

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 17th April, 2024

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

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

Serjeant-at-Arms, kindly ring the Quorum bell for 10 minutes.

(The Quorum bell was rung)

Serjeant-at-Arm, I am informed we do have the quorum now, so you may stop the bell.

Clerk, proceed to call the first Order.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE
PARLIAMENT OF ZAMBIA

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation from the Parliament of Zambia.

The delegation comprises of Members of the Committee on Health, Community Development and Social Services and its secretariat. The delegation is undertaking a benchmarking visit in the Senate.

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Hon. Senators, I request each Member of the delegation to stand, when called out, so that they may be acknowledged in the Senate tradition.

Delegation.	(1) Hon. (Dr.) Christopher Kalila	-	Leader of the
	(2) Hon. Marjorie Nakaponda	-	Member
	(3) Hon. Masautso Tembo	-	Member
	(4) Hon. Monty Chinkuli	-	Member
	(5) Hon. Alex Katawe	-	Member
	(6) Hon. Leevan Chibombwe	-	Member
	(7) Hon. Paul Chala	-	Member
	(8) Hon. Joseph S. Musanje	-	Member
	(9) Hon. Heartson Mabeta	-	Member
	(10) Hon. Miles Sampa	-	Member
	(11) Ms. Betty Zulu	-	Senior Committee Clerk/Secretary to the Delegation

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the delegation. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

VISITING DELEGATION FROM
KISUMU COUNTY ASSEMBLY

Hon. Senators, I would also like to acknowledge the presence in the Speaker's Gallery this afternoon, of a delegation from the County Assembly of Kisumu, comprising Members of the House Business Committee and its secretariat. The delegation is undertaking benchmarking visit in the Senate.

I request each Member of the delegation to stand, when called out, so that they may be acknowledged in the Senate tradition.

(1) Hon. Elisha Jack Oraro	-	Speaker of the County Assembly/Chairperson
(2) Hon. Okombo Nereah Akoth	-	Deputy Speaker/Vice Chairperson
(3) Hon. Lumumba Patrick Owade	-	Deputy Leader of Majority
(4) Hon. Okumu Seth Ogutu	-	First Panelist
(5) Hon. Odhiambo Carren Ajwang'	-	Third Panelist
(6) Hon. Alandoh Eunice	-	Member
(7) Mr. Owen Eliud Ojuok	-	Clerk of the Assembly
(8) Ms. Angelyne Adams Obonyop	-	Clerk Assistant
(9) Ms. Jessica Otieno	-	Hansard Reporter
(10) Ms. Faith Atieno	-	Serjeant-at-Arms

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Hon. Senators, in our usual tradition of receiving and welcoming guests to Parliament, I extend a warm welcome to the delegation. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

VISITING DELEGATION FROM
STAREHE BOYS' CENTRE AND SCHOOL

Again, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of students from Starehe Boys' Centre and School who are undertaking a two-week service in the Senate under the School's Voluntary Service Scheme (VSS).

I request the students to stand when called out, so that they may be acknowledged in the Senate tradition.

1. Kisito Mulema
2. Simeon Sinkit
3. Anderson Murithi
4. Emmanuel Baraka
5. Davin Ngugi
6. Benjamin Wafula
7. Zephania Enyaman
8. Ezekiel Idambira

In our usual tradition of receiving and welcoming guests to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

I will request the Senate Majority Leader to extend a word of welcome to the delegation from the Parliament of Zambia. Thereafter, I believe we have an old boy here from Starehe Boys' Centre and School.

Hon. Maanzo will extend words of welcome to the delegation from the Starehe Boys' Centre and the Senator for Kisumu County will also extend a word of welcome to welcome the delegation from Kisumu. The three of you to do that under one minute each.

Let us proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I join you, on behalf of our colleagues here in the Senate, to welcome the visiting delegation from the Parliament of Zambia. Our colleague Members of Parliament, as you have noted, are here on an interactive and a study tour. I believe that they will drink to their fill as they interact with colleague Senators, either in committees and our orderlies here in Parliament.

Zambia and Kenya enjoy very strong relationships that can only get better over time. There are many things that we continue to learn from the beautiful southern African

nation of Zambia as a country. There have been conversations on many things that we need to collaborate with them, the things that they excel in.

Mr. Speaker, Sir, what they are doing is nothing unique. We too learn from them on many occasions and that is the essence of humanity, to get the best out of your colleagues.

It will benefit them to know that a few months ago, in my own home county of Kericho, we had visitors from Zambia from a town called Kawambwa, who came to study the best practice in tea farming. They wanted to study in an area that they want to excel in. So, that tells you that our relationship is actually getting better and excelling.

Mr. Speaker, Sir, I wish them well in the duration of their stay. May they enjoy their time here in Parliament and in Nairobi, and Kenya generally.

Finally, let me equally welcome, as much as you barred me, the team from Starehe and my good neighbours from Kisumu County. While you were making the Communication, I had imagined that if I get a chance to welcome the students, I would tell them to behave like the “Stareheans” that we have in this House. The only one who behaves very well is none other than the Clerk of this House, Mr. Jeremiah Nyegenye. I am not very sure about Sen. Maanzo, but given that he is in the House today---

I thank you, Mr. Speaker, Sir.

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I take the opportunity to welcome the students from Starehe Boys' Centre, that they may follow the proceedings of the House. I am File No.8336, and I was in Chaka House.

Mr. Speaker, Sir, I would like to highlight just in one sentence about the voluntary service that every student who goes through Starehe Boys' Centre must serve to any institution; either the hospitals, Parliament or the libraries for free, for at least two weeks, so that they may serve the nation and learn to give voluntary service to the nation.

I tell the students that there is a lot to learn from the many other old boys of Starehe who number 15,000, and even Clerk Ochieng here is also an old boy of Starehe. Voluntary service is very important. We want other schools and Kenyans to emulate that, so that at one time they can give free service to the nation.

I thank you and I welcome the students from Starehe Boys' Centre. “Strengthen to Serve, Natulenge Juu”.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Speaker, Sir, for the opportunity to welcome the Members of the County Assembly (MCAs) from Kisumu County Assembly to Senate. I believe that the MCAs of Kisumu are here to learn the best traditions of Senate, specifically the role of Senate in oversight under Article 96.

Their timing of the visit is important given that only two days ago, the Governor of Kisumu County appeared before the County Public Accounts Committee (CPAC) and displayed that for four years, Kisumu County Executive has had four adverse reports. That is next to a disclaimer.

I think that the County Assembly has done fairly well. I believe that the MCAs have had qualified reports for the last four years. I believe that prudent financial management is the way to go and MCAs will undertake their duty of oversight, to ensure that they are not just flower girls in the Assembly, but truly play a role to ensure that they

keep the County Executive of Kisumu in check. This is because, at the end of this service, it is only what you have done for your people that will count.

I say this because one of the learning things that I hope they will carry away from Senate is that Parliament works through committees. You only work when you are in a committee that you can manage.

I know that in the County Assembly of Kisumu, we have Members who serve in up to nine or 10 committees. That is not workable. I have written an advisory and I hope that they will pick from this Senate, that you cannot deliver in more than three committees if you want to truly oversight the county and serve your people.

I hope that as the Clerk and the Speaker leave this place, they will know that even as they constitute those committees, it does not serve the people of Kisumu for some MCAs to serve in one committee and others to serve in 10. I welcome you to Senate. Please, go back and learn; get the best things and keep your county in check.

Thank you, Mr. Speaker, Sir.

COMMUNICATION FROM THE CHAIR

COMMISSIONING OF THE BUNGE TOWERS

The Speaker (Hon. Kingi): Hon. Senators, I have a further Communication to make. As you may recall, yesterday, Tuesday, 16th April, 2024, I informed the Senate that the Parliamentary Service Commission had expedited the completion of the Bunge Tower with a view to having the building ready for occupation by Members of Parliament.

I am pleased to inform hon. Senators that significant progress in the completion of the Tower has been made and that the offices are ready for occupation.

In line with the Communication referred to above, the Office of the Clerk of the Senate issued a circular in the evening of Tuesday, 16th April, 2024, highlighting the office number and the physical location of the offices allocated to each Senator following the order of precedence, as set out in Standing Order No.3 (2) of the Senate Standing Orders.

Any Senator who is ready to move into their office is required to liaise with the office of the Serjeant-at-Arms for the necessary logistics for relocation.

Hon. Senators, the journey of facilitating Members of Parliament (MPs) with adequate facilities has been a long one. You recall that the plenary meetings and the premises of the precursor to the legislature as we know it today; the Legislative Council (LegCo), were held in fabricated structures at what is now, the Kenya Railways buildings, more than a century ago.

For many years, MPs did not have offices from which to undertake their Parliamentary work. During the term of the 11th Parliament, that is 2013/2017, the initial plenary sittings, committee meetings and office spaces in 2013 and 2014 were held on a leased premise at the Kenyatta International Conventional Centre (KICC).

Members of Parliament who were unlucky to get office space within Parliament buildings or at KICC were facilitated by the Parliamentary Service Commission (PSC) to rent office space outside the precincts of Parliament. This meant that a significant number

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of Members had offices in different locations within the City, therefore, making it difficult for Members to effectively attend plenary sittings and committee meetings.

Hon. Senators, appreciating the journey leading to the completion of the Bunge Tower, His Excellency (Dr.) William Samoei Ruto, CGH, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defense Forces has acceded to the request of the PSC to officially open the Tower on Friday, 19th April, 2024.

The opening of this building will mark a monumental leap in the history of Parliament by ensuring that MPs are provided with the necessary facilities to effectively discharge their constitutional rules of legislation, representation and oversight.

Therefore, on behalf of the PSC, and my own behalf, I take this opportunity to invite all hon. Senators to the official opening of the Bunge Tower by His Excellency the President on Friday, 19th April, 2024, at the forecourt of the Tower.

The programme of events will commence at 9.00 a.m. Hon. Senators are requested to be seated by 8.30 a.m.

I thank you, hon. Senators.

Next Order.

(Several Senators walked in)

Take your seats, hon. Senators. I have a message to pass.

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE LAND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 40 OF 2022)

I wish to report to the Senate that pursuant to Standing Order No.46(3) and (4), I received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Land (Amendment) Bill (National Assembly Bills No. 40 of 2022.)

The Message dated Friday, 12th April, 2024, was received on Monday, 15th April, 2024 in the Office of the Clerk of the Senate. Pursuant to the said Standing Orders, I now report the Message.

Pursuant to the provisions of Standing Order No. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

“WHEREAS The Land (Amendment) Bill (National Assembly Bills No.40 of 2022) was published vide Kenya Gazette Supplement No.165 on the 20th October, 2022, as a Bill seeking to amend the Land Act, No.6 of 2012, to provide that; where public land has been allocated to a public body, or public institution by the National Land Commission (NLC) for a public purpose, the Registrar of Lands under the Land Registration Act, 2012, shall issue a certificate of title in the name of the public body, public institution, the relevant Ministry or county government as the case may so as to secure the public land interest;

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WHEREAS on 20th March, 2024, the National Assembly considered the said Bill and passed it without amendment and in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4), of the Constitution and Standing Order No. 41(1) and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order No.163, which requires that a Bill which originates in the National Assembly be proceeded with the Senate in the manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.144, I direct that the Land (Amendment) Bill (National Assembly Bills No.40 of 2022) be read a First Time tomorrow, Thursday, 18th April, 2024.

I thank you.

Next Order.

(Sen. Wambua walked into the Chamber)

Sen. Wambua, you will exchange greetings at a later time. Kindly, take your seat.
Sen. Mumma, I have a Communication to make. Kindly take your seat.

PETITION

COMPENSATION OF RESIDENTS AFFECTED BY CONSTRUCTION OF KAMWOSOR-NYARU ROAD

Hon. Senators, pursuant to Standing Order No.232(1) (b), I hereby present a Petition that has been submitted through the Clerk by Mr. David Rono Kibiywo and four others from Elgeyo-Marakwet County, concerning compensation of residents affected by the construction of Kamwosor-Nyaru Road.

As you are aware, Article 119(1) of the Constitution states-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

The salient issues raised in the Petition are as follows:

(1) The construction of Kamwosor-Nyaru Road in Keiyo South was undertaken in 1982.

(2) That the construction of the new road, the design was not pegged on the old road leading to the displacement of a number of local residents.

(3) That the affected persons ought to have been compensated for damaged property and lost land due to the construction of the new road.

(4) That the affected people who had previously settled along the road between Eldama Ravine and Kamoswor were fully compensated for the damaged property and lost land. However, those who had settled between Kamoswor and Nyaru were never compensated.

(5) That the petitioners have made efforts to have the matter addressed with the relevant bodies, including the Ministry of Roads and Transport, the District Commissioner Keiyo District, Kenya National Highways Authority (KeNHA), Ministry

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of Lands, Public Works, Housing and Urban Development, NLC and the Commission on Administrative Justice all of which have been unsuccessful.

(6) That the petitioner, therefore, prays the Senate investigate the matter with a view to ensure that the affected persons are compensated.

Hon. Senators, Pursuant to Standing Order No. 238(1), I hereby direct that the Petition be committed to the Standing Committee on Roads, Transportation and Housing for consideration.

In terms of Standing Order No. 238(2), the Committee is required in not more than 60 calendar days from the time of reading this prayer, to respond to the petitioner by way of a report addressed to the petitioners and laid on the Table of the Senate.

(The Petition was committed to the Standing Committee on Roads, Transportation and Housing for consideration)

I thank you.
Next Order.

PAPERS LAID

LEGAL NOTICES ON FISHERIES MANAGEMENT AND DEVELOPMENT

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 17th April 2024-

The Fisheries Management and Development (Beach Management Units) Regulations, Legal Notice No. 49 of 2024.

The Fisheries Management and Development (Inland Fisheries) Regulations, Legal Notice No. 50 of 2024.

The Fisheries Management and Development (Recreational Fisheries) Regulations, Legal Notice No. 51 of 2024.

The Fisheries Management and Development (General) Regulations, Legal Notice No. 54 of 2024.

The Fisheries Management and Development (Safety and Quality) Regulations, Legal Notice No. 55 of 2024.

The Fisheries Management and Development (Aquaculture) Regulations, Legal Notice No. 56 of 2024.

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Report of the Auditor General on Financial Statements of Marsabit Water and Sewerage Company Limited for the year ended 30th June, 2019.

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Report of the Auditor General on Financial Statements of Marsabit Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on Financial Statements of Marsabit Water and Sewerage Company Limited for the year ended 30th June, 2021.

Report of the Auditor General on Financial Statements of Marsabit County Enterprise Fund for the year ended 30th June, 2021.

Report of the Auditor General on Financial Statements on Marsabit County Enterprise Fund for the year ended 30th June, 2022.

Report of the Auditor General on Financial Statements of Marsabit Water and Sewerage Company Limited for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statements of the County Executive of Marsabit for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Assembly of Marsabit the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Marsabit County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Marsabit County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Revenue Fund - County Government of Marsabit, for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the Receiver of Revenue – County Government of Marsabit, for the year ended 30th June, 2023.

