

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 14th May, 2024

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

The Speaker (Hon. Kingi): I am informed that we do have quorum now. We shall proceed with today's business. Clerk, kindly proceed to call the first Order.

Sen. Orwoba and Sen. Wamatinga, kindly take your seats.

(Sen. Orwoba and Sen. Wamatinga sat at their places)

PETITION

AMENDMENT OF SECTION 32(3) OF THE COUNTY GOVERNMENTS ACT

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.232(1)(b), I hereby present a petition that has been submitted through the Clerk, by Mr. Japheth J. Makokha, on behalf of Triple the Impact Community Based Organisation, regarding amendment of Section 32(3) of the County Governments Act.

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

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

The salient issues raised in the Petition are as follows:

(a) THAT Section 32(3) of the County Governments Act states that a governor may assign the deputy governor any other responsibility or portfolio as a member of the county executive committee.

(b) THAT this provision of the law gives governors the discretion to assign or not assign deputy governors a portfolio within the county executives.

(c) THAT, numerous disagreements have existed between many county governors and their deputies which can be attributed to this provision in the Act.

(d) THAT some first-time county governors have allegedly expressed fear that assigning their deputies some portfolios might render the governors ineffective and unpopular, especially where their deputies display better performance in governance, leadership and service delivery. Additionally, some second-time governors who might prefer other candidates over their current deputies to succeed them may prefer not to assign their deputies any portfolio for fear of high performance hence public popularity.

(e) THAT this situation has resulted in conflicts between the offices of the governor and the deputy governor.

(f) THAT citizens have questioned the usefulness of the office of the deputy governors in situations where governors have not assigned deputy governors a portfolio.

The petitioners, therefore, pray that the Senate amends Section 32(3) of the County Governments Act with a view to making it mandatory for county governors to assign portfolios to deputy governors.

Hon. Senators, pursuant to Standing Order No.238 (1), I direct that the Petition be committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

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

I thank you.

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

PAPERS LAID

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

Sen. Orwoba: Mr. Speaker, Sir, on behalf of the Senate Majority Leader, I beg to lay the following Papers on the Table of the Senate, today, 14th May, 2024-

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

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

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

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

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

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

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

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

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

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

(Sen. Orwoba laid the documents on the Table)

The Speaker (Hon. Kingi): Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, proceed.

That Report is dropped.

REPORT ON THE HOUSES OF PARLIAMENT
(BICAMERAL RELATIONS) BILL (NATIONAL
ASSEMBLY BILLS NO.44 OF 2024)

(Report dropped)

Next order, Clerk.

QUESTIONS AND STATEMENTS

STATEMENTS

POLICE HARASSMENT OF *TUK TUK* AND *BODA BODA*
OPERATORS IN KAKAMEGA TOWN

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on National Security, Defence

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and Foreign Affairs on harassment of *Tuk Tuk* and Boda Boda operators by the police in Kakamega Town.

In the Statement, the Committee should-

(1) Explain the procedures for the arrest, detention, booking and arraignment of all persons particular, *tuk tuk* and *boda boda* operators who have been found to violate the law.

(2) State any measures put in place by the State Department for Internal Security and National Administration to safeguard the operators from harassment, including unlawful and undocumented arrests and detention by the police and county marshals alias county askaris.

(3) Provide data on all arrests and detentions of the *tuk tuk* and *boda boda* operators made by the police office and county marshals in Kakamega Town from the year 2023 to date, providing reasons for those arrests and detentions.

(4) Indicate when the County Government of Kakamega plans to designate pick up and drop off points as well as parking zones for *tuk tuk* and *boda boda* operators as the absence of such zones has exposed them to unwanted and unwarranted harassment.

(5) Explain the rationale behind the ban on the operation of *tuk tuk* and *boda boda* past 6.00 O'clock in the evening, yet that is the considered peak hour.

I thank you.

The Speaker (Hon. Kingi): Is Sen. Mwaruma here?

STATUS OF DEVELOPMENT PROJECTS
IN TAITA-TAVETA COUNTY

That Statement is dropped.

(Statement dropped)

SAFETY AND HYGIENE MEASURES AHEAD OF
RE-OPENING OF LEARNING INSTITUTIONS

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Education regarding the safety and hygiene measures in place ahead of reopening of learning institutions after postponement due to the devastating effects of the ongoing heavy rains to various schools across the country.

In the Statement the Committee should-

(1) Provide a report of all schools that were affected by the floods stating the level and magnitude of destruction and measures in place to ensure adequate safety of learners ahead of the reopening of schools.

(2) Report the resources allocated by the Government to ensure schools have efficient water supply and the required standards of sanitation and hygiene.

(3) State the number of persons currently hosted in learning institutions as a result of displacement by the floods and other rain-related calamities across the countries.

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(4) Cause a review and improvement of current measures and guidelines to mitigate the effects of floods and learning institutions including early warning system mechanisms to prevent future interruptions of learning in schools by floods.

I thank you.

CONVERSION OF SEVEN FORKS HYDRO-ELECTRIC POWER DAMS
FROM SINGLE-USE TO MULTI-PURPOSE DAMS

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 53(1) to seek a Statement from the standing Committee on Energy regarding the conversion of the Seven Forks Hydroelectric Dams in Embu County from single-use to multipurpose use dams.

In the Statement, the Committee should-

(1) Explain the rationale for the continued under-exploitation of the full potential Masinga, Gitaru, Kamburu, Kindaruma and Kiambere dams solely designed for the production of electricity, stating why they have not been converted into multi use dams to provide water for irrigation and household use within Embu County.

(2) Outline the necessary policy and structural adjustments required to enable the distribution of water from those dams to areas such as Kindune, Kianjiro and Kiambere Hills for all gravity field systems to irrigate farms in Mbeere South and Mbeere North constituencies.

(3) State why the State Department for Energy has never considered the impact of converting hydroelectric dams into multipurpose dams in transforming other sectors of the economy such as hydro, tourism, horticulture, miraa cultivation, crops and fruit farming in addition to electricity generation.

(4) Explain the social economic advantage facing the cost of repurposing the Seven Forks Hydroelectric Dams into multipurpose water reservoirs.

I thank you.

The Speaker (Hon. Kingi): The Chairperson Justice, Legal affairs and Human Rights Committee (JLAHC), having explained your absence to the satisfaction of the Chair, I vacate my earlier orders and allow you to proceed to table your Paper.

(Interruption of Statements)

PAPER LAID

REPORT ON THE HOUSES OF PARLIAMENT
(BICAMERAL RELATIONS) BILL (NATIONAL
ASSEMBLY BILLS NO.44 OF 2024)

Sen. Methu: Thank you, Mr. Speaker, Sir. Indeed, I appreciate you for understating the predicament that I was in, leading to your earlier decision.

I beg to lay the following Paper on the Table of the Senate, today, 14th May, 2024, being: Report of the Standing Committee on Justice, Legal Affairs and Human Rights on

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its consideration of the Houses of Parliament (Bicameral Relations) Bill (National Assembly Bill No. 44 of 2023).

I thank you.

(Sen. Methu laid the document on the Table)

The Speaker (Hon. Kingi): Thank you, Hon. Senator. Before we proceed to the next Order, or before I allow limited comments on the statements that have been sought, allow me to make the following Communication.

(Sen. Methu shook hands with Sen. Gataya Mo Fire)

Senator for Nyandarua, you may do that after the session is done.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KISII UNIVERSITY STUDENTS ASSOCIATION

The Speaker (Hon. Kingi): Hon. Senators, in the Speaker's Gallery, we have six students from Kisii University Students' Association in Kisii County who are undertaking a one-day education visit in the Senate.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit. I will allow Sen. Gloria, in under one minute, to extend a word of welcome to the six students representing the Association.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. Let me take this opportunity to welcome the students to the Senate. This is the "Upper" House.

I am very happy to see you here today. You should know that we are privileged as Kisii County. We have three Senators in this House. Our Head of Delegation is Sen. Onyonka who should be coming in shortly. We also have the Nominated Sen. Esther Okinyuri, who is also on her way here.

I welcome you. I hope you get to learn what we do to protect devolution and that you may come back again.

Asante.

The Speaker (Hon. Kingi): Hon. Senators, we will allow limited comments on the statements that have been sought, starting with Sen. Maanzo.

(Resumption of Statements)

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I would like to comment on the Statement of Sen. Mundigi, the great Senator for Embu.

When it comes to the---

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The Speaker (Hon. Kingi): Hon. Maanzo, though we have already committed that Petition to the relevant Committee, a Senator wanting to make an intervention on that Petition, you may take that opportunity when I call you up.

Sen. Maanzo: Thank you, Mr. Speaker, Sir. While supporting Sen. Mundigi, I would like to say that the dams have to be useful to the counties next to them and the neighbourhood. Other than the generation of electricity by dams, there must be ways of making sure that flooding by the dams are properly controlled now that it is overflowing. We thank God that nothing went extra.

Mr. Speaker, Sir, it is important to note that the Petition is on devolution, which is very key. The request may be appropriate, but the framers of our Constitution found it that the deputy governor is the principal assistant to the governor.

If you go on to force the governor, as a minister, to mandatorily give an assignment to the deputy governor, when you are a principal assistant, you may have so much work while assisting the governor. You will be having extra job like being a minister for finance. It happened one time in Machakos. It may also overwork the deputy governor.

Mr. Speaker, Sir, although I agree that relationship has to be regulated further, it is also a tricky relationship when a deputy governor decides to undermine a governor. It becomes very tricky and there is no regulation to that.

We have seen historically when things happen to the governor, automatically the deputy governor ascends to power. Therefore, while we keenly look at this Petition, we need to make sure that the Committee understands why the framers of the Constitution left it the way it is.

I support.

Sen. Chute: Thank you very much, Mr. Speaker, Sir. I rise to contribute to the Statement by Sen. (Dr.) Khalwale. *Boda bodas* are present throughout Africa and beyond. It is a critical transport system helping people in a rural part of this country.

They are facing a lot of challenges from the police and criminals abducting them. We need to protect this industry, which is very important for this country. It has created employment and will create more employment opportunities for our young people. We need to have a basic traffic system implemented or observed by *boda boda* operators.

The Government has done some very important initiatives for the *boda boda* operators. Motorcycles under 250cc are zero-rated. This will help a young man operating the *boda boda* to save money for his future living standard.

Mr. Speaker, Sir, in support of Sen. (Dr.) Khalwale's Statement, I would want the Government and the police in particular to understand that those operating the *boda boda* are our people and must be given maximum respect. They must be taken care of as Kenyans and as our children.

Thank you very much.

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

Sen. Osotsi: Mr. Speaker, Sir, thank you for this opportunity to express my thoughts on the Statements by Sen. (Dr.) Khalwale and Sen. Kavindu.

On Sen. (Dr.) Khalwale's Statement on *boda boda*, the problem of harassment of *boda boda* is not just confined to Kakamega County, but in all our counties. They receive

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a lot of harassment from the police, passengers and criminals. This House has an opportunity to help the *boda boda* sector by ensuring that they are protected from all these people and particularly the police.

Mr. Speaker, Sir, we have insecurity all over the country, but the police find it easy to target the *boda bodas* alone. The real criminals are there running after our people and committing crimes. So, the Committee needs to look at the issues before it on this matter and come back with a proper report to this House.

On the Statement by Senator Kavindu on the reopening of schools following the flood situation, we have seen reports that suggest that a significant number of schools have not reopened because of the challenges created by the floods. The classrooms were destroyed and the environment is not yet conducive for learning. It is important that clarity is provided on this matter, so that learning is not discontinued in some schools, while others are going on with the learning. The Ministry of Education should take charge and give Kenyans proper direction on this matter.

With regard to the Petition on the matter of deputy governor and his role, the Constitution is very clear. Article 179 states that the executive authority of a county is the governor, deputy governor and the members of the executive committee.

We do not understand how the deputy governors end up being spanner boys.

The Constitution under Article 179 (2) (a) (b) says -

“The county executive committee consists of -

(a) the county governor and the deputy county governor; and,

(b) members appointed by the county Governor, with the approval of the assembly, from among persons who are not members of the assembly.”

Mr. Speaker, Sir, in today's daily, there is a ruling by one of the courts that governors have no powers to sack or even discipline the County Executive Committee Members (CECM). I think now we have left everything to the courts to interpret.

The relevant Committee needs to look at these issues and advise this House on the way forward. Otherwise, it is very unfair for deputy governors to continue being managed as small people in counties. Some have been denied facilities, for instance, vehicles. Some have been given vehicles with no fuel. Some even do not have an office. When I become a governor, I will give my deputy governor full responsibility and powers because the Constitution is very clear in Article 179.

(Applause)

I support.

The Speaker (Hon. Kingi): Senator Kathuri Murungi.

Sen. Kathuri: Thank you, Mr. Speaker, Sir. I want to also make a brief comment on the matter of the governors and their deputies on the Petition issued on the Floor this afternoon. If you look at how even the deputy governor enter office; under the County Governments Act, section 32 (1) says-

“The deputy governor shall take and subscribe to the oath or affirmation as set out in the Schedule to this Act before assuming office.”

What does that tell you, Mr. Speaker, Sir? This shows that the deputy governor is subject to the order of office. Once they join the executive and the governor, the first thing that the governors do is to make sure that the deputy governor is left just to the galleries, to read the newspapers and not even attend cabinet meetings, yet he is an executive member.

