

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 14th August, 2014

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. (Dr.)
Laboso) in the Chair]*

PRAYERS

ADMINISTRATION OF OATH

Hon. Kajwang’: Hon. Deputy Speaker, I hereby present to you the new elected Member of Parliament for Mathare Constituency.

The Oath of Allegiance was administered to the following Member:-
Mr. Stephen Kariuki

(Applause)

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Let us give applause to our new Member of Parliament.

(Applause)

Order, hon. Members! We need to continue with our business. You can congratulate the hon. Member later on. He is now a full hon. Member of this House. Can we continue with today’s business?

Next Order!

PETITION

NON-PAYMENT OF COMPENSATION TO NTOMBERIA FAMILY

Hon. Deputy Speaker: Hon. Members, we have a Petition by the hon. Dawood.

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Hon. Dawood: Thank you, hon. Deputy Speaker. I present a public petition by the family of the late John Muriungi Ntomberia on the non-payment of compensation for the death of the sole bread winner.

I, the under signed, on behalf of the family of the late John Muriungi Ntomberia of north Imenti Constituency, Meru County, draw the attention of the House to the following, that the late John Muriungi Ntomberia served as a police officer of the Kenya Police Force, with his last station being Nairobi. On the night of 4th June, 1999, the deceased was shot dead by a police officer attached to Keerwa Police Station, while at Museveni Bar in Kitimeme Market, Meru County.

The late John Muriungi Ntomberia left behind a widow, a child, aged parents as well as siblings who totally depended on him, as he was the sole bread winner.

Having reviewed the circumstances----

Hon. Deputy Speaker: Order, hon. Members! Allow the hon. Member to present the Petition. This is an important petition for the people who want to petition this Parliament. Can we please listen to what the petitioners are asking us to do for them?

Hon. Dawood: Thank you, hon. Deputy Speaker.

Having reviewed the circumstances leading to the death of their loved one, the family instituted a civil case against the police officer involved in the shooting, the Commissioner of Police and the Attorney-General. The Civil Case No.96 of 2008 at the Chief Magistrates Court in Meru was heard and determined in the favour of the family of the deceased; an indicative compensation of Kshs981,020 was awarded.

The Government has since not paid the compensation even after numerous attempts by the family to reach out to the Attorney-General's office. The family members of the late John Muriungi Mberia are peasant farmers and cannot afford legal charges to compel the Government to obey the court ruling. The matter in respect of which this petition is made is not pending before any court of law. Therefore, your humble petitioners pray that the National Assembly intervenes to have the Government urgently settle the compensation to the family of the late John Muriungi Mberia as per the ruling of Meru Chief Magistrate in Civil Case No.96 of 2008. And your petitioners will ever pray.

Just to add to that, the petitioner is a very old man of over 75 years of age. He can hardly walk. He has been going to the Attorney-General's offices in Meru and in Nairobi without any success. The Committee on Administration and National Security needs to follow up this petition, and they will be blessed to the end. I think the Chairman will assist us in getting this compensation.

Hon. Deputy Speaker: The Petition stands committed to the Departmental Committee on Administration and National Security. You know the rules on how long you have to respond to this Petition.

PAPERS LAID

Hon. ole Metito: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today Thursday, 14th August, 2014:-

The Report of the Auditor-General on the financial statements of the Pharmacy and Poisons Board for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the financial statements of Pwani University for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the financial statements of Taita Taveta University College for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the financial statements of the Kenya Sugar Board for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the financial statement of Public Secretaries Board for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the financial statements of the Technical University of Kenya for the year ended 30th June, 2013 and the certificate of the Auditor-General therein.

Hon. Baiya: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today Thursday, 14th August, 2014:-

Report of the Constitution Implementation Oversight Committee in respect of legislation with constitutional timelines.

STATEMENTS

Hon. Deputy Speaker: Hon. Members, let us have the Statements as they appear on the Order Paper. Remember today is the day for responses. We will begin with the Statement by the Chairman of Transport, Public Works and Housing. The request was made by hon. Joseph Limo.

BUILDINGS OWNED/LEASED BY GOVERNMENT

Hon. Eng. Mahamud: Hon. Deputy Speaker, this Statement was requested by hon. Joseph Limo regarding buildings owned or leased by the Government for Ministries, departments and agencies.

The question was about the number of buildings owned or leased by the Government Ministries and departments and their level of utilization; measures put in place by the Government to ensure efficient use of public funds and assets with regard to purchasing, or leasing, of Government buildings and offices; and the specific steps the Government is taking to ensure that no additional buildings are purchased or constructed where there are public buildings.

The following is the response forwarded to us by the Cabinet Secretary in charge of the Ministry:

Buildings are critical to socio-cultural development of our economy since services are accessed and offered to both external and internal customers in them. The

Government owns 16 buildings in Nairobi and has leased 276 buildings in all the 47 counties, which are occupied by Ministries, departments and agencies.

The Government, through the former Ministry of Housing, undertook audit of office space in 2012/2013 in Nairobi, and of all other Government buildings. It confirmed that they were not adequate for use and needed to be supplemented through leasing. This was particularly initiated during the then reorganization of the Government. The following are the Government houses or buildings in Nairobi: Nyayo House, Harambee House and others. Hon. Members will get the list that contains the names of Government buildings in Nairobi. These are inadequate and, therefore, it has become necessary for the Government to lease offices from private individuals or landlords.

The Government has leased the following buildings in Nairobi. They are quite a number and include Teleposta, Liaison Towers, View Park Towers, Kenindia Insurance Plaza, KICC, Uchumi House and the list is long. The hon. Member has been given that list also.

The Government has leased 276 buildings in the counties. This information is attached to this Report. Their levels of utilization will be ascertained once an audit of the same is finalized by the Transition Authority in consultation with the Ministry of Lands, Housing and Urban Development. This exercise is already underway.

As to the measures put in place by Government to ensure that public funds are used efficiently in purchasing or leasing houses, before any leasing is done the need for it is ascertained; further, it is confirmed that no space is available in a Government building. Funds must be sourced and confirmed by the leasing department. The Ministry of Lands, Housing and Urban Development sources space, after which the Chief Government Valuer, after full inspection, prepares the purchase or lease documents for the same. Payment arrangements are made as per the lease or sale agreement.

The Government ensures that no additional buildings are purchased or constructed where there are public buildings which remain utilized. The Government is aware that there is great need to audit office space in the counties in order to rationalize and ensure optimal use of buildings. The audit undertaken in Nairobi revealed that offices were overcrowded. This was aggravated by the movement of Government departments from Jogoo House, KICC and other buildings. There was urgent need to lease office space to meet the identified shortfall. This exercise has been rolled out to all counties; the former districts, in conjunction with the Transitional Authority, to determine the level of space usage.

Hon. Deputy Speaker, after the exercise, all counties will be advised on the levels of optimal use of office space in the counties. This has necessitated initiating preparation of a policy on Government offices and residential accommodation, which will guide both the national and county governments.

Hon. Deputy Speaker: Hon. Limo will get the first chance for supplementary questions.

Hon. Limo: Hon. Deputy Speaker, thank you. First, I would like to thank the Committee Chairman for coming up with this report. Secondly, I will also thank the Ministry and the Committee for having invited me when they were discussing this report.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultations are too loud.

Hon. Limo: I was saying that this Committee did a good job and they invited me when they were discussing this Report. Therefore, I only have one issue. The reason why I asked for this Statement is that during the Budget making process, there was a lot of pressure from parastatals and Ministries to build headquarters. Therefore, there is need to have policy, and I am happy that in this report, the Government has undertaken to come up with a policy on Government housing to guide acquisition of accommodation and office space. On this matter, I want a clarification that during the policy making, they will come up with a policy on maintenance of Government buildings. We know the reason why most Ministries and parastatals are going for private accommodation in various buildings owned by private developers is because of the status of Government buildings. They are in a sorry state; so, there is need to have a policy on maintenance. I want to get a clarification that when preparing the policy, they will include in it maintenance of Government buildings. Otherwise, I am happy with the report and the action the Ministry is taking to come up with a policy.

Hon. Deputy Speaker: Hon. Members, we have several visitors today in our galleries. First, we want to recognize the presence of Marimanti Primary School from Tharaka Constituency. You are welcome to the National Assembly. The second group is St. Marcel Ray Farm Academy from Moiben Constituency. You are welcome. The third one is a difficult name but I shall try; it is Gathanthachu Primary School from South Imenti Constituency. You are welcome. The fourth group is Mariani Primary School from Chuka/Igambang'ombe Constituency. You are welcome. The fifth group is Murani Primary School from Bomet East Constituency and the last group is Kisii Campus Primary School from Nyaribari Chache Constituency. You are all welcome to the National Assembly.

(Loud consultations)

Order, hon. Members! You all know the procedure for being recognized. You have to bring it forward to us. We will now move on to any supplementary on this matter. If anybody has any supplementary question on what Hon. (Eng.) Mahamud has presented, that is the Statement we are dealing with.

Is Hon. Okoth ready?

Hon. Okoth: Hon. Deputy Speaker, I was being strategic on an issue of national importance concerning Ebola and transportation and not on the road network.

Hon. Deputy Speaker: Hon. Members, for us to manage, can you all remove your cards if you have no interest in the Statement that has been given by Hon. (Eng.) Mahamud. Remove all your cards and then put them in when you are interested in a matter being discussed. It is difficult to manage with all of you having cards in.

(Loud consultations)

Order, hon. Members!

Hon. Maanzo: Hon. Deputy Speaker, I would like to seek a clarification from Hon. (Eng.) Mahamud. Although the Government is giving a lot of promises, its policy is ordinarily to procure first from Government related organizations. Could he clarify whether they give those organizations the first priority, or are they private owners of property who are leasing it to the Government?

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, the consultations are too loud!

Hon. Maanzo: Hon. Deputy Speaker, I am asking the Vice-Chairman to clarify that since the Government gives priority to Government related organizations when it comes to procurement, what system of procurement are they using? Do they have private owners of property who are leasing it to the Government? If so, is the Government making a loss? What are they going to do to house Government officers? We have a lot of unfinished Government houses across the country, yet the Government continues to rent buildings.

Hon. Aburi: On a point of order, hon. Deputy Speaker. Is it in order for Hon. Sumra to chew *tambu* inside the House? That is a drug because Hon. Sumra is chewing *tambu* in the House. He should explain to us why he is doing so. This is a drug!

Hon. Deputy Speaker: What?

Hon. Aburi: Hon. Deputy Speaker, he is teaching the new hon. Member bad habits.

Hon. Deputy Speaker: Order! I will ignore that; let us move on.

Hon. Opiyo: Hon. Deputy Speaker, it is only that the level of consultations is so high; I wanted to ask a question because I was not able to see the list.

(Hon. (Ms.) Nyasuna consulted loudly)

Hon. Deputy Speaker: Order, Hon. (Ms.) Wanga! Hon. Members, the consultations are too loud. Some of you are excited about one thing or another; can we find suitable places to go and discuss? We should make this House a place where we discuss whatever matter is before us. Let us stand by our rules in this House.

Hon. Opiyo: Hon. Deputy Speaker, we notice that with the coming of the new Constitution, the number of Ministries was reduced from 40 to barely 20. We are being told that instead of using the Government houses that are available, we are leasing office space. I want to understand why. Secondly, I was not able to look at the list that the Chair was reading. I am wondering if Harambee SACCO House that Parliament uses is one of the listed houses. I want to understand who particularly maintains Government houses because the lifts in that house are a disaster in waiting. Lately, they have been hanging with hon. Members in them, and we want to understand who is responsible for maintenance of Government offices.

Hon. Bowen: Hon. Deputy Speaker, I just want to seek a clarification from the Chair on the same issue of housing because we have seen several commissions coming before several Committees of this House requesting to have their own headquarters. We

have many other Government buildings like the---. Why can they not be utilized instead of coming up with new buildings?

Hon. Midiwo: Thank you, hon. Deputy Speaker. Let me thank hon. Limo for raising this matter.

(Hon. (Prof.) Nyikal stood up in his place)

Hon. Deputy Speaker: Hon. (Prof.) Nyikal---

Hon. Midiwo: Sit down!

(Laughter)

His home is far away from water. So, when he sees water---

Hon. Deputy Speaker, the list that has been read by the Chair of the departmental committee is only a tip of the iceberg. It is important to bring it to the attention of the country and the House that this Government, or the total number of governments, has enough room for people to co-exist.

If you go to a place like Kisumu, you will find that they have built an office for the so-called Provincial Commissioner when everybody knew that he was going away. Now, the Governor sits on one floor and the rest of the floors are idle. There is so much idle Government land and houses that this issue must be addressed.

Hon. Deputy Speaker, I want the Committee Chair to tell us how we get to lease houses without following the procurement procedure. There is evidence even before us that thousands that have not been counted--- At what point was Corner House, which is a Government house, omitted from that list? The Government has omitted it from that list. Why is Corner House not on that list?

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, let me thank the Members for the clarifications they have sought. I want to assure them that I am not the Cabinet Secretary of that Ministry. But I will answer the queries as far as I am able to.

In terms of the policy on maintaining Government houses, hon. Members should be aware that Government buildings are cleaner today than they were about ten years ago. I think the Government is trying its best to maintain buildings at headquarters.

In terms of preparation of the policy on Government housing and officers, the policy must include maintenance aspect as hon. Limo has said. I agree with him on that one.

I agree that maybe there is no clear policy on leasing. I know this having been in the Government. When the Ministry will be preparing the policy, they must also come up with a procedure on how leasing should be done in the Government. I think this is done haphazardly; I agree with the hon. Member. Hon. Members have a genuine concern here.

Hon. Deputy Speaker, Government Ministries were reduced from 42 to 20 but Government employees did not reduce. Hon. Members will agree that the staffing levels of the Government have increased instead of reducing. Maybe, it is the Cabinet Secretaries and the Principal Secretaries who have become fewer than they were before. I think the number remains the same considering the fact that some commissions came into

being. So, the need for office space has remained the same. It did not change with the reduction in the size of the Government.

There is a lot of confusion within the counties. Before the new Constitution was promulgated, the Government was planning on how to build offices for various departments. However, with the coming of devolution, there is no proper co-ordination between devolved governments and the national Government. I know the county governments are building new headquarters, new county assemblies and residences for governors. We are saying that this should be contained in a policy on Government office space and residential accommodation. This requires to be rationalized.

As to the last question by hon. Midiwo, I have not read the whole list of buildings. I can see KICC, Uchumi, Kenya Re-insurance, KMA Centre, ACK and National Bank buildings. I do not see Corner House here and I do not know why it is not here.

Hon. Members: It is being grabbed!

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, I think that is for the record and we can check with the Ministry.

On the question raised by a colleague about Harambee Plaza, to the best of my knowledge, that building is owned by the Parliamentary Service Commission (PSC). I think the Ministry which we are responding on behalf of would be able to know that. I think Harambee Plaza has been bought or leased by the PSC. That question can be best answered by the PSC.

Hon. Deputy Speaker: Hon. Members, let us leave it there. It is good because the Member clearly indicated that he was called to a meeting. I want to commend the Committee. I think we will get fewer questions when the Member, and any other Member, who may be having interest, is asked to appear before the Committee.

Hon. Opiyo: Thank you, hon. Deputy Speaker. Now that the Chair has said that Harambee Plaza was actually leased by the PSC, I want to request him, if you allow, that we set aside time in the course of next week, have a *kamukunji* and discuss the security of Members of Parliament who use the Harambee Plaza. This is a serious issue. We also want to discuss the security around Harambee Plaza, Continental House, Protection House and St. Johns Building. We really have to set aside time and discuss that because I really fear for hon. Members of Parliament.

