

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 2<sup>nd</sup> December, 2021

### Special Sitting

*(Convened via Kenya Gazette Notice No. 12994  
of 30<sup>th</sup> November, 2021)*

*The House met at the Senate Chamber,  
Parliament Buildings, at 9.30 a.m.*

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

### PRAYER

### MOTION

#### THANKS FOR THE PRESIDENTIAL ADDRESS

THAT, pursuant to Standing Order 24(6), the Thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Tuesday, 30th November, 2021 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132(1)(c) and 240(7) of the Constitution, laid on the Table of the Senate on Wednesday, 1st December, 2021 –

(i) The Eighth (8th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Tuesday, 30th November, 2021;

(ii) The Eighth (8th) Annual Report (2020), on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;

(iii) The Eighth (8th) Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;

(iv) The Annual Report to Parliament on the State of National Security, 2021; and

(v) The Kenya Business Climate Reforms Milestones Report for the year 2020-2021.

*(Sen. Poghiso on 1.12.2021 – Morning Sitting)*

*(Resumption of Debate interrupted on 1.12.2021  
- Afternoon Sitting)*

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

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir, for this opportunity so that I too add my thanks of the Senate to be recorded for the exposition of public policy contained in the Address of His Excellency the President delivered on Tuesday, 30<sup>th</sup> November, 2021 and further that the Senate notes the following Reports.

Mr. Speaker, Sir, let me start by thanking H.E. the President for executing his constitutional mandate in giving this critical Report.

We all listened to that address that covered various areas of importance, right from the economic, social, cultural and historical. It was giving progression of issues that have come up, most recent of which has been the COVID-19 pandemic and how we have handled it.

Mr. Speaker, Sir, this is a problem that touched the whole world. It brought out the resilience of Kenyans and the need to be able to quickly pick up our situation in our pieces, progress and soar to greater heights.

We listened to the 8<sup>th</sup> State of the Nation that was given by His Excellency (H.E), but also received various key reports. There was the 8<sup>th</sup> Annual Report 2020 on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance.

Probably one of the most important Articles in our Constitution, 2010 is Article 10 that gives very specific principles that should guide us. These are the principles of equality, clarity and exposition, transparency and ensuring everybody is brought on board.

In many situations, many countries have been able to proceed and grow because they have been able to inculcate these values and to put them place. You heard many times when the President said that without putting these values into operation it becomes very difficult. We have the hardware right, but we have to put the software right so that these principles can be put into operation.

We also received the 8<sup>th</sup> Annual Report on the progress made in fulfilling the International Obligations of the Republic of Kenya. Kenya is a signatory to many obligations, especially at the international level. This is in sync with keeping in touch with the changes that are taking place, for example, from various organizations, including International Parliamentary Union (IPU) and others. There also the various conventions and agreements that are being entered into for the way forward for our country.

We also had the Annual Report to Parliament on the State of National Security which is very important. This contextualizes the situation that we are in and how we can progress.

We have had mixed fortunes that have ravished our country, but these has given us an opportunity to serve this country and that we can use any capacity and bring it to

action. He also stated that it has taught him to have empathy, that both sides of the Parliamentary divide and political opinions need to be brought on to the fore.

We are multi-cultural, very diverse society. Many countries have used multi-linguicism and multi-culturalism as impetus for their own development. Through these lessons we are able to build ourselves and to contribute to various ideologies. It has also enable us to be able to place ourselves in a situation where we are able to push ourselves to the next level. Without this, it makes it very complicated and difficult for us to plunge further.

The issue of the pandemic was addressed at various points. We are not yet out of the woods, especially now with Omicron which is a new variant that is coming. When we went for the Kenya Private Sector Alliance (KEPSA) conference, we got a chance expound on how innovative and resilient our people were. This was so when it came to cash transfers that were given to various Kenyans and innovation. There was the company in Kilifi that was able to begin to make stringers and many other innovations that came up.

Within this Senate, we were able to come up with our own Covid-19 Response Committee that made very many recommendations. We engaged with various stakeholders; just trying to find ways and means. I remember we came up with lots of financial social, cultural impetus.

We even looked at Gender Based Violence (GBV). That was coming up as a result of some of the homes being constrained within a pattern of space. The issue and how it needed to be handled needed to be addressed.

Mr. Speaker, Sir, various issues came out. We have, for example, the company, Revital Healthcare EPZ LTD that exported over 70 million COVID-19 vaccine stringers to over 20 countries globally. That gave us a chance to shine as a country. That made us be able to find a way to fill the stock gap by coming up with almost 2 billion stringers a year. These were able to be infused within the country and to be used. It became clear that was one important component that needed to be sorted and were able to do that almost immediately.

Another company also Hela Clothing EPZ, a global apparel marketing company had a strategy of producing clothes. We all got used to the masks pretty quickly, but the Personal Protecting Equipment (PPE) were even scary at the beginning. We remember the first instances when COVID-19 began and we would find people with PPEs. We quickly began to get used to them and their production, especially locally, became very important.

Hela Clothing EPZ was able to bring this onto the fore. We have, for example, the collaboration with World Health Organization (WHO) and the requirements of face masks which were increased over time.

Through the disaster, we got opportunities to be able to further look at the issue of COVID-19 and some of the issues that we could a bring to the fore to continue addressing this issue. It helps us therefore to open up and save our economy proceed in a very logical and informative way.

I appreciate the Ministry of Education because there was no information lacuna. Right from the beginning, there were press statements being made from time to time

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indicating what was expected how the rates of infection were going, what to be avoided and the issue of face masks.

Curfews initially were difficult. However, now looking back, probably that was one of the actions that saved this country. Through the curfews, people were able to be contained and to be in the right places at the right time.

This was also added by H.E the President that despite the curfew now having been removed, we are not yet out of the woods. We need to continue practicing those practices that are needed such as using sanitizer, face masks and other measures as part of something which is needed.

There was the issue of the first stimulus package. It was announced that they gave interventions that added into taxes. For example, there was the Kshs176 billion that was given by the Exchequer and various tax measures were put into place. There was the immediate reduction of Value Added Tax (VAT), for example, from 16 per cent to 14 per cent, 100 per cent tax relief, reduction of Pay as You Earn (PAYE) from 30-25 per cent, therefore, reducing the load of expectations of taxes from Kenyans.

There was the lowering of cash reserve ratio from 4.25 - 5.22 per cent. The Central Bank of Kenya (CBK) also provided flexibility to banks with regards to requirements and loan application. Some loans were readjusted so that people would cope. There was temporary suspension of listing from Credit Reference Bureaus (CRB). These among others just gave the financial aspect of things that were read out by H.E the President in terms of how financial issues were addressed and put into place.

One of the issues that has come as a result of this and we have seen it being advertised everywhere, is “Buy Kenya Build Kenya” just as a policy. This is one very important way as we manufacture and continue to industrialize.

When you leave the country travel around you found so many of our items. These include coffee, tea, *leso*, the *kitenge* and the *kiondoo* which are out there. The other time we talked about the need to patent and more importantly, the need to identify with these.

For a long time, many people in many programmes, especially in the textile area have been saying, “let us produce what is ours, market and use it effectively.” More important, even when it comes to tourist packages, we need to be able to do that.

In this report, this programme also increased gainful engagement on employment to over 750,000 youths who were engaged in improvements on environment, hygiene and on various issues that are very key.

Mr. Speaker, Sir, one of the issues that has ravaged this country and other developing countries, as we know, is the issue of unemployment; the need for our young Kenyans to be able to be gainfully employed. One way we can actually increase employment over time and keep everybody on toes is through this particular initiative of Buy Kenya Build Kenya.

Mr. Speaker, Sir, the other which is very critical is the whole sector of enterprises; may they be small, medium or micro enterprises. We need to infuse money into the businesses to enable them to grow. We are an industrialising country. We are not there yet, but through efforts that are made in terms of this sector, then we are able to really grow.

In fact, the bulk of the Jua Kali industry is actually the Small and Medium Enterprises (SME). What most of the SME need is an injection of money. That needs to be put into place. In this case, this money was injected about Kshs5 billion as seed capital to SME credit guarantee schemes. By doing this, we are able to intervene and provide affordable credit to micro and macro industries. This will enable them to progress and move issues to the next point.

Mr. Speaker, Sir, another issue which was touched on is the issue of Universal Health Coverage (UHC). Today on our Order Paper, we have in place for us to look at the National Hospital Insurance Fund (NHIF) Amendment which really again addresses the whole issue of how do you bring the health concerns of a society into consideration.

You know that health for a long time has not been affordable for everybody. We were also highlighted the Linda Mama Initiative that has come out very noble. We know as a population, we are almost now moving to the projection that has been given for 2031 is 60 million Kenyans. These are young people who will be born. They need to be nurtured and well taken care of. So an initiative that looks at how to put these health concerns into place becomes very critical.

Mr. Speaker, Sir, scholars over time have put the comparison and the correlation between development, infrastructure, industrialisation and health concerns. Any inequality, be it health or education, then creates a lacuna for that particular development. So, specifically with UHC, that gives us a chance to be able to move forward.

The administration prioritised Kshs3 billion for the supply of farm inputs. This was specifically towards to ensuring that, for example, the small scale farmers are able to raise better produce. Through that they will be able to be part of this UHC which becomes very critical.

Mr. Speaker, Sir, it is important for us to look at the amendment and put the health coverage into place. We need to make sure that through some sort of coverage, people can give some money and be covered through an insurance cover. That becomes very important for us.

Mr. Speaker, Sir, tourism was another sixth area which was targeted for stimulus programme. This helps to jumpstart this important sector and put players that were actually able to ensure that stimulus programme in tourism allows for tourism to continue to progress, especially during the COVID-19 time.

Mr. Speaker, Sir, at the coast, I remember the Cabinet Secretary, Hon. Balala, sometime back came up with a domestic cover and policy that allows for domestic tourism. I think that has changed completely. Through such impetuous programmes, it has enabled us to have a tourism sector that is flourishing and able to really expand. That became very critical.

As much as we moved to domestic tourism, those interested in international tourism- This has cushioned many hotels have been able to stay afloat because of such stimulus targeted programmes, that were able to add a total of Kshs2 billion, that was supplied towards renovation of these facilities and restructuring the businesses. I think it was important to listen to the efforts that had been made. Through listening, it gave a very good insight of what has been happening.

Mr. Speaker, Sir, I hope you will add me some time because my light is on. Kindly, could you invoke standing Order No.1, just to allow me cover a little bit of more area?

**The Speaker** (Hon. Lusaka): How many minutes do you need?

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, about 10 more minutes.

**The Speaker** (Hon. Lusaka): Okay, proceed.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. So when it comes to tourism that is very critical.

Again the other issue, which has been really an issue across the board is the issue of climate change. When the Vice President, Al Gore, started speaking about climate change, many people thought about it as being farfetched. We did not think that we would get to a time when we can actually see the ravages of climate change. Now we are. The weather pattern has been completely affected across the board. People do not know really when it will rain. The traditional weather patterns have changed. Drought in many areas. So it was very important for the administration to have gone into place to rehabilitate wells, to look at water pans and to look at Arid and Semi-Arid Areas (ASALs) and how this can be helped.

A total of Kshs2.5 billion for flood control was also injected campaigning for the Green Kenya Campaign, which really involves planting of more trees, improving the tree cover across the country so that, at the end of the day, it becomes very imperative. It is through that same rain and water and trees that we can actually enhance the weather patterns. I know as Kenyans we have engaged very stringently in the issues of climate change. The policies which are coming out as a result of this, really need to be put into place so that at the end of the day we are able to really look at this in total.

The Gross Domestic Product (GDP), as we know, is always a driver. It is very key and important to address the GDP of a country. Recording an increase of 10.1 per cent. I listen to Sen. Were when she was making her submissions. That was very good. This is a double digit growth that we hoped it would to come. Maybe to just go into ramifications and ways of ensuring trickle down of the same.

