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Tuesday, 6th August 2024

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, there is no quorum. I order the Quorum Bell to be rung for 10 minutes.

(The Quorum Bell was rung)

We now have a quorum to proceed. Clerk-at-the-Table.

Hon. Members, I have a few communications at Order No.2, but I will do it slightly later.

Next Order.

PAPERS

Hon. Speaker: Hon. Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. We will defer this Order until when the Papers are ready. Then we will lay them.

Hon. Speaker: Okay. The Chairperson of the Budget and Appropriations Committee has a Paper to lay. Vice-Chairperson, Departmental Committee on Environment, Forestry and Mining, Hon. Owen, where are your chairpersons? The Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Reports of the Departmental Committee on Justice and Legal Affairs on its consideration of:

1. The President's Memorandum on Reservations to the Penal Code (Amendment Bill), (National Assembly Bill, No.56 of 2022); and,
2. The Ethics and Anti-Corruption Commission (Amendment Bill), (National Assembly Bill, No.11 of 2024).

Thank you, Hon. Speaker. I beg to lay.

Hon. Speaker: The Chairperson of the Departmental Committee on Environment, Forestry and Mining. Hon. Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, we probably need to defer it to a later time.

Hon. Speaker: You just told me you have them.

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, my papers are ready.

Hon. Speaker: Go ahead!

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Legal Notice No.106 of 2024 relating to the Mining (Royalty Collection and Management) Regulations, 2024, and the Explanatory Memorandum from the Ministry of Mining, Blue Economy and Maritime Affairs;
2. Special Audit Report of the Auditor-General on the Importation of Edible Oils by the Kenya National Trading Corporation Ltd;
3. Report on the progress on implementation of the Beijing Platform for Action – Review and Appraisal from the Ministry of Gender, Culture, the Arts and Heritage; and,
4. Reports of the Auditor-General and Financial Statements of the NG-CDF in respect of the following constituencies for the year ended 30th June 2023, and the certificates therein:
 - (a) Bura;
 - (b) Butula;
 - (c) Buuri;
 - (d) Chuka/Igambang’ombe;
 - (e) Ganze;
 - (f) Garsen;
 - (g) Gatanga;
 - (h) Gatundu South;
 - (i) Jomvu;
 - (j) Kamukunji;
 - (k) Kiambaa;
 - (l) Kiharu;
 - (m) Kilifi South;
 - (n) Kwana;
 - (o) Lamu East;
 - (p) Lamu West;
 - (q) Malindi
 - (r) Mathare;
 - (s) Mathira;
 - (t) Msambweni;
 - (u) Pokot South;
 - (v) Ruaraka;
 - (w) Sigor;
 - (x) Subukia;
 - (y) Thika Town; and,
 - (z) Westlands

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Owen. Is the Chairperson of the Budget and Appropriations Committee here now? What about for Environment, Forestry and Mining? Who are the Members of that Committee?

Next Order.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Edith Nyenze, Member for Kitui West.

FATE OF P1 TEACHERS WHO UPGRADED THEIR EDUCATION

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Hon. Edith Nyenze (Kitui West, WDM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Education regarding the fate of P1 Teachers who upgraded their education with the hope of being absorbed as Junior Secondary School (JSS) teachers under the Upgrade Diploma in Primary Teacher Education (UDPTE).

Approximately four years ago, primary school teachers were advised to go back to college to upgrade their courses. Teachers who undertook the three-year diploma course compressed into a 1-year program paid a lot of money as school fees. Additionally, those teachers made several personal sacrifices such as limiting time with their families and taking financial loans to achieve the academic requirement. Regrettably, those efforts have been unsuccessful as those teachers have not been absorbed in any junior secondary schools nor has their salary been increased up to date. Additionally, those teachers are yet to receive their diploma certificates upon completion of the one-year course. Further, some of the teachers who upgraded their skills remain unemployed to date.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Education on the following:

1. Could a report be provided on the policy framework under which the Teachers Service Commission directed P1 teachers to upgrade their courses?
2. When will the said teachers receive certificates for the diploma course they pursued?
3. Explain the reasons why the Teachers Service Commission is yet to prioritise and consider P1 teachers whom it advised to augment their education for absorption as junior secondary school teachers.
4. What steps has the Teachers Service Commission taken to ensure that the P1 teachers who upgraded their education, but are still out of employment and yet they are in possession of the requisite skills and knowledge, are absorbed in the rightful job grades?