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

Report of the Auditor-General on Financial Statements of Marsabit County Education Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of the County Government of Marsabit Car Loan Scheme Fund the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Marsabit County Enterprise Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Marsabit County Assembly Staff Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Londiani Sub-County Level 4 Hospital for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statements of Vihiga County Executive Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Vihiga Municipal Board the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Homa Bay County Assembly Car and Mortgage Loan Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Embu County Emergency Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Ngandori-Nginda Water Consumers Association the year ended 30th June, 2023.

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

Report of the Auditor-General on Financial Statements of the County Assembly of Kakamega for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Siaya County Alcoholic Drinks Control Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kapsabet Nandi Water and Sanitation Company Limited the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kisumu Urban Project (Project Advance Account) – CKE 1035.01.G – County Government of Kisumu for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statements of Kisumu Urban Project (Cash Expenditure Fund) – CKE 1035.01.G – County Government of Kisumu for the year ended 30th June, 2023.

Report of the Auditor-General on the Kenya Health Sector Programme Support III (CANIDA REF:104 KENYA 810.300 - GRANT) – County Government of Kisii for the year ended 30th June, 2023.

Report of the Auditor-General on Nairobi Sanitation Output Based Aid (OBA) Project IDA Grant No.TF014251 and No.TF0A5607) – Nairobi City Water and Sewerage Company Limited for the year ended 30th June, 2023.

Report of the Auditor-General on Busia Port Victoria Household Sanitation Project Grant/Credit No.02HS/LVWWDA/Busia/054 – Busia Water and Sewerage Services Company Limited for the year ended 30th June, 2023.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): Let us go to the next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): We will start with Statements pursuant to Standing Order No.53 (1).

The first one is by Sen. Mundigi.

ON-GOING STRIKE BY MEDICAL PERSONNEL

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Health regarding the on-going strike by medical personnel in the country.

In the Statement, the Committee should-

(1) Provide data on human lives, losses and estimated economic loss incurred due to the on-going strike by doctors and other medical staff that has paralyzed access to healthcare in public hospitals.

(2) Outline the plans in place by the Ministry of Health to ensure that emergency life saving medical services are not denied to Kenyans during the strike.

(3) Explain the steps the Ministry is taking to ensure that dialogue between the various stakeholders is successful, to alleviate suffering and ensure access to medical care across the county.

(4) Recommend legislative interventions to address the gaps observed and avert the withdrawal of critical health services.

Mr. Speaker, Sir, can I proceed with the second Statement?

The Speaker (Hon. Kingi): Yes, hon. Senator. You may proceed.

WELFARE OF TEACHERS ON FIXED-TERM CONTRACTS

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the welfare of teachers employed by the Teachers Service Commission (TSC) on fixed terms contracts.

In the Statement, the Committee should-

(1) State the number of teachers, past and present, employed by the TSC who have worked on fixed term contract for more than 10 years, providing details on their entitlement to payment of gratuity or any such retirement benefits.

(2) Explain the rationale for the TSC's decision to maintain teachers on terms for prolonged periods without regard for their satisfactory service, providing details of any policy in place for transitioning from fixed-term contracts to permanent and pensionable terms.

(3) Explain the discriminatory and unfair treatment by the TSC of Mr. Ephantus Ileri Kathagana from Embu County, TSC No.264267 and several others who served on fixed-term contracts for 20 years until their retirement, but did not receive any gratuity or retirement benefit.

(4) Outline any measures put in place by the TSC to guarantee fair and equitable treatment of teachers on fixed-term contracts with respect to their gratuity and retirement package, noting that they offer services comparable to those of their colleagues on permanent and pensionable establishment.

The Speaker (Hon. Kingi): Yes, Sen. Mumma.

(Interruption of debate on Statements)

**NOTICE OF MOTION OF ADJOURNMENT
UNDER STANDING ORDER NO. 37**

THE ONGOING STRIKE BY HEALTH WORKERS

Sen. Mumma: Mr. Speaker, Sir, I beg to give Notice of the following Motion:
THAT, pursuant to Standing Order No.37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the on-going strike by health workers in the country.

(Several Senators stood up)

The Speaker (Hon. Kingi): Order, hon. Senators! Pursuant to Standing Order No.37 (5), I have confirmed that indeed the requisite threshold has been met. I, therefore, direct that the Senate will adjourn at 5.30 p.m. to discuss the said Motion.

(Applause)

(Resumption of debate on Statements)

Is Sen. Ledama not here? That Statement is dropped.

STATUS OF SENATORS' STATUTORY
DEDUCTIONS AND REMITTANCES

(Statement dropped)

Next is the Statement by Sen. Mohamed Chute.

ALLEGED DUMPING OF NUCLEAR WASTE IN
NORTH-EASTERN REGION OF KENYA

Sen. Chute: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the dumping of nuclear waste in the North-Eastern and Upper-Eastern regions of Kenya by multinational oil exploration companies in the 1980s.

In the Statement, the Committee should-

(1) Initiate an inquiry into and table a report on circulating reports of dumping of nuclear waste in the North-Eastern and Upper-Eastern regions of Kenya by multinational oil exploration companies in the 1980s, which contaminated underground water reservoirs, leading to a surge in cancer cases in Marsabit, Samburu, and neighbouring counties.

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(2) Detail actions, if any, taken by the Government against culpable multinational oil exploration companies.

(3) Clarify whether the Government plans to provide support, financial or otherwise, to the victims of cancer and related illnesses in the affected regions.

(4). Outline any initiatives undertaken by the Government to address the rising cancer cases in the regions and remediate the environment by eliminating toxic waste.

Thank you very much.

The Speaker (Hon. Kingi): Proceed, Sen. Beth Syengo.

STATUS OF CONSTRUCTION OF ENZIU RIVER BRIDGE

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53 (1) to seek a statement from the Standing Committee on Roads, Transportation and Housing regarding the status of construction of the Enziu River Bridge in Mwingi Central.

In the Statement, the Committee should-

(1) Provide an explanation for the continued delays in the construction of Enziu River Bridge despite previous Government pledges to prioritise this project following the tragic events of 2021, where a school bus was swept away while crossing the swollen Enziu River.

(2) State specific measures being implemented to ensure that the completion of Enziu River Bridge is expedited, stating a revised and realistic completion date.

(3) Cause a visit to the Enziu River Bridge site to assess ongoing works, if any, and report on any observed shortcomings.

(4) State the amount of funding allocated to this project from Financial Year 2021/2022 to date, disclosing improvements, if any, meant in the emergency response capacities of Kitui County following recent tragedies at Enziu River.

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No. 56 (1) (b) by the Chairperson of the Standing Committee on Energy.

(Sen. Wamatinga switched on his microphone)

ACTIVITIES OF THE COMMITTEE ON ENERGY

Sen. Wamatinga: Thank you very much, Mr. Speaker, Sir. I guess technology becomes a challenge at times.

I rise pursuant to Standing Order No.56 (1) (b) to make a statement on the activities of the Standing Committee on Energy from 1st January to 16th April, 2024.

During the period under review, the Committee held a total of 15 sittings and considered eight statements. The Committee also considered two Bills and one Petition.

Mr. Speaker, Sir, the status of The Energy (Amendment) Bill (Senate Bill No.42 of 2023) is before the Committee. It was published on 1st September, 2023 and introduced in the Senate by way of First Reading on Tuesday, 17th October, 2023, and

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thereafter, stood committed to the Senate Standing Committee on Energy for the consideration and facilitation of public participation. The Committee proceeded to undertake a public participation on the Bill.

In this regard, the Committee published an advertisement in *The Daily Nation* and *The Standard* newspaper on Tuesday, 19th October 2023, inviting members of the public to submit written memoranda to the Committee on the Bill by 3rd November, 2023. The Committee considered the memoranda received and adopted the Report on 28th November, 2023. The Bill is currently awaiting the second reading.

Mr. Speaker, Sir, The Local Content Bill (Senate Bills No.50 of 2023) is before the Committee. It was published on 24th November, 2023 and was introduced to the Senate by the way of First Reading on 28th March, 2024, and thereafter, stood committed to the Senate Standing Committee on Energy for consideration and facilitation of public participation. The Committee proceeded to undertake public participation on the Bill.

In this regard, the Committee published an advertisement in the *Daily Nation* and *The Standard* newspapers on Wednesday, 3rd April, 2024, inviting members of the public to submit written memoranda to the Committee on the Bill by 16th April, 2024. Once the memoranda is received, the Committee will consider them.

Mr. Speaker, Sir, regarding Statement pursuant to Standing Order No.53 of the Senate Standing Orders, eight statements were sought from the Committee. The Committee considered and concluded one statement. In considering the said statements, the reports and the responses received by the Committee were shared with respective Senators.

The following statements were concluded-

Statement sought by Sen. Miraj Abdulrahman, MP, on the upsurge of electricity fire incidents in Mombasa County. Annex 1 lists the status of each of the 14 statements that are pending before the Committee.

Mr. Speaker, Sir, on Wednesday, 16th November, 2023, a Petition by the residents of Uyombo Village in Kilifi County concerning the protection of the right of life, health and a clean environment and the other constitutionally protected rights and fundamental freedoms were presented to the Senate Pursuant to Standing Order No.236 and referred to the Senate Standing Committee on Energy Pursuant to Standing Order No.238(1).

Their prayers included ordering all responsible State agencies to remove Uyombo from the list of possible sites for nuclear reactor. The Committee has chaired meetings with all the relevant stakeholders and petitioners.

Mr. Speaker, Sir, on Friday, 1st March, 2024, the Committee went to Uyombo Village in Kilifi County to meet the stakeholders to the Petition. During the presentation, Nuclear Power and Energy Agency (NUPEA) notified the Committee that on the 13th July 2023, a court case number listed Mkobo Ngolo and Zawadi verses NUPEA and four others was filed at the Environmental and Land Court in Malindi.

The Committee observed that pursuant to Standing Order No.103 of the Senate, a matter is considered to be *sub judice* when it refers to an active criminal or civil proceedings and the discussion of such a matter is likely to prejudice its fair determination.

In line with the Standing Order No.103, the Senate Standing Committee orders, the Committee resolved to adjourn the meeting having declared the matter as *sub judice*. A report on the petition will be tabled on 18th March, 2024.

Mr. Speaker, Sir, the Committee conducted an inquiry on the high cost of electricity in the country, adopted and tabled its report on the 20th September, 2023. The Report of the committee was adopted by the Senate on Wednesday 28th February, 2024.

Mr. Speaker, Sir, the Committee made several recommendations including-

(a). That within 14 days after the adoption of the report by the Senate the Ministry of Energy should disclose the full identities of the beneficiaries of the Independent Power Producers (IPPs), including the companies listed as shareholders in foreign jurisdiction.

(b). That thermal power plants should convert to Heavy Fuel Oil (HFO) and Liquefied Natural Gas (LNG) in accordance with their respective Power Purchase Agreements (PPAs) within 18 to 36 months.

(c). That the Minister of Energy should facilitate Kenya Electricity Transmission Company (KETRACO) or to prioritize the completion of the following lines:

(1). The 132KV Narok-Bomet line within 12 months which will allow the switching off of the Muhoroni gas turbine plant whose cost of production is the highest in the country.

(2). Completion of the proposed 400/220 kV Mariakani substation within three months which would allow for Suswa to Mariakani through Isinya to be energized and, therefore, allow more geothermal generated power to flow to Mombasa.

(3). The completion of the Turkwel-Ortum-Kitale line within three months which will stabilize power in the western region.

(d). That the Minister of Energy in consultation with all thermal plants should institute a mechanism to purchase HFO in bulk within 90 days of adoption of this report.

(e). That the Minister of Energy through Kenya Power (KP) and the IPPs renegotiate the PPA with a win-win solution for both parties within 12 months of the adoption of this report.

(f). That the KP should purchase power based on merit order giving preference to the cheaper power producers.

Mr. Speaker, Sir, if the above recommendations are implemented, the cost of electricity is expected to reduce significantly.

Mr. Speaker, Sir, the Committee has also been looking into the procurement process of prepaid meters by Kenya Power. We engaged on the companies that have wanted us to supply meters to Kenya Power and it was very evident that a majority of them, are up to 70 per cent, foreign owned.

We engaged with the companies that have won tenders to supply meters to Kenya Power. It was very evident that a majority of them are up to 70 per cent foreign-owned. Of the four companies we engaged, only one company was 100 per cent Kenyan. This raises the question of the local content and skills transfer.

The Committee is of the opinion that the manufacturing of these meters should be done in Kenya. A lot has been said about the government-to-government oil deal, and the Committee is looking into the matter and will inform the House of its findings.

My Committee is also alive to the recent development of alleged Kshs19 billion worth of diesel that was imported to the country illegally. My Committee will report on its findings to the House as soon as the matter is concluded.

In conclusion, the Committee intends to carry out the following key activities during the next quarter.

- (1) Follow up on the implementation of the recommendations made from this inquiry on the high cost of electricity.
- (2) Follow up on the approval of the field development plan for Tullow Oil by the Ministry of Energy and Petroleum.
- (3) Follow up with the Ministry of Energy and Petroleum on the protection of critical energy infrastructures in the country.
- (4) Conduct a campaign in the country on ways Kenyans can individually save on the cost of energy.
- (5) Meet with the Ministry of Energy and Petroleum regarding the procurement of energy equipment like transformers and meters, which are critical components in electricity connectivity.
- (6) Continue to engage the Ministry of Energy and Petroleum regarding the government-to-government agreement on the petroleum products importation.
- (7) Meet with the Ministry of Energy and Petroleum regarding the status of the KP regarding its financial status and the losses that it is making. KP has projected a loss of up to Kshs.5.5 billion in these financial years.

Mr. Speaker, Sir, I table.

(Sen. Wamatinga laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson of the Standing Committee on Finance and Budget.

ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. On behalf of the Chairman of the Committee on Finance and Budget, I rise pursuant to Standing Order No. 56(1) (b) of the Senate Standing Orders, to make a Statement on the activities of this Committee during the period running from 29th January to 30th March this year.

Mr. Speaker, Sir, during the period under review, we held a total of 22 meetings. In one particular aspect, we dealt with Bills that we considered as a Committee. During the period under review, the Committee considered the following Bills.

- (i) The Public Finance Management Bill;
- (ii) The County Public Finance Laws (Amendment) Bill;
- (iii) The Division of Revenue Bill, 2024.

We also dealt with the Reports that were tabled before the Committee during this period, which were on the following areas.

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(i) The 2024 Budget Policy Statement that was debated and adopted by this House;

(ii) The 2024 Medium-Term Debt Management which was also debated and adopted by this House;

(iii) A Petition on Regulation of Credit Profession; and,

(iv) The Status of Implementation of Projects Funded by the Conditional Grants as a supplement in the construction of the county headquarters in Isiolo, Tana River, Lamu, Tharaka-Nithi and Nyandarua counties. This Report is awaiting consideration and adoption by the House.

The third category was on Statements before the Committee. During the period under review, the Committee deliberated and concluded on the following five Statements.

i) The Status of Pending Bills in Kakamega County that had been brought before the House by the Senator of Kakamega County, Dr. Boni Khalwale, CBS, MBS, CHB and others.

(Sen. Cherarkey spoke off record)

I wanted to differentiate the doctorate of Professor Mundigi and mine.

