reading their presentation. I have seen Members of the Parliament of Uganda read their presentations. However, I am aware of our practice.

As leaders, we must be at the forefront of condemning some harmful cultures that affect our health. Under Jewish practice, a child is supposed to be initiated within eight days of birth. There are some other cultures where people would want to pierce tattoos. I know you are aware there is a famous song that says in our local culture, "*kichoran tattoo*"

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lakwet” and it is a common song. In translation, it states that “a child has imprinted a tattoo” and that is what they mean by saying “*kichoran tattoo lakwet*”. Therefore, some of those things are allowed under the law. It could be culturally accepted to imprint a mark on a child's body. However, it is wrong because there is no consent.

Mr. Temporary Speaker, Sir, you have practised law longer than some of us and consent can only be given by a person who has attained the age of 18 years. Therefore, what should we do? I know there is guardian *ad litem* and as the law says, there is guardianship and one can sue through the next friend. However, does an auntie have consent? Sen. Ogola, I do not know about this, but you need to look at the legal jurisprudence. You can sit with the Temporary Speaker, so that he can give you the legal jurisprudence.

If today I take my child for a cultural thing, maybe an imprint, a tattoo, or a mark and I am the guardian of that child, am I allowed legally under the law to give consent on behalf of the child? We need to have that exposition on that jurisprudence.

Number five, I agree, but I know there are many people here who are Catholics. On the issue of family planning, I am happy that she has captured something about not being pregnant. However, many of us are Catholics. The Catholics say: “Let nature take its course”. They do not agree with family planning. How do you capture this? I do not know how you will have a conversation with the Catholics when it comes to the issue of family planning. I know the only family planning that has been captured in the Bible is the withdrawal process. This is where another person was doing that in the Bible. Therefore, I think that has been captured.

Mr. Temporary Speaker, Sir, it is in the Bible and I am not quoting something that is not there.

(Laughter)

I agree with the issue of early detection of pregnancy for women. I heard a Senator say that she does not know if she is pregnant or not. Unfortunately, she left the Chamber. Besides, I agree that we must detect the pregnancy early. Some of the ectopic pregnancies or miscarriages sometimes happen because maybe the woman does not know that she is pregnant. The antenatal care clinics need to be there to facilitate the detection of such issues.

On the issue of preparation class, I do not know how relevant this is. I do not know whether it is in the African setting, but maybe it refers to the midwives that a Senator had referred to.

Clause No.8, provides that-

“Every health care provider shall provide to a child from the time of birth to the age of 12 years.”

I agree with this, so that that child can be taken care of up to the age of 12 years.

Another challenge is immunization. There was a sect in Kitui that refused immunization. We have some of these sects in the country that have religious extremism such as the case of Shakahola. We were being told they were not allowed to eat or take

children for immunization. In Kitui, there was a sect that would not agree their children to be immunized. What do you do about it?

There have been allegations on the issue of immunization even through the United Nations International Children's Emergency Fund (UNICEF). There were allegations that the immunization process was a way of controlling the birth rate in Africa. Apart from the resistance from some communities, we also need to alleviate the fears that immunization is a way of changing the Deoxyribonucleic Acid (DNA) character of Africans or to control the birth rate. Therefore, on this issue of immunization, I beseech Sen. Ogola to capture this properly during the public participation or during the report writing.

It is worth noting that over 70 per cent of our children according to the latest findings by the National Vaccine and Immunization Programme in the country have been vaccinated. Where are the 30 per cent?

Mr. Temporary Speaker, Sir, during COVID-19, I was told most Africans survived because we do immunizations against polio, diphtheria, and whooping cough amongst others. We need to agree as a country that we need to move to 90 per cent on immunization. The role of the county government in this Bill is to create awareness. We need to go to the village and tell that *mama* who did not go to school, but have children, that they need to take them for immunization. That is how we will prevent diseases like polio among others. If a child has special needs--- I am happy the Persons with Disabilities (PwDs) have been captured. I see some parents hiding them. It is wrong to hide children with special needs.

I encourage parents who get children with special needs that it is not by design. Let them seek services and take them to special schools. We have the special school for the blind in Kibos and another one in Kapsapet. We have small homes that are being run by the Catholic Church across the country. Let us all ensure that we take care of those children. They are special and unique. We have our special Senator, Sen. Crystal Asige, who is doing extremely well than other Senators who do not have a disability, considering the perception that we have created.