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Education, Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Speaker. The issues raised by the Member are very weighty and important. We will bring back a statement from the Teacher Service Commission in two weeks.

Hon. Speaker: What did you say?

Hon. Julius Melly (Tinderet, UDA): I said the issues she has raised are very weighty and of national importance. We shall invite the Teacher Service Commission and I will bring a comprehensive statement before the House in two weeks.

Hon. Speaker: Two weeks! It is so ordered. Hon. Monica Marubu, Member for Lamu County.

IMPLEMENTATION OF HINDI-MAGOGONI PHASE II SETTLEMENT SCHEME IN LAMU

Hon. Muthoni Marubu (Lamu County, Independent): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Lands regarding the issuance of title deeds for Hindi-Magogoni Phase II Settlement Scheme, Lamu County.

The Hindi-Magogoni Settlement Scheme was established in 1978 with the objective of promoting sustainable agriculture in the coastal region. Despite the families having lived on

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the 16,000 acres of land for over 40 years, they are yet to receive title deeds. More specifically, the villages of Mukowe, Bebebe, Kalavuu, Sinambio, Magogoni, Kwasasi, Chomo, Mkondoni, Roka Bagdad, Roka A & B, Bobo Raha, Bobo Sunkia, Msumarini and Mvinjeni. Consequently, the scheme has been marred by land disputes and has attracted land speculators, thus leaving hundreds of families in a state of uncertainty regarding their land rights.

Hon. Speaker, the national Government, in collaboration with the County Government of Lamu, had completed the Development Physical Plan No.108 of 2021. That is the physical plan envisioned to develop the area.

It is against this background that I seek for a statement from the Chairperson of the Departmental Committee on Lands on the following:

1. Could the Chairperson explain why it has taken inordinately long for the team at the Ministry of Lands to conclude that exercise which is squarely a national Government function as provided in the Lands Act, 2012, considering that surveyors from the national Government were facilitated by the county government to complete survey work for issuance of title deeds to a tune of Ksh18 million.
2. Could the Chairperson provide the timelines within which the issuance of those title deeds to legitimate beneficiaries of the Hindi Settlement Scheme will be completed and; finally,
3. Could the Chairperson provide a list of the original beneficiaries of the 19,019 acres of land in Phase 1 of the Hindi-Magogoni Settlement Scheme.

I, thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Land. Any Member of the Committee? Hon. (Dr) Nyamai, can you bring a statement in two weeks?

Hon. (Dr) Rachael Nyamai (Kitui South, JP): On behalf of the Chairperson, we will get a statement in two weeks. Thank you.

Hon. Speaker: Hon. Dawood, what is it?

Hon. Rahim Dawood (North Imenti, Independent): Hon. Speaker, I want to refer you to the Prevention of Livestock and Produce Theft Bill of 2023.

Hon. Speaker: Hon. Dawood, let us finish with the request for statements first. Hon. Simon King'ara, Member for Ruiru.

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Speaker, for giving me this opportunity to request for a statement regarding the collapse of the Membley Bridge in Ruiru Constituency.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure on the collapsed Membley Bridge in Ruiru Constituency.

The Membley Bridge serves as a critical link between the Eastern Bypass and Thika Superhighway, functioning as the principal route connecting the residents of Biashara, Gatong'ora and Gitothua wards in Ruiru Constituency.

In May 2024, the bridge was swept away by floods, severely disrupting the local transportation system. This has led to residents of Membley area facing challenges in directly accessing their homes, as well as students going to and from school. The residents are now forced to make a ten-kilometre detour via Ruiru to join the Northern Bypass in order to reach their homes and other facilities. The prolonged delay in reconstructing the bridge has caused significant inconveniences to the affected communities.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Transport and Infrastructure on the following:

1. The specific measures being put in place by the Government to reconstruct the Membley Bridge, including a detailed timeline of completion;

2. Measures put in place to have temporary crossing solutions, particularly to facilitate students access schools in the area; and,
3. The reasons for the inordinate delay in the rebuilding of the bridge, and the steps being taken to expedite the reconstruction to avert further suffering.