(Laughter)

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. With your permission.

ii) The Rental Fees incurred by the County Government of Kakamega, again by the Senator of Kakamega;

iii) Revenue of Generation and Usage by the County Government of Kakamega, again by the Senator of Kakamega;

iv) Payments made to all Garbage Collectors and Sewerage Service Providers by all counties for the financial years 2021/2022, 2022/2023 and 2023/2024, as requested by Sen. William Kisang, and finally;

v) Customs Regulations and Taxation for Travelers Returning to Kenya via the Jomo Kenyatta International Airport (JKIA). This was raised by the distinguished Senator, Nominated Sen. Shakila Abdalla.

Mr. Speaker, Sir, I have annexed in Annexure I the list of the status of each of the 28 statements that are pending before the Committee.

The fourth category was on petitions considered by our Committee.

1. The Committee considered and adopted a Report on the Petition in Regulation of the Credit Profession. The Petition had been submitted to the Senate by Certified Public Accountant (CPA) Mokaya Magembe Bernard and the Council of Institute of Credit Management of Kenya.

2. A Bill on the Regulation of the Credit Profession sponsored by the committee will be introduced in the House in the next few days to address the concerns within this Petition.

The fifth category was legislative proposals considered by my Committee.

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1. We carried out pre-publication scrutiny and examined the Crypto-Assets legislative Proposal by Sen. Allan Chesang. The Senator of Kitale.

2. The Central Bank of Kenya (CBK) provided views to the committee regarding the proposed legislation.

The Committee submitted its comments to the Speaker for the necessary action.

The sixth consideration was the status of the implementation of the projects funded by the Conditional Grant as a supplement to the construction of the county headquarters, following the request by the Council of Governors (CoG). The projects funded by the Conditional Grant for the construction of county headquarters requested that they be transferred from the State Department of Public Works to the respective county governments.

The Committee held a multi-agency meeting with the National Treasury, the State Department of Public Works, the CoG and respective county Senators and the Intergovernmental Relations Technical Committee. The purpose of the meeting was to deliberate on a joint position and determine the best way forward on how to fast-track these stalled projects to ensure the intended purpose for which they will be accomplished.

The Committee tabled the Report to the Senate with the recommendations, among others, that the overall responsibility of project management, including supervision, monitoring and payment of contractors of the projects should be handed over to the respective beneficiary county governments. This report is awaiting consideration of this House debate and adoption.

The seventh activity is on the activities for the Committee in the next quarter. The Committee is scheduled to consider the following business.

- i) Report of the Public Finance Management Bill;
- ii) Matrix of Stakeholder Submissions on the County Public Finance Laws (Amendment) Bill;
- iii) The Division of Revenue Bill, 2024;
- iv) The County Allocation of Revenue Bill, 2024;
- v) The County Government's Additional Allocations Bill, 2024;
- vi) The Medium-Term Review Strategy;
- vii) The Controller of Budget, County Government's Budget Implementation Reports; and
- vii) The Statements pending before the committee.

Mr. Speaker, the Committee appreciates all the stakeholders who were available or who we consulted for valuable information that was provided to us.

Mr. Speaker, Sir, I also thank the Members of the committee for their dedication and commitment to ensure execution of the Committee's mandate.

I also acknowledge the support accorded to the Committee by the Office of the Speaker and the Office of the Clerk in facilitating the Committee to effectively implement its work.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Health.

ACTIVITIES OF THE COMMITTEE ON HEALTH

The Speaker (Hon. Kingi): Do we not have even a Member of this Committee to read the Report and table it?

(Statement dropped)

Sen. Kavindu Muthama, there are two statements that we have not called; one for Sen. Kavindu Muthama and the other by---

OUTSTANDING BILLS TO FAITH BASED
HEALTH FACILITIES BY THE NHIF

Sen. Kavindu Muthama: Mr. Speaker, Sir. I arise pursuant to Standing Order No.51 (1) to seek a Statement from the Standing Committee on Health regarding the outstanding bills owed to faith-based health facilities by the National Health Insurance Fund.

In the Statement, the Committee should-

(i) Provide the number of faith-based health facilities per county and the total amount of money owed by the National Health Insurance Fund over the past five years, from 2019 to 2024, to the said health facilities.

(ii) Explain the reasons for delayed payments to the faith-based health facilities, despite the facilities having rendered service.

(iii) Provide a timeline for the payment of the outstanding debt to the affected faith-based facilities, providing the measures in place to ensure payment is completed before the transition of the NHIF to the new Social Health Insurance Fund (SHIF).

The Speaker (Hon. Kingi): Sen. Kathuri, you may proceed.

DRASTIC REDUCTION IN *MIRAA* PRICES

Sen. Kathuri: Thank you, Mr. Speaker, for this opportunity to seek this Statement.

I rise pursuant to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism regarding the drastic reduction of *miraa* prices and other issues affecting the *Miraa* sector.

In the Statement, the Committee should-

(i) Investigate and report to the Senate the reasons for the drastic reduction in *miraa* prices from Kshs2,000 to Kshs300 per kilogramme and the allegation of illegal charges of up to US\$4.5 per kilogramme by the transporting airlines which has, in turn, led to reducing the returns to the farmers, but maximized the gains of alleged *miraa* cartels.

(ii) Outlining the steps the Ministry is taking to negotiate with the Government of Somalia to remove the current quota allocated to *miraa* from Kenya and

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to ensure that the market is fully open for *miraa* exports from Kenya and that there is free entry into the export business of *miraa* into Somalia.

(iii) Explain why Kenya Airways and other airlines are not allowed to carry *miraa* to Somalia and other markets, whereas *miraa* is a legally scheduled crop under the Crops Act of 2013, and the Government has injected billions of taxpayers' money to revitalize the industry.

(iv) State the measures put in place by the Ministry to negotiate the reopening of closed *miraa* markets and identify alternative markets to reduce post-harvest waste due to shrinking markets to mitigate the loss of revenues for *Miraa* farmers and revenue for the Government.

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

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

The Speaker (Hon. Kingi): What is your issue, Senator of Nandi County, Sen. Chararkey?

Sen. Chararkey: Mr. Speaker, Sir, I know we are pressed for time, but under Standing Order No.1, maybe you could have allowed us a few minutes, just to seek clarification on one or two statements. You can pick either a few Members of both sides.

The Speaker (Hon. Kingi): Senator of Nandi County, I would easily accede to that request, but you must note that we have lost one hour. From 5.30 pm, we will adjourn to discuss that Motion. Therefore, we need to squeeze whatever is in the Order Paper up to 5.30 p.m.

I am sorry, but I will not be able to allocate some minutes for intervention purposes.

Next Order, Clerk.

BILL

First Reading

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.5 OF 2023)

*(Order for the First Reading read- Read the
First Time and ordered to the referred to the relevant
Senate Committee)*

BILL

First Reading

THE ELECTION OFFENCES (AMENDMENT)
BILL (SENATE BILLS NO. 9 OF 2024)

(Order for the First Reading read- Read the

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*First Time and ordered to the referred to the relevant
Senate Committee)*

BILL

First Reading

THE STATUTORY INSTRUMENTS (AMENDMENT)
BILL (SENATE BILLS NO. 10 OF 2024)

*(Order for the First Reading read- Read the
First Time and ordered to the referred to the relevant
Senate Committee)*

BILL

First Reading

THE ELECTIONS (AMENDMENT) BILL
(SENATE BILLS NO.11 OF 2024)

*(Order for the First Reading read- Read the
First Time and ordered to the referred to the relevant
Senate Committee)*

BILL

First Reading

THE POLITICAL PARTIES (AMENDMENT)
BILL (SENATE BILLS NO.13 OF 2024)

*(Order for the First Reading read- Read the
First Time and ordered to the referred to the relevant
Senate Committee)*

The Speaker (Hon. Kingi): Hon. Senators, at this juncture, allow me to invoke Standing Order No.45 (2) to rearrange the sequence of today's Order Paper. We will, from Order No.12, proceed to Order No.19.

Clerk, please, proceed to call that Order.

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BILL*Second Reading*THE GAMBLING CONTROL BILL
(NATIONAL ASSEMBLY BILLS NO.70 OF 2023)

The Speaker (Hon. Kingi): The Senate Majority Leader, please, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to move that the Gambling Control Bill, (National Assembly Bills No.70 of 2023), be now read a Second Time.

Mr. Speaker, Sir, the Bill was published in the Supplementary Kenya Gazette No.212 of 2023. It was considered by our colleagues in the National Assembly and passed on the 6th December, 2023. Thereafter, the Bill was referred here to the Senate for consideration.

This Bill seeks to provide for the regulation of betting casinos and other forms of gambling, authorization of price competitions, and public lotteries, for the establishment of a gambling regulatory authority of Kenya for the imposition of tax on betting and other forms of gambling.

Mr. Speaker, Sir, you are very much aware that gambling is here with us. We must learn to live with it because, unfortunately, this is an industry which - to the best of my knowledge - we are still struggling as a country. The good thing, though, is that it is not a challenge that is unique to us as Kenya alone. The world over, control of casinos and gambling activities poses a challenge to almost all administrations.

Mr. Speaker, Sir, you know that many sporting teams have betting companies as their shirt sponsors. In the English Premier League, they have given themselves and all teams three seasons in total to remove betting companies as their shirt sponsors. Therefore, it points out to the fact that this is a global concern. We have to learn how to live with this industry and adjust ourselves towards this wind.

Unfortunately, we have not done so well as a country. About three to five years ago, Kenya began the imposition of taxes on betting. At that time, the thinking was that we could use taxes in 2018 as a deterrence to keep young people from either betting or being addicted to it altogether. What a terrible mistake.

I do not understand betting that much because I do not gamble. I am just a good sportsman who knows that winning and losing depends on how you are prepared for the day. Sometimes it falls into your favour, sometimes it gets away. On a day like today, I wish the good old Arsenal Football Club can beat Bayern Munich.

If you speak to other people, they will tell you that they have already placed a bet and they know what needs to happen. The minute you place a bet in Kenya - like Sen. Sifuna is now telling me that he has already placed a bet - you are deducted part of that money. If you win, there will also be a deduction. This tells you that our thinking as a country is that we can use tax as a deterrent, so that many young people do not engage themselves.

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What have our young people and the people that are engaged in betting done? They have moved on from betting platforms that are available and can be controlled here in Kenya, and are now betting online using companies whose jurisdiction remains unknown, even globally. I know many young people - and I say this at a very difficult time because I have a young man who was a good friend and a supporter and is lying in the morgue, as I speak.

He used to work at an M-Pesa shop. He went to some betting site; I am told it is called Aviator. When I was told the story, I realized that I have grown old. I sit amongst people who are older than me, and I have always imagined that I am still young. However, the reality is dawning on me that there are many things that I do not know; things that could not be said of a few years back.

I hear there is this betting platform and when they placed their bet there, they lost over Kshs120,000, which is money that would otherwise be referred to as a float of the shop they were running. Since they feared the owner of the shop, they decided to take their own lives. The story is replicated across the country. There are many offline or online betting sites that are available and are being used by young people.

When you bet on M-Pesa or a locally regulated platform, the tax revenue people are able to keep track of what you are doing and, therefore, are able to recover this tax. However, many of these young people, as I have pointed out, are now betting online and paying using either their cards or other forms of payment. They are using channels that are unknown to the Government. Therefore, even our regulation of the same is limited.

As I have pointed out, this is not a challenge unique to Kenya. These gaming sites are so advanced in their gaming machines, such that even if you were to block their IP address, they have the ability to generate a new one within seconds. Countries that are far more advanced than us technologically have not been able to successfully regulate it. Therefore, this is an attempt to shift our thinking to know that it is almost impossible to deter them. Betting is a matter of personal choice.

People decide to either bet or not to bet. Therefore, you must make ways of living and surviving with this phenomena that is here with us, so that you are in a position and are able to either control, manage or guide it in a way that provides a good platform for you as an administration or as a Government to regulate this activity.

Mr. Speaker, Sir, this Bill is providing us with this framework because of the challenge that I have just explained; issues of tax evasion and underage gambling. Any person today with access to a computer can actually participate in gambling activities. Some of these sites are online and there is no regulation on age or who can access these sites.

Despite the fact that there are very enhanced monitoring mechanisms for these gaming initiatives, it is crucial at this time to create a safe, fair and socially responsible gaming environment. This is basically an admission like the rest of the world has had to do, that gambling is here with us to stay and that there are people who will gamble either way. Therefore, the best thing to do is for you to set up a fair and a good environment and regulate it properly, so that it is done in a manner that you can keep site, keep track and assist people if there are issues of addiction by placing responsibility.

I have taken time to quickly scan through the Report of the Committee on Labour and Social Welfare and the Chair is here, and he can correct me if I am wrong. I was hoping that we could actually impose certain social responsibilities on these gaming companies. By law in other jurisdictions that have understood this concept, a percentage of their revenue is purely dedicated to managing addictions.

They are forced to go through your systems to check, for example, how much Sen. Osotsi makes and the particular amount he is spending on gambling. You are then flagged by the system. They are able to tell this particular individual is living dangerously in the gambling space. Therefore, they organize conferences for you and some training on their own budget. As a gambling company, that demand is placed on you.

It is my sincere hope that perhaps even as we discuss this Bill, people can think about how to make better demands from these companies, so that we do not end up having many young people losing their opportunities.

Mr. Speaker, Sir, I do not want to mention the names of the companies, so that I am not accused of using this premium platform that is Parliament of promoting the activities of one company against the others. However, when one of the most prominent companies that came out and made betting known across the country had difficulties here in Kenya, they went out and set up shop in Tanzania, just next door.

Since Tanzania as a country managed this issue better than us, today that company does almost 10 times the revenue they used to do when they were here in Kenya despite the fact that Kenyans are known to have more disposable income than our colleagues in Tanzania. Secondly, they sponsor their local leagues in many sports.

The team that they support participates in the African Champions League and reach the quarters and the semis on account of prudent use of these resources that have been generated. Therefore, based on my observations, as a country, we must make a decision and know how to live with this industry, rather than try to curtail it. If there is a lesson we have learnt in the last few years, it is that you cannot curtail the operations of this industry. You can only learn how to do it better.

An idea is proposed in the Bill to establish clear guidelines for protecting consumers from exploitation and combating money laundering issues. Gambling companies and gaming casinos are avenues that have been used to launder money. It is important to regulate this environment.

The creation of the Gambling Regulatory Authority (GRA) will provide oversight and enforcement, promoting a safer gambling environment. Additionally, the authorization of price competition and public lotteries will offer economic growth and entertainment opportunities.

Further, the imposition of tax on betting and gambling activities will generate significant revenue for public and social services initiatives, ultimately benefiting the country. There has been an attempt to do this through the Sports Fund. Unfortunately, even after setting up the Sports Fund, 80 per cent of the fund was used to do other things that are not sporting related.

I am impressed that in one of the Executive Orders of 2023, the President directed that the Sports Fund be wholly dedicated to developing sporting facilities. This is part of

what is being used to expand the sporting arenas across the country. Therefore, I will quickly scan through the various clauses of the law.

Part I of the Bill provides for the preliminary matters, which are interpretations of the terms being used. Parts II, III all the way to V provide for the various functions. They lay out the functions of the national Government in terms of policy and those of the county governments in regulating and controlling places like casinos. You know well that there are village casinos nowadays.

Colleague Senators, you must be vigilant in your various counties. This is because people are setting up funny joints and no impressive videos are showing the activities that happen in such places. Those are the duties of our county governments. It is good that this is being provided. County governments are being reminded of their core responsibilities, where they regulate their operations and give local licensing for these casinos.

