

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 11<sup>th</sup> January, 2022

### Special Sitting

*(Convened via Kenya Gazette Notice  
No.63 of 7<sup>th</sup> January, 2022)*

*The House met at the Senate Chamber,  
Parliament Buildings, at 10.00 a.m.*

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

### PRAYER

## COMMUNICATION FROM THE CHAIR

### CONVENING OF SPECIAL SITTINGS OF THE SENATE

**The Speaker** (Hon. Lusaka): Hon. Senators, let me take this opportunity to wish all hon. Senators a happy new year, 2022. I regret that we have had to interrupt your recess period when you use the opportunity to reconnect with your constituents, to spend some time with your family and friends, and to refresh, in readiness for the next session, which is scheduled to commence on 8<sup>th</sup> February, 2022, pursuant to the Senate Calendar.

I welcome you to this special sitting, convened pursuant to Standing Order No.30, on the request of the Senate Majority Leader and with the support of the requisite number of Senators, via letter Ref. No. SEN/SML/CORR, dated 6<sup>th</sup> January, 2022.

Consequently, vide Gazette Notice No. 63 of 7<sup>th</sup> January, 2022, I appointed today, Tuesday, 11<sup>th</sup> January, 2022 as a day for special sittings of the Senate.

In the Gazette Notice, I indicated that the business to be transacted at the special sittings today shall be consideration of-

(i) The Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021);

(ii) The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No.53 of 2021);

(iii) The County Hall of Fame Bill (Senate Bills No.9 of 2021);

(iv) The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bills No.33 of 2021);

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(v) The Kenyan Sign Language Bill (Senate Bills No.5 of 2021);  
(vi) The County Oversight and Accountability Bill (Senate Bills No.17 of 2021);  
(vii) The Heritage and Museums Bill (Senate Bills No.22 of 2021);  
(viii) The County Governments (Amendment) Bill, (Senate Bills No.38 of 2021);  
and,  
(ix) The Inter-governmental Relations (Amendment) Bill, (Senate Bills No. 37 of 2021).

Hon. Senators, in accordance with Standing Order No.30 (5), I wish to remind you that all the business specified in the *Gazette Notice*, and as outlined in the Order Paper, shall be the only business before the Senate during the special sittings, following which the Senate shall stand adjourned until Tuesday, 8<sup>th</sup> February, 2022 at 2:30 p.m.

I thank you.  
Next Order.

### MESSAGE FROM THE NATIONAL ASSEMBLY

#### PASSAGE OF THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.56 OF 2021)

**The Speaker** (Hon. Lusaka): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.41 (3) and (4) of the Senate, I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Political Parties(Amendment) Bill (National Assembly Bills No.56 of 2021).

The Message, which is dated Thursday, 3<sup>rd</sup> December, 2021, was received on Friday, 7<sup>th</sup> January, 2022, while the Senate was on recess and was transmitted to all Senators on the same day pursuant to Standing Order No.41(5).

Pursuant to the said Standing Order, I now report the Message –  
“PURSUANT to the provisions of Standing Orders Nos.41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Political Parties (Amendment) Bill (National Assembly Bills No.56 of 2021) was published vide Kenya Gazette Supplement No.219 of 26<sup>th</sup> November, 2021 as a Bill concerning county governments seeking to amend the Political Parties Act (No.11 of 2011);

AND WHEREAS, the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021) was passed by the National Assembly on Wednesday, 5<sup>th</sup> January 2022 with amendments in the form attached hereto;

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

Hon. Senators, Standing Order No.157 requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill

introduced in the Senate by way of First Reading in accordance with Standing Order No.139.

Hon. Senators, as you may have noted, the Bill is listed for First Reading in today's Order Paper and consequently, at the appropriate time, the Clerk will proceed and read the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021), a first time.

I thank you.

Let us move on to the next Order.

## BILL

### *First Reading*

THE POLITICAL PARTIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO.56 OF 2021)

*(Order for First Reading read- Read the First Time  
and ordered to be referred to the Committee  
on Justice, Legal Affairs and Human Rights)*

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Murkomen?

**Sen. Murkomen:** Thank you, Mr. Speaker Sir. First, I would like to join you in welcoming us here and say happy new year to you and to all of us. I wish you a happy and important 2022. We all know why it is important.

Secondly, Mr. Speaker, Sir, is on the Political Parties (Amendment) Bill. I just wanted your assurance. I know this is just the First Reading and there is no debate until the Second Reading. The Bill will also be committed to the relevant committee.

I want to assure you that because of the importance of this Bill, Kenyans will be given an opportunity to participate through public participation. It will not be a guided or rushed one, but a robust and well-publicized public participation that will give an opportunity to all Kenyans.

Considering what happened in the National Assembly, the Republic is waiting because the National Assembly did not give an opportunity for debate of the issues. Kenyans are still wondering why these people are bickering over this Bill.

I hope that the public participation process will be thorough and Kenyans will be given an opportunity. When we come back here, we will have debate that will give confidence to the people of Kenya that truly, this is the "Upper House."

Mr. Speaker, Sir, I just wanted that general assurance. I also take advantage of this opportunity to wish everybody a happy new year.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Orengo.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I also want---

*(Sen. Murkomen spoke off record)*

**The Speaker** (Hon. Lusaka): Order, Sen. Murkomen.

**The Senate Minority Leader** (Sen. Orenge): Mr. Speaker, Sir, first, let me wish everybody a happy new year and hope that for the rest of the tenure of this Senate, we will deliver in accordance to our mandate and the Constitution.

I thank the Senator for Elgeyo-Marakwet County. He should have noticed that all there is today for purposes of this Bill is to have it read for the first time. There is nothing on the Order Paper that shows that the Second Reading will come in the proceedings of this special sitting.

For the information of the Senator, I think the Senate Business Committee (SBC) in its consideration of this matter, emphasized the need to go through the entire constitutional and legal processes, including the directions in the Standing Orders.

On the question of public participation, I think every lawyer is aware that the courts have put a high premium on the question of public participation. Maybe this point should have been brought out by the Senate Majority Leader, but I have been party to the deliberations partly chaired by you, Mr. Speaker, Sir.

Mr. Speaker, Sir, since you may not be able to speak on a matter that may attract debate, under your leadership, there was direction that this Bill be discussed comprehensively, thoroughly and robustly. That is the way the Senate should go. As to the decision at the end, that is left to the House sitting in plenary or otherwise. So, there should be no doubt about that.

I thank you.

**Sen. Wambua:** Mr. Speaker, Sir, I also join you in wishing my colleagues and yourself a happy new year, 2022. As we commence the final leg of this session of the Senate, I hope that we will engage in a manner that instills confidence among the Kenyan population.

On this Bill, it is true that it has been read the first time. At times talk is cheap. Many a time, we refer to ourselves as the “Upper House.” An opportunity has presented itself to us, through this Bill, that we must demonstrate to this country that indeed we are the “Upper House”.

We should follow due process when that time comes. There should be public participation and sufficient time for people to ventilate on this Bill. How I wish and pray that each Senator who will get an opportunity to contribute to this Bill will demonstrate to this country and the world that, indeed, the Senate is the “Upper House.”

I thank you.

**Sen. Cherargei:** Mr. Speaker, Sir, I equally wish my colleagues a happy new year and all the best.

Secondly, I agree with everybody that it is important that we rise above what we saw happening in the National Assembly by ensuring that we follow the provisions of the Constitution and ensure that all Kenyans have an opportunity of interacting with the Bill. We know that under Article 118 of the Constitution, one of the key processes of legislation is to ensure public participation.

I thank the Senate Minority Leader for assuring us that the SBC met and that this Bill shall go through the full life that is required in the legislative process.

I hope that by the time we come for a special sitting or when the House session begins, the Committee on Justice, Legal Affairs and Human Rights will ensure that we get the Committee report early enough before having a robust debate on the Floor of the House, because the Committee is part of the Senate. We would really want to look at the report.

The Committee on Justice, Legal Affairs and Human Rights made us proud when they did a report on the Building Bridges Initiative (BBI) before it came to the House. I hope the report will be ready in time, so that our colleagues interact with it and ensure we participate properly.

I hope this House will not be a conveyor belt. We should comb through the entire amendment Bill and ensure that we give Kenyans an opportunity. I also hope colleagues who will have amendments, like some of us, will have an opportunity at the Committee of the Whole to give their input.

Mr. Speaker, Sir, I hope to see this through. Let us give Kenyans what is legal and constitutional because everybody is watching the Senate. I hope we will rise beyond our political interests and give Kenyans the best.

I thank you.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, I also join my colleagues to wish you and the entire House a happy new year. Indeed, I hope it is going to be a happy new year. I hope many of our colleagues will be back in this House before the year closes.

On the point of order raised by Sen. Murkomen, he is probably not just seeking your assurance to the House, but the assurance of this House to the nation, that we are going to rise to the occasion and live to the expectations and that we will surely be the "Upper House."

History is there. It shows that whenever there is a crisis in this nation, this House has always risen to the occasion. In the previous Parliament, around the same time, we were debating the Elections (Amendment) Bill. You will recall that there was a lot of acrimony that accompanied the consideration of that Bill in the other House and outside there.

At that time, I recall it was Sen. Orengo and the now Governor of Meru County, Hon. Kiraitu Murungi, who led a bipartisan team that included Sen. Murkomen and Sen. Mutula Kilonzo Jnr. This House has risen to the occasion in the past. There is no reason it should not do so this time around.