Finally, I heard a Senator saying--- and Sen. Olekina should listen to this. I have gone through the streets of many other areas. Does it not shock you that a woman with a mental disorder gets pregnant? Who are impregnating these women? Even in my area, there was a woman who was mentally disturbed who was pregnant every season I used to pass, until the local dispensary in my place had put her on family planning. How on earth would somebody impregnate a mentally disturbed person? How do they do it? This is shocking. It is a shame. However, I am happy that the issue of PwDs has been captured here. The functions of county and national Government is also highlighted in Fourth Schedule. I agree with the issue of county assemblies reporting to Parliament for accountability purposes. I encourage Sen. Ogola, who is deeply engaged with Sen. Olekina, that they should attach the reports that the President normally tables, especially on the human rights aspect.

I agree that the Members of the County Assembly (MCAs) must allocate budget. I also agree with identification of vulnerable groups and how to assist them. I am aware with the ongoing floods here in Nairobi and across the country, there are many people

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who because of one thing or another, have lost their parents. They have become orphans overnight. We also need to ensure they are captured.

Mr. Temporary Speaker, Sir, I assure the women of this country that men are “he for she” and “she for he”, because without women and men, we are not there. We must exist through symbiotic relationship because God has put us together. In fact, I encourage Sen. Ogola to look for a man to co-sponsor the Bill when she takes this Bill to National Assembly so that we own it together. These children belong to all of us, Senator Kibwana. They are our children. You need a man to make them and take care of them. The food that we eat is provided by men and women.

Mr. Temporary Speaker, Sir, one of the senior most parent in this House, Sen. (Dr.) Khalwale, agrees with me because he has seen a lot. Did you see he was training his son to be a bullfighter like him? That is why most children grow up to be like their fathers. I am impressed that apart from being a student in one of the reputable universities in this country, he is training him to be a bullfighter. I hope he will just train him for bullfighting only, and not politics.

With those many remarks, I congratulate my sister and wish her well. We hope to see this Bill in fruition. I support.

Thank you, Mr. Temporary Speaker, Sir.

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

Sen. Mwaruma: Asante Bw. Spika wa Muda, kwa hii fursa ambayo umenipa ili niuinge mkono huu Mswada ulioletwa kwenye Seneti na Sen. Ogola kuhusu afya ya mama wajawaaztio, waliojifunugua na watoto waliozaliwa. Kumekuwa na sheria nyingi ambazo zimetungwa kuangazia haya maswala na pia kuna sera zingine ambazo hazijawekwa katika sheria. Katika hekima ya Sen. Ogola akaona ni vyema alete Mswada huu wa kuangazia hayo maswala.

Bw. Spika wa Muda, nitaangazia vifungu kama tano hivi. Ya kwanza ikiwa ni Kifungu cha tano ambacho kinaangalia haki ya matibabu vile ilivyoangaziwa katika Ibara ya 43 kwamba kila mwananchi au Mkenya kulingana na Katiba anahitaji kuyafikia matibabu.

Mama mjamzito, mama aliyejifungua na mtoto mchanga wana haki za kupata matibabu na huduma ya kwanza inayopelekea kuafikia hii afya. Kifungu cha sita kinasema kuwa mwanamke ambaye hana mimba anafaa kupata huduma fulani. Kuna huduma ya aina mbali. Kwa mfano, kuna maelezo ya vyakula ambavyo mwanamke ambaye hana mimba-mwanamke ambaye hana mimba basi si mama-anafaa kula.

Wakati wa kulifanya tendo la ndoa, kuna mambo ambayo tulikuwa tunaambiwa tutazame kabla ya kuenda kwa tendo hili. Katika vyo vikiu wanafunza elimu ya Human Immuno Deficiency Virus (HIV)/Aids au Ukimwi. Wanaelezwa kuwa kabla ya kufanya mapenzi basi ni vyema kuangalia zana zile zinazotumika katika matendo ya ngono. Kwa mfano kabla ya mwanamme kufanya tendo lile anafaa kuchunguzwa kama ana hali ya afya ya kutosha au ana maambukizi ya virusi vya ukiwmi, fangasi au ya bakteria.

