



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

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## THE HANSARD

Wednesday, 26<sup>th</sup> April 2023

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Gladys Boss) in the Chair]*

PRAYERS

QUORUM

**Hon. Deputy Speaker:** I direct that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

We now have quorum. We may proceed. Stop the bell.

### COMMUNICATIONS FROM THE CHAIR

#### RECOGNITION OF STUDENTS FROM REGIS SCHOOL

**Hon. Deputy Speaker:** Hon. Members, we have today in the Speaker's Gallery the following students from Regis School, Runda: Esther Oyoo, Ashley Wanjira and Michelle Kago. The students are at the National Assembly for one week as part of their job shadowing programme which the school undertakes in various institutions during school holidays. On my own behalf and that of the National Assembly, I wish them fruitful engagements during the course of their programme. Thank you.

#### RECOGNITION OF VISITING DELEGATION FROM PAN-AFRICAN PARLIAMENT

Hon. Members, I also wish to introduce to you the President of the Pan-African Parliament, the Rt. Hon. Chief Fortune Zephania Charumbira who is seated in the Speaker's Row. He is accompanied by Mr. Daniel Bucuane, a Protocol Officer. The President is in the country to enhance collaboration between the regional Parliament, our Parliament and the National Executive.

Hon. Members, on my own behalf and that of the House, I wish to welcome him to the National Assembly and wish him fruitful engagements during his stay in the country.

*(Applause)*

I will give an opportunity to the Member for Kabuchai, Hon. Majimbo Kalasinga, a Member of the Pan –African Parliament.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you very much, Hon. Deputy Speaker. Indeed, I am happy to make my comments on this very able man Hon. Chief Fortune Zephania Charumbira. In his leadership, Pan-African Parliament has realised a lot and a lot has also changed. Even the attitude of Pan-African Parliament to Africa and the world has changed. We are very grateful to him. This man is among Africa's finest. The leadership of PAP as a

platform for Africa's voice on trade and African dignity has come to fruition. I wish him a nice stay in Kenya and a safe flight back to Midrand, South Africa, as we shall join him in May as Members of PAP.

Thank you, Hon. Deputy Speaker, for giving me this chance.

**Hon. Deputy Speaker:** I will also give an opportunity to another Member who is a Member of the Pan-African Parliament. Member for Nairobi City County, Hon. Esther Passaris.

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you, Hon. Deputy Speaker.

It is an honour for me as the Member for Nairobi County to be a Member of the Pan-African Parliament. It is also an honour for us as the Members of the Pan-African Parliament from Kenya, both in the National Assembly and the Senate, to host our President, Chief Fortune Charumbira. Chief has been in the country for the last two days. He has an extremely tight schedule. He was hosted first by our Speaker, the Rt. Hon. Moses Wetang'ula and the Speaker of the Senate, Hon. Amason Kingi as well.

Chief also had meetings with His Excellency the President where we were also present, including the Ambassador for Zimbabwe. As we sat and listened to all the deliberations from the Speakers of the two Houses as well as the President, we realised that the Continent of Africa has a lot of work to do. It is our hope that eventually the African Union and all the Members will realise that we need a huge budget. It is really sad that we have a deficit in our budget and we are not able to accomplish all the things that the founders of the Pan-African Parliament had envisaged. Our President is very passionate. He understands the issues from trade, to tariffs, to freedom of passage to movement within the continent.

As we go into session in the month of May, we will have climate change and trade as an agenda. We hope our President will be there to give a keynote address because he is passionate about climate change and he is driving the agenda about it. We know Africa suffers the brunt of climate change and yet we are not the contributors of gasses into the environment. As Kenya, we are very proud that we have delivered our President to the country and engaged in all these deliberations. We hope that, eventually, Africa as a continent will stand firmly and maximize on its resources, consumption and production locally.

The President mentioned that we are a huge market that cannot be ignored, and we also need respect from all our international partners as the continent of Africa. We are no longer the Dark Continent; we are a continent that has a lot of potential with a population of huge purchasing power and a young population that is vibrant and educated. As a continent, we want to make modern laws so that we can move together, but this is not going to be easy without resources.

As our Parliament deliberates, we also want to push for resources for the Pan-African Parliament so that we can achieve our mandate to legislate and harmonise growth and prosperity not only in our countries and regions but in the continent.

I say thank you to our President for being with us this week and wish him journey mercies as he heads back. Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I also call upon Member for Eldama Ravine, Hon. Musa Sirma, who previously served with the Chief President of the Pan-African Parliament.

**Hon. Musa Sirma** (Eldama Ravine, UDA): Thank you, Hon. Deputy Speaker. As I appreciate the visit by the President of the Pan-African Parliament, I would like to say I had the honour and privilege to serve with him at the second Pan-African Parliament, that is, 2008 to 2013.

Hon. Deputy Speaker, you realise that those who climb the ladder of Pan-African leadership are those who have experience and have served in the Pan-African Parliament. I would like to ask our Members who are serving in the Pan-African Parliament at the present time that we need them back so that they climb up leadership. We have heads of bureaus who

are deputies and heads of caucuses. I know Members from Kenya went late to the Pan-African Parliament and I hope they will be considered so that they can climb the ladder of Pan-African Parliament leadership. This is a great Parliament where we discuss Africa and the Free Trade Zone that will enable our countries to trade internally without going out of Africa. This is the tool to be used by the African countries to have Africa grow. I wish my good friend Chief... I know many Members may not know why he is called Chief – he owns a Kingdom in Zimbabwe. Therefore, this is a great man who has been installed as a chief and he has also been installed as President of the Pan-African Parliament.

May you have journey mercies and God's blessings as you lead the voices of Africa into one voice.

**Hon. Deputy Speaker:** Thank you. I call upon Hon. Rahab Mukami, Member for Nyeri County.

**Hon. Rahab Mukami** (Nyeri County, UDA): Thank you, Hon. Deputy Speaker. I want to thank our President, Chief Fortune, from South Africa because he welcomed us when we went to South Africa late. He was able to assist us and we were allocated committees. Personally, I am in the Committee of Cooperation. We are going to support our President to build democracy within Africa and tackle economic challenges. We are going to support him on the Free Trade Area and Equal System Africa, to utilise trade business in our continent.

Lastly, we will continue widening and deepening African integration. I wish our President journey mercies and hope to see him next month in May. Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I wish to call upon Hon. Didmus Barasa, Member for Kimilili.

**Hon. Didmus Barasa** (Kimilili, UDA) Thank you, Hon. Deputy Speaker, for giving me this opportunity to also welcome the President of the Pan-African Parliament and tell him that we, Members of the African Continent, look at the Pan-African Parliament with a lot of optimism. We want to see a seamless Africa where people cross our continent without requirement to provide any visa because we are one people. We want to see the Kenyan people crossing over to South Africa or Zimbabwe for employment without any hindrance because Africa is one. We should not allow ourselves to be divided by European countries that bring about a lot of procedures and protocols when travelling from one country to another within the African Continent. The Pan-African Parliament must be instrumental to ensure that constituent parliaments adopt and implement whatever is resolved at Pan-African Parliament so that it can be beneficial to each and every citizen of African countries.

I take this time to welcome them. They should not be in a hurry to go back to South Africa, they can visit Maasai Mara, go to Kakamega and view the Crying Stone or visit Bungoma and walk within the infamous caves of Mt. Elgon.

Thank you.

**Hon. Deputy Speaker:** Lastly, Hon. Nabwera Nabii, Member for Lugari.

**Hon. Nabii Nabwera** (Lugari, ODM): Thank you, Hon. Deputy Speaker, I want to add my voice to welcoming the President of the Pan-African Parliament but I also want to add that we would like to look forward to an African Continent that has one common language of business. We would like the Pan-African Parliament to lead the continent in rediscovering itself where Kwame Nkrumah and Abdel Nasser wished it to be. I would like to ask the President as he is in this country, a country whose people love visitors, to use this opportunity to encourage all other leaders around the continent to work towards an Africa that is united, a continent that will trade within itself, a continent that is going to build infrastructure that will make it compete with Asian Tigers, the West and the Eastern Bloc. That will ensure that disenfranchisement that the Continent has faced in the global market ends. Thank you.

**Hon. Deputy Speaker:** We shall have Hon. (Dr.) Pukose, Member for Endebess. I will give one more chance to Hon. (Dr.) Makali Mulu and then we move to the next Order.

**Hon. (Dr.) Robert Pukose** (Endebess, UDA); Thank you, Hon. Deputy Speaker. I want to tell him that Africa is one and as he guides the Pan-African Parliament, I think there is need to look at ways of facilitating free movement for Africans, free trade in our region and exploitation of our own resources. Africa is rich; we are not poor and have resources that are exported to other countries for value addition.

We can also do value addition in the African region. One of the challenges facing South Africa as we speak is power rationing. Since you came to Kenya you have not seen electricity being rationed because it is available in plenty. We need to look at how we can exploit the power at Inga Dams in the Congo River. Those dams can generate enough electricity to feed the Continent of Africa. So, these are things we need to look at and how best we can come together as a continent and exploit our own resources so that everybody can have shared prosperity of resources.

Thank you, Hon Deputy Speaker.

**Hon. Deputy Speaker:** The Member for Kitui Central, Hon. (Dr.) Makali Mulu.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Deputy Speaker, for this opportunity. I want to join my colleagues in saying *karibu sana* to the President of the Pan-Africa Parliament which is very important to this continent. The good thing is we have other parliaments which take care of other continents. I am very happy that the Kenyan Parliament is represented in this important Parliament.

Africa is a continent of the immediate future looking at what is happening. As an economist, I see three key barriers to our growth and development in this continent. I want to challenge this important Parliament to focus on these three challenges so that this continent becomes of the present and not the future. The first matter is language barrier; this must be taken seriously by this Parliament. They need to see how we can communicate with each other in Africa and not fail to communicate with our neighbours in terms of the so-called 'business language'.

The second matter is the issue of trade. Looking at what is happening in the world today, trade is at the centre. So, as African countries we need to make sure we trade amongst ourselves. This will make this continent grow and be very good for all of us. The third matter which is very important is the issue of our currencies. There is no need of having over 20 different currencies in this continent because it is a barrier when it comes to trade. So, I want to challenge this Parliament and other regional bodies to make sure Africa... We are supposed to legislate matters that will help this continent grow. So, when you sit in that Parliament make sure these three key barriers of trade are addressed. This will make Africa the continent of the present and not the future.

Hon. Deputy Speaker, I submit. Thank you very much for the opportunity. *Karibu sana* Mr. President.

**Hon. Deputy Speaker:** Next Order!

## PAPERS

**Hon. Deputy Speaker:** The Deputy Majority Party Whip will go first and then Hon. Muchangi. Proceed.

**Hon. Naomi Waqo** (Marsabit County, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

1. Report of the Auditor-General and Financial Statements on Kenya Institute of Supplies Management for the year ended 31<sup>st</sup> December 2020.
2. Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 2021:
  - (a) Kenya Institute of Supplies Management

- (b) Kenya Seed Company Limited and its Subsidiaries
3. Annual Report and Financial Statements on Salaries and Remuneration Commission for the Financial Year ended 30<sup>th</sup> June 2022;
  4. Annual Report and Financial Statements of Kenya Power and Lighting Company for the year ended 30<sup>th</sup> June 2022;
  5. Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2022:
    - (a) Energy and Petroleum Regulatory Authority (EPRA) Staff Mortgage and Car Loan Scheme
    - (b) Annual Corporate
    - (c) Kenya Cereal Enhancement Program – Climate Resilient Agricultural Livelihood Window (EU Grant No.2000000623, Grant No.2000001522, Grant No.2000003493, Grant No.2000001122 and IFAD Loan No. 2000001121) - State Department for Crop Development and Agricultural Research
    - (d) Kenya Yearbook Editorial Board
    - (e) East Africa Skills for Transformation and Regional Integration Project (EASTRIP) IDA Loan Credit No. 6334-KE– Ministry of Education – State Department for Vocational and Technical Training
    - (f) East Africa Public Health Laboratory Networking (EAPHLN) Project Credit No. 4732 – Kenya Medical Supplies Authority
    - (g) Nursing Council of Kenya
    - (h) Kenya Medical Practitioners and Dentists’ Council
    - (i) National Communications Secretariat
    - (j) Policy holders Compensation Fund
    - (k) Kenya Institute of Special Education
    - (l) Veterinary Medicines Directorate Council
    - (m) Jomo Kenyatta University of Agriculture and Technology Noodles Limited
    - (n) The Export Processing Zones Authority
    - (o) Numerical Machining Complex Limited
    - (p) Kenya Investment Authority
    - (q) Kenya Industrial Estates Limited
    - (r) Kenya Bureau of Standards (KEBS)
    - (s) Nuclear Power and Energy Agency
    - (t) Unclaimed Assets Trust Fund – Unclaimed Financial Assets Authority
    - (u) Unclaimed Financial Assets Authority
    - (v) Staff House Mortgage and Car Loan Scheme – Unclaimed Financial Assets Authority
    - (w) State Corporations Appeal Tribunal
    - (x) Kenya Accountants and Secretaries National Examinations Board
    - (y) Kenya Institute of Supplies Examination Board
    - (z) Intergovernmental Relations Technical Committee.
  6. Performance Audit Report of the Auditor-General on Response to floods in Kenya by the State Department for Internal Security and National Administration and State Department for the Arid and Semi-Arid Lands and Regional Development for March 2023.
  7. Performance Audit Report of the Auditor-General on Implementation of the Kenya Towns Sustainable Water Supply and Sanitation Programme by the Ministry of Water, Sanitation and Irrigation for March 2023.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, I wish to recognise the presence of members of the Anglican Church of Kenya (ACK), Gitare from Runyenjes Constituency in Embu County.