Mr. Speaker Sir, another example is the BBI debate. We are proud that this House has a Committee on Justice, Legal Affairs and Human Rights, chaired by the Senator for Nyamira County. This Committee told this House – especially people like Sen. M. Kajwang' here – things that we did not want to hear. They told us that some things were unconstitutional and we told them that this is not a court of law, but a political contest. They were vindicated by the courts of law.

I encourage the Committee on Justice, Legal Affairs and Human Rights to speak and tell this House the truth, but let us make the decisions because ultimately, this House makes political decisions.

As I finalize, I take note that because of the Christmas break, you gave directions that committees should be suspended to give some time for the clerks, secretariat and

Senators to reconnect with the electorate. However, I beg your indulgence. As we speak, the people that I represent – the people who live on the islands of Lake Victoria – are suffering because the national Government banned the operations of the private ferry service provider that plies Mfangano, Takawiri islands and Luanda K’otieno in Sen. Orenegos’ County. This is causing untold suffering.

Mr. Speaker, Sir, I do not know how to deal with this matter since the Committee on Roads and Transportation is currently on holiday. I just want to beg your indulgence, that you allow this Committee a window of a week or two to call the Cabinet Secretary (CS) for Transport and Infrastructure, Mr. James Macharia. To the people of the islands, a ferry is infrastructure. In every other part of this country, it is the Government that has provided infrastructure, but to the people of the islands, it is private players who are providing infrastructure.

There is no other example of marginalisation than the fact that the people of the islands of Lake Victoria have to pay a lot of money from their pockets to get infrastructure that is fully provided to other parts of the country.

As I finalise, that particular matter where the Kenya Maritime Authority (KMA) has banned the operations of that ferry, this has also compromised the development of school infrastructure. We know that with the Competency Based Curriculum (CBC), we need to be building schools and classrooms for junior secondary schools. Almost seven secondary schools in Mfangano Island cannot get cement and other supplies because the people of the islands get everything from the mainland.

I have seen the Chairperson of the Committee on Roads and Transportation, the very able Senator and incoming Governor of Kiambu County, Sen. Wamatangi, is here. If later on, even in your chambers, you could give the orders that the Committee on Roads and Transportation be seized of this matter immediately, call the CS for Transport and Infrastructure, so that the people of the islands of Lake Victoria can also be served with infrastructure just like other people in the Republic of Kenya.

**The Speaker** (Hon. Lusaka): Sen. Halake, proceed.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I rise to join you in wishing my colleagues a happy new year.

As I sat here listening to my colleagues, everybody hopes that the Political Parties (Amendment) Bill (National Assembly Bill No.56 of 2021) gets the due diligence it deserves and that we do the right thing with it. However, I think we should not be hoping, we should be reassuring this country that as Senators, we will do what we do best.

In the Building Bridges Initiative (BBI) process, we did the right thing. If that is the case, what is different with this Political Parties (Amendment) Bill? On my part, I am not going to hope that due process is followed or that we will do the right thing. I am going to reassure Kenyans that from where I sit, this House will do the right thing. This is because if each of us decides and commits to do the right thing, there is no reason to hope but to just do it.

From where I sit, I would like to reassure the people of Isiolo County, this country as well as my party, the Kenya National African Union (KANU), that I will do the right thing. The Political Parties (Amendment) Bill will get the accountability it needs and the

due diligence it requires through public participation that is constitutionally mandated, and that this House will do the right thing.

Looking at the Order Paper today, we have several Bills. This Bill, while a very important topic at this time of elections, is not any different from all the other laws this House makes for this country. This House has been making laws to the best of its ability with every constitutional requirement ticked off on the box. Therefore, to insinuate or to say that this Bill should be done this or that way and yet there are so many other Bills which we are not mentioning, is to apply double standards to certain legislative procedures just because this touches us, as legislators.

I do not want to belabour this, but I would like to reassure Kenyans that anything that this House does, we will follow due process as per the Constitution of our country. I would also like to reassure ourselves that we are not hoping; we are going to do what is constitutional and right. We will do what will give Kenyans the confidence that this is indeed an “Upper House”.

Mr. Speaker, Sir, I submit and I look forward to working on this and doing the right thing with it.

**The Speaker** (Hon. Lusaka): Sen. Wetangula, proceed. If you keep them short, you will give an opportunity to many more people.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I join you in wishing all colleagues a happy new year. Allow me to make very brief comments on this issue before the House.

Mr. Speaker, Sir, I think you are a very lucky Speaker because there is no time you have ever wished to come to your Chair with a helmet.

*(Laughter)*

It is because this is a House where we talk, debate, agree and disagree, but with dignity and respect that this House carries.

Seeing what we saw in the “Lower House” as this Bill was being debated, it made some of us chill because there is no single Member that is legislating for himself, his party or region. We are legislating for the country and every Bill we pass must be one that makes this country a better place to do our politics and to do anything that we need to do within the law.

As we start the process of this Bill, I appeal that one, we are not in a dash. There is no truncating of the process, so that due process, including public participation, is undertaken. Public participation must be real so that Kenyans can also ventilate as is required under the Constitution on what they think of the content of the Bill and that Members of this House will debate it freely, fairly and pass a law for posterity not for short-term fixes.

As I finish, Mr. Speaker, Sir, I urge that we live to what we have always said. This is a House of reason; a House of senior members of our society that see any disagreement on matters of principle as a discourse in debate and not as an affront to each other.

I was appalled to see in the National Assembly, a Member of Parliament (MP) beckoning another to come closer to him and then physically very viciously assaulted him as if they were at war. In the scenes we saw, televisions were juxtaposing violent scenes in the Kenyan Parliament and violent scenes in notoriously violent parliaments of Korea, Italy and Somalia. It is a shame that we can reduce ourselves to that level.

I salute the distinguished nominated Senator from Ruiru. I remember when one time I said something that offended him, he became very livid. Later, he followed me and said; “Look, I realised that being livid on the Floor of the Senate does not help anybody because nobody was interested in my rage.” There is a colleague here who has told of how in the National Assembly, he used to be notorious for grabbing the mace. He came here and one time, he contemplated that, but he saw that nobody was interested in that kind of behavior.

*(Laughter)*

This House must live to this level of dignity and give the country a law that it is waiting for. I congratulate every Senator for shedding off some of their ugly past and remain distinguished Senators of this House of Parliament.

**The Speaker** (Hon. Lusaka): Sen. Wamatangi, proceed.

**Sen. Wamatangi:** Mr. Speaker, Sir, happy new year to you and all my colleagues. I take the opportunity to wish my colleagues a very prosperous and happy 2022. Since it is going to be a short one, I believe that we will make the most it and get the best value out of it for the few months that we are going to be here.

I happen to have come across a schedule that was done by the Chairperson of JLAC, somewhere in the sharing that we did. The question as to whether this House intends to give the full breadth and length of time and indulgence to members of the public for them to ventilate, to bring their views and their memoranda to this House on this Bill is fully discharged by the schedule. I personally saw that has been prepared by the Committee and Chairperson of JLAC. I saw in that schedule, that this extends all the way from the 13<sup>th</sup> January, 2022 to 25<sup>th</sup> January, 2022 when the Committee intends to lay the report here. Any member of public, Member of this House or any interest group can take advantage of that time and bring their views here.

Mr. Speaker, Sir, on the other hand, I have had an opportunity to discuss with many members of the public who have been curious as to what has been happening about this Bill. Part of the big question that has been in the minds of Kenyans is why were people are fighting. If you ask members of the public if they understand why people were fighting, very few people understand what the real reasons were. As you know when such drama is created around a piece of the legislation that is before the House, members of the public get anxious. Unfortunately, this time that anxiety could not be justified, by reasons that would make members of the public follow.

The reason I say this is because members of the public are now happy that this Bill is before the Senate because when it comes here, they have an opportunity to contextualize and understand what the real issues are. This is because if there is one thing that is clear to everybody in this country, it is that this House has discharged itself in the

manner that we conduct our business such that when that kind of law comes here people are able to understand what it is all about.

A few days ago the Majority Leader in the National Assembly was on national TV and he was answering questions from one of the news anchors. He was asked: "From here what happens to the Bill"? I was amazed because he made a comment and said: "We have now finished with the Bill, but unfortunately it is going to the Senate". I was aching to get an opportunity to understand from the Majority Leader in the National Assembly why he thinks it is unfortunate that the Bill is coming to the Senate. I would only imagine that he made that comment out context or probably it was a slip of the tongue because when the Bill comes here then we are sure that it will get justice.

Mr. Speaker, Sir, as I wind up I urge my colleagues that during this debate--- I hope that towards the end of the tenure of this House, as the Speaker of this House, just like the other arms of Government do, there will be an exit report that will show members of the public what business we have transacted. I believe that when you get to write your memoirs on the kind of House you presided over, you will indicate that this has been a sober House.

The record of the Serjeant-at-Arms in this House is clear that he has never had to deploy anyone to come here to stop any Member of this House from misbehaving or engaging in violent activities.

