

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 4<sup>th</sup> June, 2019

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

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

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

##### CONSULTATIVE RETREAT BETWEEN THE SENATE AND THE CRA

**The Speaker** (Hon. Lusaka): Hon. Senators, as you are aware, the Commission on Revenue Allocation (CRA), is an independent Commission set up under Article 215 of the Constitution of Kenya. Its core mandate is to recommend the basis for equitable sharing of revenues raised nationally between the national and the county governments, and among the county governments.

As you may recall, the Report of the CRA Recommendation Concerning the Third Basis for Revenue Sharing among County Governments for Financial Years 2019/20 – 2023/24 was tabled in the Senate on 30<sup>th</sup> April, 2019 and committed to the Senate Standing Committee on Finance and Budget. This Report, which is prepared in accordance with the provision of Article 216(1)(b) of the Constitution of Kenya, is very important as it forms the basis for equitable sharing of revenue raised nationally among the county governments.

It is on this basis that the Standing Committee on Finance and Budget has organized a half-day consultative retreat with the CRA to discuss the Third Basis for Revenue Sharing among County Governments. The retreat is scheduled to be held on Wednesday, 12<sup>th</sup> June, 2019 in Nairobi County starting 8.00 am. At the retreat, the Commission shall present the underpinning logic for the Third Basis for Revenue Sharing.

Because of this important exercise, I direct all Committee Chairpersons not to schedule other meetings on that day.

I therefore invite and urge all Honourable Senators to plan to attend this important retreat.

I thank you.

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Next Order.

### PETITION

#### MASS EXAMINATION FAILURE AT THE KENYA SCHOOL OF LAW

**The Speaker** (Hon. Lusaka): I will allow Sen. Cherargei to stand in for Sen. Omogeni.

**Sen. Cherargei:** Mr. Speaker, Sir, I rise to present a petition on behalf of Sen. Omogeni who is away on parliamentary duties. The petition is on the mass failure at the Kenya School of Law (KSL).

We, the undersigned, citizens of the Republic of Kenya and concerned members of the public regarding learning at the Kenya School of Law draw the attention of the Senate to the following:-

THAT, for the past few years students of the Kenya School of Law have massively been failing exams at a high percentage and the number of failures increases each year, thus causing suspicion on the credibility of the examination;

THAT, since the transfer of the handling of exams to the Council of Legal education, the rate of failure has been high and alarming compared to previous legal regime when the Kenya School of Law was in charge of the examination;

THAT, whenever a student fails, he/she is forced to re-sit or request for re-mark which is charged not less than Kshs15,000 per paper, thus making the Council of Legal Education a cash cow, taking into account that over 95 per cent of the students who sat the exams are involved;

THAT, the mass failure has caused frustrations and depression to the students who are eager to be admitted to the bar and ready to practise but they have used all their money in re-sitting the exams, year in, year out;

THAT, there is no other effort that has been made to address this issue or it is not pending in any constitutional body, commission or any court of law.

WHEREFORE, your humble petitioners pray that the Senate investigates this matter and makes appropriate recommendation thereon, with a view to-

(i) Conducting investigations on the Kenya School of Law on the structures and systems of instruction in place that could be a contribution to the mass failures.

(ii) Conducting investigations on the finances at the Council of Legal Education and the Kenya School of Law with a view to outlawing payment of fees for re-sits and remarking so as to block the incentive to fail students in masses.

(iii) That the Senate to initiate a serious audit of finances at the Council of Legal Education and the Kenya School of Law that are being collected as a result of the mass re-sits and re-marks.

This petition has been presented on behalf of;

1. Mr. Abdalla Suleiman;
2. Mr. Elkana Kitur; and
3. Sen. Okong'o Omogeni, Senior Counsel and the Senator for Nyamira County.

I thank you.

**The Speaker** (Hon. Lusaka): Hon. Senators, before I allow comments on the Petition, I would like to make a communication.

*(Interruption of debate on Petition)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. MARY'S SOSIO  
SECONDARY SCHOOL, BUNGOMA COUNTY

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting students and teachers St. Mary's Sosio Secondary School in Bungoma County.

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

I thank you.

**Sen. Wetangula:** Mr. Speaker, Sir, I join you and the rest of the House in welcoming the teachers and students from one of our top schools in Bungoma County, St. Mary's Sosio Secondary School who are visiting the 'upper' House of Parliament, the Senate.

St. Mary's Sosio Secondary School is one of our leading secondary schools with a very strong Catholic background. It is a school known for discipline and being outstanding in sports, particularly football. It is a school that we are all proud of. Equally important, it is a school in your neighbourhood, Mr. Speaker, being my constituent as well.

I welcome the teachers and students and tell them that they have come to the premier House of Parliament where reason precedes everything. They have come to a House of reason where Members debate issues with sobriety, clarity and patriotism. We look forward to them learning and preparing themselves for leadership positions in future at the county and national level. I look forward to some of them succeeding me when I take my sunset from politics. At an appropriate time, I will come out there to meet you. Feel welcome and comfortable in the Senate where Bungoma County is represented by two Senators; yours truly and the Speaker.

**The Speaker** (Hon. Lusaka): Thank you very much, my Senator. It is true that St. Mary's Sosio Secondary School is a school in my neighbourhood. It is a walking distance from my home to the school. I welcome them to the Senate.

*(Applause)*

Let us continue with the contributions on the petition.

*(Resumption of debate on Petition)*

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**Sen. Farhiya:** Mr. Speaker, Sir, I join you and the Senator for Bungoma County in congratulating St. Mary's Sosio Secondary School for visiting the 'upper' House. Here is where serious business is discussed. As they may be aware, we have so many senior counsel in this House. Everything here happens for the right reason for the people of Kenya.

Mr. Speaker, Sir, I thank Sen. Omogeni for bringing that Petition to this House. The cries of the students of the KSL are real. Students who did well in their primary, secondary schools and got A's in universities fail multiple times. So, the question any human being would ask is whether the exam is real or it intends for people to fail.

Mr. Speaker, Sir, a friend of mine who was widowed at a very young age brought up her two children by herself. One of her children failed four times. Where is she supposed to get all that money yet she is the only parent taking care of her children? That student also feels like she is not worth that exam. She did extremely well in her university, secondary and primary schools. She was in the University of Nairobi (UoN). What is it that they test?

Mr. Speaker, Sir, this House needs to do a thorough and diligent investigation on what really goes on. Some lawyers need to read the script of those students to verify that the real exam is marked or students are failed intentionally.

My profession of Certified Public Accountants (CPA) used to be the same until half of Kenyans started the Association of Chartered Certified Accountants (ACCA) then they realised that they need to mark the papers. Unfortunately, for a person to be admitted to the Bar, he or she needs to go through KSL and pass that exam. So, those students do not have that option.

Mr. Speaker, Sir, the Committee that will handle that will need to go further than that and identify people who have failed more than two times. Let senior and competent lawyers that we have in this House conduct sample checks of whether their answers met the requirement. If there is an accounting paper, I am ready to mark those that are failing people.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I start by wishing my Muslim brothers and sisters an Eid Mubarak after a month of fasting. I wish that God's graces from Allah land on them.

Secondly, I welcome the students from St. Mary's School which is near your neighbourhood and Sen. Wetangula's county.

I would like to comment on how smart they look. We have also heard about how smart they are in their academic works. We wish that they will learn a lot this afternoon about what happens in the Senate. When they go back to their counties, they should realise that they can begin to contribute in their counties early enough. They do not have to wait for long. Once they are seized of the issues in the counties, for example, to ensure that there are enough human recourses, wage bills, own source revenue and how to address them. They can begin to have discussions within their own schools on how they can make Bungoma to continue to be a great county.

This whole issue of the Petition is a bit worrying. We do not want to institutionalize that people pass exams because they have to pass. There seems to be a

disconnect. These people who go to this professional body have passed their regular courses. That means that they have done regular courses and have been tested for this. However, when they go for their professional exams, something goes wrong. So, it seems there is a disconnect with the way they have been trained and what they have been learning and when they do the professional exam, they are asked completely different things. Therefore, there is need to audit and find out exactly what the situation might be. Is it high-pitched and, therefore, what they learn from the universities is not as high-pitched as what they are tested professionally? What are the professional bodies adding in terms of content and the courses that they are doing in the university and how can it be addressed?

From this Petition by Sen. Omogeni, all these issues have been raised. Therefore, it is important that this Petition is seized in the Senate. I am sure that the Committee that it will go to will look to its details.

There is also the issue of money. Most of these exams are expensive. However, I also know that in many other countries, sometimes, professional exams take quite a bit of time before a person gets there. Again, we must remember that it is the link before a person can practise professionally.

In certain areas, for example, medicine, the implication of not being able to get the certification from the professional body is serious. For example, in medicine, a person handles human beings and if you put in the wrong medicine, that person will die. So, it could be that they are high-pitched for a particular reason. However, they need to explain this so that as students begin their courses, they can be rightfully guided. Probably, most of the courses that they have done have been theoretical and now they have to switch to the practical. May be, this has to do with the educational system right from nursery up to the point where they are.

Mr. Speaker, Sir, this Petition gives us a good position, situation and chance to be seized of, and understand what is happening. As they do that with the stakeholders, they can begin to address what happens in other sectors.

Sen. Farhiya contributed about the CPA and intimated that this seems to have been corrected. How did they go about it? It is important to have the right balance so that we get the right professionals for the different professions that are there in the country.

**Sen. Mwaura:** Thank you, Mr. Speaker, Sir. I also rise to welcome the students from Bungoma County which is a very good county. I was there recently in Misikhu. I really enjoyed the serene environment. Bungoma County is very well known for chicken or *ingoho* which is served with *obusuma*. If you have it with *njugu karanga*, life will be okay.

Mr. Speaker, Sir, on the Petition about the KSL, I have had people who have spoken to me in private that they have been failed by lecturers because some of them were demanding that they should have relationships with them. So, sometimes when somebody fails so many times, it may not necessarily be because of lack of academic acumen, it could be other issues. Therefore, that whole scenario needs to be interrogated.

The cartel-like behaviour of senior lawyers who may not want to see younger, more ebullient and vibrant lawyers occupy that space, is something that also needs to be interrogated. There is the whole issue of not just looking at the academic performance per

se. This is because there are people who may have proper and good lawyerly skills. So, we need to look at how these courses are administered and what exactly is looked out for.

I support.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support the Petition. However, from the onset, I welcome the students from Bungoma. I encourage them to visit the Senate and the other House of Parliament so that they can aspire to be here in future.

Mr. Speaker, Sir, on the issue of the Petition, I am a little bit baffled. My take will be completely different. Failing an exam does not mean it is the end of the world for a person.

It will be ridiculous for us to encourage failure. When you look at the panel that marks the exams from the Council of Legal Education (CLE), it is made up of professional lawyers, people from the State Office and the Office of the Director of public Prosecution (ODPP).

There is a big problem which came in a few years ago when people were talking about taking away the mandate of KSL and giving it to private institution so that it can spread. Consequently, any person can go to the UoN, go to a similar arrangement like KSL then go out to practise. What we need to look at when we are looking at this Petition is how true the issue of money is. They are talking about Kshs15000 being paid to re-sit an exam.

How was that student performing when he or she was at the University of Nairobi (UoN) or any other university in this country before they went to the Kenya School of Law (KSL)?

Personally, I feel that there has to be a different entity that sets examinations. If the petitioners argue that they started failing when examinations started being set by the Council of Legal Education, then we have to find out if the examinations that used to be set by the KSL were accurate or if there was any favouritism.

We also went to colleges and sat for examinations. Even the examinations done in primary and secondary schools are not set by the same schools. There is an entity tasked with setting examinations. So, we have to be careful.

I know there are issues being raised by the petitioners in terms of auditing the finances but that is the work of the Auditor-General. I am also aware that there is an audit being carried out after the former Director of the KSL, Prof. PLO, left and the new director took office. They invited people to carry out a forensic audit of the finances. So, we have to separate the two. Are the students failing because they did not prepare or are they failing because there is some sort of a cartel movement that wants to be responsible for who should practise law? We have to interrogate this.

Mr. Speaker, Sir, I urge Members of the committee that you will task with this Petition, which is likely to be the Committee on Justice, Legal Affairs and Human Rights, to look at the issues critically. Let them audit the process of carrying out the examinations. They should find out if the process is fair and sound or if it should be carried out by the KSL.

I support.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for also allowing me this opportunity to give my input. As the Chairperson of the Committee on Education, I also welcome the students seated in the Gallery.

It is alarming for a professional institution, not necessary academic institution, to realise mass failure when it comes to examinations. Students can fail, like Sen. Olekina said, due to poor preparation. Lecturers are to blame for poor preparation. Secondly, students can fail because of their study habits.

I was a lecturer in a university and I realised that most students have poor study habits because they no longer engage in good study habits. I disagree with the idea that some lecturers compromise their moral standards by demanding exchange of marks with other things. The habit is not so rampant.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order Members!

**Sen. (Dr.) Langat:** Allow me to explain myself. It could contribute but it is not something rampant.

We used to get such cases in the university but it is not something that could lead to mass failure. We also have male students among those who fail. What can somebody demand from a male student? Students can also fail because of the syllabus and that needs to be checked. It could be the overrating on the syllabus which requires to be revised.

The mass failure in the KSL is alarming. I urge the committee that will be concerned to do thorough investigations, so that real issues affecting this particular institution are addressed accordingly, once and for all.

As I support this Petition; we must investigate, so that our students do not suffer unnecessarily.

*(Interruption of debate on Petition)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MAASAI GIRLS  
SECONDARY SCHOOL, NAROK COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, as we proceed, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Maasai Girls Secondary School in Narok County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf wish them a fruitful visit.

I thank you.

*(Applause)*

*(Resumption of debate on Petition)*

**Sen. Wetangula:** Mr. Speaker, Sir, as I rise to contribute to the Petition, I join you in welcoming students from Maasai Girls Secondary School in Narok County and encourage them to learn from whatever they can from this “Upper House.” The Senate is a House of reason and reference and a House of people who engage in serious debate as they will see this afternoon. Welcome and feel happy.

Mr. Speaker, Sir, this Petition is very important because when particularly a post-university institution records mass failure, it is cause for worry. The KSL has had a long history, starting from the days of Peter Jackson, Leonard Njagi, Kulundu Bitonye, PLO Lumumba and the current principal.

During our time, you could get one or two students being referred to sit a supplementary paper because, strictly, what is taught at the KSL is not hard stuff but etiquette. It is about how to run a law firm, how to keep accounts for your clients, how to deal with fellow lawyers in professional undertakings, how to appear before courts with decorum, how to disagree with your colleagues without being boisterous and so on and so forth. When you record mass failure in a situation such as this, it raises a lot of questions. I hope the KSL is not going through a situation like it was at the UoN.

I remember when we were in Four Two or Three there, James Orenge here, then a student leader, led a revolt at the UoN because there was a white man at the Faculty of Art, Drawing and Design (ADD) who used to make sure that Africans did not pass examinations to become architects. That revolt revolutionized the change at the Faculty of ADD and brought in African lecturers and we started having African architects who did, and still do, a good job.