Since I have interacted with these deputy governors, I will be proposing an amendment to this Act, to give them some powers, so that when working, they can be part of the system. We have gone to pre-publication scrutiny, and I will be advising the Senate on my proposals for the county governors in the next few days.

In some counties, for example, Meru County, the first governor, from 2013 to 2017 did not work closely with the deputy governor. However, when Gov. Kiraitu Murungi became the Governor from 2017 to 2022, the deputy governor was a CECM for Finance. They worked so closely for five years and did their best. Even though they lost elections, I cannot say this was because they did not work together. It was other issues maybe within the community.

However, that is a classic example of how a governor can trust his deputy even in the position of CECM for finance. Therefore, I was surprised that Sen. Maanzo said the CECM for Finance in Makeni was given a lot of work to do by the governor, which I do not think so.

Deputy governors are as equal to the task as the governor is. So, there is no task that is so difficult for them. Therefore, this Senate should come up with concrete proposals that will ring-fence the office of the governor and the office of the deputy governor moving forward.

I was also interested in the Statement by Sen. Kavindu on the reopening of schools. Schools were opened yesterday, but as the situation is, still students are in dilapidated classrooms. Some schools are already submerged, while others have no classrooms and desks. I do not know whether the Government has come up with the statistics to show which schools are functional and which are not.

I ask the Cabinet Secretary for Education and the Cabinet Secretary for the National Treasury to come up with a very fast supplementary budget, so that these institutions can be supported with finances. The Members of the National Assembly should realign their National Government-Constituencies Development Fund (NG-CDF) priorities and work on the schools that have issues so that the schools can learn properly.

In addition, the county governments have an obligation to rearrange their budgets, so that they can come up with supplementary budgets, which will be able to do the small bridges, which have been severed, and the small roads connecting to schools, so that everybody can get involved. It is only that the House has no capacity to allocate resources. If we had that capacity, this afternoon we could not be doing anything else, but allocate money across all the schools. Maybe in the future, this will be regarded as the “Upper” House, which will be able to make such decisions as this.

Thank you very much.

The Speaker (Hon. Kingi): Sen. (Dr.) Oburu Oginga?

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir. I rise to comment on the Statement sought by the Senator for Embu County, Sen. Alexander Mundigi, on the issue

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of the dams which should be used for multipurpose. The dams the Senator is talking about are the major source of electricity for our country. These dams were constructed sometime back in 1968. Since then, there has been very little maintenance of these dams. They are silting and overflowing. They are causing a lot of damage downstream. These dams were designed to produce electricity only.

However, it is understandable because of the times they were constructed. It is very sad that there are new dams, which were constructed much later in the country, for instance, the Sondu Miriu Dam. It still has the same concept as one of the Seven Forks Dams in Embu, single-purpose dams, which are just producing electricity and not being used for multipurpose, for example, producing drinking water and water for irrigation and other purposes.

I hope that these dams, once they are properly maintained, and the downstream dam which is planned to be bigger in the form of the Aswan Dam, will be constructed and will include multipurpose use, for electricity, irrigation and other purposes. This is a lesson to the country. Any other dams that we are constructing in the country should now be multipurpose. They should not just be restricted to electricity. I hope the Committee will investigate this and give us a good report in the House.

Thank you.

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

Sen. Methu: Thank you very much, Mr. Speaker, Sir, for giving me an opportunity to comment on these two Statements. I will, however, restrict myself to commenting on the Statement that has been sought by the Senator for Kakamega, Sen. (Dr.) Bonnie Khalwale, on the arrest, detention, booking and arraignment of four persons, particularly *tuk tuk* and *boda boda* operators.

Mr. Speaker, Sir, *boda boda* and *tuk tuk* operators, for a long time have been victimised as people who are engaging in a business that seems to be illicit or illegal. They have been mistreated by law enforcers, either from the national Government or the county government.

A short while ago, there was a crackdown on the small cars that operate as taxi, including the *Sientas* and *Proboxes*. They operate and ply on short routes, especially in our rural counties. Case in point, the *tuktuks* and *Sientas* that operate from Olkalou to Gilgil, from Olkalou to Nyahururu and from Olkalou to Kariamu. The police were hiding behind something; that these people did not have licenses and insurance.

When we held a meeting between those operators and the members of the National Transport and Safety Authority (NTSA), it was evident that most of these people were compliant.

Mr. Speaker, Sir, law enforcers must stop hiding and harassing people who are engaging in business. Being a *boda boda* or *Tuk-tuk* operator is a job, just like that of being the Speaker of the Senate, the Clerk of the Senate or Senator.

The Committee must dig very deep to ensure that we arrive---.They should not just restrict themselves to Kakamega Town. Beyond the National Police Service, they must go to the National Transport and Safety Authority (NTSA) because that is another notorious group of people that harass our business people who are *boda boda* and *tuk tuk* operators.

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Mr. Speaker, Sir, as I wind up, I also want to give my comment and opinion on the Petition that has been laid to the Committee on Justice and Legal Affairs, and Special Fund, which is led by Sen. Wakili Sigei.

In the architecture of the running of a county government, the Executive power lies with the governor. The principal assistant to that governor is the deputy governor.

Article 34(4) of the County Government's Act gives the governor the prerogative of either assigning his deputy a role as a County Executive Committee Member or not.

More often than not, as it has been pointed out in that Petition, when you are a first-term governor, you do not want to assign roles to your deputy governor so that your deputy governor does not seem to work very hard or outshine you. That way, he is not seen to be a competition to your office.

Once upon a time, there was a Deputy Governor from a county that I know and that I come from, and he used to say, "the way this county has been operating, I have been reduced to a person who is equated to a spare wheel of a vehicle, and a spare wheel can never operate when the four wheels are operating."

He was saying "I am here waiting for either the governor to die, become bankrupt, or mad. If he will never become bankrupt, I shall be earning a salary for not doing anything."

Then we must also be careful so that we do not assign so many roles, as has been pointed out by Sen. Maanzo, the Senator of Makueni, such that he is not able to be the principal assistant to the governor.

This matter must be looked into. We cannot relegate deputy governors to be flower girls and flower boys without anything to do. I am a Senator from Nyandarua County, I cannot tell what exactly the deputy governor of Nyandarua County does or how he earns his salary.

You must work to earn. If you are not working, why are you earning? We cannot then leave it to the prerogative of the governor. We know that some of these political marriages are for convenience.

It is not that I looked at my Deputy Governor and thought that he is a person with whom we could work together. It is for convenience. If he comes from the south, I come from the north; if we combine our votes, we shall win. After winning, we have no formula for how we shall work for our people.

So, this is a matter that the JLAC must put their best foot forward. They must think through it, so that we can give justice to the deputy governors and we are able to help.

When we were doing the Petition on the Removal of the Deputy Governor of Kisii County, you could tell that the governor and the deputy were not singing the same tune. The way these "political marriages" are formulated, there is no route for divorce.

Once you engage in a "political marriage", it is a five-year term. If you come back again, you shall have to stay with your Deputy Governor for another five years. We must ensure that these marriages work whether they want or not.

Sen. Ogola: Thank you, Mr. Speaker, Sir. I want to start by commenting on the Petition. The Constitution of Kenya 2010 talks about a deputy governor as a principal assistant. There is no time the Constitution has been ambiguous that there shall be a

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governor, or take it the other way, there shall be a President, there shall be a Speaker, as you are here, and a Deputy Speaker.

There has to be an order in management. What creates a problem is that there are people who get into this marriage with illusionary arrangements, where some deputy governors think that they are going to share power on a 50-50 basis. That is never in the Constitution.

How you work comes to interpersonal and intrapersonal skills. If a deputy governor wishes to be a governor, there is a timeframe of five years, where one can then work towards being a governor, president or speaker.

Mr. Speaker, Sir, once in this House, the Minority had an issue and the Deputy Speaker of the Senate was in the Chair. I remember very well, and it is on the HANSARD, that the Deputy Speaker was presiding and said that issue would not be solved until the substantive Speaker was on the Floor. That shows that certain duties cannot be delegated.

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

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

Sen. Kathuri: Mr. Speaker, Sir, I have never made such a ruling when I am presiding over this House. Unless Sen. Beatrice Ogola can bring HANSRAD indicating that I did that, if not then she should be out of order.

My other point of order is that we know that marriages are made in heaven. I have heard you quote that in several weddings in Homa Bay County. What happened that now weddings are not working for deputies and their governors here on earth?

(Laughter)

Sen. Ogola: Mr. Speaker, Sir, I only emphasize the fact that the Constitution talks about a principal assistant. An assistant comes in when the principal is aside. So, as a House, we must also preserve order in management.

Governors and their deputies, just as they began, begin by making choices, and choices have consequences. They must rely on interpersonal skills. They must not struggle over power, but look at the services they offer to the people in the county.

I also want to comment on the Statement by the Senator of Kakamega County, on the harassment of *Boda Boda* and *Tuk-tuk* operators in Kakamega town.

Boda boda and *tuk tuk* operators by their nature now, and because of the state of unemployment in this country, a number of them are very schooled people. Some are graduates and Form Four leavers. There is need for some organization of these *boda boda*. The police, by their training, must work with them in such a way that they can develop them.

Our counties have sectors such as the cooperative docket. This can be put into use, where the *Boda Boda* operators can be grouped into associations. They can be trained, registered and empowered, so that they are helped, instead of being harassed because these are people also fighting for livelihoods.

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On the other hand, as a country, we must also look at the welfare of our security and police officers. That is not to say that they should harass the *Boda Boda* operators or any Kenyan. As a country, we must also invest in the welfare of police officers.

In police stations, an example being Ndhiwa Town, police officers are living in deplorable houses. As a country, we must also invest in looking at their welfare.

Mr. Speaker, Sir, lastly is on the Statement by Sen. Kavindu Muthama on the safety and hygiene measures put in place ahead of school reopening.

Yesterday, I watched the news and saw people in Bomet County put in place a bridge on their own. It had not been completed, yet pupils and students have to cross from one village to the other. As a nation, we must not only look at the safety of students, but of everyone.

This makes me to comment on the many challenges facing our education system and schools in particular. We have seen teachers who are referred to as interns. I am a teacher, but this word was illegal because a teacher is already trained, has gone through teaching practice, and cannot be an intern.

The welfare of teachers must be taken care of. The Teachers Service Commission (TSC) must put in place a way of solving teachers' issues once and for all.

I support these two Statements.

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

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I support that the deputy governor be assigned roles. Devolution has come full-circle. We know what works.

Sen. (Dr.) Oburu, if you remember, we were being told to pass the Constitution, *alafu turekebishe*. That was the mantra when we passed the 2010 Constitution.

We are coming from the impeachment proceedings against the Deputy Governor of Siaya, hon. William Oduol, and Deputy Governor, hon. (Dr.) Robert Monda of Kisii. When voting in an election, you vote for the governor and the deputy on a joint ticket, even if it is a marriage of convenience.

Therefore, we cannot allow deputy governors to earn salaries to read newspapers, take *chai* and *mandazi* at the taxpayers' expense, yet they do not have a job description. Why would governors be worried about the ambitions of deputy governors? Any politician who does not have ambition is not a politician.

Let us amend the law and give the deputy governor's designations. A deputy governor is elected because, you do not only vote for a governor.

In Robert Monda and William Oduol's impeachments, we used the same threshold for impeaching a governor. Governors cannot have their cake and eat it. We have seen governors frustrate their deputy governors. For example, we have seen that the Deputy Governor of Siaya County cannot access his office. He does not have a vehicle, fuel, or any resources allocated. Is this how we want to put in place ---

Sen. (Dr.) Oburu: On a point of Order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): What is your point order, Sen. (Dr.) Oburu?

Sen. (Dr.) Oburu: Mr. Speaker, Sir, pursuant to Standing Order No.105, can the Senator substantiate that the deputy governor of Siaya does not have a vehicle, allocation of funds or fuel? These are wild allegations that should not be left to slide without any substantiation.

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The Speaker (Hon. Kingi): Senator for Nandi, proceed to substantiate, failure to which, you apologise and withdraw.

Sen. Cherarkey: Mr. Speaker, Sir, can I be given up to tomorrow afternoon to substantiate?

The Speaker (Hon. Kingi): Very well.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. On the issue of floods and school reopening, I am aware that at least 70 schools have yet to be opened because of security and flood reasons.

The President said that Kshs1 billion has been allocated to rehabilitate these schools through the National Government -Constituency Development Fund (NG-CDF). I request that the Ministry of Education to fast-track the issue of capitation in schools.

The public health sanitation officers should be on high alert. Let public health sanitation officers visit the schools. Some of the toilets and classrooms in these schools are not habitable to human beings. The public health sanitation officers should check on the negative effects of the floods across the country.

We should not reopen schools as a ritual, but when they are ready. In Baringo County, we have insecurity challenges. Most of the schools in the county have lost their infrastructure. The capitation funds should be released to these schools.

Junior Secondary School (JSS) intern teachers demonstrated in town yesterday because the Government has committed to hiring 23,000 teachers out of the 46,000 interns. I ask the JSS interns to be patient as the Government is seized of the matter. We will hire 23,000 teachers in the first batch.

I saw the contempt with which the National Assembly treated the Division of Revenue Bill. They were proposing Kshs415 billion to counties. They should have given more money to hire the entire 46,000 teachers under the JSS programme.