Lastly, I have heard the Senator for Homa Bay County, my good friend, Sen. M. Kajwang. Sen. M. Kajwang', before we used to be on opposite sides of the political divide. I am glad that some of the discussions that we had--- You remember when we were going to the elections in 2017, we could have maybe have been the few who were on record here because we had imagined that one time if we wrestled here and we were seen carrying the Mace---

**The Speaker** (Hon. Lusaka): Order, speak through the Chair.

**Sen. Wamatangi:** Mr. Speaker, Sir, certainly. I was saying Sen. M. Kajwang' and I probably would have been the ones who would have been on record here because there was a time we were on the opposite sides of the political divide. As we ran for the elections in 2017, there was a time we thought that we would do a bit of wrestling here and take the Mace and members of the public from both sides of where we come from would vote us in, but that never came to be. We are looking at things in a different way and I am happy that it is that way.

Sen. M. Kajwang' I have heard you on what you said is happening in Homa Bay and Siaya counties. Every time when such an issue comes up, I have risen to the occasion. Unfortunately, sometimes when I have done so either in my capacity as the Chairperson of the Committee on Roads and Transportation or in my private capacity as a businessman, sometimes I get let down.

I want to rope in Sen. Orengo, the Senator for Siaya County, because when I was called to take action when disaster struck in Siaya when a few people were buried in a mine, I moved and swung into action urgently by deploying equipment to come and help excavate. I am the one who deployed the excavators that you saw doing the work there, but today, Sen. Orengo, I am struggling to get the attention of your county government to

settle dues for people and equipment that we deployed to do that work for 21 days running.

These are some of the things that probably we should look at; how are our county governments working? If you find, for example, that human beings who are in a county like that get buried in a pit and because they do not have emergency measures, you deploy equipment privately so that you can save lives, but at the end of that it becomes a struggle that nobody can even listen to you when you saved lives--- I want to be on record so that Sen. Orenge can take up this issue when he goes to Siaya because it is my people who were the first responders to that disaster, but now they queue there to get attention.

**The Speaker** (Hon. Lusaka): Okay, keep it short.

**Sen. Wamatangi**: Sen. M. Kajwang, through the Speaker, I want to assure you that action will be taken by my Committee.

**The Speaker** (Hon. Lusaka): There is a point of order from Sen. Orenge.

**The Senate Minority Leader** (Sen. Orenge): Mr. Speaker, Sir, we must not let this debate drag into other issues. Sen. Wamatangi is bringing a point, which may attract debate. If he has done business in Siaya County and he has not been paid, and he is seeking help from me, he should come to my office and we---I know you and money.

*(Laughter)*

I know that the central issue may not be life; it might be money and that we can settle in my office.

Mr. Speaker, Sir, let not this debate derail into other things since it is a special sitting. Probably since we are working on the basis that there are doubts whether or not we are going to comply with the Constitution and the Standing Orders, maybe you should make it clear at this stage that the Bill stands committed to the Committee on Justice, Legal Affairs and Human Rights. Senators can continue to comment, but if it comes from the Speaker that indeed we are going to comply with the Standing Orders, the Constitution and decorum will be observed, then probably Members will talk less or if they talk, they do so with the knowledge that nobody is going to short-change anybody.

Sen. Wamatangi, you know I have acted on your behalf before. If you want to give me instructions, I can advise you on how to go about it.

**The Speaker** (Hon. Lusaka): Sen. Wamatangi, please wind up because I want to make a ruling on this.

**Sen. Wamatangi**: Mr. Speaker, Sir, I thank Sen. Orenge and inform him that I was not giving him instructions. I was bringing to your attention some of the things that you may want to take up so that the County Government of Siaya may serve the people of Siaya effectively.

Mr. Speaker, Sir, I wind up by assuring Sen. M. Kajwang' and hope that you intervene on his request because it is a matter of importance to the people of Homa Bay and that region, so that they are able to move. There will be quick action by my Committee to ensure that the services desired by the people in that county are rendered.

Sen. Orengo, we can have a discussion later, but in the meantime, let the County Government of Siaya also serve the people. I know you are a good man in intervening. Please, intervene so that the work can be done.

Thank, Mr. Speaker, Sir.

**The Speaker** (Mr. Lusaka): Hon. Senators, today is just a First Reading. So I will just allow the Majority Leader and one other Member.

The Commissioner came in late.

Sen. Poghio, proceed.

**The Senate Majority Leader** (Sen. Poghio): Thank you, Mr. Speaker, Sir. Let me begin by saying happy new year to you and my colleagues.

I would like to join everyone in welcoming everybody back because of this special sitting. I hope that this opportunity of fellowship will be used again to renew acquaintances and renew our fellowship together.

We are here to do more than just the Political Parties (Amendment) Bill. The amendment Bill is just one of the things we are here to do. We have lined up a number of other businesses and Bills. The Committee of the Whole House is also lined up. Let me encourage Members that within the time of the special sittings that have been called, let us maximize and do our best.

We have already received assurances from Members who have spoken before me. They have all assured us that this will be a House of reason and that nothing will go wrong. The entertainment we got in the other House was sufficient to mar the name of the Parliament, but we can redeem that using this House. We will use the opportunity here to redeem that so that wananchi in Kenya can see that there is big difference between this House and the other.

I will not go into the details of how things will be done, but the Committee that is responsible will help us with the next special sitting. As soon as we know that the Committee is ready and has submitted the report, we should then call a special sitting so that we can continue with the rest of the activities to bring this Bill to its conclusion.

Sometimes I hear people saying that we are not a conveyer belt, but sincerely we are. I mean, all Houses are conveyer belts. You are just moving the Bill from one House to the other then to somebody else because the final signature is not ours. So, basically we are a conveyer belt and there is nothing wrong with being a conveyer belt. However, let us do it within reason. Let us do it with confidence that we have exhausted every reason and step that we need to do.

Mr. Speaker, Sir, I am sure that we will come to that agreement and you can continue with the ruling. I want to thank all Members and wish everybody a good year. Of course it is a good year because it is the year when we all look forward to elections. Good health to everybody and may God bless you.

**The Speaker** (Hon. Lusaka): I wanted to give an opportunity to the Chairperson so that then I make a ruling.

Sen. Omogeni, proceed.

**Sen. Omogeni**: Thank you Mr. Speaker, Sir. First I want to join you in wishing all other Senators a happy new year, 2022.

*(Loud Consultations)*

Mr. Speaker, Sir, there are loud consultations on my right.

**The Speaker** (Hon. Lusaka): There is a point of order from Sen. Nyamunga.

**Sen. Nyamunga:** Thank you, Mr. Speaker, Sir, for allowing me to make a point of order. I think we are coming to this House for the first time this year and I can see several ladies seated in this House, including myself. The way business is being conducted, I think there is bias in this House. Right now, we are going for elections and even the two-thirds gender rule has not been sorted out. I do not know what will happen

**The Speaker** (Hon. Lusaka): Order, Members. Yes, Sen. Murkomen.

**Sen. Murkomen:** Mr. Speaker, Sir, is it in order for Sen. Nyamunga who is a member of the Speaker's Panel and who is charged with the responsibility of dispensing business in this House, to accuse you publicly that the business you are running from the chair is gender biased and that you do not like women when the reality is that you have two Members of the Senate here who are ladies, who are members of your panel? The reality is that Sen. Nyamunga arrived in this House way after Sen. (Dr.) Ochillo-Ayacko. I have spoken on this very important matter. Is that in order? In fact, to make it worse, the immediate business after this will be prosecuted by a lady in so far as the Bill on KEMSA is concerned. Is it in order?

**The Speaker** (Hon. Lusaka): Order. As I sit here as the Speaker, I can also see who has keyed in. For example, Sen. Nyamunga before you, there is Sen. Kinyua, Sen. Waqo, Sen. (Dr.) Zani, Sen. Madzayo, Sen. Haji, then yourself. I do not see where gender biasness comes in. I have tried my level best to balance out and I know we have been on recess and Members are looking forward to talk. You have not been talking and so you are looking for an opportunity to talk when the time comes in a substantive manner. So just let the Chairperson finish so that I can make some comments.

Sen. Omogeni, move on.

**Sen. Omogeni** Thank you, Mr. Speaker, Sir. Before that interruption, I was joining you and other Senators in wishing other Senators a happy and very successful 2022.

I want to agree with the sentiments that have been expressed by the Minority Leader, Sen. Orengo, and also the point that was raised by the Senator for Elgeyo-Marakwet County, Sen. Murkomen. We should show Kenyans that we respect the supremacy of the Constitution and that we will give Kenyans a humble opportunity to engage with the Senate in qualitative and meaningful public participation.

I want to assure the Senate that the Committee that I chair, and which has proudly other senior counsel and other able Members, will give the people of Kenya opportunity to present their views before my Committee before we table our report before the House.

We must learn from jurisprudence that has come from our courts of law and everyone knows that if you go through a legislative process that does not accord Kenyans an opportunity to have a meaningful public participation, then you are setting such a law for failure.

So let us do the right thing. Let us not proceed in haste. Let us give those who support this Bill an opportunity to appear before us and say why they support it. Those who oppose it should also get an opportunity to appear before us and present their views.

Finally, Mr. Speaker, Sir, a decision on whether to pass or not to pass this Bill should be made on the Floor of this House. I have no doubt that this Senate will continue with the tradition that I have seen for the four years that I have been here, which is to allow Senators to debate on issues and not to reduce this House into a boxing arena; what we saw in the other House. At the end of the day, the Minority should have their say and the majority their way through proper voting on the Floor of this House.