He talked about money in the pocket. Yes we have a double digit GDP which is fantastic, it raises our profile as a country. Somehow along the line, probably the growth of these medium and small and micro and micro enterprises would help in the long run to get us to a place where this economy can grow and be felt more and more within the households and the various sectors. At the end of the day, this trajectory can actually be across the board.

Again we have the third stimulus package which focus on key productive and service sectors across the board; agriculture, health, education, drought response policy. All these really addressing the key issues and the projection for this first term intervention and the second term intervention, for example, into the sugar sector which is again is a sector really relied on in western Kenya are very important. The third intervention was on coffee.

Mr. Speaker, Sir, the third intervention was on coffee. You will realise that over time, we are trying as much as possible to really take it to the agricultural sector because

80 per cent of our income through agriculture. We need to take care of the livestock sector.

Mr. Speaker, Sir, over time, we have come up with a lot of legislation in this House to show that these products are well catered for; right from production to manufacturing to the market and finally the utilization. If that does not happen, it really creates a problem. Therefore, we have initiated in this House and debated The Tea Bill, The Coffee Bill, The Coconut Plant Bill from the coast - very critical. This is because the coconut plant is used for so many uses. This is really an economic hinge in this particular region.

Mr. Speaker, Sir, the sixth intervention was in education where we have 100 per cent transition. Competence Based Curriculum (CBC) is targeting competence. Moving from qualifications and giving people skills so that they can use various based competences apart from the educational attainment.

Mr. Speaker, Sir, I sit in the Committee on Education and we have engaged broadly in discussions about the CBC to find out what is happening. The issue of transition and where the pupils go, for example, after grade six is now being addressed. They will move into secondary school. The shift of change that is being felt.

Over time, some of these competencies are gauged to have a very high correlation with development. There are key competencies of critical thinking of development and analysis which our children need to capture. Such competencies can catapult them further.

The Ministry of Education has been continuously engaging on how to improve. We have raised many question on the Floor of this House. Some of them have gone to the Ministry and we have been able to get feedback. Now, they feel that as they proceed to Grade Six, they will make important and beneficial changes.

Mr. Speaker, Sir, without construction of classrooms, this cannot happen. Construction of classrooms should commence in early December, 2021 which is about this time. The first issue was what to do with the classes that are already at the lower primary level and how to handle them. Many feel that we can keep the pre-unit classes, both grades one, two and six. The other two can just move to the secondary level. This is what will necessitate building more classrooms, not forgetting the 100 per cent transition rate. That means the initial pointer to transition that we had has been removed.

This levels very well with the more advanced countries like the United Kingdom (UK) and Switzerland where there is equal opportunity. You will not be left out because you cannot pay fees for your transition. What will be key for us in this country, is that as we identify the key competencies and gauge them. We should also be able to support those who move to the secondary level and still build on those key competencies. From there, they can then be groomed in such a way that they can bring about massive development.

Mr. Speaker, Sir, The other key intervention is about health and health coverage, which I have already touched on. A total of Kshs3.2 billion was put into the construction of medical facilities. There is need to ensure that people have better health.

The eight intervention was the sanitation programme. The national programme, which included Kazi Mtaani addresses the need to cover, especially the youth. We say

that they are the future of tomorrow, but these days we say that they are the future of now. We are educating them and there is no need to focus so much on formal education, but also move to Technical and Vocational Education and Training (TVET).

Mr. Speaker, Sir, the TVET Bill is on the Order Paper today, pushing for the agenda of both technical and vocational training. Such training will instill into people skills that they can use. There are certain countries that have now expanded because, they have bloomed this sector. The bulk of our workforce that goes out - apart from white collar jobs and qualifications - are mainly skilled in technical areas. The TVET is important in enhancing thinking through facilities, how people put things into place and how they can progress and push their agenda.

We would not have got where we are without the National Vaccination Plan (NVP) across the board. Approximately 16 million people have been covered and so many others still need to be covered.

As I end, there is need for continuous Kenya Revenue Authority (KRA) to continue bringing in taxes as projected. In 2020, Kshs1.52 trillion was projected to be collected. This is what should trickle down and service various key sectors.

I see my time is up and just to sum up, I support you in giving thanks to this particular report. As Kenya continues to develop, we have the policy plan, blue print and the way forward. As the President said, there is no reason why we cannot be Singapore, Malaysia or the Asian Tigers that have made this progression. They actually copied and implemented our Sessional Development Plan (SDP). We are getting where we can identify and tie up the gaps. We look forward to reaching the progress that we so seek to find. As we admire where the Asian Tigers are, we are also moving to get there as a country.

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

**Sen. Wako:** Thank you, Mr. Speaker, Sir, for this opportunity to make my contribution to the very detailed Presidential Address given two days ago. I commend H.E. the President for the excellent Address that he gave on the State of the nation. He gave a detailed brief on what his Government has done yearly in the past eight years.

From the various statics given in various areas of economic development, one can see that the achievement has been great. It has been great to the extent that the Gross Domestic Product (GDP) has multiplied by a factor of two plus from Kshs4.74 to Kshs11 trillion. This is to the extent where we are now the sixth wealthiest nation in Africa. We were position 12 before the President took over. That is really an achievement to the extent where we are the leading country in Africa, with household connections to electricity. In fact, that has tripled to 6.3 million households.

Mr. Speaker, Sir, the President outlined various interventions done by his Government. In fact, well over about 17 major interventions have been done in various areas, including agriculture. I noticed that the intervention in coffee and tea was focused on the reform of this industry. Tea farmers now expect to get record money from their production.

In the sugar industry, there have not been so many reforms, but basically, the money given was for factory maintenance and payment of farmers. I hope that the Uhuru



and next Government will focus more and appropriately to reforming the sugar industry. Many people in western and coastal regions depend on this industry.

Mr. Speaker, Sir, these major developments have come at a cost, particularly in the infrastructural developments. I believe that the Uhuru Government will be seen to have contributed in a very transformative way to the infrastructure of this country.

The railway was built at the turn of the other century, and now we have under President Uhuru Government the Standard Gauge Railway (SGR) and so on.

This has also been at a cost and that is why one can say that the foreign debt, which is very high and reached record levels is a problem that has to be dealt with. I would have liked to know to hear a bit more on what President Uhuru's Government is proposing or doing to reduce the foreign debt structure. I would also like to hear more from our various presidential candidates what they will be doing to reduce the foreign debt.

The President also mentioned some very good examples on how some county governments have made use of the little they have had. He highlighted Makueni and Kajiado particularly. He highlighted Makueni for the Universal Health Care Insurance known as Makueni Care and also for starting mango processing, where farmers are now getting Kshs15 for a mango, up from Kshs5. These examples of Kajiado and Makueni counties are what we want to see in every county in this country.

The county governments should not just be there to receive the little they get from the national Government. They should be proactive in ensuring that within their own counties, there is enough development not only in agriculture, but also in other areas, so that the internally raised revenue can even beat what they get from the national Government. That can lead to greater development of the counties. If all counties did so, it will lead to the greater development of the country as a whole.

I would like the county governments to emulate the examples given of Makueni and Kajiado counties, which came with a novel way of distributing food to the hungry, called the *Riziki* system. If we have to proceed along this trajectory, and I could see here that the President was and is very ambitious for the good of this country. He has engaged in very many programmes to accelerate growth. He has given the Asian Tigers as an example that we should follow; not to follow the European example, where they took more than a century or two to be industrialized.

We are following the example of the Asian Tigers, and we can also have African Tigers. In order to achieve that, the President is on the right track. However, let us also remember that the Asian Tigers reached where they are because, one, they are very cohesive and united in their politics. Kenya is sort of divided in its politics to some extent.

Most critically, they also did not tolerate corruption from the very beginning. The clearest example of this is - and I am mentioning this example of corruption and other issues because according to Article 132 of the Constitution of Kenya, 2010 under which the President was giving this State Address--- Once every year, he has to submit a report to the National Assembly on the various issues raised, including in that report, all the measures taken and the progress achieved in the realization of the national values referred to under Article 10.

Under Article 10 of the Constitution, particularly if you refer to Article 10(2) (a) and (c), the national values and principles of governance; good governance, integrity, transparency and accountability.

I would have liked to hear from the President that as we embark to emulate and if possible, surpass the Asian Tigers. He has laid the foundation for that in infrastructure and in many projects that his Government has undertaken.

What has he done to deal with the issue of corruption, particularly when hear that quite a bit of the money that is budgeted for, according to the Auditor-General, he said that they budget for corruption money inside there. At least one third goes to the pockets of the officials and at least Kshs2 billion is lost every month or so is lost to the pockets of individuals. What is he doing and what has he done? I would have liked to hear more of that.

On that, with your permission, I would like to quote Singapore because of the Asian Tigers, I think it is closer to us because at the very beginning they also faced the issues of ethnicity amongst the people of Chinese origin, Malay origin and Asiatic origin. There were communal fights and many people died, but Lee Kuan Yew was able to deal with that issue and then turned to the issue of corruption. Without going into very much, I would like to read what Lee Kuan Yew said. He said many things about corruption, but let me just make one quotation.

“It is clear to me that for a nation to beat corruption and build a just society, the cleansing has to start at the very top.”

In his speech for the Africa Leadership Forum in Singapore on 8<sup>th</sup> November, 1993 he stated and I quote:

“Once a political system has been corrupted right from the top leaders to the lowest ranks of the bureaucracy, the problem is very complicated. The cleansing and disinfecting has to start from the top and go downwards in a thorough and systematic way. It is a long and laborious process that can be carried out only by a very strong group of leaders, with the strength and moral authority derived from unquestionable integrity. Leaders must have a sense of trusteeship. Therefore, the government has to be honest, effective and efficient and these leaders must be leaders of quality, discipline and stamina.”

Mr. Speaker Sir, as we are in a transition period, we are now talking about leaders after 2022. I would like the electorate in Kenya to have these qualities in mind when they are casting their weapon of the vote. The people of Kenya should vote for these type of leaders that Lee Kwan Yew advised if we have to tackle the issue of corruption and if we are to have a society, which is cohesive.

I believe I was in the Building Bridges Initiative (BBI) for a reason. I therefore request that you let me talk slightly about it. The President did mention it under the heading of political stabilization. Today is 2<sup>nd</sup> December 2021, and I do recollect that on 3<sup>rd</sup> December 1991, I was the Attorney-General of the Republic of Kenya. I moved a constitutional amendment to delete Section 2(a) of the then Constitution which provided for the Kenya African National Union (KANU) party being the only political party in the country. I moved the amendment in Parliament on 3<sup>rd</sup> December 1991. It will be 30 years tomorrow since I moved the amendment to Section 2(a) of the then Constitution.

Mr. Speaker Sir, 30 years since I moved that. It is about 30 years ago and by then, I was already old enough.

*(Laughter)*

We moved the amendment to make Kenya as a multi-party democratic State. The hope of the people was that if we became a democratic State; a multi-party State with freedom of expression, the rule of law, transparency and accountability in leadership, we would begin a second liberation as they called it.

We now have a Constitution that was promulgated on the 27<sup>th</sup> August 2010, when I was still the Attorney-General. The hope then seems to have gone down, but is now being ignited again by President Uhuru by giving us a focus of how the country should now move. I believe that is why President Uhuru and the former Prime Minister, Hon. Raila Odinga, did the 'Handshake'.

Mr. Speaker, Sir, I believe that the 'handshake' was done with very genuine intentions for this country. It was not done to promote the political development of one person. It was not done just to distribute jobs to the boys. It was done for the good of this country and if you read the first report of the BBI, you will then see that all these things we talked about economic revolution is what is required in this country. By the way, we talked about bottoms-up in that report, so these are not new ideas. These are ideas that emanated from the BBI.

I agree with His Excellency the President when he said that he hopes that the ideas contained in that report should be carried out in one way or another. I do hope that whoever is elected as the President or whomever is a Presidential candidate should commit themselves to implementing the noble objectives and the recommendations of constitutional legislative, administrative and policy recommendations that are contained in the BBI report, or at least most of them. I believe that the implementation will go a long way in making Kenya a cohesive society in which each and every person in Kenya will feel that he belongs and that he also benefits equally from the fruits of his labor in this country.