Hon. Speaker: Chairperson of the Departmental Committee on Transport and Infrastructure. Vice-Chairperson. Give him the microphone.

Hon. Kibet Komिंगoi (Bureti, UDA): Thank you, Hon. Speaker. I am not the Vice-Chairperson, but a member of the Committee.

On behalf of the Chairperson who has just stepped out, and having heard the question, we will endeavour to present the response to this House and to the Member in the next two weeks.

Hon. Speaker: Two weeks, it is. Thank you.

PAPERS

I will go back to Papers. Chairperson of the Budget and Appropriations Committee, Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Speaker.

Hon. Speaker: Before you do so, remember that I have called out this Order twice when you were not in the Chamber. You, therefore, know what to do.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much Hon. Speaker. My apologies. I was overseeing to ensure that Members have this Report.

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

Report of the Budget and Appropriations Committee on its consideration of the Division of Revenue (Amendment) Bill, (National Assembly Bill No.38 of 2024).

Hon. Speaker: Thank you. For the last time, Vice-Chairperson, Departmental Committee on Environment, Forestry and Mining. Hon. Kamuren. Go ahead.

Hon. Charles Kamuren (Baringo South, UDA): Thank you, Hon. Speaker. I want to apologise for coming late. I was also preparing for the same.

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

Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the Environmental Management and Coordination (Amendment) Bill, (National Assembly Bill No.66 of 2023).

Hon. Speaker: Thank you. Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

We have two responses to statements. Hon. (Dr) Mutunga on the Statement by Hon. Geoffrey Ruku.

SALE OF ROUND-UP IN THE COUNTRY BY BAYER EAST AFRICA LIMITED

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, pursuant to Standing Order 44(2)(c), Hon. Geoffrey Ruku, MP, requested for a statement on 21st March 2024 regarding the continued sale of Round-Up by Bayer East Africa Limited.

The Ministry of Agriculture and Livestock Development responded as follows to the issues raised in that particular request for statement.

Hon. Speaker, the first question was under what circumstances Bayer East Africa has continued to sell Round-Up in the country for use in weed control despite being scientifically linked to cancer.

The response is that Round-Up is a glyphosate-based product that has been widely used world-wide as an herbicide to control weeds for several decades. The Statement further reads that Bayer East Africa has continued to sell Round-Up in the country because it is registered and approved by the Pest Control Products Board for use as post-emergency systemic herbicide for the control of weeds in various crops. Although Round-Up and other glyphosate-based products have been linked to cancer, several organisations like the Pest Control Products Board (PCPB), Food and Agriculture Organisation of the United Nations, and the World Health Organisation, have undertaken studies on glyphosate-based products.

In 2019, PCPB and a team of scientists reviewed scientific studies on glyphosate and established that there was no evidence linking glyphosate-based products to cancer in human beings. In 2016, the Food and Agriculture Organisation (FAO) and the World Health Organisation undertook test and risk assessment of glyphosate-based products and established that glyphosate is unlikely to pose carcinogenic risk to the human beings.

The second issue raised by Hon. Ruku was on the studies and findings that Bayer East Africa Limited has documented and submitted to the relevant Government agencies on the effects of Round-Up, including profiled cases of harmful exposure, the mitigation measures, and the compensation so far extended to victims of carcinogenic effects by Round-Up in Kenya.

Hon. Speaker, the response is as follows:

The assessment of human risk enquiries, identification, compilation and integration of information on the health absence of a chemical, human exposure to the chemical, and relationship among exposure, dose and adverse effects, as with all pest control products, Bayer East Africa Limited submitted scientific data packages supporting the quality and safety of Round-Up as required by the law. The data packages included purity and impurity profile, identity; that is the chemistry and toxicology, which incorporated acute and long-term studies, the effects on the environment and the beneficial organisms, efficacy data, and also residual data.

There have been no reported cases directly linking the use of glyphosate-based products to cancer in Kenya based on the information provided to the Pest Control Products Board by the Ministry of Health. The Ministry of Health is represented in the Pest Control Products Board of Directors as required by Section 5.2 of the Pest Control Products Board Act, CAP. 346 of 1982, and in the Technical and Registration Committee of the Board.