Next is the Chairperson of the Departmental Committee on Labour, Hon Eric Karemba Muchangi.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Thank you, Hon. Deputy Speaker. I am glad to see elders from the Anglican Church of Kenya in Gitare. It is good for me to mention that Gitare is my home area. Hon. Ruku GK can confirm that. Unlike that fake Pastor Mackenzie that we were discussing here yesterday, this is a true religious group led by Reverend Joyce who preaches the true Word of God and the true Jesus Christ, not the Jesus of Tongaren or that other place in Kilifi.

*(Laughter)*

This is a group that preaches the true Gospel of Jesus Christ.

Hon. Deputy Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Labour on its consideration of the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No.46 of 2022).

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Deputy Speaker:** Hon. Caroli Omondi.

### ORDINARY QUESTIONS

*Question 163/2023*

DEFICIT IN THE NUMBER OF TEACHERS IN HOMABAY,  
MIGORI, KISUMU, SIAYA AND KAKAMEGA COUNTIES

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Deputy Speaker, I rise to ask the Teachers Service Commission the following Question:

- (a) Could the Commission provide details on the current deficit of teachers in both primary and secondary schools in Homa Bay, Migori, Kisumu, Siaya and Kakamega counties?
- (b) Could it state the immediate plans instituted by the Commission to address the deficit in the named counties and the timelines for implementation of the said measures?

Thank you very much, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Education.

Next is Hon. David Gikaria.

*Question 164/2023*

FAILURE TO PAY ENHANCED HOUSE ALLOWANCE TO  
TEACHERS IN NAKURU TOWN EAST SUB-COUNTY

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Deputy Speaker, I rise to ask the Teachers Service Commission the following Question:

- (a) Could the Commission explain why some teachers in Lion Hill Primary, Hill Crest Secondary, Nakuru Teachers Primary and Natewa High School, among other schools within Nakuru Town East Sub-County, are yet to be paid enhanced house allowances?
- (b) Could it state when the said teachers will start receiving their enhanced house allowances and whether the payment will be backdated to the month when the affected teachers became eligible for enhanced house allowances?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Education.

Hon. Sir George Murugara, Member for Tharaka Nithi.

### *Question 165/2023*

#### FAILURE TO PUBLISH THE REPORT ON TUNYAI B ADJUDICATION SCHEME IN THARAKA

**Hon. George Murugara** (Tharaka, UDA): Hon. Deputy Speaker, I rise to ask the National Land Commission the following Question:

- (a) Could the Commission explain why it has taken inordinately long to publish a report and its findings and recommendations on the Tunyai 'B' Adjudication Scheme (Gakurungu Land Petition) to the public, having visited the site on 8<sup>th</sup> September 2021 and undertaken a public hearing?
- (b) When will the report be released to the public?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Lands.

Next Order.

### MOTION

#### OPERATIONALISATION OF THE BETTING, LOTTERIES AND GAMING ACT AND REGULATION OF THE BETTING INDUSTRY

THAT, aware that the Betting, Lotteries and Gaming Act, Cap 131 Laws of Kenya provides for the regulation of the gambling industry including the control of betting, lotteries and gaming in the country; further aware that there is an emerging trend of media houses offering their audiences platforms to participate in betting through lottery-style games, trivia shows, polls, contests, and other SMS-based gaming; concerned that the trend was initially perceived as a harmless form of entertainment and audience engagement but has since developed into a problem within our communities leading to many Kenyans getting addicted to this form of gambling and that has led to lots of loss; further concerned that there are numerous negative effects of this trend including financial ruin, family breakups, high truancy in schools resulting in high school dropout rates and in some cases, suicide; noting that these games target individuals who can least afford to lose money, mainly the elderly, the youth and low- income earners; cognizant that the Government has the responsibility of protecting citizens from negative social trends including gambling



and that the proliferation of these games is a violation of the Betting, Lotteries and Gaming Act; now, therefore, this House urges the National Government through the relevant Ministries and agencies to –

1. regulate the running of lotteries and any other forms of betting disguised as polls, contests, and other SMS-based gaming by media houses; and
2. ensure strict operationalization of the Betting, Lotteries and Gaming Act and increase control and oversight of the betting industry.

*(Motion as amended)*

*(Question to be put)*

*(Motion deferred)*

## **BILLS**

### *Second Readings*

#### THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (AMENDMENT) BILL (National Assembly Bill No.43 of 2022)

*(Moved by Hon. Simon King'ara on 19.4.2023 – Morning Sitting)*

*(Resumption of debate interrupted on 19.4.2023 – Morning Sitting)*

**Hon. Deputy Speaker:** Hon. Members, this will be a resumption of debate. The balance of time was one hour and 28 minutes.

I call upon the Member for Gatundu South, Hon. Gabriel Kagombe. Not present? Okay. I call upon the Member for Mandera West, Hon. Adan Haji.

**Hon. Yusuf Adan** (Mandera West, UDM): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

I stand to support this Bill. The National Transport and Safety Authority (NTSA) is a very important institution in this country. It is supposed to oversee the transport sector and make sure that road carnage, which claims thousands of lives every year in Kenya is stopped. Unfortunately, every week, we see, hear, and realise serious accidents, particularly those involving public service vehicles like buses. Laws on speeding are no longer adhered to. I ask the NTSA management to ensure that public service vehicles have controlled speed limits. When you travel on the Garissa-Nairobi Road, you see buses overtaking a V8 Landcruiser which is moving at over 100 kilometres per hour.

As you may have realised, there is a very serious accident every month. The latest was last week, where four lives were lost. Therefore, regulating this sector is very important because road carnage is killing more people than some serious diseases in this country. The number of people who are dying on our roads is higher than the number of people who are dying of diseases. In that case, we should amend this law to ensure that there are speed limits for public service vehicles and that there is some sort of control on our roads. The law will also ensure that there are no drunk drivers on our roads. Also, statistics show that there are many drivers who have no licences, but they have taught themselves how to drive and they are on our roads. When they are stopped by the police, you will see them shaking hands with the police. Their driving licences are handshakes. Therefore, amending this law to ensure that controls are put in place, lives are saved and road carnage is reduced, is of essence and it is very timely.

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With that, I support the amendment Bill. Thank you.

**Hon. Deputy Speaker:** Member for Ndia Constituency, Hon. GK Kariuki.

*(The Deputy Speaker  
(Hon. Gladys Boss) left the Chair)*

*(The Temporary Speaker  
(Hon. (Dr.) Rachael Nyamai) took the Chair)*

**Hon. George Kariuki** (Ndia, UDA): Thank you, Hon. Temporary Speaker. As the Chair of the Departmental Committee on Transport and Infrastructure, I appreciate the opportunity to weigh in on this debate. The Bill seeks to amend the NTSA Act (No.33 of 2012) to assign additional functions to NTSA. The proposed additional functions include the establishment of systems and procedures for regional registration and licensing of two and three-wheeled public motorcycle taxis and regional registration and licensing of drivers of the same.

In compliance with the requirements of Article 118 of the Constitution and Standing Order 127(3), the Committee placed an advertisement in the print media on 23<sup>rd</sup> February 2023 requesting for comments from the general public on the Bill. In that regard, the Committee received memoranda from the Kenya Association of Manufacturers (KAM) and obtained views and comments of the Principal Secretary for the State Department of Transport and the NTSA during a meeting held on 9<sup>th</sup> March 2023. The Committee considered all the submissions before making its recommendations.

As Members would appreciate, the intention of the Bill is very clear. It seeks to ensure regulation of boda boda operators, noting the definition of “motor vehicle” as provided in the Traffic Act (Cap. 403), to which the NTSA Act makes reference to mean:

“Any mechanically propelled vehicle, excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Act be declared not to be motor vehicles for the purposes of this Act.”

The Committee considered the Bill and all the views expressed by the various stakeholders and made the following observations:

1. The proposed amendments in the Bill as formulated were already provided for in the National Transport and Safety Authority Act (No.33 of 2012).
2. The National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No.43 of 2022) by the Member of this House emanated from issues of laxity in implementation, compliance and enforcement of existing laws and regulations, and not really a lack of legal framework.
3. The NTSA (Operation of Motorcycles) (Amendment) Regulations, 2022 provide for the licensing of motorcycle taxis by county governments.
4. In March 2022, the Government launched a national registration process of two and three-wheeled public service vehicles and the same is to be done on the NTSA portal.
5. There are in existence regulations formulated in 2015 that provide that motorcycles should have a third party Public Service Vehicle (PSV) insurance and riders to have a valid driving licence and operators to be members of a registered body corporate.

In view of those observations, the Committee notes that there is no need to legislate on this issue, considering that there is an existing framework sufficient to address the issues raised

by the sponsor of this Bill. It behoves the relevant agencies—NTSA and county governments—to implement and ensure compliance with the law. In this regard, the Committee recommends to the House to reject the National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No.43 of 2022) in its entirety.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Chairman of the Committee. Hon. Tom Kajwang', Member for Ruaraka.

**Hon. TJ Kajwang'** (Ruaraka, ODM): Good morning, Hon. Temporary Speaker. Thank you for giving me an opportunity to contribute to this Bill. I speak as a member of the Departmental Committee on Transport and Infrastructure. Members will know that I speak with some authority and understanding of the issues before us. The Member who has just spoken is the Chair of the Departmental Committee on Transport and Infrastructure, so you may want to listen to him. I am sure the Vice-Chairperson will also get an opportunity to speak. We say this so that Members are guided properly when making contributions, because we have had the benefit of listening to stakeholders. We have explored the law on this matter and done a bit of research to be able to guide Members on the issues before us.

I compliment the Member for Ruiru, my compatriot and neighbour, Hon. Simon King'ara, whom we have served with in several Committees for a very long time. He is an astute legislator. Last term, he sponsored more than five pieces of legislation in this Assembly. This term alone, he has three or four in the pipeline. He is very interested in issues that go through this House. This is how it should be. We are here to make law. That is the primary reason why we are here. The Member for Ruiru is executing his mandate. I must compliment that.

When Hon. King'ara appeared before us, we discovered that his Bill was based on a wrong misapprehension—that the boda boda industry was not being regulated by law. When we searched the law, we found that there is an existing legislation which sufficiently covers the boda boda industry. But Hon. King'ara has a point which we need to listen to. His point is that the boda boda is the most unregulated industry, resulting in many accidents. Boda boda operators are all over: one rides before you and another behind you. They ride against you and on your side. They have no respect for rules. There is need to enforce the regulations. We found that the problem is not lack of law. The problem is enforcing of the legislation and regulations in place.

We want to guide Members, even as you vote on this, that it is not a question of lack of law but its enforcement. When the Chair says that we reject this piece of legislation, we are not negative. We are not saying that Hon. Simon has not done his bit. We are only saying that it was a misapprehension which can be cured. The fact is that there is a law. Regulations must be put in place so that this industry is properly regulated. I wanted to make this fact known because when I entered the Chamber, I found a Member who was eloquently speaking, like me, feeling that the boda boda industry is not regulated. He was supporting this Bill because it would help the boda boda industry. Perhaps, he did not have a copy of the Report. I urge Members to get it at the Table Office. It has been circulated. In it, you will see very well that there is a legislation on this issue. So, we do not need to make another one.