Let me also touch on two issues, which nobody has raised here. I request that you give me a little more time to finalize my contribution if my time elapses.

**The Speaker** (Hon. Lusaka): Sen. Wako, I will give you five more minutes

**Sen. Wako:** How much?

**The Speaker** (Hon. Lusaka): Five more minutes.

**Sen. Wako:** Sen. (Dr.) Zani, who is a junior Senator got 15 minutes!

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

*(Laughter)*

**Sen. Wako:** Senator number one should be given more opportunity to speak.

One, is the issue on regional development. In the report, you will see that some of the developments that have taken place around the border. For example, the Big Push Investment in the Port of Kisumu. This investment in the port will be beneficial quite a lot in transporting oil and other goods to Uganda. It is quoted that a consignment from

Kisumu to Port Bell in Uganda takes 12 hours, but if the same has to go by road, it will take 72 hours.

Mr. Speaker Sir, it is stated that a ship can load four times as much as can be loaded on a trailer or truck going to Uganda. The shipment has really improved because of the Big Push Investment in Kisumu. It takes 72 hours by road because of the congestion at the Busia and Malaba border. Whereas in the hinterland, the infrastructure has been done well. This infrastructure has caused more vehicles, transporters and trailers to go by road and they have to pass through either Busia or Malaba. The border points have not been restructured to take care of the increased load. I am calling for further investment in Busia and Malaba. I am calling for further investment on the infrastructure of the roads in Busia County

Mr. Speaker, Sir, there is one road from Malaba to Busia, another road from Nambale to Matayos to Sio Port and to Port Victoria through Funyula. We have been talking about it for a long time. The former President, H.E Mwai Kibak came there and ordered it to be done because of the insecurity at the border but that has not been done to date. We have so much development going on in other areas, but Busia is missing out. I am talking about this because it is so important. The importance of regional cooperation has been highlighted from paragraphs 300 to 308 where the President spoke about the African unity and the need for greater intervention and consolidation in East Africa and that movements are going on in this regard. That is why I appeal to the Powers and Privileges Committee that, in view of this major development, which the President referred to in his Speech, the Senate should not be left out of the discussions on development. I, therefore, take this Floor to appeal to you to consider that issue about Committee on East Africa and Regional Cooperation.

Mr. Speaker Sir, the last one because you have just given me a short time, we have been concerned about the militarization of the Government. It is true that the military has made a positive impact on the various places where they have been involved. Examples have been given of the Kenya Meat Commission (KMC), which has turned around. I know because I was in Government. We tried it during President Moi's Government, but KMC did not work. We again also tried in President Kibaki's Government with hon. Munyao as Minister for Livestock and Development. It just worked for a few months and then it again died.

However, with the military, within a few months, the KMC has already been turned around. Farmers are now being paid within 72 hours instead of waiting for four years. The collections have improved from Kshs8,000 per day to Kshs1 million per day and so on. Therefore, something has happened.

Mr. Speaker Sir, the military has also been instrumental in revamping the railway gauge from Nairobi to Nanyuki and from Nairobi to Kisumu. We have seen what the military is doing with the Nairobi Metropolitan Services in Nairobi. For example, they have built 15 fully-fledged health centers within the metropolis and free 1,600 water points in the informal settlement areas and so on.

There is no doubt at all with the military but the issue is, why have the military succeeded where civilians, elected leaders, civil servants and people appointed to this post have failed? That to me is the issue which we really have to address. We should now start addressing why we have failed and the military are succeeding rather than involving the military.

We do not want a situation like that of the proverbial camel to arise. I just want my eyes to enter the tent and then my head. I just want my stomach and then one is kicked out of the tent as the camel moves in. We do not want that situation to arise in future. We should start thinking now. What can we do to bring discipline into our civil society, civil servants, public service and so on?

What can we do to ensure that the public and civil servants think more of the country and not that it is now our time to eat when they are on the job?

Mr. Speaker, Sir, to just summarize now, the issue of political stabilization, which was referred to is key because of the ethnic clashes that we have had in the past. For example, we have figures in this Address that in 2007 clashes, we lost close to Kshs1 billion every working hour for the 123 days. Then the economy lost Kshs1 billion. You can imagine the economy losing Kshs1 billion. If the economy loses Kshs1 billion because of fighting, another Kshs1 billion because of corruption, what can the balance of Kshs1 billion do apart from paying the wages and very little will go towards development?

Therefore, it beholds us to follow very closely what President Uhuru Muigai Kenyatta Government has laid down. Let us have somebody who can carry out that legacy and now address some of the points and the issues that have arisen as outlined in my submission.

With that, I wish to once again thank President Uhuru Kenyatta for the very informative Address that he gave us. In spite of all the problems that we have had; Corona Virus Disease 2019 (COVID-19), drought and clashes, it really shows that his eyes have been on the ball and he has brought a lot of development in this country.

I thank you, for giving me the extra five minutes.

**The Speaker** (Hon. Lusaka): We need to conclude  
Proceed, Sen. Madzayo.

**Sen. Madzayo:** Asante, Bw. Spika. Shukran sana kwa kunipatia nafasi ili nichangie Hotuba Rais alitoa kwa Taifa kuhusu maendeleo ambayo Serikali yake imefanya kufikia hivi sasa na yale matarajio ambayo anafikiria anaweza kuyafanya kwa hii miezi tisa au kumi iliyobaki kama Rais wa Jamhuri ya Kenya.

Hatuwezi kusema kwamba asilimia, Rais wa Jamhuri ya Kenya Uhuru Muigai Kenyatta amefaulu. Hapana! Yeye kama kiongozi wa kisiasa pia ana makosa yake. Kuna pia unyonge wake mahali fulani. Kwa hivyo, tunasema kwamba alijaribu na hivi sasa amejaribu na atajaribu. Mengine yatakuwa mazuri na mengine hayatafaa.

Jambo la kwanza ambalo ningependa kuongea juu yake ni kwamba katika Hotuba ya Rais, ni vyema aliongea habari ya Lamu *Port*. Lakini katika kuongea hayo mambo ya Lamu *Port*, kama vile Kenya Ports Authority (KPA) Mombasa,

tunasema kwamba angeweke mkazo zaidi ya kwamba wale vijana wa Lamu ambao tangu tupate uhuru mpaka hivi sasa, kusema ukweli ni kwamba, wengi wa vijana wa Lamu hawajapata ajira.

Nafasi ile ya Lamu *Port*, yeye kama Rais angeweza kutoa ishara ikiwa kama kuna kazi zozote kama za mikono ama za aina yoyote, zile ambazo si lazima watu waende skuli wapate, zingepewa vijana wa kutoka eneo lile la Lamu na pia kuona kwamba ikiwa zingine zitapatikana, basi zipewe Wakenya na hususan watu wanaotoka katika maeneo ya pwani.

Vilevile biashara zinazotendeka katika maeneo yale ya kule *Port*, nafasi hizo zipewe wale watu ambao wanaishi katika sehemu hizo. Ni jambo la kusikitisha hivi leo tukiona ya kwamba kazi hizo zimepewa watu wengine ila si wale watu wa kutoka Lamu ama pwani.

Bw. Spika, jambo la pili ni mabadiliko ya mazingira katika ulimwengu. Rais alienda kule na kushiriki katika mazungumzo ya Kongamano hilo na hayo pia aliweza kuyataja. Lakini kusema na kutenda ni vitu tofauti. Rais hakuweza kutenda. Hakuweka mipango na mikakati ya kisawasawa kuona kwamba maeneo yale ambayo yana janga la ukame---. Kuna maeneo mengi sana katika Kenya ambayo yamekumbwa na janga la ukame. Pengine kama mvua ikinyesha huwa inajaza maziwa na nyumba huharibika. Lakini nikiguzia upande wa pwani ni kwamba hatuna mafuriko yale ya ajabu lakini tuko na njaa. Mifugo hufa njaa ikikamilika. Na sio katika Kilifi pekee, bali katika maeneo ya *semi-arid*, ambayo huwa upande wa magharibi ama upande ule wa kaskazini nchini Kenya, huwa na janga kubwa sana. Katika maeneo hayo, mifugo wanakufa.

Ukiangalia hususan ndani ya Kaunti ya Kilifi, kuna maeneo bunge matatu ambayo ni Ganze, Kaloleni na Magarini. Janga hili la njaa na ukame limeathiri watu na mifugo katika maeneo hayo matatu ya Bunge kwa kusababisha vifo kadhaa. Watu wameketi kama ambao si wa Kenya.

Rais hakuweza kutamka na kusema ni njia gani ambayo Serikali itafanya kuona ya kwamba kila mwaka, ikiwa watu wanaweza kupoteza maisha, mifugo, biashara kuharibika na watu kufa kwa sababu ya janga la njaa, ni njia gani mbadala ambayo Rais ameiweka ambayo itaweza kusaidia sasa na hata siku za usoni kuona ya kwamba Kenya haikumbwi tena na janga la njaa. Hivi sasa, janga la njaa linaanza kuisha kwa sababu mvua imaeanza kunyesha, lakini je baada ya hii mvua kuisha, mwaka ujao tutakua na hili janga tena? Hilo ndilo swala kubwa.

Bw. Spika, maoni yangu ni kwamba, Rais angekuwa na mikakati mbadala ya kusuluhisha tatizo la janga la njaa inayosababisha vifo vya mifugo na binadamu. Wakenya wana njaa ilhali Katiba inasema ya kwamba ni lazima watu wapate chakula ndani ya Kenya. Hapo Mhe. Rais hakufanya vyema.

Vile vile ilikuwa inatakikana Rais afafanue matatizo yanayowakumba Wakenya katika sehemu tofauti tofauti. Katika maeneo ya pwani ama maeneo ya kaskazini mashariki, familia nyingi zina huzuni kwa sababu ya watu wanashikwa kiholela. Tumesema hapa mara kwa mara kwamba wanaoshikwa ni vijana wengi wa dini ya Kiislamu. Ijapokuwa watu wengine wanashikwa pia, waliozidi ni hawa wa dini ya Kiislamu. Hatuwezi kujua ni kwa sababu gani.

Jambo la kusikitisha ni kwamba wakishikwa, hawapelekwi kotini, wanauawa kiholela. Baadaye tunapata familia zinalia na hatuelezwi ni sababu gani familia zimekosa watu ndani ya nyumba. Tukiangalia kwa kina, tunaona kwamba wengi wamepoteza maisha yao katika mikono ya polisi. Kila mara tunaambiwa waliouawa walikuwa wanaume au wavulana ambao walikuwa wanaenda kujiunga na kikundi haramu cha Al Shabaab.

Bw. Spika, lazima tuzingatie sheria zetu za Kenya. Mtu amaposhikwa na polisi ni sharti apelekwe ndani ya korti. Rais wetu hakuweza kutamka mikakati ambayo ameweka kisawa sawa ya kwamba ataongea na Wizara ambayo inahuska, ili kutetea maisha ya hawa vijana ambao huwa wanapotea kutoka kwa manyumba. Tumechoka!

Ikiwa watu wa Pwani watakua wakizika watu kila siku; mtu akipotea, mwili wake unapatikana baadaye katika kichaka fulani au mwili haupatikani kabisa, huleta majonzi katika familia nyingi. Ilikua muhimu Rais mwenyewe kutamka njia mbadala ambayo ameweka mbele ili kusitisha kupotea kwa maisha ya vijana hao wa Kiislamu. Ama hakutakua na watu kupotezwa bila kuonekana. Jambo hilo limeleta majonzi.

Hutuwezi tukajua mtu amepotezwa au amepelekwa wapi. Tunazungumzia wapendwa waliozaliwa katika familia tofauti, wako na mama na baba zao, ndungu na marafiki zao ambao wanawapenda sana. Lakini utaona ya kwamba mtu akipotea katika familia hatuwezi kujua siku moja atakuja. Hatuwezi kujua kama tufanye ile kimila ya mtu aliyekufa au la. Hatuwezi kujua kama ameenda na hatutamuona tena. Inakua hofu na balaa katika familia. Kwa hivyo, Rais angeingilia kati na kuambia wale askari wawache tabia kama hizo ama wasifanye vitu kama hivyo kwa sababu ni kunyume na sharia za binaadamu.