Hon. Deputy Speaker: Hon. Jared, you are talking about a *kamukunji*. There is one which is being planned for Tuesday at 11.00 o'clock to discuss, among other things-- - That could be one of the issues to be discussed. The other one is the extension of the constitutional Bills period. So, there is a *kamukunji* coming up on Tuesday.

Let us move on to the next Statement that was requested by hon. Joseph Gitari.

Hon. Njagagua, was your matter on this?

Hon. Njagagua: Hon. Deputy Speaker, it was related. When the Chairman was speaking, he said that some buildings were being grabbed. Could he expound on the buildings that are being grabbed, and which ones are being left with the Government. This will enable us to see the ones which we can protect.

Hon. (Eng.) Mahamud: On a point of order, hon. Deputy Speaker. Is the Member in order to say what I have not said? I did not say that any building is being grabbed. The record will bear me out.

Hon. Deputy Speaker: The Chairman has confirmed that he did not make that statement. So, you must substantiate any allegations that you make here. You should not make any allegations which you cannot substantiate. Hon. Members, let us not go on and on, on this issue. Please allow us to move on to the next Statement that was sought by hon. Joseph Gitari. Is he in the House? I remember signing an absence--- Did he leave anybody to ask the question on his behalf? Then we will go to the next Statement by hon. Malulu Injendi. Again, this is for the Chair, Departmental Committee on Transport, Public Works and Housing.

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, the Member of Parliament for Malava Constituency, hon. Malulu Injendi, M.P. rose on the Floor of the House and requested a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of Kakamega/Kaburengo Road, A1.

The questions were:

- (i) the scope of work and progress achieved, if so, to date; and
- (ii) the timeframe agreed upon between the contractor and the procuring entity.

Hon. Deputy Speaker, this is the answer we got from the Ministry concerned. As to the scope of works, the project includes the reconstruction and widening of the existing road. Two, construction of a second carriageway from Kakamega for a distance of five kilometres so as to form a dual carriageway. Three, construction of climbing lanes at designated steep sections. Four, construction of service roads, access roads and market loop roads. Five, provision of walkways, cycle paths at Kakamega and various trading centres. Six, construction of an interchange at the junction of Road A1 and Road A104 at Kaburengu. Seven, any other operation auxiliary to the main works, and eight maintenance of works during construction.

The project portion implemented to date is only 1.23 per cent, and includes deviations, site clearance, removal of top soil and stripping and other works for widening. A notice of termination was issued to the contractor who subsequently obtained a court order against termination. The case is going on and the contractor has stopped works.

As to the timeframe, the order to commence works was issued on 22nd March, 2013 and the contractor commenced work on 1st April, 2013. The contract period was 24 months and the contract was set to end on 31st March 2015.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Injendi.

Hon. Injendi: Thank you, hon. Deputy Speaker. He has given a summary of the report but I have a whole report. I wish to have the following clarified. This work was to commence in January 2013. I am wondering why it took too long for the Ministry to realise that this work was not going on. It took a whole year for the Government to realize this in May 2014. Secondly, what is the variation in terms of costs? If they vary as he is saying what will be the total cost? Three, since this matter is in court, how was the contract agreement when it comes to termination in respect to breach of contract? Four---

Hon. Deputy Speaker: Now, you cannot ask too many supplementary questions, hon. Injendi. Please allow other Members to also ask supplementary questions.

Hon. Injendi: Yes, but the last one.

Hon. Deputy Speaker: Yes.

Hon. Injendi: Considering the procurement process it looks like a very weak company was awarded this contract. How come this happened and what has happened with the persons who did not identify the proper company?

Hon. Deputy Speaker: Hon. Manson Nyamweya, is this a supplementary on this question? I do not see him here. John Waiganjo, is it on this question?

Hon. Waiganjo: No.

Hon. Deputy Speaker: It is not. Now, this is where you are confusing me, hon. Members. Anybody interested in a supplementary question on this? Wafula David.

Hon. Wekesa: Thank you, hon. Deputy Speaker. I would like to seek three brief clarifications on this issue. What is the total estimated cost on this road after completion? Two, how many kilometres are involved and when did the Ministry realise that work had not started on this road?

Hon. Deputy Speaker: Njagagua and Serut, standing between the Speaker and the Member on the Floor--- Hon. Mahamud, I think you can respond to these two, so that we can move to the next one.

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, this project is jointly funded by the Government of Kenya and the IDA of the World Bank. It is true this contractor was sourced competitively, but despite meeting all the requirements at the beginning he failed to commence the work as required. There was a lot of discussion at site and management meetings. Finally it was decided in May 2014 to issue a notice of termination.

Hon. Deputy Speaker, the idea was that once we terminated this contract because there were also other contractors within the vicinity, we use one of them to continue with this work. There is the Kisumu/Kakamega Road on which work is going on. There is also the Kakamega-Webuye Road. It is part of the major Kakamega-Webuye Road; three there is also Webuye-Kitale Road. In fact, these contracts are all ongoing. In fact, the intention of the Ministry was that, because the rates were very similar, it used one of the contractors on those roads to actually do part of this road. However, this contractor went to court and the court issued an injunction that the Ministry could not terminate this contract.

Hon. Deputy Speaker, as to the cost of the project, it is Kshs2.505 billion. That was the total contract price at the time when it was awarded in April 2013. For the preparatory work, which is about 1.2 per cent of the contract, the contractor has been paid one certificate of Kshs205 million only. That is about 1 per cent of the contract sum.

Hon. Deputy Speaker, in terms of the distance of this road, it is approximately 40 kilometres; it starts from Kakamega Town and ends at the junction at Kaburengu. I have said that the first five kilometres will be build into a dual carriageway.

Hon. Deputy Speaker, I think those are enough clarifications.

Hon. Deputy Speaker: Thank you, hon. (Eng.) Mahamud.

I would like also to acknowledge the presence of Tujabei Primary School from Kipkelion West Constituency. You are welcome to the National Assembly. We also have a team from Borabu.

Hon. Injendi: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: No, Injendi. I think the Member has answered to the best of his knowledge.

Can I have that announcement, so that we dispense of announcements on visitors? Hon. Members, you know we acknowledge institutions in the National Assembly and Members of Parliament from other jurisdictions. So, all Members are welcome. I want to also recognise the presence of Saint Andrews Kagwa Primary School from Borabu. You are welcome to the National Assembly. Thank you.

(Applause)

Hon. S.S. Ahmed: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Shakeel Shabir, what is your point of order?

Hon. S.S. Ahmed: Hon. Deputy Speaker, with all humility, I think the loudspeaker is not loud enough. We are having difficulties hearing. Could the operators increase it a bit? I think they have heard now.

Hon. Deputy Speaker: Yes. I think that is improving now. Sometimes, the volume is not right.

Hon. Members, I want to invite the hon. Serem to make a request for a Statement.

Hon. Deputy Speaker: Hon. Serem just speak, so that we can know if the volume is right.

MEASURES TO MITIGATE EBOLA OUTBREAK

Hon. Serem: Hon. Deputy Speaker. Pursuant to Standing Order No. 44(2)(c), I wish to request a Statement from the Chairperson of Departmental Committee on Health regarding the preparedness of this country in dealing with Ebola Virus disease outbreak. In the recent past, there has been a serious outbreak of the virus in parts of West Africa, which has resulted in the deaths of over 1000 people. There is a need to protect our citizens from this deadly disease, which is easily and quickly spread. There is, therefore, a need to ensure that full safety measures are implemented by all relevant stakeholders in this country.

In the Statement, the Chairperson should inquire into and report on comprehensive measures the Government is taking to safeguard health and the life of Kenyans from this disease. Two, the state of preparedness of relevant institutions in case of an outbreak in this country. Three, whether there is any plan by Government to reduce, or suspend, Kenya Airways flights to and from West Africa to diminish chances of spreading the diseases.

Hon. Deputy Speaker: Hon. Members, as this is a worrying issue of National interest, I will give a chance to a few Members to seek further clarifications that they would wish the Committee to deal with.

Hon. Deputy Minority Leader.

Hon. Midiwo: I thank you Deputy Speaker. Let me thank hon. Serem for seeking this Statement. This is a crisis waiting to happen in our country. I thought it was so casual of the Health Cabinet Secretary to tell Kenyans that they have a 20-bed capacity dedicated to any cases of breakout of the Ebola disease. I do not think we should be that naïve as a country. You watch in the international news people dying in their hundreds in the West African countries. Why would we instead of taking measures get ready for our people to die in a 20-bed ward?

I want to seek a further clarification why Kenya Airways has insisted on flying to and from West Africa. We want to know what the reasoning is. What are the specific measures--- The Chief Executive Officer of Kenya Airways told us that he has been advised by World Health Organization. That cannot be our business. Can Kenya Airways immediately and forthwith stop flying to West Africa until this issue is sorted out? This is an international epidemic. We want that Statement in the next sitting of Parliament. We should deal with this issue of Kenya Airways because they seem to know what we do not know. European Airlines have cut off all their flights from West Africa. How is it so easy for Naikuni to insist that we must go there until our people die and be taken to a 20- bed capacity ward in Kenyatta National Hospital? Order those people to stop it. This House has a duty to our people; I do not believe my country is prepared to deal with a calamity of that magnitude. If you get one at this airport, you know the disease has capability to wipe out human kind. I think it is careless of Kenya Airways--- I want you to order them to stop.

Hon. Angwenyi: Thank you Deputy Speaker. I rise to support that question and my colleague who has just made his contribution. I wonder whether Kenya Airways wants to trade with our health and lives. I would urge all agencies concerned like security units, the Ministry of Health and the Ministry of Transport to stop all flights emanating from West Africa from landing at our Airport. We do not have to wait until the Statement is given. That instruction should go out today so that by end of business today, we do not hear of any flights coming from West Africa.

Hon. Deputy Speaker: Hon. (Dr) Pukose, a medical doctor.

Hon. (Dr.) Pukose: Thank you Deputy Speaker for this very important Statement request. I know my Chair will be able to comment on how soon we will be able to give an answer. This is a case of big magnitude. It is a threat to the Kenyan lives. I think Kenya Airways is behaving in a rather irresponsible way, because they are putting money before the lives of Kenyans. As a health practitioner, we think that apart from the Kenya Airways exposing Kenyans to this risk, we also have the transport sector, especially on the roads, right through Zaire, Rwanda, Uganda and the western part; it will be the responsibility of the Government that at our borders, especially at Malaba, Busia and Suam norder in my Constituency of Endebes--- We want that it be guarded and we have proper qualified medical personel manning the border there. The normal practice of the Government is to send public health officers to those places. I think this is not just a question of public health officers. We should have qualified medical officers who are trained in disease surveillance, and those who work with disease outbreaks should be able to monitor those close borders. We will ask Kenyans to also co-operate with the medical personnel and Government agencies, so that in case of the arrival of anybody with the various symptoms that have been explained by our medical personnel on the radios, televisions and other forms of medium. In case of any signs and symptoms--- I remember that sometime back when we talked about Ebola, Rift Valley Fever and other hemorrhagic fevers--- Patients who also swallow rat sometimes start bleeding from all orifices and people may start running away thinking they have Ebola. These are the dynamics that we need to come face to face with as we face this very threatening disease.

Hon. Sumra: Thank you Deputy Speaker. Since Kenya Airways has its base in my constituency or in hon. Omondi's area, I think the Health Committee should try to

call Kenya Airways to defend itself. It is not fair for Parliament to do that. Airlines have loans and we are going to lose passengers.

(Loud consultations)

Hon. Deputy Speaker: Order Members! That is his view.

Hon. Sumra: I am just saying that because you will kill a parastatal. I am giving my view. We should call this parastatal and hear what measures they have taken. The biggest disease we have in this country is to end terrorist. Can we do something about them? The small thing about Ebola is that you are just penalizing Kenya Airways, and that is not fair; call them to appear before a committee.

(Loud consultations)

Hon. Deputy Speaker: Order Members! You may not like what he says but he is entitled to his view. Everyone one of you is entitled to a position that you take. Hon. Members let us have some order.

Hon. Gichigi.

Hon. Gichigi: Thank you hon. Deputy Speaker. This country is known for dealing with crises by way of reaction. We have information that the Americans have been able to deal with two cases of their citizens who were infected with this disease. The clarification I would want the Committee to seek is whether this country is in touch with the relevant authorities in America and elsewhere, who are testing new drugs that treat Ebola, so that we can be ready in case we suffer the misfortune of getting a victim here. We will use those drugs to save lives, rather than isolate patients and leave them to die.

Hon. Deputy Speaker: Hon. Members, let us try not to take too long on this matter because we are waiting for a Statement as soon as possible. Hon. Manson Nyamweya are you on?

Hon. Members, this business of putting your cards in and disappearing because your name is the first one on the list--- Hon. Members, your name is the first on the list and you are just walking in. It does not look fair to other Members; you put in your card and then disappear!

Hon. Nyamweya: I have been here all through.

Hon. Deputy Speaker: So, do you want to contribute on this issue?

Hon. Nyamweya: Yes I want to contribute to this issue. There is one thing which is very important in this. It is about our health and somebody making money. There is nothing which is worth human being.

The issue of Kenya Airways trying to take advantage of the planes which have stopped going to West Africa--- They expect them to carry passengers to various destinations. It is not what we want as country. We want to protect this country against a disease, which has no cure. It is very important for the Government---

Unfortunately, there is no Cabinet Secretary here who can listen to what we are saying. The most senior person we have at the moment is the Chief Whip, who represents the Government here and also the Chairperson of Departmental Committee.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members!

Hon. Nyamweya: Hon. Deputy Speaker, this is not an issue for debate; it is an issue for implementation. It is an issue to stop it immediately. When this disease is over then the Kenya Airways can fly to West Africa. You know we have security, defense and health agencies in this country. These people cannot do anything, and this is why we need to go for the referendum - so that these things can be addressed.

(Laughter)

Hon. Deputy Speaker: Let us hear from the Chair of the Departmental Committee on Administration and National Security.

Hon. Abongotum: We have no problem with the referendum as long as devolution will go up to the constituency level.

The matter we are discussing today is of national security, and is of great interest to this country. Ebola is so lethal that it has the power to quickly wipe our large populations. Therefore, I, as the Chairman of the Departmental Committee on Administration and National Security and my friend in charge of defense here---

Hon. Deputy Speaker: Order hon. Members!

Hon. Abongotum: Hon. Members are very excited; I do not know whether it is about Ebola or a referendum.

Hon. Members: Referendum!

Hon. Abongotum: We have the medicine!

Hon. Deputy Speaker: Hon. Members, there is no referendum being done in this House at the moment. The matter being talked about here is very serious; it concerns every one of us. Let us leave everything for its time. If you are going to have a referendum, there will be time when we will be discussing referendum in this House; it is not now. Now it is Ebola that we are discussing. Could you, please, stick to the subject?

An hon. Member: You have to choose. It is either money or the box.

Hon. Abongotum: Hon. Deputy Speaker, it is not about money, the box, a referendum or Ebola. I want to say that Ebola is an exterminator; this disease can actually wipe out populations. Therefore, we want, as Parliament, to actually order Kenya Airways to stop all its flights to Sierra Leone, Gabon and Liberia. As we speak, people in Sierra Leone do not greet each other. They actually wave at each other; they do not shake hands. We do not want to get to that level.

I support this issue in totality.

Hon. Deputy Speaker: Order, hon. Members! Let us hear from hon. (Maj-Gen.) Nkaisserry and then the Chairperson of the Departmental Committee on Defence and Foreign Relations.

Hon. Members, the way I am looking at this matter--- I now have 43 requests, yet we are only dealing with Statements. Could you allow the Chair to make sure that we expedite this matter, so that we can make progress?

Hon. (Maj-Gen.) Nkaissery: Thank you very much, hon. Deputy Speaker.

Hon. Deputy Speaker: Is Maj-Gen. Nkaiserry on the wrong side?

An hon. Member: Yes, but there is no problem with that.