The third issue raised by Hon. Ruku was why the Pest Control Products Board has not banned the use of Round-Up in the country, and when the Government intends to act so as to protect Kenyans from the risk of cancer resulting from continued use or exposure to Round-Up. I want to report that PCPB has registered and approved the use of Round-Up as a post-emergency systemic herbicide for the control of weeds in the country. The decision of not banning the use of Round-Up was informed by the review of the scientific information on the glyphosate, which indicated that there is no evidence showing that continued use of Round-Up exposes human beings to cancer when used according to the label instructions.

The Government of Kenya, through PCPB, is committed to protecting Kenyans and the environment for posterity through science-based decision-making. The PCPB will take appropriate measures as required by the law if they get any new information on Round-Up.

Thank you, Hon. Speaker. That is the response.

Hon. Speaker: Thank you, Hon. Mutunga. Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, thank you very much. I read the answer and have also listened to Hon. Mutunga, but the manner in which this matter was

handled by the Ministry of Agriculture and Livestock Development is extremely worrying. It is true that the evidence is there that Bayer International has been fined by the Justice Administrative System of the United States of America. Bayer International has also been fined by some of European nations, including Germany. The same products are being traded in our country and that is why we have seen a huge rise of cancer among communities in parts of the Republic of Kenya, where agriculture is the main form of economic activity.

Hon. Speaker, I would propose that the Cabinet Secretary for Agriculture and Livestock Development appears before the Departmental Committee on Agriculture and Livestock. I should also be summoned so that I can go and table my evidence and scientific journals to prove that whatever Bayer East Africa is selling in the Kenyan markets has carcinogenic elements which are causing cancer in the Republic of Kenya.

Hon. Speaker: Dr. Mutunga and the Member who filed the Question, the Deputy Speaker brought a Petition to this House on the same issue. Hon. Mutunga, has it come to your Committee? No? It was referred to the Public Petitions Committee, and it was alleging exactly the same things.

Hon. Ruku, I would advise you to go and prosecute your issue before the Committee on Public Petitions, so that when the outcome is brought to the House, you can debate it further. If you agree with the findings, whatever they will be, we can then follow up with the Committee on Implementation.

Yes, Hon. Deputy Speaker. Give the Deputy Speaker the microphone.

Hon. Gladys Boss (Uasin Gishu, UDA): Hon. Speaker, thank you. On this issue of the Petition on pesticides that I had placed, I want to report that it was processed through the Committee on Public Petitions, but the implementation has not been done. On many occasions, we have asked the Chairperson, Hon. Wanjala, to follow up on it. So, it is the Committee on Implementation that has failed to act.

Hon. Speaker: Is Hon. Raphael Wanjala in the House? The Deputy Leader of the Majority Party, Hon. Owen, can you bring it to the attention of Hon. Wanjala? Let me hear Hon. Pukose first.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I had actually raised a point of order when I heard the response from the Chair of the Departmental Committee on Agriculture and Livestock. He did not go into mentioning issues about carcinogenic because in many of the articles that have been written, lymphomas are said to be developed within two years of exposure to high doses of Round-Up, which is glyphosate. Therefore, it would have been important if the person who gave him the response did proper research. That response was actually unsatisfactory because it seems to be business-driven, and it is not addressing the health issues pertaining the question that was raised by the Member for Mbeere North.

As much as Hon. Wanjala should respond on implementation, I think this House needs a better response because Kenyans continue to be exposed to Round-Up on a daily basis. If we do not address it, then as a House, we will be failing in our responsibilities.

Hon. Speaker: Hon. Rachael Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Speaker, for giving me this opportunity to also make a comment on this matter.

Hon. Speaker, I have listened to the Deputy Speaker, Hon. Boss, talking about this matter of agricultural chemicals causing cancer. I have also listened to the response that has been brought by the Chair of the Departmental Committee on Agriculture and Livestock, and the kindness of the Member for Mbeere North, Hon. Ruku, who almost said that he was not satisfied because he says that he would like to engage further.

Hon. Speaker, I would also like to appeal to you to direct that this matter of using agricultural products that are causing cancer be handled with the urgency it deserves. We cannot wait anymore because our people are suffering.