I want to assure this House that given an opportunity, we will send out invitation to stakeholders to present their memoranda before the Committee. We will give an opportunity to those who may want to appear before this Committee to---

**The Speaker** (Hon. Lusaka): There is a point of order, Sen. (Dr.) Zani.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I just want to raise a point of order with regard to how the Chairperson of the Committee on Justice, Legal Affairs and Human Rights is speaking. Earlier, I hoped to speak. I wanted to point out that we have eight Bills, many of which had been on the Order Paper.

We have a situation where we need to seek concurrence with the other House and we also have the time factor. Most of these Bills have been dispensed with very meticulously in this House, with a lot of discussion, input and research. It is important for us to come up with a strategy, through your office or the office of the Clerk, which will liaise and find a way of pushing these Bills to become Acts. Later on, we will be given the data of how many Bills we have from the Senate and the National Assembly respectively. I am speaking now because I thought it is important for us to seize the moment. Even as we deal with this Bill, we can also deal with the other Bills and just be conscious about time. We know it is a political year, which is short.

Thank you Mr. Speaker Sir.

**The Speaker** (Hon. Lusaka): Thank you very much.

Sen. Omogeni, proceed.

**Sen. Omogeni:** Mr. Speaker Sir, let me not take a lot of time on this. I therefore want to conclude by asking members of the public and stakeholders that once this process is opened up for Kenyans to give their views, please feel free to engage with the Senate, my Committee, present your views and you will be accorded an opportunity to be heard. The Committee that I Chair will finally prepare a report to this House and allow Senators to debate and make the final decision on the fate of this Bill.

Thank you Mr. Speaker Sir.

**The Speaker** (Hon. Lusaka): Order, Senators. Take your seat Senator.

Hon. Senators, the point of order that was raised by Sen. Murkomen is an important one. Hon. Senators essentially recognize that the Political Parties (Amendment) Bill (National Assembly Bills No.56 of 2021) has been read the First Time today. As we all know, this is neither a debating nor a voting stage for a Bill. Sen. Murkomen sought the assurance of the Speaker to Senators and the whole country that due process, including public participation, will be observed in the disposal of this Bill.

Hon. Senators, virtually all other Senators who have spoken to the matter have sought the same assurance. Those who have spoken to the matter include the Minority Leader, Sen. Orengo, Sen. Wambua, Sen. M. Kajwang', Sen. Cherargei, Sen. Halake, Sen. Wamatangi, Sen. Wetangula, Sen. Poghisi and lastly, Sen. Omogeni.

Hon. Senators, I would like to echo the words of Sen. Orengo, the Minority Leader on this matter; that the Constitution and the Standing Orders are very clear. The courts have also ruled on this matter. There is also precedence and practices, which guide this Senate. I would like to assure this House that there is no intention to depart from the Constitution, the laws and the Standing Orders. The Senate and the country can be assured of this.

Hon. Senators, for now, I urge you to note that pursuant to Standing Order No.141, this Bill having been read a first time, stands committed to the relevant committee in this case, the Justice, Legal Affairs and Human Rights Committee for processing in the usual manner.

*(The Bill was committed to the Standing Committee on Justice,  
Legal Affairs and Human Rights)*

Next Order.

## BILL

### *Second Reading*

THE KENYA MEDICAL SUPPLIES AUTHORITY  
(AMENDMENT) BILL (SENATE BILLS  
No.53 OF 2021)

**The Speaker** (Hon. Lusaka): Sen. Shiyonga, this is now your time to shine. You were looking forward to it.

**Sen. Shiyonga:** Thank you, Mr. Speaker Sir. I want to wish everyone a happy new year, including other Kenyans who are watching the Senate proceedings right now.

Pursuant to the provisions of Standing Order No.41(1) of the Senate, I beg to move that the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No.53 of 2021) be read a Second Time.

Mr. Speaker Sir, with this Bill, there are a few amendments that I proposed as an individual. During my time in the Committee on Health, whenever officials of the county assemblies or the county governments appeared before the Committee, they used to have a problem and they used to complain when it comes to the fill rate of the Kenya Medical Supplies Authority (KEMSA).

As we stand now, there is a problem in the counties when it comes to KEMSA. The KEMSA is not able to meet all the demands of the supplies and the requests that the counties place before it as an authority that is mandated to supply drugs and medical supplies that are supposed to assist the facilities when it comes to our patients.

We were informed, as the Committee, that the Authority has never been able to meet the requests. As a result, the counties are forced to supplement supplies through other sources, including the Mission for the Essential Drugs and Supplies (MEDS).

We can recall that in 2019, the National Assembly passed the Health (Amendment) Bill without the concurrence of the Senate. The amendments were then proposed to favor the KEMSA Act, that is now law.

As a Senate, we look into matters health since this is a devolved function. My amendments are in Section 4 whereby we seek to repeal a section of the Kenya Medical Supplies Authority Act. Counties are getting it difficult because of this. They have made it mandatory that if any county procures drugs and medical supplies from any institution other than the KEMSA, there is a penalty. It also provides a penalty of a fine not exceeding Kshs2 million, which is really not something that we can encourage in Kenya today.

This provision has been a source of anguish for the counties which have fallen short of the drugs and the medical supplies. With COVID-19 right now, we have seen it a problem when it comes to the increased demand from the patients. This is especially when we were at the peak of the pandemic when the country rushed through KEMSA to procure more drugs so that they could meet the demands. This resulted in corruption because KEMSA had to look for alternative supplies. The tax payers' money was utilized in a way that we could not understand the systems that were put in place and we still had problems. We had the cases in court. Even right now, we have the so-called the COVID-19 millionaires.

My amendments are very easy. They are just to give the county governments authority so that they can procure drugs at their own time and based on demand. When it comes to the standards of the drugs that will be procured by these counties, I know that we have the Kenya Bureau of Standards (KeBS) that takes care of the standards and the quality of the drugs that are supposed to be procured in the country.

I urge that these proposed amendments be passed so that they can put the counties in a state where they are able to have data for most of the patients that visit various facilities. They know the diseases and conditions affecting patients from various counties. They will be in a better position to procure drugs and medical supplies without necessarily going through KEMSA to give them directions.

In Kenya, KEMSA has regional supplies centres where we have what we call the push system. Mr. Speaker, Sir, you have been a governor. You experienced many problems when it came to purchasing these drugs because the KEMSA Bill bypassed the Senate. We were not given an opportunity to look at this particular Bill before it was assented to. There was no concurrence from the Senate.

I urge that even as Members contribute to this Bill, that we approve it so that counties are allowed to procure the drugs and medical supplies without any constraints or the bureaucracy that we are seeing at KEMSA. Counties should be free to procure without spending a lot of taxpayer's money and enriching a few people in Kenya.

Mr. Speaker, Sir, when most counties appear before the committees, and especially the Committee on Health, most of the statements that eventually come before the House are about the supply and shortage of drugs, and provision of equipment. My

proposal and prayer is that we repeal the section that constraints counties from equipping their facilities. They are the ones with these facilities, see these patients, have the data and know when they lack equipment.

Mr. Speaker, Sir, when we look at health as a devolved function, let us also look into the push system that is applied by KEMSA whereby when the drugs are procured, most of these drugs are given to the county governments or county facilities through a push system when they are just about to expire. They do very little to enable the patients get the certified services that they require. When KEMSA realise that these medicines or products are just about to expire, this is when they are pushed to the facilities.

**The Speaker** (Hon. Lusaka): There is a point of order from Sen. Kinyua.

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. I am not getting what the distinguished Senator is talking about the push system. I thought when the medicine is taken to the counties, it is through what they have procured. What she is saying is that when the drugs are just about to expire, they are taken to the counties without their request. I am not getting that, maybe she can clarify.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Distinguished Senator, clarify that.

**Sen. Shiyonga:** Mr. Speaker, Sir, what I am saying here is that the push system that is put in place by KEMSA and the bureaucracy that is there delays the process. Yes, the counties are required to request for the drugs or the products they want. However, most of these products are given to the facilities, but the system that is in KEMSA delays the whole process. Hence it makes it cumbersome for the county governments to facilitate their patients or what is required at the county level through their facilities, to make sure that the patients are treated and attended to at the right time.

You are in the pharmaceutical professional. You know when you request for a product, it is supposed to be utilized immediately because we are dealing with patients and most of them are emergency cases. I am talking about the whole procurement process; it is cumbersome and slow. By the time the medicines reach the clients, it is late. The procurement system delays the process.

So, what we are proposing here is that we are standing with KEMSA. We want to complement KEMSA that, let the county governments be in a position to procure their own drugs without tying many strings to it. This is such that they do not have to request KEMSA to do everything for them. We are just trying to facilitate because this is a function of the county governments. They should not tie it to one central area where when there is an emergency, the procurement process is delayed.

Mr. Speaker, Sir, when such a law comes into place, let us allow the Senate to digest it especially when the function is a devolved one. The ability of the Authority to make these requests has really jeopardised the right to health under Article 43 of the Constitution. Everyone has a right to health. The position that KEMSA has put the Kenyan people in has really compromised nearly everything. Everything is delayed and people are not able to get services.

As I alluded earlier, we have looked at what has happened during the COVID-19 pandemic. Corruption has been rampant. We came here and came up with Bills and amendments, but when you look at what KEMSA did, it was just turning a few people

into millionaires. They were hurrying up a system that was supposed to assist Kenyans. As a result of the increased demand that the country was supposed to deal with, we had corruption.

The amendment that I am putting across is important. If we support this, counties will be relieved of the responsibility of going through KEMSA as one central area or control system that will compromise the process through the delay and the refill system that we are experiencing.