Hon. Deputy Speaker: He is allowed to be on whichever side he wants to be on.

Hon. (Maj-Gen.) Nkaiserry: Hon. Deputy Speaker, I want to say that I want to “*okoa* Kenya.

(Laughter)

First of all, I want to congratulate my friend, hon. Kariuki, for making it to this House.

Secondly, I want to tell this august House that this is a time for decision-making. The Government of Kenya, to which we belong as a House, must decide today that Kenya Airways from tonight will not be flying to West Africa. This is not the time for deciding on money versus life; we cannot have money at the expense of the lives of Kenyans.

I hope the President of our country is listening. I am a CORD hon. Member, and I am speaking from this here because it seems that there is no leadership on this side.

(Laughter)

Hon. Deputy Speaker: Order! Order, hon. Members!

(Loud consultations)

Order! Order, hon. Members!

Hon. (Maj-Gen.) Nkaiserry: Hon. Deputy Speaker----

Hon. Deputy Speaker: Order! Order, hon. Members! I am giving a chance to the Whip of the Majority Party to raise a point of order.

Hon. Nkaiserry, you are treading on very dangerous grounds! There is no point of making such statement. We give you respect, but now you are abusing it.

Let us hear from the hon. Whip of Majority Party.

Hon. Katoo: Thank you, hon. Deputy Speaker. This is a national issue that we would like to approach with sobriety.

Hon. Deputy Speaker: Yes.

Hon. Katoo: It concerns all of us. We are just on Statements, and a Statement has been sought on this matter; because of its importance, you have allowed time for its discussion as if it were a Statement; hon. Members are seeking clarifications on it.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members!

Hon. Katoo: Hon. Deputy Speaker, this is very unusual of my colleague on the other side.

Hon. Members: Talk to us! Just talk to us!

Hon. Katoo: I want your attention, hon. Deputy Speaker.

Hon. Members: Just talk to us!

Hon. Katoo: I want your attention, please.

Hon. Members: Talk to us, *bwana!* Just talk to us!

Hon. Katoo: No. Listen!

Hon. Deputy Speaker: Order, hon. Members!

Hon. Katoo: Hon. Tong'i, please, this is serious! Give hon. Deputy Speaker her time!

Could the hon. (Maj-Gen.) Nkaisserry withdraw that statement?

Hon. Members: No! No!

Hon. Katoo: No. Listen!

Hon. Members: Oh, no! No!

Hon. Katoo: *Sikiza!* No. Listen!

An hon. Member: *Shemeji*, talk to us!

Hon. Katoo: Hon. Deputy Speaker, please give leadership to this House. Maj-Gen. Nkaisserry is casting aspersions on the leadership of this House. He is actually interested in crossing the Floor and joining this side. Why does he want to join this side when he is really making such statement? Can he withdraw and apologize for casting aspersion on the leadership of this side?

(Loud consultations)

Hon. Deputy Speaker: Order! Can we have some order, hon. Members? Hon. Members, I am trying to establish what hon. (Maj-Gen.) Nkaisserry actually said. That is what I am trying to establish; it will also appear in the HANSARD.

Hon. Members: He talked about leadership.

Hon. Deputy Speaker: Hon. Nkaisserry, you are out of order.

Hon. Members: No! No! No!

Hon. Deputy Speaker: Hon. Nkaisserry, you are out of order! Can you withdraw that statement? Can you withdraw the statement, hon. Nkaisserry? We have a lot of respect for you, hon. Nkaisserry.

Hon. (Maj-Gen.) Nkaisserry: Yes, hon. Deputy Speaker.

(Loud consultations)

Give me time hon. Members! I want to make this very clear.

Hon. Deputy Speaker: Yes.

Hon. (Maj-Gen.) Nkaisserry: First, I am the only General in this House.

Hon. Members: Yes!

(Loud consultations)

Hon. (Maj-Gen.) Nkaisserry: Secondly---

Hon. Deputy Speaker: Order! Order, hon. Members!

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Let us not have shouting matches. Hon. Nkaiserry, the reason I gave you the chance to speak was because of the respect that we have for you, since you are the only military general in this House. We also expect you to behave and speak like the general that you are. So, to cast aspersions by saying that there is no leadership on this side is not really---

(Loud consultations)

Maj-Gen. Nkaiserry that is a very small matter. Could we dispense of it very quickly, so that your colleagues on this side do not feel aggrieved?

Hon. (Maj-Gen.) Nkaiserry: Hon. Deputy Speaker, you cannot substantiate the obvious. There is no leadership in this House. There is no leadership on this side.

(Laughter)

Hon. Deputy Speaker, I will explain.

Hon. Members: Shame! Shame!

Hon. Deputy Speaker: Hon. (Maj-Gen.) Nkaiserry, can you leave the Chamber for the remainder of today's session.

(Loud consultations)

Order, hon. Members! That matter is finished and we are not talking about it any more.

Hon. Grace Kiptui you can now contribute.

Hon. Anami: On a Point of Information, hon. Deputy Speaker.

Hon. (Ms.) Kiptui: I do not want information; I want to contribute.

Hon. Deputy Speaker: Who do you want to inform, hon. Lisamula?

Hon. Anami: Hon. Deputy Speaker, indeed, the Leader of the Majority Party, hon. A.B. Duale is not in the House.

Hon. Deputy Speaker: That is not what he said.

Hon. Anami: That means that the leader of the other side is not in the House.

Hon. Deputy Speaker: That matter is over. It has been dispensed with.

(Loud consultations)

This will not take us anywhere. It is very clear that we have dispensed of that matter. I will only take two more.

Hon. (Ms.) Kiptui: Hon. Deputy Speaker, I want to speak about the Ebola disease. This is a disease that can exterminate a whole country's population. The West African region has issues and they have not been able to contain the disease. We should make sure that we are protected. We need to protect our citizens. We the people of Baringo County are closer to boundaries in the western region. We need to ensure that doctors are sent to the borders, and the borders are guarded against Ebola.

Hon. (Prof.) Nyikal: Thank you, hon. Deputy Speaker.

Hon. Members, maybe you can listen to technical information because politics is over. Ebola is an extremely dangerous disease; that is for sure. Ebola kills very quickly. I also want to let you know that it is easier to control Ebola than to control HIV/AIDS. Because Ebola kills quickly, the only host dies with the disease. We should, however, get information on preparedness, border by border and not just at the airports, and at roads and beaches. Remember we have beaches where people land. In each place we need information on the screening measures in place, and the quarantine measures in place when people come in; let us know of preparedness levels for those who may get sick, the staff that we have, the equipment that we have, the drugs that we have, and those that treat the disease and those that treat other complications.

With regard to the drug that treats the disease, as of now, there is only one drug which has not been tested in human beings, but WHO has approved its use. We want to know whether the Ministry has started the process of procuring it in case we need it.

Most important, has the Ministry put in place a multi-sectoral task force? This disease is affecting every sector and not just the health sector. It affects transport, foreign affairs, immigration, security and trade. So, has the Ministry put in place a task force that includes all these people to give advice? That way, the decision of transport sector, which we are struggling with here will be made with the involvement of everybody. That way, we will get adequate information to help this country.

Hon. Deputy Speaker: Thank you for that technical advice.

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, the issue of Ebola is very serious. We have informed and engaged the Kenya Airways this afternoon. In fact, we are planning to summon them on Monday. According to the information we have, they are issuing a statement tonight or tomorrow morning. However, that is not adequate. We want to know what steps they are taking. As the Departmental Committee on Transport, Public Works and Housing, we will summon them on Monday and interrogate them. Hopefully, between now and then they will take steps to suspend their flights to West Africa.

Hon. Gichigi: Hon. Deputy Speaker, this issue is very emotive as it touches on the lives of Kenyans. We cannot, as a House, for once, put the getting of profits before lives. I am surprised that my brother, hon. Sumra, here is supporting Kenya Airways' bottom line, yet those planes do not fly themselves. There are Kenyans flying those planes and we cannot put their lives at risk by continuing to fly on those routes. It is not only the lives of the crew and passenger that are at risk, but also the lives of the Kenyan public. This is a matter of public safety, which also touches on the national security of this country.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Consultations are too loud.

(Hon. Sumra stood up in his place)

Order, hon. Members! Hon. Sumra, you already got a chance to speak.

Hon. Gethenji: Hon. Deputy Speaker, we must instruct the Cabinet Secretary for Health and the Cabinet Secretary in the Ministry of Interior and Coordination of National Government to immediately instruct the closure of all flights coming from that region. Korean Airlines has already suspended flights to Kenya because of the health risk posed by Kenya being classified by the World Health Organization (WHO), yet we continue to fly into regions which are actively suffering from this disease. I support that we immediately request the Government to stop Kenya Airways (KQ) flights to those regions.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! I cannot understand the level of excitement today. I do not know what is happening with hon. Members. Where is the Chairperson of the Committee in charge of health? We are talking about the chairpersons, where are they?

Hon. (Ms.) R.K. Nyamai: Hon. Deputy Speaker, I would like to thank hon. Serem for bringing this Statement to the Floor. I also want to thank you for giving it the priority that it deserves. I would like to appreciate other hon. Members who have spoken. Ebola, which most of my community members cannot pronounce because we will say “*Embola*” is a dangerous disease. What we need to know now is not statements. What we need is not to be told about what is going to happen next week. The country is waiting to hear what is going to happen now. I would like to say that this morning, as a Parliamentary Committee in charge of health, we had a lengthy discussion on this matter and we agreed that KQ should not be flying to countries that are affected because we are exposing Kenyans. We are exposing our own health staff and so I would like to agree with other hon. Members that this is a matter that should be discussed widely. I would also like to say that the Statement has additional clarifications that have been sought and we are going to work on them. I know this is work in progress and so I would like to give commitment of giving a response by Tuesday next week. Even as we wait for the Statement, we need an Executive decision that if other countries have decided to suspend their flights to countries that are affected, we also do so. So, I commit that the Committee will give a proper Statement on Tuesday. But as I say that, I am also looking forward, as a Member of Parliament and as a Kenyan to an Executive order that we stop flying to countries that are affected.

Hon. Deputy Speaker: Hon. Members, after we have given you the time to ventilate on this very serious matter, my order, again, to the two Committees; Committee on Transport, Public Works and Housing and Committee on Health is to have a meeting latest on Monday so that in the next sitting we can have the report. In the meantime, we will wait and as we have said, urge the Executive to make sure that they give their word because we do not execute in this House. We can only make recommendations but the people who act, those who implement, is the Executive. What we can get is a report from our Committee. Of course, I hope they will expedite it and make sure that they are also of the same mind; that the message is one. We want this to be stopped as quickly as possible so that we can save the lives of Kenyans.

Can we move to the next Statement by the Chief Whip?

Hon. Shimbwa: On a point of order, hon. Deputy Speaker. I want something corrected which was alluded to by hon. Sumra. The Kenya Airways is not a parastatal; it is a private company. That should be very clear in this House. Secondly, apart from Ebola, there is also Dengue Fever which has been affecting people from Mombasa for the last two months. I know there is one strain of Dengue Fever which is just like Ebola. The Government has not even paid attention to this and so the Departmental Committee on Health should also look into the element of Dengue Fever which is affecting very many people at the Coast. It has made several people suffer and even leaders from Mombasa County have been affected by that disease. So, Dengue Fever is another killer disease and it is not only at the Kenyan coast, it is in Indonesia, Malaysia and Far East countries.

Hon. Deputy Speaker: Okay, your point has been made and I believe the Committee has heard. But let us wait for the one of Ebola for Tuesday and then they can address that one of yours.

BUSINESS FOR THE WEEK COMMENCING
19TH TO 21ST AUGUST, 2014

Hon. Katoo: Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(a), on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the Business appearing before the House the week beginning Tuesday, 19th August, 2014. The HBC met on Tuesday this week and prioritized the business of the House for the part of this week and next week. In this regard, next week, the House is expected to consider a special Motion seeking to extend the constitutional timelines for the passage of seven constitutional Bills. All these Bills have a constitutional deadline of 27th August, 2014. It is clear that if Parliament is to consider these Bills in details, it is not possible to pass them by the deadline of 27th August, 2014, which is two weeks to come,

The consequences of not passing these Bills are well known to all of us. In this regard, I would like to invite all hon. Members for a Speaker's *Kamukunji* on Tuesday next week at 10.00 a.m. in the National Assembly Chambers so that we can put our heads together to discuss the manner of considering this Motion and which requires two-thirds majority and other matters of concern to hon. Members.

Hon. Deputy Speaker, on the said next week, the HBC proposes that the House will go into the Committee of the whole House to consider the following Bills:-

The Finance Bill, 2014

The Victim Protection Bill, 2013

The Kenya Qualifications Framework Bill, 2013

The House will also consider the Second Reading of the Protection Against Domestic Violence Bill, 2013. Also of priority next week is the Motion on the Report of the Departmental Committee on Administration and National Security regarding the inquiry into the tender for the proposed national surveillance, communication, command and control system for the National Police Service. We have also prioritized for debate several Committee reports including the Report of the Public Accounts Committee (PAC) regarding the hire of an aircraft for the Deputy President and the Report of the Committee on Regional Integration on consideration of several East African Legislative Assembly reports. Also of priority next week is the report on progress made in the fulfillment of

international obligations of the Republic and the annual report to Parliament on the state of national security, both of which were submitted by His Excellency the President. It is important for hon. Members to note that this House has six sitting days before we proceed for our long recess. In this regard, the HBC is of the view that we may start extending our sittings past 6.30 p.m. or resolve to have morning sittings on the remaining three Thursdays but this will be left to the decision of the House.

Finally, the HBC will meet on Tuesday, 19th August, 2014, at the rise of the House to consider business for the rest of the week. I now wish to lay the Statement on the Table of the House on behalf of the HBC.

(Hon. Katoo laid the document on the table)

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. I want to thank the Chief Whip of the Majority Party for the Statement that he has read on behalf of the Leader of Majority Party, but I have a concern.

I know that the House Business Committee is given the mandate to arrange order of business to be transacted in this House on our behalf. However, there must be accountability and transparency on the same.

Hon. Deputy Speaker, if you look at today's Order Paper, you will realize that a report that was tabled in the House in July is appearing as Order No.11 while a report that was tabled in July again is appearing as Order No.13. This is the case and yet the Report of the PAC with regards the hiring of an aircraft for the Deputy President which was tabled in this House in April is relegated to Order No.14. We would like the HBC to prioritize order of business as it comes so that all Committees are given fair treatment and there is justice. We cannot understand as Members of the PAC, after sitting for months to investigate an issue, do a report to the House--- A report that touches on matters of accountability needs to be transacted as fast as possible and disposed of. This is because some of the officers who are probably implicated continue to occupy offices where they may be causing more damage. So, could I get an assurance from the Leader of Majority Party or the Chief Whip who is standing in for him that when they arrange the order of business, they will do justice?

Finally, because we gave you powers through the Standing Orders to rearrange order of business, we are requesting that when it comes to reports of Committees, you give preference based on when they were tabled in the House so that we can be sure that there is fairness and justice in this House.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Because the HBC is composed of Members from both sides of the House, allow hon. Ababu to prosecute his point of order.

Hon. Ababu: Hon. Deputy Speaker, let me take this opportunity to join my colleague, hon. Mbadi. On behalf of the PAC, we express our grave disaffection with the manner in which this report on the hiring of the aircraft of the Deputy President has been handled by the HBC. The Committee fulfilled its mandate as required by the House. As indicated on the Order Paper, we tabled this Report on Wednesday, 23rd day of April. That is four months ago.

Hon. Deputy Speaker, the HBC must have some logical way of doing things that can make sense. If a report that was tabled in April, 2014 is not given priority and instead other reports that came much later--- The first report listed there was tabled on Thursday, 24th July, 2014. What logic could possibly be informing the manner in which the HBC prioritizes business?