Members of the Committee that will be chaired by Sen. Cherargei who presented the Petition himself must not subject themselves to issues of financial audits because those are not academic. Financial audits should be done by the Auditor-General if he is too busy, then he should hire an audit firm to do it. Let them look at the academics at the KSL, why failure is recorded and why many of us, including myself, are routinely visited by students who look for fees to go and pay for supplementary examinations when they had already paid fees for original examinations.

The Committee should also look at the possibility that with all the parallel programmes, sometimes we have substandard admissions to faculties. Sometimes, the substandard admissions also run through the entire system to a level where students may not undertake and overcome simple examinations. We do not want to see frustrated children because the lecturers are lazy, mischievous or malicious. This is not the way to go and this Petition should help.

There is continuing desire to standardise professional training. I have heard people talk of setting up similar institutions all over the country. We do not have too many lawyers graduating from universities. We can maintain a standard training by having an expanded school of law with a proper curriculum and proper teachers. If we do that, we will produce better lawyers instead of spreading ourselves too thin and having conflicting qualifications coming from different centres of institutions.



**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice to the Petition against the Kenya School of Law. I want to congratulate Sen. Cherargei, the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, for bringing this Petition to this House.

I support this Petition because young people have gone through a number of challenges; and they continue going through those challenges. Many parents have struggled to raise fees for their children to get to that level of education yet only 18 per cent of those students pass the exams. That is devastating to the parents and the students.

We have all sat for exams and we know the anxiety that comes with exams. It is bad for one to fail exams when they have done their best. Many Senators have talked of the challenges and the frustrations that those students have faced in the school. Resitting the same exam or redoing the entire course is not easy and that has made some people to suffer depression. Many young people are committing suicide because they do not see any light at the end of the tunnel. They study hard and deny themselves so many things, just for them not to get what they expected. This Senate has to stand up for these young people.

The Committee should give this Petition the attention that it deserves. We must know the reason behind the mass failure. We do not want to depend on rumours. If the failure is intentional, then this House will demand for further action. We will ask for compensation for the years wasted because parents are frustrated. We want those parents to understand the reason for the failures. We urge the Committee to look into the matter and it should furnish this House with information as to why many students have failed.

**The Speaker** (Hon. Lusaka): I know that the Senator of Narok County is eager to welcome the students from Narok. I will give him the opportunity to do that before I give the opportunity to the Senate Minority Leader,

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to welcome the students from Maasai Girls Secondary School to this great House. Last Saturday, we hosted the 56<sup>th</sup> Madaraka Day celebration in Narok and the students from Maasai Girls Secondary School played a big role on that day. I am happy that they have come here to see how we debate. I want to encourage them to pick ideas from the Senators who will speak here. If they listen keenly, they will realise that we view things from different perspectives.

The Petition that is being discussed at the moment is an example of the things that come here. I hope that they will aspire to be in this House so as to bring change. The future of this country depends on these young girls. Maasai Girls Secondary School is a great school. This school is directly opposite Narok Boys High School where I went to school and I have good stories about the two schools but those are stories for another day.

I want to remind them that I will be visiting their school and I hope that some of these Senators and the Speaker will accompany me.

I welcome them to the Senate and I hope that they will enjoy their time here.

**The Speaker** (Hon. Lusaka): There is a lot of interest in this Petition and most of the people who want to talk on this Petition are lawyers. I will limit the time to about three minutes. I will start with the Senate Majority Leader, Sen. Orengo.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, allow me join the Senate in welcoming the students from Bungoma County. Bungoma County is special

because the Speaker and the distinguished Sen. Wetangula come from there. They have seen you in action and they will go back to Bungoma knowing that their County is playing an important role in the Senate. However, they should know that the person, who occupies the position of the Chair or the Presiding Officer in the Senate, has no right to vote though he can discipline us when we go wrong.

I also wish to join the rest of the Senators in welcoming the students from Narok County. On Saturday, some of us left Narok feeling very good. There are things that are not said but one can see them and it is easy to know where that County stands. I will go back to Narok, when invited, because it is the stronghold of the formation that I support.

This Petition is very important. As a country we once had a shortage of advocates and to deal with that, we had a special course at the Kenya School of Law which one needed to study for one year to qualify as a lawyer and be admitted at the bar. One prominent lawyer who went through that system ended up being the Chief Justice; Justice Bernard Chunga. Justice Chunga did not have a university degree when he became a lawyer. Justice Kasanga Mulwa and hon. Paul Muite were also there for one year. They were prepared to practice law and I wonder why a person who has graduated with a first class degree from the University of Nairobi, the University of Dar es Salaam or Makerere University should spend two to three years trying to become a practising lawyer.

Actually, one can attain a first class honours at the University of Nairobi after three years but spend five years trying to attain a diploma from the Kenya School of Law. Certainly, this should be inquired into. I had the experience of leading students at the University of Nairobi when there was mass failure in the Faculty of Art, Architecture and Design. That profession was for white people. They did not want any African or Indian to qualify as an architect. Students were made to fail and they were referred.

The other thing that I must point out is that, what further complicates the situation of the students who go through the Kenya School of Law is that if one is lucky to pass their exams - I am saying lucky because sometimes you meet the grades but are disqualified through this process of mass failure - in order to be admitted, you will face another hurdle with the Judiciary. You have to wait for the time when the Chief Justice will be available. That can take another two or three years. The end result is that many people are now deciding not to pursue law as a career because you spend more than seven years trying to qualify to be a practising lawyer. That period is longer than that taken by doctors and architects.

Mr. Speaker, Sir, I support Sen. Omogeni for bringing this Petition. I think the Senate Committee on Justice, Legal Affairs and Human Rights should look at it deeply and try and come up with solutions. I hope the Judiciary will play its role and the Council of Legal Education will look into this so that young people who desire to be lawyers have an opportunity to do so without facing unnecessary hurdles.

I practice law and I learn a lot from young lawyers. Some lawyers qualified last year, but if you listen to them keenly while they are in the courtroom, you see signs of them becoming great lawyers. A lot of the law that we practise is not learnt in the classroom; it is learnt in the courtroom, practising law.

I support, this Petition.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I support the Petition. We are waiting for our Chairperson to be admitted to the Bar because there is a certain privilege that comes with holding a number such as mine, which is 4530. Our Chair needs to have a number and that number will come when they recognize that the Chair is already trained at the university to practise law.

Going to the Kenya School of Law for us was fun. I learnt the word “octothornus” from the Chairman of Gor Mahia. Mr. Ambrose Rachier, who is an expert in conveyancing. I know very few people who can beat him in conveyancing. People such as Sen. Orenge should be lecturers at the Kenya School of Law. The school of law is not supposed to be a place where people fail exams; it should be a place where they are trained.

Mr. Speaker, Sir, I was told a story of the subject “professional ethics” by my late father. According to him, students used to leave the School of Law, go to Mombasa and the principal would just look at them. By the time they came back, they had either failed or passed professional ethics. Therefore, the idea of failing students and charging them exorbitant fees shows us that Kenya is the only country that does not invest in the legal profession. Funds should be invested towards training good lawyers.

Six thousand lawyers are not enough for this country which has a population of over 40 million Kenyans. Many people who have trained in law, whether in Russia or other places are now opting to skip the School of Law. Former Attorney-General Hon. Charles Njonjo to date collects a practising certificate because it is a privilege to have it hanging in your office. I look forward to seeing Sen. Cherargei wearing a wig and a gown and taking the oath of office as an advocate.

Thank you, Mr. Speaker, Sir.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I want to thank Sen. Omogeni and Sen. Cherargei for coming up with this very important Petition. This is a serious matter. The legal profession, as we speak, requires an overhaul. It must be re-thought to respond to the challenges of the 21<sup>st</sup> century. Whereas this investigation will be done to establish the mass failure at the Kenya School of Law, I think we should do more.

I do not agree with the suggestion that there will be only one institution of learning that will train lawyers for pre-bar examination. I also do not agree that that institution should be centralised somewhere in Karen. It is punitive. I had made this suggestion when I was still teaching at the university; that we must change our pre-bar exam to be like the New York or London Bar exams where you just prepare the exam similar to the one for the Certified Public Accountants of Kenya and the person who sets the exam and the one who examines students should be different. The preparation for pre-bar examinations should also be different.

In the US, once you register for the bar exam, it does not matter where you go to do the training. You can go to any institution, buy your pre-bar books, and be trained and coached by two or three people. In any case, you already have your Law Degree. The only remaining thing is for you to go and sit for the exam.

The exam should be set independently and marked independently where you do not know the students and you do not interact with the students personally. As such, personal favours will not be applied.

Mr. Speaker Sir, when the parallel program was established in the universities, in particular the University of Nairobi - I was a student at that time – the then SONU vice-chairperson Sen. Kang'ata led a demonstration. Senator Mutula Kilonzo Jnr. should hear this story because he was the lawyer. At that time the protests were done; they were led by Senator Kang'ata and the chairman was Hon. Sankok who is in National Assembly. We had others such as Barrack Ambala Omondi who is now engaged in private issues.

*(The Red timer went off)*

Mr. Speaker, Sir, if you could add me three minutes only because this is a very important issue which should go on record. Our complaint was that the legal training was going to be compromised because of mass training that does not regulate the number of people who join the legal profession.

We did the demonstrations and my class survived; we did not have to do what they had forced at that point in time. Ultimately we have so many lawyers across the country. In fact, the complaint of the senior lawyers at the moment is that the imbalance at the Law Society of Kenya (LSK) is caused by the behaviour of the young lawyers vis-à-vis that of the older lawyers. It is a problem we are grappling with as we move on.

Mr. Speaker, Sir, there is mass failure at the School of Law. Those students are depressed because somebody who trained at the University of Nairobi; Mombasa or Kisumu campus or Moi University, Eldoret comes and is forced to go to school in Karen where transport is complicated and getting housing is difficult. Most of those students come to Nairobi for the first time and are expected to pay over Kshs200,000 to go to the School of Law.

The Chairperson of this Committee, Sen. Cherargei who is my former student is also a victim of the same process because he is still at the Kenya School of Law. As you know, we have many students of law here. We have Sen. Linturi who just finished his degree at the University of Nairobi and is currently studying at the Kenya School of Law. We have Sen. Kinyua who is now a third year student at the University of Nairobi. So we have people here who have direct interest in this subject matter.

I am suggesting that the Committee does not just come back with a general answer to the Petition. They should come back with a draft amendment to the Council for Legal Education Act so that we can liberalise Pre-bar exam training. This will ensure that if you finish your degree at the University of Nairobi, the university can prepare you for the bar exam. You just finish there and register to go and do the bar exam. If you pass, that is it. There is no need to force students to repeat courses such as conveyancing, criminal procedure and so forth at the Kenya School of Law; units that they would have done at the university.

**The Speaker** (Hon. Lusaka): I will only allow non-lawyers; Sen. (Dr.) Musuruve and Sen. Poghio.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for this opportunity. I would like to also take this opportunity to welcome the students from Bungoma and Narok counties. I was in Bungoma County last week and passed through Lusaka Road. You did a commendable job and the people there are nostalgic concerning your work.

I strongly support this Petition because I was a lecturer at the university. At that time, the students who were studying law were failing compared to other courses. In fact, there is no reason a student should fail a university examination as it is one of the easiest to pass. Students of law go through moments that are psychologically torturing. I remember a parent complaining to me at one point that his son was in the School of Law and he was helpless, talking to himself and frustrated because of examinations. The son kept reading but he would keep repeating examinations.

I agree with some Senators who have said that sometimes some lecturers can become sadists. It is unfortunate that they become sadists and just want a few students in the law institution. The examinations should be objective. The examinations that the students do at the Kenya School of Law (KSL) should be what they have been prepared to do. If a student got First Class Honours in the undergraduate studies, there is no reason they should not pass the examinations at the KSL.

I agree with the Senate Majority Leader over a statement he has made; that there is need for universities to prepare their law students for the pre-Bar and Bar examinations. If they are prepared they will pass the examinations. There is also need for universities to ensure that there is a unit within the university course that prepares students specifically for the pre-Bar and Bar examinations.

Mr. Speaker, Sir, I support this Petition and there is need for us to interrogate it.

**Sen. Poghiso:** Thank you, Mr. Speaker, Sir. I stand to support the Petition by the Senior Counsel, Sen. Omogeni; brought by Sen. Cherargei.

I agree that the lawyers in the House apparently know exactly what to do. However, as a non-lawyer, who is observing from a distance, I would also like to help put things in a certain perspective. Generally, we have lost certain things in our education system, and we must not blame these things on examinations. We must track back to where we lost our interest in reading, literature, religion and studying. There is a situation where today – this is an indictment on the training of lawyers – every university opens their gates to anybody to study law. Even those who failed chemistry and so on will be admitted to study Law.

There are certain things that you can do and others you cannot. Some of us are picking up law and trying to study it when we are 56 or 60 years old. We might fail examinations and then it is mass failure. Further than that, we have complained about people cheating---

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

**Sen. Nyamunga:** Mr. Speaker, Sir, it is a point of information. This afternoon, I have listened to most Members contribute to this Petition, but I do not think they are doing so from a point of knowledge.

The University of Nairobi (UoN) has over 300 students in one class, compared to the latter days when one class would have only 40 students. So, we cannot sit here and debate about things that we do not even understand. The students going to KSL, as far as

I am concerned – and I am talking from a point of knowledge – do not have enough knowledge. We will not just pass students for the sake of it. It is important that we check and find out why there is this mass failure. It is good to know the root cause because debating to make people professionals does not make sense.

Mr. Speaker, Sir, that is my point of information.

**Sen. Poghio:** Mr. Speaker, Sir, my time has been taken by that information, which is a way of debating. I am only saying that lawyers, who have an interest in KSL, must go back to making Law a desired profession and encourage the studies of law that are required at the O Level for people to study. If many young people cheated in examinations, as has been proved - they got As and they went to the KSL, how then do you--- We must now begin to be serious about selecting.

In conclusion, as the Bible says, many are called, but few are chosen.

*(Laughter)*

Not everybody can practise Law. They can pass examinations at the university, but not everybody can be good at practising.

**The Speaker** (Hon. Lusaka): Members, because of so much pleading, I will give a chance to Sen. Ochillo-Ayacko, Sen. (Dr.) Kabaka and the Whip.

Please, two minutes for each of you.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. I am Admission No.2914 and have personally gone through this process, which is alarming.

When the results are negative in any school, some people think that the students are the ones who do not know what they are doing. What about the teacher? Could it be that the teacher does not know how to teach? Could it be that the teacher has malice and designed a situation that causes mass failure? This is an important matter that requires investigation.

While studying for Masters many years ago at the UoN, I was in a class with Sen. Dullo and Senior Counsel, Murgor. A particular lecturer said that we would not pass the examinations. When the examination results came, out of 37 of us who were doing Masters, only three passed that unit. We petitioned the then Vice Chancellor, who is now the Cabinet Secretary (CS) for Education and he brought a different lecturer. When the same examination was set, all of us passed. That tells you that there could be sadistic people whose agenda is to cause students to fail.