I thank you, Hon. Temporary Speaker. I oppose the Bill. My Chairman supported the Bill but I do not know why he did so. I oppose the Bill for the reasons that I have stated.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Chairman. You have already spoken to this Motion.

**Hon. George Kariuki** (Ndia, UDA): Thank you, Hon. Temporary Speaker. I just want to correct the Member of my Committee. I did not support the Bill but I opposed it. We are on the same page.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Are you giving information to Hon. Kajwang'?

**Hon. George Kariuki** (Ndia, UDA): Yes. We are on the same page, Hon. Kajwang'.

**Hon. TJ Kajwang'** (Ruaraka, ODM): I accept that information. Thank you.

**Hon. George Kariuki** (Ndia, UDA): Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): The information has been accepted. Hon. Members, before I rise, I would like to confirm that Hon. King'ara has made a lot of effort in legislation. He has also initiated another Bill on registration of public land. Hon. Kajwang' is right in giving him that compliment.

Hon. Members, in the Public Gallery, we have members of the PCEA Kanyakine from South Imenti Constituency in Meru County. You are most welcome to the National Assembly. I would also like to welcome students from various institutions who have been supported by Inspire Spaces Organisation from Ruaraka, Nairobi County. You are most welcome to the National Assembly.

Thank you very much.

The next opportunity goes to Hon. Mugambi, Member for Buuri Constituency.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. Hon. King'ara always has very good intentions. What could have happened is lack of communication with the concerned drafters of the Bill. I served in the last Parliament when the regulations on boda boda came up. I agree with the Chairman that there is already a legislation but the problem is implementation.

It is true that this boda boda industry and all the three-wheeled vehicles bring a lot of traffic on our roads and their discipline is highly required. What is missing is the implementation of the regulations. I hope Hon. King'ara will make that amendment. He had good intentions but he did not have the information. He needs to reconcile with the Chairman, so that they come up with the way forward in implementation of the given regulations.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you, Hon. Member for Buuri. Hon. Didmus Barasa, Member for Kimilili.

**Hon. Didmus Barasa** (Kimilili, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute. At the outset, I will take the position taken by the Committee, if the Bill will continue to be the way it is. As a Member of Parliament, I know that this is a very good idea. I will have a discussion with Hon. King'ara to see whether we can propose amendments to improve his idea.

As you are aware, Bills are formed on the Floor of this House. It is an idea that gives each and every single Member of Parliament an opportunity to improve and better it. As a Committee, we found out that the sections which Hon. King'ara proposed are already provided for in the National Transport and Safety Authority Act 2012. I will sit with Hon. King'ara and see whether we can find a way of proposing deletion and addition of other sections. We all agree that we have a mess within the boda boda industry in this country, even as we appreciate that it is a very good industry.

You remember that during the handshake Government, it is only the boda boda industry that was functioning. All other industries had collapsed. We need to give a lot of support to this industry. At that opportune time during the Committee of the whole House, I will ask Hon. King'ara to propose amendments so that we do not throw away this Bill the way it is, but we get value from the idea that he conceptualised. In its current form, I adopt the position of the Committee that we oppose it.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Hon. Barasa. Hon. James Nyikal, Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker for giving me the opportunity to contribute. Considering what we see, this is an extremely good Bill. We are not aware of the existing legislation which is not implemented. Its purpose was to regulate the boda boda and tuk-tuk taxi industries. Those two services are the feet on which the economy of this country is running. The local economies and businesses are kept running by the tuk-tuk and bodaboda industries. If you look at what the tuk-tuk vehicle can carry, I marvel at the capacity sometimes. They can literally move anything and are affordable. Their consumption of fuel is low. It is a beautiful industry. You can reach anywhere in this country in a short time using a boda boda. It is an industry that we cherish but must be regulated.

The need for its regulation and now enforcement is because of the numerous accidents they cause. The health and safety of the riders and passengers matter. The injuries that the riders and passengers have are so numerous that in some hospitals, we have specific wards for them. This should not be allowed to be so. Boda boda riders operate as if there is no law. We now know there is. Within this town, boda bodas take any route or turn when police officers are literally standing there and watching. If they think they are being nice to them, they are wrong. They endanger the lives of both the rider and passenger. Therefore, the need for enforcement is there.

It is good because we have looked at the National Transport and Safety Authority Act 2012 and the Traffic Act and found that the law is adequate and probably the need for this Bill is not there. However, there is a small element that I am not sure it has been taken care of. The Bill proposes regional regulation at the county level. I know the National Transport and Safety Authority Act 2012 and the Traffic Act are at national level. That is something we should look at, even if this Bill does not go through because there is a law for it. The NTSA must look at regulations that will bring what was intended in this Bill—county or regional regulation—so that we do not throw away everything that the Bill came with. We should look at what is not in law now which is county or regional regulation and take care of it with regulations and then we do away with the Bill. It is a very good thought, but I cannot support it because we already have a law for it.

Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Hon. Nyikal. Hon. Owen Baya, Member for Kilifi North.

**Hon. Owen Baya** (Kilifi North, UDA): Thank you very much, Hon. Temporary Speaker. First, I want to thank and congratulate the Member for Ruiru for his robust legislation. Hon. King'ara has brought several pieces of legislation to this House. In the 12<sup>th</sup> Parliament, one of the Motions to be debated from a fresh Member was Hon. King'ara's. I want to thank him.

Hon. Temporary Speaker, we already have sufficient legislation that covers the subject matter that this Bill is seeking to introduce. Looking at the issues and reading the Report of the Departmental Committee on Transport and Infrastructure, I think Hon. King'ara needs to relook at this legislation so that we do not double legislate.

The Report has sufficiently deliberated on the general registration of motor vehicles as it has been highlighted by my able friend, Hon. Nyikal. While presenting the report, the Vice-Chair made it very clear that it is a form of discrimination. He elaborated that registration of motor vehicles, two-wheelers and three-wheelers should be done at the national level, and not at local level. It was adequately covered in the report.

If you look at the issues raised, it is true that we have a problem within the boda boda sector. That is a fact. That sector needs proper regulation and discipline. Many hospitals in the country have wards specifically for people who have been injured through boda boda accidents. We are losing very many lives. We spend colossal amounts of money in terms of healthcare

because of accidents caused by boda boda. Those are facts. Even though laws are in place, we still have a problem, which is in enforcement.

I would like to request the Departmental Committee on Transport and Infrastructure to take up this matter. You should ask questions to those who are in charge of law enforcement: “Why are you not enforcing the law? Why do we have many problems within the boda boda sector?” This is because we have the Inspector-General and base commanders in every county who are supposed to enforce the law. However, if you go to some of these places, you will find that base commanders in the traffic units are more interested with what the boda boda riders give them than their offences on the road. That is where the problem is. The spirit with which Hon. King’ara is bringing this law is correct. He has seen a gap, but it is not caused by lack of a legislation. The gap has been caused by enforcers who are not doing their job.

Hon. George Kariuki and ‘the Chief Justice’ here, without necessarily having somebody present a Petition or request for a statement, as a Committee, you might need to summon the enforcers of this law so that we can reduce these accidents. These accidents are too many. We lost a Member of Parliament the other day because of a boda boda accident. How many other people like the *mama mboga* selling *mboga* on pavements of roads are ran over and killed by the boda boda? How many school-going children are carried by the boda boda?

There was an incident in my constituency where three children of the same mother were being carried on one boda boda, but they never reached school. They all died on the road. That is a tragedy for a family. This boda boda was not able to use his lights properly and he turned left before he had turned on the lights and a vehicle came and rammmed over the boda boda. Three children of the same mother died on the same day. This boda boda had just passed a traffic roadblock but the police never bothered to know what this guy was doing on the road. He was bothered with what the rider gave him. These are the issues that we are talking about in the boda boda sector. How are they regulated and licensed? Nowadays, anyone who can ride a boda boda just rides it, with or without a licence. No one bothers to know whether these riders know traffic rules or not. One just picks a boda boda and starts transporting passengers. It is a sad state yet we have traffic enforcers on the road. They do not look at these issues. I have never seen a situation where a boda boda rider has been stopped at a roadblock and is asked for a licence. They never ask them for their licences. They only ask them; “*Umenibebea ile kitu yangu?*” That is all that matters. Once they get their share, they let the boda boda riders pass without any question. If the officers were enforcing these rules, every boda boda would have gone to a driving school to get some basic knowledge on road use. People think that as long as you can ride a boda boda, then you know the road rules. That is where the problem is.

We served with Hon. King’ara in the Departmental Committee on Lands. He is a very effective legislator. I would like to request him to withdraw this Bill instead of allowing it to continue to a point where it is defeated in the House. He should not allow his Bill to go to Third Reading and it is knocked off, and it gets the indignity of one of those Bills that were knocked off on the Floor of the House. It is actually an indignity when your Bill gets knocked off on the Floor of the House. He should withdraw this Bill and sit with the Committee, look at the gaps and then reintroduce it to the House so that he can go on record as one of the Members from the 13<sup>th</sup> Parliament that had a Bill that was passed and assented to by the President. That would be my advice.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Member for Kilifi North. Let us have Hon. Charles Ngusya Nguna, Member for Mwingi West.

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to what my colleagues have already said. I want to

begin by appreciating my friend, Hon. Simon, for coming up with this Bill although it already exists. We all appreciate this mode of transport. We know it is one of the most affordable modes of mobility that are not available in many parts of our country.

I first want to appreciate this industry that started long time ago when President Kibaki was in power. We all appreciate that it has employed many people especially the youth who have no other sources of income. We appreciate the contribution that this industry has made to the transport and communication systems in our country. I would like to bring to the attention of the House that I have been training boda boda riders in my constituency through NTS) and other people who provide these services. I want to state that I have seen a lot of improvement. These people only violate laws and regulations on the road safety because they lack information. We know that we already have the law in place, and we just need the enforcers to ensure that implementation of the same is done. My good friend, Hon. Simon, is on the right course. We will be looking forward to collaborating with him in identifying the gaps in the Bill and come with amendments so as to make it more practicable to all the road users in our country.

With those few remarks, I say it is a good thing. This industry really needs regulation to restore sanity on the same. Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you, Hon. Charles Nguna. Let us have Hon. Phylis Bartoo, Member for Moiben.

**Hon. Phylis Bartoo** (Moiben, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity to also make my remarks on this debate on behalf of the people of Moiben Constituency.

I would like to appreciate the contribution that our boda boda brothers and sisters are doing to the economy. Their contribution to the society cannot be under-estimated because they offer a variety of services.

In as much as the law exists, I think what is very important is the regulation of that business. It is a source of livelihood to many people and it has contributed to the alleviation of poverty in Kenya. In fact, it is the most progressive industry almost overcoming the matatu business in Kenya. In my constituency, the boda boda community is very vibrant. What is lacking is regulation.

I think we need to enforce the regulations in that industry. We need to look at issues of having them getting insured. We need to look at the licensing that any boda boda rider gets to have a licence and know the rules and the regulations of transport.

There are many accidents that are attributed to the boda boda riders. As the Hon. Deputy Leader of the Majority Party has alluded to, there are some hospitals where they have set aside a ward for those riders who have been involved in road accidents. That is not exceptional in any part of Kenya. It is all over.

What I would suggest is that tough regulations be enforced so that the industry can be structured and regulated in a way that provides services in a better way. We need to ensure that before one takes to the Kenyan roads to ride a motorbike, they should have training, a licence and also go for refresher courses at any other time or after a certain period of riding, so that those licences can be renewed.

We find that of late, anybody can buy a motorbike by simply going to the shops. We have those who provide loans to the riders to get motorbikes in a very easy way. It is a good way but, you just buy your motorbike and you are already on the road learning and, at the same time, doing some business. We even have students who buy motorbikes and do part-time business. They are in school and, at the same time, doing the motorbike business. That needs a lot of regulation and enforcement.

You will find very young youth, people who are below 18 years participating in that industry, making a source of livelihood and some of them even paying their school fees. That

is not a bad idea, but regulation is very important. We need to stick to the age limit that, for you to be given the licence, you must be having a national identity card so that the industry is run in a better way.

If we do not support that industry, we will have very many of our young people idling. We are in a situation now where we are fighting cases of illicit brew and drugs. That is where most our youth spend their time.

The boda boda industry is keeping most of them busy. How I wish they could be provided with or be required to wear uniform so that they can be recognised.

It is possible for them to have a vibrant Sacco of boda boda just like other industries and run their businesses smoothly. Otherwise, I think the issue here is the regulation. In as much as we have the law, it is good to relook at it, refurbish it and put issues straight so that we do not have a situation where we do not know what is happening in our roads.