The PAC has been very concerned about this matter. It has raised fears in some of us as to whether there has been intention to deliberately delay debate on this matter until public conscience has sort of forgotten it. We wish to note for the record that we are certainly not pleased as a Committee and we would like to see the HBC do better and certainly give this report the first priority.

Hon. Deputy Speaker, if you look at the Order Paper, you will find that it is the oldest report pending debate in this House.

Thank you, hon. Deputy Speaker.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, mine is just a small issue. About two months ago, I raised a matter in this House regarding the plight of former Members of Parliament. The Speaker had undertaken that we will discuss this matter in the next *Kamukunji* because it affects our former colleagues and really we must address ourselves to it. I am only requesting that when we hold the *Kamukunji* on Tuesday, we also include it as an agenda. That is the discussion on the plight of former Members of Parliament.

Hon. Deputy Speaker, having said that, I want to thank this House that yesterday we passed the Regulations governing the National Construction Authority. I want to thank the Chair of Delegated Legislation and the Leader of Majority Party because the matter has been coming up---

However, you will recall that almost two years ago, we enacted the Engineers Act. This is such an important law because it aims to introduce professionalism in the practice of engineering in the country. Section 58 of that law requires that we develop rules so that professional engineers can be given enabling environment to practise and quacks can be weeded out. This matter has been pending for over two years and I have been rising to inquire when these rules will come to the House. I would be glad if the Acting Leader of Majority Party could clarify that.

Finally---

Hon. Deputy Speaker: But are they with us or they are with the Executive?

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, they had undertaken to intercede with the Executive. It has now taken two years and this law cannot be enforced because of these rules.

Finally, I want to raise a matter which impacts on the role of Parliament, if you allow me. Article 94 of our Constitution says that the legislative authority of the Republic is derived from the people at the national level and is vested and exercised by Parliament. If you move down to Article 94(5), it says:-

“No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.”

Article 109 goes further to say:-

“(1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.”

Hon. Deputy Speaker, I am raising this matter because many Members of Parliament exercising their constitutional mandate to make laws have taken initiatives to make laws but their efforts are being frustrated by parallel efforts from the Executive.

I will give you example of Bills that are being frustrated. We had the National AIDS Control Council Bill, the Victim Protection Bill and right now, as a Committee we are discussing Access to Information Bill. When we were in the process of pre-publication discussion of this Bill, we got a letter from the Office of the Cabinet Secretary and the Kenya Law Reform Commission advising us that this matter has been taken over by the Cabinet. The concern here is that the initiatives by Members of Parliament are good and we are actually doing what the Constitution mandates us to do. However, when the Executive comes, some of us are of the view that matters, for example, Access to Information Bill--- This is a matter that has been pending in this country for nearly ten years. When a Member takes initiative, puts his or her resources - I commend hon. Nyokabi for this - and then the Executive comes in to say that, that effort should be shelved, really, we need guidance from the House. When we have parallel efforts like these where the House does what it is constitutionally mandated to do and the Executive also goes through a parallel programme, where do we stand as a House and how does it help us in doing our constitutional function of making laws?

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, I think that is a matter that will need more reflecting. That is the question of Private Members' Bills versus the taking over by the Executive. Of course, when they are Money Bills, there is very little that you can do as a private Member. This is where money will come from the Consolidated Fund.

So, this is a matter that I think we will need more reflection on so that we can give you proper guidance.

Hon. Chief Whip, you can respond to the issues that you are able to. The Deputy Minority Leader who is a senior Member can also respond.

Hon. Midiwo: Thank you, hon. Deputy Speaker. I want to speak to two issues. The first one is to agree with hon. Gumbo and hon. Mbadi that what they are saying is even a concern in the House Business Committee sometimes. However, I wanted to emphasise to Members the importance of the *Kamukunji* next week because I think that has not been raised here in a way that Members will understand. These constitutional Bills have a deadline of 27th August and the law says that they must be operationalised and Members need to be alive to the fact that if we do not do something before the 27th of August, Parliament is as good as dissolved. So, we must do something to extend that time.

I want to say that the fault of the delay of the Bill is not on Parliament. These Bills originate from the Executive and it is good that Members state that Bills do not make it here on time. Members need to know that these Bills only came here the other day. Therefore, as much as we have a duty we also must blame the Commission for the Implementation of the Constitution (CIC) headed by Nyachae for not properly bridging the gap between Parliament and the Executive. They are doing it for a very selfish reason and it is important to say it.

You know, if we had passed these Bills one year ago that Commission would not be there. The law says they cease to exist immediately these laws are passed. So, they

have been delaying so that they are in office using public money for no good reason. Even as we speak, Members and the country need to know that not all the Bills are even here yet. So, we cannot be blamed but the issue of two-thirds majority is so important and I do not think it is an issue of either side of the House. It is an issue of the House of the National Assembly and it is important that we all converge at that *Kamukunji* and agree on a way forward, if we need an extension or if we need to go home for another election because it will be an issue.

Hon. Deputy Speaker, lastly, the Executive also needs to know that we have done them a favour. You brought a Bill that we passed here which is in the line of one of the Bills that have a constitutional deadline. Millie Odhiambo brought one. Hers is a bit more recent but yours has been lying there for a long time. They have refused to operationalise that Bill. My Bill on consumer protection was assented by the President in 2012, long before the elections. The Attorney-General has refused to act.

So, we want the office of the Clerk, as we agreed in the HBC, to write to the Attorney-General so that we can know why Bills that we pass that affect the lives of our people directly are not implemented. They pass through the Office of the President and the President has nothing against them, but when they come here on Harambee Avenue somebody thinks he is wiser than Parliament; he sits on them without gazetting or operationalising them.

We need to do this so that people know that we are willing to work, but we do not need the extensions that hon. Katoo is asking for. We do not need them and we would not need them if the Government was doing its part so that we partner in operationalising this Constitution as was envisaged.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, Deputy Minority Whip. Let the Chief Whip contribute.

Hon. Katoo: Thank you, hon. Deputy Speaker. First of all, I want again to stress the importance of the invitation of my colleagues to the Speaker's *Kamukunji*. It is a very healthy session because it gives you opportunity to express all that pertains to the National Assembly, be it individual or private matter or even business. We do it on behalf of the Republic of Kenya. Please, let us have many of you attending so that we can get a way forward on most of these things.

Hon. Deputy Speaker, let me start on the issue of implementation of Bills and what my good friend, hon. Gumbo has raised. As much as we will convey the message to the Executive, this House has a committee called the Committee on Implementation. It is supposed to make a follow up on all Motions, Bills and resolutions of this House. This is because as you said, we do not implement or execute, we only resolve. So, the Committee on Implementation is expected to follow up on all resolutions of this House.

Hon. Deputy Speaker, on what hon. Ababu, the Chair of the Public Accounts Committee has said, and my friend hon. Mbadi, I totally agree with them. Actually, I just want the House to know that the business in the HBC is not decided by the Leader of Majority Party, the Majority Whip or the Leader of Minority Party, it is a collective decision. We transact business through consensus.

When we meet in the *Kamukunji* on Tuesday, we should discuss that issue. We are in the HBC on your behalf and it is good that we get such views. It is time to come up

with a formula of first in, first out and especially on Committee reports. We all know, and especially Members who have been here before that it is only Government business that is processed in this House through the Leader of Government Business that takes priority over anything else. But when it comes to Committee reports, they should be treated equally. That is what we resolved for Private Members' Motions and Private Members' Bills.

I want to undertake as a member of the HBC, and many of my colleagues in that Committee are here, that it is good input. It is going to be considered but let us make it stronger in the *Kamukunji* on Tuesday.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, hon. Members. Certainly, in that *Kamukunji* on Tuesday Members will raise issues so that we avoid some of the unnecessary drama we get in this House. I think we can all co-exist very well. I can see hon. Gikaria. Is he the Chair or the Vice-Chair of the Committee on Implementation? You can see issues being raised; what follow up are you making about Bills or Motions that are passed?

Hon. Gikaria: Thank you, hon. Deputy Speaker. It is good that hon. Kato has just raised that issue. We have a very big problem with the office of the Clerk. We have made several complaints about the issue. As we are talking, out of the 35 resolutions we are done with, over 20--- We have been asking our committee clerk to prepare a report that we will bring to House, but it has not happened. After every two weeks, we have a new clerk. After one month, the researcher is taken away. In fact, this week we have seen the Clerk three times with the Chair, hon. Soipan. We are really frustrated by the Clerk's office. We keep on requesting for a permanent clerk so that we can deliver on our mandate because it is very important. We have done that severally and we have made reports. We have written a letter to the office of the Clerk on this issue.

Hon. Deputy Speaker, secondly, I am also a member of the Committee for the Implementation of the Constitution (CIOC). We had raised issues with hon. Nyachae about the constitutional Bills that are supposed to be passed; I think over a year ago. Now he is just busy running up and down seeking to be elected as a governor and he has no business anymore with the CIC. I think it is important for him to be able to come up with solutions. Under the chairmanship of hon. Baiya, we have been raising these issues.

Some of those Bills are not even anywhere close to Parliament. We have been asking Nyachae to present them to Parliament. But then as hon. Midiwo has just said, some of these Commissioners want to continue staying in office without performing their mandate. I will be the first person to oppose any extension because hon. Nyachae just wants to continue being in that Commission. It is important for us to push CIC through the Constitutional Implementation Oversight Committee (CIOC) to do their work.

Hon. Deputy Speaker: The one on the clerks, I hope you have taken notes on the Members' frustration of not being able to bring their reports to show how they have followed up resolutions that have been passed in this House.

Next issue is about the meeting that will take place next week. It is crucial for all of us and we need to speak with one voice in a bipartisan manner because the issues being raised are about this country and all of us. It is not about one side of the coalition.

Thank you Members, we can move to the next Order.

BILL*Second Reading*

THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL)

Hon. Deputy Speaker: Okay, Mutava Musyimi. Hon. Members, please observe the person in front of me is hon. Mutava Musyimi. All of you are standing in front of me and the Member on the Floor. Yes, you may continue.

Hon. Musyimi: Much obliged Deputy Speaker. I beg to move that the County Allocation of Revenue Bill (Senate Bill No.13 of 2014) be read a second time. Before I prosecute the matter, allow me to make maybe three comments. First of all is to welcome hon. Moses Kuria to this House and also hon. Kariuki, who was recently elected in Mathare. Secondly, may I also say that I join those who find disturbing that Kenya Airways is flying to West Africa. We may not be the Executive but we represent the people who through their Government own significant shares in Kenya Airways. We have every right to demand that Kenya Airways stops exposing our people to a disease that is quite deadly. Now that hon. Midiwo and colleagues are on the other side and I can see them, I notice that some people have gone to Ufungamano on an agenda that is not very clear. I just wanted to offer that when they are clear on what they want in Ufungamano, we shall be more than glad in a spirit of collegiality to assist them. I beg to move.

(Loud consultations)

Hon. Deputy Speaker: Order Members! I am sure it is with a light touch.

Hon. Musyimi: The Bill that I have mentioned provides for the equitable allocation of revenue raised by the national Government for the county governments for the Financial Year 2014/2015. The enactment of the law will be in fulfillment of Parliament and specifically---

Hon. Deputy Speaker: Order, hon. Members! I said I have taken it as that. Hon. Musyimi was saying it with a light touch. Can we take it for what it is?

Hon. Musyimi: The enactment of the law will be in fulfillment of Parliament's and specifically, the Senate's role as stipulated in our Constitution. In this Bill there are three schedules proposing to allocate resources to the counties. The Schedules are:- The First Schedule which divides Kshs.226.66 billion of sharable revenue using the formula approved by Parliament. The Second Schedule divides Kshs.13.898 billion as conditional allocations to county governments from loans and grants received from development partners; the amount of Kshs.13.898 billion constitutes a grant of Kshs.733.6 million from the Government of Denmark and will be disbursed directly to the county governments to supplement financing for county health authorities.

The balance for the conditional allocation amounting to Kshs.13.2 billion will not be transferred to county governments in the Financial Year 2014/2015 because the existing financial agreement with development partners as well as ongoing contracts with suppliers does not permit such transfer. The amount will therefore be budgeted for and

managed by the national Government with full involvement of county governments in the management of funds through the projects steering committees and project implementation units. The Third Schedule provides for the specific allocation for Level 5 Hospitals which totals Kshs1.87 billion and it is based on the Mediation Committee Report on Division of Revenue Bill that was adopted by this honourable House. There are three concerns that I wish to raise, two specific and one general. I begin with the specific concern.

Clause 5 of the Bill refers to conditional allocations of loans and grants which is provided for to supplement financing for county health authorities, of which Kshs.13.2 billion will be managed by the national Government with full involvement of county governments. My Committee noted with concern that the Bill did not detail the following:-

Enumeration of the criteria applied in determining the allocation of the Kshs.13.2 billion to each county and two, there is no sufficient information concerning the existing financial agreement with development partners as well as ongoing contracts with suppliers which informed the allocation of the conditional allocation.

The other specific concern that my Committee expressed is, we note that the Senate has proposed to amend the Public Finance Management Act 2012 to provide a duty to the Commissioner of Kenya Revenue Authority to give recommendations to the Senate on recurrent expenditure of county governments. The specific provision in this Bill, pursuant to Articles 201 and 216 of the Constitution state that notwithstanding subsection 2, the Commission on Revenue Allocation shall recommend to the Senate the budgetary ceilings on the recurrent expenditure of each county government. We wish to say that we are concerned that this particular amendment is coming to us through what we call legislative ambush. It is coming through the back door. This is the second time we are amending the Public Finance Bill through the County Allocation of Revenue Bill. It would have been more helpful if such amendments were introduced through a separate Bill to allow both Houses of Parliament to contribute freely to this particular amendment. As it is, we need a high majority to even change whatever we may need to change, which we cannot get. It is, therefore, important that in future we do not amend the PFM Act through a Bill other than a Bill to amend the PFM Act. I am done with specific concerns and now I will move to the general concern. It is very important that on behalf of the Budget and Appropriations Committee, and this matter was discussed at length two days ago, we set the record clear on the revenue that is raised nationally. It is absolutely paramount to note that during the 2014/2015 Financial Year, the ordinary revenue focused is Ksh1.864 trillion. Members should note that more often than not, the revenue focused is not always realized due to many factors. Consequently, the figures are almost always revised downward to accommodate the changes that arise during the course of the year. Article 202 of the Constitution provides that the revenue raised should be shared equitably among the national and county governments. According to Article 203(2) of the Constitution, in dividing the sharable revenue between the two levels of Government each financial year, county governments must be allocated an equitable share of revenue that is not less than 15 per cent of the most recently audited and approved accounts.

Hon. Deputy Speaker, in this case, the latest audited revenue and approved by this National Assembly, relating to financial years 2009 and 2010 amounted to Kshs529.3 billion.

In addition, the Constitution provides public finance principles that inform the decision on how the equitable allocation of either level of government is to be set. I think it needs to be repeated here that we followed the law and we gave not 15 per cent of the money that the law requires we give. We actually gave 43 per cent of that amount. Therefore, all this clamour that we are not giving enough money to county governments is all together misplaced.

Hon. Deputy Speaker, as the custodians of law, we must respect, defend, protect and uphold the supremacy of our Constitution. The Constitution requires that the equitable division of revenue takes into account the functions assigned to each level of government.

Article 218(2) of the Constitution requires division of revenue between the two levels of Government and across county governments to take into account the criteria set out in the same Constitution. These criteria include, national interest, public debt and needs of the disadvantaged groups and areas, among other criteria.

As I close on this matter, it is important to say that the national interests are functions that are expressed under the purview of the national Government as provided for under the Sixth Schedule of the Constitution. These national interests include, but are not limited to:- Management of public debt, foreign affairs, international cooperation, national security, national intelligence service, parliamentary affairs, the judiciary, the presidency, public prosecution, police service, elections, constitutional commissions and other independent offices.