Mr. Speaker, Sir, with those few remarks, and with the few amendments that I have put across, I take this opportunity to request Sen. (Dr.) Musuruve to second the Kenya Medical Supplies Authority (Amendment) Bill, 2021.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Shiyonga, move the Bill.

**Sen. Shiyonga:** Mr. Speaker, Sir, I take this opportunity to move that the Bill be now read a Second Time. I ask Sen. (Dr.) Musuruve to second the Bill.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for this opportunity. Allow me to first wish you, together with my fellow Senators, a happy new year.

Mr. Speaker, Sir, I thank Sen. Shiyonga for coming up with this Bill. She was hawk eyed because it is an amendment that is crucial. It is unfortunate it is an oversight that was not seen earlier on.

What Sen. Shiyonga has brought on the Floor of this House is a Bill that we cannot ignore. This is a Bill that involves county governments. Our business as the Senate is to support and ensure that the interests of county governments are covered. It is our business to protect the interests of county governments and health is an important function.

What the Senator is proposing is very good, that procurement of drugs should not be about one body taking the monopoly. I support her simply because I know very well that when one body is designated with the authority to procure drugs in the whole of Kenya, there will be delay of drugs reaching the counties and drugs expiring in the process of being procured.

Mr. Speaker, Sir, it is very encouraging that KEMSA should be involved. In fact, counties should be encouraged to procure from KEMSA, but it should not be an obligatory requirement. There is need to allow healthy competition. It is then that manufacturers look for quality products and ensure the economy of scales. When the economy of scale is there then the drugs are friendly in terms of prices and quality. It is something that is very clear that when you go to many county hospitals you will find that there is an issue of drugs. At Lumakanda Hospital, which is a referral hospital, it is unfortunate that there are no drugs there. Patients were being referred elsewhere to procure drugs.

When it comes to health, the Government should not compromise the lives of Kenyans. Kenya is one of the signatory states and a state party that signed the health requirements internationally. They are meant to ensure that 15 percent of monies go to counties for purposes funding health. If 15 percent of the national money is going to counties, then the counties should be given authority to ensure they look for quality drugs

and competitive agencies to supply the drugs. There is only one organization in the name of KEMSA supplying drugs. There is a danger of people being corruptible. The system will not be structured to ensure that those procuring are safeguarded. There is going to be malpractice if only one organization is doing the procurement. Transparency and accountability will be comprised and this should not be the case. There is need for the Senate to ensure that there is transparency and accountability in the procurement of drugs. We need to allow other organizations to come up so that they improve on the quality of drugs they are providing to hospitals.

The Constitution is very clear that the health of Kenyans is a right.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Hon. Senators, lets consult in low tones.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, Article 43(1)(a) states this as follows-

“Every person has the right-

(a) to the highest standard of health which includes the right to health care services, including reproductive health care.”

When we are talking of the highest standard of attainable health, we are looking at drugs. There are many patients whose situation is dire simply because they go to hospitals and there are no drugs. I am looking at the common man. I am not looking at the Kenyan who can afford drugs or money to go to India, Europe and other places for treatment. I am looking at the Kenyan masses, the individuals who really require the drugs, but they cannot afford them.

The Government should just allow that competition. It is healthy because if there are many players in the field that are supplying drugs, then they will compete to ensure that there are able to meet the supply and demand of drugs.

At the moment, KEMSA is not able to meet the demands of supplying drugs to the entire nation. This is not a mean amendment, but one that is very crucial. The issue of getting permission from KEMSA to procure drugs elsewhere is already a loophole that will lead to corruption.

If you are to ask for permission in order to procure drugs, then even the KEMSA bosses will be corruptible. Somebody will go there with the intention of supplying drugs and will corrupt somebody in order to be given the letter to procure. I suggest and hope that my fellow Senators will support this Bill by Sen. Shiyonga. The amendment is important and will help quite a number of Kenyans. If we do not do that, drugs will not reach county governments.

As a Senate, we must ensure that we protect county governments. In so doing, we may protect the lives and health of Kenyans. There are millions of Kenyans in the counties. We must ensure that they are protected and that drugs are procured by anyone. For example, maybe KEMSA can just come in to ensure the right quality. If it comes in as a body that will ensure quality is not compromised, then that is okay. If it is coming in as a body that must obligatorily supply the drugs, then that is not really in good faith. Even, in business we must allow healthy competition and allow people to come up with

their products. From the various products then we will look at the most pocket friendly option and so on.

As I support this Bill, I call upon county executives to ensure that they are doing what they are supposed to do in terms of ensuring that they cater for health. It is unfortunate that when you go to many counties, you will find hospitals are compromised. Where I come from and am not shy to say this, hospitals are in a pathetic state. You will find many of the hospitals are not maintained. There is no water and vehicles such as ambulances. So, in the event of an emergency, it means that patients have to either travel to Eldoret or Kakamega. We need to ensure that service is delivered to the common mwananchi. That mwananchi in Lugari, Lumakanda, Kivaywa and Lwandeti must get the right service.

I have seen many people in Lwandeti suffering because of lack of medicine in hospitals. I have seen many people in Lumakanda going to hospital and being turned away and referred to go and buy drugs. That has also happened in Chevaiywa. I do not want to see people of Chevaiywa seeking to get medical attention, but not getting it.

**The Speaker** (Hon. Lusaka): Order, Senator! I hope you are not using this platform to campaign for your re-election.

*(Laughter)*

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I beg your indulgence. I was giving an empirical evidence of what I have seen. Just kindly allow me. When it comes to the issue of drugs provision, I call upon the county executives to ensure that all those small hospitals that are closer to wananchi are maintained and that there are drugs and personnel.

Some of these hospitals are not managing the National Hospital Insurance Fund (NHIF). When the money is paid, they cannot manage and it has to go back to the county executives. We must protect every Kenyan. We must ensure that that Kenyans in Baringo, Kitui, Lugari, Lumakanda, Lwandeti and anywhere else get services because their future lies in what we say as the Senate. We must say the right thing to ensure service delivery to the common man.

When mothers go to give birth, it is honourable to ensure that there are drugs. They should not end up dying simply because of lack of drugs and the right medics to take care of them. There are many mothers who give birth by the roadside. That should be a thing of the past.

Hospitals must have ambulances. Emergency treatment needs to be factored in. In many hospitals in Nairobi, if there is an emergency case, there is an emergency room where patients are attended to. Drugs are also there for emergency cases. However, when you go to most rural parts of Kenya, that is not the case. When you enter the gate, there is already a question mark. You can tell that no life can be saved. We must get out of the issue of not taking care of patients.

We need Kenyans who are healthy. For a healthy nation, we need everyone to be healthy. I would also like to have residents of Lugari who are healthy, so that they can participate in the development of this country.

Thank you, Mr. Speaker, Sir, for this opportunity that you have given me. As I second the Bill by Sen. Shiyonga, I hope it will see light at the end of the tunnel.

I beg to second.

**The Speaker** (Hon. Lusaka): I will now propose the question.

*(Question proposed)*

**Sen. Nyamunga:** Mr. Speaker, Sir, I rise to support this amendment Bill by Sen. Shiyonga.

I support this Bill because it is timely and important that this amendment is made. I believe it will pass in this House. I support because we know that health is a devolved function. Once you devolve a function, it is also important that you give it the authority that it requires for it to function properly.

Health is very critical for the development of any nation. If people are sick, there is nothing that can happen. Even economic development cannot take place. We cannot take one Authority, that is the KEMSA, to be in charge of drugs and all medical supplies because we know very well that KEMSA has a history. First, we know what happened in the leasing of equipment. A lot of equipment was taken to different counties, which they had not asked for. Some could not be housed and if they could, there was even no three-phase power to operate the machinery that was imported and given to counties without them asking for.

Some of the counties did not have the staff to manage the equipment. That has been a big problem. We have been talking about it for a long time, but we have never got any answers to that type of unilateral happening by just one authority. It is important to allow county governments to be in charge of every equipment or medical supplies that they need for the running of the counties.

The KEMSA also has a history in the way they handled the COVID-19 drugs and equipment. We all know that the country lost over Kshs6 billion. A lot of equipment was procured and is still lying at the KEMSA headquarters even right now. The amount of Kshs6 billion is a lot of money. If counties were allowed to import the equipment or the drugs directly, I do not think we would be suffering or the equipment and supplies would be lying in the store houses at this hour.

I, therefore, would like to support that county governments should be given the leeway. They should also be prepared. If health is devolved, let us devolve everything.

As to whether they will do it in a proper manner, that is another thing, but let it be devolved, so that the functions are managed by the county governments because they have doctors and procurement departments that can deal with medical supplies. However, they should only buy what they need.

Right now there is a lot of shortage in our dispensaries and hospitals in the county governments all over this country. We all know that Kenyans are suffering because of lack of equipment and drugs. The medical supplies take a lot of time. Sometimes there is also delay in releasing some of the items to the county governments.

Mr. Speaker, Sir, I support this amendment because it is timely and critical. We need to support our people and make sure that they are taken care of. When you go to the

hospital, you should get all the services that you need, be it X-ray or whatever it is. After treatment, you should also be given proper drugs. Even if you were to buy, let them be there. Let us not turn our sick people away because we do not have drugs.

I thank you.

**Sen. Halake:** Mr. Speaker, Sir, as I rise to support, I congratulate Sen. Shiyonga for this timely and well thought-out amendment Bill about the KEMSA.