This is not just about the boda boda business but even the Uber business. We have had too many cars in the Uber industry, but the way they drive on our roads is such a menace. They do not follow any rules or care about traffic rules and they are the people who create traffic jams in our cities. In as much as we look at the boda boda, we should relook at the rules and regulations all the way. Ensure they are implemented and enforced so that we can avoid accidents.

Recently, there has been an increase in road accidents. This is something that we had, at least, relaxed and the cases were diminishing. However, it is coming back and every day, too many people are losing their lives through accidents.

We should generally relook at the transport industry and regulations so that we do not just pick on the boda boda alone, but relook at the rules in their entirety.

Thank you, Hon. Temporary Speaker. That is what I wanted to contribute.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you Member for Moiben. The Hon. Gitonga Murugara, Member for Tharaka.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Speaker. I rise to support this proposed amendment and I have several reasons why I should do so. I urge the House to also listen to this and reconsider its position.

First and foremost, I have read the Committee Report. The Committee is saying that there exist regulations, but there has been laxity in enforcing them.

I will begin by informing the House that regulations are what is known as subsidiary legislation. Subsidiary means they are not at the level of the actual legislation. They are halfway between the laws.

Therefore, what Hon. Simon King'ara is doing is to uplift those regulations so that they can become full laws in an Act of Parliament. It is important to inform the House that the hierarchy of laws in the country is as follows:

1. The Constitution
2. Acts of Parliament
3. Subsidiary legislation
4. Precedence from the courts

So, if there is a problem with enforcing regulations, the best way to tackle that laxity is to ensure that those regulations are moved upwards from subsidiary legislation to actual laws in an Act of Parliament. This is what Hon. Simon King'ara is trying to do.

Therefore, as we debate, may we please know that what Hon. King'ara is proposing to do is not inconsistent with our law-making process in the country. There is absolutely no problem whatsoever with taking regulations from the form they are in (to be enforced by a regulatory-making authority) and moving that to an Act of Parliament which now behoves the entire country for purposes of enforcement.



What Hon. King'ara is proposing to do is not in conflict with the existing Act. It is also not in conflict with the existing regulations. Therefore, we should actually be lauding Hon. King'ara because, while the Committee has expressly admitted that there does exist subsidiary legislation which has problems in enforcement, and we do not know why there are those problems, they need to be explained. Let us move this law upwards. Let us move it to an Act of Parliament where even this House can question why the country is not enforcing certain provisions of an Act of this Parliament.

Regulations *per se* are passed through this House by the Committee on Delegated Legislation.

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

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Gitonga, I have a point of order by the Member for Ruaraka. What is out of order Hon. Tom Kajwang'?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Temporary Speaker, ordinarily, I would not raise issues or orders against my brother. He is my senior in profession and he is also the Chairman of a Committee I attend to very odiously and his knowledge of the law is impeccable. I want to discuss if he may be misleading the Hon. Members present on a point of law.

If you look at the Bill of Hon. King'ara, he is seeking to establish a mandate which gives policy to the NTSA. That is the point. It is that mandate which is the mandate of NTSA under the law as it exists. So, it is not a question of regulations. It is a question of whether the law exists in the same manner and in the same way which the amendment is proposing. The component of regulation is a subsidiary issue to this debate. The component of regulation came about because the Committee noted that although there is a law, there is no sufficient subsidiary legislation or regulations that can accompany that law for enforcement.

Hon. Temporary Speaker, could the Hon. Member for Tharaka qualify his issues on fact and law and review his statement to the fact that Hon. King'ara is bringing up the issue of regulations rather than the law so that Members should not be misled to think that there is no law and we are talking about regulations? He is very persuasive and because of the position he shares, his speech may sway the House. Then people will think that we are just uplifting regulations to be the law yet there is a law.

With a lot of respect, we are only saying that the law has already given the mandate to NTSA. The policy of standardisation and the policy of enforcement. Therefore, the question is how to enforce that with the regulations.

I submit.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Member for Ruaraka, I am sure the Hon. Member for Tharaka has listened carefully to the matter that you have raised.

**Hon. George Murugara** (Tharaka, UDA): I have listened carefully. Unfortunately, I am not able to draw the distinction as he has put it. I have tremendous respect for Hon. T.J., a member of the Departmental Committee on Justice and Legal Affairs.

What Hon. King'ara is proposing to do is to amend Section 4(ii) and he is telling us: "Go immediately after paragraph (a) and include the following sub-paragraphs." This means for us to reject this particular proposal, it must be inconsistent with any of the provisions in Section 4. Unfortunately, I have gone through the entire Section 4 and I do not see what is inconsistent. What we are being told, having read the Report properly, is that in some regulations, including the operation of motorcycles regulations, we have provisions similar to what Hon. King'ara is proposing. There is nothing inconsistent with promoting a regulation from being a subsidiary legislation to being a part or a section of an Act of Parliament. It gives it more force of law and it is even better questioned by this House when it is a section of an Act of Parliament as opposed to when it is a regulation.

This is what I am debating on, that *per se*, the proposed amendment is not inconsistent with the main Act of Parliament.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): So that you may proceed with the debate, there is nothing out of order. This being a House of debate, I would like to allow the Member for Tharaka to proceed. Just proceed with your debate.

**Hon. George Murugara** (Tharaka, UDA): Everybody will have his or her opinion on this. If you look at this proposed amendment, we are making the law on boda boda and *tuk tuk* better than it is. Nobody is explaining why we have regulations on the same subject matter, which are not being enforced. This is because they are subsidiary legislation. Why do we not make substantive law? Once we make substantive law, this House and every other arm of the Government has the power to ask why the law is a dead letter law. I do not believe and I am not convinced that it would become dead letter law. We are doing a better job than we have.

There is no conflict between what Hon. King'ara is doing and what the Committee on Delegated Legislation in the last Parliament did. This House is actually buttressing the issue of registration, control and policies on boda boda and *tuk tuk* into our substantive law. It is a very important industry. It goes without saying that in this country, 30 per cent of its GDP may be hinged in that sector.

Having just recently lost a Member of Parliament through a boda boda accident, we are worried whether what we have in those regulations that are being quoted and what we have in the main Act is sufficient. I invite the House to relook at the proposed amendment. If there is need to amend whatever Hon. King'ara has proposed, let us do it in the Committee of the whole House. Let us not throw away the baby with the bath water. Let us not reject this proposed amendment while, if we sat in a Committee of the whole House, we would make the proposed amendments better.

By so saying then, I find there is a place in the proposed 1, 2, 3, 4, and 5 amendments in subsection 2(a) of the National Transport and Safety Authority Act. I, therefore, urge the House to support and I personally support the proposed amendments.

Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you, Member for Tharaka. Hon. Adan Haji, Member for Mandera West. He seems to have withdrawn from the Chamber. Hon. Members, the next opportunity then goes to Hon. Anthony Kibagendi, Member for Kitutu Chache South.

**Hon. Anthony Kibagendi** (Kitutu Chache South, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to first appreciate the Member for Ruiru for coming up with those amendments. If there are regulations that are in line with what he is proposing, then it means that they need to be enhanced. At the same time, while we appreciate the role that the industry has played in the economy and eased the transportation of people and goods especially in the rural areas, we also need to appreciate that it is the same sector or industry that has brought about very many accidents. When those boda boda operators cause accidents, they run from the accident scene and, more so, when you are on the wrong, those people have a gang mentality. They gang up, come and harass especially women motorists and other people and, in the process, cause violence and even steal from motorists. We need to have more enhanced regulations in that industry so that we can have some sanity.

We have people who are in the same industry doing courier business. You will find that they are extremely disciplined, organised, do not ignore the traffic lights and are not involved in any form of mischief. I am in support of these particular amendments and I know they will aid other segments of the economy. They will have a ripple effect especially in the insurance industry where there will be more money in the pool. The National Health Insurance Fund (NHIF) will be able to get something out of that pool. Even the Kenya Revenue Authority (KRA) will be able to get some revenue from a regularised boda boda industry.

I submit.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Hon. Member. Hon. Adan Haji, Member for Mandera West. Is he out of the House? I am very sorry because the screen shows that he is here. The Hon. Member for Emuhaya. Proceed.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Speaker, for giving me a chance to weigh in on this Bill by Hon. Simon King'ara, which tries to mitigate the challenges that are not only in the boda boda sector, but both two-wheeled and three-wheeled vehicles. Three-wheeled vehicles would refer to what we call the *tuk tuk* motor vehicles on our roads.

In my opinion, there must have been a gap. All the time, we make laws to fill gaps that are existing. The Hon. Member saw clearly that there was a gap in so far as regulation of those two-wheeled and three-wheeled vehicles was concerned. That is why he came up with this particular law. We have been told by the Chair of the Committee and its members that there is an existing law which has not been implemented. If you look at the dire situation that the boda boda and all that section of the three and two-wheeled vehicles have been operating on, then you realise that the Hon. Member had a serious reason and has done everything correct in order to see to it that, that sector is regulated.

In my own county, specifically my constituency of Emuhaya, there is a very well organised boda boda arrangement with their general chairman at the county level. They have visited me severally and, the last time they spoke to me, they said that they have a policy that is lying within the assembly of the county government, but the county government is unable to do anything about that particular policy. That policy would bring about self-regulation and order within the sector.

Why this is happening is partly because the boda boda regulation has never been implemented if it is there. It is now for the first time, after the Hon. Member has brought about this matter, that we are being told there is a regulation which has not been implemented. By the time the law that is governing this sector was made, there were certain things that had not happened within the boda boda sector. For instance, the law that is existing and which has been talked about by the Committee very clearly, was made much earlier than the time when the boda boda became a passenger carrier. During that particular time, the boda boda were not carrying passengers and, at the same time, the *tuk tuk* were not possibly carrying passengers and they were not in the country. Making of laws must be a dynamic process which is driven by need, and I think that is why the Hon. Member has brought this particular Bill to this particular House. Things have changed since the time when you saw the *piki piki* not carrying passengers. But now they are carrying passengers.

How is the licensing of a Public Service Vehicle (PSV) motor vehicle driver done? There is a certain threshold of experience that, that person must have in order to get a licence. That is because that particular person is going to carry human beings and, therefore, they need to have some extraordinary assessment of skills in driving. What about boda boda? We do not have a threshold because we do not have policies and regulations and, if they are existing like we have been told, they are not implemented. There is really need to consider this law on the Floor of this House very fairly without simply saying that there is duplication of the law.

This boda boda industry is not only a Kenyan situational problem or challenge. In Thailand, where the population is about 47 million people, there are over 30 million boda boda on the road. But there is no disagreement or disorder in Thailand courtesy of the boda boda on the roads. In Kenya, where we have 47 million Kenyans – and the House should listen to this – we only have 5 million boda boda on the roads. But we are complaining that it is a chaotic industry and yet, it is driving the local economy. In fact, in my own county, whenever I meet the boda boda operators, I tell them that they have taken over the teachers. Formerly, in the 1970s and 1980s, teachers controlled the local economy. Today, it is boda boda riders that control the local economy. To bring order within that particular sector, this law was not a bad

law. When I rose on a point of order against senior counsel, I did not want to interfere with him. I wanted to ask the senior counsel who spoke just after me...

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Which senior counsel are you referring to? This House has many senior counsels.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Speaker, the senior-most who is here and spoke on this matter. As you have been told, clearly this is the senior-most.

I wanted him to clarify on the issue of duplication because the only challenge to this law would be duplication. I was hoping that you would be listening, senior counsel, that in the event there is duplication of the law that is on the Floor of the House and the one that is in existence, then we would make a decision on that. But, where it is not existing, this is a very good law. It should go to the Third Reading and in that particular level, of course, as we usually do, the owner of this particular Bill will sit with the Committee and they will harmonise the amendments that will be there. From there, we can pick every good item in this particular law and incorporate them in the existing law. This will help the sector and it will be very good for this House and the sector of boda boda.

Otherwise, the boda boda sector is in dire need of good regulation because they are doing good work and, like I have indicated, there are only 5 million of them. We need even to have as many as 25 to 30 million boda boda operating in this country, well regulated, earning an income and supporting the economy. That is the way we shall grow our economy.

With those few or many remarks, I submit and support this Bill. Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Members, I can see several Members raising their hands, but I would like to ask you to allow me to balance both sides of the House. This opportunity goes to the Member for Alego Usonga, Hon. Samuel Atandi.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this important piece of legislation. I want to support this Bill but also fault the Departmental Committee on Transport and Infrastructure for failing to do its work and using the submissions of NTSA to conclude this Bill. That is bad. This Bill is very important and I want to agree with Hon. King'ara for thinking and coming up with this legislation.