Hon. Deputy Speaker, for the 2014/2015 Budget, the aforementioned functions have been allocated approximately 80 per cent of the ordinary revenue expected during the 2014/2015 Financial Year. Under these circumstances, the Consolidated Fund Services takes a first charge and has been allocated a total of Kshs.415.6 billion. This would service public debt as well as the other mandatory payments like pensions and salaries related to constitutional office holders.

Secondly, as we aspire to attain the middle income level as a country in year 2030, education is pivotal to ensuring that we attain our aspirations and thus investing in human resource development and in the future. The productivity of the nation is determined by the level of education and thus to ensure that this is achieved, this sector has been allocated just over 15 per cent of our budget.

Whereas the Constitution contemplated a minimum of 15 per cent of the most recently audited and nationally accounts approved by Parliament this year, the county governments have actually received close to Kshs240 billion, of which Kshs226.6 billion is equitable and sharable revenue. This amount by far exceeds the threshold provided for by the Constitution. It is actually 20.6 per cent of the ordinary revenue of the Kshs1.86 trillion expected to be raised during the current financial year.

Upon sharing this revenue, the national Government will have a financing shortfall of about Kshs.78 billion. This will have to be met from other sources including internally generated resources, Appropriation-in-Aid, grants and loans as well as borrowing.

Hon. Deputy Speaker, it should be noted that after taking into account the criteria in our Constitution, there is limited revenue left to fund other national Government needs. It is, therefore, important as we debate the many issues that we debate in our country and as we listen to each other across the political divide to the different levels of Government, to realize that the resource envelope is limited. What is of greatest concern to us is that we make sure that the money we make is spent carefully and it is also audited.

Therefore, I thank the Chair for giving me this opportunity to move this and I now wish to request the Member for Dagoretti, hon. Waweru to second.

I beg to move.

Hon. Waweru: Thank you, hon. Deputy Speaker. I would want to start by congratulating my friend, hon. Moses Kuria and hon. Stephen Kariuki. Coincidentally, they both come from Gatundu. I would want to take this opportunity to congratulate you for being elected to this House.

I support what the Chairman of the Departmental Committee on Budget and Appropriations has said. I would want to say that the County Allocation of Revenue Bill that we have just tabled outlines how counties are going to vertically share revenue; the Kshs226.6 billion. But I would want to say one or two things.

One, I would want to tell our governors not to waste a lot of time moving from one radio station to another. They should be thinking of how they can enhance their revenue collection to the maximum potential because I am sure most of them have ways of raising revenue. There are a lot of loopholes in the county governments and there is a lot of wastage. We have seen them moving from one county to another in fleets of cars. These are the things we are telling them to reduce wastage on. They should deal with corruption which is rampant in counties. They should see how they can restructure to reduce the cost of operation.

Hon. Deputy Speaker, if you look at 2013/2014 revenues, we collected approximately Kshs800 billion. If you try and apply this amount of money---Comparatively this financial year they are complaining that they only got Kshs226.6 billion. We are spending Kshs308 billion on Ministry of Education, Science and Technology. We want to make sure that our children go to school, that is why we are funding the free primary education. We also voted Kshs255 billion on energy and infrastructure. If you did a quick computation on the vote of education, energy, infrastructure, defence and internal security, it will be in excess of Kshs800 billion.

Therefore, when they move around from one place to another, with or without referendum, the fact is there is no money. The fact is that within the three accounts, we are spending in excess of Kshs800 billion. Even if you want to devolve Kshs400 billion, we have to think of ways of raising this money. Probably, I would imagine they are telling our Kenyans that they want us to tax people more. Therefore, I would urge governors to try and raise revenue internally. For example, the Nairobi County has a potential of raising over Kshs2 billion a year, but you will find corruption and leakages and that is something to be concerned about.

Therefore, as I support this Bill, I would want to urge my colleagues, especially one Isaac Rutto, to please give the right figures and the true position. Let him separate politics from facts. This is because however much noise you make, the fact is that we are

still collecting Kshs1 trillion this financial year. That will not change unless you become more efficient in tax collection.

We need to relook at the formula that we are using in the application of the county resources. We can engage on this issue as Parliament. I notice that Nairobi County which generates over 60 per cent of our GDP is still getting under 4 per cent of the revenue. My feeling is that we need to relook at the Commission on Revenue Allocation (CRA) formula to make sure that we get a fair share. I am not saying that Turkana is getting a lot of revenue; Turkana is getting 9.1 per cent and Mandera 7.8 per cent. Considering the population, it is important to look at this formula and see how much we can add to some of the counties like Kiambu which has a population of two million people and yet it is only allocated under Kshs6.5 billion.

With those remarks, I beg to second.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, remember we need to finish this Bill. Ours is to concur with the message from the Senate. We would need two-thirds to change even a comma. Be informed as you begin to debate.

Hon. Waiganjo: Thank you, hon. Deputy Speaker, for giving me this opportunity to support the County Allocation of Revenue Bill. This is an important Bill because it is the one that will enable the national Government to transfer allocations to the county governments' revenue fund. I also note with sadness that the Public Accounts Committee (PAC) of the Senate recently acted *ultra vires* their powers by freezing the accounts of various counties just because they did not appear before that Committee. These are the instances where we must tell our brothers and sisters in the Senate to try as much as possible and act within the law. Freezing the accounts of the county governments does not help in any way. If the Governors failed to appear before them, then that is not reason enough to deny the entire populations of those counties their funding. I urge the Cabinet Secretary for Treasury and the Controller of Budget to ignore the PAC of the Senate in this instance. It also goes to show that at a time when the governors are asking for a plebiscite on the allocation, their demand that they get an increase to 45 per cent will necessarily affect the operations of the national Government. If you look at the functions that are not devolved, they take quite a big chunk of the central Government's revenue and devolving 45 per cent is not the way to go.

In fact, one of the issues that we should go for plebiscite should not apparently be the allocation to counties being raised to 45 per cent. We can look at other ways in which, perhaps, some of the functions of the central Government are devolved to the counties and then we can start talking about giving more allocations and removing some of those functions from the central Government. If security alone with its components of interior and national co-ordination and also National Intelligence Service, the Inspector-General of Police Department and education---At this time we are trying to recruit more officers and buy more police vehicles. In matters of education, we are trying to recruit more teachers and expand the school infrastructure because of the free primary education and the anticipated free secondary education. If the two functions take more than Kshs500 billion and then you put other functions on State agencies like the constitutional

commissions, Judiciary and Parliament which also draw their salaries from the central Government then start talking about devolving 45 per cent of the national Government revenue.

The central Government also pays public debt and pensions; it pays pensions even at a time when the life span of Kenyans is higher and the population of civil servants is growing. This means that the Government is paying a big chunk to pensioners. We cannot forget that the national Government must continuously grow the infrastructure and transport sector. It is only fair that both sides in this House decide that even if we have to go for plebiscite--- Of course, one can understand the need from CORD that the country goes for a referendum from a political point of view now that we are moving to 2017 elections. However, one cannot understand the governors' push for more allocations and then they base it on the allocation. And in fact, the Auditor-General, the CRA and the Senate should be more careful when it comes to these allocations because as it were, we have not seen any prudent spending by the county governments. If anything, corruption now has already been devolved and we should be thinking of how to curb corruption at that level. Even if we increased the allocations to the county governments, do they have the capacity to absorb? Do they have the prudence to spend? Are they making concerted efforts to enhance their own ways of raising revenue and disclosing such revenue? These are the issues that make us come up with more legislation, for example, the creation of the County Development Service Board. Through these boards we can sit together and see the manner in which the county governments are spending the revenue allocated to them.

[Hon. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker (Hon. Kajwang')
took the Chair]*

It is true that counties require more funds. We need to devolve funds to the counties, but it is equally important to insist that monies that go to the counties are well spent. We need to enforce and support the Ethics and Anti-Corruption Commission. We need to urge them to put their ears on the ground and look closely at the activities going on in the counties. We want to ask our governors to use money prudently and apply funds across the board. Of course, there are governors who will get these allocations and then instead of spreading them out to every constituency, they tend to give monies to places that supported them or where they would want to draw more support during the next elections. So, these factors on skewed county development are a pain to most counties.

I support this County Allocation of Revenue Bill.

Hon. (Ms.) A.W. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I want to support this Bill. As much as we are being told to increase the allocations to the county governments, it is not possible because what do we do with education sector, infrastructure, defence and so on? We all know the level of terrorism that we are experiencing in Kenya. The governors have been given 20.6 per cent of the national revenue. They need to utilize that money first and tell us what they have done with the money that we gave them in the last financial year. Some of the governors, after they

have been called to go and explain how they spend money--- I am talking on behalf of Kiambu County where my governor has missed to honour nine summons from the Senate. That has made Kiambu County not receive the allocations of this year. So, people are suffering. Hospitals are closing down!

I read today in the newspapers that the Constituencies Development Fund (CDF) should be audited. What the governors need to know is that we are usually audited every year and we have nothing to hide. If you have nothing to hide, anybody who summons you, just go there with your executive and clear your name and go home. But if you start hiding, it means there is something. The guilty ones are always afraid. What are they afraid of? A sum of Kshs280 billion is a lot of money if it is utilized well. If the county government puts the money into use, it is a lot of money and by now we should be seeing transformation. Thumbs up to Governor Mutua, at least, he has done something that every Kenyan can see. I do not care whatever they say about his roads. At least, there was transformation from what was there before. He has done a good job and he is doing a good job. What I am trying to say is that county governments should be comfortable with the money allocated to them. I have seen that in the referendum that is coming they want to include devolution so that they can ask for more money. What we are trying to tell them is that we do not need to go that way. We have already been given money. The monies are in the counties. Let them first work for their counties and tell us what they have done for their counties. Anyway, they do not need to tell us, we will see what they have done with that money.

Hon. Temporary Deputy Speaker, there is a lot of wastage at the county governments and they need to reduce that. We have seen corruption of the highest order at the county governments. Money is usually allocated in this Parliament. If there is any increase of money, it will come from this Parliament. We have to sit down and the Senate has to sit down and see what they have done with the previous monies to determine what we will give them in the next financial year. But right now what the governors are asking, we cannot give them. They should know that, that is not their money. That is taxpayers' money and should be respected the way we respect the money that we have given to the rest of the sectors. We have given to the energy sector and they need to be accountable for what we have given them. If it is education and I am wondering when they say we increase that amount of money, where have they kept that amount of money? Where do they want us to go and collect that money? They should know that the more we collect the money, the more we have different sectors that need it.

I want the governors to think twice. I heard another governor saying that being summoned by the Senate meant that they wanted to judge how beautiful or handsome he is. He is being summoned to answer questions about his county. I also want to tell the governors from the four counties who refused to sit with the Senate: Shame on them! They should know that they need to go there to answer questions so that the counties stop suffering. The four counties are suffering. The county should not suffer because of four individuals. We refuse and we will not watch them bring those counties down when the rest of the counties are moving forward.

As we sit here, I am in solidarity with the Senate. It is an institution that is in the Constitution. It should be respected and their job should be respected. The governors should not feel that they are gods from counties; that nobody should question them. They

should sit down and account for the money that has been allocated to them as the CEOs of those counties.

Hon. Midiwo: Hon. Temporary Deputy Speaker, thank you. I rise to support the Bill. I want to say a few things. This country is at crossroads. We have said, on our side, that we support devolution. We want even to support the national Government. But until both sides sit down and talk over the issues which are wrong even with the Constitution and the happenings today, I do not think, as a country, we are going to make headway. There is pilferage at the county level. There is a lot of misuse but I want to plead with Kenyans and say this without fear or favour that if money, which seems to be annoying the conservatives in this country, is stolen in Isiolo, that money circulates in Isiolo. If it is stolen in Bungoma, it circulates in Bungoma. So, they want to plead with the people on the other side to stop being angry that monies are going somewhere because money must go somewhere. All we want to advise the Budget and Appropriations Committee is that this is money which has gone to people's pockets on Harambee Avenue for years and years; for 50 years. Let it go to Turkana. Let the people of Turkana make sure that their money is used prudently.

(Applause)

For the ears of the Chairman of the Budget and Appropriations Committee, a wrong trend is being set by politicians in this country and they are the ones who have decided that devolution is not good for us. However, we want to say that we must separate devolution, governors and MCAs. Devolution is taking wealth to our people. I tell you I was in Siaya, my county and I saw constructions going on. The youth are not begging. People have new cars like it is in Kiambu and Nyeri. We want it to be like that. Every Kenyan has a right to enjoy their tax money. But let me advise the Budget and Appropriations Committee, in the next Budget, please fund the Office of the Auditor-General so that he is in Migori, Nyeri, Wajir and everywhere so that there are checks and balances on the ground. We cannot say: "Show us what you have done with the money." If you want somebody to do anything with money, you would be issuing the counties with monies quarterly and not monthly. The noise at the county level is because somebody in the Executive has decided to break the law, to give the county governments little bit of money every month and then they are constantly in deficit. We must face reality. Because our colleagues refused dialogue, you cannot tell us that we cannot go for a plebiscite. We will go! We want to put everything in law. We said that 20 per cent was bad in the Constitution: 47 counties, for example, are too many and we cannot afford them. Let us sit down and talk and say how many of them we can afford so that you reduce the number of the executives across the country. We will reduce the size of the governments and leave the rest of the money for development. We can do that but there is this tendency that only a section of the country is right and has ideas. This Constitution was largely brought to this country by people on this side. That was them! People fought for this. What we are saying is that we want to correct the wrong things. We want the Senators--- By the way, I really enjoy the maturity in the Senate but I do not enjoy the Senators talking at governors in funerals. It is not helping this country; it will kill devolution. Senators must restrain themselves. We are asking: What size of government

benefits this country? Can this country pay 2,200 MCAs? Our original idea was 1,400. We need to go to that and we need a referendum for it. The way you nominate people into county assemblies is also an issue. My county of Siaya has 50 but we only elected 30. What formula is that? Can it be a good formula that we are forced to nominate 18 people and pay them with taxpayers' money yet they are not elected? We must find a formula. This country cannot afford a Parliament of 500 people. Let us reduce it. There is no point going *mashinani* and then you are adding the numbers up here. That is what is irritating in this system. We want to tell our people, let us deal with the size of counties.

There are counties with boundary friction today. Why is the case? This is because some counties belong to one-and-a-half ethnic clans. If they are bigger, the governor will be elected by everybody and so he cannot discriminate. So, we cannot sit back and say that we cannot dialogue. We must tell the Members of the County Assemblies that the Senate has a responsibility. In fact, I was laughing the other day that a group of MCAs has gone to court to put a cap on how much they can spend. The MCAs could not be so wrong.

Hon. Temporary Deputy Speaker, the Commission on Revenue Allocation (CRA) has a constitutional mandate to make recommendations on caps. This is in our Constitution and you cannot take them to court. This is in the document that they passed. The CRA can even say that they will not do anything but it is given that mandate in respect to how county governments spend money. So, we want to have all these things working without irritating ourselves.

Times when demagoguery was the in thing in politics is gone. We have a constitutional way of how to change things that we do not like. Let us talk about it and let us imagine our country 100 years from today. But I can tell you that it will go with some of us because the numbers are simply too many and there is too much government in the lives of our people. We must do something about it because we have a responsibility which is of a constitutional nature.

We want even Parliament to be open. We want Kenyans to know how much Midiwo costs them per year. Do they want that or do they want a hospital? Some of us will lose and we must accept that because it happens to mankind.

(Applause)

However, the time we are in, we want to beg the Executive not to belittle our Constitution.

Hon. Temporary Deputy Speaker, I was very sad yesterday when I saw the Head of State getting angry about the issue of referendum. Why can you not engage in politics and get a solution? I do not think that you can stop it because it will acquire a life its own. How many Heads of State do we have?