The Senate shall not be cowed or intimidated by the National Assembly.

(Applause)

You cannot throw away the baby plus the bath water. The fact that there is larceny, plundering, corruption, ineffectiveness, inefficiency and ineptitude in county governments does not justify us to deny them resources. I am aware that the Government is supposed to hire 23,000 teachers. However, the 46,000 intern teachers should be hired.

The fourth point is the issue of the Kindaruma Dam, one of the Seven-Forks Hydroelectric power dams in Embu County, moving from a single-use to a multi-purpose dam. It is good that a few Members of the Committee on Energy are in the Chamber. We have a lot of water because of the rain. What is the National Water Harvesting and Storage Authority doing?

In Makueni all the water pans are full. Nonetheless, the National Water Harvesting and Storage Authority does not tell us about the safety of the dams.

I was the Chairperson of the *Ad Hoc* Committee that investigated the Solai Dam tragedy. In our recommendation that was adopted by this House, we recommended that the National Water Harvesting and Storage Authority check on the status and safety of dams, water pans and water gullies across the country. If that had been done, there would

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have been no deaths in Mai Mahiu. If this is not done, the dams in Makueni will be full and could burst their banks.

As we discuss this issue, I challenge the Kenya Power Company (KPC) and the Ministry of Energy and Petroleum to harvest water, while ensuring that we have enough electricity.

I know that Sen. Sifuna will be happy because I expect the cost of electricity to go down this month. We have had sufficient hydro-energy and so, the cost of electricity should go down. This is important as we discuss the Finance Bill.

It is embarrassing that in this City, it is raining, there are floods and roads are impassable, but there is no water in the taps. How can you explain this? Most Nairobians do not shower because it is cold. My point is that water use should not be on the higher end.

Mr. Speaker, Sir, thank you for your indulgence today. You have allowed us to comment on Statements in quick succession.

On the issue of *boda boda*, in Nandi County where I come from, there is protection, watching and stopping fees by the traffic police officers. I ask Prof. Kithure Kindiki, one of the best-performing Cabinet Secretaries of our times, to crack down on the errant police officers who are harassing and imitating *boda boda* operators.

I am happy to be alive when Prof. Kithure Kindiki is the Cabinet Secretary for Interior and National Administration.

(Sen. Methu consulted loudly)

Mr. Speaker, Sir, protect me from Sen. Methu. I know he might be on somebody's payroll, but he should allow me to make my submissions.

The Speaker (Hon. Kingi): You have 30 seconds to conclude.

Sen. Cherarkey: Mr. Speaker, Sir, I am coming home.

(Laughter)

I would like to remind you of the famous reggae song by Culture Joseph Hill, "Be Honest."

Mr. Speaker, Sir, in conclusion, the *boda boda* riders should not be harassed. Can you imagine being harassed by the police, a multi-credit agency that you took a loan from, your wife, girlfriend and everybody? How can you survive as a *boda boda* operator?

Platinum Credit harasses you. They are even worse; when you are about to finish paying for the loan, your *boda boda* disappears. Therefore, our *boda boda* riders must be protected.

On a light note, I want to ask our *boda boda* people that as they take our daughters to school, they should not hide them for four days, like it happened in Kitengela. We want them to be disciplined and do their job.

Mr. Speaker, Sir, with those many remarks, I support.

The Speaker (Hon. Kingi): Lastly, let us hear from Sen. Crystal Asige.

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Sen. Crystal Asige: Thank you very much, Mr. Speaker, Sir. I rise in support of the Statement by the Senator for Kakamega on *boda boda* sector.

There is no doubt that the *boda boda* sector in this country has and continues to contribute tremendously to our economic growth. *Boda boda* has been the one major factor in the Small Market Enterprise (SME) ecosystem itself, of SMEs being able to do business easily and provide transport of their goods and services across the country.

Also, the *boda boda* industry has created employment for young people, and for those who perhaps had other plans with their careers, have found themselves needing to get creative on other ways of getting income.

It is very important, as has been said in the Statement, that these *boda boda* operators are protected, especially because we have also seen a surge in women *boda boda* operators in the last several years. They are taking up the business of *boda boda*; buying them and operating them day and night as well, to better their lives. That is why they must be protected by our security services.

On the flipside, this matter of *boda boda* industry is a double-edged sword, because they are also being used to conduct criminal activity and used in very duplicitous ways, unfortunately.

As we continue to look for protection for *boda boda* operators through the Senator's Statement for both men and women, we also need to look at how they are being disciplined at the same time, so that the users of *boda boda* can also feel safe when engaging with these operators.

We also know that *boda bodas* conduct these criminal activities specifically around attacking or doing petty crimes against women, young girls and People with Disabilities (PwDs) in the country because they are the most vulnerable. This needs to take a double-edged sort of approach for both sides of the coin to be protected.

I also want to stand in support of the Statement by the Senator for Machakos County. Wash facilities are already in this country and many of them are substandard. Sometimes it is not available at all in many of our schools, especially in the rural areas.

Right now, I have heard many reports since the flooding started, throughout the flooding and even today, where special needs schools and schools with children with disabilities have no wash facilities because of this particular flooding that we have seen in the country.

Of course, we have also seen in special needs schools, kids and learners with disabilities who are in different learning institutions across the country suffering because the floods have taken all of their assistive devices. The floods have washed away things like laptops and assistive devices like braille machines and papers.

Mr. Speaker, Sir, the braille paper costs about Kshs2,000 to Kshs4,000, while a schoolbook can cost Kshs20 to Kshs100. Those paper brailles have been destroyed by the floods.

Additionally, braille costs around Kshs200,000 for a child with visual impairment to be able to write in school, when a pen or a pencil costs Kshs5 to Kshs10. The cost that kids and learners with disabilities are having to pay because of the floods is exponentially higher than the non-disabled learning institutions. However, all of them are very important to be looked into.

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I would hope that the Senator for Machakos would dig deeper into how the floods have affected the learning institutions for children with disabilities in the country. It has had a big effect and no one is talking about them.

Mr. Speaker, Sir, right now, there is a conference called the Inclusive Africa Conference that is talking about assistive technology and devices for PwDs across the country. There is no point in these amazing initiatives and assistive equipment being brought to the country and donated to our schools like Thika School for the Blind, Likoni School for the Blind and others, when in one whoop the flood destroys everything, then schools have to start from scratch since these are aid assistance that is being given to these schools.

There is no sustainability in the country for these devices, schools, and learners. We need more manufacturers to be brought to Kenya, so that these equipment can be found easily and cheaply within the country. We do not have to rely on the Western World to bring them to us and then lose them in a moment through these types of weather patterns that we are seeing.

I thank you.

The Speaker (Hon. Kingi): I will allow Sen. Abass, being the Chair of the Committee on Devolution and Inter-Governmental Relations, mainly to comment on the Petition, and then allow Sen. Sifuna to conclude it from there.

Sen. Abass: Thank you, Mr. Speaker, Sir, for the consideration. I want to talk about the deputy governors.

As we are aware, the time that people are going for elections, governors do not move alone. It is constitutional for a governor to have a deputy. Without the deputy then the governor is not going to be considered for elections.

Unfortunately, today, we have 21 cases of deputy governors who have a problem with their governors in counties. They have reported this to our Committee on Devolution and Inter-Governmental Relations and we have already considered three cases. The one in Trans-Nzoia, they never worked for almost one and half years. Now their Deputy Governor is back in office and they are working together with the Governor.

We have the case of Meru County, which we have not concluded yet. There is the Deputy Governor of Siaya who was impeached and yesterday he wrote a letter to my committee complaining that he has not been given any opportunity to go and work. He has not been cleared.

Mr. Speaker, Sir, we have found that most of the deputy governors are working in a very difficult situation. Most of them do not get out of the office and others have even gone back to study because they cannot work. Some of them report to the county secretaries and the County Executive Committee Members (CECM) who have even more powers than the deputy governor, yet they are principal persons to the governors.

As you are aware, the deputy governor is elected because he is a running mate to the elected governor and, therefore, deserves better offices and funding.

We have a Bill that is coming on the Inter-Governmental Relations Bill. The deputy governor's committee came to me yesterday and we said we would look into it. They read a memorandum so that we can consider their issues in that Bill.

The Bill is a Government Bill that is being sponsored by the Majority Leader. Though we already considered it ourselves, we have handed it over to the Majority Leader. Therefore, the process of putting the grievances and the problems of the deputy governors will be taken care of in that Bill.

Mr. Speaker, Sir, we also have a Deputy President in this country who is the Principal Deputy of the President. He has his sureties. He has been given orders by the President, and he is already running several functions. He is in charge of devolution and is the Chair of the Intergovernmental Budget and Economic Council (IBEC).

Even the deputy governors should be given responsibility equally, so that they can function and work well with the governors in order to deliver.

With those few remarks, I wish to support the Petition.

Thank you very much.

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

Sen. Sifuna: Hon. Speaker, Sir, thank you for your indulgence. The Statement sought by the Senator for Taita-Taveta County, Sen. Mwaruma, could not have come at a better time. I hope that the Committee on Devolution and Intergovernmental Relations of this House---

The Speaker (Hon. Kingi): Sen. Sifuna, that Statement was dropped.

Sen. Sifuna: Oh! However, allow me to say one thing, hon. Speaker.

The Speaker (Hon. Kingi): Do not comment on it.

Sen. Sifuna: Okay. I caught the tail-end of the submissions by my colleague, the Senator for Nandi County, on some of the unfortunate pronouncements we heard from the National Assembly yesterday regarding the decision by this House to award Kshs415 million to county governments.

Mr. Speaker, Sir, there are things that we have to make very clear as a House. First, when we ask for more resources to be devolved to county governments, it is not to take away from the National Government Constituencies Development Fund (NG-CDF) or the National Government Affirmative Action Fund (NGAAF) in the National Assembly. What some hon. Members in the National Assembly were trying to do was to poison the mind of Kenyans that, in fact, we were to raid those funds in order to raise the Kshs24 billion extra that this House passed for county governments.

Secondly, the National Assembly should also address itself to the question of whether there is corruption, mismanagement and misuse of resources in the national Government. When they stand up and castigate county governments and say that their officers travel with their girlfriends, it is not as if officers in the national Government do not have girlfriends that they travel with. If we will have a conversation, it has to be objective.

Finally, there has to be a time in this country that we demonstrate to each county how the money that has been allocated to the national Government is spread across the 47 counties. This is because there is inordinate focus on the money that is sent to counties from this House, and yet it represents less than 10 per cent of the budget.

We have 50 stalled road projects in Nairobi alone. Every time you ask why roads are not being built in Nairobi City County, the answer is that it received only Kshs20 billion.

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An analysis was done on the distribution of resources at the national level from the Kenya Rural Roads Authority (KeRRA) and Kenya Urban Roads Authority (KURA). We will not be surprised that the person who was castigating Senate yesterday, the hon. Kimani Ichungwa, the Member of Parliament for Kikuyu Constituency, out of the Kshs350 million allocated to Kiambu County under KURA, Kshs220 million has somehow found its way to Kikuyu Constituency, where this Member of Parliament comes from.

Mr. Speaker, Sir, a total sum of 94 per cent of the money under KeRRA is utilised in Kikuyu Constituency alone, at Kshs1.45 billion. The bill for electricity that is owed to Kenya Power (KP) is Kshs1.5 billion in Nairobi City County. The money that hon. Ichungwa receives is enough to pay our electricity bills.

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

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

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I am aware we are discussing county issues, but we still have to be guided by our Standing Orders. They are very clear about discussing a Member of Parliament (MP), either from the Senate or National Assembly.

Sen. Sifuna is imputing improper motive---

(Sen. Faki spoke off the record)

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

Sen. Orwoba: Mr. Speaker, Sir, protect me. I understand that we are trying to highlight on the issues of devolution, but can the hon. Senator for Nairobi City County try and make his point without discussing another Member of Parliament who is not in the House to defend himself? That is my point of order.

The Speaker (Hon. Kingi): Sen. Orwoba, which Standing Order has been violated?

Sen. Orwoba: Mr. Speaker, Sir, I think it is Standing Order No.98.

(Loud consultations)

Mr. Speaker, Sir, just allow me because this is how we are used to sitting me down. It is on Standing Order No.101 on Contents of Speech.

Standing Order No.101 (3) says:

“It shall be out of order to use offensive or insulting language, whether in respect of the Senators or other.”

Standing Order No.101 (4) states that-

“No Senator shall impute improper motive to any other Senator or a Member of National Assembly except upon a specific and substantive motion, of which, at least three days' notice has to be given, calling in question the conduct of that Senator or Member of Parliament.”

Mr. Speaker, Sir, if Sen. Sifuna wants to discuss hon. Kimani Ichungwa, he should bring a substantive Motion and then we can discuss the budget of Kikuyu Constituency and whether he is using his money or not. Hon. Kimani Ichungwa is not in

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the House today. Therefore, let Sen. Sifuna limit his elaborations and discussions to devolution and leave hon. Kimani Ichungwa out of it.

Thank you.

(Loud consultations)

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

Senator for Nairobi City County, as you make your intervention, kindly adhere to that Standing Order. Do not impute any improper motive on either your hon. colleague Senators or a Member of the National Assembly. So, kindly proceed as advised.

Sen. Sifuna: Mr. Speaker, Sir, I am well guided. I thought colleagues in this House would be more defensive of the decisions of this House because yesterday the entire Senate was being discussed.