The question of regional licensing and registration of motorcycles is timely. First of all, if you have been travelling across this country, you will realise that there are some regions that do not need motorcycles. If you go to Kisumu, you will find *tuk tuk* which are not in Siaya. That is because they are more relevant in Kisumu than in Siaya. If you go to regions like Suba, you may not find *tuk tuk* but simply boda boda. The question of regional licensing needs to be explored. So, each and every region will license their *tuk tuk* and boda boda based on their needs.

In my constituency, there are many cases of boda boda being stolen. When one is stolen in Siaya, it is taken to Busia and other far-flung counties. If you try to trace it, you will never get it. When we have a law that allows regional licensing of boda boda, if you operate in Siaya, you stick there. We will never have cases where your boda boda is stolen and being used in other regions. I think failing to take notice of some realities on the ground is not practical and I want to fault the Committee. They simply waited for the submissions by NTSA that this law is bad and they adopted it. That is not right.

This House needs to adopt this amendment Bill and allow for seamless operation of boda boda and *tuk tuk* in regions that need them. I know you will argue that if we do regional licensing, then it will be impossible for a boda boda licensed in Nairobi to go to Siaya and *et cetera*. Let us be factual. Boda boda and *tuk tuk* are not supposed to be used for long distance transport. That should be reserved for other forms of motor vehicles. This is the reason why we should restrict them. For instance, if you operate in Meru, let them be used in Meru. Let us not

allow a boda boda from Meru to be rode all the way to Nairobi. This will help us to reorganise our transport sector and issues that are happening like theft, disappearances and use of boda boda for criminal activities will be tamed. This can happen if we enhance those regulations through what my colleague Hon. King'ara is proposing.

I want to persuade this House, just like the Chair of the Departmental Committee of Justice and Legal Affairs has done. Members, let us support our colleague for doing everything possible and coming up with this amendment Bill. Let us not diminish all his efforts. Also, the idea of Members coming up with very progressive legislations and committees deciding to sit on them, oppose or reject, is something we should refuse as a House. This will discourage Members from coming up with ideas that are very good. This amendment Bill is very good. I think NTSA cannot stop us from making a law simply because they think it will take away some of their responsibilities and mandate.

Hon. Temporary Speaker, I support this Bill. I persuade Members to also support it and overturn the recommendation by the Committee that it should be rejected. I submit and thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Hon. Atandi. Hon. Joseph Kahangara, Member for Lari.

**Hon. Kahangara Mburu** (Lari, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity. At the outset, I stand to support the amendments to the NTSA Bill. I think we all agree that the boda boda industry is very important because it has created employment. One of the problems we have in this country is the issue of unemployment. It has created a lot of employment for youths that are coming out of school and want to work in that industry. It has also provided transport from very interior areas that are without transport like matatus and others. That industry has been able to bridge that gap.

I think from what Members have contributed here, we all agree that, in as much as the industry is important, there is a problem. Members have said that if you go to hospitals, you will find that most of the injured people are from the boda boda industry. The Committee and Members who have spoken have said there are enough regulations to govern that industry and, maybe, the issue of enforcement is a problem. I want to ask the Committee: Is it enough to say we have regulations? While on one side we agree there is a problem, we need to be practical and come up solutions to the problems that we have in the industry. As the Member for Ruiru has proposed and *Mhe*. Atandi has said, they wanted the boda boda industry to be regulated in the regions. We have seen situations where thieves use boda boda from one area to the other and disappear. For example, if a boda boda is registered in Kiambu, it will not be stolen and taken to other areas. Boda boda will not be used by thieves and that kind of thing.

We see whenever Members come up with Private Member's Bills, they are either taken over by Government or committees and end up being killed. In this case, I urge Members, because we all agree there is a problem within the boda boda industry, to sit, go to Third Reading and do the necessary amendments. If the issue of enforcement is the problem, then the Committee should summon the people who are supposed to enforce. We are saying maybe the police officers are ignorant of the law. So, they should be educated on what they are supposed to be doing on our roads. I stand to support the amendments by *Mhe*. King'ara and urge Members that we go to the Third Stage and reject the Report of the Committee that wants to kill the Private Member's Amendment Bill.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Very well. Hon. John Waweru, Member of Parliament for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, I appreciate this opportunity and also appreciate the Member representing Ruiru Constituency. I think the people of Ruiru need to take note of how hardworking their Member is in this House. He

already has two green papers in the 13<sup>th</sup> Parliament. This is the work a Member of Parliament is elected to do; to legislate. He is doing a great job. Any time we come up with a law, we are seeking to cure some mischief or fill in some gaps that exist within the law. When I went through what Hon. King'ara has, especially when he was formulating it, because we were having a conversation, I was extremely excited.

I saw an opportunity for this country to start regulating the subsector of those two and three-wheeled motor vehicles on the road. The proposals he distilled down were giving me an opportunity, at the Third Stage of this Bill, to introduce more amendments. This is where we start regulating and sanitising the space of boda boda and *tuk tuk* in this country. I looked at the Report of the Committee and combed through it with a toothcomb. I saw a point of argument, but did not see the reason why we should throw away these amendments. The reason is if the law already exists and regulations are already in place, the chaos and mayhem we see in this sector, the maiming on the roads, the disorder and corruption, would not exist. It is a point of argument because there are those who feel that the chaos are as a result of laws that are not being enforced. Enforcement happens every day – from the policemen on the roads to the regulations that have been put in place by the NTSA, and every other attempt to clean up that sector. That tells you that the problem is not at subsidiary level. It is at a substantive low level and that is what Hon. King'ara is seeking to do. He has seen a gap in the law and he is trying to fill it. That is why I support this Bill. If we do what he is asking us to do under Section 4(2), we shall well be on our way in the direction that Rwanda is moving to. If you go to Rwanda, you will see order. You will see boda boda that never carry two pillion passengers at the same time. You will see boda boda that stop at traffic lights together with other motorised vehicles. That does not happen in our country today, not because we are not enforcing the laws, but because we do not have substantive laws that can sanitise that sector.

In my mind, boda boda and *tuk tuk* should be the last means of transport, from a bus-stop to a gate. If we enact the laws that Hon. King'ara is proposing, we will be able to put the boda boda in its place. You will not see a boda boda speeding across a super-highway where *matatu*, buses and trucks are moving at speeds of 120 kilometres per hour. You find a boda boda that is delivering a parcel trying to speed along a highway where the law stipulates that one should only overtake from the right side of the road. The boda boda rider does not want to be in the middle of the highway trying to overtake from the right side of the road because he or she will have to cross lanes. The danger is that the boda boda rider is now forced to overtake from the left side of the road, which is a blind spot for other drivers. That is why there are very many accidents on our highways. They are as a result of two-wheeled and three-wheeled motorised vehicles.

Hon. Temporary Speaker, I ask Members to just look at the recommendations from the Departmental Committee on Transport and Infrastructure and see them as a point of argument...

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Kiarie, you are progressing very well in the debate, but in the interest of time, I request you to conclude.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, I am very well-guided. I shall conclude by requesting the House to look at the recommendations that are made by the Departmental Committee on Transport and Infrastructure and those that Hon. King'ara is proposing, and see the gap that they are seeking to fill. Whatever is coming from the Committee is a point of argument. Let us consider it during the Committee of the whole House where we shall look at the good in Hon. King'ara's recommendations and the proposals by the Departmental Committee on Transport and Infrastructure. Where there is a convergence of ideas, we can agree on them, and where there is a gap, the amendments will take care of that. This is so that we have a substantive law that helps us regularise, sanitise, and tidy up the two-wheeled and three-wheeled motorised traffic sector in our highways.

Thank you, Hon. Temporary Speaker. I appreciate the opportunity.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Member for Dagoretti South. Hon. Members, the time allocated for debate on this Bill is over. I, therefore, call upon the Mover, Hon. King'ara, to reply.

**Hon. Simon King'ara** (Ruiru, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to reply to the amendment Bill. I will start by thanking this honourable House for giving me several opportunities to stand...

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. King'ara, I see a lot of interest in this matter. If you intend to donate your time, please, do so before you reply.

**Hon. Simon King'ara** (Ruiru, UDA): Thank you, Hon. Temporary Speaker, for giving me that guidance. I propose to donate two minutes to my sister here. I will donate another two minutes to the Member for Karachuonyo Constituency. I will also donate another two minutes to the Member for Kwanza Constituency. Those are enough. I will donate another two minutes to the Member for Mombasa. I will donate another two minutes to Hon. Daniel Kiili. Those are eight minutes. I propose that we follow the same order as I have mentioned them.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Naomi Waqo.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Temporary Speaker. I also thank *Mheshimiwa* King'ara for allowing me to add my voice to this Bill. I support the proposed amendment Bill. I will be very brief.

The boda boda sector creates jobs for our youth and it also adds value in terms of economic empowerment. Boda boda also promote accessibility because if people want to rush somewhere, they help them save on time. The sector has helped many people to overcome challenges like poverty. As we all know, an idle mind is the devil's workshop. The boda boda sector has helped our youth to overcome various challenges.

We need to regulate the boda boda sector and make sure that all boda boda riders are registered and given hours of operation. They should also be encouraged to have their own Savings and Credit Co-operative Organisations (SACCOs) and a special medical cover because of the many accidents that have occurred in the past. They should also be given proper guidance and training.

In conclusion, counselling centres should also be started, so that those who are going through challenges and trauma can receive counselling at the right time.

Thank you. I support the Bill.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you. Member for Karachuonyo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker. One thing I must mention about our transport system with regard to boda boda is the lack of discipline by cyclists. I support the amendments. I support what *Mheshimiwa* King'ara is proposing, but at the same time, we must emphasise on discipline by road users, whether pedestrians or riders.

The biggest problem is the police, who are the enforcers of the law. They are very relaxed such that, sometimes, you might think that there is no law because riders do whatever they like. Those are the kinds of things that we also need to deal with.

I congratulate the Member for bringing up this issue. We need to panel-beat the existing law before we consider the amendment Bill.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Tim Wanyonyi, Member for Westlands Constituency.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. It is very important to have regulations in place that will control and bring sanity in this sector of the transport industry because it is very critical to our economy.

Those who design our roads should reserve specific lanes for people riding on motorcycles and bicycles, as well as put in place pedestrian walks. That is where the problem is. The riders squeeze themselves on roads that are designed only for vehicles. When this Bill is passed, there will be sanity in this industry. Some of the young people riding motorcycles are doing genuine business for their livelihoods. I support the Bill.

Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Zamzam, Member for Mombasa.

**Mhe. Zamzam Mohammed** (Mombasa Kaunti, ODM): Ahsante sana, Mhe. Spika wa Muda. Ninampongeza ndugu yetu, Mhe. King'ara, kwa kuleta mjadala huu. Watu wa boda boda wamechangia uchumi wa Kenya kuwa bora zaidi. Wameokoa maisha ya watu wengi kwa kuwa wepesi wa usafiri. Hawa ni vijana ambao wanatafuta ajira. Ninawapongeza watu wa boda boda wa Mombasa kwa sababu wako na nidhamu ya hali ya juu. Licha ya hayo yote, kuna umuhimu wa kupiga msasa sheria na kuhakikisha kuwa kuna sheria ya kuwawezesha kuwa katika njia iliyo sawa. Wanafaa kutengewa barabara zao ili wasipite mahali ambao magari husababisha ajali sana. Pia, wanafaa kujiandikisha ili tujue wale wanaoleta maafa na wakiibiwa tutajua kwa wepesi. Kenya inahitaji sheria katika kila sekta. Na sheria ni msumeno unaokata mbele na nyuma. Kuna wale wanaoharibia wahudumu wa boda boda sifa. Hao ndio tunafaa kupiga msasa ili kuhakikisha kuwa sheria na masharti yanatumika.

Ahsante sana, Mhe. Spika wa Muda.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Ahsante. Hon. Members, the last person to whom Hon. King'ara donated time is Hon. Karitho.

**Hon. Daniel Karitho** (Igembe Central, JP): Thank you, Hon. Temporary Speaker. I support the proposed amendment of the law on the boda boda sector. It is a sector that is very crucial to the country. Those are the most reliable people whenever transport services are needed in the village. It is good that we restructure the sector through these amendments so that the operators can know what to do. They should be fully registered and belong to Saccos like the ones in the *matatu* sector. We should know each boda boda is operating in a certain route. Whenever there is a mess, it will be easy to identify the cause and the boda boda involved. It will also help in maintaining discipline. Each boda boda rider will belong to a Sacco and be responsible for their conduct. This is a sector that we should take care of. We should also encourage insurance companies to offer boda boda operators affordable covers to take care of their motorcycles. Most of them are not insured because of the high cost of the insurance cover.