The objective of examinations is not to have people fail. It is also telling on teachers when your students fail *en masse*. My colleague, Sen. Poghio, says that only many are called but only few are chosen. We are talking of mass failure and not a few in number. It is a large number and this is something that needs to be talked about. Some of the people who fail even have Doctors of Philosophy (PhD), and that is problem.

I support this Petition and will continue to do so.

**Sen. (Dr.) Kabaka:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to also contribute. I will be very brief.

Let me cite a bit of our experience at the KSL. Like it has been said, after UoN, we used to be allowed to sit for examinations in advance at the Kenya School of Law along Ngong Road.

Mr. Speaker, Sir, during our time, we used to be well prepared for examinations. We would even be allowed to go and sit for the bar examinations at the KSL in advance when it was still along Ngong' Road. We used to have very good lecturers who were professional practitioners like the late Sen. Mutula Kilonzo who taught us Professional Ethics and Etiquette. He is the only lecturer at the time who did not receive his salary from the KSL. His salary went to the best student in the Professional Ethics and Etiquette Paper. The late Sen. Mutula Kilonzo would always match his suits to the cars that he drove. For example when he wore a red suit, he would come driving a red Mercedes. The late Sen. Mutula Kilonzo had suits of different colours with different cars to match them. He was a flamboyant man.

I wish to state that there could be a problem with the type of lecturers at the KSL. Some of them could be sadists. I do not understand how a lecturer can fail students *en masse* year in, year out, and still continue to teach there. Some of the reference that the Committee will have to look into is to interrogate with a lot of keenness the specific lecturers who are failing students *en masse*.

**The Speaker** (Hon. Lusaka): Your time is up, Sen. (Dr.) Kabaka.

Kindly proceed, Sen. Kihika

**Sen. Kihika:** Mr. Speaker, Sir, I rise to support the petition by Senior Counsel, the Senator for Nyamira County. I would like to add to what one of the speakers before me has said about separating the process by making every stage independent.

I sat for the bar examination in the State of Texas in the United States of America (USA). What happens there is that when you go to law school, you go through the process which takes three years. After law school, different organizations do the Law School Admission Test (LSAT) that prepares you for the test. That is completely independent. You shop around for them to get the best and prepare the students. The examination is set and marked by totally different people. The purpose of that is to take away the issue of lecturers passing the students whom they have received favours from.

Mr. Speaker, Sir, when the processes are so connected, the bodies could fail the students for them to pay more fees to re-sit the examinations. The re-sits then become a continuous process which messes up the students as far as self-esteem, time and resources are concerned.

I also wonder whether we are admitting students to law school who are not up to par or do we have lecturers who are not good in the profession and should not be holding those positions. It does not make sense to have a failure rate that is incredibly high. There must be a problem somewhere. I urge the Committee to look into the possibility of having different bodies setting and marking the examinations. The Committee could also look into the possibility of devolving the sitting for the examinations in other counties other than Nairobi County alone.

Mr. Speaker, Sir, I beg to support the petition.

**The Speaker** (Hon. Lusaka): Sen. Shiyonga, you do not look very happy. I give you two minutes.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir. You have read my mind. I was unhappy.

I beg to support the petition brought by Sen. Omogeni and presented by Sen. Cherargei. Most of the students at the KSL are usually depressed around examination time. The issue of mass failure at the KSL does not only affect the students but the country as a whole. Therefore, it is not a waste of time for us to discuss this matter as it concerns the citizens of Kenya.

The issue of mass failure at the KSL does not only make the students poor but causes depression. The KSL is located at Karen. How many students can afford to stay in Karen? If a student is from Mombasa or another part of Kenya and they have to come to the KSL near where the Speaker lives, they find themselves in a high-end area where they cannot afford to rent even a single room. If a student is failed six times, that means that they will be stuck in Karen for six years. I pity these students.

I request to be a friend of the Committee that will handle this issue so that I can contribute more to that particular petition and come forward with the best solution to help the students.

I thank you.

**The Speaker** (Hon. Lusaka): Kindly proceed, Sen. Wambua for us to conclude this matter.

**Sen. Wambua:** Mr. Speaker, Sir, I will be very brief. I take this opportunity to support the petition by Sen. Omogeni. The mass failure at the KSL is not an issue that should be blamed on students alone. When students fail and fail yet again, then there is reason to question the teacher. The mass failure is a fault of both the students and their lecturers.

When I was growing up, the legal profession used to be one of the most prestigious professions. Only the best in academics would be admitted to pursue a degree in law. As the Committee of the Senate looks into this petition, it is time to rethink about the Module II or so-called parallel degree programmes. What courses should we enroll students in for the parallel degree programmes and what courses should we not.

Mr. Speaker, Sir, without casting aspersions on any one, it is becoming increasingly difficult to even get lecturers of law in universities to write convincing legal opinions. The other day, I read what I would call the most disturbing ruling from the highest court in the land where the judges sat and agreed that a person does not have degree papers but he lives and conducts himself like a graduate. If these are the tendencies that we are taking to the KSL, there is reason for our students to fail.

The use of failures as a source of revenue for the KSL should be investigated. Charging Kshs15,000 per paper for a re-mark is extreme.

Mr. Speaker, Sir, I beg to support.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to standing order 232(1), the Petition stands committed to the standing Committee on Justice, Legal Affairs and Human Rights.

In terms of standing order 232(2), the Committee will be required, in not more than 60 calendar days from the time of reading the Prayer, to respond to the petitioner by way of a report addressed to the petitioners and laid on the Table of the Senate.



I thank you.  
Next Order.

## STATEMENTS

### ILLEGAL CONCESSIONS OF LAKE VICTORIA TO FOREIGN INVESTORS FOR COMMERCIAL CAGE AQUACULTURE

**Sen. M. Kajwang’:** Mr. Speaker, Sir, I rise pursuant to Standing Order 47 (1) to make a Statement on illegal concessions of Lake Victoria to foreign investors for commercial cage aquaculture. As I speak, fishermen in Suba have been holding peaceful demonstrations for the last two weeks to protest against what they call an illegal grabbing of the lake by a foreign investor who has been granted a 315 acre concession, covering both the lake and dry land.

Further, the fishermen of Suba are demanding access to their traditional fishing grounds, preservation of fish breeding grounds, as well as reopening of traditional transport routes that have been blocked by this investor. Just last week, on Thursday, 30 May 2019, one fisherman lost his life in the course of peaceful protests against this alleged grabbing of the lake.

Mr. Speaker, Sir, I pray that you join me in sending my condolences to the family of Clinton Ouma who lost his life last Thursday, when policemen lobbed a teargas canister at his boat and he had to dive in the water to save himself. Unfortunately, he lost his life.

Mr. Speaker, Sir, allow me to give a very brief background to this problem. In 2016, Parliament passed the Fisheries Management and Development Bill, which was thereafter enacted by the President. Among other objectives, the Act sought to protect, manage, use and develop aquatic resources in an ecologically and economically sustainable manner. In addition, the Act made provisions for establishment and regulation of commercial aquaculture in the country and gave the Cabinet Secretary for Agriculture the power to develop regulations for the sector.

Three years down the line, none of the objectives of the Act appear to have been achieved. The Cabinet Secretary is yet to bring to Parliament any regulation for this sector. Agencies mandated to implement the Act, like the Kenya Fisheries Service and the Kenya Fish Marketing Authority, are yet to be operationalized. These two agencies are currently operating with acting directors and officers. As a result, the aquaculture sector continues to operate in a “Wild West” kind of chaos.

As a region that has previously borne the brunt of political and economic marginalization, the fisher folk of Lake Victoria would naturally assume that this delay and lethargy in implementation of the Fisheries Management Act would be a well calculated strategy of continued economic sabotage.

Mr. Speaker, Sir, let me go back to the problem in Suba. In Kaksingri West Ward, Suba North Constituency, Homa Bay County, one foreign investor has been allocated approximately 216 acres of lake water, in addition to 99 acres of dry land, bringing it to a total of 315 acres. Whereas this investment has provided employment and increased the

output of fish from the lake, it has introduced serious tensions that have already resulted in the loss of one life.

The primary objection of the fisher folk in Suba is that public participation was not adequately done for the community to understand the implication of this project. Secondly, the tenure of the concession remains unknown. We cannot tell whether the 216 acres of lake water have been granted perpetually or it is time bound. The County Government of Homa Bay that is supposed to be on the side of the fisher folk has maintained a studious silence, only releasing a Memorandum of Understanding with the investor.

Mr. Speaker, Sir, the last meeting that was scheduled last week between the county government and the fisher folk was called off at the last minute to the consternation of the fisher folk. The contract and commercial terms have not been disclosed. The national Government, in whose hands all fishery resources are vested, has not provided any clarity, but chosen to send police officers to teargas fishermen in their canoes.

In this conspiracy of silence, what will prevent the investor and his local partners from grabbing the entire lake? This is a state of uncertainty that the people of Suba cannot accept to live with. You have served in this region in a previous life and know that the Abasuba and the fisher folk of Lake Victoria fought many battles to assert their rights to those beaches and shores that they currently occupy. Speaking on behalf of these fisher folk, we are ready to fight to defend the beaches and shores from land or lake grabbing by cartels or neocolonial agents.

Mr. Speaker, Sir, this investment in Suba has also deprived local communities of traditional access to fishing grounds, which is against the provisions of Section 64 of the Fisheries Management and Development Act. This is the same scenario in many other ventures around Lake Victoria where site suitability is poorly regulated with most developments located within breeding grounds for fish.

Furthermore, the investment has blocked traditional transport routes to adjacent islands of Mfangano, Kibuogi and Remba, which forces locals to use longer and more expensive routes. The Cabinet Secretary is mandated to develop regulations for aquaculture. These regulations have not been brought before Parliament. Because fishery resources are vested in the State, the County Government has no authority to allocate lake land. In the absence of clear regulations, the concessions in Lake Victoria can easily be viewed as an illegal “lake grab”.

Mr. Speaker, Sir, there should not be any doubt that we welcome innovation in the fisheries sector. Let it be known - and I speak on behalf of the leaders from the region and fisher folk - that we accept that we cannot be hunters and gatherers in the lake forever. However, innovation should not come in the form of a land grab and oppression of the communities living around the lake.

All we want is clarity and proper guidelines to be put in place and the Fisheries Management Act to be implemented. That is a duty of the Executive; it is not a favour. We want the Cabinet Secretary (CS) of Agriculture to bring regulations to this House. We want a meeting between the county government, the national Government, the local

community and investors, so that we can be assured that this is not another form of partitioning of the lake.

We want to know the size of the concession. Is it 315 or 1,000 acres? We want to know the duration of the concession, how much the investor has paid and how much the county has collected in taxes. We want to understand the benefits to the local community and ensure that there is a proper environmental impact assessment. As I speak, there have been increased cases of attacks by wild animals, crocodiles and hippos because they have been driven from their traditional breeding grounds.

I, therefore, implore this Senate to stand up for the rights of the fisher folk in this country. I urge Members to demand the full implementation of the Fisheries Management Act and that the Executive tables in this House the relevant regulations that will fire up this sector.

Finally, I urge the House to resolve that no further concessions should be granted for large scale commercial aquaculture in the lake until regulations are approved by this House. I am aware that the fisher folk of Suba are planning to bring a petition to the house, even though I have advised them that it would be better to pass the petition to the County Assembly before it comes to the senate.

Thank you, Mr. Speaker, Sir.

**Sen. Wetangula:** Mr. Speaker, Sir, I want to make a very brief contribution to this Statement. Something that the distinguished Senator for Homa Bay has said has struck my mind. That the national Government or county government has given and leased away a part of the lake to a private investor is unimaginable. Does it mean that that section of the lake - 200 acres - is a no-go-zone for the locals? This is an outrage.

The Government can regulate fishing in the lake, and under the law of the sea that also applies to inland mass water areas, you cannot demarcate water bodies for private gain. What you can do is to regulate how resources can be exploited. The fishermen of Suba, Homa-Bay and around the lake all the way to Sio Port in Busia County have depended on the lake for their livelihood. There are some who go to the lake to fish for commercial reasons and others for family livelihood. They pick a few pieces of fish for the family to eat on a day to day basis.

For anybody to imagine that they can hive off part of the lake and hand over to an investor - and God forbid, I hope he is not a Chinese - and give them exclusive rights to the exclusion of local residents who are the custodians of this resource from time in memorial, is an assault on the dignity, sovereignty and Independence of our country.

Mr. Speaker, Sir, I urge whichever Committee you are passing this matter to look at, even if it is just a Statement--- The Standing Orders enjoin you with the authority to direct a particular Committee to look at a Statement of this nature and file a report to the House because the interests of the people of the counties that we defend and represent are under threat.

Finally, as a House, we also need to look at the Bill that the Senator has referred to that we passed and has been assented to but not operationalised. We have maintained and subjected our fishermen to rudimental activities. For example, simple construction of landing bays for hygiene has not been done. Fishing is a major undertaking to the extent that the country has mobilized itself to embrace and exploit the Blue Economy which is

not limited to the Indian Ocean. It covers Lake Victoria, Lake Naivasha and all the inland water bodies including Lake Turkana. Therefore, we need to have clarity of law, regulations, and management so that fishermen are not treated like strangers in their own areas where they have lived from time in memorial.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir, for giving me this chance. I register my support to my colleague, Sen. M. Kajwang, about this issue which is extremely important to the residents that he represents in this House.

I listened to him present the issues and the challenges that people in that region continue to face. I wonder whether the Government considers them as citizens of this country.

I will go straight to what is a trend that is clearly emerging and the new Constitution has not saved us from it. It was envisioned that when we pass the Constitution of Kenya, 2010, we will have a new police service and not a force anymore. Unfortunately, the three men including the gentleman who has been in office for hardly two months, all seems to have lost the plot and have no idea what the difference between a force and a service is.

It is the dream of many Kenyans that for any particular time when there shall be a dispute between citizens and the State, the State will always recognize that it belongs to the citizens. Therefore, there is no way a servant can harass the owner.

In other jurisdiction, when you watch how citizens are treated even when they are caught afoul of the law, you realise that these are countries that respect their citizens. When arresting a village drunk, they do it with dignity and honour. However, in the last three to four weeks, you have seen how petitions have been brought to this House. For example, we were told how teachers, who are one of the most sacred professionals, were hauled out of their classrooms when some of them tried to reject Competency Based Curriculum (CBC) training. They were beaten up as if they are village idiots. This cannot be allowed to continue.

Mr. Speaker, Sir, it cannot be that despite the Constitution not having provided the process of recall---

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

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

**Sen. Wetangula:** Mr. Speaker, Sir, is the distinguished Senator for Kericho whom I have so much respect for implying that village idiots can be beaten by the police at will? This is because even village idiots have rights.