As she has articulated, health is a devolved function and any legal or legislative framework that seeks to entrench devolution and ensure that services are taken to the frontline of service provision should be supported. So, I congratulate her for this thoughtful and well thought-out legislation.

Article 43(1) of the Constitution of our country guarantees every person the right to the highest attainable standards of health. There is no way we can give the highest attainable standards of health if we do not have drugs in our facilities and the requisite facilities close to the people, so to speak.

I hope that Sen. Shiyonga will consider that the requisite quality controls are put in place in cases where counties have to make bulk procurement directly without going through the KEMSA. This is because our counties are still young and their procurement processes may still be going through certain developmental and incremental strength in terms of capacity, timeliness, and human resource.

As we propose these amendments, I hope that the requisite quality controls will be put in place to ensure that we do not create undesired consequences by amending the KEMSA Act without putting the requisite controls in the counties to ensure that we do not have a situation where we have different quality of services, drugs and equipment in county hospitals.

That having been said, one of the things I like about this Bill is that it seeks to give autonomy to our counties to develop their prerequisite capacity to procure especially in the sectors that are devolved such as health.

Health services are delivered under Paragraph two of the Fourth Schedule of the Constitution and county governments are mandated to ensure delivery of health services under the county health systems in order to provide services that guarantee the highest attainable standards.

Again, quality is very important. I also hope the requisite bulk procurement controls have been put in place, so that if counties procure individually, then it will not cost the taxpayer a lot of money, because we will be talking of smaller quantities as opposed to bulk procurement that the KEMSA does.

Having said that, it does not mean that KEMSA is cheaper. As we all know, we have looked at certain KEMSA procurements that sometimes tend to be more expensive. Ideally, bulk procurement of health equipment and services should usually translate to better quality and cheaper cost for the taxpayer.

As we amend the provisions that require county governments to make sure that KEMSA is their first point of call, I hope that we ensure that quality and cost controls are also put in place. That way, we will not end up with very expensive and poor quality equipment that is inconsistent with the provisions of Article 43(1) of the Constitution, which says every Kenyan should get the highest standard of services.

Mr. Speaker, Sir, this Bill aligns very well with the functions of the county government in Article 110 of the Constitution. I am happy that as Senators, with our mandate under Article 96 of the Constitution, we continue to ensure that we entrench devolution and devolved functions. As we fight for resources for counties, one of the main drivers of making sure that resources are taken down to the grassroots in the counties is to make sure that functions are also devolved. This Bill does just that. It ensures that resources follow functions.

I do not want to say too much because it is a very straightforward amendment that I am sure will be supported by Hon. Members, since it entrenches devolution. It devolves functions, which should then attract resources. As the House that is mandated with protection of counties and their governments, we then have a better chance in ensuring that resources are devolved because functions have also been devolved.

Mr. Speaker, Sir, I support and I congratulate Sen. Shiyonga once more.

**The Speaker** (Hon. Lusaka): Sen. Kavindu Muthama, proceed.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity. I join my fellow Senators in congratulating Sen. Shiyonga for this timely Bill. First of all, I wish every one of you a happy new year.

Mr. Speaker, Sir, this is a very timely Bill because most hospitals in the counties have no medicine. When we enquire as part of oversight, most governors say that they have problems with KEMSA. So, if they are given the opportunity to even procure from elsewhere, they will have no excuse to lack medicine in hospitals. Medical equipment will not go to waste either. Since health is a devolved function, they should also be allowed to see where they can procure this medication.

Our citizens in the counties are really suffering. County hospitals have absolutely nothing. There is no medication, gloves, vaccines or X-ray services. You cannot even be tested for malaria or any disease. The claim is that KEMSA is having issues with counties. So, this Bill is very timely if it can solve the medicine problems that we have in counties.

Mr. Speaker, Sir, I support and pray that this Bill sees the light of day.

**The Speaker** (Hon. Lusaka): Sen. Farhiya Ali, proceed.

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

Mr. Speaker, Sir---

**Sen. Kinyua:** Hoja ya nidhamu, Bw. Spika!

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Kinyua?

**Sen. Kinyua:** Asante kwa kunipa fursa hii. Asubuhi tulipokuwa tukizungumza, nakumbuka Seneta kutoka Kaunti ya Kisumu, Sen. Nyamunga, alisema ni kama kuna mapendeleo. Mimi nimeketi hapa na ninaona sasa mapendeleo yamepinduka, Bw. Spika.

**The Speaker** (Hon. Lusaka): Hakuna mapendeleo. Wewe ndiwe unafuata. Proceed.

*(Laughter)*

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Bill. I agree with my colleagues that this is a very timely Bill.

When you have an opportunity to source medicine or any other commodity from a variety of places, it gives you an opportunity to compare prices. Right now, we have problems with the Kenya Power because of monopoly.

In my county, four premature babies died in incubators because of lack of electricity in a certain hospital. This kind of problem is as a result of monopoly of Kenya Power. Had this country liberalised power, there would have been a competitor to supply power to hospitals.

Mr. Speaker, Sir, I take part of the responsibility for the failure of power in Wajir County Referral Hospital. As leaders of Wajir County, I think we have failed our people, not only the Governor but myself too. It is very painful for a mother to lose a baby that she has carried for nine months.

Since I joined this Senate, the problem of power in Wajir County has existed. We, the leaders from Wajir County, have not been able to help the people of Wajir to overcome that problem up to now. I think that is a major problem not only for hospitals in Wajir County, but many other places. Some of us who are mothers understand what it means to lose a baby.

Mr. Speaker Sir, I do not want to place blame on anybody, but we have a collective responsibility as the leadership from Wajir County, including myself. I should tell the people of Wajir County as their leaders, we have failed them. It is very painful to carry a baby for nine months and go through labour pains, only for you to deliver a premature baby and lose it.

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

*[The Deputy Speaker (Sen. (Prof) Kamar) in the Chair]*

Madam Deputy Speaker, I send my condolences to those families, especially the mothers who lost their babies. It pains me so much to see something like that happening.

I also urge our Governor to urgently purchase a generator so that when there is a power outage in the hospital, there is at least backup power that can support machines. That way, patients who are in the Intensive Care Unit (ICU) and babies in incubators can be saved.

Sometimes I tend to believe that we need to do something about health in the counties because health is a fully devolved function. I am glad we passed The Bill regarding the National Hospital Insurance Fund (NHIF). In my view, that will bring sanity to the health sector. I hope it does the way we had envisaged. However, there is an urgent need to ensure that county medical facilities are fast-tracked because they are now much more funded than before. Let Kenyans enjoy the fruits of devolution and get the benefits that come with having self-governance.

I also urge Kenyans out there, specifically my County of Wajir, please, next time do not elect a governor based on their tribe or whatever. Even if you want to base it on tribe, make sure you select the best. I do not think everybody can be bad in that specific

tribe because of locality issues. You should give leadership to the person who deserves and not a person who is corrupt and just filling their own pockets.

Madam Deputy Speaker, coming back to this Bill, I also wish to thank Sen. Shiyonga for not allowing the Kenya Medical Supplies Agency (KEMSA) to continue enjoying a monopoly. If they enjoy the monopoly, they will not need to work hard to ensure that they are competitive. If there are other competitors, then KEMSA will be forced to ensure that they are competitive, so that people can buy from them because other people will have been more expensive compared to them. That way, counties will save money and out of the savings from the inefficiencies of KEMSA, there will be more drugs available to the people of the counties so that they are able to deliver in terms of medical supplies. There will also be continuous supply of drugs because of the efficiency that comes with competition.

This country has a tendency of capitalism although there is some socialism that is part of it like medical services that we still subsidize. If KEMSA is not allowed to be competitive then we are killing businesses as well because there are other people who are in that business who should also be competitive enough to ensure that they are more efficient than KEMSA so that counties can get more drugs in their stores as a result of the efficiency that is enjoyed. I also tend to believe that the reason we have power problems in Wajir County right now is because Kenya Power generates and it also supplies power. That chain should be cut in Wajir.

I appeal to the Ministry of Energy and Petroleum to ensure that KenGen supplies power instead of Kenya Power. Right now Kenya Power charges people the way they want, but if KenGen is supplying, then there will be constant supply of power because Kenya Power will be paying them according to the units supplied.

Right now, Kenya Power has a monopoly in Wajir County and that creates a major problem in our county. I think the Ministry of Energy and Petroleum needs to review that and ensure that that issue is addressed so that the people of Wajir County and Wajir County Referral Hospital have constant supply of power.

Madam Deputy Speaker, I support and thank you for giving me this opportunity to contribute to this Bill.

**Sen. Kinyua:** Asante, Bi. Naibu Spika, kwa kunipa fursa hii. Kwanza, nataka kumpomgeza Seneta Shiyonga kwa Mswada huu wa marekebisho ya sheria ya KEMSA. Kwa kweli umekuja wakati unaofaa kwa sababu ukitembelea KEMSA, utapata kuwa hata dawa ambazo wako nazo ni asilimia 60 pekee yake. Kwa hivyo, kaunti zetu zikijaribu kuagiza dawa unapata dawa nyingi hazipo.

Kisheria, ni vigumu kwa kaunti zetu kununua dawa kutoka mahali pengine. Ukitembelea hospitali zetu kwa mfano Hospitali kuu ya Nanyuki au Nyahururu, unapata kuwa hakuna dawa. Unapata watu wanaishi maisha ya uchochole kwa sababu ya ukosefu wa dawa. Tungependa dawa zipatikane kwa bei nafuu katika hospitali za Serikali. Mambo yanayohusu afya yako katika gatuzi zetu, ni jukumu letu kama Seneti, kama vile Sen. Shiyonga ameleta Mswada huu, mimi ninaunga mkono.