Thank you, Hon. Temporary Speaker. I support the amendment.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Member for Igembe Central. Hon. King'ara, you have two minutes to conclude your reply.

**Hon. Simon King'ara** (Ruiru, UDA): Thank you, Hon. Temporary Speaker. I beg to reply. I thank each and every Member who has taken his or her time to contribute to this Bill which has a lot of essence to our economy. Some did not support it. I accommodate Members' feelings and contributions. My request to this honourable House is to allow the Bill to proceed to the next stage. I am not rigid to contributions. I have a bunch of notes on Members' contributions. It is for this House to align the laws to serve our country. I gave the example of how we started this industry and how it has grown. If there is no sanity, we will go astray. Instead of going astray, we should use such pieces of legislation to align matters and create sanity in this country. I support Members who are with me and the ones who are not with me. I wish the ones who are not with me would join me so that we make a good law for the country. I beg to reply.

Thank you.



**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much. Hon. Members. The putting of the Question is deferred.

*(Putting of the Question deferred)*

Next Order.

THE HEALTH (AMENDMENT) (NO.2) BILL  
(NATIONAL ASSEMBLY BILL NO. 42 OF 2022)

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Hon. Didmus Barasa.

**Hon. Didmus Barasa** (Kimilili, UDA): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity. The Health (Amendment) (No.2) Bill seeks to amend the health laws of this country so that the Ministry of Health can develop policies that would guide the referral of a patient from one facility to another. The Bill also provides that the Cabinet Secretary concerned will, in liaison with various stakeholders, come up with policy guidelines and principles that will ensure smooth transfer of patients from one hospital to another, both locally and internationally. This is important because, as we speak today, referral of patients from one hospital to another is done haphazardly. One doctor may decide to refer a patient to a different facility simply because he is moody, tired or does not have time. Transfer of patients from one facility to another should be guided by law.

Before I begin to prosecute this Bill, I would like to bring to the attention of the House that I am most thankful to the Office of the Clerk of the National Assembly. A very experienced lawyer was assigned to me. We worked together in combing existing laws and identifying gaps. As you are all aware, laws are made to solve public problems.

I have gone through the Report by the Departmental Committee on Health, their recommendations and findings. I draw the attention of the House to a letter that was written to the Committee by the Principal Secretary for Health, Mr Peter K. Tum. The Committee lifted the content of the letter to form the basis of its rejection of my proposed amendments. I will go through them one by one.

The Ministry says that it had developed a Kenya Health Sector Referral Strategy in 2014 to guide the whole process. It also says that it is in the process of developing policy guidelines on medical tourism, which it has already initiated.

Hon. Temporary Speaker, they say so in this letter. They also go ahead to say that they have established a committee comprising medical experts to review and vet referrals for medical treatment abroad so as to ensure compliance with the rules. They also say that the rules that provide a roadmap on how a patient is transferred from one hospital to the other are contained in the rules of dentists and medical practitioners. It is on this basis that they advised the Committee to persuade this House not to proceed with those amendments and to give them time to implement and do what they are doing.

This is not enough reason for a Bill that seeks to solve a public problem to be shelved. The rules that are being enforced by medical practitioners and dentists are subsidiary legislation. They are also not specific to the problem that I seek to solve. I want the House to ignore the content of this letter and recommendations of the Committee. I thank the Speaker of the National Assembly for allowing this Bill to proceed to this stage even when the Committee felt that it should not proceed.

I have also gone through the other letters that other stakeholders have sent to the Committee. The Kenya Private Sector Alliance (KEPSA) supports my amendments. They also provided suggestions on how this Bill can be improved further. I assure them that I will enrich this Bill with their proposals. We also have another organisation called Coalition of Blood for

Africa which supports my proposed amendments. They have also suggested other ways on how we can improve this Bill further.

As we speak today, there is no substantive law that health facilities and practitioners follow in ensuring the dignity of the patients who are being transferred from one facility to another. We have some who have devised their methodologies. Some facilities have come up with very good policies. However, we want to ensure that we have a law that guides transfer of patients from one hospital to another, including transfer of patients from this country to the rest of the world.

If you are a doctor and you have a clinic across the border in a neighbouring country, say, Uganda, you could be driven by the appetite to make more money and refer a patient to your clinic outside the country. I am also aware that some health practitioners in this country collude with other facilities outside this country in India or China. They usually act as conduits to refer patients, even when the reason they are being referred is not merited. This Bill seeks to ensure that even before a patient is referred, the referring facility must ensure that facility has the requisite personnel and equipment to address the patient's problem.

This is a very good Bill. This is an idea that can be improved by this House. When a Member of Parliament brings a Bill or Motion on the Floor of the House, the essence is to tap into the intelligence of more than 300 Members who have different expertise. I bring this idea in the name of the Health (Amendment) (No.2) Bill (National Assembly Bill No.42 of 2022) before this House, so that we can improve it and ensure that no Kenyan suffers because of lack of following a procedure or rather than just being referred to another facility for the sake of the referring agency making some money.

This Bill seeks to compel the Government of Kenya, through the referring institution, to inform the Kenyan Embassy or consular where a patient is going. It is so that it can continue to offer some bit of logistical support in terms of understanding how many citizens of this country are being treated in which part of the world and in which hospital. It also becomes the responsibility of our ambassadors and high commissioners, wherever they are, to take stock of the number of Kenyans who are undergoing treatment in those countries.

The Committee also felt like the regulations are enough to stop this Bill from proceeding. They are not superior to laws. The hierarchy of laws in this country is such that the Constitution is the first one. Secondly, we have Acts of Parliament and then regulations are third. Many health facilities and practitioners do not take regulations seriously. There is nothing wrong or there is no harm. When I was coming up with this Bill, I looked at the existing regulations and strategy on referral from the Ministry of Health. I found out that they were not specific. I have decided to enrich and anchor them in the laws of this country, so that health facilities and practitioners can continue to be guided by this law.

*[The Temporary Speaker (Hon. (Dr.) Rachael Nyamai) left the Chair]*

*[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]*

Hon. Temporary Speaker, Members of Parliament and Kenyans have been suffering due to lack of a referral policy. A patient goes to seek medical attention in a facility and because of the negligence and laziness of the person who is in charge, he decides not to attend to him and refers him to another facility. In some instances, patients are referred to facilities that are run by the same people! It is not that they are unable to provide a solution to what is ailing the patients, only that they are driven by the desire to make more money. When you are referred to another facility, you psychologically begin to think that this is a very serious problem. They take advantage of patients and extort money from them. They make it more expensive to treat an ailment that would have been easily treated without referral.

I want to tell Members that our role is to make the lives of Kenyans easy. Our role is to take an audit of existing problems and provide solutions by amending the existing laws. It is on this basis that, in consultation with other Members and the offices of the Clerk of the National Assembly and the Speaker, I have decided to draft this piece of legislation that seeks to amend the health laws of this country. This will ensure that we have a framework that guides practitioners, doctors and health facilities on what informs when and how there would be a need to transfer a patient from one facility to another one.

I do not want to belabour that point. However, with utmost humility, I want to call upon my sister, a very serious woman in this country, Hon. Gathoni Wamuchomba, MP., Githunguri Constituency, to second.

Even as I ask her to second, I want to sincerely thank the people of Githunguri for bringing her to this House. They have gone ahead of us to identify her as a person who is driven by the desire to better the welfare of the people of Githunguri every day. I, therefore, ask Hon. Wamuchomba to second.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Wamuchomba, you may proceed.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Thank you, Hon. Temporary Speaker.

Allow me to take this opportunity to first congratulate and thank my brother, Hon. Didmus Barasa; the young, vibrant and energetic. The Hon. Member is serving his second term as a representative of the great people of Kimilili Constituency. I want to thank him for taking the bold step to voice a concern, through his parliamentary obligation, on the need to amend the Health Act. The amendment seeks to consider a dire need of the people that we represent.

As a woman leader, a mother and a representative of the people of Githunguri Constituency, I am very humbled to be standing here to second this proposed amendment by Hon. Barasa. I have gone through all the letters and the Memorandum of Understanding (MOU) that were submitted to the relevant Committee in favour of this proposed amendment. I have read submissions from the KEPSA, Kenya Health Sector and Coalition for Blood for Africa. In summary, all the submissions are in support of this proposed amendment.

We can never give better service to the people that we represent in this House if we cannot embrace this kind of proposal. It seeks to regularise, through a policy, the ways and styles in which our medical practitioners have been referring patients. This is bearing in mind that all of us are victims and have been patients in the past.

Hon. Temporary Speaker, I come from a rural constituency called Githunguri. We now have an opportunity to have a referral hospital. It is upcoming and we look forward to its completion. We would be very happy to have a policy that guides the referral system. This is because we also want to make sure that the facility that is coming up in Githunguri benefits the people of Githunguri and the neighbouring sub-counties of Gatundu North, Gatundu South, Ruiru and Limuru. Therefore, we welcome a policy to guide the referral system.

During the COVID-19 pandemic, people were not allowed to move around. So, we had a crisis bestowed on patients who were previously referred to other countries like India. The COVID-19 pandemic caught them in those foreign countries. We used to receive many distress calls that we help rescue our own patients who were referred to those countries. They were not able to move during the lockdown. They were not able to pay their hotel, hospitality and even medication bills. As a Kenyan, I have a conviction that we have hospitals here with all the equipment and highly experienced practitioners who can attend to some of the referrals that are made to those countries, However, we are quick to refer them to such facilities because of this new paradigm shift in the medical field called 'medical tourism'.

Indeed, medical tourism comes with a token. There are some people who are motivated by tokenism because they are paid commissions based on the number of referrals they make to

certain hospitals outside the country. This is done as a way of earning revenue for those practitioners while exploiting our patients and voters. As lawmakers, it is viable for us to support this kind of amendment so that we protect our patients and voters from such exploitations.

Hon. Temporary Speaker, it good for us to come up with a policy guideline that will guide us on those who can afford a referral. We sometimes have patients being referred to facilities that they cannot afford. I am sure Members can attest to that. We are constantly in *Harambees*, fundraising ceremonies and other functions raising money to support patients to go to facilities abroad for treatment. Since the chief doctor has referred a patient, then the patient has to go to that facility. We have become slaves. We have bills to pay, but we cannot afford.

We need to have a system in place so that before a doctor or a medical practitioner refers a patient, due diligence on whether the patient can afford to pay for the services is done. At times, some practitioners refer patients to facilities because they have interest there, but do not care whether the patient can afford or not. This is very important and we need to come up with a clear referral system.

Hon. Temporary Speaker, we have patients who are referred to Kenyatta National Hospital (KNH) from Githunguri, but they cannot access an ambulance that is well equipped. As leaders, we normally receive calls that a patient has been referred to KNH, but there is no oxygenated ambulance or quality facilities that are needed for that referral or emergency to be effected. I wonder whether doctors, when referring patients, seek to know if there is a standby ambulance that can be used. We have even lost lives on the roads as we transfer patients and yet, we could have saved them by making sure that we provide the required intervention. Some patients have died at lounges of hospitals as their referral documents are being processed!

Hon. Temporary Speaker, I recently had a case in Kiambu Hospital where a patient died in the waiting room. The patient was made to wait as nurses, health assistants and technicians prepared documents to effect a referral. We need a clear step-by-step guideline on what is supposed to be done for both out-bound and in-bound patients.

As I finalise seconding of this wonderful amendment Bill, allow me to register my disappointment with regard to the response that the Departmental Committee on Health received from the Principal Secretary in charge of health, Mr. Peter K. Tum. The communication says:

“The Ministry in 2014 developed a Kenya Health Sector Referral Strategy and has also been in the process of developing a policy guideline on medical tourism.”

This Kenya Health Sector Referral Strategy was started in 2014, and to date, they have not completed making a strategy. Are we going to wait for another 20 years for the strategy to be completed?

**The Temporary Speaker** (Hon. Omboko Milemba): Please, add Hon. Wamuchomba one more minute.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): I am most humbled. Thank you. Are we going to keep waiting? Since 2014 to 2023, how many years are those the Ministry has taken to come up with the strategy? Are we going to allow them more time to finish coming up with a strategy when an Hon. Member, who is elected by the people, is allowed to bring an amendment to an Act of Parliament? We cannot stop making an amendment to the law to help the people of Kenya simply because we are waiting for the Ministry to come up with a strategy.