Part IV of the Bill consists of clauses 26 to 27, which provide for the establishment of the authorities, their functions, operations, guidelines and how they will conduct the business. This is pretty much what we do when we set up any board, as we have done.

Clauses 28 to 49 provide guidelines on licensing and permits. Clauses 50 to 57 provide for the control of the lotteries. Part VII of the Bill, clauses 64 to 66, provides the provisions on casino slot machines littered across the country. In the villages, these things are becoming a scene. In village centers at 4.00 p.m., you will find women and men trooping and sometimes dropping all their day's earnings into some funny box, hoping to strike sudden wealth. Most of the time, very little comes up of it.

Part VIII of the Bill, clauses 67 to 80, provides for online gambling, including licensing control, payment of prices and remittance of winning, financial reporting and dispute resolution. This is one of the hardest, and I have explained why. This is because of the complexity of the online machines and engines that these people use. They can generate new IP addresses within minutes, and young people can access them. We lead a tech-savvy society. They can move quickly and resolve these issues.

Part X of the Bill in Clause 87 provides the guidelines for advertising, where can you advertise and how you can do it, so that you do not expose them to young children. It is important to guide how this is done without curtailing the business activities.

As I had pointed out, even as we try as a country to regulate and become difficult at these activities, the rest of the world moves ahead of us. They are taking advantage. Billions of money leave this country annually, funding other societies' social and prosperous activities because we have not done what this Bill asks us to do. We imagine we can curtail this industry.

Part XII of the Bill, clauses 92 to 111 are provisions of the offences and the penalties for violating the various clauses of this Bill. Part XIII contains the miscellaneous provisions and translation.

Mr. Speaker, Sir, allow me to read Clause 95. I found it fascinating. It states that—
“A person who, being the owner or occupier of a licensed gambling premise or electronic site, who allows such premise to be used for other unlicensed activities

commits an offense and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or both."

I hope the Committee can move away from this. I have said times without number that, unfortunately, at the State Law Office or here in Parliament, people copy-paste certain sections of the law into Bills without reflection. It is an abuse of our legislative mandate as parliamentarians to pass such a law.

As a legislator, you are aware of the money involved in gambling. If tomorrow I opened a casino on Ngong Road and I am minting millions illegally, the only fine the law can charge me is Kshs1 million. I will not pay for the licence; I will tell you to fine me daily. They make more than Kshs1 million a day. I hope that as our committees go through these Bills, they do not tick the boxes. I have said many times that many of these people do not reflect and internalize the laws we are passing.

I hope that as a House we can rise above this and set a fine to make people aware that there are consequences if they engage in certain illegal activities. Some of these industries are worth billions. Therefore, when you tell a Russian mobster who has come and set up something here that the only thing you can fine them is Kshs1 million, they are excited and state that the fine amounts to Kshs365 million a year and they make far more than this. Therefore, I hope that we will vary the fine when we are at the Committee of the Whole Stage. Sen. Osotsi, you are good at drafting amendments. I hope you are taking notes and will help us, as a House, to do this better.

With those many remarks, I want to hear the opinions of my colleagues. I also want to point out another area that has had challenges with drafting, where boards are being set up, and there is only one slot for a representative of the Council of Governors (CoG), when we have 47 counties. Committees of the House bring their report and are okay with it. I am not okay with that.

(Sen. Olekina spoke off record)

It is not about saying. I do not serve in committees. It is you, the Members, who serve in committees. I want reports of committees amending those provisions, which I will support.

It is unfair that you have the Principal Secretary (PS) for the National Treasury a representative of the Attorney-General. These are people who think in a particular way, facing off against one individual to represent the interests of counties. This is not fair. We are failing in our duty as a Senate.

As a Committee, you have a responsibility to go through a legislation such as this. I do not expect you to return to the House a report okaying such provisions. Reduce on that. I have told you that in many of these boards, people just sit down and copy and paste without applying their minds and appreciating that Kenya has since moved.

The devolved system of government is here to stay. Therefore, I hope that when we consider such legislations, at least we will see near equal, if not equal number of representatives between the national Government and county governments, especially if it is a body that will oversee operations of activities that touch on the functions of both counties and the national Government.

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Mr. Speaker, Sir, with those many remarks, I beg to move and request the Senator for Nandi, Sen. Cherarkey, who probably knows what an aviator site is because he is younger than me, to second.

Sen. Cherarkey: Mr. Speaker, Sir, I want to congratulate the Senate Majority Leader, Sen. Cheruiyot, the Senator for Kericho, for moving this Bill. On a lighter touch, I hope he talks to the Majority Leader in the National Assembly to be fast-tracking our Bills, the way we do here religiously.

The only time I have interacted with gambling was when listening to Kenny Rogers who used to sing country music. He sang a song called *Coward of the County*. The song says that every gambler has his own day and time. When we listen to Sundowner, especially on Sunday evening, that is when we interact with gambling.

In my opening remarks in quick succession, it is high time we brought order and sanity in the gambling sector. I remember during the last session, the Ministry of Interior and National Administration brought an omnibus amendment on taxation on winnings and that became a big problem. At that time, we had *SportPesa* and *Betika*, among others, complaining. They felt that they were being taxed double. However, they were not declaring their winnings at that time.

(Loud consultations)

Mr. Speaker, Sir, please, protect me from the Commissioners who have a problem with the Bunge Tower. I do not want to go there. I know they are firefighting after I came here guns-blazing today at Midday.

(Laughter)

We need to bring order in the sector. The only problem we have been having is that the Government does not know what gamblers and gambling companies do. Gamblers themselves are not honest. I know that in other religions, it is not good to gamble and we respect that. There is need to widen our tax base network. In fact, as part of a deterrent measure, we should tax gambling, especially on winnings, instead of taxing other essentials, it will reduce taxation.

I know the reason Sen. Faki is excited. We need to tax gamblers more because if you are gambling, it means you already have your essentials or basics. Unfortunately, the sad reality is that it is done mostly by young people. I am sure most of us here, who are politicians, receive messages from people asking for Kshs30, Kshs200 or Kshs1,000. People who are experts in gambling will always know that a person intends to gamble. It is not about food, but gambling. Gambling is addictive. Our condolence to Sen. Cheruiyot and the people of Kericho for losing a young man who lost over Kshs150,000 through gambling. He had to commit suicide. That shows this is a serious issue. *Shisha* and gambling are addictive, just like any other desire.

Moving to Clause 4(g), I agree on the issue of conducting anti-money laundering and risk-based inspections.

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Mr. Speaker, Sir, as you are aware, we are having a regional meeting in Nairobi. His Excellency the President is the Patron. We are launching Plan No.5 on National Action Plan in Legislative Openness.

Kenya is gray in terms of illicit money. It has been found that Kenya has a big problem when it comes to money laundering. My advice to the country is that we must be careful with the issue of money laundering and illicit money in the economy because the moment you are blacklisted, you can never trade outside this country. This is a serious issue and I agree that we must come up with measures to curb money laundering. I remember a few years ago, when we had the issue of piracy money, it became a serious issue until we enacted a money laundering law. Therefore, I agree that there should be a way, so that gambling is not used to launder proceeds of illicit money.

Brazil is a very beautiful country. I have been there on several occasions, especially on issues of agriculture and others. I do not want colleagues to look at me suspiciously. I went there on issues of agricultural imports of machinery. That is the beauty about Brazil. I do not look at other things.

As you are aware, many years ago, in Brazil, there was what is called the “Car Wash Scandal”. There are corruption allegations that some senior government officials used to steal money to use in a car wash. Interestingly, the story is that it was next to government buildings. They were using the car wash scandal to try and do money laundering. There are instances where gambling companies are using that.

Mr. Speaker, Sir, so that I allow other colleagues to speak, in seconding this Bill, I would like to make about three comments on Clause 64. They are also saying that a vendor may be granted a right to operate a casino and other forms of business.

We need to agree on where we should build gambling machines. Should we have them next to a shopkeeper or where maize is being milled? I know that in Vihiga, where Sen. Osotsi comes from, when you put a casino near a maize milling machine, there is no problem. However, if you do that in other areas, somebody can go without food. We have heard of cases where eggs disappear mysteriously because people steal eggs to go and sell. There is a famous egg that was common to be stolen. It was a small one, which was yellow in colour. I think it was made in China. Many eggs were being lost in the villages because young men and women were taking them.

The question is; what should we do? Perhaps we should think of regions or geographical areas, just like we have zoning of bars. There is a distance they should be located from schools. Perhaps the presence of tourists in counties like Mombasa, Kilifi and Kwale, among others, should be based on cultural and religious distribution. I talked about that earlier on. There are some religions that abhor gambling. There are incidents and social consequences of compulsive and addictive gambling. I think it is an addiction. According to the World Health Organization (WHO), addiction is a disease and not an offence.

I agree with the Senate Majority Leader, Sen. Cheruiyot. He said that gambling companies should undertake to build rehabilitation centres and put programmes in place. The way we demand of people who sell illicit brews and drugs, they must develop rehab centres because gambling is another addiction. To be honest, I know many young people who might not find this comfortable. Are you aware that in this City and across the

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country, there are young people who survive on betting earnings? They have to bet to pay rent and live large.

When you go to Kilimani and some of these estates, you will see them parking the likes of LX 600. They live large and wear expensive watches and designer clothes *na kufanya sherehe kila mahali*. Some of them are doing it based on earnings, but it is not predictable.

We need the sector to be regulated. If you win, we must tax you, so that when you buy your LX 600, you should get a good road to drive on and get water in your apartment or even affordable housing that the President is pushing for. In fact, we must bring order on job creation. I saw a company in Westlands, where some young people whom we interact with daily winning, but when they go to the company to claim, they refuse to pay them their money after winning. I am trying to get the name of that gambling company in Westlands. So, where is the recourse?

Mr. Speaker, Sir, you and the Senior Counsel seated opposite you are among the senior lawyers in this Republic. They say, when you go to Koinange or other places, and decide to quench your desires, when you “do not pay”, you cannot run to court to demand payment for such services because it is considered illegal, immoral and unlawful. Does the gambling in some of the culture and religion---

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

Sen. Cherarkey: I am comfortable with him informing me today.

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

Sen. Faki: Thank you, Mr. Speaker, Sir. My learned friend, Sen. Cherarkey, is not aware that courts are now very hard on those who consume fare without traveling.

Thank you.

Sen. Cherarkey: Mr. Speaker, Sir, when you allow some of these points of information and orders, somebody must table a proof. Looking at Sen. Faki, he does not look like somebody who can give out fare. In fact, I do not think so. However, I agree with him that if people are “eating fare” in this town, the courts should take it seriously. Therefore, we must agree on enforcement and ownership. Many young people do win, but they are not being paid.

On the issue of licensing, I agree largely. The Senate Majority Leader should note that we need to do a Government’s approach of a one-stop shop where you can access licenses. Nowadays, when you visit a kiosk somewhere in Kirinyaga Road or Mukuru kwa Njenga, you will find the wall is mosaic because of the number of licences. While I agree with the principle, I do not know what we need to do, especially when issuing licenses to make it efficient so that the people, who issue licences, like the national Government or county governments, do not take advantage.

Nowadays, there is a license for public health, the National Environmental Management Authority (NEMA) and a gambling. How do we make it a one-stop shop, so that it becomes easy to access some of these licenses? Of course, we do not want to open an avenue, as per Clause 65 and 66, where some enforcement officers will take advantage.

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Clause 6, which is my closing, is on online gambling. We need to check on it because sometimes they force you to see an advertisement. I know there is an agreement with YouTube on advertisement, but it should be optional.

When you open YouTube, social media or a page, they want you to watch it for five seconds, which I always find unfair because you do not want to watch. Maybe you wanted to watch Senate live proceedings, for example, but they just insist on you watching an advertisement. It must be either they are paying taxes to Government to do that or they give you an option.

I have been questioning the role of consumer protection and the Competition Authority of Kenya (CAK), which is just across Technical University of Kenya (TUK). What engagements are they doing about competition authority and consumer protection? We need protection.

I agree on online bookmarkers, lottery and casino licenses, so that it becomes easy. I agree with Sen. Cheruiyot that we need to enhance fines. I have told you that the people who gamble are very wealthy people. I remember when we wanted to do amendments on winnings, it was hard for both the National Assembly and the Senate to move the amendments because of the interest that the gambling sector has in terms of the laws that we have. I agree on the licensing so that we are protected. I remember when the President pushed on the earnings on online, that you can earn online, but we should have licenses, so that we can track earnings and ensure that there is taxation.

Mr. Speaker, Sir, there is one thing I wanted to mention about these people who run social media; *Facebook, Twitter, YouTube, WhatsApp* and *TikTok*. Most of these companies are operated abroad. There is a systematic discrimination from some of these organizations. When people who are in Africa complain against, for example, X Corporation, *TikTok, YouTube, Facebook* or *Instagram*, they do not respond to the complaints, yet most of those accounts are verified and you pay for them. However, people like X Corporation and YouTube, for example, do not respond to you, and yet those accounts that Kenyans or Africans own, are verified and they are paid for. However, when somebody who is in the United States of America (USA) and Europe complains to those organisations and corporations, they take it seriously.

I hope as we do this licensing, we are not doing Public Relations (PR). When the Government wants to issue licenses, because they own the domains of those applications, they should not take advantage, but avoid discrimination.

In conclusion, Clause 71 (2) says-

“A gambling advertisement shall indicate the addictive nature of gambling.”

We want them to be just like cigarettes. There used to be a cigarette called Sportsman. When they say “Sportsman”, they put there that, “smoking is hazardous to your health”. So, when you want to do “*Betika*”---,

Mr. Speaker, Sir, I am told they that the other day, a team like Arsenal, Aston Villa and others, started on top of the table, but they are now under the table. People have betted that Arsenal or Manchester United, for example, will be on the table, but it ends up under the table. I know that some of us, like you and the the Senate Majority Leader, are football lovers. We are addicted to football. You can imagine people who bet and do not

win. Those people need rehabilitation, because some of those people do not have job centers on Mondays.

We must indicate and notify players to play responsibly and prohibit children from playing. I think we have an obligation to do that, especially on online bullying to children. A number of us have children who are very young. This exposure of social media and online gambling is dangerous to children. We must have a protective mechanism.

I am happy there is a Bill by Sen. Ogola on newborn and other issues of children. We must look at the children and the law and protect our children from this exposure. The way we protect them from not watching pornographic online movies and other things, we must ensure that we put an application that when you want to key in, they request for your age. For example, we can put the minimum age at 18 years in Kenya. The application will ask you for your age, email address and date of birth, so that when you key in 16 years, and you cannot key in a Gmail account or age, then you automatically do not access that site. That is what I mean for Members who are still analogue to understand what we mean. I know the senior youth leader, Sen. (Dr.) Oburu, is following closely.

Of course, I agree on the watershed period on the television. We need to ensure that the watershed period is provided for. This Bill has many good things. I cannot go through it all. I also want to listen to colleagues. We need to bring discipline and order within the sector.

I congratulate the Senate Majority Leader, Sen. Cheruiyot, for bringing this. Colleagues, we need to fast-track this Bill and ensure that the President assents to it, so that we can bring order in the industry and get more taxes to sustain our economy.