Hili ni swala ambalo limekua na hamasisho kwa kina mama ambao hawajapata mimba. Wanaelezwa kabisa kwamba ukifanya mapenzi, unafaa kuwa na afya njema bila maambukizi pamoja ya yule mwamaume unayechagua ili mtoto naye pia na afya njema.

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Sen. Ogola ameona ni vizuri tuiangazie afya ya mama na mtoto. Pia ni lazima tuimarisha afya ya mwamamke asiye na mimba ili apate hamasa ya kutosha. Ikifika wakati anapopendelea kuwa na mtoto aliye na afya nzuri basi kabla ya kuenda kwa tendo litakalo pelekea kuwa na mimba awe amechunguzwa vizuri.

Kifungu cha saba kinaangalia huduma zinazofaa kupewa mwanamke aliye na mimba. Kila wakati kwenye mafunzo ya kiafya na maelezo ya redio na vyombo tofauti vya habari, taarifa inasisitiza na kueleza vyakula na dawa ambazo zimepigwa marufuku kwa wajawazito. Zaidi ya hayo, pia kuna vinywaji ambavyo kama mja mzito huwezi kutumia. Kwa hivyo haya ni mambo ambayo yamekuwa lakini Mswada huu umeelezea ni vyema mama aliye na mimba apate haya maelezo.

Bw. Spika wa Muda, mambo mengine yanayofaa kuelezewa mama mja mzito ni kazi amabazo anafaa kufanya na kadhalika pamoja na kuenda kupokea huduma za kliniki. Kifungu cha saba pia kinaangazia maswala ya mama aliye na mimba. Sheria hii inafaa kuangalia mambo ya huduma za dharura. Ni vyema kuwe na mpango dhabiti au mufti wa kuhakikisha kwamba mja mzito atajifunga kwa hali isiyo tatanishi. Kule nyumbani na pia katika maisha yangu nimeona vituko vya mama mjamzito anayetaka kujifungua lakini hakuna vifaa au huduma za kutosha ili kuhakikisha kuwa mama aliye na dharura anaweza fika hospitalini.

Mwaka wa 1999, nikiwa naendesha gari, kuna mama ambaye alijifungua kwa gari langu kwa sababu nilimpata barabarani. Hakukuwa na *ambulance* na simu wakati huo. Ilibidi nimbebe na kabla hajafika hospitalini, akajifungua. Ilikuwa ni hali ya hatari sana kwa sababu sikuweza kumsaidia huyu mama kujifungua.

Bw. Spika wa Muda, kujitayarisha na kuwapa mama wajawazito elimu ya kutosha ni muhimu sana. Juzi tu, miaka miwili iliyopita, kuna mama mja mzito alipelekwa kwa *health center* kule Voi, ambayo haikuwa na vifaa vya kutosha. Alivyoanza kujifungua, kwa bahati mbaya, mtoto alianza kuja visivyo stahili. Alikuwa miguu ikiwa imetangulia. Inatakiwa mtoto aje na kichwa mama anapojifungua. Hawa *nurses* walipiga simu kwa kituo cha *Referral* cha Moi kwa mfano na wakaambiwa kwamba, *ambulance* itakuja. Walingoja kwa masaa matatu bila *ambulance* kufika. Kwa bahati nzuri, huyu mama, alisaidiwa na hao madaktari na akajifungua kwa miujiza.

Kwa hivyo, inatakiwa kutojitayarisha vya kutosha kuwasaidia akina mama wajawazito kujifungua iwe ni kosa la uhaini ama *criminal offence*. Tumeona hali ya afya imedorora katika hospitali zetu. Kwa mfano, itakuwaje mama angojee masaa matatu bila kufikiwa na *ambulance*?

Ile *procedure* inatakiwa ni kwamba; mama akijitayarisha kujifungua, basi kuwe na *ambulance*, na wakati *ambulance* imeitishwa, isichukuwe dakika 30 kabla hajafika. Na wale ambao wanamhudumia mgonjwa, wawe tayari wametayarisha kufanya upasuaji kwa huyu mama ili kumsaidia.

Mheshimiwa Beatrice, tufanye mageuzi ili kutojitayarisha vya kutosha kwa mahospitali na *county governments* liwe ni kosa la jinai. Hii ni kwa sababu, akina mama na watoto wengi ambao wanakufa wakati wa kuzaliwa ni kwa sababu ya matayarisho ambayo hayafai. Kwa kimombo ni *medical negligence*.