An hon. Member: It will die!

Hon. Midiwo: Yes, let it die but let the people have their say. The reason why we are making a lot of noise is because somebody decided that dialogue is not our thing. If you cannot allow us dialogue, we use the Constitution which will then force you to do us--

Let me tell you, hon. Members of Parliament, how this Constitution is bad for you. This Constitution was done by members of the civil society; we refused to engage, we were opposed to it and we were fighting. So many things which we must sort out are before us.

Lastly, there is the Supreme Court ruling that says that this country must look at ways of changing this Constitution to actualize the one-third gender rule by August of next year. The lower court said by 2015 but the Supreme Court was specific. No matter how much my friend, hon. Ichung'wah runs away now, you are exactly one year away from facing dissolution of this House. We must talk about this referendum. That is why we are begging you that let us talk because it is for your own good.

We are saying that we will engage you and we want to be with you but we want us to reason together. As long as---

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Resume your sit now hon. Deputy Minority Leader. Hon. Members, allow me to persuade you so that you may see what we are looking at here. First, we have not passed a Motion to extend the House. Secondly, we must pass this Bill today. Thirdly, we must pass it with a quorum. You know that the number of Members in the House will start reducing.

(Hon. Ng'ongo interjected)

The Member for Suba, do not get to that. So, those are the kind of things that the Chair is looking at. So, even when you are speaking and you are sharing your ten or five minutes, be mindful of the bigger picture so that you can allow somebody else to speak. We should have few of them as possible so that we can move on.

The Member for Homa Bay, you have not been in the Chamber for some time. I know you must have been welcome but I have not heard your voice. So, this is the opportunity for us to hear your voice. So, I have brought you from down the list because I have chosen to recognize you.

Hon. (Ms.) Nyasuna: Thank you very much, hon. Temporary Deputy Speaker for welcoming me back and for allowing me this opportunity to contribute. I rise to support this Bill. Before I proceed, allow me to congratulate hon. K1 for being elected the Member for Mathare. Let me also congratulate hon. Kuria for being selected the Member for Gatundu South.

(Applause)

Hon. Temporary Deputy Speaker, devolution has really brought life to our villages. Before devolution many of our villages were in the dark---

Hon. Ichung'wah: On a point of order, hon. Temporary Deputy Speaker. I find the hon. Member for Homa Bay to be alluding that the hon. Member for Gatundu South was selected and not elected by the people of Gatundu South preposterous.

An hon. Member: Yes! He is a GMO M.P!

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, there is no Member of this House except nominated Members of Parliament who are selected. Every other Member who is here by virtue of representing a constituency is an elected Member of Parliament.

The Temporary Deputy Speaker (Hon. Kajwang’): You have made your point. The Member for Homa Bay, the point of order raised by the Member for Kikuyu is founded. The last I saw was a gazette notice of an election. So, are you in order to refer to a Member of the House---

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Speaker, the truth of the matter in all honesty is that I did not see women, men and youth of Gatundu South Constituency lining up to cast any vote. That is what I meant. I am speaking in that context. I understand the gazette notice.

Hon. Temporary Deputy Speaker, let me go to the County Allocation of Revenue Bill. Devolution has brought life to our villages and that is why I am very happy to support this Bill today. Our villages and markets in Homa Bay were in the dark. Today you walk through the villages of Homa Bay, you see light. Women can sell in Rangwe until 9.00 p.m. because there is solar lighting called “*en magunga*”. Because there is solar lighting, it is called in “French” “*okonyowelo*”.

Hon. Temporary Deputy Speaker, we did not see these things before devolution. That is why we are happy that money is going to our counties. We acknowledge, like any new programme, there must be teething problems. Even in any team before there is settling, there is what is called “storming before forming”. During this period of storming, we cannot hope or throw the baby out with the bath water. I get concerned as I increasingly see our governors getting demonized day by day. They are human beings just like ourselves and they can make mistakes which can be corrected so that we do not kill, like the hon. Minority Leader said, devolution with governors. We must separate these two things.

Hon. Temporary Deputy Speaker, I must go on and say that accountability is paramount.

Hon. Chepkong’a: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Homa Bay, just one minute. The Member for Ainabkoi is on a point of order.

Hon. Chepkong’a: Thank you, hon. Temporary Deputy Speaker. I rise on a point of order as per Standing Order Nos.83 and 107. Is it in order for hon. Wanga to use un-parliamentary language that this House is demonizing governors, when she knows I have a lot of respect for my own governor; Governor Mandago? In fact, I have never used un-parliamentary language against him. In fact, I think what the Senate merely did cannot be imported into this House. So, would I be in order to ask you to order hon. Wanga to withdraw parts of her innuendos that we can demonize governors? I am on a very serious point of order and she knows I am aware of the Standing Orders.

The Temporary Deputy Speaker (Hon. Kajwang’): You have made your point. Just a minute, Member for Homa Bay. Let us just get it right. In my view, whereas the Member is right to rise in his place to raise a point of order, but I am struggling. First of all, I did not hear it. I am going to find out from the HANSARD. But I am struggling to understand whether the word used, which is “demonizing”, as an adjective is really un-parliamentary to the extent that it is an innuendo. So, as I am struggling. I do not want to order the Member---

Hon. Ng’ongo: *Amesahau!*

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Suba, you may want to come and sit here to control the House. For that reason, Member for Homa Bay, I am not prepared to rule you out of order. Can you proceed as I form in my mind whether that in itself is an innuendo?

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker. I have a lot of respect for the Chair of the Departmental Committee on Justice and Legal Affairs, hon. Chepkong’a. He is my good friend. I think he got me completely wrong because he was listening to what he wanted to hear or, probably, he just wanted to express himself on a certain matter and was using this opportunity or, maybe, he was in discussion with the hon. Member for Thika.

Hon. Mirenga: On a point of information, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Homa Bay will be heard. I have not heard her voice for a long time in the Chamber. So, please, allow her. She has made some signs in her head meaning that she does not want information. So, can she be heard and finish her response? Proceed.

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker. Since I will lose my train of thought--- Hon. Obura is my friend but I will lose my train of thought if I keep on getting interrupted.

Hon. Temporary Deputy Speaker, I said that I was getting concerned that governors are getting demonized. You might want to know that I chair the Parliamentary Service Commission Committee on Information and Public Communication and I would be the last person to adversely mention this House or adversely implicate this House. However, I know that there are Members of this House who continuously demonize governors.

Hon. Temporary Deputy Speaker, accountability is paramount. Accountability must be tightened. We must get accountability to our counties. We must get the Auditor-General to all our counties so that, as we speak about the monies that we have devolved, we are speaking from a point of the Auditor-General having enough resources to audit the counties sufficiently and give us a good report.

Hon. Temporary Deputy Speaker, let me speak to the issue of devolution of health, and I know that this House has debated this issue. Health is a critical function and it equals life. Our dispensaries, hospitals and our Level 5 hospitals are really where we rely on. Let me not get into the debate of whether health should be brought back or left there. However, let me speak to the issue of quality management of our health systems.

Hon. Temporary Deputy Speaker, quality health management must be standardized at the national level. That way, if I walk into a hospital in Nairobi, Homa Bay or Wajir, the quality of health care I receive is standard. That is a matter that we must discuss.

Hon. Temporary Deputy Speaker, the matter of County Development Boards is important because I have said severally that devolution is not just about one person or office. Devolution involves all of us. We are all concerned with the success of devolution and, therefore, we must sit and discuss development programmes. We are not going to do that with a view of controlling anybody or anything, but with the view of having sufficient consultations. This is not a new concept. This is a concept that was conceived

even within the Constituencies Development Fund (CDF) Act so that people could come together and discuss development of our counties.

Hon. Temporary Deputy Speaker, as I finish, just in line with your ruling to be considerate to other Members, it is important that we tell the truth about the percentages that we have given to counties. When we say that we have given 43 per cent, is it true? Are we telling the truth? We must tell Kenyans the truth because when we talk about audited accounts, we are talking about audited accounts of 2009/2010.

Hon. Temporary Deputy Speaker, that is why we must have a referendum to adjust some of those matters so that when we speak, we are speaking the same language. When we talk about 15 per cent, we must know that it is 15 per cent of what. When we talk about 45 per cent, which is what the governors and *Okoa* Kenya proponents are pushing for, then we must know it is 45 per cent of what.

Hon. Temporary Deputy Speaker, with those many remarks, let me finish there. Thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Leader of the Majority Party. We need to pass this Bill today with a quorum and we need to push it to the Third Reading today and yet, we have not extended the time of the House. So, can we hear you to provide leadership on this?

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker. Even if we do not pass this Bill, I can tell you that it will be law. That is because for us to deal with this Bill, we need a two-thirds majority. However, I will speak on this Bill.

Number one, I want to say it very clearly - and I am sure the Chair of the Budget and Appropriations Committee will agree with me that the Senate - both in last year’s County Allocation Bill and in this year’s Bill, has developed a tendency of amending the Public Finance Management (PFM) Act and that is very wrong. The Senate should not hide under this Bill to amend the PFM Act because the PFM Act is a serious law. We have no problem with them doing the ceiling on the county governments and the Members of County Assemblies (MCAs). But when you do this, you are deliberately denying the National Assembly its legislative powers. So, I want the substantive Speaker to make a communication on this matter because even Sub-section 6 of the PFM Act says:-

“The Act shall prevail in the case of any inconsistency between this Act and any other legislation.”

So, I do not know whether the Legal Department of the Senate advises the Committee on Finance of the Senate because the essence of the County Allocation Bill is to divide the revenue allocated to the county governments for the 47 counties. So, I want to raise this very critical point that it is a very bad trend that the Senate is developing.

The second and the most important point is that we are not in this House, borrowing the words used by the great lady of Homa Bay, to demonize governors or county governments. Neither are we here to be their flower girls. Our business as legislators is to see that the fruits of devolution reach our people. More fundamentally, the way each and every Member of this House will account for every penny of the Constituencies Development Fund is very important. Every public money; whether it is in the national Government, county government or Parliament, must be accounted for.

Today, I am so happy the governor of Murang'a has seen the light and he has appeared before the Public Accounts Committee of the Senate. He has seen the light.

(Applause)

Few nights ago I saw him on television saying that he is not a tourist site. When you are called to answer an audit query; whether you are a Member of Parliament or Minister you must respond. What you have been given is not money from your account, it is public resource. If it is money for health, it must be used on the same line.

Hon. Ochieng: On a point of information, hon. Temporary Deputy Speaker.

Hon. A. B. Duale: No, I can only be informed by serious political parties, not small *Kalau*s. How do we define the smallest unit of devolution? This is a question I have been grappling with.

The Temporary Deputy Speaker (Hon. Kajwang'): Alright Member for Ugenya, was that information or what in the content of your intervention?

Hon. Ochieng: The Temporary Deputy Speaker it is a point of Order.

The Temporary Deputy Speaker (Hon. Kajwang'): Can it be a point of order?

Hon. Ochieng: Hon. Temporary Deputy Speaker, I want you to guide this House on this---

The Temporary Deputy Speaker (Hon. Kajwang'): No, do not guide the House; it is the Speaker's discretion to guide the House. Just raise the issue which is out of order.

Hon. Ochieng: Is the hon. Leader of Majority Party in order to insinuate that we, as Members of Parliament, account for Constituencies Development Fund? This is a matter that has been going on for a long time. Is it our mandate? Is it the role of Members of Parliament to account for Constituencies Development Fund?

The Temporary Deputy Speaker (Hon. Kajwang'): Leader of Majority Party, I do not think it is an insinuation, he is asking you if you could be misleading the House; that patrons can also account.

Hon. A.B. Duale: Yes, as the patron of Garissa Town Constituency, I have a moral obligation as the overseer to make sure that the Constituency Development Fund Committee does the right thing as per the law. If I continue because I do not want to go into that, I was talking about the unit of devolution. Which is the smallest unit? The ward can be a unit of devolution. The constituency can be a unit of devolution. In fact, before I go very far I want to thank both the Member for Gatundu South, duly elected and the Member for Mathare, hon. Kariuki whom I had the pleasure of serving in the last Parliament with his mom, a great leader. So, I had the pleasure of interacting with the mom as a leader, Member of Parliament and a Government Minister, and now I have the opportunity to--- I want to thank the people of Mathare for electing hon. Kariuki.

Even as we go to the referendum, there might be a number of issues. We are talking about devolution. Devolution does not mean one entity called "governor". Devolution cannot be equated to the county government. Devolution can be equated to the smallest unit of a devolved system; the people. How do we get more access to water, health, infrastructure and accountability? If you have to devolve 45 per cent to the counties, then we must agree that 20 per cent goes to the constituency, 20 per cent goes to

the county and five per cent goes to the ward, so that devolved resources are also spread equally across the board.

(Applause)

So, among the many questions that we are going to put to the people of Kenya is that we devolve the 45 per cent across the board.

(Loud consultations)

As I continue, of course hon. Temporary Deputy Speaker, I want to be informed; you are a senior lawyer. I had the pleasure of addressing the Law Society of Kenya this morning. I got a standing ovation, I have to say that. I am sure you can talk to your colleagues. In the referendum, the Law Society of Kenya will come up with their question; the pastoralists will come up with their question and so on. In fact, the Muslim community can say that the Kadhis court is a lower court and they would want to enhance it. So, we want to enhance the Kadhis court and we deal with the 20 per cent, so that Christians can relook at abortion as an issue. The age limit of a presidential candidate might also come up; that what should be the age of a President? Is it 60 or 65 years?

(Laughter)

The Jubilee will come up with their question as well as CORD and the Council of Governors. The women of Kenya will come up with a question about the gender rule. The election date can be a question. The issue of a government structure, do we want a parliamentary system? So, let us discuss this matter. I want to urge my colleagues, as we take the route of 45 per cent, the mathematics must be that 20 per cent to the constituencies, 20 per cent to the county governments and five per cent to our leaders at the ward level, the Members of County Assemblies. With that, I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright thank you. Member for South Mugirango, proceed.

Hon. Nyamwea: Thank you, hon. Temporary Deputy Speaker for giving me a chance. Fundamentally, I am opposing this Motion. I will give you my reasons. You know, we have a responsibility to protect the Constitution and to follow what the Finance Act says. I want to read the Second Schedule on conditional additional allocation to county governments. That is Page 10; how funds have been allocated by the Senate to various counties. It is better I read so that Members can understand the issues I am raising. You realize that Baringo, last year, had Kshs.382 million, but the amount has been reduced to Kshs.182 billion. Bomet had Kshs.272 million, but the amount has been reduced to Kshs.150 million. Bungoma had Kshs.334 million, but the amount has been increase to Kshs.711 million. Busia had Kshs.266 million, but the amount has been increased to Kshs.661 million. Elgeyo Marakwet had Kshs.744 million, but the amount has been reduced to Kshs.139 million. If we pass this as Parliament, truly we are a rubber stamp Parliament. We cannot allow the Senate to pass this; we are told that if we do not pass it, anyway it has passed. So, I find it impossible, as a Member of Parliament elected to protect the interests of Kenyans, to allow this kind of Bill to be passed by the

National Assembly. Members, I want you to look at the figures that I am reading. In some counties, the amount has been increased twice and in others even five times. I want to know the composition of the Senate which sits in the Finance Committee.

I want to know the composition of the Senate which sits in the Finance Committee. You will find that the composition of Senate which sits in the Finance Committee have allocated money to the counties. We sit in the National Assembly to pass it. We in the National Assembly have been assumed not to exist. Truly, if we pass this amount the way it is, then this National Assembly does not exist. It is just a rubber stamp. We must stand up to be counted as the National Assembly to protect the interests of all Kenyans.