Mr. Speaker, Sir, with those very many remarks, allow me to end there. I request to see Commissioner, Senior Counsel, Sen. Omogeni, “*nyuma ya tent*” after this, so that we can resolve a few matters.

Thank you, Mr. Speaker, Sir. I second.

The Speaker (Hon. Kingi): Hon. Senators, I will proceed to propose the question.

(Question Proposed)

Proceed, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, this is the first of a series of Bills that have come before this House that I will not start by objecting on constitutional principles. It is one of those few that have come before this House recognising that, in fact, this is a national Government function. So, you will not hear me complain as much about the composition of the board that the Senate Majority Leader was speaking to, as I have done in other Bills that have come before this House that were essentially, regulating matters that I believe are devolved functions.

Number two, I have had very interesting conversations with young people and other stakeholders in this country. One of the things that I tell people who claim that they are not interested in politics is the spectre of some of the things that have been said by the

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Senate Majority Leader; that somebody is holding a law in his hand that is going to regulate your business and he starts by saying, he does not understand that business.

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

[The Deputy Speaker (Sen. Kathuri) in the Chair]

This is why I encourage people to look very carefully at the people they send to the Houses of Parliament. This is because at the end of the day, if you have somebody with a law-making power who does not understand your business, it is very easy for that person to legislate you out of business. I am sure the Senator for Nakuru County understands exactly what I am saying.

I have very serious concerns about the sort of country that we are trying to create. We are creating essentially a ‘nanny state’; a state where, we are considered children who need to be looked after every single hour of the day. What we eat and drink, where and how we sleep, who we go out with and how we party is regulated. I mean, we are becoming too much. We are regulating everything.

At the end of the day, there is a reason there is an age of majority. If I want to go for *Aluta*, Sen. Karen Nyamu, I am a grown-up spending my own money. What business do you have as a legislator in my life?

Mr. Deputy Speaker, Sir, this is one of those other legislations. I speak as a person who has won money on numerous occasions on account of Arsenal losing. I also want to confirm that I have placed a bet on tonight’s game against Bayern Munich because I know Arsenal is going to lose. So, as a friend to the Members of this House, I encourage you to make a little money today because Arsenal is going to lose again.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, there is a point of order from Sen. Nyamu.

Proceed.

Sen. Nyamu: Mr. Deputy Speaker, Sir, I presented my issue with *Aluta* in this House. It is about our young people. Is the Senator for Nairobi City County in order to imply that I am trying to regulate grown-ups from partying whenever they want to? The comeback that we are about to put up, will silence him forever.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, you cannot bring issues to do with Arsenal without bringing a substantive Motion.

Proceed.

Sen. Sifuna: Mr. Deputy Speaker, Sir, do you want me to bring a substantive Motion to discuss Arsenal?

The point that I was making is that this is something that the Senate Majority Leader alluded to, some of these things are personal choices. Although this facility is available for everyone, not everybody engages in gambling. However, what we should not do, I have seen this very worrying trend where we want to demonise and criminalise everything such that ‘*Sherehe*’ is being painted as something very evil and that it is somehow targeting young people.

Mr. Deputy Speaker, Sir, we have laws in our books to prevent operators of a club, just like this law that we are debating this afternoon. It has restrictions on the age limits of the people who can participate. There is a restriction on the age of persons who can enter into a club in Nairobi or anywhere else. Having the rules there should be sufficient for us not to criminalise the activities. We are trying to make sure that the activity is conducted safely and does not endanger the lives of people or, in fact, jeopardise the future of young people.

I went through the Fourth Schedule to ascertain that, in fact, this is a function that can be properly undertaken by the national Government. If you look at the submissions by the Senate Majority Leader, I think it is one of the speeches that have earned him applause from our side. This is because he has reinforced things that we have been saying about legislations that come before this House.

Not least among them is the need for leaders; MPs and Members of committees to read Bills before passing them. I was very happy to hear him say that. This is because some of us have been sounding like madmen when we insist that in this House we must consider, read and be given sufficient time to debate Bills. I am very happy that the Senate Majority Leader is echoing those sentiments, so that we are able to debate and consider these Bills.

I also do not know where some of us get the moral authority to condemn the young people who have also learnt from us. That money can be made in easy ways. We have developed a society that encourages easy money. We cannot be the ones to condemn people for placing a bet and trying their luck. All we need to do as a House is to make sure that the activity is properly regulated. I was trying to read through this Bill and compare it with the existing legislation on betting, lotteries and gambling, to try and see if there are any differences. I was not catching too many of those differences.

Let me start my analysis of the Bill with Clause 5. One of the problems I have always had with some of the legislation we pass in various sectors is this requirement of local ownership. It has been argued for and against. I am a strong believer that you unknowingly end up dissuading people from investing in your own country if you put up restrictions such as this. If you look at Clause 29 of the Bill, there is a requirement that for you to be given a license to conduct this gambling business in the country, 30 per cent of your company has to be ceded by a local person. It is very difficult.

I remember the discussions during the Energy Committee inquiry into the high cost of electricity. It is not always easy to find somebody who has the same vision as you in business and is ready and willing to put up the resources that are required for you to be able to undertake that business. It is also not easy for you to find somebody who will not abandon you along the way.

I think you have seen in the betting industry, especially online sports betting, famous companies that started this have ended up disintegrating. I do not want to mention names. This is because of the squabbles amongst shareholders who were basically yoked together against their will because the law requires that you have a certain local shareholding.

If you go to Clause 68(2) of the Bill, this is something that Sen. Cherarkey was worried about. I can see that it has provided that a person licensed to carry online

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gambling activity shall conduct activity under a gambling control system approved by the authority. The authority cannot approve a system under that subclause unless you, as the licensee, provide amongst other things, at subclause 2(g), responsible advertising. What he was concerned about is something I think the legislation has already anticipated and provided for.

Mr. Deputy Speaker, Sir, in Clause 69 of the Bill, there is a definition of when online transactions begin and end. There is a minimum number of days provided for your payout to be made. The concerns by Sen. Cherarkey that you can win money and the betting firm refuses to remit that money is something that has also been anticipated in this particular Bill. I believe it has also been properly taken care of.

I would want someone to explain to me the rationale of the minimum betting in Clause 71. The minimum bet has been set at Kshs20, which is inclusive of a saving component. If you bet Kshs20, there is an amount of money that is set aside as savings for you by the authority. The minimum bet by the authority is set at Kshs20. I would want some clarification from the Committee during the debate on what that is about.

Mr. Deputy Speaker, Sir, if you go to Section 73(6), you will see the need for us to not appear as if there are gaps in legislation when it comes to protecting young people. In that section, an operator is made to require proof of age of majority prior to the registration of every player. You cannot register as a player on an online betting site without having produced proof of your being of age of majority.

For me, other than some of the concerns that have been raised by the Senate Majority Leader on the adequacy of fines for some of the penalties that have been prescribed, I believe that this is one of the few pieces of legislation that has come before this House that I have minimum problems with. I also encourage us not to be in the business of demonizing everything and making everything appear unholy and ungodly, especially when it comes to choices that are being made by grown people.

Mr. Deputy Speaker, Sir, if the feeling of Parliament is that a person of 18 years or any other age should not probably be exposed to some of these things, it is very much in order for us to require even a higher age. If we say that for someone to participate in gambling, he or she has to be above 30 or 40 years old, it is possible for us, as a House, to do this. However, I do not condemn without asking myself what the systemic problems that have given root to the abuse of some of these practices are, with some people ending up addicted. The underlying socioeconomic factors are the things that we, as a House and leaders, have to address.

Mr. Deputy Speaker, Sir, someone who completed university 10 years ago and has never got any opportunity to be employed anywhere, they have degrees and yet, they need to eat and a place to sleep, who are you who has failed to provide that environment where they can sustain themselves and pay for their expenses? Who are you to judge that person when they decide that if they make Kshs50, they are going to put Kshs20 on Arsenal losing this afternoon?

It is not right for us, as leaders, especially when we have not addressed the socioeconomic challenges, to judge people and say that the people who engage in gambling are evil. Who are you, who has never provided any opportunity for people to be employed to judge a person who has nowhere to go on Monday morning? There is no

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office for them to go. If they decide to go and listen to Reggae the whole day at *Aluta*, who are you to judge that person and say that this is something that is evil and should be stopped?

We need to end the hypocrisy in these things. Let us address the underlying socioeconomic issues first. This is because a person who is meaningfully employed such as Commissioner Sen. Korir there has a full diary is full from the morning to evening, 24 hours a day, seven days a week and 365 days. If we factor in the difficult travel schedule, she has no time to engage in some of these things. She cannot be seen at *Aluta* because she has work to do.

Mr. Deputy Speaker, Sir, let us focus on the socioeconomic issues and we can then talk about all the issues.

I thank you for the opportunity to contribute.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, as we contribute to this Bill this evening, there will be many youth watching the game between Arsenal and Bayern Munich. Arsenal has the biggest fan base and, therefore, you might be addressing people who might kill themselves when teams lose.

If the whole afternoon the Senate will be talking about Arsenal losing, then we will be talking to the youth out there in a negative way. Senators, avoid giving examples to that specific match because of our youth out there are waiting for the game this evening.

Sen. Joe Nyutu, I can see you are not ready for this, but you are on top of the list.

Sen. Orwoba?

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to support this Bill. I take note that the Committee on Labour and Social Welfare went through this Bill and gave a report on it. I had the opportunity to interact with some of the issues that were highlighted by the stakeholders who are affected by the repealing of the Gambling Act, which is getting replaced by this Bill.

When we were talking to the stakeholders, which are the Kenya Revenue Authority (KRA), the Commission on Revenue Allocation (CRA) and the Sports Funds - all these institutions that would be affected directly by this Bill - one thing that came out clearly is that there is, in fact, too much money in gambling. This is to an extent that it was an issue of deciding what percentage of the levy would go to which institution.

A clear example of this is that we had members of the Sports Fund coming in to say that there was a section of the new Bill that took away more than Kshs16 billion from the Sports Fund. Earlier on, levies would be collected and a big percentage of them would go to the Sports Fund, so as to facilitate the activities that the Sports Fund had. They included sporting activities, supporting artists and our young athletes.

Mr. Deputy Speaker, Sir, there was an oversight when this Bill was being drafted and they forgot to include the percentage that should still remain in the Sports Fund. When the Sports Fund appeared before the Committee on Labour and Social Welfare, they explained this. Yes, that money was generated from sports, but it was generated from gambling mainly within the sporting activities and that is why it was easy to justify that money should be pumped back into the Sports Fund. My question then was, if we

were to ban gambling in this country, would we also fold the Sports Fund because 90 percent of the whole Sports Fund budget comes from gambling?

What would that mean for the athletes and the sporting activities that rely heavily on gambling? I know it is a chicken-and-egg issue, but it was imperative for me to understand that above and beyond relying on gambling money to support sporting activities, but we need to think as a country beyond that. We need to start thinking of income generating activities around that industry. For instance, look at what some of our notable runners are doing – opening training facilities and camps and turning them into a sports tourism kind of economic activity. I asked the stakeholders if absence of gambling they were going to fold up those institutions.

I have heard Sen. Sifuna referencing that we should not regulate, that we are too much on rules and people should be left to be free. No! There is an extremely thin line between an organized society that is responsible for its people and anarchy. Therefore, when we are legislating, we are not legislating because we want to get into people's houses to control them, but because there is a fact here that gambling is destroying our communities. Gambling is the source of so many ill activities and so much sorrow. In so many households, women are literally having to deal with not only the issue of their spouses having substance abuse, but gambling.

Mr. Deputy Speaker, Sir, as responsible legislators, we are not entering the private spaces of people to control who and what they believe in, but what we are doing is we want to be responsible leaders to ensure that even within our freedoms we are still able to safeguard, for instance, our children.

I am glad that Senator Karen Nyamu has stood up to clarify that her Bill and even the Motion that we were discussing here on *Aluta* Sunday has nothing to do with adults, but everything to do with parents parenting and ensuring that our children have safe spaces. Any person who is under the age of 18 years does not have the capacity to make decisions to a certain extent, as much as they think they do. That is why we always say they need to have guardians, parents or someone who is responsible for them. If you are earning money and want to spend all of it on gambling, you might wonder; who are we, as leaders, to come in and say 'yes' or 'no.' Yes, it is your freedom, but we are ensuring that within this space of gambling, there has to be some order in that disorder. If you ask me, gambling is a disorder.

We all have rights and freedoms. So, how then can we ensure that we are responsibly safeguarding the lives of citizens in this disorder? To hear that a youthful Kenyan has committed suicide because they have lost a little bit more than Kshs100,000 on gambling, that in itself should touch the minds and the souls of the Senators in this House, so that they understand that as much as we are adults, some of us still need to be guided. That is why within a county, we still elect a governor to be able to lead the people. We still elect a Senator to be able to lead the people. Otherwise, we would also say all these people are adults, they can lead themselves.

I strongly believe that this Bill is very timely and above and beyond the issue of organizing the taxes that are being collected on gambling, it is an issue of trying to direct a society back into the moral path that we need to be in. When I say moral path, I am not talking about religion or biases. I am talking about some level of financial management

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within our homes. There are a lot of women and men who are literally sinking the family unit because of gambling. Some children are being thrown out of schools because their parents have gambled the last coin.

There are women are literally holding on to their last coin because their spouses have gambled everything. You are talking about the match tonight between Arsenal who? I am not a football--- Some people would rather say tonight, my family does not need to eat meat because with this Kshs250 I want to place a bet.

In all fairness, this has nothing to do with controlling people and the decisions they make regarding what they want to do and everything they want to do. This has everything to do with the responsibility of us leaders in ensuring that our communities are not washed away by the ills of gambling.

Mr. Deputy Speaker, Sir, we had this conversation with the Sports Fund after I questioned them because they were fighting for Kshs16 billion to be maintained within the Fund. You know 3 per cent of the levies that are collected will go towards the gambling authority. That 3 per cent will cater for the administrative and logistics of running that authority. The remaining amount of money, if you go through the Bill, will be channeled to various places. Among them, the person that gets the lion's share is the Sports Fund, if we get that amendment passed.

Then asked a question to Sports Fund: What is your mandate? Their mandate is to cater for sporting activities because it is an independent state agency, but above and beyond that, they have some level of responsibility to push the creative economy.

There was a kind of discussion like, yes, you know our athletes. I said you are talking about athletes, what about the creative economy because you have a mandate within that institution to take care of singers, filmmakers and all these people in the creative economy? I could tell from even CS Ababu Namwamba's response that the creative economy was not really prioritized; it was more about football. I remember Sen. Crystal Asige being in that meeting saying it is very unfortunate that the misrepresentation of even the leadership in the various spaces is causing us to forget repeatedly about the creative economy and how we are going to conserve our cultural activities.

Mr. Deputy Speaker, Sir, you know after the Bill is passed, regulations anchored to the Bill will be tabled. One of the regulations that I would want to see and which I am going to push for is that from that Kshs16 billion plus, 50 per cent of that money should be directed to the creative economy. It is not fair that everyday in and out, we are talking about football.

When talking about sporting activities, you are still leaning towards one bias, which is football. I am happy that the Committee adopted the proposed amendment to ensure that the fund that was going to sports would still be maintained and go to the Sports Fund.