*(Laughter)*

*(Sen. Cheruiyot spoke off record)*

**The Speaker** (Hon. Lusaka): You are not on record.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I am back on record. Sen. Wetangula, I meant that they are non-existent. I consider everybody to be intelligent.

I assume that the police will treat people that are considered to be of greater importance to the society, which I believe there are none, with dignity and respect.

We have heard Sen. M. Kajwang narrate how an innocent fisherman, perhaps, a father to a family had gone to fend for his family and when they eventually got to the demarcated area---

It will be interesting to know how they demarcated the 200 acres in a lake. So, how is a person supposed to know the boundary? The fish would also want to know so that they do not cross into private property. Some of the decisions that our Government makes are astounding.

Mr. Speaker, Sir, the point that I am prosecuting is that despite the fact that the Constitution does not provide the process of recall for anybody that is vetted in this House, it follows logic that anyone who is employed can be fired. Therefore, a time has come for the Committee on National Security, Defence and Foreign Relations to call for a meeting with the new Inspector-General of Police.

I read the report that was brought to this House by the Joint Committee of the National Assembly and the Senate that vetted him. I saw the word for word answers that he gave when he was asked about police brutality and how they continue to harass citizens. I saw the things that he wrote.

Mr. Hilary Mutyambai needs to be reminded that a vetting process is not a dress rehearsal for non-existent purposes. We need to call him to this House and remind him of the answers that he gave us. That is a promissory note that he deposited to this House for him to be reminded each and every time our police officers continue to misbehave.

I do not know of any other public officer who has been spoken of more than him in the last two or three months in this House in all the ills that police officers continue to mete on Kenyans.

Therefore, I urge Sen. M. Kajwang that as much the citizens of Homa Bay continue to look for means through the county assembly of addressing this particular issue, he should fight for the deceased citizen from his county. He can bring a Petition to this House so that we understand that one life is already one too many. It cannot be considered a tragedy when 10 or 15 other people die. Any person that dies and ought not to have died were it not for the carelessness of our police officers is already too many lives. Therefore, he should seek a way for us to bring the Inspector-General of Police to this House and question him.

What action has been taken against the officer who shot the teargas canister into the said boat? It will be important for this House to put people to test so that each and every time a police officer faces the citizen of this country, they know that there is a House that can defend him or her.

Mr. Speaker, Sir, finally, we recently passed the Public Private Partnership (PPP) law in this House. I believe that it is now lying somewhere in the shelves of the National Assembly. I am a Member of the Committee on Finance, Commerce and Budget that went through all the proposals made in that particular Bill. Part of our recommendations that we made strong arguments about is that public participation is at the heart of any PPP project that is supposed to be carried out in any particular part of this country. Citizens must have a say on whether they want the project or not. Who did the PPP on this particular project?

If it was not done, then that is a good basis for somebody to go to court and have this contract declared null and void. This country belongs to the people of Kenya. It does not matter how poor or uneducated I am, so long as it is something that is being done within an area that I call my home, I must be consulted. That is a constitutional provision. It is not for the Government to choose when they want and do not want to apply it.

I want to register my sympathy with Sen. M. Kajwang' and the tribulations that his people continue to face on this particular issue. I urge him, for the sake of that one particular voter who was killed in a way that ought not to have happened, to explore possibilities of inviting the Inspector-General of Police to Parliament to tell us how many other Kenyans have to die for the police to stop brutality.

Thank you, Mr. Speaker, Sir.

**Sen. (Prof) Ongeri:** Thank you, Mr. Speaker Sir, for giving me the opportunity to add my voice to a very sad situation. In my career both as a politician and a student, I have never encountered a situation where water fronts are owned by individuals. It is a very strange situation. Even when you allocate plots, you can only allocate up to the front line of the waters. You cannot allocate plots beyond the territory of the waters. How an MoU can be signed and assign State resources to an individual to the exclusion of all the people who stay there; whose livelihoods depend on fishing in the lake is to say the least, very disastrous. Some of them engage in micro-enterprises and you are denying them that opportunity to earn their livelihood using the resources that are God-given.

Even if the intention was to have a commercial venture to get the resources from Lake Victoria and in this case with the Basuba people who are also my people, it would only have been fair that a thorough Public Private Participation (PPP) be carried out and people share their ideas and agree on how these resources should be captured.

This is indeed a case where the big fish are eating the small fish. That is a true metaphor where the big fish have invaded the small fish to extinction. I think it is a situation that this House can no longer tolerate or accept as valid. I say this because any resources that must be exploited from these water bodies must be to the benefit of the local people, the County Government of Homa Bay and also the national Government of Kenya. It should be done in the same way we have done with the Petroleum (Exploration, Development and Production) Bill which is now an Act of Parliament, where mineral resources are being shared and exploited in a very sustainable manner.

If you allow the Private Sector to just go into the lake, they will not even know how to preserve the species of the fish that exist there. They will just carry everything and deplete the lake of all the fish that will be required to propagate the population of fish for our consumption and for the sustainability of the populations around.

Mr. Speaker, Sir, since this is an urgent matter, I urge my colleague, my neighbour and brother, to bring that Petition here and we prosecute it.

In your own ruling, I urge you to relegate it to a committee that can pick up this matter because it is urgent.

Thank you for your indulgence.

**The Speaker** (Hon. Lusaka): Hon. Senators, I commit that Statement to the Committee on Agriculture, Livestock and Fisheries. Please, do a thorough job because it is a weighty matter, and report back to this House.

**COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM GITITU  
SECONDARY SCHOOL, MURANG'A COUNTY

I would also like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Gititu Secondary School, Murang'a County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

Thank you.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker Sir, for giving me this opportunity. I also want to welcome the students of Gititu Secondary School into the House. These visits by the students coming to the House is not in vain because after some years, some of them will find themselves seated here as Senators and leaders. Coming here is something very good.

I commend their teachers and the school authority for allowing the students to come and see what exactly happens. We want you to know what leadership really entails. By seeing what we are doing and hearing what we say here, it will help them when they go back to school to become good leaders.

Mr. Speaker Sir, now I go to my Statement.

**STATEMENTS**COMPLIANCE TO ARTICLE 54(2) OF THE CONSTITUTION  
ON REPRESENTATION OF PLWDS IN ELECTIVE  
AND APPOINTIVE BODIES

**Sen. (Dr.) Musuruve:** Pursuant to Standing Order No.48 (1), I rise to seek a Statement from the Standing Committee on Labour and Social Welfare concerning compliance to article 54 (2) of the Constitution on representation of Persons with Disabilities (PWD) to elective and appointive bodies.

In the Statement, the Committee should-

(i) Table a detailed report indicating how many members of the public living with disabilities have been hired, appointed and promoted in the public sector in the last three years.

(ii) Explain the state of implementation of the constitutional provision that provides for progressive implementation of the principle that at least 5 percent of members of the public in elective and appointive bodies are persons with disabilities.

Allow me to comment that even though Article 54 (2) of the Constitution says that there is need to have PWDs in elective and appointive positions, quite a number of them are still not employed and this constitutional requirement is not being defended strongly.

An observation is that quite a number of organizations are shying away from employing PWDs. Sometimes you find that PWDs may be having papers but they lack jobs. There is a way in which county governments can deliberately choose to---

**The Speaker** (Hon. Lusaka): Sen. (Dr.) Musuruve, do not debate the Statement, just request. You have made the request. The committee will now look at issues.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker Sir.

**The Speaker** (Hon. Lusaka): Senator (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker Sir. I rise to support the Statement by Sen. (Dr.) Musuruve on inclusion of PWDs in employment. I think PWDs are abled differently and in any case, they have the power to perform like any other person if they are given the opportunity. I think PWDs are still suffering the same fate as women because as you are aware, the two-thirds gender principle is yet to be passed.

Many times, Persons with Disabilities (PwDs) suffer because they do not have jobs. However, given opportunity, they have what it takes to contribute to the society. If they are given employment, they can support themselves so as to relieve their kinsmen from the burden.

There are many PwDs languishing at home. Some of them have gone to school but they do not have any gainful employment. Although it is provided in law that the women, the youth and PwDs are supposed to be considered in terms of procurement by the Government, in most cases, they are not. They continue to languish in poverty. It is also still a challenge to bring on board PwDs in the counties. We need serious consideration of that, so that in future, such people are also given some gainful employment.

I thank Sen. (Dr.) Musuruve for having passion for this group of people. Since she has done well in the Senate, I am sure given a chance, many of them can also do well.

I thank you.

**The Speaker** (Hon. Lusaka): I know Sen. (Dr.) Musuruve had another statement but because of time, you will present it on Thursday because we are way beyond the time for Statements.

Let us go to the next Order.

## BILL

### *Second Reading*

#### THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO.32 OF 2018)

*(Sen. Kasanga on 29.5.2019)*

*(Resumption of Debate interrupted on 29.5.2019)*

**The Speaker** (Hon. Lusaka): Sen. Were is not here? So, the Floor is open to Members who want to contribute.



**Sen. Mugo:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Bill which I strongly support.

It is time we looked into the issues of mental health in our country. I want to emphasis on the issue of stigma. As we know, in our country, mental health is not understood. Many people hide their family members because they do not accept that mental health is a problem like any other. It is merely an illness and there is nothing to be ashamed of. In developed countries, mental health is taken seriously.

A few years ago, when I served as the Minister for Public Health, the World Health Organisation (WHO) organised a conference on mental health. During the discussions, it came out that as a country, we have to put a lot of information out there about mental health. However, in our country, we wait until we see somebody walk without clothes or run on the road to tell that they are abnormal. That is when we conclude that the person has mental health issues but still, we do not give them proper medication.

It is unfortunate that I was out of the country when the Committee on Health was looking at this Bill because I was attending to my husband whose health is not good. I strongly support that we should work with mental health psychologists. Everyone and not just people perceived to be mad should visit psychologists and psychiatrists.

We need to define the meaning of “madness.” Once members of a family feel that something is wrong with a person, action should be taken. Psychologists and psychiatrists should be part of mental health care. That is why we have a lot of murder or suicide cases in our country because of depression. Depression is part of mental health and it should be checked before it gets worse.

His Excellency the President named members of a committee that was tasked with looking at causes of suicide and murders. The Ministry concerned should find answers about causes of depression in our country. We need to know especially why women are being killed. Does the society value women? Such issues should be put in the context of mental health.

Hospital offering mental health services should also be improved. Somebody should not feel like they are being punished if they are taken there. We have Mathari Hospital but some families cannot disclose when they take their relatives there. We should have sections in other hospitals that deal with mental health issues. We should not just have one hospital which is already stigmatised because it is known for patients suffering from mental health.

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

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

Mr. Deputy Speaker, Sir, we should have provisions in this Bill to improve issues of mental health in our country. Mental illness should be taken like any other illness and it should not be stigmatised. People should not be ashamed of it because it is a health concern that is recognised world over and our people are not different.

I am happy that the Ministry of Education will be involved as a way of communicating to the young people. That information should not just be in schools but also be available to the public through media such as radio and newspapers. The Government should take it as a major issue in our country because we are concerned about the number of people losing their lives. These things never used to be there. Mental health has a big role in this.

Addiction to drugs and excessive consumption of alcohol are part of mental health. Therefore, everybody in this country should focus on mental health.

I strongly support this Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. Mugo. Let us now have Sen. M. Kajwang'.

**Sen. M. Kajwang'**: Allow me to support this amendment Bill and laud the Mover of the amendments, Sen. Kasanga, for making this very timely intervention on matters that have been stigmatized and many people have not been given the attention they deserve.

Mr Deputy Speaker, Sir, the overall objective of this Bill is to ensure that persons with mental illness receive the highest attainable standards of health in accordance with the provisions of the Constitution. Many times, when we talk about mental health, we have in our mind the impression of insanity that is called in street lingo and in Nairobi *mugoroki*. That is a term that has been used on political opponents to paint them as being unfit to hold public office. A lot of stigma has accompanied mental health issues to the extent that when one is admitted to Mathari Mental Hospital in Nairobi, it is considered to be something close to a death sentence.

Indeed, we have seen through exposes in the media and reports of committees of this House that the state of the counties premier mental health institutions is one that closely resembles a correctional facility or a prison, for lack of better words.

People go in there with slight mental illnesses and, unfortunately, come out worse than they went in, as a result of the conditions they are subjected to, the treatments they are given and lack of professionalism of the people who are kept there to handle them. So, it is timely that we provide clarity on the constitutional requirement that no person shall be left behind in this country and that every citizen of this country has got certain fundamental rights.

This Bill provides for the following additional rights of persons with mental illnesses: the right to civil, political and economic rights; right to access to information; right to confidentiality; right to representation and right to recognition before the law. I have had a brief conversation with the Mover of this Amendment Bill and the question was on the rights of persons with mental illnesses to stand or run for public office or certain offices, and the right they have to enter into contractual agreements.

It is clear that the Mover of this Amendment Bill does not seek to reverse the long-held legal principle that there are certain states that would invalidate contracts.

The Mover of the Bill wants to ensure even persons who are certified to be having mental disabilities do not lose their right to representation. The implication of this is that no one would be barred from voting or taking part in an electoral process as a voter on account of their mental status. It will be an issue for other more intelligent people to

debate on whether political and economic rights and right to representation would mean that you can still run for public office, even when you have been adjudged to be of unsound mind. However, I believe that, that is not the intention of this Amendment Bill.

The other very critical component of this Amendment Bill is that persons with mental illnesses shall have the right of access to medical insurance for treatment from public or private health insurance providers. I am not certain whether the National Hospital Insurance Fund (NHIF) has expanded its scope of cover to mental illnesses. However, I know that the Fund has attempted to be innovative and expanded their scope of cover areas, including In-vitro fertilization, cancer and other congenital diseases. I hope that they are taking note. In the event that the scope of cover does not expand to mental illness, this would be the right time for them to do it, even before this amendment is enacted.

There are two groups of people that have been discriminated against by medical insurance providers. Those are persons with mental illnesses and elderly persons in the society. You can pay your medical insurance premiums consistently for 40 or 50 years, but when you hit a certain age, you will find medical insurance providers giving you a cold shoulder. Although we are now asserting the rights of persons with mental illnesses, we must also assert the rights of elderly persons in society. I am not implying that there is a similarity between elderly persons and persons with mental illnesses, but I am just saying that they have been discriminated against for a long time by medical insurance providers.

Further, this Bill attempts to define the obligations of county governments. It is clear that most of the hospitals in counties, from Level Two, Level Three and Level Four have not put up the dedicated units for care, treatment and rehabilitation of persons with mental illnesses. This Bill will make it mandatory for county governments and county hospitals, from Level Two, Level Three and Level Four to set aside dedicated clinics to offer outpatient services for persons with mental illnesses.

Again, the Bill intends that county governments shall offer rehabilitation programmes and proactive health interventions at county levels to deal with some of the underlying causes of mental illness. There is an observation that some of us who travel to the western part of Kenya make. When you travel from Kisumu City to Maseno and get to Luanda, there seems to be a very high density of persons with mental illnesses in that small town called Luanda. It could be attributed to the dominance of a herb called *cannabis sativa*, which is consumed in copious---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is it, Sen. Sakaja?