Hon. Temporary Deputy Speaker, we blame the President, but what do you do with those senators? Let me go through what I am saying – people are thinking that I am making a story. Homa Bay had Kshs1.6 billion and the amount that has been given to Homa Bay is Kshs215 million.

(Hon. Members whistled)

We cannot sit in the National Assembly and say that we want to pass this figure--- We have got a Budget and Appropriations Committee, which came up with this and said that they are passing it. I have a lot of respect to the Chair. But I find it not in order for us, as the National Assembly, to pass this the way it has been done by the Senate. That is why I am opposing it.

As I go on, I know it is a conditional grant. But the reason for the conditional grant must be known. The money is conditional! Why has the money been drastically reduced while in certain counties, the amounts have been suddenly increased?

Hon. Members: We are being finished!

Hon. Nyamweya: Hon. Members, this money is going to work in our constituencies and dispensaries. That is where the money is going - in the constituencies and counties. Therefore, I have looked at the Bill and I have found out that those are arbitrary figures. I do not know how the Budget and Appropriations Committee was convinced to bring it to this House for us to debate. There is no convincing reason at all on the criteria used. How do we pass it as the National Assembly?

Let me look at it once again. Places like Nakuru, Nairobi, and Migori--- I have looked at this. An area like West Pokot was given Kshs437 million and it had been given Kshs96 million. Wajir was given Kshs357 million. But now it has Kshs91 million. There are no criteria given. We should not sit here and debate this Bill.

On top of that, to add pain to injuries, they come with an amendment through. They want to amend the Public Finance Management Act and that is our responsibility. We should get the requisite numbers to oppose this Bill and amend it. We cannot run away as the National Assembly to pass it the way it is. We should reject it; we should seek for amendment by getting the number required so that we can then pass it.

Hon. Temporary Deputy Speaker, we cannot assume--- Even God says: “Please attempt, try, knock and it will be opened for you.” We cannot come here and sit because we fear that we cannot get the numbers as we are all affected.

When the Chairman of the Departmental Committee on Budget and Appropriations was moving this Motion, he said that he was disappointed. We are not going to deal with disappointments. What we want here is action. I am opposing this Bill, the way it is; unless it is amended so that we have---

My friend is a Member of the Budget and Appropriations Committee. Let us be serious because we cannot pass this Bill as the National Assembly the way it is. Therefore, I oppose the Bill. Hon. Temporary Deputy Speaker, we have got the Chief Whip and the Leader of Majority Party and they know that it is wrong. They should organize hon. Members.

That is the problem I have. We are all the same. They should mobilize hon. Members to come to this House so that we can amend this Bill and have the correct thing.

Therefore, with those few remarks, I oppose this Bill the way it is because it will not be right in the eyes of Kenyans if we pass this Bill.

Hon. Ng'ongo: Thank you, hon. Temporary Deputy Speaker. Allow me to add my voice in supporting this Bill.

I want to start from the point that the County Allocation of Revenue Bill is actually a Bill that talks about figures that have already been transacted in this House. The Chair will remember that, as a House, we provided Kshs226.66 billion to be shareable revenue in the counties from the National Government. We also added Kshs1.87 billion specifically for the Level 5 hospitals across the country.

Hon. Temporary Deputy Speaker, I want to start from the point raised by hon. Nyamweya; who is a good friend of mine. He spoke about conditional grants. I want to ask the House to appreciate that we have two types of revenue going to the counties. We have shareable revenue and conditional revenue. The shareable revenue of Kshs226.66 billion has actually been divided based on a formula. That formula was arrived at by the National Assembly of the Tenth Parliament; even though the law says that the CRA should recommend to the Senate a formula which takes five years. The formula we have was arrived at by the Tenth Parliament and the Senate has the option of changing it at any time. But they have not changed it. Therefore, that is the formula we must use.

On the conditional grant, I think this is where the confusion is coming from. I find it a bit interesting that the hon. Member is casting aspersions on the membership of the Budget and Appropriations Committee where I also sit. He has actually mentioned my county as one of the counties which got a conditional grant of Kshs1.6 billion during the last financial year and is currently getting only Kshs200 million. Therefore, if one sitting in Homa Bay and hears that, he will see me as a very negligent Member of Parliament. I want to say no.

Hon. Temporary Deputy Speaker, conditional grants that go to the counties are actually funds that come from the donor community. Those funds come from our development partners and are based on specific agreements with those donors. If a donor has agreed with Nairobi County, for example, which this year is getting Kshs1.6 billion as money to finance activities in Nairobi, it is not practical to take that money and share it with any other county because the conditionalities within that agreement will not permit it.

Therefore, it is upon our counties to be proactive and negotiate. If we want more funds to go to our counties; it is upon our governors and the executive committee

members to negotiate agreements with donors to get financing and funding from various donor community. I wanted just to make that point clear.

Hon. Temporary Deputy Speaker, allow me to make two other quick comments because I also want other colleagues to contribute to this Bill. If the headmaster of a school, for example, a principal, steals money, you do not close the school. You get rid of that head-teacher or principal. Therefore, the fact that some people have issues with governors in terms of management of resources does not make devolution untenable.

In my view, let us deal and sort out our governors who are not able to deliver together with their executives. But it is wrong to brand all counties as having failed.

Hon. Temporary Deputy Speaker, I listened to the Member of Parliament contributing and with a lot of bitterness, but I understand. I want to remind her that the way she is feeling now is the way we have felt for the past 50 years. Some of us had never seen those billions come to our places. All this money, probably, has been going to Thika. So, the MP for Thika is feeling so hurt because the money is now going to Suba. Could she allow us to also enjoy some of the benefits of independence in this country?

I want to address the issue of amendments to this Bill because that has raised a lot of concern. Truth be told, I find it really interesting that the Senate continuously amends the Public Finance Management Act through other legislation. This is a bad practice. I have said that before and I will repeat it again. Hon. A.B. Duale read Section 6 of that Act. I sat in Naivasha with my colleagues – We were three Members of Parliament, Senator Murkomen and the Senator for Kitui – and this is one of the provisions that we included in this law. Our intention was to make the Public Finance Management Act superior to any other law in terms of financial management. We were doing that so as to streamline the financial management system. We wanted to be clear in our minds which law to refer to when you talk about financial matters in terms of management. We also wanted to ensure that there is fiscal discipline. To that extent, I disagree with the Senate.

There is a fundamental issue I wanted to raise. At times, I see us directing our arsenal at the governors, but the problem is the Members of the County Assemblies (MCAs). I want to agree with the Senate--- I know some Members are saying that this amendment recommending that the CRA recommends rates or comes up with a ceiling is not constitutional. That is not correct. Actually, I want to invite my colleagues to read Article 201 of the Constitution. It says this about principles of public finance: “Public money shall be used in a prudent and responsible way. That finance management shall be responsible and fiscal reporting shall be clear.” Article 216 on the roles and functions of the CRA states: “The Commission shall also make recommendations on other matters concerning the financing of and financial management by the county governments.”

This means that the CRA can make recommendations on financial management by the county governments. Therefore, if the CRA realizes that counties are wasting too much money on recurrent expenditure or travel by the MCAs, then they have a constitutional mandate and function to recommend the ceilings. I have a copy with me of the recommendations by the CRA on the ceilings. For example, with regard to Homa Bay County – after doing this through proper, objective and scientific way of calculating the actual cost of running county assemblies – instead of putting the county assembly allocation at Kshs477 million they have increased it to Kshs805 million. We did not form counties to enrich MCAs. For a small county like Busia, the county assembly is putting

Kshs791 million. This is a very small county in terms of numbers of the MCAs. You cannot compare it to Kakamega or Homa Bay. In fact, this is the county with a record of foreign travel. I have the data. I am talking about Busia County. It is allocating Kshs150 million for foreign travel for MCAs. Do you think we should not bring order in that? To that extent, I agree with the Senate's amendment to put ceilings on how much should be spent on recurrent expenditure.

Hon. Temporary Deputy Speaker, even national Government has ceilings, including Parliament. We get that from the Treasury. The treasuries at the county cannot recommend that because when you do that you, will be impeached the following day. So, there is fear.

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I support this Bill, but, of course, with all reservations because of the changes that were made by the other House. I also want to be quick to point out that nobody in this House or even the Senate has any ill-feelings against our very good governors. We were all elected by Kenyans in order to deliver services to them.

With regard to what the Member of Parliament for Homa Bay County had said that Members are demonizing governors, I want to be clear that none of us is demonizing any governor. All that Senate and the National Assembly have been emphasizing is that the governors be accountable to the people who elected them. Accountability is not a choice; it is something that they must do. The resources that have been vested in the county governments are not for governors to spend as they wish. They must be accountable to the people who they represent. When Senators demand that governors be accountable, the Senators are only doing that on behalf of the people that they represent. Even we demand accountability from our governors we only do so as representatives of the people. Therefore, nobody should imagine that we are demonizing our good governors.

One other thing that has been peddled by a number of Members from the other side – it has been said here and also in funerals – is that the Jubilee Government is lying to Kenyans when we talk of 43 per cent of the last audited accounts. That is what the law says. I want to challenge our colleagues who have been preaching this in funerals and public *barazas* that if you want Kenyans to believe you in your fight to have a referendum, and if you want Kenyans to have the 45 per cent--- Like the Leader of the Majority Party said, we have no problem Kenyans getting that 45 per cent at the devolved units, which are the wards and constituencies. In fact, 20 per cent could go to the county governments to pay salaries and other things. However, we are all aware that audited accounts from the Auditor-General's Office have been tabled in this House, including audited accounts for 2012/2013 which were tabled sometime this year by hon. A.B. Duale. The Chair of the PAC who is a member of the Coalition that is lying to Kenyans and misleading Kenyans---

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang): Member for Kikuyu, you were doing very well until you touched a live wire. Before I entertain those points of order, please, withdraw and then we go on?

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I definitely wish to withdraw the word "lying". Hon. Members may not be lying in this House but when they are speaking to people in funerals, they may not necessarily be telling our people the truth. They may be propagating a falsehood that the Jubilee Government is not giving the 43 per cent. I want to challenge the Chairman of the Public Accounts Committee (PAC)--

An hon. Member: On a point of order!

The Temporary Deputy Speaker (Hon. Kajwang'): I see nothing out of order.

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, thank you for your protection. It is a fact and we know it in this House that if only the Chairman of the PAC had tabled the audited accounts for the year 2012/2013, this House would have debated, adopted them and next year, maybe, we can base the 43 per cent or 45 per cent or even 60 per cent. They are forgetting that it is only the Jubilee Manifesto that spoke of not less than 40 per cent of funds going to counties.

Hon. Kaluma: On a point of order, hon. Temporary Deputy Speaker. Is the hon. Member in order to mislead the House about how the House gets to debate matters?

The Temporary Deputy Speaker (Hon. Kajwang'): How the House does what?

Hon. Kaluma: Hon. Temporary Deputy Speaker, orders its business. The Chairman of the PAC is chairing a Committee. Ordering business is the business of the House Business Committee chaired by none other than the Speaker. That Chair was here a short while ago complaining that he has done his work.

The Temporary Deputy Speaker (Hon. Kajwang'): Is that an issue out of order? This point of order thing is going to get in the wrong footing. What is misleading must be something which is not factual. When there is a point of opinion, just wait for your time and you will tell him that he was wrong in saying what he said. But do not take it as a point of order.

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, thank you for the protection because it is true that hon. Ababu had raised that issue and I heard that point as I drove from Kikuyu on the question of the Hustler's Jet, but not on the audited accounts. I wish to challenge hon. Ababu and the CORD Coalition which are the majority in that PAC to table and have those reports debated so that we may tell Kenyans the truth and give the 45 per cent.

Hon. Momanyi: On a point of order, hon. Temporary Deputy Speaker. Is the hon. Member, who I respect and who is a Member of my Coalition in order to tell this House that PAC, in which I sit, that the reasons those accounts have not come to this House is because of the Chairman? He is probably aware that the only Committee that is allowed by the Speaker to sit almost on a daily basis so that they can clear all those accounts to allow for allocation of resources to the counties is PAC? Is he in order?

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Ichung'wah, please, keep to what is modest because more than what the hon. Member is saying--- Do not be so obsessed, if I may use that term, to link the Chair of a Committee, to a Coalition. This Chair is here as a Member of this House. He is participating in the Committee. So, do not try to bring politics with what is before us as legislation. That is why you are striking these hon. Members in a wrong way. Proceed, so that you can finish.

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I stand guided by your wisdom. Of course, I have a lot of respect for the very good Members who sit in that Committee because I also sit in a similar oversight Committee, the Public Investments Committee (PIC). I know the kind of work that hon. Members put in. However, I was only saying that it is important that these reports be tabled and debated so that we base the 40 per cent or 60 per cent of what we are giving to the county governments on the most recent audited accounts.

Lastly, I want to speak about the question of county development boards. I wish to congratulate Hon. (Ms.) Nyasuna for what she has said on the question of county development boards: That our good governors should have no fear. The other thing that has been propagated out there is that the county development board is coming and is giving Senators certain executive powers over the governors. It is important for Kenyans to know that this is far from the truth. What the county development boards are seeking to do is to simply create a forum where we can coordinate development within our own counties. I must say devolution is one of the best things that has happened and from what hon. Ng'ongo has said, it is true and I can testify in this House that there are those governors who have done extremely well. There are those counties where members of the public have started reaping the fruits of real devolution. But there are those counties, like my own and a few others, where we are still suffering from what hon. Ng'ongo was saying - that if Kenyans have suffered for 50 years--- I come from a constituency which, since Independence, has been marginalized simply because we have always elected Members of Parliament from the Kabete side of the constituency. So, it is only this time round. In these first two years after the last elections, members of the public from Kikuyu Constituency can start to taste the true fruits of our Independence and freedom.

I, therefore, want to encourage hon. Members to support the implementation of the Act that brought about the county development boards because these boards---

The Temporary Deputy Speaker (Hon. Kajwang'): Your time is up!

Hon. (Ms.) Ombaka: Hon. Temporary Deputy Speaker, thank you for giving me this opportunity. I would like to contribute to this. First of all, I would like to appreciate the role of devolution in the county. Many of these counties were under-developed in the past and today we are witnessing great development that is moving very fast. It is a great honour that this is happening. It is also very important to note that because devolution is good, we are moving from 15 per cent to 43 per cent so that we can accelerate the development in the counties.

However, I sympathize with governors because quite a number of them have also complained that the allocation given to them is too little and, sometimes, it comes too late. When it comes late, they do not have enough time to spend the money in development and it means that quite a number of them return the allocation given to them back to the National Government. It is important that the Government comes up with particular timelines; times that money is allocated to the county so that they know that money is just about to be allocated. But as long as we do not obey the timelines, it becomes very difficult for the county governments to function. They do not know when to expect the money. They do not have enough time to spend it and that means that they have to return the money back to the Treasury. That is a tragedy. We have to be serious with the time that the funds are sent to the counties for development.

The other thing is that everywhere where money is spent, even if it is a kiosk or a small business enterprise, money must be accounted for. You must tell us what you have received, how you have spent it and what is left. So, the governors should never worry about this because that is expected of them. Whether or not they do not want the Senators to oversight them, somebody else is going to check on them. So, they better be prepared to explain to the public how they spend their money. That is expected everywhere; be it a school--- The headmaster must explain how he receives the fees and how he spends the money. Any kiosk can do that anywhere. So, it does not surprise me that this is expected of them. But the biggest surprise is that they complain as though they do not want to account for the money that has been allocated to them. They better be informed that this is an expectation and it is part of accountability. It is part of transparency and all governors should account for the money that is given to them.

Finally, there is so much noise over the money at the county being misused. The newspaper is full of reports of money being misused. You will see some counties spending a lot and doing a lot within a short time while others are lagging behind. Machakos County is doing well and it is always in the news. It has done this and that. That county has bought ambulances. How do they get money very quickly while others do not? Where do they get money to use very quickly while others are lagging behind and do not spend a single cent? They keep complaining that money arrives late.