Bw. Spika wa Muda, hii sehemu ya nane inaangazia huduma za mama na mtoto wakati amezaliwa. Kumekuwa na matibabu ya bure katika hospitali nyingi. Lakini kwa

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sasa, hali ya afya imedorora katika kaunti zingine. Unapata ya kwamba, matibabu ya mtoto mdogo ambaye amezaliwa ni ya bure lakini, bado wanalipia kitanda. Kwa hivyo, watu wengi wanaogopa kuwapeleka watoto wao hospitalini kwa sababu ya kutozwa pesa na wakati mwingine, hao watoto wanakufa.

Nilikuwa na mfanyikazi wangu mmoja ambaye alikuwa na mtoto mgonjwa; akampeleka hospitalini na akashindwa kumtoa kwa sababu licha ya kuwa kuna mpangilio wa Linda Mama na sera za sheria zimewekwa na serikali za kusaidia watoto kama hawa, alikosa kutolewa kwa sababu ya *bill* ya Kshs4,500 kitanda na chakula pekee yake. Kwa hivyo, kukiwa kunatengenezwa kanuni za kuwezesha huu Mswada kufanya kazi, basi iwe bayana ya kwamba kama huduma ya matibabu ya mtoto aliyezaliwa hadi miaka tano ni bure, iwe bure bin bure ama bure ya bure kabisa. Hii ni kwa sababu, hata chakula na kitanda bado ni malipo na watu wengi hawawezi kumudu. Nakubaliana na wasemaji ambao wamesema mbele yangu kwamba, hii *programme* ya Linda Mama ilikuwa nzuri. Lakini Serikali yetu imetoa huduma nyingi sana na naogopa hata hii huduma ya Linda Mama inaweza ondolewa pia.

Bw. Spika wa Muda, kwa mfano, tukiangalia wanafunzi wa shule za upili walikuwa wanapata matibabu ya bure. Saa hizi, hiyo imeondolewa na sasa wanalipa. Kuna sera zingine nzuri zimekuweco na saa hizi zimetolewa. Ni vizuri hii ya Linda Mama ibaki hapo.

Jambo la mwisho ni sehemu ya 12 ambayo imeangazia majukumu ya Serikali ya Kitaifa na serikali za kaunti. Katika hii sheria, majukumu ya Serikali ya Kitaifa yamekua ni kuunda sera za kuelekeza vile huu Mswada utakavyotekelezwa. Katika serikali za magatuzi, yametoa njia na mbinu za kuhakikisha kwamba huu Mswada unatekelezwa vilivyo.

Bw. Spika wa Muda, hatuwezi tekeleza huu Mswada vyema na vilivyo kama hatutakua na pesa ya kutosha katika magatuzi. Ninafurahi kwa sababu, wakati wa kupitisha Mswada wa *Division of Revenue Bill*, Maseneta walikubaliana pesa ziongezwe mpaka shilingi bilioni Kshs415. Ninashukuru wenzangu wa upande ule mwingine kwa sababu, mwaka ule uliopita, hatukukubaliana kwa ile pesa inayotakikana kupeleka kwa yale magatuzi na wakapiga kura pesa kidogo iende. Lakini saa hizi, moja kwa moja, tumeweza kukubaliana ile pesa inayoenda kwa magatuzi ni muhimu na sisi kama Maseneta tunaopigania na kulinda ugatuzi, tupigie kura pesa nyingi zaidi ili ziende kwa kaunti zetu. Hii ni kwa sababu, Miswada kama hii ni ya kuhakikisha ile ibara ya 43 ya kuhakikisha kwamba huduma za afya zimefikia wananchi wetu, zinawafikia bila kukosa.

Lakini, Bw. Spika wa Muda, kuna kucheleweshwa kwa pesa zile za kaunti kwenda kwa magatuzi inayopelekea ile miradi ya maendeleo ama zile *programmes* zinazowezesha miswada kama hii kutekelezwa kuwa na shida kubwa saa zingine. Hii ni kwa sababu, sheria inasema kabla mradi hujaanzishwa, kuwe kuna pesa tayari katika akaunti. Lakini kama pesa zitakua zinachelewa kwenda kwa magatuzi, basi Miswada kama hii na huduma kama hizi zitakua ngumu kufikia wananchi wetu.