**Sen. Sakaja:** On a point of order, Mr. Deputy Speaker, Sir. I hate to interrupt Sen. M. Kajwang, who went to a good school called 'The Duke of York School'. However, what he is saying is heavily loaded. He is talking about a place many of us call home. He says that the degree of insanity or mental health issues increases as you move towards Western Kenya as you leave Kisumu. Is he saying that it increases comparatively or it is a problem in Western Kenya? Could he be clear?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Is there anything out of order with that?

**Sen. Sakaja:** Yes, because it will be discriminatory to specify that a certain community or area has a particular issue, especially with respect---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Under what Standing Order? What is it, Sen. Wetangula?

**Sen. Wetangula:** Mr. Deputy Speaker, Sir, every Member must take responsibility for the accuracy of the statement they make on this Floor. Is the distinguished Senator for Homa Bay in order to attempt, in a very cavalier way, to profile the people of former Western Province of this country by stating categorically that as you move from Kisumu City to Maseno--- As if to emphasize that Kisumu City is a city of sanity, he mentioned it three times. He went on to say that as you move towards Maseno and Luanda, the number of people with mental instability increases.

This is profiling of the community of the *Mulembe* nation and that is totally unacceptable. We know that every single market place in this country has its own lunatics or people with mental incapacities.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Are the numbers the same?

**Sen. Wetangula:** Mr. Deputy Speaker, Sir, if Sen. M. Kajwang' wants to stand and remain on the HANSARD, he has to tell this House how many mental patients he has counted in Kisumu, Maseno and Luanda, as he progressively moves into Western Kenya. He must also tell us what evidence he has gathered that the people of Luanda consume *cannabis sativa*, commonly called *bangi or bhang or injanka or omusala* that degenerates them into mental illnesses.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. M. Kajwang', I hope you have noted. Sen. Wetangula is asking you to state when you carried the census, the methodology and the outcome.

**Sen. Cheruiyot:** Mr. Deputy Speaker, Sir, I will be very brief. I keenly listen to the debate in this House. Sen. Mugo speaks in a soft voice but she is very informative. She has reminded us that mental disorder is a disease just like any other. The protestations by Sen. Wetangula and Sen. Sakaja confirm the argument that many people have not accepted mental disorder as any other disease. What would have happened if Sen. M. Kajwang' said that Luanda is a malaria prone area? Would they have protested the way they are protesting? Therefore, I would wish to urge---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Cheruiyot.

**Sen. Cheruiyot:** Mr. Deputy Speaker, Sir, I am concluding. In terms of semantics, Sen. M. Kajwang' said that; 'you will notice'. Noticing is subjective.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You cannot notice something that does not exist. You notice something that exists.

**Sen. Cheruiyot:** That is my point, Mr. Deputy Speaker, Sir. Producing accurate figures does not feature in this argument because he said that he noticed that the number is more. However, somebody else could notice lesser numbers.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): We will hear from Sen. Shiyonga. Sen. Shiyonga, are you from Luanda?

**Sen. Shiyonga:** Mr. Deputy Speaker, Sir, that could be the reason as to why I am standing here. I pity the statement made by Sen. M. Kajwang'. I come from western region. Luanda is not far from Homa Bay. The Senator should have started with Homa

Bay. He is targeting one community and we are the people who are being targeted. Can he substantiate his statement with figures? That is stigmatisation of a region.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. M. Kajwang', what do you have to say before I allow one or two other interventions.

**Sen. M. Kajwang'**: Mr. Deputy Speaker, Sir, I fully subscribe to the comments made by my colleague, Commissioner, Sen. Cheruiyot. We have stigmatised mental illness in this country. People will not express concern when I say that Homa Bay is leading in HIV/AIDS in the country and but they will be up in arms when I mention that another area is leading in mental illness.

I fully agree with the sentiments of my leader, Sen. Wetangula. He has clearly put it that every market place has its own share of insane persons. I do not know if this Senate qualifies to be a market place but if it did; then we would say that we have our own fair share of the national percentage.

I have made my observations on the basis of what is called anecdotal evidence which is based on observation and personal testimony. However, there might be need of some tests to confirm the conclusions that I am making though I mean no insult and harm to the residents of Luanda. Luanda is a lovely town. I went through it last weekend, and I noticed that there were a few people who did not operate in the normal mode.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): That is not what you said earlier on. What you said is the opposite of what you are trying to say right now.

**Sen. Mugo**: Thank you, Mr. Deputy Speaker, Sir. This Bill is trying to de-stigmatise mental illness but some of my colleagues such as the distinguished Senator of Bungoma County, keep on talking of lunatics and insane people. We should be the ones stopping stigmatisation. We should talk of mentally ill patients because mental illness is an illness like any other.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Wetangula, you are now the one being pursued. The hunter has become the hunted.

*(Laughter)*

**Sen. Wetangula**: Mr. Deputy Speaker, Sir, in Kiswahili, they say that *pwagu hupata pwaguzi* which means that the hunter has become the hunted.

I fully subscribe to what the distinguished Sen. Mugo has said. Stigmatising any situation in health is wrong. Mental illness or lunacy are English descriptions that are used at different times and the effect will depend on how someone receives them. The word lunacy or lunatic is not abusive but it is a description of a condition. However, I agree with her that we should not live in denial.

My contribution on this matter will be mercurial because I am well versed on mental health matters. I also know that mental health has been mishandled and misused by politicians in some countries. People have been locked up and some of them have died in dungeons because they have been labelled as mental patients.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Does that knowledge allow you to dispute the number of mentally ill persons at Luanda Market?

**Sen. Wetangula:** Mr. Deputy Speaker, Sir, the Senator for Homa Bay did not insinuate. He openly said that there are more people with mental problems at Luanda because they consume *cannabis sativa*. He did not give any evidence.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well. Let us get down to the point.

**Sen. Poghio:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What is it, Sen. Poghio?

**Sen. Poghio:** Mr. Deputy Speaker, Sir, Sen. M. Kajwang' made a claim that he must substantiate. To begin with, he likened this House to a market and went ahead to say that we have our fair share of mentally disorderly people. He went on to say that our share is related to that of Luanda Market. That can easily point to a certain direction. Can he shed some light on that? Why did he liken this House to a market?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): I want to hear from Sen. Poghio, Sen. Wetangula and Sen. Mugo. Is it their case that the words used by Sen. M. Kajwang' are exceptional words within the meaning of Standing Order No. 97 which requires retraction or apology or are they disputed facts which require substantiation?

**Sen. Sakaja:** Mr. Deputy Speaker, Sir, I was the first one to raise this matter but I do not think that it is being taken with the seriousness that it deserves. We have no problem with mental health; it is something that we need to address.

I was speaking directly to Standing Order No. 100. It is an affront to the people when one says that a certain part of this country has a higher number of mentally ill-patients because of consumption of bhang. It is even worse when data cannot be provided to substantiate that statement. It is profiling and it is not right.

Standing Order No. 100(2) states that-

“If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 116(Disorderly conduct) unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

It cannot go on record that this House has said that in Luanda, there are more people who are mentally ill because consumption of bhang is higher in Western than in Nyanza. Even when Sen. Cheruiyot came to say it is subjective, it is not subjective. We remember that Sen. Cheruiyot has been accused by the Governor of Nairobi City County of partaking in the toilets of Parliament. So, is he coming out---

**The Deputy Speaker** (Prof.) Kindiki): Order, Sen. Sakaja. There are two issues here and they relate to Standing Order Nos.97 and 100 respectively. Under Standing Order No.97, I need to know whether Sen. M. Kajwang' has used exceptional words for which he requires to retract or under Standing Order No.100, if he has made certain statements which he claims to be factual and is therefore required to provide the accuracy of those facts or otherwise substantiate them.

Why I am asking that is because Sen. Mugo raised an issue about what Sen. Wetangula said about the word “lunatic”. Sen. Wetangula, you may as well address

yourself in accordance with Standing Order No. 97. Remove the log in your eye before you remove the speck in your neighbour's eye.

**Sen. Wetangula:** Mr. Deputy Speaker, Sir, on the use of the word "lunatic", I agreed with Sen. Mugo. I said that it is an English word that is variously used. But if she finds it too strong - I do not think it is offensive but it is a strong word - we should expunge it from the HANSARD because it adds no value.

Mr. Deputy Speaker, Sir, when you challenged Sen. Sakaja, my nephew, to tell you which Standing Order he was rising on, I quickly came to his defence that he was taking responsibility for the accuracy of what you say. That is Standing Order No.100 that he has quoted. I thank you for bringing to play Standing Order No.97. In fact, the distinguished Senator of Homa Bay has violated both Standing Orders to the extent that he cannot say that the people of Luanda have a higher density of mental patients because they smoke *cannabis sativa*.

Mr. Deputy Speaker, Sir, in fact, there is no medical evidence that persons who consume *cannabis sativa* degenerate into mental patients. We know great men and women of this world; Bob Marley was a known and confessed public consumer of *cannabis sativa*, but he is a legend. Barack Obama confessed to have tasted it. Former President of America, Bill Clinton, said that he smoked, but he did not inhale. The late Brenda Fassie, a very distinguished artist from South Africa came here to entertain Kenyans. When she left, the police found tonnes of half smoked rolls of bhang and she was not disorderly or found to have broken the law.

Mr. Deputy Speaker, Sir, there is no evidence that the people of Luanda consume *cannabis sativa* or if they do, that they consume more than any other part of Kenya. Moreover, there is no evidence that it leads to mental illness. Therefore, Sen. M. Kajwang' must retract, withdraw the statement and apologize to the distinguished and honorable people of Luanda and *mulembe* nation in general.

**The Deputy Speaker (Prof.) Kindiki:** I think we should rest this matter. What is it, Sen. Poghisio?

**Sen. Poghisio:** Mr. Deputy Speaker, Sir, I think it is good for Sen. M. Kajwang', as he thinks of what to do, to refer to Standing Order No.96 (3) on offensive language to this House. I was concerned that he would think that we have a fair share of lunatics in the House. That would require the action of retracting, withdrawing, and apologizing. The rest has been well spoken. Thank you very much.

**The Deputy Speaker (Prof.) Kindiki:** Well done. I think Sen. M. Kajwang', your sins are being compounded by the day. You are better advised to just retract, apologize and move on because the new dimension brought under Standing Order No.96 (3) convinces me that what you said could offend some people unless you have the facts, which you must table. If you insist that what you said is factual, then you will have to do what Standing Orders say; which is to substantiate by tabling the evidence.

**Sen. M. Kajwang':** Mr. Deputy Speaker, Sir, I made it clear that this is anecdotal evidence which is not empirical or verifiable. I will not insist that the interpretation of the House is something I must bring numbers to support.

On that precinct, let it remain anecdotal and not verifiable and empirical.

**The Deputy Speaker (Prof.) Kindiki:** Is it something you want to go on record?

**Sen. M. Kajwang’:** Mr. Deputy Speaker, Sir, I just wanted to clarify and dissuade the House from taking the view that when we talk about Luanda, you are talking about the *Mulembe* nation.

**The Deputy Speaker** (Prof.) Kindiki): Order, Senator. That notwithstanding, do you stand by the statement you made about numbers of mentally ill people at a place called Luanda?

**Sen. M. Kajwang’:** Mr. Deputy Speaker, Sir, because I have not done a proper national analysis, I withdraw the assertion that the density of persons with mental illness is higher in Luanda than anywhere else. I withdraw that.

**The Deputy Speaker** (Prof.) Kindiki): Very well.

**Sen. M. Kajwang’:** Mr. Deputy Speaker, Sir, if you allow me. Luanda sits at the junction of Kakamega, Siaya, Kisumu and Nandi. Luanda sits at the junction of six counties and so it is a mini-Kenya and it should not be construed to represent only one community.

I have received some statistics from the Mover of this amendment Bill. The architect tells me that one out of every four Kenyans has recorded mental illness. This House represents the country and you cannot expect us to represent those one out of four with mental illness. Those are recorded cases of mental illness.

Mr. Deputy Speaker, Sir, if you look at unrecorded cases, the number could be higher. Being a reflection of the nation, we must agree that each one of us at some point has recorded a case of mental illness. Mental illness is not walking around naked, it is not the stigma we have associated it with. Depression is mental illness. Even burnout has now been classified as a mental illness.

*(Interruption of debate on Bill)*

### COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM CARDINAL OTUNGA GIRLS’  
SECONDARY SCHOOL, BUNGOMA COUNTY

**The Deputy Speaker** (Prof.) Kindiki): Hon. Senators, I have another Communication.

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers of Cardinal Otunga Girls Secondary School in Bungoma County.

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

I thank you.

**Sen. Wetangula:** Thank you, Mr. Deputy Speaker, Sir, for allowing me a minute to join you in welcoming the students and teachers from Cardinal Otunga Girls Secondary School in Bungoma County.



Cardinal Otunga Girls Secondary School is a school that is very dear to me. After my high school, when I had a short vacation or academic interlude before going to the university, I taught at Kibabii High School and Cardinal Otunga Girls School. It is a school that is in my neighborhood, very close to my residence. It neighbors Kibabii University and it is named after the great eminent Maurice Cardinal Otunga, who is one of the most distinguished church men this country has ever produced. He never sat in any church to solicit or receive huge donations on a daily basis for reasons nobody knows.

He represents those who are on the highway to being saints; that includes former Tanzanian President Julius Nyerere and others.

On behalf of my colleagues who may not have time to speak to this, the students of Cardinal Otunga Girls Secondary School are welcome. This is the “upper” House of Parliament; the House of reason and sound debate as you may have noticed. It is a House where we boisterously argue our points without becoming personal. We look forward to - in your journey through academia - you ending up being Members of this august House to represent the people of Kenya.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Very well.

Sen. M. Kajwang, please conclude your contribution.

*(Resumption of debate on Bill)*

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, I intend to conclude without drawing further controversy. I would like to remind everybody that at some point in time, we all go through phases of mental illness.

Allow me to talk about some of the proximate causes of mental illness in this country. There could be natural causes, pressures of work but there could also be issues of drug abuse. I have personally gone to certain parts of the coast, particularly Lamu and have seen the impact that drug abuse has had on the mental health of people.

This Bill asserts that county governments have a responsibility to ensure they take preventive measures to curb the proximate causes and root causes of mental health illness in the counties.

Mr. Deputy Speaker, Sir, finally, one other very important amendment to the existing Health Act is that the Act on judicial power of a person and estates of persons suffering from mental disorder has now been repealed and replaced with care and administration of property of persons with mental illness. This has been one avenue through which people who have worked their entire lives to acquire certain property at the sunset of their lives when sometimes their mental faculties are not as optimal as they ought to be; you will find people coming in, trying to take advantage of the situation. Families will try to use different tactics to ensure that they succeed or that they inherit the wealth of people by declaring the father or mother to be mentally incapable.

I am glad that this amendment has provided some description on how those cases should be handled in a humane manner that continues to respect the rights, obligations and freedoms of the person who may be adjudged to be suffering from mental illness.