(Loud consultations)

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

Sen. Sifuna: Mr. Speaker, Sir, this is an extract of an analysis of the road allocations by those two national Government entities in Kiambu County as a demonstration.

(Sen. Orwoba spoke off record)

The Speaker (Hon. Kingi): Order, Sen. Orwoba!

Sen. Sifuna: Mr. Speaker, Sir, you must protect me from people who think that by rising on points of order against me, it will make them famous. I see them sharing on social media that Sen. Sifuna and so-and-so were in an exchange. You will have to find your own fame by the quality of debate you bring to this Floor.

(Laughter)

Mr. Speaker, Sir, let me conclude.

The Speaker (Hon. Kingi): Proceed to conclude.

Sen. Sifuna: Mr. Speaker, Sir, the discussion about allocation of resources, the needs of the county governments and the challenges to devolution, have to be heard in a sober space and with context.

As I was explaining to you before the point of order, a sum of Kshs1.4 billion is the amount of money that we require as Nairobi City County to pay off all our debts at KP, so that all these Members who come to Nairobi from those rural constituencies can continue to enjoy services that the City provides.

Mr. Speaker, Sir, when people come here and castigate decisions of this Senate and attack devolution on the basis of malpractices here and there, yet those similar malpractices are present within the national Government---

I hope that when this House puts together its mediation team, they will send serious Senators to the mediation team, who will not go there to try and defend hon. Kimani Ichungwa.

I thank you, Mr. Speaker, Sir.

(Applause)

The Speaker (Hon. Kingi): Order, hon. Senators! Before I ask the Clerk to call the next Order, I have this Message to pass.

MESSAGE FROM THE NATIONAL ASSEMBLY

DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO.14 OF 2024)

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.46 (3), I have received the following Message from the Speaker of the National Assembly regarding the decision of the National Assembly on the Senate amendments to the Division of Revenue Bill (National Assembly Bill No.14 of 2024). The Message, dated Tuesday, 14th May, 2024, was received in the Office of the Clerk of the Senate on the same date.

Pursuant to Standing Order 46 (4), I now report the Message-

Pursuant to the provisions of Standing Order No.41 (1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

“WHEREAS, on Wednesday, 20th March, 2024, the National Assembly passed the Division of Revenue Bill (National Assembly Bill No.14 of 2024), and thereafter referred the Bill to the Senate for consideration in accordance with Article 110 (4) of the Constitution;

AND WHEREAS, on Thursday, 2nd May, 2024, the Senate conceded and passed the same Bill with amendments and referred it back to the National Assembly for concurrence;

FURTHER, whereas on Monday, 13th May, 2024, the National Assembly considered and rejected the Senate amendments to the Bill, thereby committing it to a mediation committee in accordance with the provisions of Article 112 of the Constitution;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Orders No.41 (1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of nine Senators to a mediation committee to consider the Bill in accordance with Article 113 of the Constitution.”

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Hon. Senators, consequent to the said decision, the Speaker of the National Assembly appointed the following Members to the Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution.

- (1) Hon. Ndindi Nyoro, MP
- (2) Hon. Mary Emaase, MP
- (3) Hon. David Ochieng', MP
- (4) Hon. Nyakundi Mokaya, MP
- (5) Hon. Samuel Moroto, MP
- (5) Hon. Samuel Atandi, MP
- (6) Hon. Naisula Lesuuda, MP
- (7) Hon. (Dr.) Makali Mulu, MP
- (8) Hon. Ali Wario Guyo, MP

Hon. Senators, pursuant to the provisions of Standing Order No.166 (2) of the Senate Standing Orders, and in consultation with the Senate Majority and Minority Leaders, I will, at the appropriate time, appoint Senators to the Mediation Committee.

I thank you.

Clerk, let us go to the next Order.

Senator for Nyandarua, you do not comment on Messages.

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

The Speaker (Hon. Kingi): Hon. Senators, with limited powers given to me by Standing Order No.1 of the Senate Standing Orders, I will allow limited comments on that Message; three Senators from the Majority and the same number from the Minority side, each speaking for three minutes.

Proceed, Senator for Nandi.

Sen. Cherarkey: Mr. Speaker, Sir, allow me to move to the Dispatch Box, so that I can be heard.

As the Majority side, the reason we supported an increment of Kshs24 billion to Kshs415 billion was to ensure equality in terms of development across the country. It is unfortunate that Members of the National Assembly, without looking at the provisions of Standing Order No.101, yesterday misled the country by saying that we were reducing the NG-CDF and the KeRRA money.

I am wondering why they misled the whole country. In fact, asking for Kshs415 billion is being modest considering that the budget of the whole country is Kshs4 trillion. The National Assembly is to blame because the latest audited accounts show that they have taken it behind.

I am donating myself for free to be part of the Mediation Committee, so that I fix them on the Floor of the House.

(Laughter)

Before Bob Marley died in 1981 at the age of 36, he said that there is much honest in terms of a society. Let us allow counties to have Kshs415 billion in order to develop

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them. Even if there is corruption in counties, let us fight it. We need to allocate more resources to counties for development.

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

Sen. M. Kajwang’: Mr. Speaker, Sir, the nation must know that revenue is divided in Parliament. It is not divided at the Intergovernmental Budget and Economic Council (IBEC), Karen or private residences. I am very proud of this Senate, more so, the Chairperson of the Committee on Finance and Budget together with his Members, for standing up for county governments and reasserting the role of the Senate as the House that divides and allocates revenue.

Mr. Speaker, Sir, when you set up the Mediation Committee, I hope you will put men and women Senators with spine. In the Eleventh Parliament, we had mediation every year. In the Twelfth Parliament, we had mediation three out of the five years---

The Speaker (Hon. Kingi): Sen. M. Kajwang’, are you implying that we have Senators without spine?

An hon. Senator: Yes!

(Laughter)

The Speaker (Hon. Kingi): Proceed.

Sen. M. Kajwang’: Mr. Speaker, Sir, we have many Senators with spine, but not all.

I hope that the Mediation Committee will stand firm for the Senate, and that they will not be intimidated by political parties and partisan politics. This is about county governments and not the Kenya Kwanza Government or Azimio la Umoja-One Kenya Coalition Party.

I hope that the way we stood up when we came up with the formula for revenue allocation will be the same that the Senate will in order to be counted. Where the Council of Governors (CoG) failed at the IBEC and the National Assembly is failing county governments, the Senate should be the House that lives up to defend and protect the interest of counties and their governments.

To Members of the National Assembly, when money goes to the counties, it reaches the constituencies. We have seen some things on the ground, but we have also seen cars in parking lots, which is money from the NG-CDF. Let us be honest. We should not point fingers at governors and fail to look at the rot and problems we have seen in allocation and distribution of resources that go to the NG-CDF.

Mr. Speaker, Sir, the Supreme Court of Kenya declared that this House must be involved in decisions to do with the NG-CDF and the NGAAF. We look forward to the day when that legislative proposal shall be brought before the Senate because we shall do the right thing and make sure that we respect the two levels of government in this country; the national Government and county governments. Those are the two levels of government in the Constitution. The rest were creatures of the past Constitution.

Mr. Speaker, Sir, the Senate will do the right thing. To men and women who will be in that Mediation Committee, kindly do not do what Members of the National Assembly did with Hon. Linturi.

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Shame on them!

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

Sen. Methu: Mr. Speaker, Sir, we watched with great disappointment yesterday as our colleagues misled the nation. Yesterday, there was something that we would like to demonstrate that did not come up clearly in the National Assembly. When they proposed that counties should get Kshs391 billion, how much did they get last year? It was Kshs385 billion. That is an addition of just Kshs6 billion.

What is the growth in the national budget? If it is over Kshs400 billion, how do you send Kshs6 billion to the counties? We cannot keep telling governors to employ more doctors, nurses or Early Childhood Development and Education (ECDE) teachers, yet we are not sending enough money to them. How do we expect them to work?

(Applause)

Secondly, there has not and there shall never be a competition between devolution and the NG-CDF. If anything, the courts have pronounced themselves on the NG-CDF. For the NG-CDF to be constitutional, it has to come to this House, so that we also have our voice.

This argument should not be one-sided; that Members of the National Assembly are the umpires and judges on who is working and who is not. Where have they gotten approval that what is working is only the NG-CDF and the NGAAF, but devolution is not working? We want medicine in our hospitals.

I sit in the County Public Accounts Committee (CPAC). We want counties to improve in service delivery. Most functions we are talking about belong to county governments. If we push services to the counties without resources, how are they expected to offer them?

Finally, they say when you want to kill a dog, give it a bad name. Devolution is being killed because of some malpractices. Sen. M. Kajwang' and I sit in the CPAC. We have governors who have gotten unqualified opinions. It means that devolution is working in some counties. If devolution is not working, then it is in your county and you have the ability to elect a governor who works. We cannot kill devolution because of a bad or rogue governor.

We heard a Member of Parliament (MP) complaining that a governor was disrupting---

The Speaker (Hon. Kingi): Your time is up.
Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. It is time for us to reason well as a House that unites the whole country. This is the time I am pleading to my colleagues from the other side of the aisle. Let us just not make noise today, but let it be actionable.

This is the only opportunity we have ---

(Loud consultations)

The Speaker (Hon. Kingi): Order!

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Sen. Olekina: I would rather tell you what is on my mind.

The Speaker (Hon. Kingi): Order, Senator for Nandi, I do not need your assistance to bring order to this House.

Sen. Olekina, you started very well. Please, there is no side or hon. Senator who has made any noise. This is because if they had made any noise, I would have thrown them out. Kindly use parliamentary language; you were doing well so far.

Proceed.

Sen. Olekina: Mr. Speaker, Sir, the time for reckoning will come and I want to be proved wrong at that time. This is the time for us to practice what we preach. If we come here and say our hospitals need medicine, we forget that the Ministry of Health has the largest share of the budget; a sum of Kshs131 billion. We are only asking for Kshs415 billion to be sent to 47 counties.

Yesterday, I heard an hon. Member of Parliament saying that money should not go to counties, but to the NG-CDF. First of all, the NG-CDF is illegal. It being illegal, it is imperative for us to remember that our role as legislators is to make laws.

Mr. Speaker, Sir, we are making laws and dividing money between two levels of Government. We have done the calculations and we have constitutional bodies that advise us.

The Commission on Revenue Allocation (CRA) has given us a figure and our Committee on Finance and Budget has settled on Kshs415 billion. It is only logical that we go by that professional advice.

I want to request my colleagues that because we will select distinguished men and women who we know will fight for devolution and be able to go to that Mediation Committee, please, do not come back here saying that you have been compromised. Do not come back here telling us that you had to give in; that it is a give and take spirit. There is no give and take.

Let me tell you the hard reality; this Senate does not have money. Today, the Parliamentary Joint Service has more money. What is this animal called Parliamentary Joint Service if the Senate itself does not even have money for the committees? What are we talking about? Let us be realistic. If we do not fight for the Senate, we will go down in history as the House that failed to defend devolution---

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

Sen. Kathuri: Mr. Speaker, Sir, thank you for this opportunity to give a brief comment on this matter.

Yesterday, the whole country was treated to a lot of theatrics at the National Assembly. It was very shameful for the Chairman of the Budget and Appropriation Committee and the Majority Leader to misdirect the country that the Kshs415 billion that we are requesting for devolution will come from the NG-CDF or NGAAF.

Mr. Speaker, Sir, when we request money for devolution to the counties, it is because all our fathers, grandmothers, children, brothers and sisters are domiciled in the counties and they need services.

Looking at the list of the Members of the National Assembly that you have just read. Those are seasoned Budget and Appropriation Committee Members. They veterans

who have been there for the last three terms. We went to Parliament at the same time with hon. (Dr.) Makali Mulu, and he is in that list.

I want you to match me with hon. (Dr.) Makali Mulu this time, so that he can understand when we are talking about devolution. Actually, I had written to the Clerk requesting him to include me in that Mediation Committee this time because we must make devolution work.

We are not here to please some governors. If some counties are not working, it does not mean that all of them are not working. If you have issues with your governor, go and sort them with your governor in your county. Some counties are operating smoothly and executing very good services.

Mr. Speaker, Sir, this time, we want to be bipartisan on this matter. Let us all work together in giving counties more money. Asking for Kshs415 billion is not too much. Next year, we want to go to Kshs450 billion, so that services at the counties can be seen running and we make sure that devolution works.

One thing that I have realised with His Excellency the President is that he is the only sitting President who by 30th June, had made sure that---

(There was a technical hitch)

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

Sen. Faki: Asante, Bw. Spika, kwa kunipa fursa hii kuchangia taarifa kuhusiana na kukataliwa na Bunge la Kitaifa kwa marekebisho ya Mswada wa Ugawaji wa Pesa za Kaunti. Ilikuwa sarakasi kubwa katika Bunge la Kitaifa jana wakati baadhi ya Wabunge walikuwa wanakejeli kazi zinazofanywa na serikali za kaunti.

Tumeona kwamba pesa zilizo ongezwa na Serikali Kuu kwa kaunti zetu ni Kshs6 bilioni pekee yake. Zimetoka Kshs385 bilioni hadi Kshs391 bilioni. Lakini katika NG-CDF, Wabunge, wamejiongezea Kshs30 milioni kwa kila *constituency*. Ukifanya hesabu ya haraka, utapata ya kwamba NG-CDF imeongezewa Kshs8.6 bilioni. Haiwezekani kaunti zetu zinazofanya kazi kubwa, zipewe Kshs6 bilioni wakati NG-CDF inapewa Kshs8.5 bilioni.