Bw. Spika, katika ujenzi wa barabara, Kaunti ya Kilifi ni vyema tumeweza kupata barabara. Tumepata barabara na namsifu Rais. Hapo alijiariibu kwa sababu tuko na barabara. Ukitoka Nairobi unaweza kupitia Salaget ukaingia Malindi. Unaweza kupitia Mariakani ukaingia Mavueni ukafika Kilifi. Ukitoka Mombasa unaweza kupita Kilifi ukapita mpaka Malindi, Magarini na ukaenda mpaka Lamu na kutakua na lami. Lakini wasifikirie tu kutengeza hizi barabara kwa upande wa utalii. Wafikirie kwamba kuna wenyeji wanaoishi katika maeneo ya pwani.

Barabara zilizotengenezwa ni zile kubwa ambazo zinaweza kusaidia katika sekta ya utalii, haziwafai sana wenyeji wanaoishi katika maeneo yale. Wafanyibiashara na wakulima ambao wanakuza matunda yao na bidhaa zinginezo zinazohitajika kufika soko ya marikiti kwa haraka wanaumia. Bidhaa za wakulima hao vikifika soko ya Marikiti kwa haraka, wataweza kupata bei kwa sababu bado vitakua bado viko freshi.

Kwa sasa, barabara zinatengenezwa kwa sababu *tuna target* ama nia yetu ni kusaidia watalii kufika Malindi na kuenda *beach*. Kwa sasa barabara hizo haziwasaidii wenyeji kufanya biashara zao na hio si sawa. Angeweka mikakati ya kisawa sawa kuona ya kwamba watu wote wanaoishi katika maeno ya pwani wamepata baarabara zao kisawa sawa.

Bw. Spika, Mhe. Rais, katika Hotuba yake ya Kitaifa hakugusia janga la ufisadi; alilikwepa jambo hilo. Hapo naona Mhe. Rais alipata asilimia sufuri. Hakujaribu kabisa. Janga la ufisadi alilikwepa na hilo ndilo janga ambalo limefanya nchi hii kubaki nyuma..

Sijui ni kwa nini mpaka sasa wale walioiiba pesa za Covid-19 mpaka sasa hawajachukuliwa hatua. Hili Bunge lilileta ripoti yake. Ripoti ikapelekwa namna hii namna hii ikawa vile ilivyokua lakini kuna ushahidi wazi kabisa ya kwamba pesa za Covid-19 ziliibiwa. Walioiiba wanajulikana wazi kabisa. Nampa kongole dadangu Senata Dullo na kamati yake maalum. Waliandika ripoti nzuri sana lakini ile ripoti yake mpaka hivi sasa hatua haijachukuliwa.

Janga la ufisadi sio ya pesa za Covid-19 peke yake, katika kila sekta ya Serikali, kuna ufisadi. Hatua ambayo Rais angechukua hivi sasa ni kuweka mpango mbadala ili nchi hii iwe huru na ufisadi. Lakini Rais alikwepa jambo la ufisadi kwa sababu anazojua yeye. Hivyo mimi nampa asilimia sufuri.

Bw. Spika, la mwisho ni jambo la uchumi samawati. Uchumi samawati unaweza kusaidia maeneo ya pwani na yale ya Ziwa Victoria. Uchumi samawati ni muhimu sana. Na hata vile alivyosema ya kwamba hata inchi moja ya Kenya hataiwachilia ni kwamba sisi tutakua na bahari kubwa sana. Ziwa letu liko pale na linatoa samaki. Lakini faida ya ule uchumi samawati mpaka sasa bado haujapatikana; uko duni sana. Ijapokuwa mipango imefanywa ya kisawa sawa, bado bidii inatakikana iwekwe na mipango kisawasawa iwekwe ili iweze kufaidi mkenya. Lakini hivi sasa ukiangalia uchumi samawati au *blue economy*, ilioko pwani, haijasaidia mpwani kwa lolote.

Saa zingine kule nyumbani tunasema pwani si Kenya. Na tuna sababu kwa nini tunasema hivyo. Ni kwa sababu mambo ambayo yanaweza kutengenezeka uchumi ndani ya pwani yamelegezwa kamba. Ni kwa sababu hizo watu wa pwani kila siku wanasema pwani si Kenya. Hivi sasa, mradi ulioanzishwa wa *Standard Gauge Railway (SGR)* ni shetani mkubwa maanake iliua uchumi wa Mombasa. Mombasa ni kiungo muhimu sana kwa watu wa pwani. Kutokea Lamu, Garissa, Isiolo na kila pahali.

Bandari ya Mombasa inawafaa watu wote wa pwani. Lakini ukiangalia uchumi samawati na bandari zimekufa. Ukienda Momabsa sasa hivi, utashanga sana kwani Mombasa si kama vile ilivyokuwa zamani. Ilikuwa *vibrant*, na wenye uchumi unaendelea kisawa sawa lakini kwa sababu ya SGR tumefanyiwa matusi makubwa sana na hata mipango ile ambayo Rais alikua ameweka ya kisawa sawa haifanani na vile inaweza kusaidia uchumi samawati.

Bw. Spika, la mwisho kabisa ni kwamba, yote haya tisa nimesema, la kumi ni kwamba, Hotuba ya Rais kidogo ilipeana moyo. Ilipeana moyo kwa Wakenya, kwamba, ijapokuwa yeye anaondoka katika miezi tisa ijayo, yale aliyoyafanya ni haya. Na---

**The Speaker** (Hon. Lusaka): Dakika moja tu; malizia.

**Sen. Madzayo:** Bw. Spika, tunasema ya kwamba, Hotuba yake ilikuwa kidogo iliweza kuweka mwelekeo, lakini kuna maeneo fulani ambayo itatakikana aweze kuyajaza yale matundu.

Lakini jambo la mwisho ni kwamba, yeye mwenyewe alisema ya kwamba, sisi kama Wakenya wakati atakapoenda, tuhakikishe ya kwamba, Rais wa Jamhuri ya Kenya wa tano atakayekuja ataweza kumaliza mambo haya na anayeweza kumaliza mambo si mwingine bali ni baba Raila Amollo Odinga.

Kwa hivyo, sisi tunasema ya kwamba, ikiwa yeye atakuwa, tuna imani ya kwamba ufisadi utaisha na kutakuwa na uchumi samawati. Kila kitu kitaelekea kisawa sawa.



Asante Bw. Spika.

**The Speaker** (Hon. Lusaka): Okay. Thank you Sen. Madzayo. I now call the mover to reply.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I wish to reply and I do not wish to take a lot of time. First, let me congratulate the President on his Speech, which was very informative. Clearly, he has outlined his journey from when he started politics up to the current situation, which was very important and I want to thank him for that.

Having said that and looking at the Speech of the President, especially with the Covid-19 situation in this country, our health facilities have been put to the test. Most of our health facilities were unable to cope with Covid-19 especially in the counties. Fortunately, there was a lot of money that was pumped into the counties by the Government to make sure that those facilities are up to standard. I wish the counties and the relevant institutions utilized that fund properly. We would have had better facilities in our counties and the country as we speak today.

Mr. Speaker, Sir, I want to say that, of course, in the county referral hospitals, a lot has been done but unfortunately, if you go to the rural areas especially in the health centres, the situation is still very bad. People are dying day in, day out as a result of Covid-19 because of lack of proper attention and yet this is the 21<sup>st</sup> century. Something needs to be done.

The issue of stimulus package during the time of Covid-19 that was mentioned by the President has helped a bit. Unfortunately, the situation is still very bad because there are so many people who have lost their jobs as a result of Covid-19 because businesses have gone down. I think as a country, we need to prepare ourselves for emergencies because as a country, every time we cannot declare emergency disasters when we get problems. Something needs to be done.

Mr. Speaker, Sir, Universal Health Services (UHS) was something that was very important that happened to this country, to help members of the public access health facilities and treatment in most of our hospitals. There were pilot projects for certain counties that took place which were eventually supposed to be rolled out to other counties, but unfortunately, if you look at the analysis or the evaluation that has been done, the impact of UHS has not been felt well in our counties. This is simply because we are not taking health care very seriously in this country because for the countries that were actually piloted the individuals who got the cards should be able to access all the health facilities but unfortunately, you can have that card but you are unable to access a health facility when you need that assistance.

I hope with the passing of National Hospital Insurance Fund Bill (NHIF) we will be able to take care of our patients or rather, our citizens and I wish to thank the initiators for actually coming up with that particular Bill. A lot has been done in the area of taxation, which has helped citizens to reduce the harshness of Covid-19 in this country. For those who are getting loans in this country that has actually helped a lot. However, I believe a lot needs to be done especially for those who have taken loans and yet they have no jobs up to now.

Mr. Speaker, Sir, people are losing jobs, their premises are being auctioned. There are a lot of challenges Kenyans are facing and we need to do something as a country. We

have been told that Kshs2.5 billion has been allocated to take care of the drought situation in the country. The situation in our counties is dire because animals are dying and people are actually living without water. People are dying from Covid-19 and lack of food. I do not know when as a country, we will be able to deal with the drought situation in this country. Year in, year out, we are singing about the drought situation in this country but unfortunately, we do not get it right. Something needs to be done.

If you go to some areas of northern Kenya today, you will find carcasses all over. People do not even have water, and you can imagine the rivers are flowing right now from Mt. Kenya all the way to northern part of Kenya and yet we cannot harvest that water as a country. If we are serious we should harvest that water. It should have helped during drought but unfortunately, we lack strategies to ensure that we harvest water when it rains.

Mr. Speaker, Sir, the issue of off take has not taken off very well. I am sure that is part of the programme for emergency intervention. Right now, animals are very skinny and dying. As a Government, we should have actually intervened to save the situation in the northern part of Kenya. The situation is still very bad.

Insecurity is also another area that we should have actually focussed on as a country. As I am speaking today, in my county even last week, three people were killed and you do not see the reason why people are killing each other. We have security agencies in those areas and we have discussed these issues severally with the Government. People are fighting over pasture, destroying boreholes and nothing is happening. The situation is actually very serious in the northern part of Kenya. We must contain the situation because people's lives are very important. We need to come up with strategies on how we can resolve the issue of inter county or inter clan conflicts in our counties.

Mr. Speaker, Sir, water is life. If you go to the northern part of Kenya, today despite the rains, for the last two weeks before the rains, animals were dying. People do not even get water to drink and this is the 21<sup>st</sup> Century. Budget is allocated for water at the national level, it is allocated to the county for water, especially sinking of boreholes and getting piped water, but the situation is still very bad in those counties. As a country, we need to come up with strategies to intervene. We should deal with the situation of lack of water when our mothers today in the 21<sup>st</sup> Century are still carrying water on their backs. It is unacceptable and I think the Ministry of Water and Irrigation needs to do something about that situation especially in the northern part of Kenya.

Mr. Speaker, Sir, a lot has been done with regard to infrastructure or the road network as the President enumerated, but we need to do a lot especially for my county where we only have one tarmacked road from 2013 to date.

The next one is the Isiolo-Modogashe Road, which we do not know how long it is going to take. We have several roads, especially Isiolo-Merti where we have a sub-county and the distance is over 200 kilometres. Accessing health facilities and food whenever there are emergencies is a problem.

As a country, we need to audit how to develop road networks. When you develop roads and establish road networks in our counties and the country, because it is part of development. There is improvement in security in those areas but we need to do more. I

am appealing to the Ministry of Roads for Isiolo County to do something for the Merti area that requires a road network.

I have seen a lot of improvement in electricity. We have seen mud houses benefit from the rural electrification program in our country. However, as far as implementation is concerned, it is slow. I am talking about electricity promises and the network that were supposed to be done especially in Eldonyiro, Isiolo and other areas that has taken over a year. I have seen schools in my county, especially Ngare Mara Secondary School that is still not connected with electricity, yet it is in the municipality and at the headquarters.