Ninasema tuunge huu Mswada mkono na pia upigwe msasa kidogo pale unapotakikana kupigwa msasa ili kuurotubisha zaidi na pia tuupitishie. Huu Mswada ukienda kule Bunge la Kitaifa, tuupigia debe pia ili upite.

Asante, kwa hii fursa.

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Bw. Spika wa Muda (Sen. Wakili Sigei): Sen. Joyce Korir.

Sen. Korir: Thank you, Mr. Temporary Speaker, Sir. Allow me to congratulate Sen. Beatrice Ogola on this important Bill - the Maternal, Newborn and Child Health Bill. It is a timely Bill, and it is long overdue. I also applaud the hon. Senator because mothers play a very critical role in the society in bringing up children. This Bill has tried to address a number of issues, ranging from rights to health services. It has also addressed the issue of services for non-pregnant women, pregnant women and the role of the county governments.

Mr. Temporary Speaker, Sir, I will specifically talk about Part 4, Article 14(f) of the Bill where it says that each county executive shall formulate programmes and implement strategies aimed at reducing infant mortality rates and maternal mortality ratio in the counties. This is something that has been affecting several counties. According to statistics for various counties, this is an issue that has been affecting us in terms of losing infants and even mothers. This will also enable us to implement programmes for acceleration of infant immunization.

The Bill also talks about developing and implementing training programmes for skilled birth attendants in the counties. This Bill also seeks to cure challenges that Persons with Disabilities (PwDs) have been undergoing. The Bill also talks about formation of community-based committees that will foresee the needs of PwDs, including the necessary infrastructure for them to access treatment.

I also agree with the Senator for Narok that mother and childcare starts immediately a child is born. I also agree with the amendment proposed by the Senator that a child and mother should be assisted for at least one year before they can be separated.

Mr. Temporary Speaker, Sir, as I support this Bill, I applaud the Sponsor and Senators who have contributed to this Bill.

I thank you.

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

Proceed, Sen. Hamida Kibwana.

Sen. Kibwana: Mr. Temporary Speaker, I also want to add my voice on the Bill. I congratulate Sen. Beatrice for this Bill because it is important. We as mothers hold it dearly. I am happy that it covers most of the issues I have always raised. For example, free prenatal care. We were happy with the Linda Mama Programme. Now that it has been withdrawn, we hope that any other that will be introduced by the Government will take care of prenatal care.

It also talks about preparation classes, which are necessary for our young children. Girls are getting pregnant at 14, 15 or 16 and they are not trained on how to take care of their children. At least some of us had the privilege of our mothers helping us through. So, preparation classes are necessary. There are also provisions on postpartum and postnatal periods. I brought a Motion on postpartum depression. This is key when it comes to mental health on postpartum depression.

Many women go through this kind of depression. I even gave an example of one of my relatives who has to be taken to a mental health hospital when she goes through

postpartum depression. Once we have health care services for postpartum depression--- All of us go through that period. It will help women go through this stage.

I have also seen provisions on postnatal care. Over 45 per cent of women cannot afford to go to hospitals when they conceive. It is a serious matter. You might find the woman only goes to the hospital when she is about to give birth, yet for the period of eight months, nothing has been observed. It is unfortunate most of the time they lose their children or they are severely malformed because there was no postnatal follow-up. So, I am happy that this has been covered in this Bill.

Most women cannot afford paediatricians. This is a name for doctors who deal with infants. Maybe Sen. (Dr.) Khalwale can assist me. That is necessary also for women who deliver and do not have paediatricians. This Bill has taken care of that. The healthcare provider may refer the child to a relevant medical practitioner. That one is also covered in this Bill. Essential interventions are highly cost-effective and result in a benefit ratio. The reproductive health package is particularly quite hefty, but it is also important.

This also covers the contraceptive services. When we go through poor reproductive health, the outcome of women and children may result in a risk factor, such as unsafe sex. Therefore, girls need to go through counselling on unwanted pregnancy and sexually transmitted infections. I am happy that this Bill overhauls all the necessary issues on maternal, newborn and child.

Another hidden reproductive health issue is infertility, which is key. In 2010, an estimated 48.5 per cent women were involuntary childless. I am hoping that this Bill will also cover that. You are all aware that I had my e-Health Bill, which now, has been transformed into the Digital Health Bill. It complemented the Maternal, Newborn and Child Bill. I may not be a champion of my eHealth Bill, since it has already been taken by the Government. However, I am happy that Sen. Beatrice has covered most of the things.