Pia tukiangalia baadhi ya gharama zimeongezeka, gharama kama vile huduma za afya, Social Health Insurance Fund (SHIF), National Social Security Fund (NSSF) na Housing Levy, hizi zote zinaongeza gharama ya kaunti kwa zaidi ya Kshs20 bilioni. Kwa hivyo, haiwezekani sisi kama Bunge la Seneti ambao tunalinda ugatuzi tuambiwe kwamba kaunti zetu hazifanyi kazi.

Kila kaunti inafanya kazi. Kama kaunti yako haifanyi kazi, ni wewe na gavana wako. Kama Kiambu haifanyi kazi, ni wao na Gavana Wamatangi. Kama Murang'a haifanyia kazi, ni wao na Gavana Kang'ata. Kama Meru haifanyi kazi, ni wao na Gavana Kawira. Kama Kisii haifanyi kazi, ni Sen. Orwoba na Gavana Simba Arati.

Bw. Spika, ukinunua nyanya katika soko utapata kuna zingine ambazo ni mbovu na zingine ambazo ziko sawa. Hivyo ndivyo ilivyo katika ugatuzi na NG-CDF. Kuna wananchi wanaolia kwamba hawapati huduma zozote za NG-CDF lakini kila mwaka, pesa zinakwenda kwa NG-CDF. Kwa hivyo, nawasihi wenzangu ambao tutachaguliwa katika---

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The Speaker (Hon. Kingi): Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Bw. Spika, ni aibu kubwa sana kwa Wabunge---

The Speaker (Hon. Kingi): Order, Sen. Munyi Mundigi!

Sen. Madzayo, you have just crossed to the other side of the aisle and you are not supposed to come in between the Senator who is speaking and the Chair.

Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Asante, Bw. Spika. Ni aibu kubwa sana hapa Kenya kwa Wabunge 349 kusema kwamba magavana hawafanyi kazi, wakati tunajua kwamba hao magavana 47 wako na Maseneta wao ambao hawajasema hawafanyi kazi. Pia tumesikia *MPs* wengine wakisema kwamba hata *Members of County Assembly* (MCAs) wakipewa pesa, ipelekwe kwa NG-CDF. Tukashindwa, kazi yao ni gani?

Wametupea aibu. Ni sisi Maseneta ambao tunapaswa kujua kama magavana wanafanya kazi au hawafanyi kazi.

Kwa hivyo, ninawaomba wale tutakaowachagua; wakienda pale kuzungumzia ugutuzi na kuwatetea magavana wenye shida ya *pending bills* na *wage bill*, wawe wamejikakamua kabisa wasiwekwe chini na hao watu. Ni aibu sana *MP* ambaye hafanyi kazi kusema kwamba gavana hafanyi kazi.

Ninaunga mkono kuwa wale watakaoenda kututetea, wawe na ushujaa na kutuletea pesa. Tunafahamu kuwa mwaka uliopita tuliwapa magavana pesa ambayo haikutosha hadi kaunti hazikufanya ile kazi ya ugutuzi tunayotaka.

Majukumu ya kaunti ni hospitali, maji na kuwasaidia watu kona zote. Watakaoenda kututetea waende kama Bunge la 'Juu' na wasiwekwe chini na wale *MPs* wanaotaka kula pesa. Kila *MP* ametengewa Kshs150 milioni. Kila *MP* amepewa pesa ya barabara Kshs50 milioni na hatujui zinafanya kazi gani.

Hatukatai kazi yao ni kupeana basari ya shule. Hiyo nyingine ni kujengea afisi za DC. Ni aibu kubwa sana kwamba zile pesa zinazoenda kusaidia mwananchi ambaye amelipa ushuru, *MP* anasema gavana hafanyi kazi. Nawaambia *MPs* wote kuwa hakuna yeyote anayefaa kumunyooshea gavana kidole. Angesema sisi maseneta ndio tunaofaa kufanya hiyo kazi.

Asante.

Naunga mkono.

(Loud consultations)

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

Proceed, Sen. Eddy Oketch.

Sen. Oketch Gicheru: Mr. Speaker, Sir, it is high time that these Hon. Senators and the people of Kenya marched on the streets and took these *MPs* out of *Bunge*. The *MPs* have decided to be selfish. Think about it. The money we are talking about in division of revenue is superior to the idea of the NG-CDF.

The money we are talking about has nothing to do with the NG-CDF. The country should know that the Senators they are seeing here are not selfish compared to the Members of National Assembly. The Senators are fighting for money to go to the people and not money that the Senate wants to control. These monies are directly going to

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counties and the people. However, the MPs are seeking to ringfence money that they will control and use for their own benefit.

Mr. Speaker, Sir, the money that we proposed as the Committee on Finance and Budget in reality is 13 per cent of the money that is going to be raised in this country as division of revenue. It is high time that Members of the National Assembly understood that monies we are sending to devolution is the only money that goes directly to solve the basic needs of our people at the grassroots level.

Mr. Speaker, Sir, I hope that I will be in that committee so that we help the Members of the National Assembly see the sense that the money we send to the grassroots level looks at agriculture, healthcare, housing and pays workers in the counties. This money is superior and in no way interferes with monies for NG-CDF or KeRRA or any other money that Members of the National Assembly are selfishly ring-fencing for themselves.

It is high time that we worked together as Members of Parliament; that is the National Assembly and the Senate, to make devolution work. Members of the National Assembly should understand that the Senate is the only House that can ensure the issue of basic needs in the grassroots level is supported. Right now, if you look at it, the monies that Members of the National Assembly keep on ring-fencing, the monies do not go to the basic needs of our people. They do not address the issue of bread and butter---

The Speaker (Hon. Kingi): Sen. Nyutu, the very last.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir. I also join my colleagues in condemning the decision by the Members of the National Assembly to deny counties the monies we have requested. I take this opportunity to remind the Members of the National Assembly that their constituencies, which they like talking so much about, exist in counties. When this money is sent to counties, it is sent for appropriation by the same people they serve in their constituencies.

One thing that the Members of the National Assembly must remember is that health is devolved. They do not deal with health in their NG-CDF. They must remember that when their parents at home, brothers and all those related to them get sick, they go to the medical facilities that are under the counties.

Let them know that disease does not choose whom to get to. At least for the sake of health, the Members of the National Assembly must give in to the request that we have made for monies to counties. My colleague, Sen. Eddy, has talked about it; that we are the only sober House in this Parliament. Why do I say so? It is because the money we are fighting for will not come to us. This is not a selfish argument.

We are speaking for Kenyans. The Members of the National Assembly must know that this is money going to counties. I challenge my Majority Leader here.

The Speaker (Hon. Kingi): What is the point of order?

Order, Sen. Nyutu.

Sen. Joe Nyutu: This matter requires---

The Speaker (Hon. Kingi): Order, Sen. Nyutu! You are totally out of order. When the Chair speaks, you shut up. Can you take your seat?

Give the microphone to the Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this is a very emotive issue. Those of us that have been around this roundabout for a while know a few things about how to win or lose this battle.

Mr. Speaker, Sir, did you hear the Senator for Murang'a, my good friend, Sen. Joe Nyutu, have it on record? Pause that and reflect on the fact that our Standing Orders provide clearly for relations between both Houses of Parliament. We may have misgivings about certain Members of the National Assembly. However, I wish to draw the attention of the House not to reduce this to be a battle between the National Assembly and the Senate because it is certainly not.

Mr. Speaker, Sir, the Senator for Murang'a has gone on record saying this is the only sober House. That implies that there is a sober and a drunk House. I do not think such comments---

(Loud consultations)

Mr. Speaker, Sir, It is unfair of us to castigate an entire House and cast aspersions on them based on the sentiments of one or two people that you do not agree with.

Finally, I wish to plead with colleagues. I know this is very exciting. I see Sen. Sifuna and the rest is very happy about this.

The Speaker (Hon. Kingi): Senate Majority Leader, you have made your point of order. You are making a speech.

(Loud consultations)

May I just make a ruling? Order, senators!

Now, Sen. Nyutu, while you are debating, however emotional you may be, let us use parliamentary language.

The House that is called the National Assembly is honourable just like the Senate. So, when you are referring to the other House, please, refer to it with some decorum.

Now that you have concluded your remarks, we will let the matter---

(Sen. Orwoba consulted loudly)

Order! We will terminate that debate there.

I will ask the Clerk to proceed to call the next Order.

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

Before the Clerk calls the next Order, Hon. Senators, allow me to invoke Standing Order No.45 to rearrange the sequence of today's Order Paper for the convenience of the House.

We will move to handle Order No.12 and thereafter resume normal flow of business as contained in today's Order Paper.

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Clerk, you may proceed to call that Order.

COMMITTEE OF THE WHOLE

(Order for the Committee read)

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

IN THE COMMITTEE

[The Chairperson (Sen. Kathuri) in the Chair]

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

The Chairperson (Sen. Kathuri): Hon. Senators, let us transact Business; there is no time to waste. Order, hon. Senators!

Sen. Methu and the *kamukunji* led by the Senator Minority Leader, let us dismantle those *kamukunjis*.

Minority Leader, Sen. Madzayo!

Sen. Sigei, approach the Chair.

(Sen. Wakili Sigei approached the Chair)

[The Chairperson (Sen. Kathuri) left the Chair]

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

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Senators, let us now be back in order.

Hon. Senators, we are in the Committee of the Whole to consider The Gambling Control Bill (National Assembly Bills No.70 of 2023).

Clerk, call out the clauses.

Clauses 3 and 4

(Question, that Clauses 3 and 4 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

I call upon the Mover, the Chairperson Standing Committee on Labour and Social Welfare, Sen. Murgor.

Sen. Mbugua, you will do it on behalf of the Chairperson.

Proceed to move the amendment.

Clause 5

Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move-
THAT, Clause 5 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (e) -

(ea) develop and implement county legislation on betting and other forms of gambling;

(eb) license prize competitions within a county;

(ec) license amusement machines;

(ed) issue trade permits for betting premises;

(ee) license and issue pool table permits within the county;

(ef) license and supervise county lotteries;

(eg) issue trade permits for premises for totalisators;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 6

(Question, that Clause 6 be part of the Bill, proposed)

Division will be at the end.

Clause 7

Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move:

THAT, Clause 7 of the Bill be amended by-

(a) deleting paragraph (d) and substituting therefor the following new paragraph—;

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that—

(i). One shall represent persons with disabilities;

(ii). One shall represent the youth; and

(iii). One shall represent faith based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph—;

(e) three persons nominated by the Council of Governors and appointed by the Cabinet Secretary, and

(c) deleting paragraph (f)

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 8 and 9

(Question, that Clauses 8 and 9 be part of the Bill, proposed)

Division will be at the end.

Clause 10

Sen. Mbugua: Mr. Temporary Chairman, Sir, I beg to move:
THAT clause 10 of the Bill be amended—

- (a) by deleting paragraph (c);
- (b) in paragraph (f) by inserting the words “in consultation with county governments” immediately after the word “maintain” and
- (c) in paragraph (g) by inserting the words “beneficial owners” immediately after the word “directors”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 11-20

*(Question, that Clauses 11, 12, 13, 14, 15, 16,
17, 18, 19 and 20 be part of the Bill, proposed)*

Division will be at the end

Clauses 21-27

*(Question, that Clauses 21, 22, 23, 24, 25, 26
and 27 be part of the Bill, proposed)*

Division will be at the end

Clause 28

Sen. Cherarkey: Mr. Temporary Chairman, Sir, I beg to move-
THAT Clause 28 of the Bill be amended-

- (a) in Sub-Clause 2 by deleting paragraphs (o), (p), and (q) and;
- (b) by deleting Sub-Clause 4

(Question of the amendment, proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

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Clauses 29 and 30

(Question, that Clauses 29 and 30 be part of the Bill, proposed)

Division will be at the end.

Clause 31

Sen. Cherarkey: Mr. Temporary Chairman, Sir, I beg to move: THAT Clause 31 of the Bill be amended in Sub-Clause (3) by deleting the word 12 appearing immediately after the words “a period of” and substituting thereof the word “36.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 32-40

(Question, that Clauses 32, 33, 34, 35, 36, 37, 38, 39, and 40 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 41-50

(Question, that Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the End

Clauses 51-60

(Question, that Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 be part of the Bill, proposed)

Division will be at the end.

Clauses 61-63

(Question, that Clauses 61, 62, and 63, be part of the Bill, proposed)

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Division will be at the End.

Clause 64

Sen. Cherarkey: Mr. Temporary Chairperson, Sir, I beg to move:
THAT Clause 64 of the Bill be amended in Sub-Clause (5) by deleting the words “twenty shillings” appearing at the end of the Sub-Clause and substituting thereof for the words “one shilling.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 65

(Question, that Clause 65 be part of the Bill, proposed)

Division will be at the end

Clause 66

Sen. Mbugua: Mr. Chairman, Sir, I beg to move-
THAT clause 66 of the Bill be amended by deleting the words “shall ensure that its” appearing immediately after the word “Authority” and substituting therefor the words “and county governments shall ensure that their”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 67 and 68

(Question, that Clause 67 and 68 be part of the Bill, proposed)

Division will be at the end.