In conclusion, we need to do a lot about the youth of this country who are increasing in number. Most of them are into drugs and are unemployed, yet nothing is being done as far as they are concerned. I am appealing to the Government to have rehabilitation centres in the counties. If that was prioritized, it would save most of our youth in this country.

I beg to respond. Thank you.

**The Speaker** (Hon. Lusaka): Hon. Senators, this is not a matter concerning counties. I will, therefore, put the question.

*(Question put and agreed to)*

Next order.

## BILL

### *Second Reading*

#### THE NATIONAL HEALTH INSURANCE FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.21 OF 2021)

**Sen. Dullo:** Mr. Speaker, Sir, I beg to move that the National Health Insurance Fund (Amendment) Bill (National Assembly Bills No. 21 of 2021) be now Read a Second Time.

This is a straightforward Bill that seeks to amend---

**Sen. (Dr.) Zani:** On a point of order, Mr. Speaker, Sir.

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

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. This is a House of record. So that we do not have a problem with the Bill, we should move that the Bill be now Read a Second Time. That is what we do so that we are properly constituted in the context of this Bill.

**The Speaker** (Hon. Lusaka): Yes, make that correction for the record.

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

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

**Sen. Dullo:** Mr. Temporary Speaker, Sir, I thought the Clerk said that it is okay. I beg to move that the Bill is read a Second Time.

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The National Health Insurance Fund (Amendment) Bill (National Assembly Bills No. 21 of 2021) was published *vide* Kenya Gazette Notice No. 91 of 11<sup>th</sup> May 2021.

The purpose of the Bill and the proposal thereof is to amend the National Hospital Insurance Fund 1998 to establish a National Health Scheme, and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver the Universal Health Coverage.

Mr. Temporary Speaker, Sir, the overview of the Bill, as far as the amendment is concerned, Clause (1) of the Bill provides the Short Title, Clause 2 provides the Long Title and Clause 8 provides the sources of funds. Sources of funds include contributions by contributors, National and county government employees, self-employed and unemployed persons over the age of 18 years.

Clause 19 says that such monies may be appropriated by the national Government, gifts, grants and donations, funds from the national Government, county governments and retirement funds for provision of medical cover to retired employees.

Clause (9) provides that the fund is to be managed by the Board and consists of the Chairperson appointed by the President, Principal Secretary (PS) Ministry of Health and the PS for the time being responsible for matters Finance.

There is also one person nominated from each of the following: The Health Professionals Oversight Authority, the Federation of Kenya Employers (FKE), the Central Organization of Trade Unions (COTU), one person not being a governor nominated by the Council of Governors (COG). There are also two persons not being public officers appointed by the CS, and the Chief Executive Officer (CEO) who shall be *ex-officio* members of the Board.

Mr. Temporary Speaker, Sir, it states further the qualifications for the appointment of the COTU and CoG nominees. The CS is required to publish in the Kenya Gazette names of the persons nominated by the Kenya Professionals Oversight Authority and the person nominated by the FKE and COTU.

Clause (10) (b) mandates the Board in consultation with the CS to set up criteria for empowerment and contracting of the health care providers. In addition, under Paragraph (c) the Board is mandated to facilitate attainment of Universal Health Coverage with respect to health insurance, administer employee benefit to provide under the act on behalf of the employees in respect of the employees.

Clause (12) proposes to insert a new provision to empower the board to determine the contribution to be made by contributors to the Fund.

Clause 14 provides qualifications of the Chief Executive Officer (CEO). It is proposed that the person qualified for appointment as CEO to have at least a bachelor's degree from a university recognized in Kenya; at least 10 years' experience at senior management level with skills in health insurance, health financing, management, economic administration, law and business administration. He or she must meet the requirements of Chapter Six of the Constitution.

Clause 15 of the Bill proposes to insert a new Section 10(a) to provide for the appointment of a corporation secretary comply with the *mwongozo* code of conduct for that corporation.

Clause 18, the Bill requires that any person who has attained the age of 18 years and is not beneficiary, should register as a member of the fund.

Clause 19 of the Bill proposes the national Government and county government by contributors to respect their respective employees. It is proposed under paragraph (d) that the national Government and county government equally match the contribution of the employee.

Mr. Temporary Speaker, Sir, Clause 19 of the Bill also makes it mandatory for the employee and the self-employed persons and an unemployed person to make contribution to the scheme. In addition, the national Government, county government and the employer are also required to pay the matching contribution outlined above.

Clause 20 the Bill provides that a person liable to pay a matching contribution shall pay such contribution in their capacity as an employer and shall not deduct such contribution from the salary or the remuneration of the employee.

Mr. Temporary Speaker, Sir, Clause 21 of the Bill provides that delay in remittance of the standard and matching contribution shall incur a penalty equal to the Central Bank of Kenya lending rate of interest. However, state agencies are expected for the penalty in the case where the delay was as a result of late Exchequer release by the National Treasury or delay in disbursement of funds appropriated by the National Assembly. I think this will help a lot because there is so much delay, especially in remittance of National Hospital Insurance Fund (NHIF) for employees of the County Government in several instances.

Clause 22, the Bill proposes to reduce penalty for delayed payment of special contribution from the current five times the amount of the contribution due to 50 per cent of the contribution due.

Mr. Temporary Speaker, Sir, Clause 25 of the Bill provides for the establishment of synchronized healthcare provider management.

Clause 29 (a) of the Bill proposes to increase the penalty for making a false statement to obtain payment of penalty or any benefits under the act.

Clause 35 of the Bill proposes the increased penalty related to the obstruction of inspector or refusal to furnish information to the inspector from the current fine of Kshs10,000 to Kshs1 million and 24-months imprisonment in addition.

Paragraph (d) the clause proposes to increase the penalty in respect to inspector who gives false information from the current Kshs10,000 to Kshs10 million and from the current 12 months imprisonment to 60 months imprisonment.

Finally, the Bill proposes to amend general penalty clauses to increase the fine from the current Kshs50,000 to Kshs1 million.

Mr. Temporary Speaker, Sir, I wish to stop at that. I believe once this amendment goes through, it will help a lot, especially for Kenyans who are unable to access healthcare facilities in our country and also services.

I beg to move and request the Chairperson of the Committee on Health, Sen. Mbito, to second.

I thank you.

**Sen. (Dr.) Mbito:** Mr. Temporary Speaker, Sir, the Committee on Health received this Bill on 14<sup>th</sup> October and subjected it to public participation. We had a lot of

interest in this matter. We had over 35 stakeholders who came and gave their views on this very important Bill.

Basically, this Bill looks at ensuring that we have as many Kenyans as possible under the umbrella of NHIF. We are not only talking about being covered by NHIF, but also ensuring that they receive better healthcare from being members of NHIF.

Mr. Temporary Speaker, Sir, these are the issues that were raised by stakeholders and the Committee took into consideration most of the issues. Some of the issues included and I do not want to repeat what the Deputy Senate Majority has commented on. However, there were more concerns about issues to do with oversight of the board, that is, the roles, powers and functions of the board; transparency and accountability and ensuring that there was public participation and stakeholder engagement in the operations of the fund.

Mr. Temporary Speaker, Sir, they also wanted to find out exactly the packages that will be received under the new scheme. Therefore, the stakeholders also wanted to find out the challenges that are related to the accreditation, empanelment and contracting of healthcare service providers. The issues related to the punitive penalties prescribed by the Bill.

On 30<sup>th</sup> November, the Committee concluded its consideration of the Bill and adopted its report and Committee Stage amendments for tabling. Therefore, we try to balance out on the issues we had from the stakeholders. To this extent, a lot of amendments were proposed among which we considered the reconstitution of the board to ensure there is higher representation by the county government and also health workers.

Also, the requirement for public participation and stakeholder engagement in the operations of the board and provisions of partial regulation of the board by the Insurance Regulatory Authority (IRA) and Retirement Benefits Authority (RBA) where applicable. We also mandated oversight over the fund by Parliament as an additional layer of accountability of the board.

There is also the introduction of an emergency treatment benefits package under the funds among many other issues that we have basically been included in the amendments.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to second.

*(Question proposed)*

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I stand to support that the NHIF Amendment Bill be read a Second Time. This is a Bill that has been forthcoming with various stakeholders giving their input. It is basically an amendment Bill that takes a cognizance of various things, including Constitution Bill, 2020 in place and makes various amendments.

Before I go to the details of the clauses, I will just highlight some of the areas where that amendment is being done, as the Mover and the Seconder of the Bill have already done. They have indicated specific clauses.

Health is critical and we know that inequality in health creates a problem. We know you have to pay for most of the health facilities. This introduces an insurance fund that is going to help people to pay. Indeed, this Bill also touches on private insurance and indicates, where possible, additional money will be paid. Therefore, this amendment Bill must be read together with the NHIF Act 9 of 1998 and, of course, that is 1998. So, we know that with the Constitution 2010, certain specific provisions have changed overtime.

Mr. Temporary Speaker, Sir, in various components of the Bill, what is getting done is just aligning. For example, we are saying ‘Cabinet Secretary,’ so that we align in terms of the definitions that had been put here and there. We are aligning it in terms of using more appropriate words. We are aligning by introducing, for example, national and county responsibilities very specifically.

There are certain very key amendments that are done in this amendment Bill. One of them is that it adjusts the board membership.

In the initial Act we have ten positions. In this particular Act we have nine. One of the positions that have gone, at the end there, is one that had been given for example, to religious leaders, who were required to bring on fore somebody. That has been removed. I do not know what the argument behind it might have been, but probably one must have been that maybe they needed to streamline this board, so that it has nine members. This is because most of the time, these boards need to be of an odd number so that incase of voting that can be taken into consideration.

Another thing that this Amendment Bill does is that it introduces a corporation secretary. This is very key because this corporation secretary, apart from just the CEO, is given key responsibilities. Another thing it does is that it advocates additional voluntary contribution, at Clause 18, so that apart from what is deducted, for example, what a fund contributor is given, you can have a special or voluntary contribution that can be put into place.

It does a very important thing at Clause 25. It creates a centralized health care provider system, which will be able to be like a software that both the users and contributors can actually see information in real-time; how much has been used *et cetera*.

Some of the amendments in this Bill move from the traditional card holder. We are talking about not just a card holder, but coming up with more technology and other systems that will allow for identification, for example, of the contributors. It also streamlines private health insurance covers to ensure that what has been promised by that particular insurance cover is actually upheld. This is another big improvement towards enabling contributions and legislation to streamline something that is very key.

Right from the description, when you look at the original Act 1998, it just says “to establish National Health Insurance Fund (NHIF) and provide mechanisms for the contributions to and payments of benefit.” This is an addition. The old version just simply says “management fund,” but the new version introduces to provide for mechanisms of contributions to and payment of benefits out of the fund. Therefore, this Bill is anchored in itself to address the whole issue of benefits, payment and repayments and how that can be done.

One of the major amendments that are done across the board is that instead of the National Hospital Insurance Fund, we call it now the National Health Insurance Fund. Therefore, everywhere we had previously 'hospital' it is substituted for 'health fund.'

We also have the issue of expanded for example definition at Clause 7 for a child, so that it is just not the traditional description of a child as somebody who is maybe over 18 or something like that. It means a child of a contributor including a posthumous child, a step child and adopted child. I find this very progressive because we have seen so many issues that come in terms of coverage and how to define the child. Some of the laws for example for different systems of marriage and, therefore, different systems of children being brought to the fore and the recognition of this. So, to whom does contribution stand in local parents and who have not attained the age of up to 18 years old.

Various other definitions are put there, which I think I will not go through. For example, who is a beneficiary, the attainment of age of 21, which is not clear, and also the attainment of 25 years. As long as they are undergoing a full course of education, those can also be covered. Again, people with disability have also been included and the description of the contributor has been put to place.