The next step would be to ensure that the regulations that will be anchored to this Bill will push for 50 per cent of the Kshs16 billion to go to the creative economy and in that sense then, we will be able to have some preservation of our culture through this ill that we are choosing to legislate called gambling.

Mr. Deputy Speaker, Sir, there was an issue earlier on about all these betting companies finding very many creative ways to avoid paying taxes. The first creative way was that they would say once we are done with all our gambling for the month, we will sit down, see the money that we have made, report and pay our taxes.

An imperative question was asked. If a person is betting Kshs50 on a game tonight, why do you, as a betting company, have to wait until the end of the month to pay your 16 or 3 per cent levy? There was absolutely no reason.

I am glad that this Bill is now addressing that. When you pay Kshs50, the money that hits the betting company account is the money that they need to get, but the taxes go directly to the tax collector. In that sense then, we are not having any arguments towards the end of the month saying that you made Kshs3 billion, yet you are only paying taxes amounting to this much. It becomes a very fair and easy calculation because truly if the taxman is asking for 3 per cent, then it is 3 per cent of the Kshs50 that I am betting. In essence, that money should not be stored with that betting company, but should go directly to the tax collector.

This will ensure that as much as we are now accepting this ill called gambling, our economy can also benefit from the income that is coming from it. It makes work very easy for the tax authority, who do not have to sit down at the end of the month to follow on people and everything. That is one of the other reasons I am supporting this Bill.

Mr. Deputy Speaker, Sir, there was an issue of the authorities who are going to enforce the activities that are governing this Bill. For instance, you would have all these City County or Kenya Revenue Authority (KRA) agents coming in, shutting you down and then confiscating your machines or equipment. There was never really any legislation about what happens when you take my machines because sometimes that machine has my personal data as a client.

So, you will find that an authority would come in, sweep the house, take all the machines and then you are involved in these negotiations between do I have a licence and have I been authorized? In the meantime, that machine that has the data of the end user is sitting somewhere very vulnerable to data trading.

So, when I read some of the proposals that are there and how they would handle issues around the confiscation of these machines, I thought we need also that to be organized because sometimes even the machines that are confiscated, the authorities end up selling them. It thus becomes a whole other array of many things.

Mr. Deputy Speaker, Sir, in conclusion, interrogating this Bill got me to learn a lot about the money that is made in gambling, how the money is handled, and how we can do better. I am also very excited that there will be a percentage of the income of the taxes that will be channeled towards rehabilitation of our young people and the addicts of gambling. We will ensure that it is anchored in the regulations. At the end of the day, some level of responsibility has to be taken by these same companies in terms of rehabilitating people who are completely addicted to gambling.

With those few remarks, I support this Bill. I look forward to seeing the regulations being tabled at my Committee on Delegated Legislation.

The Deputy Speaker (Sen. Kathuri): Next, is the Deputy Minority Leader, Sen. Wambua Enoch.

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Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir. I thank you for the opportunity to contribute to the Gambling Control Bill (National Assembly Bills No.70 of 2023); a Government Bill from the National Assembly. Before I go to the contents of the Bill, allow me to say that gambling has become a near menace in this country. Both young people and adults are losing money in billions to briefcase gamblers and institutions that you cannot even trace where they have come from.

From the onset, I am pleased that, at least, there is an attempt to bring order into this messy industry. I will limit my comments to this Bill to three parts including Part II, Part III, and Part IV of the Bill.

I begin by saying that in many cases where we are dealing with shared functions between the national Government and the county governments, the role of the national Government is largely limited to setting standards and policies.

We are the House mandated by the Constitution to defend devolution and to protect the interests of counties and their governments. In this National Assembly Bill, I do not see the protection of devolved units in Part II of this Bill. I say this because the licensing of businesses and gambling activities is made a reserve of the national Government by this Bill. The only role of the county government in receiving money from people who set up gambling houses only make their money from issuing permits to business premises.

As a House that is responsible for fighting for devolution, one of the biggest conversations that we should be having is how to open up revenue streams for county governments. This Bill does not open that stream. It makes a very big river of a revenue stream for the national Government through the issuance of licenses to gambling activities and provides a very small stream to county governments through just the issuance of permits for premises. This is a matter that when it comes to Third Reading, we should propose amendments. This is because the bulk of this will be happening in towns and counties. This is an opportunity for counties to issue licenses for businesses, not just permits for the business premises.

I say this because my view, and I believe that was the view of the drafters of the Constitution 2010, is that progressively, county governments are supposed to collect more own-source-revenue and rely less on the Exchequer releases from the national Government. When we get to Third Reading, as I said, we will be proposing amendments to right that wrong.

While at it, I remember that I had made a legislative proposal on the separation of the National Treasury and Planning from the Ministry of Finance. Some of these things will be addressed if we actualize our thinking on how we separate those operations between the National Treasury and Planning and the Ministry of Finance.

Without urging Members and colleagues to go slow on a Bill like this, as a leader in this House, at times I wonder why is it that when we receive Bills from the National Assembly, we are in so much in a hurry to process and pass them, yet when we send Bills to the National Assembly for concurrence, they take forever to process, if they ever do. I think a time is coming, and perhaps now is when we should pay back in the same currency.

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Part III of the Bill speaks to the Gambling Regulatory Authority (GRA). I have my issues with that section because of two things. One, what we normally do when we legislate and create authorities, is a problem that we have inherited from perhaps a level of laziness. I do not know on whose part. Every time that we create an authority or a board, we are very quick to do a copy and paste exercise to determine who the members of the board are.

Traditionally, we always put in there a Principal Secretary of the Ministry responsible, a Principal Secretary for Finance, and the Attorney- General. I think we must expand our thinking beyond that traditional way of doing things. You will find that a Principal Secretary is a member of 10 or 20 boards. They never get to attend meetings. Of course, some representatives are designated, but the real impact and contribution of those Principal Secretaries in those boards is never felt. Why can we not move away from that tradition? Why can we not get people who are competent to sit on boards and add value to those boards?

It is the same thing that I have seen with boards that we create and it is repeated here that the headquarters of the authority will be in Nairobi. What is the magic in placing the headquarters of this authority in Nairobi? We must wake up and realize that that used to happen when Nairobi was the only City in this country. Today, we have Kisumu, Mombasa and Nakuru cities.

The designation of a town into a city is not just for purposes of name. It is also for purposes of certain activities happening in those cities. Why should we concentrate all the boards and authorities in Nairobi and none in other cities like Mombasa, Nakuru and Kisumu? What is the magic of having this board in Nairobi?

I challenge Senators who fought very hard to have their towns elevated to city status to also push an agenda to have some of these authorities go and sit in those cities. There is nothing wrong with that and there is no magic in a board sitting in Nairobi.

Lastly is on the issue of issuance of licenses and permits. I have looked at Part IV of the Bill, which deals with licensing and issuance of permits. As we give authority to the authority to determine who can get a permit and who cannot and who can get a license and who cannot, I hope we will not be jumping from the frying pan into the fire. I hope this will not be another avenue for serious corruption in this country when it comes to issuance of licenses and permits.

I am saying that because Clause 29 of the Bill states that no individual person can be issued with a license. It means you must be a limited company and have an account registered in the name of the limited company.

Mr. Deputy Speaker, Sir, in this day and age and this country, the easiest thing to do is to register a limited company. I can wake up one morning and by the end of the day, I will have registered a limited company. The easiest thing to do in this country is to open a bank account. Banks are now hawking bank accounts. Anybody can open a bank account under any name.

There is need for proper tightening of Part IV of this Bill to ensure that the procedure for licensing and issuance of permits for gambling does not open an avenue for corruption and extortion of people who would want to set up genuine and legitimate gambling businesses.

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Mr. Deputy Speaker, Sir, with those few remarks, I support. I will wait for the Third Reading to propose amendments.

The Deputy Speaker (Sen. Kathuri): Next is Sen. Nyamu.

Sen. Nyamu: Mr. Deputy Speaker, Sir, I rise to support the Gambling Control Bill (National Assembly Bills No.70 of 2023). If we do not condemn and regulate gambling, it might become a menace in our society.

Statistics show that Kenya is among nations with the highest number of its young population involved in gambling. We have 89 per cent of our young people gambling, compared to Nigeria at 78 per cent and 74 per cent in South Africa.

This Bill is not only timely, but also well thought out. There is a requirement that directors and shareholders have to be Kenyan. I disagree with Sen. Sifuna, who opposes this provision, because we will have a situation where foreigners come to the country, make their investments and carry all the profits back to their countries. If we have Kenyan shareholding, at least some of those proceeds will remain here.

We had an example of KFC where they used to import everything, including potatoes, when we have industrious farmers in Kenya, particularly in Nyandarua County where we have good quality potatoes. It was not until we protested on social media that KFC was bound to buy potatoes from Kenya. You can now feel the difference between the previous French fries at KFC and what they have now.

A provision of 15 per cent tax from the proceeds of gambling is excellent because we want to generate revenue for our country. Another provision requires that every company carrying out this business should have a license. It should also not involve itself in cheap products to protect our children because they can easily afford cheap products of gambling.

There is also another provision where companies will be curtailed from running advertisements during primetime hours when our young people are most active. Another provision is that these companies should have the social responsibility to ensure that our young people are protected.

Mr. Deputy Speaker, Sir, as I support, I challenge our law enforcement agencies to be patriotic and ensure that these laws are enforced on the ground, so that we do not expose our young people to a practice that ends up being a menace at the expense of our future.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo Daniel, you may proceed.

Sen. Maanzo: Mr. Deputy Speaker, Sir, gambling is a worldwide game which has serious effects on gamblers. In fact, it needs to be controlled seriously as suggested by this Bill.

I remember in the history of legislation in this country, there have been so many gambling laws and all manner of proposals. Since it is like gaming, when we gamble, then the money should go into one kitty to make sure we support sports in this country. That did not seem to be realized. The law kept on changing. Now, we have a new law to control gambling.

Gambling happens in many forms and there are different aspects of licensing. It happens on radio, television and when people make predictions on games.

Although people part with so much money, little is won by a few individuals. That gives gamblers an expectation. It has made many young people think that you can easily make money through gambling. People who set up gambling equipment are so keen to make a profit. They are not setting them up to make anyone rich. Therefore, it is addictive like a drug and quite a number of young people and many other gamblers have committed suicide when their expectations are not met through gambling.

Mr. Temporary Speaker, Sir, gambling needs to be controlled. There must be provision of information to the people, so that they understand what it is. Gambling also takes form through fellows in the street. You will find gamblers, in the Machakos Country Bus Station when people are travelling all over the country, making people think they can earn some money. However, they end up losing all their fare there. It also ends chaotically and people are beaten up. That is the lowest form of gambling. It is fraudulent activity in certain areas.

It also goes to the big companies, which advertise very well. They also do not tell people that in the event of not meeting your expectations, a gamble is a gamble. Many people have looked at it as a way of getting rich, but have been frustrated. Gambling is not just done by the poor. Even the rich gamble themselves into bankruptcy. You can see the experiences in different counties.

In the United States of America (USA), it is done in Las Vegas, Nevada. People gamble till they miss their flights. The person is supposed to be boarding in five minutes, but he continues to gamble, misses the flight, ends up in a lot of trouble and finally loses all his money.

What is our experience in Kenya? What are we telling our people? There is gambling versus hard work. Hard work must always remain as the main source of income and expectation of life. It should not be inculcated without disclaimers that gambling will make you rich and happy. It has to be followed with caution, the same way cigarette packets are. It is clearly written that cigarette smoking is dangerous. We must also cite that gambling is dangerous and it just a game.

However, many people do not take it as a game. They take it as a way of earning, and that has not been corrected by the Government. The Bill has come on board originating from Government. Therefore, it should come with controls, warnings and the Government taking responsibility in the event something happens. Therefore, all this money raised in gambling together with paid taxes should be apportioned properly. It is for the promotion of games, which in turn promote talent in the country. Talents make people earn a lot of money.

It should also be used to promote sports, so that footballers and sports people can be facilitated with enough facilities. The practice in the past has not been the same. When the monies are raised, it ends up in confusion and being misused by certain individuals. One of the worrying things about this law is that it has come up with a board. I heard information that generally, world over, we are discouraging too many boards. Every other little thing has a board. Boards have become spaces of creation of employment. There has to be a chairman, a Chief Executive Officer (CEO) and members of staff.

It ends up again to the main Exchequer and many other facilities such as roads end up without funds, while money is being used in a non-profit making venture, which

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depends on the moods of the people. If people do not feel like gambling, then what happens to these boards and their managing directors or the people who are expecting a livelihood out of it? Suppose people are moved by churches to avoid gambling, just like they should avoid drugs, smoking or alcohol. It ends up in the same thing.

The general policy in the country should be one of encouraging hard work, such that any monies raised from gaming through guessing and chancing, helps another person build a life through developing a country. Should it be arts, movies or anything that entertains, they all fall within the regime of entertainment. Entertainment is one out of the seven pillars of influence. It is a big time thing which comes in form of sports and many other things which keep young people busy.

Mr. Deputy Speaker, Sir, in our many years in these Houses and being ranking Members, we have seen a lot of these laws, the push and pull together with the many interest that come with this law. Therefore, I expect that it is going to be of help to Kenyans and it will be of assistance to professions and talent. I will be proposing some amendment to this law before we do the Third Reading.

Yesterday, we completed the Third Reading for one law. While I was framing the amendments, I saw it was set for Division today. I wondered whether there is any chance to amend any of the laws coming from the National Assembly. I think we should take it with the caution it deserves, so that we have an opportunity to amend and serve Kenyans better.

I thank you. I look forward to getting this law thoroughly amended.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to speak to this Bill. I wish to state that this is a Bill that is repealing what was there. At the onset, if you look at the Fourth Schedule, the function on betting and gambling is shared. It is both a function of national Government and county governments.

I support the fact that we need to have a clear law that regulates what I like to call a vice; gambling and betting, knowing that we have allowed it in the past. It is not something that has just come about, but it needs to be properly controlled.

Mr. Deputy Speaker, Sir, as I support the Bill and do so, I request the Movers to relook at the Bill. In my view, and those of you who have read it will bear me out, this Bill only makes token reference to counties. It establishes an authority, which is a national Government entity and goes on to elaborate who this authority is, what the functions are and to establish the board of the authority together with what the authority can do.

When it speaks of the functions of the authority, it talks about controlling, managing and regulating activities relating to this Act. It does not talk about national Government activities. There is confusion. If we pass it as is, and I was the director of the authority, I will believe I have mandate over every gambling center in the country.

On Clause 50, there is an attempt to make specific reference to the counties; it is scanty and unclear. Here, we have clear structures for national Government on how to they are going to think through clear boards.

At the county level, it simply states: "The county will" in such a way that if we set off with this law as is, the national Government will start working, while the county

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governments will still be saying that it is not clear how they are setting up. Is this a county function or a national Government function?

I would request that even as we support this law, when reading this law, always ask our secretariat to call us to check whether it is a shared function of the national Government and county governments, or not. How have we demarcated it, so that it is clear and anybody reading the Bill will understand what betting and gambling in counties look like? Also, it illustrates what national betting and gambling look like. This is a clear indication of what the authority will be doing and what the county teams will be doing. The Bill is not clear on this issue.