Mr. Deputy Speaker, Sir, I must confess that I personally have had mental illness in the form of depression. Every time we are going into elections, every time you wake up, as a politician, you find people have lined up insults against you. People have been accused of being drug dealers or addicts in this House. People have been accused of doing business in Nairobi and not paying rates. All these are fake allegations.

*(Laughter)*

When you wake up in the morning and are faced with all these, you cannot blame yourself for suffering a bout of depression. Therefore, let us look at mental illness and health not as the extremities that we are used to, but the things that we go through in our day to day lives.

Mr. Deputy Speaker, Sir, I support.

**Sen. (Dr.) Milgo:** Thank you, Mr. Deputy Speaker, Sir. Issues of mental health can easily cause controversy. As Sen. M. Kajwang has just said, sometimes when you undergo so much stress, somebody can easily be considered as having some mental illness. I was just reading a few minutes ago that there are very many “hustlers” in this country. Somebody decided to abuse the “hustlers”, and I am sure that can easily cause some kind of mental stress.

I wish to thank Sen. Kasanga for bringing such a special amendment particularly at this time because of the fact that in our country, we have realized there are very many issues related to mental health.

Article 43(1) A of the Constitution states:

Every person has the right—

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

This Bill is very important particularly because it obligates the national Government to address the issue of accessibility to mental health hospitals. This will include issues of care, treatment and rehabilitation of the persons living with such problems.

Mr. Deputy Speaker, Sir, right now, our country has got major problems in terms of mental illness because of a number of issues. This Bill has come at the right time so as to address these issues. Most people have been affected as a result of lack of awareness by the people who are supposed to take action. Issues of stigma and discrimination have caused this problem to explode more.

We are already having many problems in our country in terms of soaring poverty and other social setbacks such as unemployment. Recently, in my county, four youths committed suicide within a radius of only 200 square kilometres. Two of them left notes indicating that they felt that life was meaningless because they could not find any gainful employment. Another committed suicide because he could not cope with the stresses that he experienced in school.

Mr. Deputy Speaker, Sir, we have realised that as a result of all these issues of poverty and other major social setbacks, we have had youths taking drugs and eventually end up suffering from some kind of mental illnesses as a result of drug addiction. This

Bill will go a long way in curing these issues particularly in ensuring that the rights of an individual are taken care of.

We have noted that most of the people that are already affected are suffering from post-traumatic stress disorders and depression. As one Member has already put it, most people are suffering from depression except that the degree varies. Issues of substance abuse have caused mental illnesses particularly among the youth.

Clause 4(2)(e) of this Bill talks about the rights of a person with mental illness. Recently, we got information from one Mr. William from Kisumu County that he is mentally ill and has been in hospital for the last 22 years, but has never been seen by a psychiatrist for the last one year. This is a pointer to show that people with mental illness are suffering as a result of not being accorded their rights.

Clause 4(2)(b), (c) and (d) of this Bill is very crucial because even recently in Kericho County, there was a boy who had got a C+ but had hoped to get a higher grade; he broke down as a result of that. I am sure if we had such mental health facilities, this boy could have been saved. We would not have lost him to mental illness because of being locked in some dark room for many days without any care.

Part IA of this Bill obligates the counties to do a number of things, particularly because health is devolved. The county governments are obligated to set aside dedicated clinics in Level Two, Level Three and Level Four hospitals to offer outpatient services to persons with mental illness. This will go a long way to ensure that cases that have not gone to extreme levels can be cured. In addition, there will be community-based organizations care, which will include family and community programmes. It will even be better for someone with mental illness to be taken care of within their communities.

We have heard of cases where someone is taken to some mental health hospital and ends up becoming more ill because of the prevailing environment. I think this Bill will go a long way in ensuring that there will be a standardized treatment for all the mental cases in this country.

Clause 47 of this Bill clarifies the action that should be taken against a person who is in charge of taking care of mentally ill persons. For many years, we have had cases where some of the people who are in charge of mentally ill patients have actually abused or treated them badly. As a result, the same patients end up getting worse.

Mr. Deputy Speaker, Sir, this Bill is quite important and deserves support because mental cases are very rampant. We have heard of many cases of husbands killing their wives and *vice versa* over very pretty issues. Investigations of such cases point to mental health issues.

Mr. Deputy Speaker, Sir, this Bill by Sen. Kasanga has come at the right time. I beg to support.

**The Deputy Speaker** (Sen. (Prof) Kindiki): Thank you, Sen. (Dr.) Milgo. Proceed, Sen. (Prof.) Onger.

**Sen. (Prof). Onger:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. First of all, I Sen. Sylvia Mulwa for bringing this Bill because there is so much that is misunderstood on matters of health, particularly mental health.

If I had weighed in earlier during the debate, when the issues of argument that were coming out, I would have simply told you that more than 75 per cent of Kenyans suffer from depression. Depression need not be illness in itself because it may be something that affects your mood, thinking and behaviour. All these three elements put together on a higher proportion, you can safely say that somebody might be suffering from a mental illness. It does not mean the kind of mental lunacy that we talked about earlier. It does not mean the violent behavior, but even a temporally destabilization of the mood, behaviour and thinking of a person. Just imagine how many times you go through many changes in mood.

How many times do you experience certain queer behaviour either within or outside your family or in a class or a debate like this? There are many occasions that you go through these behavioural changes. Also, how many times do you change your thinking? When you want to do a, b, c and d, suddenly, midway, you change it? That does not mean that you are suffering from a catastrophic mental disease; far from it. It is only that at that time, your mind may not be in a state that you can argue properly.

Mr. Deputy Speaker, Sir, when do these things become more expressive? Obviously, when you see a mental illness, it is a warning or red sign to you that something bigger is about to happen. For instance, the depression may move into a much more depressive mood and much more different from another depression that we know of, which is temporary and reversible. When you move into a reversible level, then you may exhibit certain behaviours which are anti-social, unbecoming and may require your temporary hospitalization.

Once we understand the facts that cater or govern, for instance, anxieties, eating disorders that you may go through and the addictive behavior – you talked of *cannabis sativa* – it is just one of the addictive agents that may lead to mood behaviour changes. It is not something that you want to deal with at this stage and call it something else bizarre. No, far from it. I wish we would appreciate that every one of us without exception, in one way, or the other, has gone through depression.

When you were being born, your parents went through depression; just mere behaviour and anxiety waiting for a new arrival in the family. When you are going through an examination episode; that is depression. When you come through it, you now feel liberated and you celebrate. That is the mood changes from one of depression to one of celebration because you have received good news or results. When you go through elections, you go through a certain mood. You are depressed and not quite sure whether you are winning the elections or not, but eventually, you do so too.

Mr. Deputy Speaker, Sir, what concerns me – this is why this Bill is on the Floor of this House – is how do we handle and relate to mental illness as a family, society, community or nation? How do we handle mental illnesses when we deal with such people who may be unfortunate to be in the extreme end of the problem?

It is, therefore, important that institutions are put in place. This is why the first element that has been put in this Bill is the ownership; domesticating this Bill to be owned by county governments. That, the surrounding and environment where these people are found, should be eco-friendly to them.

Two, how do county governments assimilate and accept mental illnesses as part of those diseases that must be run by a health centre, dispensary or sub-county hospitals? They must be educated to treat mental illnesses, just like pneumonia, diarrhoea, measles, and Tuberculosis (TB), or for that matter, HIV/AIDS. HIV/AIDS became a stigma to even pronounce that you are HIV positive.

As the Minister for Health, I remember having a difficult time trying to educate Kenyans when I brought in the Know Your HIV Status campaign. I brought in a huge band from New York City, Cool and the Gang, to attract most Kenyans to accept that HIV/AIDS pandemic is with us at 14 per cent of our population. We needed to bring it down and the only way to do so was to accept the fact that 86 per cent at that time, were HIV negative. Therefore, you have to change that behaviour, mood or mental make-up to accept that HIV/AIDS pandemic is with us and can be fought.

Similarly, we now must change the mood of Kenyans to accept that depression is part of our way of life. We just need to control it, so that it does not go to the extreme. Kenyans must accept that they must go through certain stresses and strains. How many of us since we woke up this morning, have not gone through some level of testing or difficulty in one way or the other? Each one of us has his own issues and problems that you go through.

Mr. Deputy Speaker, Sir, this Bill is trying to accept this as a norm of society. The only thing that we need to do is to put benchmarks that can define at what point this can become a disorderly illness. For many people, when you say that you are going to Mathare Mental Hospital, nobody wants to hear that stigma. They think Mathari Hospital is for lunatics, but it is not. That is a normal hospital treating people who have mood behaviours, mental disorders in one form or the other and cannot connect their thoughts or point 'a' and 'b' together. They may lose their direction. Unfortunately, fall foul of the drug peddlers and, therefore, become addictive to various forms of drugs.

Mr. Deputy Speaker, Sir, I said it in this House about two weeks ago, that one of the things that we need to watch is the drug peddling in this country. The effects of drugs are driving this country into a psychotic state. One way of a psychotic state is that all manner of mafias emerge in any form. We are already seeing some signs of it. How many killings are there in society without any reasonable cause? Somebody simply just wakes up and tells his wife that she has not given him food. Is that a cause for killing your wife? No way. It is only that nobody had interest in detecting when this person was going thorough these milestones from mild depression to schizophrenic level. When they reach that level, they become violent. They become killers.

This is why this Bill says: "Hold on. Can we now put benchmarks that will help us identify these individuals in good time?" once they are identified, then we can deal with the problem like any other normal illness like pneumonia or diarrhea, TB or HIV/AIDS scourge. It is a treatable condition. This is what I persuade this House to accept, that this is not a stigma problem. It is a problem of illness. In this case, it only involves the mind and the way the mind reacts to surroundings and environments. When we teach our medical students, we tell them to approach such patients, not with a distant look, but with a kind level.

Mr. Deputy Speaker, Sir, our mental hospitals do not offer the environment that is conducive to rapid healing. Those who have been in those hospitals have been healed and gone out as people who can run a perfect mental hospital and encourage the other people who are mentally ill so that they can take them through the milestones they went through before they came out. Use volunteers particularly those who have had similar episodes and discharged from hospital. They are best volunteers to sit down with those patients in our mental institutions and walk them through the path they have walked through to success. We need to incorporate this as part of the treatment; social engagement and social treatment before you go to the actual psychotropic drug treatment. It is important that we understand and appreciate this.

Mr. Deputy Speaker, Sir, I have seen a mental hospital in the outskirts of Kampala that looks like a Five Star hotel. When you feel your mind is not stable, you walk into that hospital and get checked. One is treated in a similar manner as when you have tonsillitis, you walk into the Doctors Plaza, get checked and given antibiotics. When individuals feel uncomfortable with their mental status, they should walk into a facility like that, get diagnosed and treated.

Unfortunately, even educated legislators like us, when you hear that one has a mental illness, you immediately jump to the conclusion that this is a lunatic and you do not know what he will do to you. They have resigned themselves to living very difficult lives. We must now bring them out of that very pit and make them look like human beings in the face of everybody. You will be surprised that when these people are successfully treated, they function like anyone else.

Mr. Deputy Speaker Sir, this is a county government Bill because all the medical cases have been decentralized and devolved to county governments. County governments must be involved in the Mental Health Board that is setup at the top, so that they know the kind of issues they will handle. We should not exclude them because they are the people who will effect the policies and programmes for mental health cases in their counties.

We must have properly trained personnel; mental psychiatrist, psychologists, nurses and clinical officers who can handle mental patients like any other nurse who handles regular medical cases that come to their health clinic.

Mr. Deputy Speaker, Sir, the institutions that are set up need not be separated from where the other patients are. It should just be a ward catering for these patients. The doctors will be in a position to know who are the violent cases that have gone beyond repair that need specialized attention in Mathari Hospital or these other institutions that have specialized equipment to be able to handle them.

Sometimes the mental illness may be because of an underlying disease. Therefore they must go through normal checks and balances.

**Sen. Cheruiyot:** On a point of order, Mr. Deputy Speaker Sir. I do apologize to our senior Sen. (Prof) Ongeru for disrupting him while making very informative contributions.

Did you notice that when Sen. Kang'ata walked into the Chamber, he used what I would consider to be an illegal entrance to get into the House? He walked in through that gap between the first chair which is outside the Chamber. Now that we are discussing

issues on mental health, if there is a Senator who should listen to this discussion, it is Sen. Kang'ata. Could you order him to use the correct route to get into the Chamber, so that he is properly seated using the proper channel?

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Deputy Speaker. Assuming that Sen. Kang'ata could be suspected to have any mental-related issues, is it in order for Sen. Cheruiyot, in spite of the Bill we are debating, to ostracize and scare patients by making it look like having a mental illness is a negative thing and that they should not look for help?

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order! Before we get derailed, Sen. Kang'ata, you know how to enter the Chamber of Parliament. Did you do the right thing, Sen. Kang'ata?

**Sen. Kang'ata:** Mr. Deputy Speaker, Sir, I have always used that route. In fact, the Serjeants-at-Arms who normally sit there have never told me not to pass there. So, I have always thought it is a legitimate route.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order! You should have watched the Senator for Nyandarua County, who has just walked into this Chamber.

Sen. Kang'ata, I have noticed you have a very carefree attitude, not just when you are entering this Chamber, but even when you are inside this Chamber, notwithstanding the fact that you are the Deputy Whip of the Majority. You need to up your game. Can you correct the situation now and we leave that matter at that?

**Sen. (Prof.) Ongeri:** Thank you, Mr. Deputy Speaker, Sir. As I said earlier on, a slight mood change can make you do bizarre things, but that does not amount to mental illness.

*(Laughter)*

If anything else, Sen. Kang'ata has reinforced the point I was trying to make that in one way or another, every Kenyan is at times seized with a difficult problem that he may not be able to handle. He finds it too overwhelming at that material point in time. Now that this issue has been corrected, I think it has reinforced my point.

The type of institutions that we will set up for care of these people, should not be categorized as specialized units although they may be set aside for such other patients who may appear to be violent and be treated as such. I think mental patients should be integrated where possible and the extreme cases should have specialized places like the sanatoriums or Mathari Hospital. We should change the character of Mathari Hospital; it should not be somewhere where people go and are beaten by canes. It should be a place where people are treated humanely. These are human beings. You would be surprised that more than 80 per cent of people who got through this route would be normal. All that they need is support and care from us.

Mr. Deputy Speaker, Sir, I am in support of this Bill at every aspect of it from the amendments of certain elements in the Mental Health Act which are not friendly to the mental depressive cases. It should also address the question of the Board which will be established to deal with issues of mental health.

The Bill should also address the issue of the kind of financial support they need at the county level because that is where they will reside rather than referring people to Mathari Hospital.

I support the Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you Prof. Onger. You have spoken like the Professor of Medicine you are.

**Sen. Wetangula:** Thank you, Mr. Deputy Speaker Sir, for giving me the opportunity to support this Bill. Hearing contributions from various Members, I am sure we all appreciate that the state of mental health in this country needs attention.