Ukiangalia bei ya dawa katika hospitali zetu inakuwa wanaponunua pale KEMSA ni bei maradufu kwa sababu hakuna ule ushindani. Ikiwa kuna ushindani kama vile inapendekezwa katika Mswada huu, basi Wakenya wataweza kupata mahali watanunua

dawa katika hospitali zetu kwa bei nafuu kwa sababu kaunti zilinunua dawa hizi kwa bei nafuu. Kwa hivyo, naunga mkono.

Jambo lingine ambalo ningependa kusema ni kwamba ikiwa afya imeletwa katika gatu zetu, inapaswa hata KEMSA yenyewe iweze kuletwa katika gatu zetu. Hii ni kwa sababu utapata mtu anasafiri kutoka Rumuruti kuja kununua dawa Nairobi. Hii inachukua muda mrefu sana. Haya marekebisho yamekuja wakati unaofaa kusaidia kaunti zetu. Kaunti zetu zitanufaika ikiwa Mswada huu utapitishwa na mimi nitauunga mkono ili tuweze kuupitisha.

Ukitembelea KEMSA, unapata dawa zilizoko huko zimekaa sana kwa sababu kuna taratibu nyingi ambazo zinazingatiwa ili dawa ziweze kufika katika kaunti zetu. Unapata ya kwamba inachukua muda mrefu sana. Unapata kuwa dawa ambazo ziko hapo ziko karibu kuharibika. Kwa hivyo, wakati zinafika katika kaunti unapata zimebakisha miezi miwili au mitatu ziharibike. Wananchi wanasema hawana imani na zile dawa kwa sababu zimebakisha miezi miwili ili ziharibike na wanazitumia kwa taharuki.

Mswada huu utaleta maridhio mema katika kaunti zetu. Nataka kuunga mkono na kusema kuwa umekuja wakati mwema. Namshukuru na kumpongeza tena Seneta Shiyonga. Asante.

**Sen. Cherargei:** Thank you, Madam Deputy Speaker, for this opportunity. I want to support this amendment and the KEMSA amendment Bill 2021. I also congratulate Sen. Shiyonga, my neighbor and the next Women Representative of Kakamega County, and wish her well.

From the onset, I want to thank her because out of the 24 legislations that we presented before the High Court, one of the key issues we contested was the passage of this Bill without the concurrence of the Senate and these were among the 24 legislations. This was part of the 24 legislations that were declared illegal and unconstitutional by the High Court of Kenya.

What we are simply doing is complying with the Constitution of Kenya and the ruling of the High Court of Kenya. This should go to the National Assembly that they need to be very careful because the concurrence of Bills from both Houses is very critical and it is constitutional. The non-concurrence will meet its Waterloo in the courts of law. Therefore, we are just abiding with the law.

I want to thank Sen. Shiyonga for bringing this amendment because we are just complying with the ruling of the High Court and also the Constitution.

When you look at the section that needs to be amended or deleted, it is that word “shall”. They should have used the word “may” so that we give the counties an option.

We do not want to create a monster called KEMSA. We have seen that KEMSA is a monopoly just like Kenya Power and other institutions that are monopolies. We should open up and ensure that any person who will want to sell drugs, pharmaceuticals and non-pharmaceuticals to our county governments goes through rigorous vetting. The Kenya Bureau of Standards (KEBS) must ensure that they comply with the standards and then we give the counties an opportunity to buy these drugs. Everywhere you go, governors and everybody are complaining that they do not have drugs and that KEMSA has failed to supply drugs. When you go to KEMSA, they say some drugs have very short

shelf life. When you go to Kapsabet County Referral Hospital, Mosoriot Sub-County, Kaptumo Sub-County Hospital and Malava Sub-County Hospital, there are no drugs.

All these facilities, including dispensaries, do not have regular and steady supply of drugs and the county governments have been laying blame on a section of the Kenya Medical Supplies Agency (KEMSA) Act. Therefore, by deleting this, we are giving opportunities to counties to procure drugs at their convenience. I know the wisdom then was trying to ensure that we close any loopholes to have accountability. However, they forgot that the health function has been devolved and non-involvement of the Senate brought all these unconstitutionality. As you are aware, health is fully devolved. So, the ignorance of either KEMSA or the Ministry of Health (MoH) or the National Assembly had caused them---

We are aware of what is happening at KEMSA. We have seen a number of donors who are working with KEMSA have demanded for serious reforms within KEMSA. We have seen even the CEO and many other Government officials have been prosecuted because of the infamous KEMSA billionaires scandal. Unfortunately, the real culprits of the COVID-19 billionaires scandal that stole from KEMSA have never been brought to book. Even international partners who have worked with KEMSA have demanded a serious overhaul of the operations in KEMSA. I think what Sen. Shiyonga started is part of the reforms that we need to see in KEMSA. We do not want KEMSA to operate like a society that is shrouded in secrecy. We know that when an institution surrounds itself in secrecy, corruption thrives well in it.

We would have expected that KEMSA in its form should be one of the suppliers that county governments can buy either from or any other entities that have been approved within the procedures that have been provided for, so that they become competitive. If you open up, they will be very competitive. They will ensure that they become competitive and give their services adequately. They will also ensure that they deliver drugs on a timely basis.

There is also an aspect of regulatory bodies which will ensure that these reforms are implemented. You know we also need donations, but like even MEDs organizations that are run by the Catholic Church, there are other organizations that have already been recognized under the law that other entities can buy drugs; pharmaceuticals and non-pharmaceuticals from those areas.

In an upshot, this is a straightforward amendment. We hope that we can conclude debate today and when we vote in the afternoon, this should be part of the Bills that will go to division. We want to challenge the county governments that the issue of drugs is very important. We want every dispensary you go to be it Tambioya Dispensary, somewhere in Saniako when you walk in, you are able to get drugs.

As I conclude, in Nandi County, for example, there are no drugs at the Kapsabet County Referral Hospital. Normally, they will give you a pay bill number you send money to it, but that pay bill number is private. You are just withdrawing from an agent that is private. It is not even contravening the Public Finance Management (PFM) Act on how payments should be made by agents. So, you are given a pay bill number of an agent who is private around Kapsabet Town to withdraw from yet you have given your money.

There are no drugs, you cannot be given services. We really have to ensure that there are drugs in our medical facilities. I hope that if these amendments go through, and if the National Assembly agrees with us, counties will not be complaining by saying that Parliament passed a law that restricts them. You hear every governor saying that their hands are tied, they must wait for KEMSA. To some extent, they are right because if KEMSA does not have those drugs or those pharmaceuticals and non-pharmaceuticals, it means that they you have to wait. However, now we have opened up MEDs that is run by the Catholic Church among other organizations, you can now buy just the way you want to buy from a shop. If you do not get from this shop, you can walk to the next shop. This will encourage competitiveness and enhance service delivery. This is part of the reforms. I thank Sen. Shiyonga for bringing this to our attention since KEMSA reforms are long overdue. We must reform KEMSA. This is a tip on the iceberg.

I wish that the law is amended. Congratulations, Sen. Shiyonga. You have proved to the world that women can also lead. We wish you well in your endeavors because this is the year. I am told that she is running for Women Representative Seat in Kakamega and I hope that she runs on United Democratic Alliance (UDA) party.

**The Deputy Speaker** (Sen. (Prof) Kamar): Sen. Olekina Ledama.

**Sen. Olekina:** I will remain very relevant to the discussion. Thank you for giving me an opportunity. Let me begin by wishing you a very happy new year. This is a year that will be very interesting for this country because it will be one that we will all be seeking a new mandate to represent our people. I hope that we will be judged by our people wisely by the fact that we have been doing the work for them.

This is a very timely Bill. I am a little bit concerned and I do not know how my sister is going to resolve this issue. Yes, I fully support the repealing of that section that mandates the county governments to purchase drugs only from KEMSA. I am concerned about one thing. I am a member of the Committee on Health and during our deliberations and particularly on matters to do with KEMSA, we came to the revelation that KEMSA is owed a whopping Kshs3.9 billion by county governments. The Ministry of Health (MoH) owes KEMSA Kshs2 billion. So, the question that someone will have to answer is: Are we repealing this section so that we can bankrupt an already troubled entity or are we repealing this section to allow for competition to thrive?

I am very careful because when the National Assembly drafted this legislation and they restricted the procurement of all medicine to KEMSA, there were certain prerequisites. There were things that were put in place to ensure that we do not have fake medicine coming into this country. I will be very careful to repeal this section when we have huge debts that county governments have not paid KEMSA amounting to Kshs3 billion. I would want the Mover of this Motion to tell the House how KEMSA will be paid its debts. Counties are not getting drugs because they are supposed to buy them from KEMSA. Are they not getting drugs because they do not pay KEMSA? We have to be very honest because the interest of every businessman out there is to be given a window to purchase drugs. However, when I read the reports from KEMSA from the structuring boards that says their hands are tied, order field rate now for drugs, for Panadol to reach Kwale County is 649 days, you know, the question that I ask is: Is it because Kwale County has not paid KEMSA or is it because KEMSA does not have those drugs? As we

seek to repeal those sections, I want the Mover of this Bill to tell us how KEMSA is going to recover the money. Is this money going to be written off yet this Senate allocates money to the county governments? It is the Senate that ensures that at least 30 percent of each county government's budget goes to health.