I would have liked to see that description that distinguishes between what Meru County will be in charge of and what the national Government will be in charge of to a Kenyan who reads this law. In my view, this is not clear. Much as this is necessary, we need to do better in developing laws that make that distinction, but also recognise the intergovernmental shared functions, knowing that devolution is cooperative and consultative.

The Bill references that this is the responsibility of the Cabinet Secretary when developing regulations. There is no reference to consultation with counties as the Cabinet Secretary drafts the regulations.

The proposed law lacks clarity regarding what, who and how the function at the county level will be moved. We must delineate these aspects to avoid any confusion and ensure effective implementation of the law. Additionally, we need to clearly outline areas of intergovernmental cooperation and consultation to make the law more understandable to the general public.

I support the Bill with those amendments.

The Deputy Speaker (Sen. Kathuri): Thank you.

Sen. Mungatana, proceed.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, thank you for allowing me to contribute to this debate. I was going home the other day, and one of the people who had accompanied me told me that he was happy because he had done some online gambling and got Kshs30,000. A few days later, the same person told me how he felt terrible because, in the same place where he had made Kshs30,000, he had lost Kshs50,000. He was asking me to give him something to help him because there was an emergency he needed to sort out.

My focus in this debate would be on online gambling. Many people have lost money in online gambling. This Bill has made a mention of online gambling. Nothing much has been focused on online gambling. Kenyans have lost money on online gambling. The form of gambling where you pay small monies on the machines has not been as bad and destructive as online gambling.

The only requirement in the Bill for online gambling is in the Third Schedule. The Bill proposes a license of Kshs200 million for online gambling companies. This is equivalent to what they will be required to put as a national lottery. For online gambling, we should at least double the amount. I say so because online gambling has become a trend and a con game. They are multinational operations. They will go to Zambia and Zimbabwe in Africa, and the same company will be operating in Kenya.

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Once they are busted or suspect that something bad will happen or they will be caught, they cross over to Uganda and perform the same operations. For this Bill to propose that they will only be paying a security of Kshs200 million, we have not addressed that problem.

They use the loopholes within the internet setup to entice people. Many people who have become victims will tell you that registering to place bets is easy. Once you register, you will run on good luck. They get data from telecom companies. They use their ways to access people's phone numbers. They send messages and entice people into their gambling con game. They give you a free ride - the first few wins - and then people get hooked. The people tell each other and you cannot find them over two months after they have collected enough.

This is not just happening here in Kenya but all over the world, particularly in Africa. They target Africa because the systems have not been put well in this Continent. They are now looking at this proposed law. A lot has been said about slot machines entering the premises and they will be arrested if they are not licensed. However, nothing has been talked about online gambling. This Bill fails to address the problem that Kenyans face.

The advertisements pop up when one opens the internet to study and do research. They will tell you how a person has been banned from participating in any gambling activity because they received information and advice from a specific person. The person is an astrologer or a professor. Kenyans fall to this trick.

Mr. Deputy Speaker, Sir, when they visit these people, they are given fake advice and confidence. They end up committing their Kshs500, Kshs1,000, Kshs5,000 or Kshs10,000 because they believe that person who has been---

The Deputy Speaker (Sen. Kathuri): Sen. Mungatana, sorry, we need to adjourn now. You will have a balance of 13 minutes.

Sen. Mungatana MGH: Thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, it is now 5.00 p.m., in line with the decision made by the Chair that we have a Motion for Adjournment pursuant to Standing Order No.37.

Therefore, I request, Sen. Mumma, to move her Motion.

MOTION OF ADJOURNMENT UNDER STANDING ORDER NO.37

THE ONGOING STRIKE BY HEALTH WORKERS

Sen. Mumma: Thank you, Mr. Deputy Speaker, Sir. I beg to move a Motion on the definite matter of national importance, namely, the ongoing strike by the health workers in the country.

The Senate is charged with protecting the county and the county governments. Beyond that, the Senate is supposed to be in the lead speaking on the proper operation of functions that have been devolved.

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The right to health is possibly, in my view, if you put it to the hierarchies of human rights, the right to health complements the right to life. The dead cannot enjoy human rights. Therefore, human rights are for the people who are alive, meaning that the right to life is the first right or the basic right that facilitates the accrual of all the other rights. Closely linked to the right to life is the right to health.

You may miss the right to education, and many have missed it. Many of our grandparents did not go to school, but if they lacked the right to health, they would have lost their lives. I am calling us to attention as the Senate to take the matters relating to the strike by doctors seriously and to guide the Government to do what is right.

This morning we had the Cabinet Secretary for Health before us, but we were not able to exhaustively address the issues, since the nature of Question time is such that you are restricted to what the questioner has put. Nonetheless, the Question that was put in the morning was largely general and did not seriously address this issue.

The Cabinet Secretary was then given time to read what was a very good sounding policy, but which did not address the crux of the matter when it comes to the doctors' strike. She gave us information around the Collective Bargaining Agreement (CBA) that she has prepared. She was urging doctors to sign on it and she said everything is okay except for the issue of stipends and the interns.

I wish to indicate that there is one crucial information that the Cabinet Secretary failed to give us. She did not give us the information on the impact of the strike on the people of Kenya. She did not tell us how many people have died in Kenyatta National Hospital because they have failed to get the services they require. She did not tell us how many people have become critically ill because they were not attended to at the right time.

I wish to give some information that is crucial and which, I believe, the Cabinet Secretary has refused to look at. Prior to 2011, interns earned Kshs78,000 per month. After the promulgation of the Constitution, during President Kibaki's time, the interns negotiated to earn Kshs141,000. This has moved up with allowances to Kshs206,000.

A doctor takes six years in college. The last three, they shadow the consultants as they learn. Interns are entry point for employment because they come after graduation. I want to ask each of you to go to your counties. You will find that interns are the first point of contact for any patient in a hospital. So, they carry out work like any other doctor. In fact, interns have been abused. That is how the public service has worked. Having not acquired or achieved the correct doctor to patient ratios, they have been using interns to carry out the work of the doctors.

You will find a ward with over 60 people, has only one medical officer and maybe three interns taking care of them. Those interns do everything that the doctor would have done except when things get serious, then they call the medical superintendent or the consultant to come in.

When we hear medical interns being compared to interns in Law or teaching, it is missing the point. When I did my pupillage, I was never allowed to address the court. However, when a doctor is interning, the doctor is making decisions of life and death.

Mr. Deputy Speaker, Sir, our Constitution has provided that we cannot alter payments of employees to their detriment. Where are we finding this? Everybody is

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raising the taxes and inflation is high. These doctors earned Kshs78,000 just before August 2011. We want them to earn Kshs70,000?

We need to speak for the people who are dying. When children of the Cabinet Secretaries and MPs get sick today, they will go to Nairobi Hospital or Aga Khan Hospital, which is paid for by these taxpayers who are dying. We do not want to do anything about it because we are safe; our spouses are safe. We have an insurance paid for that can avoid these strikes.

There was a time I suggested that all State officers to be treated in public hospitals for them to feel the pinch, the way other Kenyans are feeling the pinch. We need to know how many people get worse and die, as senior Government officers in the Ministry of Health continue displaying arrogance and even using language that is not acceptable.

How do you say that doctors must come to the table and sign the Collective Bargaining Agreement (CBA)? The CBA that is there, that doctors signed, was signed by a legitimate Government. The Cabinet Secretary for Health needs to learn that Governments exist in perpetuity. You cannot run away from decisions that have been made by a Government.

Mr. Deputy Speaker, Sir, how I wish a proposal could be made that salaries of Principal Secretaries and Cabinet Secretaries be reduced. How I wish that we would propose salaries of MPs to be reduced to 10 per cent. Why are we comparing and saying interns in Zambia are getting 70? Why are we not taking the salary of MPs in Zambia?

Health is the most important thing. The day this country wants to move ahead, we must invest in keeping our doctors in place. We must invest in keeping our nurses here. All of them are looking for jobs abroad because we are joking with this issue.

Mr. Deputy Speaker, Sir, I call my colleagues to speak truthfully to this issue and ensure that we condemn what is going on and call the Cabinet Secretary and the Ministry of Health to order, to ensure that the doctors' pleas are heard. At the very least, they must not be given less than what they have been earning.

The Deputy Speaker (Sen. Kathuri): Who is seconding the Motion?

Sen. Mumma: Sen. Sifuna, will second the Motion.

The Deputy Speaker (Sen. Kathuri): Sen. Sifuna, are you aware that you will second in five minutes time?

Sen. Sifuna: That is fine. Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Any other Senator speaking on this, is five minutes.

Sen. Sifuna: Mr. Deputy Speaker, Sir, I rise to second this Motion. As I said, I was deeply embarrassed in the morning by the fact that we had the opportunity to put serious questions to the Cabinet Secretary responsible for Health, but in my view, we squandered it.

In fact, that point was demonstrated later in the afternoon when the Senator for Embu County, Sen. Munyi Mundigi, came up with a question to the Committee on Health that he should have directed to the Cabinet Secretary for Health, but instead wasted time massaging her.

Mr. Deputy Speaker, Sir, it is the position that on 27th March, the delegation of Government walked out of a negotiation with the doctors. Since 27th March, there has

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been no further meeting between the Ministry and the doctors. This is because the Ministry insists that the doctors must give up that one right that they have, to enforce their rights; the right to go on strike, so that a conversation can be heard.

As Sen. Mumma has said, the Government today must understand that CBAs do not expire unless and until a new one is registered in the Labour and Employment Court. When a Government comes in and finds an agreement in place, it is the responsibility of that Government to honour that agreement.

In fact, in the morning, you heard the Cabinet Secretary for Defence saying that he continued with the work at Uhuru Park because he found that arrangement in place. This is even though he admitted that he knows that, that was an illegal move. So, this Government is very happy to continue with the illegal ones. However, for the ones that make sense, the legal ones, registered even in accordance to the law, they decide that they are not going to execute them.

In the morning, I wanted to ask the Cabinet Secretary for Health whether the Government understands the sanctity of a CBA. It is an agreement that you enter into on your own volition. Nobody has forced you. Once you sign a document, the law is that you cannot run away from agreements you enter into by yourself.

That is why some communities do not believe in divorce. Once you have paid dowry, you remain. I think that is something that your friend, the Cabinet Secretary for Agriculture and Livestock Development, understands very well.

There is also something I heard from the Government that really broke my heart; that, in fact, an Inspector General (IG) of Police, who I have publicly said that I have serious doubts to his capacity to hold public office, does not seem to understand the Bill of Rights. That, in fact, people have the right to freely assembly.

I have seen doctors in the streets. They come dressed in their white coats. They do not look threatening at all. However, when an IG of Police says that he is going to bludgeon doctors who are on strike, this is somebody who has no idea of what he is doing in the Office of IG.

Then, you have the Ministry saying that they are aware that the civil protests are being sponsored by cartels; that, they are the ones financing this industrial action.

I would have loved for the Cabinet Secretary to name before this House these cartels that are financing and encouraging industrial action. The industrial action stems from the lack of respect for agreements that have been entered into by Government and the doctors.

Mr. Deputy Speaker, Sir, I also heard her say in the morning that these doctors must respect court orders. I wanted to know from Cabinet Secretary where she gets the moral authority to lecture anyone about respect for court orders. Was it not the same Government that told us that court orders do not have to be respected?

I heard the President talking about the Ihithe-Ndunyu Njeru Road, where the Environment and Land Court ruled that a road should not be built through the Aberdare Forest. He instructed the Permanent Secretary telling him that “*wewe jenga hii barabara.*” I saw it with my eyes. Why is the President not doing the same because it is the Government that sets the pace for respect of court orders? They have no moral authority to tell doctors that until and unless---

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(Sen. Sifuna's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Allow him to conclude.

Sen. Sifuna: Thank you, Mr. Deputy Speaker, Sir. I am seconding. Nothing stops the Cabinet Secretary and officials in the Ministry. Today, I met them outside the corridor and told them that they have embarrassed the Ministry and themselves. All they need to do is to have informal meetings with doctors. Sometimes, these issues are not resolved in formal settings where you use tough language and you want to show us.

Today, I heard the President say that if you are supporting doctors, you should pay them using your money. I want to remind him that the money that pays doctors and even him is not his money. We support doctors and we want our taxes to be used to pay doctors.

I second.

The Deputy Speaker (Sen. Kathuri): Thank you.

(Question proposed)

We will start with Sen. Cherarkey Samson.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. The issue of the health crisis and the strike in the country is of great concern. While we mourn more than the bereaved, my concern is that when you look at the Fourth Schedule, health is devolved.

We cannot speak from both sides of our mouth. The Constitution is very clear. For example, the work of Parliament is to set standard health policies. Sen. Maanzo understands this because we had a push and pull up to the Supreme Court. Where is the voice of the Council of Governors (CoG)?

When we ask governors the issue of the wage bill in counties, a huge chunk goes to the health function. The national Government has been doing charity to try and bring sanity as the bigger brother in all dimensions. I did not hear both the Mover and---

(Sen. Mumma spoke off record)

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, do you wish to be informed by the Mover of the Motion?

Sen. Cherarkey: No, Mr. Deputy Speaker, Sir, because of my time. From her tone and demeanour today, I do not think that is correct information. I did not hear about the devolved function and the role of the CoG.

Counties are in a mess. For example, in Kapsabet County Referral Hospital, rats eat lunch with patients. There are no drugs in some of the hospitals. I would have expected Sen. Mumma, whom I have tremendous respect for, to point out the role or non-activeness of the CoG.

Even in Meru, the health sector is on its knees. When you go to Isiolo, the mortuary fridge is not functional, and you smell the odour. I would have expected the

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Senator for Nairobi to highlight the malfunctioning of the health sector in Nairobi City County.

Mr. Deputy Speaker, Sir, we are just playing to the public gallery. We are doing a popularity contest by saying that doctors are being frustrated by the national Government, just to be politically right.

I agree on the issue of interns, but how many Kenyans are paid Kshs70,000? Even P1 teachers are not paid that or the ECDE teachers whom we are pushing for a standard scheme of service. In my county, they are paid a salary of between Kshs5,000 to 10,000. Now, we are talking about Kshs70,000 to pay an intern.

Mr. Deputy Speaker, Sir, I want to repeat what I said yesterday. I went for pupillage at my master, Serah Karuga, but I was never paid even a single penny. You heard the Cabinet Secretary say that it is stipend or pocket money. Even the SRC guidelines and formulations do not recognize stipend. The doctors want to have their cake and eat it.

You are not yet qualified and admitted being a doctor, yet you want to enjoy the benefits of being a full-practicing doctor, which is unfair. It is like what used to happen in campus where you would transform your girlfriend to a wife by cohabitation without giving dowry. I know there is a process to it in some cultures.

In the interest of time, I conclude by requesting doctors and nurses to come to the negotiating table. We can scale stairs as we review the terms, sit down with the Government and renegotiate the Collective Bargaining Agreement (CBA). I saw people like Secretary General (SG) Davji Atallah and Wachira who can negotiate as their leaders as doctors and nurses go back to work and alleviate suffering by Kenyans. They should live by the Hippocratic Oath that says they will always choose life over money.

Kenyan doctors are choosing money over lives, yet they swore as by the Hippocratic oath. I want to tell them because in their oath, like us, they say we will protect lives against material things. Why is it that when it comes to money--- I have tremendous respect, most of the unions leaders are my friends and we have had a discussion on this.