Clause 69

Sen. Sifuna: Mr. Temporary Chairman, Sir, I beg to move:
THAT the Bill be amended by deleting clause 69 and substituting therefor the following new clause—

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Online gambling⁶⁹. An online gambling transaction shall commence when a transaction. player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 70

(Question, that Clause 70 be part of the Bill, proposed)

Division will be at the end.

Clause 71

Sen. Cherarkey: Mr. Temporary Chairperson, Sir, I beg to move- THAT Clause 71 of the Bill be amended in Sub-Clause (3) by deleting the words “Kshs5 million” appearing immediately after the words “not less than” and substituting therefore with the words “Kshs50,000”.

(Question of the amendment, proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Hon. Members, I am notified that the just moved proposed amendments by Sen. Cherarkey were not in the Order Paper, but they have been circulated for Members to interact with them.

Clauses 72-80

(Question, that Clauses 72, 73, 74, 75, 76, 77, 78, 79 and 80 be part of the Bill, proposed)

Division will be at the end.

Clauses 81-86

(Question, that Clauses 81, 82, 83, 84, 85, and 86 be part of the Bill, proposed)

Division will be at the end.

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I call upon the Chairperson, Standing Committee on Labour and Social Welfare to move the amendments on Clause 87.

Clause 87

Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move-
THAT clause 87 (2) of the Bill be amended in paragraph (e) by deleting the word “six” appearing immediately after the words “radio between” and substituting, therefore, the word “five”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 88-100

(Question, that Clauses 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 be part of the Bill, proposed)

Division will be at the end.

Clauses 101-110

(Question, that Clauses 101, 102, 103, 104, 105, 106, 107, 108, 109 and 110 be part of the Bill, proposed)

Division will be at the end.

Clauses 111-118

(Question, that Clauses 111, 112, 113, 114, 115, 116, 117 and 118 be part of the Bill, proposed)

Division will be at the end.

I call upon the Chairperson, Standing Committee on Labour and Social Welfare to move the amendments on Clause 119.

Clauses 119

Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move-
THAT Clause 119 (2) be amended by deleting-

- (a) paragraph (d); and
- (b) paragraph (g).

(Question of the amendment proposed)

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The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clauses 120 - 122

(Question, that Clauses 120, 121 and 122 be part of the Bill, proposed)

Division will be at the end.

I call upon the Chairperson Standing Committee on Labour and Social Welfare to proceed to move the proposed amendment to Clause 123.

Clause 123

Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move-

THAT Clause 123 of the Bill be amended by renumbering the current provision as sub-clause (1) and inserting therefor the following new sub-clauses immediately after the new clause (1)—

Cap 269 (2) The Kenya Revenue Authority Act, is amended in Part II of the First Schedule, by deleting paragraph 7 and substituting therefor the following new paragraph—

7. The Gambling Control Act.

No. 20 of 2023 (3) The National Lottery Act, is amended by inserting the following new clause immediately after clause 52—

Regulations

53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
- (b) the conduct of a national lottery;
- (c) apportionment of the proceeds of the national lottery;
- (d) procedure for the sale of tickets, prizes of tickets, and payment of prizes;
- (e) announcement and protection of winners of the national lottery;
- (f) the circumstances under which the national lottery may be advertised; and,
- (g) the places where, circumstances, or manner in which signs relating to a national lottery may be displayed.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Chairperson Standing Committee on Labour and Social Welfare, proceed to move that the New Clause 117A be now read a Second Time.

New Clause 117A

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Sen. Mbugua: Mr. Temporary Chairperson, Sir, I beg to move-
THAT the Bill be amended by inserting the following new Clause immediately
after Clause 117-

Operating
hours

117A. A licensed betting, gambling, lottery, or gaming
premise shall operate between ten o'clock in the evening
and five o'clock in the morning.

(Question of the New Clause 117A proposed)

(New Clause 117A read the First Time)

*(Question, that New Clause 117A be read a
Second Time proposed)*

(Question that New Clause 117A be part of the Bill proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

The First and Second Schedules

*(Question, that the First and Second Schedule be
part of the Bill, proposed)*

Division will be at the end.

I call upon Sen. Cherarkey to Move the proposed amendment.

Third Schedule

Sen. Cherarkey: Mr. Temporary Chairperson, Sir, I beg to move-
THAT the Third Schedule of the Bill be amended in paragraph (b) by deleting the
amount "200, 000, 000" and substituting, therefore, the amount "20,000, 000 or one-
twelfth of the gross gaming revenue of the operator from the previous year."

The Temporary Chairperson (Sen. Wakili Sigei): Hon. Members, Sen. Sifuna
had a similar amendment to the Third Schedule. I call upon him to adopt the proposed
amendment by Sen. Cherarkey or otherwise.

Sen. Sifuna: Mr. Temporary Chairperson, Sir, I confirm that I fully adopt the
amendment as proposed by Sen. Cherarkey.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

(The Temporary Chairperson (Sen. Wakili Sigei))

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consulted the Clerk-at-the-Table)

Hon. Members, in regard to the Third Schedule where Sen. Sifuna has adopted the proposed amendments by Sen. Cherarkey, the proposed amendments by Sen. Sifuna, pursuant to the adoption of Sen. Cherarkey's amendment are hereby dropped. The proposed amendments by Sen. Cherarkey have been adopted.

(Proposed amendment to the Third Schedule by Sen. Sifuna was dropped)

The Temporary Chairperson (Sen. Wakili Sigei): Division will be at the end.

Clause 2, The Title and Clause 1

(Question, that Clause 2, the Title and Clause 1 be part of the Bill, proposed)

Division will be at the end.

Serjeant-at-Arms, ring the Division Bell for 10 minutes, starting now.

(The Division Bell was rung)

Serjeant-at-Arms, kindly proceed to continue ringing the Division Bell for another five minutes.

(The Division Bell was rung)

Serjeant-at-Arms, please, stop the bell. Thank you.

(Loud consultations)

Order, Hon. Members.

(Sen. (Dr.) Khalwale stood in his place)

Majority Whip, Sen. (Dr.) Khalwale, let us resume our seats for purposes of reporting. I call upon the Mover, the Senate Majority Leader, to move that the Committee do report progress.

Sen. Cheruiyot, proceed to report from the Dispatch Box.

(Sen. Cheruiyot moved to the Dispatch Box)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairman, Sir, I beg to move that the Committee of the Whole do report progress on its consideration of

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The Gambling Control Bill (National Assembly Bills No.70 of 2023) and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House Resumed)

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

PROGRESS REPORTED

THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO.70 OF 2023)

The Deputy Speaker (Sen. Kathuri): Let us have the Chairperson.

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. I beg to report that the Committee of the Whole has considered the Gambling Control Bill (National Assembly Bill No.70 of 2023) and seeks leave to sit again tomorrow.

The Deputy Speaker (Sen. Kathuri): Let us have the Mover.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

I request the Senator for West Pokot County to second.

Sen. Murgor: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, pursuant to Standing Order No.45 (2), we are going back to Order No.8 followed by Order No.9, in that order.

BILL

Second Reading

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

(Sen. Ogola on 16.4.24)

(Resumption of debate interrupted on 8.5.24)

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The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, you seem to have spoken on this Bill.

(Sen. (Dr.) Khalwale spoke off the record)

Okay, proceed and make your brief comments. Do you want to comment on The Houses of Parliament (Bicameral Relations) Bill (National Assembly Bills No.44 of 2023) or this one?

(Sen. (Dr.) Khalwale spoke off the record)

As an expert in that field, proceed and make your comments.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I rise to support The Maternal, Newborn and Child Health Bill (Senate Bills No.17 of 2023). As I congratulate the Mover of the Bill, the distinguished Senator, Beatrice Ogola, I am pleased to inform her that she has serious bragging rights. In fact, shame on us, who are not only doctors, but have also been in this House for many years. For all these years, the furthest we have gone is to talk about free maternal and child healthcare and funding. This was merely a scratch on the surface of the real needs of this category of Kenyans. I therefore congratulate you, Senator. Having gone through the Bill, I realise how deeply you have reflected on it and I support.

Mr. Deputy Speaker, Sir, this matter is so serious, especially when you weigh in the statistics. For every 100,000 women who deliver, a whopping 530 die during childbirth. This is the national average. It is not acceptable that the counties from the so-called former Northern Frontier Districts, namely Mandera, Wajir and Turkana are leading in this category. That, a young girl can stay for nine months looking forward to getting a beautiful baby, but she not only loses the baby, but also loses her own life. In Mandera, it is as scaring as 3,800 women die at childbirth, out of every 100,000 deliveries. In Wajir, the number is 1,683, while Turkana is 1,594.

This Bill seeks to speak to this, so as to right it. What is more, when those women die, they do not die alone. Some of them die with their children, and because of the challenges facing this particular age group, you find that, for every 100,000 children born in Kenya, 500 of them die. Garissa leads with 641 and Nyeri performs best. In Nyeri, only 67 children die. So, we have work to do. This is the work we are discharging as a House of legislation.

Mr. Deputy Speaker, Sir, going through this Bill, my attention was captured by Clause 6. It has listed the services for a non-pregnant woman. The Mover has included Form A on family planning services, preconception care services, and so on, up to E. However, allow me to speak to the point of family planning as a service.

When I look at your beautiful grey goatee, you will remember the excessive emphasis there was on family planning when you and I were growing. This has to be thought out now because the excessive emphasis has now contributed a lot of pain in many countries in Europe and America to the extent that populations are now at risk. Application of family planning is not without negative impact in this country. I visited a

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constituency in the former Central Province, namely Githunguri, and saw the dwindling number of children in ECDE centres.

(Sen. Nyamu and Sen. Wakili Sigei consulted while on their feet)

The Deputy Speaker (Sen. Kathuri): Hon. Members, I am trying to follow what the Senator is saying, but there seems to be some interruption from my right-hand side.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I would like to appeal to the young Sen. Nyamu to know that in Parliament no two Senators can be on their feet at the same time.

The Deputy Speaker (Sen. Kathuri): Sen. Nyamu and the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, kindly take your seats.

(Sen. Nyamu and Sen. Wakili Sigei resumed their seats)

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, the fact that we are seeing it here at home shows that if we do not manage it well, we might find ourselves where China, Sweden and Finland are today because they are paying parents to get pregnant and bring up children.

His Excellency the President is encouraging young people to look for jobs beyond our borders, but some people are trying to undo that innovative move by referring to what the late President Kibaki said. President Kibaki used to encourage our professionals to remain here. The world is not how it was 20 years ago. We have the capacity to bring forth children who cannot only work for us, but also for the community of nations.

Mr. Deputy Speaker, Sir, I am also impressed by Clause 7---

(Sen. Cherarkey walked across the aisle without bowing to the Chair)

The Deputy Speaker (Sen. Kathuri): Pardon me, Sen. (Dr.) Khalwale. Sen. Cherarkey, did you just walk across the Floor of the House?

(Sen. Cherarkey spoke off record)

The Deputy Speaker (Sen. Kathuri): I did not see you on that side because you are very visible. You did not also cross through the aisle.

(Sen. Cherarkey went to the Bar and bowed to the Chair)

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, Clause 7 of the Bill seeks to offer services to pregnant women. Among them is early detection of pregnancy, free pre-natal care and so on. I would like to encourage the Mover to allow for a deliberate provision for cash transfer to pregnant women.

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I remember 20 years ago when I came to Parliament, I moved a Motion seeking to ensure that pregnant women receive cash, but it was defeated at that time. If we are transferring cash to people who are 70 years and above, it is time we addressed the other end. We transfer cash to geriatrics. Let us do the same to paediatrics. We should not just care about old people and forget about women who give birth to the children who will eventually become old.

Clause 9 of the Bill seeks to provide services for women with special needs. This is very important. We have a list from (a) to (f), specifying women who deserve special needs. The Bill is clear, but I want to draw the attention of the Mover to something small that has been left out.

When I was practicing medicine at Kenyatta National Hospital (KNH) and Pumwani Maternity Hospital, young mothers would come to the labour wards. Once a mother pushed a child out, the child would shoot the first cry and you could also hear the scream of the mother. Some of them used to say; *daktari sitaki mtoto*. The midwives would quickly respond by lifting the child to show the mother so that they bond. A mother would still turn her head, close the eyes and say she does not want to see the baby. This Bill should provide especially for adolescents who do not want to keep their children after giving birth.

Once we have this in law, we will know what to do. It is important because nurses are usually under a lot of pressure. In Pumwani Maternity Hospital, you can have 40 or 50 women giving birth to children within one minute. Therefore, nurses become overwhelmed. Human traffickers take advantage to traffic those children who are then denied an opportunity to go to the hands of loving people. They end up in traffickers' hands whose interest is to make money. I thought you should add that.

Clause 10 speaks about courteous treatment. For purposes of this Act, a woman with special needs includes a woman with disability, mental illness or from a marginalised area. I agree fully, but I propose that you add the issue of infertility because it is also a special need. Whereas in this Bill we are imagining that everybody has an opportunity to get pregnant, we have others who have challenges with conception. These are the people who require support by medical specialists, so that they can get babies.

Colleagues, you have heard of In-Vitro Fertilization (IVF) and surrogate mothers who have fertilized ovum implanted in their uterus. They carry babies for women with fertility issues and hand them over later. We need to put this into law. Since IVF is very expensive, we should see how to support ordinary Kenyan women who have infertility challenges, but cannot afford this procedure.