This Bill seeks to align the Constitution with the provisions of healthcare. In this country mental health has been stigmatized to the extent that even when you disagree in an argument with a friend, he will tell you: “you are a candidate for Mathari Hospital” meaning that you are a mental patient. Mathari Hospital has been so stigmatized that when one goes there, one starts thinking differently.

I expected to hear Prof. Onger, who is a very distinguished academic and medical practitioner, talk about the graduated levels of mental illness.

A simple depression is definitely different from a person who wakes up the morning dressed very well and all over sudden strips naked and start to walk around shouting obscenities and so on. We also have situations where a person who has to be regarded highly in society wakes up in the morning, takes an axe and cuts the head of his wife.

Mr. Deputy Speaker, Sir, there is a case which I did when I was in active legal practice where a man went home in the evening and he had a good meal with friends a local market. The wife gave him food. He took the food and gave it to the family dog. The wife took an axe and cuts off his head. It became a terrible homicide. Those are extreme cases of mental difficulties that many people go through.

Sen. Kasanga, towards the end of the Bill at Committee Stage, probably, you need some consultative process from people like Sen. (Prof.) Onger to advise on how to deal with these graduated levels of mental illness. A depression or something that makes ones sad temporarily for an hour or two, cannot be treated in the same way as a situation where a person wakes up and will away family property without caring because they do not know what you are doing.

Mr. Deputy Speaker, Sir, in law, we have the McNaughton Rule that classify and define the levels of criminal responsibility depending on a person’s mental state. Many people will get away with lesser responsibilities for crime given what their mental ailment would be. This is a recognition that certain levels of depression or mental situations will make a person suffer from what lawyers call diminish responsibility in the discharge of their activity.

We should also disabuse ourselves of the notion that people who smoke *cannabis sativa* automatically become mental. It is not necessarily true. I have some good friends who enjoy a puff of *cannibas sativa*. However, for purposes of confidentiality, I cannot mention their names. They are brilliant and speak very intelligently and you never notice any depression in them.

Mental problems are sometimes caused by people who engage in excessive consumption of alcohol. However, others who consume a lot of alcohol remain normal.



Mr. Deputy Speaker, Sir, this Bill now brings us to the real issues. That mental health must be addressed in the context of the new Constitution and the devolved functions under the Constitution.

When we look at the structure of Schedule Four, the only known mental health facility in the country, Mathari Mental Hospital is classified as a national referral hospital. So, it is in the ambit of the national Government.

I hope that by the passage of this Bill, counties will then be empowered with sufficient resources to have facilities alongside the existing normal hospitals that take care of mental health situations. We should not mistake a situation where a person feels low in the morning, he or she walks to Kenyatta National Hospital (KNH) to see a doctor and explains that he or she is not feeling too well today, and they feel like doing something unorthodox. That is different from the situation we know.

Mr. Deputy Speaker, Sir, when you go to villages and because of families fearing the stigma, they have locked away mental patients in houses. They are fed through the window. They are never let to see sunlight and when they come out, they are chained.

My distinguished colleague from Elgeyo-Marakwet likes to quote the Bible where mental patients were chained and left in places that were bizarre. They were kept in the same houses with pigs. In fact, when Jesus exorcised demons from the Gerasene Demoniac, he released them into pigs that raced into the sea and drowned. This means that it where they belonged

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Sen. Wetangula, you seem to be doing well of late in matters Bible. Congratulations.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. I want us, as a House, to carefully go through this Bill because it gives effect to constitutional effects.

Sen. Kasanga and the Senate Majority Leader should look at this. When she says that mental patients can exercise full rights, particularly in politics. For example, stand for positions of representations, how do you reconcile that with Articles 99 and 137 of the Constitution that says clearly that for a person to qualify to run for Parliament, he or she must be of sound mind? A person of sound mind is not a mental patient. It goes on to say that for a person to be President, he or she must qualify to run for Parliament. This means that a person must also have sound mind. So, that provision may be subject to challenge as being unconstitutional.

Mr. Deputy Speaker, Sir, in this country, people who suffer from mental infirmity and problems have really suffered. If you go the market, you see them sleeping and sharing shop verandas with dogs. They sleep in total squalor and their families have completely forgotten them.

There is a Tanzanian musician called Remmy Ongala, commonly known as *sura mbaya*, who sang a song asking why you go to the market and find a person with serious mental difficulties, for example, *mwanamke mwenye kichaa unapata ana mimba*. Who has done this? Chances are that the people who do these bizarre things are not mental patients. They are just weird characters in society that take advantage of people in difficulties.

Mr. Deputy Speaker, Sir, Shakespeare said that the sophistication and civilization of a society is charged in a manner it handle and treat people with disabilities, mental

difficulties, children and women. In those days, the equality between men and women was not as vibrant as it is. The way you treat those cadre of people will explain how your society looks like. When you disregard and treat them badly, it shows the level of the absence of civilization your society has.

Mr. Deputy Speaker, Sir, we yearn to get to a situation where, in this Bill, Sen. Kasanga, must obligate the county governments to also roll out budgets that deal with cases of counseling and depression. In extreme cases, we must have an obligation in each county to have a hospital with a ward that will take care of mental patients.

*[The Deputy Speaker (Sen. (Prof.) Kindiki) left the Chair]*

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

Madam Temporary Speaker, we must appreciate that there are mental patients who suffer from mild depression that can walk into hospitals, sit with other patients, be treated and go away. However, there are those who will go to hospital and assault the doctor attending them. Therefore, we need to have a situation where all those particular extremes are dealt with. If we do not do so, we will not be doing the right thing has intended by this Bill.

I encourage Sen. Sylvia Kasanga that when it comes to reconstituting the board, the theatre of health care in this country is in the counties. We should not overload all these boards with persons elected and appointed from the national Government when the real people upon which we will administer this law are in the counties. The board is top heavy with people from counties that can argue cases of more resources, personnel and so on and so forth.

Madam Temporary Speaker, the alternative will be found in the Bill that Sen. Seneta is bringing that deals with the issue of cancer. However, you can draw a parallel by saying that if we want to have people of this country treated properly, a person in Loiyangalani, Embobut, Mt. Elgon and Vanga must attend and get the same healthcare that everybody else gets in Nairobi. How do we achieve this? By obligating the two levels of Government to cooperate and collaborate in resource sharing that is targeted towards people that suffer and require attention.

For people who live around Nairobi, if they feel depressed, they can walk into Nairobi Hospital and they could be referred to a professional psychiatrist. If you go to Kenyatta National Hospital (KNH), Karen Hospital or Mama Lucy Kibaki Hospital, it is the same thing. However, if you live in Londiani, which is my good friend Sen. Cheruiyot's constituency, and you suffer from a mental problem, when you walk into a dispensary, you are given a clinical officers who knows very little, or nothing at all about mental illness to attend to you. What they do is to strike you with tranquilizers to make you less active and violent and tell your family to carry you home. That is not solving a problem. So, we need to have training.

If what we were told by Sen. (Prof.) Ongeru that 75 per cent of Kenyans suffer from one or the other mental problem is true – which I think is a bit exaggerated because

I do not think it is true – then the more reason we need a lot of psychiatrists and psychological counselors to advise people.

This Bill also speaks to ownership of property and disposal of property by mental patients, but we have to be careful. I agree that mental patients are human beings like all of us and they must be allowed to enjoy all the freedoms and rights within the Constitution.

There is a lawyer called Ms. Jane Njagi who was ahead of me by one year at the University of Nairobi. She is a distinguished lawyer and she became a bishop. We saw stories in the newspapers that because she was undergoing severe depression, she signed away her entire family property to a ‘prophet.’ How can somebody do such things notwithstanding their mental status? I believe that lady has a son, a mother and sisters. However, due to depression, she signed away her entire possession of prestigious properties in Lavington and other places to a ‘prophet’ who does not care about the family as long as he walks away with wealth. Such things happen. You cannot write or attest to a valid will until you are proven to be of sound mind.

There is a matter in court about Mzee Kirima; one of the most hardworking self-made Kenyans. He left a multibillion estate, but it is being contested. Towards the end of his life when he was in a severe depression, he was taken to a fraudulent lawyer and signed a will without knowing what he was doing and willed away his estate disinheriting very critical members of his family.

The Constitution is very clear about soundness of mind. When they talked of “soundness of mind”, the drafters of the Constitution were clear. I cannot wake up, walk to Sen. Cheruiyot and assign all my land to him when I have sons, daughters and family that need to inherit it. A fraudulent receiver can never ask what will happen to my family. They simply take and takeoff. So, we must protect families.

My two colleagues here can attest to this. You can never walk to court and defend a will unless you prove that, at the time of signing, the person who willed had sound mind. Equally important, when you take confessions to court, the court always asks the state of mind when the person signed the confession. They could have been with the police who could have done several untold activities on them and declare that they would rather sign than continue suffering. That is not a voluntary statement.

When we call it depression, madness or lunacy, these are just semantics. The end game is people who temporarily or permanently lose the focus of their minds and do things that they ought not to do. First, they must be treated. We must ensure that after the treatment, they come back to their senses to do things that could affect their neighbours, family and everybody. More importantly, we must avail the right treatment to people who walk up and down markets shouting from morning to evening things that you do not understand. We see some of them out here running to every car saying Sen. Poghisio, *nipe mia moja ama nipe mia mbili*. Such fellows are also mental patients. The State has a duty to protect and treat them.

Lastly, Madam Temporary Speaker, when we talk of mental health, we must also be careful. In some countries, especially former countries under the stranglehold of communism, anytime you disagree with the State, you are declared insane, taken to an asylum, locked up and jailed for many years.

When there was a coup in Sudan, the general who had disagreed with the President was declared a mental patient. For more than 16 years, people thought he was dead. He was picked from an asylum having been a five star general to a declared “mental patient”. He had been locked up in an asylum and appeared like an octogenarian. We need to make sure that the State does not abuse mental illness to punish people.

The other day, I was listening to the British Broadcasting Corporation (BBC). Some friendly country to Kenya declared three very senior politicians who had said that the country was going the wrong way to be mental patients. They were locked up. That is how serious it is. So, we need to protect the individuals’ rights. We need to have facilities available. Above all, we must protect the assets and properties of people who suffer from mental problems.

As I congratulate, Sen. Kasanga, I hope that we will look at this Bill at the Committee Stage very carefully and make sure that the national and county governments work together for the betterment of the health of the people of this country.

I thank you.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker, for giving me this opportunity to make my contribution on this important Bill on mental health. I congratulate Sen. Kasanga for thinking wisely about the same. This particular Bill provides for an effective framework that will support awareness, treatment, prevention, care and human rights for the people suffering from mental health disorders.

I am happy about the Clause that expounds on creating awareness. I am sure awareness includes enabling citizens to know that such people have a right to live and treated. They should not be stigmatised and be ashamed of. When you go to many villages, such people are associated with curses and superstition. More often than not, they are taken for treatment and handled crudely by magicians, witchdoctors and so on. People have not been made to understand that this disease is just like any other disease and someone can be taken to hospital and be treated.

This Bill has provided a strong linkage between the functions of the national Government and the county government. The Bill has highlighted hospitals that will be taking care of people with mental health problems. Those hospitals shall have particular standards. I once visited Mathari Hospital and the mental health hospital in Nakuru. I realised that there is great variation in terms of how mentally ill patients are taken care of, especially when it comes to the number of doctors and nurses. We should expand our medical training programmes so as to have a course that will train nurses who will handle these people.

We should have the right statistics of people suffering from mental illnesses to avoid guess work as Sen. M. Kajwang’ said. He said that statistics state that out of every four people, one of them has a mental issue. I do hope that I am not one of them because people will not take me seriously.

This Bill has a well-defined section on the rights of mentally ill patients. These people are always exploited. In the village where I come from, we do have people who are mentally challenged and they are usually abused. They are asked to do odd work such as splitting firewood. This Bill will rescue them from such exploitation.

I am also happy that there is a clause that protects the property of mentally ill patients. I know of families that have not given these patients their due share. Instead, they share the properties and say that they will use what was meant for the mentally ill patients to take care of them. More often than not, the mentally ill patients suffers because they are not accorded their rights to property.

I support this Bill though the amendments are important.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. From the onset, I support this Bill. We have been looking forward to it. I also want to congratulate Sen. Kasanga. She has done a good job by alerting us, keeping us focused and interested in this Bill. This Bill addresses something that we all face even as we struggle to be mentally healthy.

The Kenya Mental Health Policy 2015-2030 articulates that one out of four people suffer from mental disorder. The range of mental disorder is broad. In this country, for example, we have misdiagnosis because we do not identify with the mental illnesses that affect our people. Instead, we just read about them in the text books. Some mental illnesses can be easily identified, but some are not well known. Broadly, all these illnesses can be divided into different categories such as, anxiety disorder, mood disorder, personality disorders and Schizophrenia.

Under anxiety disorder, we have panic disorder which comes in as a result of panic and can lead to depression. Anxiety disorder comes in as a result of phobia or fear of a particular thing. One can also have excessive compulsive disorders and posttraumatic stress disorders.

Mood disorder makes one to change their mood and act differently and that can be caused by hormonal changes and change in situation. Our moods do change. One can wake up happy in the morning, but end up being sad in the afternoon. This is because of something that has happened and all these are mental health issues. In most cases, we think that the person who removes their clothes and runs on the streets is the one that needs assistance. That is not the case because everybody needs attention.

This Bill proposes that we should have public and private facilities where people can be assessed. It also proposes that people working in those institutions should have an understanding of all these disorders. Last week, Sen. Shiyonga moved a Motion on Establishment of Nation-Wide Centres and Satellite Clinics for Sickle Cell Disease at County, Sub-County and Ward Levels. While discussing that Motion, we talked of diagnosis of sickle cell and the problem of misdiagnosis. We said that misdiagnosis happens because many illnesses have the same symptoms.

Mood disorders are very broad and they include high levels of depression. Mood disorder can manifest itself as bipolar. A bipolar patient will have drastic opposite ways of reacting to things. Persistent depressive disorder is another example of mood disorder. It can be consistent and persistent or seasonal affective disorder.

We have different ranges of personality disorder. We have cases such as antisocial personality disorder where people want to remain outside because of levels of depression. We also have paranoia, stress-response syndromes and dissociative disorders which come as a result of something drastic happening at a particular time, but the impact remains with the person. Some people also suffer from factitious disorders, sexual and

gender disorders which include paraphilias. We also have people who have gender switch. They think that they are men when they should be women and vice versa.

The social cultural context for understanding these disorders is not in place. We do not get into the psychological psyche to understand the reason as to why that person behaves in a certain manner. We do not try to understand if their behaviour is as a result of mutation of their cells neither do we try to understand if they inherited those traits or if what is happening has to do with the brain.

The cost of treatment for these illnesses is very high. Somebody might need up to Kshs20,000. The national Government and county government should look for a way of offering these services at affordable price. When a boy wears a wig for the first time, it could be funny. However, if he persistently does so, somebody would, probably, need to talk to him so as to get to understand the reason as to why he is doing so. We also have illnesses such as dementia and sleep related diseases. Mental health is very broad.