I agree they have valid and genuine concerns. However, Mr. Deputy Speaker, Sir, you are a son of a clergy, the Bible says come ye, let us talk. That is why there is a reggae song by the riverside that says 'let us examine, as I walk by the River Babylon.' I want to appeal to doctors, get---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, when giving examples, avoid pointing at the Chair.

You keep pointing at me in your examples about some people you mention.

(Sen. Cherarkey spoke off record)

Yes, you must apologize.

Proceed, Sen. Beatrice Akinyi.

Sen. Ogola: Thank you, Mr. Deputy Speaker, Sir. From the onset, I support Sen. Mumma in this. From the word go, when you hear Sen. Cherarkey speak, you wonder whether this is the same Government that is talking about Universal Health Care (UHC).

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Mr. Deputy Speaker, Sir, you can never achieve UHC if we do not look at the welfare of doctors. Health is a basic right, but as this goes on unattended by the same Government that talks about universal care, do we think about pregnant women back in the villages who are seeking services from quacks because doctors that have been trained from the investment of Kenyans are away from hospitals and the Government seems not to be keen? Do we think about children who should have been attending clinics? Do we really think about the elderly that go every day for medical services from our public hostel?

As the public hostels are closed, what Kenyans are left with is to run to quacks, which we are not sure even of the skills that they have. Our mothers, our sick people are running---We have just come from recess. Back there, we saw mothers carrying sick children seeking treatment from every other clinic, some of them as a government or people's representative, we are not even sure of the skills they have.

Kenyans have invested in the training of doctors and for a number of people. I hope all of us have gone to school. As you are going to school even at higher education, we knew the many hours that doctors take in their training. So, what doctors are asking for is acceptable.

Think about some of the issues that the doctors are raising, such as risk allowance. Just the other day when we had the COVID period, all Kenyans were advised and restricted to stay in their houses. The only people who were left attending to the sick with all the risks were medics.

In the morning, I listened to the Cabinet Secretary. She made a statement that let the medics come to them. The Cabinet Secretary and the Government should go to the medics. If your people have raised issues, the only honourable thing that the Cabinet Secretary and the Government need to do is to reach out to the medics, listen to their grievances and have them addressed.

I do not think that all the medics are presenting a request that cannot be managed by the Government. As I have said, Kenyans invested in these doctors. When you go to hospitals as presented by the Mover, the first call of action is always by the interns. They do three-quarters of the work at the hospital. So, I do not think that what they are asking for is out of reach of the Government. So, the Government must listen to the medics.

There is the notion that the Cabinet Secretary and other people have been propagating; that health is devolved. The national Government should neither have a say nor even be concerned about solving this challenge. This country is made up of 47 governments and one major Government. The buck stops with the national Government. The Government sets standards, guidelines and policies that must be overseen. If health is managed well, then Kenya will meet the Universal Health Care that we are trying to propagate.

I want to end by saying that there is no Kenya that is a county or Kenya that is a national Government.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo.

Sen. Maanzo: Mr. Deputy Speaker, Sir, I rise to support this Motion. I want to state that the Government has refused to fully devolve health, agriculture and other sectors like water are still stuck largely in terms of money at the national Government.

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When it comes to training doctors, education is still a national function and, therefore, squarely lies on the Cabinet Secretary for Health. A doctor goes for training at the university for six years to study Medicine. By the time they graduate, they are already doctors. The only other technicality left is a little bit of experience as the requirement because of an apprenticeship of working with a qualified doctor for some time, so that you can learn more or polish your skills.

Mr. Deputy Speaker, Sir, dealing with health and people's lives is very delicate. You cannot come straight from the classroom and operate as a surgeon. You cannot come straight from the classroom and be a neurosurgeon. You have to work with other surgeons and apply all your skills, just like a pilot does or the practice of Law. Therefore, when it comes to doctors, there was an agreement that they were already working.

By the conduct of the two contracting parties, that is, the Government and the doctors, there is already an implied contract, and you are already working. So, when it comes to bargaining, then the two sides should meet and agree. You may not necessarily implement the previous agreements or existing agreements fully. However, you can increase and the Government can agree, so that the doctors---

Mr. Deputy Speaker, Sir, you know in negotiations, it is give and take. However, the current negotiations of the striking doctors, it is one of dictatorship. You are supposed to surrender everything. There is no give and take. Therefore, that does not amount to negotiations.

It is a matter for which the Inspector of General (IG) and the police unit have not apologised. Shooting a doctor who was striking, injuring him and having him end up in the hospital was a criminal offence by whoever officer did it.

We want to follow the constitution. Article 37 of the Constitution has not been suspended. One can pick it reasonably and the doctors have been reasonable. They are dressed well and you can identify them. They have *vuvuzelas*, no guns, stones or anything that can injure anybody. Therefore, they should be allowed to continue picketing till their demands are met.

You cannot also train a doctor overnight and the training of a doctor is specialized. It is not one of those careers where you can take shortcuts or have fake papers, as the President has confirmed that most people working for county governments and national Government have fake papers.

Some Cabinet Secretaries by their conduct, talk and the way they have explained how they acquired their degrees, some investigations need to be conducted. If there are fake Cabinet Secretaries, who carry fake papers, they have already been told by the President to resign.

Therefore, the matter of striking doctors is very serious. We support them. Let them lobby till they get something reasonable for their livelihood.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, there is something that I did not get right. Did you talk of fake Cabinet Secretaries?

Sen. Maanzo: Mr. Deputy Speaker, Sir, I said that there is a possibility that from what the President has announced today, there are Cabinet Secretaries who may be carrying fake degrees.

The Deputy Speaker (Sen. Kathuri): Now that it is the President who said that, can you now paraphrase what you meant?

Sen. Maanzo: Mr. Deputy Speaker, Sir, if there is one, now that the President has said, if you have fake papers, and you know yourself, resign by before we come for you.

If any Cabinet Secretary---

The Deputy Speaker (Sen. Kathuri): If you have fake papers, are you fake as a human being?

Sen. Maanzo: No, No! Mr. Deputy Speaker Sir, that one, I withdraw. I mean the fake degrees. Fake degrees mean that---

The Deputy Speaker (Sen. Kathuri): Thank you. Next is Sen. Hamida Kibwana. Please, proceed.

Sen. Kibwana: Thank you, Mr. Deputy Speaker, Sir. I fully support Sen. Mumma on this issue.

Today, having the Cabinet Secretary here, it was sad when I asked about the number of deaths, of which she never gave the data. It seems arrogant that the Government does not give a damn how many deaths we have had ever since the strike occurred. I am sure if we decide to take data, we will get more dead bodies during the strike than ever before. It is unfortunate.

Healthcare is devolved to county governments. However, I think Senators, as Members of the national Government, can still have a significant role to play in this one.

First, we can advocate for increased funding for health. We can do that as the Senate and ensure counties have adequate resources to manage healthcare support and pay competitive salaries to the doctors.

I am looking at it on how we can come as mediators. We can use our oversight role to hold the national Government responsible for its healthcare and delivery.

We can also ensure that health policies are adequately supported to county health services. Seriously, I do not see how we cannot serve as mediators during this strike. It has gone on for so long.

Again, I said, as Senators, I am sure we can play that oversight role and become mediators on this one between the county governments and healthcare workers union, to help resolve the disputes.

We can also advocate for the interests of healthcare workers or the public to ensure that there is a discussion on the Collective Bargaining Agreement (CBA) and the rest. The Cabinet Secretary tried to explain how the CBA was resolved.

We could have a very good CBA, but there is no implementation. The issue here is implementation of the CBA by the Government. We can also enact legislation that can set minimum standards for healthcare workers conditions and regulate medical training.

It is sad that I went to visit a patient yesterday; a young man who had an accident with a *boda boda* and he broke his jaw. He has been at St. Mary's Hospital for three days. He is unable to eat or talk because his jaws are locked. The area has become septic and there is no other Government hospital that he can be taken to.

Madam Temporary Speaker, what we are going through in Kenya is painful and hurtful. Like I said, it is a matter of life and death. Can we come in, as Senators, and see how we can resolve these issues and become mediators.

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I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senator. Proceed Sen. Chute.

Sen. Chute: Thank you, Madam Temporary Speaker. Let me take this opportunity to contribute to this very important Motion. As it has been said by almost all the Senators, this is a devolved function. Ninety percent of the doctors work in the counties.

Article 26(1) of the Constitution states that every person has a fundamental right to life. I will refer you again to Article 43(1) (a), which states that every person has the right to the highest standard of health. Similarly, Article 43 (2) (a) states that a person shall not be denied emergency medical treatment.

Madam Temporary Speaker, I want to take this opportunity to blame both parties because Article 26 (1) and Article 43 (1) (a) have been contravened by both the Executive and the medical doctors. When we had the CBA in 2013 a Kenyan doctor was earning about US\$300, in Uganda they were earning US\$631 and in Rwanda, US\$474. It is only South Africa and Namibia where they earned US\$3400 and US\$3100 respectively.

During that CBA period, the Cabinet Secretary then, Cleopa Mailu, said and I quote-

“The dark side of our history is over because of that CBA”.

Similarly, let me quote what Mr. Henry Rotich said-

“The Government cannot afford to pay that salary”.

Madam Temporary Speaker, to train a student doctor to specialize on a particular specialty will take about 10 years. My son has just graduated to be a doctor this year.

(Applause)

It takes huge sacrifice. The CBA states a 300 per cent increase.

We need the President's intervention to talk to the doctors. Every minute, a Kenyan woman, man, or young person is dying. If you look at the CBA that they signed, one of the doctors said that the strike was over, but the dispute remains. This means that the dispute existed before and is being experienced now.

Madam Temporary Speaker, I urge Parliament to intervene in this matter. It concerns the people of Kenya. We represent almost 60 million Kenyans who are suffering.

Senators here today have a medical insurance card, which is fully paid. We visit private hospitals while the people we represent go to dispensaries and clinics, not private hospitals.

The Temporary Speaker (Sen. Veronica Maina): Senator, your time is up.

Sen. Okiya Omtatah, proceed.

Sen. Okiya Omtatah: Madam Temporary Speaker, I rise to support the Motion. This is an unfortunate situation in our country. We also had a similar situation in the United Kingdom (UK). If you followed the news, the junior doctors and senior doctors,

whom we refer to as consultants, were striking, and they had their way of solving the issues.

In this country, we need to be sober regarding public expenditure. Before addressing the question of not paying doctors, we must sober up and get our priorities right. This Government and the past Government could pay doctors if they were disciplined in the budget, eliminating corruption and wastefulness. We have a Cabinet competing to show off the kind of watches they can wear, some costing up to Kshs30 million.

We see people spending money like there is no problem. When they say there is no money to pay the doctors, how do we justify the push to recruit the Cabinet Administrative Secretaries (CAS) with no work to do according to the constitutional structure? So, the question of pay needs to be looked at. We need to rationalize how we use public funds.

Regarding the issue of doctors, I would like to go back to the Constitution, 2010 drafting process. For whatever reasons, doctors, prison officers, teachers, Judiciary, and Parliament pushed for commissions to take care of their human resource interests.

The teachers, Judiciary, and Parliament got it. I have the report of the Committee of experts. An undertaking was made that they would set up a national health commission to address the doctors' pay and of people employed in the health sector. Time has come for us to consider delivering on that promissory note.

We should have a national mechanism for hiring and rotating doctors. Right now, even if doctors go to the counties, chances for growth and studies are not there. It is like we are consigning them to what some people call *kaburi la sahai*. We need to do that.

The other thing is that we need to interrogate the Constitution well, especially the Fourth Schedule. Did the people of Kenya really devolve health? If they did, did they devolve both primary and secondary health?

When I read the Fourth Schedule, what was devolved is primary health, where counties are charged with the duty of preventing people from falling sick. If somebody falls sick, the national Government should take over.

What was retained at the national Government are national health referral facilities. When we devolved, we considered them to be national hospitals or centres of excellence, like Kenyatta National Hospital (KNH) and Moi Teaching and Referral Hospital (MTRH).

We forgot that some of centres of excellence like Mathari National Teaching and Referral Hospital. It is a Level 4 Hospital, but a centre of excellence when it comes to mental health. We have another one that deals with spinal cord injuries. Despite it being a national hospital and a centre of excellence, it is a Level 4 Hospital.

Alupe Sub County Referral Hospital in Busia is a centre of excellence for---

The Temporary Speaker (Sen. Veronica Maina): Senator, you have one more minute.

Sen. Okiya Omtatah: Thank you very much. We need to go back and look at the architecture that the people of Kenya gave in terms of devolving or not devolving the health sector. We also need to make sure that money follows what is devolved.

I would have expected the Cabinet Secretary to tell us the percentage of the budget for health and what goes to counties. If you check, the bulk of the money remains in Nairobi and should not be accepted. We need to make sure that money goes to the ground and health facilities are revived and become operational.

Concerning the people who are dying because of the strike, the Government should know that it can be sued for the duty of care and negligence. They should not take this lightly. We might have to get the data of people who have died and sue the Government for compensation.

The Temporary Speaker (Sen. Veronica Maina): Your time is up. Proceed, Sen. Betty Montet.

Sen. Montet Betty: Thank you, Madam Temporary Speaker, for giving me a chance to also add my voice to this important Motion brought by Sen. Mumma.

It is unfortunate and sad because the situation in our country today is bad. There is nothing as bad as what people are going through when they have sick persons. Some come from very far to go to referral hospitals, but when they get there, there are no services. They are simply told the doctors are not there.

In my opinion, as the other Senators have put it, health services are devolved, but we all agree that they are not fully devolved. As we know, it is the responsibility of the national Government to train doctors and keep standards and policies. The responsibility lies wholly on the national Government.

It is unfortunate that when the Cabinet Secretary for Health came here today in the morning, she took the issue casually. It was like she was speaking to any other labour dispute, while this is a matter of life and death. Kenyans are suffering, but they do not have money to go to private hospitals.

Kenyans do not have money to go to private hospitals. I believe that if the push and pull can be put aside and this issue of doctors is taken seriously, we can come up with a solution. If the Cabinet Secretary puts her foot down and says, "I want to work for Kenyans. I have to solve this problem because Kenyans are suffering," I am sure, she will come up with a solution and sort out this issue once and for all, as she put it herself.

Madam Temporary Speaker, it was also very unfortunate that the Cabinet Secretary--- As the Senators were asking her to give the figures, she should have taken that opportunity to show the nation the altitude of that problem, give the figures of the number of people we are losing in our hospitals and those who are suffering. I am sure Kenyans would have taken her seriously. She would have given hope to this nation, but she just brushed it out that the doctors have to come to the table.

I urge the Government, and indeed, the Head of State, to seriously look into this issue. We know he has the capacity and capability. If he can have the will to resolve this issue, the issue of doctors will be sorted once and for all. The issue of reducing whatever they had negotiated is very unfortunate.

I appeal to this Government to, please, help Kenyans. Let us not have a sick nation. Please, sort out the issue. Kenyans are suffering and we are looking upon them to help us.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you, hon. Senator. This is a Motion that was brought under Standing Order 37, and it does not require that a question be put at the end of the debate. Therefore, that brings us to the end of the discussion on this Motion.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 6.22 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday 18th April, 2024, at 2.30 p.m.

The Senate rose at 6.22 p.m.