Secondly, we need to tighten the law because if it is not there, a surrogate mother may become attached to the baby after carrying it for nine months. After delivery, she might refuse to release that child to the woman who donated the ovum and whose husband's sperm was used to fertilize before it was implanted in the surrogate mother. We need this in law.

Mr. Deputy Speaker, Sir, we have another challenge that I would like to draw to the attention of the Mover. Not all people who get pregnant want to see the pregnancy to term. Some of them, who would like to carry a pregnancy to term, fail to reach there because of abortion. Abortion is not well addressed in the laws of this country. Therefore,

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in this very innovative Bill, I urge that we put a provision in Clause 11 to find a place for abortion in two ways.

When a woman who gets a spontaneous abortion lands at KNH emergency room, they are treated as if they were seeking an illegal abortion. The treatment is traumatizing. When a woman, who was three months pregnant and has been waiting for this baby arrives in hospital and there are also other women who have procured a backstreet abortion there - something we call incomplete abortion - they are all treated very inhumanely because the assumption is that all these women might have sought backstreet abortions. We need the law to be clear, so that care is given to these women.

More importantly, since the Mover has remembered the mental health of the pregnant women, we need to have counselling services at the abortion end of the law to provide for mental care for women whose children die when procuring an abortion.

Mr. Deputy Speaker, Sir, Clause 12 speaks to the role of the Cabinet Secretary. The Mover of the Bill has clearly given those roles and I want to laud you. Given the experience we have had with the fertilizer, it looks like we should continue going your route, so that every law can tell a Cabinet Secretary their role. This is to ensure that when a Cabinet Secretary for Health fails to observe what you have stipulated in Clause 12 and a Motion of impeachment is brought against them, they do not start shifting blame.

The death of a mother or a baby is extremely traumatizing. If there was something that a Cabinet Secretary was supposed to do to prevent it and they do not, then let us be where Finland, Sweden, the USA are, where the Cabinet Secretary takes political responsibility. I laud you for this.

Mr. Deputy Speaker, Sir, in Clause 13, the Bill seeks to ensure that reports are taken to Parliament. The Mover says that the report shall include a description of the activities and interventions undertaken by the Ministry in respect to the maternal newborn and child health services. Then there is part B and C.

The Mover should consider amending the Bill by introducing 13(2)(d) where I propose that in D, the report to be brought to Parliament should include a record of the maternal deaths and neo natal deaths per county. This is important because we are now in the era of devolution. In the new Constitution, devolution is about serving people and this is a Bill seeking to ensure that the people starting life and the women giving people an opportunity to start a life, get the best services.

Madam Mover, it means that if we get this per county records, we shall introduce the factor of maternal and neonatal deaths in the formula for sharing revenue. This will ensure that the counties that have the highest number of maternal deaths such as Mandera, Wajir and Turkana can actually have it factored in, so that they get a higher allocation to be able to meet that particular challenge.

Let me pause for a second because I can see Sen. Kavindu Muthama is here.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, your time is up. Maybe you can conclude.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I still had a few points, which I wanted to be addressed, but I will pass them over to the Mover in writing.

I thank and support you. I am so proud of your industry this afternoon.

The Deputy Speaker (Sen. Kathuri): I do not know whether the other two Senators, Sen. Nyamu and Sen. Okiya Omtatah, have something to say about this Bill.

Proceed, Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Thank you, Mr. Deputy Speaker, Sir. I rise to support The Maternal, New Born and Child Health Bill, 2023.

First, I congratulate and thank the Mover for this well-thought-out Bill, which is long overdue. Pregnancy is not a disease, but this country has made it to be a disease and that is why women are dying of pregnancy. Pregnancy is a primary health care issue that is very well located within the counties.

If there is any component of healthcare that counties are supposed to address, it is the child maternal health and all the things that are associated with it, to ensure that women and children do not die or fall sick and that women have the care they require to bring in new members of the future of this country to life because without mothers, we have no society.

I have seen terrible healthcare facilities across this country especially, in Busia County. There is one hospital that has been declared by residents to be a death trap. This is Kocholia Hospital in Busia. The rate at which women die in that hospital is unacceptable. Not that any death is acceptable, but this one is alarmingly unacceptable. I pray that this Bill gets the support it requires.

I want to associate myself with the sentiments of Sen. (Dr.) Khalwale as regards to the various amendments he has proposed. I would only want Sen. (Dr.) Khalwale to distinguish between a miscarriage and an abortion. We cannot afford to be not clear on that particular subject, which has got both moral and health connotations.

An abortion is an intentional act while a miscarriage is not. There is nothing like a natural abortion. You can have a miscarriage when a pregnancy is terminated prematurely by natural causes. That is not an abortion. An abortion is a deliberate decision to terminate life. In Article 26 of the Constitution of Kenya, 2010, life is recognized as beginning from conception. If life begins at conception, then you cannot have extrajudicial termination of that life. It cannot be terminated by doctors; it can only be terminated through a judicial process.

This House has no capacity to debate the question of abortion in the Republic of Kenya. The question of abortion was put to the people of Kenya when the Constitution was being reviewed and it was rejected. Therefore, if this House would like to discuss abortion, it may not do it by an ordinary Bill like this one. It must move it by a special Bill under Articles 255 and 256 or through a popular initiative under Article 257.

Since abortion concerns the right to life, which is in the Bill of Rights, it is an entrenched provision that would require a referendum. So, whereas I support Sen. (Dr.) Khalwale's sentiments on miscarriage, the question of abortion being the intentional termination of life that begins at conception is beyond the reach of this Bill. I would request that the Mover distinguish between an abortion and a miscarriage, which would need to be addressed.

Secondly, I support the issue of assisting women who are unable to get pregnant, to be able to do so. As you know, the failure to get children, especially in our society, is a very heavy burden that sometimes destroys people. Maybe that particular service, where

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it is certified that somebody needs medical intervention to conceive, should be carried by the state, which is the ultimate beneficiary. The state benefits from the citizens who come into this world.

I would also urge the Mover of this Bill to consider matters of nutrition of the newborn babies. We need to create an environment where it is possible to transmit life effortlessly. For me, it would be upon the State to provide a newborn baby with the basic necessities to lead a healthy life. Beyond immunisation and various vaccinations, the newborn baby should be given basic nutritional requirements for the baby's development into a functional human being with all capacities. Therefore, that would require some support towards those households that do not have enough to provide for that child through some rations *et cetera*.

The other issue is the loss of life, not as a result of the mother not being able to deliver, but as a result of either the nurses or midwives being overworked or negligent. There have been very many cases of the loss of both mother and baby due to the negligence of nurses and midwives. Therefore, there would be a need to secure that space and make sure that there is a mechanism for monitoring and ensuring that there is no loss of life births and mothers who have succeeded in giving birth.

We have the question of children being unable to develop because of lack of attention during birth. I do not know the medical word for it, but we have children who suffer cerebral palsy as a result of the mismanagement at delivery. Those cases need to be documented. Anytime we have a child with cerebral palsy, there should be a follow-up to establish what happened at delivery. Was it as a result of negligence or an act of God? These cases are becoming too many. Maybe it needs to be addressed through some form of legislation or regulation.

Mr. Deputy Speaker, Sir, as I support this Bill, I also call upon the medical fraternity to tell us why the standard form of delivery has become cesarean section today. Why do you not have as many natural births as they used to be? Some of us, like I am told, were just born at home. I was delivered from our house. Why is it that today women are being opened up left, right and center? Every birth you hear is cesarean section. Maybe the Mover of this Bill should give us a procedure of when a woman should be sent to caesarean section. It must not be the first line of delivery. It has become too common. We know there is money in it, but it should not be the motivation to some of these things.

This is a very important Motion that needs to be given all the support we can. As for county governments, they have this huge burden. We know that even before devolution came, pregnancies and matters of maternity were not a matter of clinical medicine, unless complications arose. It was handled by the county councils and local authorities.

Even Pumwani Hospital, as big as it is, did not belong to the national government, but the then County Council of Nairobi. Now that these functions have properly been devolved, I would like to see the money that is supposed to run healthcare leaving Nairobi and going to the counties.

We cannot be in a situation where the services are delivered by county governments, but the money remains in the Ministry of Health to do whatever we do not

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know. We do not see any functions by the Ministry of Health that could justify the retaining of huge sum of money, which some put it at about 80 percent of the budget for health. We would like to see these funds devolved so that this Bill can become a reality.

From where some of us come, in terms of school of thought, a government has only one policy document; everything else is poetry. That policy document is called the budget. If it is not in the budget, it is nowhere in the policies of a government. It is all poetry for entertainment. We pray that we see the policy of the national Government reflect the concerns of the people of Kenya by releasing all the resources in the health function down to the counties because it is devolved.

Allowing the national Government to play a minimal role in terms of policy, but implementation money should go to the ground. Otherwise, we labour in vain as we pass this Bill. However, this should not be a labour in vain. This should be labour for purposes of securing the future of this country. I urge the national Government to look itself in the face and realise that the health function is with the county governments and money should be released to the county governments where it is required to provide health services, including maternal health. We talk of the health of a child. The health of a child is critical because we are talking of maternal, newborn, and child health.

It is extremely critical that children are nurtured with enough food and resources, so that their brains can develop. Since a child covers even a person who is in primary school, this would also require that we ensure that children are well fed at least during their primary school phase. There should be at least one meal during school time to ensure that the children have proper health because the basic ingredient of good health is good food. We realise that in many cases, many communities and many households have a challenge providing adequate food to their children and so children get malnourished. When children are malnourished, then their health is not something to talk about.

Therefore, on child health, I ask the Mover to consider the nutritional side quite a bit, so that nutrition becomes a foundational ingredient of this Bill. This refers to nutrition of newborns, children and pregnant mothers. If the mother does not have proper nutrition, then that pregnancy cannot result in a bouncing baby. The baby will be stressed from the beginning due to the denial of the necessary nutrients.

With those few remarks, I thank the Mover of the Bill. On top of that, I also thank in very colourful words, Sen. Boni Khalwale, for the very informed contribution he has made to this Bill, except for his failure to distinguish between an abortion and a miscarriage. I hope you will understand that a miscarriage is not an abortion, and an abortion is not a miscarriage, because one is intentional, and the other one is an act of God.

With those few remarks, Mr. Deputy Speaker, Sir, I support the Bill.

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

Sen. Maanzo Daniel, what is your intention on this screen?

Sen. Maanzo: I have yet not contributed to this Bill, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Okay, proceed.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. I thank ---

Sen. Nyamu: On a point of Order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Do you also have an interest? I thought you dropped us to the next bit.

(Sen. Nyamu spoke off the record)

Sorry?

(Sen. Nyamu spoke off the record)

Okay, alright.

Sen. Maanzo: Thank you, Mr. Deputy, Speaker, Sir. I thank the Mover for coming up with this Bill. This Bill is very important. It deals with maternal, meaning the mother, then newborn, meaning a child who has successfully been born, and the child's health to mean the growth of a child. Bear in mind that a child is up to 18 years of age.

Makueni County pioneered this, although it was not in any written law. Professor Kibwana, together with his cabinet, came up with a maternal mother-child hospital. It was done very reasonably, very clean, and not far from the Level 5 Hospital in Makueni headquarters, Wote. The then First Lady, Mrs. Uhuru Kenyatta, opened this hospital. She came all the way personally to Wote. She was very particular about newborn children. I was invited as a local Member of Parliament (MP). In my speech at that opening ceremony, I said that water was very important. The supply of water to every home and the supply of water to the hospitals.

The supply of clean water does away with half of possible diseases. If we have clean water everywhere in the country, including in every home, school, and hospital, then we would have very few people going to the hospital. During the COVID-19 pandemic when we were doing sanitisation and washing our hands, other than a few COVID-19 patients, there were hardly any patients in the hospital. This shows that cleanliness goes a long way in fighting diseases. One of the biggest afflictions of a newborn baby is disease. If there are disease outbreaks, they will affect children in a worse scenario.

As Sen. Omtatah has contributed, the best policy for any government is the budget. If you have a sufficient budget, make sure that we have enough water. Just like the way we had a lot of rain, if we had stored enough clean water, then we will be sorting out the health situation.

The worst case scenario is when a newborn baby is born or a child is growing up, and there are health conditions that affect the child very adversely. Therefore, the provision of clean water and a clean environment is very key for the growth and success of children. For there to be a healthy child, they have to be born to a healthy mother. Therefore, the medical condition or the health status of a mother is very important, be it stress, disease, or any other disturbance when a mother is expecting or plans to expect goes a long way into how the child will be. Even when a mother is expecting, there has to be enough information and knowledge on how best to take care of their unborn baby. Children are affected by the abuse of drugs before they are born, by the presence of disease or by the stress of the mother.

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Then comes delivery time. As Sen. Omtatah has said, he was born at home. I too was born at home, deep in Makueni at the time, even the road services were very difficult to find. The nearest hospital was 200 kilometres away, which is Machakos town. Some traditional methods and experts knew how best to deliver a baby. My grandmother, thank God, was such an expert. Therefore, I was safely born. Then, if something was to go wrong, it would have taken two days to get to Machakos District Hospital. There was only one bus, which only appeared every 24 hours. If you missed that bus, you had to wait. So, you would imagine what would be the situation. I am sure, still in some parts of this country today, we have some rare remoteness, whereby unless you take the health services of expectant mothers to the grassroots, then there is a problem.