If necessary, she can see whether telemedicine can be covered on this one. In telemedicine, a child does not have to be brought to Nairobi. All tests can be sent to Nairobi and then go back maybe to Meru or other places. Telemedicine is necessary in this and how the pharmacy tracks the medicine from point A to point B. All of that should be tracked together, so that a child, mother or newborn in Garissa or Tana River can be treated.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mutinda Tabitha.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. Allow me first to applaud my sister Sen. Beatrice Ogola for such a great Bill. This Bill is not only for mothers, but all generations both male and female because it is in our collective responsibility then that we get the natural blessing that God gives us.

It comes from God and it is something that requires the responsibility of both parties. I also appreciate the male colleagues who have shown very positive support. This is a journey that even we as women, cannot achieve alone.

Touching on the area of the medical sector, you realize that both males and females are doctors, gynecologists and pediatricians and so it is a collective responsibility

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and in that then we can achieve and see a generation that has a space medically that is going to be accommodative, especially for the young ones in the future.

Looking at the formation in the issue of the Community Health Practitioners (CHPs), CHPs are playing a very key role in our country and I am happy that it is one of our manifestos that we have been able to achieve. The reason I am bringing this up is that in our recent Division of Revenue Bill submissions, as the Committee on Finance and Budget, we were able to highlight the costs that come with the CHPs bearing in mind the role that the CHPs do play.

In Nairobi City County, for example, we have over 7,000 CHPs and they play a very key role including helping to reduce the issues of mortality and, therefore, there is a cost that comes. It is very important to note even when we discuss the issues of DoRA that one of the costs that we are taking care of is the CHP cost, who in the longrun will be able to have very much impact as far as the issues of mortality are concerned.

I note in the Bill, and I would want Sen. Ogola to note that Clause 8(2) talks about-

“(2) Where the child under subsection (1) is severely malformed at the time of birth, the health care provider may refer the child to a relevant medical practitioner for comprehensive assessment, diagnosis, and treatment.”

I note and pick a key English word that I have realized the legal fraternity likes using and then it leaves things that are not fully closed because when you say that “the health provider may---” and in this case we are talking of a child who has had malformation at the time of birth. So, when we say “may” then it means that the hospital can decide to take further medical action or diagnosis, or they might not.

I think that strictly should change and say, “the health care provider shall---” so that it is mandatory because the aim of Clause 8(2) is to try and ensure that the child is safe in the case of a malformation so, there should be much emphasis by using the word “shall.”

Mr. Temporary Speaker, Sir, in our different committees we have looked at some of the Acts that the counties are using and one of the things that we have noted is that especially when they present their Acts they do not have regulations to guide them in the policies and administration of the same Act that they have been able to put and in one of the Clauses you realize it indicates and says that “the county may do regulation” so it is not a must, it is not mandatory. When you leave it like this then it is not mandatory for that child to get further care. There should be emphasis on the word “shall.”

Mr. Temporary Speaker, Sir, there is also the issue of hospitals as institutions and the personnel as far as medical practitioners are concerned. We have seen cases in hospitals where rogue medical practitioners collude with unscrupulous business people to steal newborn babies and make money out of it. I have forgotten which section it was, but I had read it earlier where it talks of a fine of Kshs1 million and two-years imprisonment.

Pregnancy naturally takes nine months as God intended. Therefore, proposing one or even two years imprisonment cannot be matched with the pain that a woman goes through. You find that you are preparing to give birth to your child and someone out there is commercializing on it by colluding to steal babies in hospitals as we have seen. I would request that Sen. Ogola increases the fine charges and the duration of the

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imprisonment because someone can come back to commit the same crime even after two years.

Secondly, regarding the fine of Kshs1 million, we have seen in different reports that children are sold for about Kshs300,000. God forbid, but if that person sells three children, since children are born everyday, then that person will be able to manage the fine of Kshs1 million. This is not something good to discuss as it is very painful, but the fine should be as high as Kshs10 million and 10 years of imprisonment because that is selling a life. I think we should increase the fine and the duration of imprisonment.

With regards to the proposal for free medical care for the infant, the same should be given to the mother. You cannot provide one facility for only the infant alone because that infant is as a result of the mother. They are a package. I agree with what Sen. Olekina stated in terms of amendments of the insurance firms to provide free coverage for the mother and the infant.