Before any county government can purchase drugs from any other vendor out there, they must clear their bill with KEMSA. This is a state agency, which we allocate funds to. However, we do not allocate funds to these agencies so that they can be taken advantage of by county governments. That is my biggest concern on this particular matter. The Permanent Secretary (PS) for Health sat here when we were trying to go through the budget of KEMSA only for us to be told that KEMSA is owed Kshs2 billion by the Ministry of Health. It really beats the purpose.

Why should the PS for Health be the accounting officer, the person who ensures that KEMSA has money yet they do not pay those bills? I do not think we will be solving this problem. We are only going to be taking this problem from one entity to another.

Madam Deputy Speaker, many people prefer working with the Government. One of the reservations I had when we were discussing the Budget Policy Statement (BPS) was when the National Treasury was proposing that for this financial year, the Government would borrow heavily; about four per cent of its Gross Domestic Product (GDP) from the local banks. That would put all the private businesses out of business. Financial institutions feel comfortable working with the Government because they know that even if the Government does not pay that money, it is secure.

Madam Deputy Speaker, when KEMSA deals with the county governments, it knows very well that despite the fact that county governments will not pay the money on time, they will still get the money because it is from the Government. What guarantee do we have now once we repeal this section and we open up?

I commend my sister, Sen. Shiyonga, for bringing this process to where it belongs. It is not a directive by the President that allows county governments to go out there and buy medicine; it is this Parliament that passed the law. If we have to make any changes, it is this Parliament to make those changes. However, my problem is one, and I would like Sen. Shiyonga to guarantee me that, indeed, the county governments will pay KEMSA because we allocate money to county governments. We know very well that there are many governors doing their second term and they owe KEMSA quite a lot of money.

Madam Deputy Speaker, the question to ask is this, when these governors are out of office, who will ensure that the new governors who come in will clear the bills? Will they come up with the same argument that they bring all the time that says it was not their spending? They forget that is an institution and when you take over an institution, you inherit its assets and liabilities.

Madam Deputy Speaker, I would wish to amend this further as I consult with my colleague, that only county governments that have cleared their bills with KEMSA will be allowed to purchase from any other vendor. If we repeal this section without taking into consideration those issues that I have raised here, we will just be killing every state agency. We have killed Kenya Airways and we will continue pumping money forgetting

that this money is not State money, but taxpayers' money. It is our money since we pay a lot of taxes.

Madam Deputy Speaker, if you look at your pay slip, about 40 percent of it goes into taxes. Do you really want your taxes to be getting into the drain? No! We want to be responsible. That is why we are calling for responsibility.

We cannot be using the process of Parliament to sanitize misappropriation of funds. These county governments must pay because we have sent money to them using the County Allocation of Revenue Bill (CARA). We began the process with the Division of Revenue and counties are getting money. In the last financial year, they got Kshs370 billion. If the National Treasury has not released that money, why order for medicine which is not even available at KEMSA and not pay for them? I am a big critic of KEMSA, but I want to stand with the truth here. We cannot allow mismanagement to continue prevailing.

Madam Deputy Speaker, I encourage my sister, Sen. Shiyonga, to further amend the Bill or when it goes to the Committee Stage, we bring an amendment. This is to ensure that county governments and the Ministry of Health meet their obligations to KEMSA.

We have people who are employed there. The other day, KEMSA was letting go about 600 employees. They said their workforce is around 938, but the Salaries and Remuneration Commission (SRC) has approved only 380 employees. Obviously, 600 employees will go. Who will pay for those employees yet the money is supposed to rotate?

Madam Deputy Speaker, we cannot be creating a hole and instead of trying to fill that hole, we continue digging in. It is impossible. If I take this bottle of water and make a hole and then I open it to drink water, by the time I finish this bottle of water, I will only have taken an ounce and not the entire bottle.

For us to bring change into the management of resources in this country, we cannot allow ourselves to be brought into the interests of the counties where they mismanage money and do not meet their obligations because Parliament is the one that passed that legislation. Parliament can then change it.

Madam Deputy Speaker, as I wind up, instead of me bringing an amendment, as a member of the Committee on Health, I will ensure that I make those changes to guarantee that county governments meet their obligations.

I thank you, Madam Deputy Speaker.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Olekina. Hon. Senators, there being no other Member who wishes to contribute, I call upon the Mover, Sen. Shiyonga, to reply.

**Sen. Shiyonga:** Thank you, Madam Deputy Speaker, for giving me this opportunity to reply to the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No.53 of 2021).

I want to start by congratulating my colleagues who have contributed to this Bill. I am delighted that this new year they got an opportunity to contribute to this timely Bill that I have brought to this House. I congratulate Sen. (Dr.) Musuruvu for seconding this Bill and giving the input that she did on the Floor of the House. I applaud her because it

is not only a Bill that will enable one sector of the Government especially the county governments, but it will assist Kenyans to see the reality and difficulties being encountered in the health sector.

Madam Deputy Speaker, Sen. (Dr.) Musuruve mentioned that in the constituency where she comes from, and the county that I come from, there are no drugs at the moment and they depend on KEMSA. She particularly mentioned Lumakanda and other wards in the sub-county. The reality is on the ground.

The people are feeling it, that they do not have what they really need especially when it comes to the facilities in the counties. She mentioned an example, but this cuts across the country. Most of the facilities have the same cross-cutting problems because of the monopoly of KEMSA.

I thank Sen. Nyamunga who also put it to work, talking about its monopoly and highlighting how the Government needs to improve. We are only supporting, not curtailing KEMSA. At the end of it all, let them see that Kenyans are suffering because of the bureaucracy it has put in place instead of fast tracking the process across the board so that the sick in our Government hospitals get real-time treatment.

I also thank Sen. Halake who came out loudly in her contribution. KEMSA as it stands now is a monopoly. When we had COVID-19, we saw KEMSA struggling. We are not trying to change the whole thing, but just deleting some of the sections that are causing challenges to the health sector to make sure that Kenya realizes the best provision from the health sector especially when it comes to a devolved function where resources follow functions.

I also congratulate Sen. Kavindu Muthama who supported this Bill. Thank you very much for standing with this Bill. I know even in Machakos, the people have heard you loud and clear. We know we are going to realize changes in the health sector.

Madam Deputy Speaker, Sen. Farhiya spoke about Wajir County and its power outage. She mentioned that there is equipment that has been put in the facilities, but it is not working. That is the push system I was talking about where equipment is put in a facility, but people are not realizing its importance. This is especially so when it is purchased by a monopoly. It is working against the wishes of the majority in Kenya.

We heard Sen. Kinyua who articulated all the points by use of Kiswahili language which reaches all Kenyans. Let us help Kenyans and not individuals.

I applaud Sen. Cheragei who even went as far as wishing me the best when I become the Woman Representative of Kakamega County. Being my neighbor, I know it was coming right from his heart. We are trying to delete and insert the right proposals because we are a House that makes laws. Before these laws are assented to, it is very important that they go through concurrence.

That is what made me come up with these amendments. This is because if one House takes over and passes a law that bypasses the Senate which oversees the functions of the devolved governments, and it comes back here, they are delaying services to Kenyans.

I appreciate Sen. Kinyua for the amendments he has put forth. At the end of it all, Kenyans will realize that we are not just working for ourselves, but for the Kenyan

people who we represent. This is especially so in the health sector. Right now, 60 percent of Kenyans are suffering.

I applaud Sen. Olekina who is a member of the Committee on Health. He has proposed an amendment which I took note of. Looking at the further amendment that he proposed, I agree with him totally that we should not inherit pending bills incurred by county governments. I will propose an amendment that county governments that do not clear pending bills should not be allowed to make purchases because of incompetence in purchasing drugs.

We should look for a way of accommodating them but, again, we should ensure that county governments with overwhelming pending bills do not continue misusing taxpayers' money because that is mismanagement of resources. They should work on their pending bills, so that they also benefit from the amendments that we seek to propose in this House.

With those few remarks, Madam Deputy Speaker, I know many Members could have wished to contribute but because of time, I congratulate them.

Madam Deputy Speaker, I request that pursuant to Standing Order No.61(3), the putting of the question be deferred to a later date.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, for the convenience of the House, we will defer the putting of the question until next time when it appears on the Order Paper.

*(Putting of the question on the Bill deferred)*

**Sen. Farhiya:** Madam Deputy Speaker, now that we are dispensed with the Bill that was on the Order Paper, there was debate about the First Reading of the Political Parties (Amendment) Bill (National Assembly Bills No.56 of 2021) because some Members wanted to speak. Can you give us an opportunity to speak to it for the remaining few minutes? That is my request. I do not know what other Senators feel about it.

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senator, there is no loss as far as the Political Parties (Amendment) Bill is concerned because it was committed to a committee. When it comes back, everybody will have a chance not only to debate, but also to bring their amendments if they so wish. I think it is in order that we defer it.

## ADJOURNMENT

**The Deputy Speaker** (Sen. (Prof.) Kamar): Hon. Senators, it is now 12.19 p.m. For the convenience of the House, we will adjourn. Therefore, the Senate stands adjourned until today, Tuesday, 11<sup>th</sup> January, 2022, at 2.30 p.m.

The Senate rose at 12.19 p.m.