Mr. Temporary Speaker, Sir, I just want to go straight away to Clause 8 that deals with the contributions of the fund. When you look at the Mother Act, it is not specific. The Mother Act just said that contributions will be accepted into the Fund. That into the fund all contributions and payments required by the Act shall be paid into the Fund. The amendment adds a specific, broader and targeted funding for the money that will go in into this fund, for example, money appropriated from National Assembly, gifts, grants, national Government *et cetera*. So, we are broadening the loop of where the money come from, and this is rightly so because if we are talking about funds, especially health funds then this is quite broad and a lot of money is need for that.

A lot of money is needed, but more important, the management of those funds in such a way that they can actually be streamlined. I think the centralized health care provider system will be able to do very well. This will be a mechanized process and that will be key.

Again, at Clause 8, we have the whole organization there. I just want to highlight one person not being a governor nominated by Council of Governors. This, of course, is a new position that has been created which was not there in the mother Act because to county governments. Very important also is the addition of 1(b) and 1 (c). Sub-clause 1(b) introduces the whole issue of equal opportunity, brings into the fore youth and people with disability who need to be as part of the board. This had been initially left out, and therefore, in even selecting the nine positions that are there, this provision become critical. At Sub-clause 1(c), the Cabinet Secretary and how they will go through the nomination process, but that inclusion is part of the principles of devolution that are coming into fore.

At Clause 10, we have the objectives and functions of the board. These have been put into place properly. We have a new terminology of contracting of health care, and empanelment - the panel of those who are going to provide health care services, rather than what had been described in the Act, which was just a declaration of them. There will



be a panel of this. They will be vetted and put into place. At (g), it will be to facilitate attainment of universal health care and administer health care benefit.

When you look at Clause 11, it gives the power of the board distinctly, but adds also at Clause 12(a). This is referring to an amendment of Section 6 of the main Act. (A)(a) is to determine the contributions to be made by contributors to this particular fund. In the Mother Act, it does not talk specifically about the determination of the contributions to be made. For example, (A) (a) in the old Act, only gives how this fund will be managed, controlled and administered. That is an important addition there.

Clause 14 is very important. The Parent Act only gave the provision of the various office holders. This one now gives specifications, for example, education; the whole idea of ten years' experience in the health sectors, financial management sector and economic health care. This is very important, especially when it comes to management of the fund and having somebody who is well versed in all these areas.

At Clause 15, the introduction of a corporation secretary is probably also to diversify and make it easier for the Chief Executive Officer (CEO) to focus on certain other aspects given key responsibilities, for example, in the custody of records transmitting. This is a new provision of adding the corporation secretary, or basically, the secretary, but with specified powers that have been put.

Further on, at specifically Clause 18, we have the roles of national Government, each of the county governments and any other employee; what they are meant to be done clearly as specified. Subject to this, the national Government shall be liable as a contributor. So, the various levels of contribution right from the national Government and the entities and also other county levels shall be liable. They shall be liable as a contributor to the fund in respect of the public offices, state officers and employees working in the county government.

Various guidelines are given and articulated across the board. We come to some serious positions that are being made in terms of how to manage the funds. For example, you can have an issue where somebody has paid for the fund, they have not utilized that fund and are asking for the refund of the money they have contributed. Clause 20 of this Bill says that no sum deducted from the salary can be refunded. It should not happen. Once the money has been paid into the Fund, it is deemed paid to the Fund and cannot be deducted.

Another amendment is on penalties when it comes to payment of special contributions. That penalty was put in the original mother Act and was five times. However, in this particular Bill, the penalty is 50 per cent rather than the previous five times. This makes it easy to work out as the punitive action is half the percentage.

Clause 21 is key as it deals with the issue of cards, evidence and identification as it dwells on other methods of identification apart from the card. What was usually used before was the card. Now, the system can recognize you and cards can be given.

Mr. Temporary Speaker, Sir, if you are on record for giving remittances, you get considered. Standard contributions that have been made will be part and parcel of knowing whether you are a contributory member, so that you benefit.

On Clause 25, the Board shall cause to develop a centralized system, which will be installed for use by the empanelled providers. Those are the guidelines for their use. If

there is anything that should happen, it is that this particular system has to be done so well, so that it captures everybody. We have seen a lot of effort in this, for example, the identification through print that quickly identifies within the system and the member gets services.

Clause 26 of this amendment Bill is the issue of the private insurance sector. Many times, you have the amount you are entitled to, but when it comes to utilizing, some issues arise. Here, the Fund shall cover the outstanding bill, for example, when the insurer does not complete the bill payment.

Mr. Temporary Speaker, Sir, however, it also insists that the private health insurance shall be liable for payment to the limits of the beneficiary as that beneficiary is covered, so that insurance companies cannot reduce the amount that somebody has been covered in private insurance.

Many times, you know that you have paid for a certain amount, but when it comes to usage, you realize the insurance is suggesting that they will pay a certain amount. At that time, you do not have the money and that is why you took the insurance in the first place.

Sometimes, this is in small print, but it needs to be clear in big print, especially where a certain amount is to be paid. If the cover is Kshs400,000, then that is what should be paid.

Mr. Temporary Speaker, Sir, the Mover talked about raising the penalty from Kshs10,000 to Ksh1 million to make it more punitive, so as to ensure that somebody does not try to go against some of the provisions in this amendment Bill.

This Bill will take us to a level where we can have a more organized sector, especially on dealing with the private insurance as this is important. It will give hope that once somebody has a cover and has contributed; and when the time that cover is needed and they require services, those services will be given to them. This is important in this country.

I support, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Wambua

**Sen. Wambua:** Thank you, Mr. Temporary Speaker, Sir. I also add my voice to this National Health Insurance Fund (Amendment) Bill of 2021. Before I go to the specifics of the Bill, I want us to take note of the facts that the health sector in this country has really suffered before devolution and more under devolution.

The right to healthcare is a basic human right. It is well captured in the Constitution, Article 43 on Economic and Social Rights, which guarantees every Kenyan access to the highest standards, attainable standards of health in every corner of this country.

Article 53 of the Constitution gives the same assurance to any child in any part of this country. They should access the highest attainable standards of healthcare. I bring these constitutional provisions to this debate because this amendment Bill we are dealing with is more of a repeal of the entire Health Act. If you ask me, perhaps, somebody should have just drafted a new Bill. This Bill has repealed almost every section and every important aspect of the Health Act.

I take note of the fact that health is under the Fourth Schedule of the Constitution. It is easy for people to say that health is a devolved function, but the reality of the matter is that it is a shared function. The national Government has a component on health and the county governments also have a component on health.

Mr. Temporary Speaker, Sir, if there is any one area that both levels of government must work together to ensure that the aspirations of Articles 43 and 58 of the Constitution are attained, it is in the health sector.

On the specific provisions of the proposed amendment Bill, I go on record on the matter of the constitution of the Board. Sen. (Dr.) Zani has done well to take note of that. Whereas initially the proposal was to have 10 members of the Board, a category has been dropped from the Board in favour of the other original categories.

Mr. Temporary Speaker, Sir, I know that Kenya is a secular state, that we do not force people to subscribe to any religious belief. However, the Senator for Kitui County is a firm believer in religion and I subscribe to the Christian faith. To leave out the religious society from the Board, yet these people provide moral guidance to the society and are the people when things go wrong in the secular world, they bring sobriety and order in our society.

I take exception that the religious society has been dropped from the membership of the Board. I do not know what explanation the drafters of the Bill have to drop the religious community from the Board.

Mr. Temporary Speaker, Sir, Clause 19 of this Bill speaks to the obligations of the employers in respect to contributions to the Fund. I am happy with that Clause for one reason. In great detail, this Clause obligates all employers, beginning with the national Government for public servants, state officers, county governments and employers in the private sector to make a contribution to the Fund in support of healthcare for the employees.

To me, that is an important obligation placed on the shoulders of the employers, both the national and county governments and the private sectors. Still on the issue of obligations placed on the employers, the Bill demands that employers will match the contribution of the employees. It will no longer be a negotiation.

At times, these things are lost on those negotiations. The amount of money that the employers contribute to a fund will be determined by the strength of the people seated on the table negotiating the collective bargaining agreements. It is now in the Act that employers will have to match whatever amounts employees are contributing. I think that that is a good amendment.

Mr. Temporary Speaker, Sir, I saw a provision in Clause 18 that says that a person who has attained the age of 18 years and is not a beneficiary shall register as a member of the Fund. There is need for clarity on that issue. You may have attained the age of 18 and are not employed and so, you have no income.

We need to understand, if and when you register as a member of the fund, what benefits accrue to you as a registered Member of the fund even if you are not contributing to the fund. There is need for clarity on Clause 18.

Mr. Temporary Speaker, Sir, there have been arguments, not just in this Bill, but even in other legislations that we have handled. Opinion is really divided on what the

exact role of the company secretary will be in relation to the roles and responsibilities of the Chief Executive Officer (CEO).

There are always conflicts in those two positions. When the company secretary is attending a board meeting and the CEO is also attending the same board meeting, who is the secretary to the board and who advises the board on what actions to take and not to take? There will be need for uniformity in deciding whether the positions of company secretary or the fund secretary and the CEO are not in conflict. If they are, how do we cure that conflict?

Mr. Temporary Speaker, Sir, the entire Bill is okay. If it makes a contribution towards improving healthcare in this country, ensuring that every Kenyan citizen in every corner of this country and every child born in any part of this country has access to affordable healthcare, then it is a good amendment.

I support. Thank you.

**The Temporary Speaker** (Sen. Kinyua): Sen. Murkomen.

**Sen. Murkomen:** Thank you, Mr. Temporary Speaker, Sir. I would like to, first, appreciate the Committee on Health, led by Sen. (Dr.) Mbitio, who is my Senator in another life, for the work that they have done in this Bill and the amendments that they have proposed to make this Bill responsive to the concerns of stakeholders.

I have read the introductory note by the Chair of the Committee. It says that they received 28 submissions written to the Committee, and that they were able to meet 35 key stakeholders. This is why we are in this House. As a House of Parliament, we respect the Constitution. It requires us to do everything, legislative or otherwise, by consulting members of the public. It is a constitutional responsibility under Article 10 of the Constitution and also in the Chapter on the Legislature.

Mr. Temporary Speaker, Sir, we are here for the best interest of our people. One of the key responsibilities of this administration is to deliver on Universal Healthcare (UHC), a very important manifesto promise that was given to the people of Kenya in 2013, but mostly in the second term of President Uhuru's administration.

Over and over, the President has tried to run away from that responsibility. Nowadays, he says that it was just a mere aspiration. How he presented UHC to the people of Kenya was that it was a programme, project and objective of the five-year administration of President Uhuru Kenyatta in his second term.

We know that that objective has not been achieved. It is because the focus has changed. A lot has gone to a phantom called uniting the country. If I may digress a little bit, you will realize that this phantom called 'uniting the country' has become a very terrible excuse for not achieving this very important responsibility of UHC.

Mr. Temporary Speaker, Sir, I heard the President speak in his Presidential Address to Parliament and when he launched Nakuru City yesterday. You know that your contribution, my contribution and that of Sen. M. Kajwang' and other Members was very key in ensuring that Nakuru becomes a City. That is a story for another day. I am glad that the Governor of Nakuru recognizes as much.

However, that is not the issue. The issue is that I heard the President say that it was important because the country was burning and that they had to set aside everything, including UHC, to unite the country. I posed a question to the President and the former

Prime Minister. Who was burning the country? In law, you cannot benefit from your own actions. I need to get the right principle in equity.

You cannot set the county on fire and then meet to say that you put out the fire. You then come back to the people of Kenya and tell them that on the account of the fire that you set in the country, you came together and united. However, you abandon UHC, food security, the housing project and manufacturing matters to unite. You now want to govern the country and be allowed to reward the man who burned the country and swore himself in as the president. What kind of nonsense is that? Every time I hear the President and the former Prime Minister say that they came together to unite the country, I want Kenyans to ask them one very important question. Who burned the country?

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

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Wambua.

**Sen. Wambua:** Mr. Temporary Speaker, Sir, I have just heard the Senator for Elgeyo-Marakwet, the former Senate Majority Leader, say that something that happened in this country is nonsense. I just want your guidance on whether that is parliamentary.