Most of the mental illnesses are not fixed. Some of them change according to social and cultural conditions such as family stability or lack of it. Some people solve the problem that they are facing within a particular framework or environment. Stringent approach needs to be put in place to find out what is happening. This legislation is part of the strategy of the policy paper; Kenya Mental Health Policy 2015-2030 by the Ministry of Health. This Bill will operationalize the Mental Health Bill and policies.

Operationalization, therefore, means putting very distinct structures into place to ensure that all these issues are carried out. For example, at the national level, the issue of resources comes in automatically. There are also issues of national strategy and policy; breaking this down even to the level of, for example, the processes and guidelines for the private institutions are recommended in the Bill.

We should not forget that even when these are put into place, it is very important that they run as per the policies and guidelines that they have. It includes, for example, who brings a person with a mental illness and how they are taken in. There are very stringent measures for ensuring that the institution is well vetted through the board that has been provided for. The Bill goes a step further to amend sections of the membership of the board, to bring in various professionals. I think that creates a forum where they can bring different solutions.

There is a section on penalties where the Bill talks about, for example, a case where somebody does not follow the procedure. It is the part where the Bill talks about setting up private institutions. The Bill sets out penalties for corporate and individual defaulters. For the corporate defaulters, it should be not more that Kshs10 million. There is a danger there because on the lower side, it could be Kshs1 million only.

We need some sort of specification because somebody can just start a home for the mentally ill, collect people in the rural areas, put them there and use them as labourers. The Bill indicates that, that is illegal. However, somebody can do so, and by the time they are paying the Kshs1 million penalty, they will have already gained a lot of profit from forcing them to do textile work. Therefore, the lower end of the penalty should be made a bit more stringent. There should be no option for a fine in some instances. This is because sometimes the fine might be very lenient.

Still at the national Government, the standards in health facilities is very clearly stipulated across the Bill. At the county, level there are very key issues such as resources. There is also the issue of rehabilitation and how to create rehabilitation programmes that will be helpful. There are the issues of having county programmes and following them, targeting risk groups, identification of those groups and dealing with them in advance and well sourced professionals. There is the issue of research data that keeps coming up over and over again. Whether or not the numbers will be accurate, will depend on the level of diagnostics that take place.

Madam Temporary Speaker, it is very important as well to desegregate the different mental illnesses and the various facilities that they need and information. This part about the research data is very important. It will be interesting just to know from discussion whether we already have some baseline data that we can deal with. For example, what does that baseline data say? There is also the step of doing further fact-finding; knowing that, for example, some people with severe mental illness tend to be locked up and cannot be easily accessed.

Sensitization programmes, as mentioned in the Bill, are also very key. At the end of the day, it is very important to put into place mental health expenses and the need for monetary and human resources.

The proposed New Section 20A calls for a periodic mental health review. That is very key. Part XII of the Bill talks about the care and administration of property of persons with mental illness in terms of inheritance and transition, that is, being able to give up property. This is a category that is completely ignored most of the time in this matter. One of the Senators who spoke earlier clearly indicated that in some cases somebody could even give away their property because they were in a particular state of depression that was not seen as mental illness.

Madam Temporary Speaker, it all down comes to identifying whether, even in the medical colleges where people are being trained, we are churning out psychiatrists, psychologists and counsellor, but at what percentages? Are they well equipped? How are they evaluated and able to do their work? The data from 2016 shows that there were only 88 psychiatrists in Kenya; many of them were in urban areas.

There is again the rural-urban dichotomy coming in. Unfortunately, it replicates across all other levels of inequalities; not only economic, but also gender inequalities. You will find, probably, more girls suffering and prone to abuse. Geographical inequalities also come in which are confounded and compounded by all this.

The Bill is very clear in fighting for the rights of person with mental illnesses at all levels. It has put into place various key structures to enable that process be followed through. These public mental institutions that are being put into place are critical in ensuring that these rights are adhered to.

The Bill appropriately amends various sections of the Mental Health Act that is already in place. In some places, it is deleting some sections and adding others. However, there is a clear flow and insight put in this Bill in addressing the specific issues. What are these specific issues and what do they aim to do at the end of the day? It aims to promote mental health. There has to be a discussion.

In certain countries, especially lately in the United Kingdom (UK), Prince William, Kate Middleton and Prince Harry have been picking up this issue and talking about it. They have been popularising it by saying that they almost felt that their own mental health was in problems at one time or the other when. They went through very traumatic times. It is very helpful to talk about it, share and come up with various groups to articulate this issue. Therefore, this Bill is very helpful.

Madam Temporary Speaker, the issue of reducing mental illness, medicines, taking care for and institutionalization comes in. However, coordination in the prevention of mental illnesses is very important. That also has to be in place. We cannot watch the numbers go up without finding the triggers, points and variable that might create this.

There is one variable that we were discussing earlier. There is a lot of work that shows there might be a correlation between taking *marijuana* and mental illness. That data is there. It could be anecdotal as it has not been put out clearly in terms of numbers. Saying that there is one person who took *marijuana* and did not go mad, is just using one example that might not give the actual picture. In fact, the data shows that there is a lot of mental illness related to alcohol and drug abuse.

Data from World Health Organisation (WHO) says that half of all mental illnesses start at the age of 14. This is the time the youth are experimenting and want to drink. Some people just have bad luck. There are some who will drink and get away with it. Some who may have bipolar and do not know, go and drink with their peers. You take it and maybe your level of toleration is very low and you find that you just get addicted immediately. The next thing is that you cannot do well in school and then come up with depression.

When it has all these other components of “other types of”, you might get to a point where you have not just one type of mental illness; but several types manifesting in different ways and at different times. Some people even say that sometimes it can be a function of weather where it is very cold during winter, then more people get depressed which sometimes leads to mental illness.

Madam Temporary Speaker, reducing the impact of this is a whole chunk again. Promoting recovery from people with mental illness is key. Last but not least, is protecting their rights. According to Article 47 that gives the right for healthcare for all, it is clear that you should not be discriminated against because you have an illness. You still have a part to play. If anything, you will have better and harmonious relationships by addressing the issues and find a way of harmonious collaboration and living rather than ignoring it all together.

More and more, we now see this in Kenya. Many conflicts could be as a result of economic hard times, but also social and cultural relationships that lead to killings that we never saw before. Children are being hacked by their parents. We have seen partners hacking and killing each other. Again, the level of the severity of social, cultural, psychological and mental factors might lead to this. This is a discussion that people should very comfortably be able to bring to the table and be able to talk about it.

An evaluation again of this policy needs to be done just to make sure that the gaps are properly addressed in the strategy and the legislation. That is also a component of this Bill that you have already put into place in addressing.



The other parts of this Bill are to do with the board, composition and its responsibilities are quite standard in terms of their presentation and what is expected of them. The conversation needs to begin by first accepting that there is a problem. There is no way we will be able to address this issue without accepting, running around and thinking that this is for other people and not me. It starts with a clear conversation which needs to go even to the family level for parents to begin it.

If 14 years is the starting point, then many youth start very early, but parents do not get to know until much later. By having programmes like counselling and peer group processes that help them to understand what role they are meant to play within societies and communities.

Madam Temporary Speaker, in African traditional society, the roles of both men and women were defined. For example, men knew what their roles were. There was a way society allowed them to move on with their ego. They would go to hunt and bring food while women had their specific roles. All these have changed drastically. With that change, it has created new dynamic ways of handling issues. Aunties, grandfathers and mothers who were advising our children are no longer there.

Again, do people have the space to talk and be open about their issues without being judged? Do these young people have a place to go to? If the counselling is very expensive, then they will just stay away from the counselling. In fact, many people tend to confirm the situation because when they get depressed or have mental illness, what they do is now drink some more.

I support.

**Sen. Poghiso:** Thank you, Madam Temporary Speaker. From the onset, I support the amendment to this Bill. I thank Sen. Kasanga for a job well done in putting it together.

Let me also use this opportunity to congratulate Sen. (Dr.) Zani and many other Senators who got State commendation. We are in a state of shock because one of us has been attacked and is in hospital. We have a situation in our hands.

Let me add my voice to the support of this important Bill on mental health. Let us agree that we do not understand mental health. From that premise, we will then be able to help in this situation. That, we as a nation, do not understand mental health and that we are used to people being expelled from homes and a burden left to families to deal with their own members. We do not have a collective position that we do not understand mental health. We, as leaders, need to own that, move ahead and even do a seminar on mental health, so that we understand what mental health or illness is about.

Madam Temporary Speaker, if today we had to do an alcoblow test, people would run away and others would not want to be known. It could be worse if there was a mental illness test. People would not even show up if we had a voluntary mental illness test. Why? It is because we do not understand mental illness. Mental illness is complicated. In the African context, it is attributed to beyond just medical explanations. The way we explain it is that a person has been cursed, under a spell or paying for their sins or things like that.

We have to come to grips with this situation and agree that we want to change it and that we want to treat mental illness like any. That is why in this country, there are

very few mental hospitals. Why do we not have mental treatment within our ordinary hospitals? It is because of the way we think of mental illness. If you are in West Pokot County and have a mental illness, you have to be brought all the way to Mathari Hospital because we have not trained enough doctors. We do not have enough psychologists, psychiatrists and counselors in this country. It is for the reason that we do not put emphasis on solving the issue of mental illness.

Madam Temporary Speaker, this Bill is an amendment to an Act of Parliament which has been in existence for a while. However, an amendment is simply removing some words and changing a few things here and there. We do not take our laws very seriously. This law has been in existence, but we have not even dealt, handled or used it properly. If we had, we would have solved this matter. We went ahead and devolved health function. However, there is no county and if any, that can handle cases of mental illness. That means that we devolve something without thinking through it. Given the budgets of a county, how would they employ specialists in mental health when they cannot even afford to hire nurses for just every day treatment of patients?

While I agree that this is good for amendment, I also hope that we can say that when we had the other law in existence, we did not even utilise it properly. Taking care of a person who is mentally ill requires special facilitations to the families. It requires early identification which we do not have. Currently, we are talking about a system of education that will be personalised to every child and yet we do not have the capacity to do so. We will struggle, but we do not have enough teachers to pay attention to a class of 100 pupils.

We are insisting of doing it because we want to do it. However, here is a situation where we require to care for a person individually.

People with mental illness cannot be lumped together for one care. It requires individualized care because the situations are different. Therefore, we must develop systems and institutions for care of those who are already sick. We must go beyond that and identify those who are in line and show symptoms. There are many ways of telling that and helping them within the family.

Madam Temporary Speaker, this Bill tries to cover all that. It may not everything, but it tries to take care of that.

The other thing is treatment of patients has always been a burden to families. Unless we get out of the situation where we think mental illness is a curse, a spell or heredity, we cannot treat the person properly. Mental illness is part of the physical body. That must be dealt with.

I hope that our hospitals, including the national referral hospitals as well as the county referral hospitals, can begin to address the issue of treatment and employing specialists to identify this.

Madam Temporary Speaker, since we have agreed that every market has its mentally ill people, it means that we already have ready patients. Therefore, we must treat them. However, some of the facilities and ideas given for treatment can be more destructive than helpful. In order to literally get rid of this person or to quickly get away from dealing with this problem, many patients are sedated and allowed to sleep. Others

are tied down and they cannot go out. Treatment must be humane. I hope that through this Bill, we can correct that situation.

I have spoken about rehabilitation too. Let us fight this stigma that is holding tightly to us. This is not a normal thing. This is something that we need to worry about.

Madam Temporary Speaker, I summarize by saying that the national curriculum in our training of Medical Training Colleges (MTCs) all the way to universities should include mental health as a course or a unit so that everybody is aware of that. Leaders must also be brought to understand issues of mental health.

I support this Bill. I also ask my colleagues to support it so that we can go ahead and have a proper mechanism for treating those who are mentally ill.

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker, for giving me this chance to make my contribution to what is a very topical issue and something that is extremely important. In the month of May, we celebrated the World Mental Health Month.

From the onset, I celebrate our colleague, Sen. Kasanga who has run this campaign on mental health awareness issue and ensured that all Members are prepared. There is no other Bill that Senators have been properly prepared than this particular one. That explains the level of interest that we have seen from 4.00 p.m. Many Senators have spoken about this particular Bill and shared insights. A lot of those insights have come as a result of information shared to us by Sen. Kasanga. She gives great honour to the office of a Senator. I wish many of us can learn from her. As a leader, when you are passionate about a particular cause, make it your duty to educate and ensure that your colleagues also share and breathe life to the same passion.

Madam Temporary Speaker, this is a good week, especially for the women legislators in this House. Today, one of our colleagues, Sen. (Rev.) Waqo was featured so prominently in one of the local leading newspapers on a Bill that she is bringing to this House. That tells you that women in this House are doing extremely well and are taking their time to ensure that they change the lives of the people of this country. I celebrate them.

*(Applause)*

The only man left in the House is none other than the leading defender of women, including those in this House and the Chair. Men of this House should know that we need to take our work more seriously.

Back to the Bill, there are interesting things I have learned by listening to what my colleagues have said. We have also educated ourselves from the banter we had. I think Sen. Poghio captured it well, that we do not understand the magnitude of this problem and what it is about. What do we mean when we hear people say that someone is mentally sound or they are fully okay? We need to ask ourselves what lunacy and mental health are and who is mentally okay and who is not.

We heard the shocking statistics by Sen. (Prof.) Ongeru about the various challenges that people with mental health problems face. This particular Bill could not have come at a better time in this country because we read about people doing things

which ordinarily appear like runaway crime. Are people just being inhumane with each other? If you do research, you will realise that it is a challenge of mental health.

In many work spaces, there are things that sometimes people say to each other. You do not need to confirm that the statistics that Sen. (Prof.) Ongeru shared are true. If you go to many social media platforms, you will see the kind of nasty things that people say to each other. There is no way a normal person can wake up out of the blues and insult somebody they have never met or do not know.

Sometimes it could be just on account of someone holding a divergent religious opinion or being a person of different race, political affiliation or a football club they support. People say nasty things to each other and that confirms to you the statistics that Sen. (Prof.) Ongeru shared with us. He said that it could be up to 75 per cent of people either being depressed or having mental disorders.

The BBC did a documentary during the mental health month. We all know how popular football is. They interviewed football stars who gave their experiences and battles with mental health. Those are people we go to cheer at stadiums, in our homes or other places that we watch football matches from, but they said nasty things. The realisation that a particular footballer shares---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Cheruiyot, you will have a balance of 15 minutes when we have debate on this Bill.

### COMMUNICATION FROM THE CHAIR

#### GAZETTEMENT OF EID-UL-FITR

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, tomorrow, Wednesday, 5<sup>th</sup> June, 2019, has been gazetted as Eid-ul-Fitr, which is a public holiday. Therefore, I wish my Muslim colleagues a happy Eid-ul-Fitr.

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Thursday, 6<sup>th</sup> June, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.