Hon. Temporary Deputy Speaker, finally, the area of procurement is a challenge. This is an area that gives 30 per cent to women, the youth and people living with disability. Can the governors tell us how they have allocated funds to those special groups because it is not very clear? In my county, I do not know how many youths have been given opportunities to do some business with the county. Many are complaining a lot and asking what is happening. I think this need to be streamlined.

Perhaps, we need, at the end of every year or at the end of a particular period, maybe, every three months, the counties to tell us or pin a list of people who have benefited from the procurement processes. That is key. That is the area that we need to target. The counties need to constantly tell us and list the people who have benefited from those contracts.

We should constantly check on our governors because we want the money to be used adequately. We want to see development in progress. We do not wish to attack them all the time. However, we want them to be more responsible and account for the money that has been allocated to them. We also want to see our counties grow in leaps and bounds especially counties that have been under-developed since 1950.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Hon. Members, this is a subject that you all want to express yourself on. I know many of you have come to the Speaker’s screen and seen whether they are number one, two or something like that. However, if you sit where I am seated, you will find that it takes more than being number one. There are many things we need to balance as we get to this.

However, I want you to relax because we are going to discuss this Bill. We will not gag Members. I think there is no pressure on you. So, when you get the opportunity, just contribute. If you feel, because you are the debaters, that we take it to the next

session, we will. That is because I can even see that the House is not prepared for a vote. Take your time and debate this Bill.

Hon. (Ms.) Nyamunga: Thank you, hon. Temporary Deputy Speaker. I would also like to add my voice to the voices of many of my colleagues concerning the allocation of resources in our counties. I am one of those who support that resources should be used properly. This is more so the county resources.

When I came to Parliament, I had a very big problem; an issue on how the resources are spent. I have now realized that the same weakness is being transferred to our counties. If you look at the parameter that is used for the allocation of resources in the counties, you will see that 45 per cent is population, while the land acreage is 8 per cent. Poverty index constitutes 20 per cent. That does not make a lot of sense to me.

In my view, the poverty index should be given a higher percentage. That is because if you look at a place like Kakamega, you will find that a lot of money has been set aside for rural electrification, loans and grants. However, you will realize that any time there is a problem of drought and food shortage in the country, Kakamega does not feature anywhere. It is not that I am against that county as such but I am against the parameter that has been used. I think the poverty index should be given the highest percentage because that is what determines the standard of living of our people at the county level.

Hon. Temporary Deputy Speaker, the other thing is that other than just giving the governors money, they should get 45 per cent or more than that but we should not leave it at that point. They should be taken to the next level. If resources have been allocated to any county, the most important thing in my view is that before the next budget is prepared, it should be very clear to everybody in any county how that money was spent. I know the Auditor-General does his work. I also know that the Controller of Budget is also doing her work. However, this auditing should be done on the ground.

For example, right now, we know that allocations have been done in Kisumu County. We know that there are very many roads, classrooms and other things which are supposed to be done. However, before they give us the budget for next year, we have to go through it to make sure that whatever was budgeted for and allocations made should have been completed. If it is not completed, the county government should tell the county citizens: "We were not able to do this project because for this reason. This is the money that was allocated for this and it has been put in a reserve." To me, that is the right way to go.

On the Senate, in my view, it should not sit in the management of the county government boards. That is because the Senate is an oversight body. Definitely, if I play my oversight role, then I should do my work. If the Senators want to be governors, they can view for that next time. However, let them do their bit. They cannot sit in the management boards, allocate resources and, at the same time, audit and play an oversight role. That does not make any sense to me. In my view, governors should be put on check and they must do the right thing. Every cent that is allocated to the counties should be properly utilized and accounted for. That is when we will realize the fruits of devolution and the poverty index that we have in our counties will come down. Again, that is when we will do justice to this country and the people who elected us to be in the position of leaders. If we fail in the way we use our resources and in the delivery of services to our

people, it will be a big let-down and, as the Kisumu County Women Representative, I will not be part of that.

Thank you, hon. Temporary Deputy.

Hon. M'uthari: Thank you, hon. Temporary Deputy Speaker. I also rise to support this Bill grudgingly. Revenue allocation has been discussed in the country but very little is raised in connection with the resources that are allocated at the county level. It is like the county chiefs want to be allocated money and then spend it. We also want to have a work plan. What is it that is being promoted both socially and in terms of development to stimulate development in those areas so that we can have money? Everybody is talking about money going to that level. It is important that we need money at the grassroots level, but who is creating that wealth? What is the contribution of the people in terms of creating wealth so that we can have more money at the end of the day? It is very easy to say: "Let me have this! Let me have that."

There is a clamour--- Even me, I want more money *mashinani* - at the constituency level, ward level and county level. We want those changes. At the same time, even as we ask for this, let us be accountable. Why do the governors fear to face the Senate?

How can we have the people who are given public resources not willing to be questioned? They are not willing to take responsibility for the leadership. So, as we pass this Bill and give resources to that level, let there be clear systems. The question of the referendum by governors and the Opposition is coming out because of those County Development Boards. That law was passed by the Senate. It was also passed in this House. Through that, we accepted to have those County Development Boards for the purposes of giving input as far as understanding how the resources are shared. They are for coordination and harmony but people are not interested in them. They do not want to be questioned. They do not want to share what they are doing. So, there is something suspect about it.

Then at the public level, we have reached a level where, when something is mentioned, they want a referendum. When governors are mentioned, they say that devolution is under attack. I think it is high time that understanding is created within Kenyans so that, at the end of the day, issues related to the bigger picture are not connected to a few individuals. There are so many leaders who are spending all their time in meetings in the name of protecting devolution. Who is against devolution?

So, let people concentrate on what is of importance. Let the people who are given various responsibilities respond because, as far as I know, the question of responsibility is the ability to respond. So, let us respond to issues as it is stipulated here. I also like the idea of having the ceiling so that the money that has been devolved to the counties is not money that has been devolved so that people can go for travels and meetings. It should really be money that is devolved to undertake serious development. However, most of those resources that are devolved go the Members of the County Assemblies (MCAs). So, at the end of the day, most of the resources are going for the wrong priorities and are not supporting the purpose for which that money was given.

As we claim having more resources at the county level, I want to see a scenario where a county uses that money and exhausted the resources allocated to it. They could

not do other things because of lack of money. However, what we have seen is that there is still money stuck for development and it is not being utilized.

Hon. Temporary Deputy Speaker, so, as I support this Bill, it is high time we looked at this question of referendum. It is important. Let us look at this matter in a wider scope so that, at the end of the day, where things are not working, then we can fix them. At the end of day, when you are not happy, you run requesting for this or that.

So, hon. Temporary Deputy Speaker, with those remarks I support. Let us support the referendum. What is the problem? Let us look at the money and what is ahead but, at the end of the day, we must ask ourselves: If we are going for a referendum, what do we want to achieve? It should not be because you are not happy then you want a referendum. So, nobody fears a referendum. It can come and we can go to the public and do the right thing for the Republic.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Well spoken. Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker for giving me the opportunity. I want to try to make it as brief as possible because a lot of the issues have been canvassed by the Members before me.

Hon. Temporary Deputy Speaker, I agree entirely with those who have spoken before me that, it is completely out of order for the Senate to try to amend the Public Finance Management (PFM) Act through the backdoor as they have been doing. I think if the opportunity provides itself, this House must resist that attempt.

However, I have seen the provision for Level 5 hospitals. Obviously, as you have said before, the figure provided is definitely small. But even more disturbing is how the figures for each Level 5 hospital was arrived at?

Hon. Temporary Deputy Speaker, Article 201(a) is very clear that all aspect of public finance in the Republic of Kenya must be guided by openness and accountability, including public participation in financial matters. This is important really. No matter how little the money is, I think it is important for us to understand the basis upon which it has been divided.

Hon. Temporary Deputy Speaker, going to Clause 9, it says: “Each county treasury shall reflect all transfers by the National Government to the County Government in its books of accounts.” How accurate really are those books of account? That is because almost every month, we hear desperate announcements on what the National Treasury has transferred to the counties and nearly all cases differs from what the county governments say.

Hon. Temporary Deputy Speaker, going on as I rush to conclude--- I do not want to go back to what the others have said. I am aware that Article 125(1) of our Constitution grants either the House of Parliament and any of its Committees powers to summon any person to appear before it for the purpose of giving evidence or providing information.

Hon. Temporary Deputy Speaker, arising from that Article 125(1), Article 125(2) gives Parliament and any of its committees the same powers as the High Court of Kenya for purposes of implementing Article 125.

Hon. Temporary Deputy Speaker, I say this because I know the governors, just like anyone else in Kenya, have a duty to appear before any committee. But I think those summons and invitations to appear should not be reduced to what we think are becoming like ego fights between the governors and the senators.

Hon. Temporary Deputy Speaker, it is important for the House and everybody to understand that it is wrong in my view to reduce the county governments to governors. When the Senate writes to the Controller of Budget and the Cabinet Secretary for Treasury to freeze funding to counties merely because a governor has failed to appear before it, what are saying? Are we not equating counties to governors and is it not wrong?

Hon. Temporary Deputy Speaker, I see a fundamental flaw in this kind of approach because are we saying that today if, for instance, we as a House are convinced that one Ministry of the Central Government is misappropriating funds, that as a House we can freeze funding to the entire Government? I do not think so.

Hon. Temporary Deputy Speaker, the ills of one person called the governor should not equate to condemning everybody. That is because by denying counties money, we are not being development-minded. If the problem is with the health sector, why do you deny the roads sector? If the problem is with the education sector, why do you deny for instance the public health sector?

So, really, I am urging - and I think other Members before me have said so - the Controller of Budget - and her office is independent by the way--- I think that independence includes refusing to be directed un-procedurally by anybody else, including even this House. I would urge the Controller of Budget that when that Motion reaches her desk, let us look at it objectively. But it would be fundamentally wrong that whatever one thinks of a Governor in any county, to deny county money that is going to help children in schools; money that is going to help women and youth, merely because a governor has not appeared before the Senate to answer to a particular question. With those remarks and considering that many Members also want to contribute.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. There is something in the Commonwealth tradition called ranking. So, Member for Mandera West.

Hon. Huka: The Temporary Deputy Speaker, thank you very much for giving me the opportunity to contribute to this very important Motion - the County Allocation of Revenue Bill, 2014. This is the second Financial Year after the promulgation of the new Constitution under which we are implementing the devolved system. This Bill is very important for the functioning of our county governments. I think this Bill had been inputted by both this House and the Senate much earlier. In fact, when we did the Revenue Allocation Bill, which divided funds between the counties and the National Government, this Bill attempts to now use the formula developed by Commission of Revenue Allocation to apportion various funds to various counties as it is stipulated in the First Schedule of this Bill. A lot has been discussed about money being sent to the counties not being sufficient. But, maybe, we in this country must be systematic in the way we actually do our things. That is because we have just had two level of Government in place for less than one and half years now. It is important that we are systematic so that we can use our resources properly. There is a big problem in this country about the

“big man syndrome” that everybody at every level of Government, wants to show that he is the boss and he is independent of the other. There is no reason why there should be noise in the counties from our governors, from this House or from the Senate. That is because we are serving one nation, one people and we are guided by the Constitution. I think it is important that we really adhere to the Constitution and rule of law so that, in whatever we do, we are accountable. We should be predictable in what we do as well as being transparent. We should also not resist any attempt for being asked to be transparent. When we hear every time resistance by various Members of the Government trying to say that they cannot be audited, that is not good. I am not a governor, but if I was one and I am summoned, I would appear provided that I have done anything wrong.

There are a lot of attempts to talk about referendum, I understand from my old party. Theirs is just for political reason. I think it will not achieve anything but just to keep this side of Government on its toes. But I would understand this issue of governors going for referendum to raise their allocation to 45 percent. I do not know but from simple mathematics, they forget that we are also running the National Government which runs our education system, our infrastructure, free education and employment of teachers, developing our infrastructure, the ports, railway and everything. They do not think that by sending everything down to the level of the counties, they forget that there is a National Government which is supposed to provide a platform for this country to develop. We can increase the cost of production; the cost of doing business in Kenya if we are not careful. We have a lot of commitment under the CFS reconciliatory fund services and the national public debt is very high on our agenda. If today all those monies went to the counties, I can assure you that there will be no money available. I, being one of the people who come from marginalized areas--- I think in the beginning, we have enough to actually start devolution. Let our county governments account for the money that they have. Let them account for that. Let us try also to bake a bigger cake so that this country can have more resources to divide among the various levels of Government. Let us not also believe that devolution only belongs to one group of Kenyans. Devolution is for Kenyans. Kenyans went for a Referendum in 2010 and selected a Constitution which introduced devolution which has two level of governments - counties and the National Government. Kenyans are for that. I think us, as leaders and, particularly, those who are confusing our public, trying to get signatures and talking many things--- I know when we passed the Constitution in 2010, there were concerns that some parts of the Constitution cannot be attainable and they need to be changed. Let us be systematic and sober and change that together. But if we just put ourselves on a high mode of campaign and politicking, we will not get anywhere. In my opinion, to raise the annual allocation to 45 percent is not practical or attainable.

Having said that, I think it is very unfortunate that the other House attempts to amend the Public Finance Management Act through the back door. That is a very substantive law and requires to be guarded properly. Sneaking it in a Bill like this knowing very well that you cannot do anything about it is not in good taste. I think our colleagues must take note of our concerns.

I have no problem having budgetary ceilings being put on current and development expenditure. A ratio of 60/40 will be a good one. We do not want our county government to spend all the moneys on recurrent. We have been talking in this

country for many years that the wage Bill or recurrent expenditure takes 70 percent of our revenues and budget figures and only 30 percent is left for development. We should actually aim to reduce our recurrent expenditure where feasible. We need staff to run our hospitals. We need to have staff to run various services. That should be balanced against the development that you are going to do.

With those few remarks, I beg to support. As soon as this Bill is passed, we can send the money to the counties. We should stop talking about referendums. I personally will oppose any referendum which talks about increasing---

I understand the referendum that is being sought by my former party is for political reasons. But for this one, I think it is something which is totally out of place.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright Member for Shinyalu, you have two minutes. The balance of eight minutes will be spent on Tuesday.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker. We are talking about allocation of funds to the counties. But most important, is really the implementation of functions for which those funds are budgeted for. In interrogating this Bill - which I support - it is very important that we appreciate that counties experience challenges in the process of implementing this Budget. Some of those challenges come from this thing called Integrated Financial Management System (IFMIS). This needs to be considered and when we are considering the allocations to those counties, it is important that we audit the impact and the effect of IFMIS on the performance of counties. Sometimes, we want to blame it on governors. Our brothers and sisters out there are also wondering why we cannot talk about these systems that keep letting them down. I can say this many times because I have been a victim of application of this IFMIS process. It is very important that the National Government puts its systems in place and makes them effective so that the Exchequer can be able to coordinate properly with the counties. The issue of audit---

The Temporary Deputy Speaker (Hon. Kajwang’): Before you move to your next point, perhaps, that is the best place to rest now and take your eight minutes on Tuesday. Hon. Members, right now, we are still dealing with 16 requests as it is now and you can see the interest that you have. So, we will have enough time on Tuesday, probably one or two hours, to discuss this subject. Then we will be able to put it to vote. You should know, of course, if you want to prefer amendments, it would have to be two-thirds of the House. I know those of you who are speaking to Section 12, for example, will need to have two-thirds of the House to amend that. I, therefore, order that this Bill - the County Allocation of Revenue Bill - be published in the Order Paper for 19th August 2014.

ADJOURNMENT

Hon. Members, the time being 6.30 p.m., this House stands adjourned to 19th August, 2014 at 2.30 p.m.

The House rose at 6.30 p.m.