Some counties have been flagged out for having low fertility rates. This is due to high rates of alcoholism and a few other factors. You will realize that at this time the birth rate is quite low. Young people are not focusing on giving birth. Free medical care for the infant and mother will encourage them because some of them fear the cost implications. The proposal will encourage young couples to be confident that the cost will be minimized.

As I conclude, I have heard my colleague Senator talking about telemedicine and telepharmacy. We are in the digital era, and I am happy to note that you have factored these technologies into this Bill. This is positive and good moving forward.

Lastly, it is good to note that we might not have many students in our schools in the future. This is because the birth rate is low. It would be better to put much more emphasis on the health of our children. Looking at where we are with the Competency-Based Curriculum (CBC), we see that it has made learning more practical. The institutions of learning will have fewer students. Therefore, if more emphasis can be put into the medical institutions, then we will be able to achieve this and have a healthy nation hence a wealthy nation.

I thank you.

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

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me this opportunity.

First, I would like to congratulate Sen. Ogola for a well-articulated Bill. Due to shortness of time, I would like to first touch on the objects of the Bill. I appreciate the way she has articulated them.

The first object is very important for us because what this Bill has done is to unpack what is in the Constitution. It is trying to translate the rights in the Bill of Rights that are enshrined in the Constitution. It provides for the rights of the children and individual Kenyans. When you look at the objects that she has given, it is going to provide a framework for the delivery of comprehensive quality health service, to meet the health needs of mothers, newborns and children.

This to me is extremely important since we realized that mothers have never been part of the story. For instance, in Kenya when a mother becomes pregnant and she gets her baby, it is still her business. We have not looked at how a mother can be taken care of

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because this is a mother who is giving birth to a Kenyan, and we do not recognize that. This Bill recognises that.

Now further, she goes on to look at the insurance that a maternal, newborn and child health care provisions are within reach. When I became a Member of Parliament of Eldoret East, we had a terrible problem because many people were delivering by the roadside. I know it is still going on in some places. Nobody cares where you deliver and it is up to you to look for your way out.

Nonetheless, we know that even in times like we are in right now, with this flooding that is going on, some people are not rich and cannot access anything. Sometimes they cannot even access midwives, let alone the fact that the training of midwives went very low. This is because, for a very long time, we looked at midwives as those traditional women who had no value. It is now that we are seeing the value of the same women and we have many problems.

The establishment of programmes to expand and improve the availability and access of maternal, newborn, and childcare services is something that we must take very seriously in this Senate. Why? As health is devolved, we should not restrict our access to these facilities to health centres, as we are told, and beyond. It is very important that any dispensary must have a maternity wing. It is just a delivery room and a place for the mother to rest after that. If we have a tradition of taking care of them at that level, then we are going to make a difference in the lives of these mothers. This again is because we have never looked at the mother.

We have been looking at these Kenyans when they are grown up, they join the army, they become our police officers, teachers, professors and so forth. However, if we focus on taking care of the mother, then we are going to have a healthy nation. Without taking of how the mother is treated before birth and after, we will continue to treat diseases that should not be even around us.

I am very happy with this Bill. We know that we are going into Community Health Providers (CHP) and that is going to be very helpful. The one thing that I want to again mention as far as this matter is concerned is maternity leave. The maternity leave in Kenya is completely haphazard. In the law it says, it should be a minimum of three months. In the Teachers Service Commission (TSC), it is 120 days, which is four months. Paternity leave in TSC is 21 days. When you go to universities it is 10 days. We need to regulate this.

I am going to ask Senator to look for an area where she can bring in maternity leave. I propose that we have a standard of six months of leave. A mother is taking care of a Kenyan, not just a baby, but the baby that she delivered. Let us give value to the child because a child who is not taken care of by the mother will be unhealthy for a very long time. It does not matter whether it is the National Hospital Insurance Fund (NHIF) or whatever health care service we give, we will have problems.

Mr. Temporary Speaker, Sir, I know the time is over, but I am grateful. I encourage my sister to introduce six months maternity leave and we are good with this Bill.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Prof.) Kamar, if you are not done you still have 15 minutes to conclude your submissions on the Bill when the House resumes.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 6:30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 8th May, 2024 at 9.30 a.m.

The Senate rose at 6.30 p.m.