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Farhiya?

**Sen. Farhiya:** Mr. Temporary Speaker, Sir, I rise under Standing Order No. 115 on the relevance or reputation of the Speaker. Sen. Murkomen is talking about the person of the President---

**The Temporary Speaker** (Sen. Kinyua): Sen. Farhiya, is Sen. Murkomen the current Speaker or what do you mean?

**Sen. Farhiya:** Mr. Temporary Speaker, Sir, I mean the person who was talking. I wish to correct.

How is a Health Bill related to the country going on fire? Let us stop discussing leaders who are not here to defend themselves when we do not have a substantive Motion to discuss their character.

Sen. Murkomen, the Senator for Elgeyo-Marakwet always talks about the achievements of the Jubilee Government when it is relevant for them and then abuses the President when it is not relevant for them. Let us talk to the right thing. Let us not discuss the President unless you bring a substantive Motion to this House.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I am not discussing the person of the President. To start with, Sen. Farhiya, I am discussing Universal Health Coverage (UHC) and why it has delayed from being achieved. Sen. Farhiya is a recent visitor to Jubilee. If she wants to understand who wrote the Jubilee agreement in 2013, it was myself and Sen. (Prof.) Kindiki. She needs some tutorials outside this House to understand what we promised the people of Kenya, what we achieved and why we failed to achieve what we wanted to achieve in the second term.

For my friend, Sen. Wambua, you know very well that your party leader, the respectable His Excellency Kalonzo Musyoka, is on public record together with Sen. Wetangula and Hon. Mudavadi saying they would not attend the swearing in ceremony at Uhuru Park. Hon. Kalonzo in his own words as a senior counsel, said "Just imagine me going to swear in someone calling himself the people's president."

Mr. Temporary Speaker, Sir, now coming back to say from that illegal swearing in ceremony that has kept Dr. Miguna Miguna out of the country, that was charged of

treason and the principal treason suspect is now roaming around the country telling people the country was burning. Who was burning it? That is why I am saying it is unfortunate that this very programme is coming late in the day. The walk towards UHC is very relevant.

I do not know Sen. Farhiya needs to listen to me very carefully. The reason why we have not achieved UHC is that we have been chasing some phantom called Handshake, uniting the country, and Building Bridges Initiative (BBI), some things that have wasted the country for four years. These are the conversations we should have been having in this term to ensure that we achieve UHC.

I was just in the introductory phase. People can wait for their own contributions. Hold my time.

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

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Wambua?

**Sen. Wambua:** Mr. Temporary Speaker, Sir, this is a House of record. For the record, I am not raising a point of order on the principle of the Handshake or whatever followed it. I have not even pronounced myself on what I personally feel about the swearing in and the Handshake matter.

The only issue that I stood on a point of order for clarity from the Senator of Elgeyo-Marakwet and direction from the Speaker is whether or not to make reference to a discussion between national leaders in this country. Do not mind their character.

A discussion between national leaders in this country and whether it is in order for the Senator of Elgeyo-Marakwet to stand on the Floor of this august House and refer to that discussion as nonsense. I asked whether that is parliamentary or it is not. That was the only thing I was raising.

**The Temporary Speaker** (Sen. Kinyua): Sen. Murkomen, take your seat. Thank you.

The issue raised by Sen. Wambua is strong. I would encourage you, please, stick to your lane and do not deal with the issues that are not in the Bill.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, it was the High Court and the Court of Appeal that declared all that business as null and void. Maybe if Sen. Wambua would feel better if I use the words ‘null and void.’ The other definition of null and void is nonsense. I am just saying that I want to stick to the Bill.

The first thing I would like to capture or refer to in this Bill is Clause 9 which is Section 4 actually of the Act itself. It captures the board members. It is dealing with the question of the board. The representation of the board, if you look at the notes of the Chairperson is praising this Bill for improving the representation of county governments. If you look at the representation of county governments, it is only one person not being a governor nominated by the CoG.

Mr. Temporary Speaker, Sir, the question I ask myself is: Is one person enough for a board that is dealing with a sector that is largely devolved? Health is largely devolved. Apart from three or four referral hospitals, the health sector is largely devolved. The public institutions involved in delivering this service in thousands are managed by county governments. Is it wise to say, and I hope the Chairperson captures this that only one person would represent the county governments in that board.

Secondly, there is a point brought up by Sen. Wambua which is the representation of religious institutions. When you talk about religious organisations and churches, I would rather explain even further to say most of our religious organisations run hospitals. The Catholic Church has St. Mary's Hospitals, for example, and many other hospitals. In almost every county, they may have two or three dispensaries. You have the African Inland Church (AIC), for example, they run Kapsawar Mission Hospital, Kijabe Mission Hospital which is one of the best in orthopaedic surgery. You have the Methodist Church and Muslim faith who run hospitals. You have the Hindus who run hospitals.

Mr. Temporary Speaker, Sir, the question I ask myself and this question is not in vacuum, I know when these hospitals are importing medical equipment, because they are offering almost free medical services to the citizens of this country, they have always sought for tax waivers, but they are denied because they do not have representation where decision making is done.

I feel strongly that these institutions of health facilities run by the churches, it would have been wiser to have them represented. This is because when they treat our people, they want to benefit also from the resources that come from the NHIF. I am saying this because I have been a board member of the Kapsawar Mission Hospital.

Mr. Temporary Speaker, Sir, I know the challenges of mission hospitals. For example, Tenwek Hospital run by Sen. Cheruiyot's church which is the Africa Gospel Church (AGC) is one of the best hospitals in the country and not just in South Rift. They have many challenges. I remember them petitioning the President about the equipment they were importing to this country and the tax waivers they wanted. This is something that we need to think about to see representation.

Mr. Temporary Speaker, Sir, Clause 10 of the Bill amends Section No.5 of the Act. This is discussing the question of empaneling process. The choice of which hospital is going to receive reimbursements from the National Health Insurance Fund (NHI)---

I know that the Bill says "in consultation with the Cabinet Secretary, to set the criteria for empanelment and contracting of health care providers for purpose of this Act".

The process of achieving this should be as transparent as possible. There is a possibility of selectively picking certain hospitals for purposes of a Universal Health Care (UHC) and leaving others. The criteria should be objective. The regulations that will be made under this Act should come out with the criteria that a hospital should meet. Once they meet the criteria, they automatically become part and parcel of this process.

This is also about the contributions to be made in the long run. This is Section No.6 of the Act, which is Clause 12 of this amendment Bill. We need to have an oversight responsibility of Parliament in determining how much it will be. We do not want NHIF to just wake up and say that employers must contribute Kshs5,000 or Kshs10,000 or Kshs20,000. When they set a new amount, it should come to Parliament for approval because this is akin to taxing the people. It has a financial implication on the people of Kenya.

Clause 13 of the Bill amends the Principal Act in Section No.9 on remuneration of members, including the Chief Executive Officer (CEO), to ensure that the Salaries and Remuneration Commission (SRC) protects citizens from astronomical figures being paid

to those managing resources that should otherwise go for health care. This is very important.

Mr. Temporary Speaker, Sir, the establishment of the office of the Corporation Secretary is very good. This will ensure that we have good principles of governance, financial management and accountability in the organisation.

Section 15 of the Principal Act, which is being amended in Clause 19, gives the employer the responsibility to make sure that contributions of the public officer are remitted. This has been the position, but in Part D, it also gives the responsibility of matching the contributions of the employer to the organisation itself.

The contribution of Kshs1,500 that has been set at the moment is reasonable. The figure of Kshs600 or Kshs500 is achievable. However, I fear for future startups. If you raise the contributions to say, Kshs10,000, and you have a startup company that is paying a salary of only Kshs20,000--- That is why I said that the figure should be approved by Parliament, to ensure it does not become too high and punitive to employers. After all, the employers are trying to employ Kenyans and it may become a struggle to match this money. I hope the Chairperson and the Committee interrogated this matter in-depth. We must consult and discuss this area.

All the other amendments are basically consequential to the various issues that have been raised. However, what is important to the people of Kenya is how this money will be managed, how much will be contributed and how it will be oversighted.

I do not know if the Chairperson of the Committee is here, but the last question I asked myself is if we have internalized these amendments very well. I do not know whether we should be in such a hurry. We wake up on a Thursday morning, move the Bill and by mid-day, we are done. If we do not conclude by mid-day, we come back in the afternoon, debate for one hour and then run around. Before we digest the amendments that we think should be introduced in consonance with what we have raised on the Floor of this House, and then complete the Bill this afternoon.

Mr. Temporary Speaker, Sir, for a Bill of this magnitude, I am not convinced that we should be in a hurry. It is a shame that it is rare to see the leadership of this House here, especially the Majority side. The Bill is theirs and they are not here to collect views and listen to our contributions. They do not even know whether we are ready to pass this Bill in the afternoon or not. This is unfortunate.

**Sen. Wambua:** On a point of information, Mr. Temporary Speaker, Sir.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I am willing to be informed.

**The Temporary Speaker (Sen. Kinyua):** What information is it, Sen. Wambua?

**Sen. Wambua:** Mr. Temporary Speaker, Sir, in view of what Sen. Murkomen is saying, and looking at the magnitude and impact of the amendments that we are discussing, and the fact that the leadership is not here to take notes, definitely, we are just speaking to ourselves. Even the Chairperson is not here to take notes.

I would want to take the same direction that Sen. Murkomen is proposing, that we are not in a hurry to just pass the Bill for purposes of it and ticking the boxes. If it means we wait until we are able to properly ventilate on this Bill, then we have to.

**The Temporary Speaker (Sen. Kinyua):** Sen. Seneta, proceed.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I still have some few minutes.



**Sen. Seneta:** Mr. Temporary Speaker, Sir, I just wish to inform my neighbour, Sen. Wambua, that the leadership of the Committee is here. The Chairperson, Vice-Chairperson, Sen. (Prof.) Ongeru, Sen. Kwamboka and other Members of the Committee are here.

**The Temporary Speaker** (Sen. Kinyua): Who are you informing?

**Sen. Seneta:** Mr. Temporary Speaker, Sir, I am informing Sen. Wambua and the House.

**The Temporary Speaker** (Sen. Kinyua): You cannot inform him because he is not on the Floor.

**Sen. Seneta:** Mr. Temporary Speaker, Sir, I thought the information is important because he was asking whether we are around.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, let me conclude because of time.

**The Temporary Speaker** (Sen. Kinyua): You are out of order, Sen. Seneta.

Sen. (Prof.) Ongeru, what is it?

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I hope you will hold my time because I was concluding.

**Sen. (Prof.) Ongeru:** Mr. Temporary Speaker, Sir, the normal decorum – I am sure Sen. Murkomen know this – is that these amendments have been brought in through the Leadership of this House by the Committee. Therefore, we have a mandatory opportunity and responsibility to listen to the contribution of the Members, so that we may be able to make it. That does not reduce the purpose of the Bill before this House. It is up to the Members to decide today.

From my view point, from the nature of suffering of Kenyans in paying medical bills and other expenses, there is a level of urgency to pass this Bill. This will enable us to meet that obligation which the public as already expressed through public participation, that this thing should have been adopted not now, but several years back.

**The Temporary Speaker** (Sen. Kinyua): Sen. Farhiya, proceed.

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir. I just want to set the record straight. The House leadership is here. I am here, unless you do not see me as part of the House leadership. Sen. Mutula Kilonzo Jnr. is also here. Therefore, let us be a little bit more respectful to one another.

**The Temporary Speaker** (Sen. Kinyua): Okay. Proceed, Sen. Murkomen.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, I was just posing a question to the leadership and the House. Should we be in a hurry to pass this Bill today? We can even postpone the recess and come back here next week. Alternatively, we can even go and ponder through these amendments and come back in January or February and have amendments that capture the essence of the things we are raising.

I am not saying that we should not. As Members of this House, who are not in the Committee and the leadership, we need to be convinced whether it is right to table the Bill at 11.00 a.m. and by 2.00 p.m., we are done with it. This is without digesting through the Committee Stage and ensuring that we have a useful Bill.