That is why devolution is very important. That is why this law is very important. The other aspect of this law is a devolved one. This is not a national law. Therefore, wherever the presence of the national Government has been mentioned - I believe during the Third Reading - the Mover should delete it. The devolved function should fully own this function, so that every other county in Kenya has a hospital like the one we have in Wote, Makueni County. If it is duplicated everywhere, even in some of the sub-county hospitals and dispensaries we would have some facility which will assist expecting mothers in cases of emergencies.

Mr. Deputy Speaker, Sir, again, most people who bring many children into the world, are young women and therefore need that information. There is a new system of Community Health Practitioners (CHP). This law must feature them prominently. It should even go to their financing and their preparation to make sure that in every village there is a CHP and also a midwife, who is very experienced and has the basics and equipment to detect things such as blood pressure. Such a person can advise in case a woman goes into labor and that there are mechanisms to ensure the safe delivery.

Also, when you move from the village, there is a component of other factors that children go with. This morning as I was coming to the Senate, I saw a child lying in the streets of Nairobi, very dirty and looking miserable yet this child should be in school. So, what are the counties doing to ensure that there are no street children and that there are better facilities? Even if they did not meet their mothers or they are in abusive or unsafe homes, then what do you do to make sure that particular child goes to school?

Now that schools have been opened, why do we have children in the streets of Nairobi or the streets of any county capital in Kenya, any village or market? Children should either be in a children's home or a proper home or somewhere they can get their care at that very tender age.

This person, who if left on the streets, will eventually need medical attention. They are likely to abuse drugs, sniff glue and not to have a chance in life. That is another component that should also come into play. There is no sufficient law to ensure that children of that nature are taken care of.

What happens many times in case of emergency delivery and when their services are not available, is that many mothers lose their lives and the children are also likely to lose their lives. This is the most critical component that should be covered by the rights of health services and services for new pregnant women to make sure the antenatal and postnatal care is properly done.

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This calls for a lot of information to the young people which could be part of the curriculum system and which could be relayed by the community health workers. It will ensure that young expectant women are taken care of very well during that particular time.

Otherwise, although the national Government has been given some role, we should lead the Cabinet Secretary in charge of Health. That role should be devolved. The monies should be devolved and make sure that all services are held at the county level because even if you have Kenyatta National Hospital in Nairobi, there are very many other county hospitals such as Pumwani Maternity Hospital.

That Pumwani Maternity Hospital concept should be duplicated without really any role. The only role of the national Government is to make sure that during the Division of Revenue Bill, there is sufficient money allocated to the health function and all the money is devolved completely from the national Government to the county governments therefore, Part 3 of this Bill is likely to suffer that mischief.

Then when you go to monitoring and evaluation, that again, should still happen in the counties. There are general provisions and regulations likely to come under this law. Therefore, I believe that we should pass this Bill, and I believe the National Assembly will not waste a lot of time, but pass this Bill for the benefit of the children of this country.

Mr. Deputy Speaker, Sir, if a country has no children, then it has no future population. If out of misinformation or lack of sufficient knowledge, a young expectant lady infects a child with a life-threatening disease, then it means that child is not going to live well or long on earth. For those born with some natural or genetic conditions, there should be a way of addressing that to see whether some of the corrective surgeries can be conducted in good time, so that the health of that child can be stabilized. That can happen only when there is close supervision and there are medical services available at all levels.

As a nation, we should focus on making sure that from conception to newborns to childhood, there are fewer deaths and the children are protected for the benefit of the future and they enjoy all benefits. That should be the work of the county, to make sure all children have an equal opportunity of health, education and proper diet because a poor diet goes a long way.

I believe that Sen. (Dr.) Khalwale, who is a very experienced doctor, would be very instrumental in shaping this Bill at the Third Reading. He could advise us and lead us to make sure we have the best law to protect our children, the future of our nation and of the world.

I thank you, Mr. Deputy Speaker, Sir, and I support.

The Deputy Speaker (Sen. Kathuri): Sen. Karen Nyamu, you may proceed.

Sen. Nyamu: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill by Sen. Beatrice Ogola for its significance in providing comprehensive healthcare, maternal and neonatal healthcare to mothers in the country. This is particularly so in the midst of the uncertainty surrounding the *Linda Mama* Programme that previously provided free antenatal, prenatal and neonatal health care services.

If this Bill is passed, it could see the enhancement and streamlining of maternal health services in our health facilities, which could greatly reduce the mortality of mother and child.

Despite this country having made big strides in reducing mortality generally, we still have maternal and neonatal mortality unacceptably high. A report by the Auditor-General still indicates that we have a significant number of women losing their lives due to complications of pregnancy and child delivery. So, this Bill is very welcome to curb deaths in this very delicate area.

We also would want to see the health sector adopting and introducing innovative policies that will help a widespread adoption of new technologies in this very sensitive healthcare, adopting technologies that are already being used in the world to reduce mortality and also make childbearing a very comfortable experience for mothers.

We also laud Sen. Beatrice Ogola because there is a report by the Auditor-General that indicates that 60 per cent of our health facilities that were examined still lack basic facilities for maternity health services. This should be dealt with urgently to curb these deaths.

Finally, this Bill could see the health services of mother and child significantly improved because it deals with this issue holistically. It is a timely replacement for the Linda Mama Programme that I referred to before.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you. Having no other Senator interested in contributing to this Bill, I call upon the Mover to reply.

Sen. Ogola: Mr. Deputy Speaker, Sir, I beg to reply.

From the onset, I sincerely thank the Speaker of the Senate for giving me the opportunity to move this Bill. I thank the Clerk of the Senate, the head of the secretariat, for the guidance and facilitation of the preparation and presentation of this Bill.

I sincerely thank my colleague Senators; the seconder of the Bill, Sen. Crystal Asige, who outstandingly supported the Bill. Sen. Mungatana, MGH, Sen. Orwoba, Sen. Olekina, the Minority Whip, Sen. Tabitha Keroche, the Deputy Majority Leader, my Senator, Sen. M. Kajwang', the Senator for Nandi, Sen. Cherarkey, Sen. Mwaruma, Commissioner Sen. Korir; and Sen. Hamida Kibwana, the Chairperson of the women caucus of the Senate and Sen. Tabitha Mutinda, the Vice-Chairperson.

I also thank senior Sen. (Prof.) Kamar for her passion and all the support she has given me behind the scenes during the preparation of the Bill. I thank Sen. Wambua, the Deputy Minority Leader and Sen. (Dr.) Khalwale, the Majority Whip, who I looked up to for background knowledge on the Bill because of his outstanding background in this profession and his foresight, as demonstrated by his presentation today.

I also thank Sen. Okiya Omtatah, the Senator for Busia, and Sen. Maanzo for his passion. I also thank Sen. Nyamu for her precise presentation today. Lastly, I thank all the other Senators who did not have time to make their presentations, but continued to give me their input and add their voice to this Bill. As I reply, I look forward to their input to enhance this Bill.

Mr. Deputy Speaker, Sir, the background of this Bill has been highlighted on this Floor by the many Senators who have given us the data we have in this country. Mothers

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do not need to die as they secure the continuity of our future generations. In the course of this journey of continuity, as a country, we must ensure that we are purposeful and intentionally work against preventable deaths of our mothers.

As I moved this Bill, I quoted a declaration by a renowned lady named Dr. Anne Beatrice Kihara. This declaration was made at the Paris Convention in France on 12th October, 2023. The declaration summarizes the purpose and main driving force behind this Bill. For the benefit of people who were not there, Dr. Kihara is the first black president from sub-Saharan Africa of the International Federation of Gynecology and Obstetrics. She made an outstanding declaration that universally, the measure of a country's state of health is predicted by its maternal mortality ratio. So, as we give the gloomy picture that we must face in this country, this Bill addresses the need to be intentional about reducing some of these preventable deaths.

If you read the Bill and what it spells out, a number of the deaths as quoted from the records, figures, and the Auditor-General, could be prevented if we give a comprehensive service to maternal and children health.

As I moved the Bill, I asked why our mothers were dying if we had invested in bringing them to dispensaries, health centers and hospitals. I have stated in the Bill and spelt out categories of services that we must provide as a country to mothers as they get pregnant, when they are pregnant, and when they give birth.

I am happy that most Senators have enhanced this Bill. I can categorically state that the issue of children's nutrition has come up. As a country, we must raise quality children who will grow in a sustainable and useful way.

My colleagues have brought out issues of insurance for mothers and children. *Linda Mama* Programme was the best thing that happened in this country. However, it only cared for mothers and children at birth. Nonetheless, what do we do with the children as they leave the hospital? That is why I intentionally specified the care of children to be from birth to 12 years. Are we able to provide insurance for mothers and children as a package?

Sen. Crystal Asige raised a pregnant point. As mentally challenged mothers give birth, do we care what happens to their children after they leave the hospitals or the birth attendants? Taking into consideration that children are the property of the State, we must be intentional about reducing preventable maternal deaths.

A number of colleagues have raised critical issues. Reflecting on some of them, I remember the issue of mothers giving birth in dignity. We all know what happens in most of our hospitals and maternity wards. If you go to several public hospitals in the maternity ward, you will find at some point two mothers having given birth to children, even spending on a lean bed. I do not know what the professional senior, Sen. (Dr.) Khalwale, would say about that. According to me, that is not dignity.

I have been pregnant for nine months. I know what it means as you walk the journey towards giving birth. Some people think that giving birth is a natural process, but as natural as it is, it has medical implications. That is why sometimes you see women walking out of the hospital and some of them, of course, with happiness, but there are a number who are depressed. If you can recall, Sen. (Dr.) Khalwale during his presentation

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mentioned the girls who give birth and shout, that they do not want children. It means there is a problem.

Besides, due to poor planning of our facilities, the country must be able to plan for the women's projections as they get pregnant. We must have a working system that knows there should be this number of beds and services for these women. However, when women give birth, some are still not well, but have a child next to them, and they have another mother lying on the other side with their child. That is not the dignity that I am speaking about here. It also spells in this Bill that women must have access to certain information as they are pregnant. They must be prepared and preparations call for even very basic activities like breastfeeding.

I remember when I gave birth to my first child, I did not even know how to hold, wash or feed the baby. At one point, I ended up feeding the baby from one side of my breast and the other side was getting into problems. Do you not think that I needed to have been prepared for that kind of occurrence? That is what we are talking about.

Mr. Deputy Speaker, Sir, that was in those years and I was an adult. What about the young adolescents who are giving birth? As you walk around, you happen to see young girls with children and they have a right to those children because they were pregnant, but the State must go ahead to take care of these children.

Mr. Deputy Speaker, Sir, I have immensely benefited from the debate that has been on the Floor over this Bill for over three days. I remember Sen. Crystal Asige and without mentioning the particular inputs that were given, there are some outstanding ones. The Senator emphasised on certain services to the disabled. I know this because that is the category of people that she represents.

In this Bill, I also talked about women with special needs and specified that category to mean those are individuals with additional health needs. They can be as varied and not limited to only women with disability.

Mr. Deputy Speaker, Sir, some women have mental issues and I gave an example here on the Floor of the House, of what some of us call 'mad women' even as they walk in our urban centres or wherever. We do meet them, but because they are human, they get pregnant.

I have seen the input of senior Senators here about giving an outstanding role in these functions that I have spelt out to the county governments because this function of health is devolved. The national Government equally has a role to play and I like what Sen. (Dr.) Khalwale said, that "it specifies". Let us not just leave it open that there shall be a national and a county government. This Bill goes ahead to give specific functions so that people can take political responsibility.

I want to share with my colleagues that I will be looking into these inputs and will be consulting, where necessary. All that they have brought during debate will be taken care of. I will be very glad that finally if this Bill is passed, there will be an emphasis on the care that we give to mothers, newborns and children.

Mr. Deputy Speaker, Sir, I was telling people that in some communities, people even grade the worth of a man by the care they give to women and children around them. I thank my colleagues and I want to assure them that I will take in their input. I, therefore,

beg to reply. Additionally, I request that the putting of the question be deferred to a later date, pursuant to Standing Order No.66 (3).

(Putting of the question on the Bill deferred)

Mr. Deputy Speaker, Sir, I reply.

The Deputy Speaker (Sen. Kathuri): Thank you very much, Sen. Ogola.

I will rearrange again the business of the House this evening. We go to Order No.19. We have just one-and-a-half minutes, perhaps you can start Sen. (Dr.) Khalwale.

BILL

Second Reading

THE PUBLIC TRANSPORT (MOTORCYCLE REGULATION) BILL (SENATE BILLS NO.38 OF 2023)

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. I rise to move The Public Transport (Motorcycle Regulation) Bill (Senate Bills No.38 of 2023).

I have deliberately risen to kickstart the Bill for me now to come out properly tomorrow if the Clerk-at-the-Table will schedule it for tomorrow. At this particular point, I want to emphasise who this Bill affects.

Mr. Deputy Speaker, Sir, the *boda boda* industry employs 1.5 million people in Kenya. It contributes to the tune of Kshs202 billion every year.

The Deputy Speaker (Sen. Kathuri): Sen. Dr. Khalwale, you have a balance of 59 minutes to move your Bill.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir.

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Wednesday 15th May, 2024, at 9.30 a.m.

The Senate rose at 6.30 p.m.