As I conclude, I second the proposed amendment by Hon. Barasa. I am proud that this son of Kimilili has done us proud by bringing this wonderful amendment to save our people.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): The first person to have a bite on this is Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD–K): Hon. Temporary Speaker, thank you very much for giving me the opportunity. I also want to thank Hon. Didmus Barasa. In my local language, I call him *guka*, meaning grandfather. I want to say that this is a very important amendment that Hon. Barasa has come up with. I believe each one of us here has handled cases of relatives, neighbours or constituents requiring assistance to be moved from one facility to another. I have a case of my brother who was transferred without my knowledge to another facility because the doctor who was treating him had an interest in that particular facility he was being transferred to. I ended up losing my elder brother!

For you to move a patient from one hospital to another, you must check facts about where one is being transferred to. You need to establish whether or not the receiving hospital has all the facilities which were lacking in the host hospital. In my brother's case, it was done haywire. There was no reason that was given for the transfer. We have many cases of patients being referred to India. I am dealing with a case of a patient who is in India. I do not know how the family ended up sending the patient there. I am told the hospital in India has an agent in Kenya. His work is just to get patients transferred to the hospital in India. Now I am being requested to attend a *Harambee* to raise money for the patient because the family is not able to pay for the medical facilities. Therefore, we need to have some bit of discipline.

We are not medical doctors but we regulate for this country. It is only fair that we say enough is enough, given what we have experienced as Members of Parliament. Whether it is a funeral or whatever else, people come to seek help from Members of Parliament. I get very many phone calls inviting me to *Harambees* and fundraisers. But you will find out that the patient dies afterwards, say, after three or more referrals.

A very important thing that Hon. Didmus did not include in his amendment is the NHIF. We as Members of Parliament need to insist that those who have elected us here have the NHIF and it will help them a lot. As long as the patients know that Hon. Didmus will assist them in paying hospital bills, they are referred from Bungoma to Mombasa and they just go. Most of the time, the patients die at the facilities they are referred to.

The Secorder of this Bill has said that she had a case where somebody was just sitting there and ended up having a problem. So, let us have some sanity. I think this amendment Bill is coming to instil some sanity in whatever we do so that we do not have cases where people are moved from one facility to another anyhowly just because of the personal interest of doctors. They are professionals and we respect them, but some of them over-stretch their professionalism by doing what I think is not the right thing.

With those few remarks, I thank Hon. Didmus for coming up with this very simple and clear amendment that will help our people. Therefore, let us support it so that our colleagues who are doctors can be guided. Without mentioning the name, I have a case where one of the doctors referred a patient to Uganda. You cannot believe that he referred a patient to Uganda because he had some interests there. Let us stop those kinds of things. To doctors, we are not criticising you, but we are saying that some of you are doing the wrong things.

I support this amendment. Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Adan Haji, Mandera West. He is not in the House? Very well, let us have Hon. Kiunjuri.

**Hon. Mwangi Kiunjuri** (Laikipia East, TSP): Thank you, Hon. Temporary Speaker, for giving me this opportunity. At the outset, I start by supporting. This is one of the most important amendments that we shall ever have in the health sector.

May I start by saying that the Member of Parliament is acting within his mandate. We are elected to make laws and amend them when it is necessary. If you look at the response that is given by the Ministry, it is as if the Member of Parliament is seeking a favour to bring about

the amendment. May I say this amendment is brought in good faith. It is good for our people and this country. By doing so, the Member of Parliament is only trying to help or assist the Ministry in what it has not been able to do for the last nine years. It is admitting that this is a very important amendment that should be made, but since 2014, it has not been in a position to do so.

For how long shall Kenyans suffer because of laxity, inefficiency and the ineffectiveness of our Civil Service? This begs of us, as Members of Parliament, to take our responsibilities seriously. We were elected to come here and ensure that our people do not suffer. We should not only push for the referral of patients, but also ask ourselves: How much can this Government spend to ensure that there are workable referral hospitals in every county? The Government should also ensure that every county is properly facilitated to the point that referrals are only made within a county. All the 47 counties should have workable referral hospitals that can handle those emergencies. We should even push for more.

Hon. Wamuchomba has said that a patient in her county was referred to another hospital, and they could not move her because they did not have the means to transport the patient. A week ago, in my own county, a house burnt down. Three people died instantly and one was referred to KNH. It took almost eight hours to move that patient. By the time he arrived in Nairobi, he was pronounced dead. Eight hours were enough to save the life of that gentleman. Kenyans are suffering because we have no means of handling emergencies. It is important for us to come up with amendments to ensure that emergencies are treated as such. No one knew that the house would burn down that night. No one can predict when an emergency will occur. It is important to have subsidised facilities, free transportation and referral for emergency cases in this country. As Members of Parliament, we should ensure that poor people in this country do not continue suffering because they are not financially stable.

We should also gazette all institutions that are qualified to handle emergency and referral cases. The Member is asking that we ensure that adequate measures are taken to establish that the health institutions which patients are referred to within and outside the country, possess adequate equipment and personnel. This should be done early enough. Let us gazette all the private hospitals, county and national Government facilities that can handle referral cases. This will ensure efficiency and that our patients are referred not in favour of certain institutions, doctors, or a friend to a doctor, but because those facilities qualify to handle those cases. We are asking for comprehensive reforms in the health sector. We should also re-introduce this debate through either a national conversation or a referendum. Some of those issues need to be re-looked into again.

There are counties that are willing to hand over their facilities to the national Government. The mechanism for this to happen must be properly established. It is high time we looked at health issues in the Constitution that affect our people. The most important thing that a government can do for its people is to ensure that they are properly fed and they have access to proper education. Above all, healthcare is very important in any country.

I have no reason to oppose this amendment. Let us support this amendment. We should ensure that all the serious institutions do not wait until a Member of Parliament brings an amendment for them to tell us that they are in the process of implementing. Let the stakeholders come together and if they have a better way of doing so, they should bring their ideas to any Member and we will amend the law accordingly.

I thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well.

Hon. Members, I acknowledge the presence of students of Titus Ngoyoni Memorial Primary School, Laisamis Constituency, Marsabit County. They are seated in the Public Gallery.

(Applause)

Is the Member for Laisamis in the House? Let us now have Hon. Catherine Omanyo, the Busia County Woman Representative.

**Hon. Catherine Omanyo** (Busia County, ODM): Thank you, Hon. Temporary Speaker. Whenever I hear anything to do with health, I tag myself to every word, comma and full stop.

First of all, every case that is taken to the hospital should be treated as an emergency and every hospital should be well equipped. I support this Bill. In Kenya, if you go to most hospitals without a shilling, you will die. In fact, this amendment should add that anyone who goes to a hospital, whether they have money or not, should be treated first. Doctors and nurses are in those hospitals to save lives first and not to make money.

In Kenya, if you do not have money, you cannot be treated. This is as a result of the gap between the rich and the poor. People are drawn to support and help someone who appears to be monied. This Bill is good for all of us. You can never know when an emergency will befall you. Whether you are the President, a boda boda rider or an ordinary *mwananchi*, anything can happen to you. One day you may wake up healthy, but get involved in an accident and become disabled if someone does not take action quickly. Every hospital should have an emergency care unit to handle emergencies first before asking for the mode of payment.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): The Member for Mandera South, Hon. Adul Haro. Is he in the House? He is not in the House. Hon. John Kaguchia. Is he in the House? Then let us have Hon. Rindikiri, Mugambi.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill that has been brought by my friend. This Bill seeks to insert a new section to the Health Act 2017. The Member is seeking to insert a section relating to the referral system. I agree with the amendment on referral within and outside the country. As it is right now, there is no clear system of referring a patient from a local institution to another or even outside the country.

Hon. Temporary Speaker, we have a very serious problem at the Ministry of Health. It is the Ministry that is charged with the responsibility of managing the health sector in this country, but it is also where you find the largest number of cartels and misuse of public resources. When I hear the Principal Secretary saying that they need to be given time to deliberate on something that started in 2014, I can only say it is a joke! The health sector is a serious one in this county and we need to be sensitive to the needs of the people. I am of the opinion that we start urging and pushing the Government now to have a referral hospital in every sub-county. I have had cases where a public health centre is referring a patient to a private hospital knowing very well that there is a public sub-county hospital. It is a serious problem. Some of those people are not only doctors, but also clinical officers. You find a clinical officer making a referral. Why? Because the sector is not well programmed such that the doctors take full responsibility.

We have the NHIF. Part of what it should be doing is to establish medical facilities in every constituency in support of the counties so that we can have enhanced medical provisions which will take care of local transfer of patients. We have a problem of transportation. I have experience in the insurance sector. They have an ambulance or an evacuation system. We do not have an evacuation system in our sub-counties and counties. I urge Hon. Didmus to add in that Bill that we must have a compulsory evacuation system, which is distributed equally to all parts of the country. That is very important. People have killed the evacuation systems because of personal interests in ambulances and other private arrangements.

The other problem that I have noted is the credibility of some of those hospitals where patients are referred to. Worst is when they refer patients to private hospitals which lack facilities and yet, we know there are well-equipped public hospitals in this country. That needs to be looked into. On overseas treatment, we have heard of patients being evacuated from this country to overseas for medical treatment. There are no guidelines of taking citizens from this country to other countries. There is no connectivity between Kenya and the embassies or consulates in those countries. Actually, there is no flow of information. People are making private arrangements and when something happens like what happened during the COVID-19 period, where very many Kenyans suffered particularly in India... We have to have a guideline.

When the Principal Secretary or the Cabinet Secretary tells us to wait, surely, we cannot wait until problems arise. We need coordination. Kenyan embassies need to be informed of what is happening. When a Kenyan leaves this country, they need to be given a protocol experience. What we have noticed is that the Ministry of Health does not care. They do not take anything into consideration. People make their own private arrangements. Kenyans are pushed into aeroplanes – and some of them have died in there – to go to foreign countries where the weather is not good. They end up dying. This leaves the families with the responsibility of bringing the bodies back.

The Principal Secretary should feel it for Kenyans. He is occupying that office to sort out a problem and not to delay. In actual fact, the Departmental Committee on Health should be held accountable for the failures of the Ministry. I should have expected Hon. (Dr.) Pukose, the Chairperson of the Committee on Health, to be here, but he seems not to be taking this matter seriously. I had a situation where a doctor referred a Kenyan from western Kenya to Uganda. Are we serious? This is a medical practitioner doing that. I would wish to know him. I need to ask Hon. (Dr.) Pukose to tell me the name of the doctor because he comes from western Kenya. It is a very serious thing.

It is high time the National Government worked hand-in-hand with the county governments. The business of taking Kenyans lightly is long overdue. I thank the potential Governor of Bungoma for bringing this Motion. We will support it, pass it and it must be enacted. I share the sentiments of the proposer. I support this Bill and ask that within this Bill, we need to put a clause that the Government, through NHIF, should establish a referral unit in every sub-county.

In Buuri, we have two sub-counties. We need two sub-county hospitals where we shall be referring our patients to, instead of referring them to private hospitals which is the norm there. This is done by doctors and we should not allow it. We have an issue where our ladies are forced to undergo caesarean sections that are done by unscrupulous practitioners against their will. Why? Because they make more money through that procedure. They force patients to accept to sign for caesarean section. We need to be mindful of our mothers. It is not the end of giving birth. You can imagine a mother undergoing caesarean section three to four times. I know people from Mombasa give birth four to five times. You can imagine what the ladies go through. We should avoid such things because we do not have in place systems of referrals.

Therefore, I urge all Members to support this Bill. It should be enacted and implemented so that we can move forward in providing good healthcare to our citizens.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. John Bwire. That will be his maiden speech. Therefore, no interference. Proceed.

**Hon. John Bwire** (Taveta, WDM): Thank you, Hon. Temporary Speaker. First, allow me to appreciate my colleague Hon. Didmus. We have always agreed very many things, including this one - that it is high time we regulated the process of referral of patients outside the country.



I want to concur with my colleagues that the problem in this country is that we have literally commercialised everything, including our right to health. I say so because I come from a constituency that borders Tanzania. My people always tell me that our sub-county hospital has been reduced to a lodging where you go to sleep and eat. There is no medication and simple diagnostic services like *X-ray*, Magnetic Resonance Imaging (MRI) and Computerized Tomography (CT) scan. I speak for Taveta Constituency. The problem has always been this issue of referral. We have cheaper services across the border in Tanzania and if you were to go today to our hospital with a complaint of headache, you will be easily told to go to Kilimanjaro Christian Medical Centre (KCMC) in Moshi where you will be treated.