Otherwise, I appreciate what Sen. (Prof.) Ongeru says in terms of the importance of this Bill to the people of Kenya. This is especially ‘hustlers’ who are suffering with

bills and all of us here who are called all the time to go and do *harambees* for medical care.

Mr. Temporary Speaker, Sir, please, can we be convinced that we must finish this thing in the afternoon?

**The Temporary Speaker** (Sen. Kinyua): Proceed, Sen. Wetangula.

**Sen. Wetangula:** Thank you, Mr. Temporary Speaker, Sir, for an opportunity to contribute to this Bill. I will concentrate on a few things. The Committee members who are fidgeting to defend their position should make sure they try and bring this at the Committee Stage.

In his State of the Nation Address, the President said that this Bill is very important because it is going to help achieve Universal Health Coverage (UHC) for Kenyans. Unfortunately, I do not find it in the Bill. Those who have brought it to this House must ensure that what the President said in his Address is achieved here. My “big brother”, Sen. (Prof.) Ongeru, should listen to this so that their Committee at the Committee Stage can come and tell us what we are looking for.

The most critical, if that is the fundamental of this Bill, will be found in Clause 19 which is talking about contributions. You cannot talk about the UHC and then pigeon-hole Kenyans as to who will benefit from the NHIF. The clause says that they are amending the principal Act to create a situation where the national Government shall be liable to contribute for public officers, state officers, employees working in the national Government and the national Government entities.

They are then obligating county governments to contribute for public officers, state officers, employees working at the county governments and county agencies. Any other employer shall be liable as a contributor of the fund in respect of its employees.

1 (b) of the same clause says-

The National Government-

“shall be liable as a contributor to the fund on behalf of the indigent and vulnerable persons identified as such by the relevant Government body.”

Mr. Temporary Speaker, Sir, in good English, indigent means vulnerable. It is tautologous because an indigent is a vulnerable person. It means the same thing.

Which is this “relevant Government body”? We are going to have a case where chiefs and local administrators are going to take bribes from ordinary Kenyans to declare them indigent. This is very dangerous for the country.

We must have an achievement of the UHC as envisaged under Article 43 of the Constitution for adult Kenyans and Article 53 for children in Kenya. If this Bill was to make meaning, we must make it compulsory even if it is progressive, for every Kenyan to be enlisted in NHIF.

This is because when one falls sick, it matters not whether one is a billionaire or indigent. If one goes to an Intensive Care Unit (ICU) in hospital, the conduct, facilities and costs incurred are the same regardless of whether one is indigent or a billionaire.

This is a good Bill. I was very happy when H.E President Uhuru Kenyatta said this was one of his last sunset legacy Bills. Let it be truly a sunset legacy Bill.

What we are saying here is not any different from what we already have. Employers are already obligated to pay NHIF for their employees. Even we, as leaders of

political parties, are obligated to pay for our party employees, it is nothing new. What are we doing to get *mama mboga*, *mkokoteni* pusher, street urchins and people who move any instrument of material value to our economy including bicycles and *boda boda* enlisted?

*(Sen. Murkomen spoke off record)*

**The Temporary Speaker** (Sen. Kinyua): What is it, Sen. Murkomen?

**Sen. Murkomen:** On a point of information.

**Sen. Wetangula:** Inform me.

**Sen. Murkomen:** Mr. Temporary Speaker, Sir, Sen. Wetangula was dancing around *boda boda*, *mkokoteni* and bicycle. He did not want to say wheelbarrow, and the summary name; all those people are called hustlers.

**Sen. Wetangula:** Sen. Murkomen has no ability whatsoever to put any words in my mouth because my mouth is full of good words.

Sen. Mutula Kilonzo Jnr. of Makueni is agreeing with me and everybody else will, that we must widen and broaden the net of beneficiaries of the NHIF. Period. Anything else is a detail that is of little value to the President's ideal of UHC.

One, we want NHIF to cover all Kenyans. Two, make it obligatory for the National Government and county governments to budget to cover everybody within their concurrent jurisdiction. Three, make it difficult for people to steal money from the NHIF.

Sen. (Prof.) Onger, as a medical practitioner, will tell you that many people have bubbled to billionaires by stealing money from the NHIF through fraudulent and fake claims. They are people who pretend they have a hospital with a 100 beds--- I remember one time in my county of Bungoma, when inspectors of Government came to inspect a hospital that was making millions of shillings a week from the NHIF. The proprietor of the hospital went to the bus stop and picked *manambas* admitted them in hospital beds. That was so that inspectors would think they were sick but they were not. This is the Kenya we have. When we legislate, we must take care of this.

I do not see any clause in this Bill that is punishing thieves of NHIF money. Instead, we have a clause that is punitive to the extent that if a party such AS FORD-(K) fails to remit small money – We remit about Kshs13, 000 a month- to NHIF, we will be fined Kshs1million. The thieves who walk away with NHIF money every day through fraudulent claims in hospitals are not being punished. We need to look at this.

Sen. (Prof.) Onger, you are one of the doyens of medicine in this country and you know these things we are talking about. There is also my distinguished colleague from Trans Nzoia who is the Chairperson of the Committee on Health. I have also worked with Sen. Seneta here in a Committee and she is very diligent. Look at these things and save Kenyans.

We are not going to legislate daily on the same issues. This Bill, once we legislate, will probably last the next ten years before we look at it again. How are we going to change the lives of Kenyans with this Bill?

I agree with Sen. Wambua and Sen. Sen. Murkomen that the religious communities of this country provide very fundamental health services to Kenyans. An example is the Catholic Church, which is my church. We also have the Friends Church, the AIC church and many others. We have many famous hospitals such as Tenwek,

Kijabe, all these founded by churches. We also have St. Mary's Hospital in Lang'ata and Nakuru which are run by missionaries.

They provide even better services than some Government run hospitals. Why are they not represented on the NHIF Board?

They must be represented. Instead the board is filled with public servants who in most cases do not attend the Committee sittings. They send their juniors to such meetings who go there to fill forms and walk away with allowances as things go haywire. We need to have the real providers of health services in this country to sit on that board.

I do not know of any Kenyan who has never heard of Kijabe Mission Hospital, St. Mary's Hospital in Nairobi and Nakuru or Tenwek Mission Hospital. I send people from as far as Bungoma County to Tenwek Hospital for treatment. I do not know of any Kenyan who has never heard of Misikhu or Lugulu Mission Hospitals in Bungoma County. All the hospitals that I have mentioned are missionary founded and run hospitals. Who represents the interests of those mission hospitals? The Principal Secretary National Treasury or Health will not represent their interests. The Central Organization of Trade Unions (COTU) will also not represent their interests when you have people like Mr. Francis Atwoli swinging around with golden chains everywhere and talking about irrelevant things instead of defending the workers interests. Who is going to defend the workers?

Mr. Temporary Speaker, Sir, in fact, when we talk about COTU, we must start rethinking about the interest of COTU because for the last three years, Atwoli has never spoken about the workers of this country. He is busy boasting about how much money he owns and how much influence he can peddle and what he can do including but not limited to inviting Congolese musicians to come and entertain him in the glare of public eyes when workers are suffering. We need to change our psyche. We need to change the way we do things in this country. We cannot have people like Atwoli on the board of the National Hospital Insurance Fund (NHIF) to check who benefits from the fund. This is a big joke!

*(Applause)*

I would like to see people being represented properly on the National Hospital Insurance Fund (NHIF) Board. I would have liked to even see a representative of the MCAs on the board. The MCAs interact with the ordinary people on a daily basis. The Members of this House can bear me witness that when we are in the villages, out of every 10 people who visit us, four or five have health problems, another three or four have education problems while one could have a problem with the police officers. Health is a serious issue. Every single harambee that we do is to underwrite bills of the dead or bills of the living in hospitals.

When you take somebody to the intensive Care Unit (ICU) for a week, you will be handed a bill of Kshs3 million. Without an insurance cover, you are doomed to poverty. Insurance cover for all can be achieved. My brother, Sen. (Prof.) Ogeri, has been in Cuba like myself. Cuba is a poor country with a population of 11 million people. However, education and health care in Cuba are free for everybody at any level. Nobody goes to the ICU and is obligated to pay a cent because the state underwrites. Kenya can do better.

Mr. Temporary Speaker, Sir, the President told us that the economy has grown by leaps and bounds. However, the growth must be reflected in social engineering and changing the lives of Kenyans by giving them clean water, better health care, better roads and everything else. Above all, even a person who does not travel on our roads, falls sick. A person who has not gone to school falls sick. Even a person who does not work, falls sick. The poor of the poor also fall sick. That is the ring-fence that we want this Bill to create. If this Bill does not create such a ring-fence, it falls short of the glory that we expect from our Committee.

Mama Mary Seneta is staring at me and nodding in approval. When this Bill goes to the Committee stage, I would like her to bring one fundamental amendment; that the National Hospital Insurance Fund (NHIF) is going to cover the low and the mighty in Kenya; that it matters not who you are because when you are sick, the pain of a poor man and a rich man is the same. The attention of a doctor to a poor man and a rich one is the same. This is the only way that this House will stand and be counted as a true defender of not only devolution but the people of Kenya who constitute the units of devolution.

Mr. Temporary Speaker, Sir, I beg to support.

**The Temporary Speaker** (Sen. Kinyua): Thank you, Sen. Wetangula.

Proceed, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Mr. Temporary Speaker, Sir, I thank you for giving me the opportunity to also contribute on this Bill. Whatever is being said on the Universal Health Care (UHC) system in this country is captured in Clause 2 of the Bill which provides for a long title for this Bill. In fact, it is a summary of what is contained in the entire Bill.

This is an Act of Parliament to provide for establishment of the National Hospital Insurance Fund (NHIF). The second aspect of the Bill is to establish the National Hospital Insurance Fund (NHIF) Management Board. This is the area where the majority of membership have already made contributions regarding what must happen to the composition of the board. Some Members have argued that we should allow for the representation of missionary hospitals on the board. However, if you look at Clause 9 of the Bill which speaks on the membership of the board---

**The Temporary Speaker** (Sen. Kinyua): What is your point of order, Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Temporary Speaker, Sir. Since Sen. (Prof.) Ongeru, Sen. Omanga and Sen. Seneta are Members of the Committee on Health, would it not be better to give us the proposed amendments because we are talking about things that they have done? I asked for the report to be brought to my office but it is unfair that it has not been tabled. It is unfair for the Committee Members to be rushing us to pass this Bill today yet they have not tabled the report or told us what the public said so that we have the benefit of the amendments that they are bringing. What Sen. Wetangula is saying is correct. If the amendments do not appear on your report, we will not agree.

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

**Sen. Linturi:** On a point of order, Mr. Temporary Speaker, Sir. To add to what Sen. Mutula Kilonzo Jnr. has said, in the past, the reason why such Bills were subjected to

the Committee is because with a toothcomb, the Committee is able to go through the Bill and come up with amendments or form an opinion on the Bill, do a report which is always tabled here so that it guides the Members who have not had an opportunity to interrogate the Bill properly to contribute and understand the Bill more.

In the absence of a report tabled before this House by the Committee, I feel that it is quite unfair for us to be rushed to pass the Bill yet we know the kind of problems that we have gone through as a country because of hurried Bills. If we have to pass the Bill because we were commanded to do so in the President's Address, it will be wrong because Parliament is not under the direction of the President. We have a statutory duty to represent the country well and make sure that proper legislation is passed for the good and benefit of the majority of Kenyans.

**The Temporary Speaker** (Sen. Kinyua): I have ordered that the report be tabled today, at 2.30 p.m.

Sen. (Prof.) Ongeru has a balance of 17 minutes when the Bill comes back for debate.

*(Applause)*

### **ADJOURNMENT**

**The Temporary Speaker** (Sen. Kinyua): Hon. Senators, it is now 12.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until today, Thursday, 2<sup>nd</sup> December, 2021 at 2.30p.m.

The Senate rose at 12.30 p.m.