That is why I want to support the proposed amendment by my colleague, Hon. Didmus Barasa. Having looked at the law and consulted my colleague, I understand the mischief that he seeks to cure and not a gap in the law, but merely an enforcement issue. Why do I say so? This morning, I happened to come across the Medical Practitioners and Dentists Act. Section 23 of that legislation gives power to the Cabinet Secretary to enact regulations to ensure that there is proper administration of health services in Kenya. Pursuant to that provision, there are also the Medical Practitioners and Dentists (Referral of Patients Abroad) Rules, 2017. Those rules clearly cover what Hon. Didmus wants to introduce. That is why I mentioned to him that if the issue is about enforcement, or failure by medical practitioners to comply with the Rules of 2017, merely because they are a subsidiary legislation, my proposal is that we pick the good from those rules and add them to Section 79(a) that he wants to introduce.

For example, Rule 3(1) expressly indicates that before a referral abroad is approved, three conditions must be met. First, there should be evidence that there is inadequate expertise or medical facilities to handle the condition locally. Secondly, there must be evidence that the referral will be the most cost-effective option for the patient. Finally, the patient should have opted to seek medical intervention or management abroad, where public resources are not used.

Every issue that the Member has raised, including that of irregularities presented during referrals of patients abroad, is clearly captured here. In fact, I have looked at those regulations and they also provide for penalties if a medical practitioner refers a patient abroad in contravention of those rules.

Therefore, if the issue is about the enforceability of the rules, why not put them in an Act of Parliament? Why do I say so? It is because Hon. Didmus proposed that the Cabinet Secretary prepares policy guidelines. In terms of hierarchy of ranking in law, policy guidelines come lower than rules that have been passed by the Cabinet Secretary. So, if the Cabinet Secretary has passed those rules and there is no implementation, why not have them in the Act? We should amend Section 79(a) to include rules that are already there to ensure that those gaps in law are correctly dealt with.

I have shared with my colleague Section 23 of the Medical Practitioners and Dentists Act and the regulations. I have requested him that we sit down and agree on how we can improve the amendment of Section 79(a) of the Health Act.

Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Well spoken. This also came up earlier this morning during debate. Cabinet Secretaries are being called to order to enforce and implement regulations thereof, that they may or may not have made. Where they have not made them, they need to do so. The same argument arose on the Floor of the House earlier this morning.

Let us now have Hon. Ruweida Obo from Lamu East Constituency.

**Hon. Ruweida Mohamed** (Lamu East, JP): Ahsante, Mhe. Spika wa Muda, kwa kunipatia nafasi ya kuchangia Mswada huu.

Mwanzo, ningependa kumpongeza ndugu yangu, Mhe. Barasa. Ninaiunga mkono sheria hii. Ninaomba sheria hii iwe rahisi kutumika, na isiwe sheria ngumu ya kuwatatiza

wagonjwa. Ukitengeneza sheria, huwa inapelekwa kwa Kamati, mnajadiliana, Wabunge wanahusishwa, na hata sisi tukitaka, tunaweza kuja huko kama marafiki wa hiyo Kamati maanake haya ni mambo yanayotuhusu na yanatutaliza kila wakati.

Ningependa wagonjwa wapewe uhuru wa kwenda popote wanapotaka kutibiwa katika sheria hiyo. Kumekuwa na mtindo ambapo mgonjwa anapotaka kwenda matibabu India, anazungushwa tu. Madaktari wanamwambia aende kwa *Kenya Medical Practitioners Pharmacists and Dentists Union (KMPDU)* ili ombi lake litiliwe sahihi. Akifika kule, wanamwambia hawawezi kutia sahihi na atafute daktari amtilie sahihi. Akienda kwa daktari, daktari anamwambia kuwa hawezi kutia sahihi kwa sababu huduma hiyo inafanyika Kenya. Hata kama huduma hiyo inafanyika Kenya, mbona mnamkataza mgonjwa kwenda kule anakoamini atapata huduma hii kwa urahisi? Gharama za matibabu kule ni rahisi. Kwa nini hapa Kenya pia matibabu yasiwe rahisi? Kama ni *procedure* inayofanyiwa hapa Kenya na inakugarimu Ksh300,000, ukienda huko nje, gharama yote pamoja na tikiti ya ndege haifiki hiyo Ksh300,000... Ukienda kule, unaangaliwa mwili mzima kwa gharama hiyo hiyo tu! Kwa hivyo, sheria isiwe ya kuwapa madaktari uwezo wa kuwafungia wagonjwa wanaotaka kwenda wanakoamini watapata matibabu vizuri zaidi. Sheria iwape wale wagonjwa wanaotaka huduma hapa Kenya mbinu rahisi ili wajue wakitaka *referral*, wanafuata njia gani.

Ninaomba Mhe. Barasa kuwa sheria hii ikija mbele ya Kamati, mhakikishe kuwa kila eneo lina kamati ya kuwachunguza madaktari. Daktari akisema mama afanyiwe oparesheni ya kutolewa mtoto, ichunguzwe kama oparesheni hiyo ilifaa kabla hata ifanyike, au baada ya oparesheni kufanyika, waone kama kulikuwa na dharura ya kweli ya mama huyo kwenda kufanyiwa oparesheni. Kuwe na kamati katika kila eneo kwa sababu mambo kama haya yanatakikana kwa haraka.

Ningeomba pia kuwe na kamati ya kitaifa ya kuchunguza madaktari kujua mbona daktari fulani amefanya oparesheni nyingi. Unapata kuwa kila mzazi akienda kwa daktari fulani, huyo daktari anamfanyia oparesheni. Tujue kama nchi zingine zinafanya hivyo.

Itabidi sisi kama Bunge tujipange, na pia *Ministry* ijipange, kuwe na hospitali za rufaa katika kila eneo. Maanake hapa Kenya, kuna hospitali sita kubwa za *Level 6*. Lakini hizi *Level 6 hospitals* zinapatikana katika eneo moja. *Coast* nzima hakuna *Level 6 hospital* hata moja. Kisha bado watu huku wanazungumzia '*one man, one vote, one shilling*'. Hospitali hizi zinafaa ziwe karibu na wagonjwa. Mtu anatoka Lamu kuja KNH kwa sababu hiyo ndiyo *Level 6 hospital* ambayo iko karibu naye. Kutoka Kiunga kufika Nairobi ni gharama ya juu. Watu wanakufa kwa sababu ya kukosa uwezo wa kufika KNH. Hospitali yetu ya *referral* iliyo kubwa ni *Coast General Hospital*. Sheria hii inafaa izungumzie kupatikana kwa *Level 6 hospital* moja katika kila eneo.

Pia, kuna rufaa nyingine ya lazima, ambayo ni kifo. Msiisahau hiyo. Hilo ni tatizo maanake kifo kinasikitisha. *Executive Order* ilitolewa kusema kuwa mgonjwa akifariki hospitalini, maiti isizuiliwe. Lakini utaona tunaitwa kama Wabunge kuchangia mambo haya. Inakuwa *procedure* ndefu mpaka watu wanaambiwa watafute *title deeds* na vitu vingine. Mgonjwa anapofariki, ashopata rufaa ya lazima. Hakuna haja ya kuweka maiti pale. Hospitali ni ya umma kisha unazuilia maiti hiyo mpaka watu wao wafanye Harambee na michango ili walipe. Mtilie maanani rufaa hiyo ya lazima katika sheria hiyo.

Mhe. Spika wa Muda, nina mengi ya kuzungumza lakini naona wenzangu pia wako na hamu ya kuzungumza. Kwa hivyo, nitawachia hapo. Ahsante.

**The Temporary Speaker** (Hon. Omboko Milemba): Ahsante sana kwa kuwapa wenzako nafasi.

The next Member to contribute to this Bill is Hon. Tandaza.

**Hon. Kassim Tandaza** (Matuga, ANC): Thank you, Hon. Temporary Speaker for giving me this opportunity to contribute to this very important and urgent matter on health. Article 43(1(a) of the Constitution, which is the supreme law, clearly states that every person

has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

Amongst the 12 pillars of competitiveness in any nation, health is number four. Therefore, we cannot downplay its importance in our country, Kenya. How is health handled in this country? As the previous speakers have said, there has been marginalisation of health facilities. To drive my point home is Kwale County, which does not have a referral hospital, level 4 hospital, and level 5 hospital. When it comes to actualising the Constitution on the right of every Kenyan to the highest attainable standard of health, you have somebody from Kwale County, which does not have a referral hospital or level 5 hospital. We end up with expensive referrals.

Thank you, Hon. Didmus Barasa, for bringing to the attention of this House the need for a clear health policy. We need an Act of Parliament which has guidelines and policies which can be taken more seriously, unlike what the Principal Secretary was referring to. I am sad because the Principal Secretary objects to a Bill that will make his work easier. It will streamline the operations of his State Department. He should have been the first one to say this is something that should have come as early as yesterday.

We should support this Bill, so that it can be an Act of Parliament which will be followed to the letter and operationalised. Our doctors, just like many other professionals – and I have not singled out doctors - do not adhere to the highest standards of ethics. When a tycoon is taken to court for corruption charges, we have cases in this country where he colludes with doctors to refer him to a hospital abroad to evade the due process of law and he stays there indefinitely. After all, he has all the money that he obtained from the taxpayers through corrupt means. This is not money that he has worked for. He ends up enjoying the money in that country. As the Mover of this Bill has said, there are no clear guidelines on referrals. If he is referred to a hospital in Mauritius, there are no rules that require him to inform the ambassador of his visit. Instead of being admitted in a hospital, he only checks in on the first day and then moves into a resort to enjoy his money.

This Bill is very critical even in fighting corruption in this country. It not only addresses the health sector, but also cuts across other areas. We know that corruption is a big issue in this country. Our doctors should not be exempted because we know that some of them are corrupt. Hon. Temporary Speaker, those few really do a lot of damage when it comes to referrals. When a patient is referred from Kwale to KNH, has that doctor considered the cost, time and the process of transferring the patient or he is simply discharging the patient to go out there and die? Remember, the moment that patient is referred, the nurses no longer attend to them since they have already transferred. That family does not have the means neither is there adequate equipment to transfer that patient.

The referrals that are currently being done are usually when nothing can be done for the patient, who just has to wait for their time to die. It is high time the Government made sure that we have the necessary equipment and expertise. Would it not be cheaper to move a specialist from Kenyatta National Hospital to Coast General Hospital with some equipment to attend to the many patients? That should be done instead of sending all those patients to KNH when we know they will find no space for admission. They will be made to stick in long queues thus causing them to die while waiting for treatment along the corridors.

I, therefore, congratulate my brother Didmus Barasa for bringing this timely amendment Bill to help the hustlers who cannot afford referrals and are misused, mistreated, and exploited by unscrupulous doctors out there.

I thank you. I support.

**The Temporary Speaker** (Hon. Omboko Milemba): Next is Hon Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you, Hon. Temporary Speaker. I would also like to add my voice in support of this proposed amendment to the Health Act. My

understanding of why referrals take place is either because a facility is not suitable, the lack of competent professionals to attend to a patient, or where specialisation is required elsewhere. In my opinion, this referral system is mainly for patients who rely on publicly funded medical facilities as opposed to those who are financially capable of accessing private medical facilities. Consequently, I think it is a very important amendment and a lot of thought should go into it so that whatever referral system is proposed, then it ought to be inexpensive, timely, easily accessible and transparent to the most vulnerable members of society.

There is a problem with self-regulation of medical practice in this country where standards are not held and people are not called to account on many issues. On this particular matter, I think public regulation is the correct way as proposed by Hon. Didmus Barasa. The referral system should not be left to the Medical Practitioners and Dentist Board but should be left to public regulation by the Cabinet Secretary in public interest. As the Hon Member Kiunjuri has said, it is time we reviewed the idea of devolution of medical services in this country. It is quite disheartening that doctors are unemployed in the Republic of Kenya. If you look at our medical indicators, be it child mortality or the prevalence of various diseases, one would not understand why our doctors are unemployed. I think it is because of devolution. It is time we re-looked this issue on the devolved system of medical service. Other than the fact that the doctors are unemployed, it has caused disparity and inequities in the kind of medical services that are offered to the people in certain parts of the country. They are not getting the kind of medical services that they deserve, while others within urban areas or major cities tend to be favoured. I think it is time...

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Caroli Omondi. You will have a balance of eight minutes to speak on this next time.

#### ADJOURNMENT

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, the time being 1.00 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.

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