Hon. Speaker: Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Speaker. Cancer is a serious killer in Meru. As an agricultural community, the high level of chemicals in potato growing areas is very concerning. The Ministry of Health in conjunction with the Ministry of Agriculture and Livestock Development should be at the forefront in determining the type of chemicals that should be applied in our farms. Those harmful chemicals not only cause cancer, but also contribute to other illnesses in our communities. In areas with high usage of those chemicals, there is a heightened risk of miscarriages. Furthermore, the prevalence of cancers, such as throat cancer, is closely linked to the use of those chemicals. Therefore, I strongly advocate for the ban of Bayer chemicals from the market.

(Hon. John Mbadi walked into the Chamber)

(Applause)

Hon. Speaker, I join those advocating for the ban of those chemicals and ask the Ministry of Agriculture and Livestock Development and the Ministry of Health, to move with speed to determine the magnitude of that problem. I support this and request that action be taken.

Hon. Speaker: Hon. (Dr) John Mutunga, the Deputy Speaker has something to say first. Please, take your seat. Yes, Hon. Deputy Speaker.

Hon. Gladys Boss (Uasin Gishu, UDA): Thank you, Hon. Speaker. I apologise for taking a second bite on this topic, but it is dear to my heart. The issue of carcinogenic pesticides and Round-Up herbicides is of significant concern to our country. This challenge is known in all levels of Government. The "Pesticide Atlas", a document developed by 20 scientists from the University of Nairobi, confirms that 267 pesticides banned in Europe and America are still in use in Kenya. The Pest Control Products Board (PCPB) is responsible for approving pesticides and yet, banned pesticides are still on our list. The offender here is the Pest Control Products Board. I have submitted a Petition to the Cabinet Secretary for Agriculture and Livestock, requesting for the removal of the Pest Control Products Board from office due to their failure, which has endangered Kenyan lives.

Furthermore, some products like Round-Up have been rebranded with different trade names in Kenya, and are still being sold in the country. In the United States, there was a significant case where a farmer developed cancer from using Round-Up, and the courts ordered a \$250 million pay-out 20 years ago. That demonstrates how seriously this issue is taken in the United States. Unfortunately for us, companies like Doe in the United States and Bayer in Europe, are allowed to manufacture the pesticides but, not for use in their countries, but exports to careless and foolish enough to admit countries, Kenya being one of them.

The resolution on my Petition by the Departmental Committee on Health was that the Pest Control Products Board should take measures to remove the said products from the market. However, they have failed to do so. Therefore, the Committee on Implementation should summon the Pest Control Products Board and the Cabinet Secretary for Agriculture and Livestock Development. The challenge is that the agro-chemical companies are extremely powerful, and when I rallied against those products, I received death threats. This is a big industry. If we do not act now, we will continue to kill our people. It has been confirmed that those pesticides cause cancer and other non-communicable diseases.

I visited the Pest Control Products Board and begged them to remove those products from the market, but they claimed they needed to conduct more research. I told them that they did not need any extra research. If something is published in a peer-reviewed medical journal, it is a warning to all doctors across the world. I gave them the example of certain cough syrups

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that were said to cause chest issues in children. The Pharmaceutical Board of Kenya did not conduct further research; they simply stopped dispensing it. Similarly, when certain hormone replacement therapies were found to cause cervical and breast cancer in women, the gynaecologists in Kenya stopped prescribing them without conducting further research.

I urge Members to take this issue seriously. As much as we are trying to invest in cancer treatment, by allowing those pesticides in the country, we are not doing enough to prevent it. Those countries have us where they want. They sell to us cancer-causing pesticides and then sell us the cancer drugs and equipment to treat our people. Parliament and the Cabinet Secretary for Agriculture and Livestock Development have failed Kenyans. I informed the former Cabinet Secretary of that. The Pest Control Products Board is the biggest criminal in this.

Thank you, Hon. Speaker. Parliament must step up on this issue.

Hon. Speaker: Yes, Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, this House has failed Kenyans.

(Loud consultations)

Hon. Speaker: Order, Members! Members on your feet, take your seats. You can engage while seated. Please consult on low tones.

Go ahead, Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): I almost cried when I read this Statement.

Hon. Speaker: That is not what you said a few minutes ago, but go on.

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, I would like to echo the concerns raised by the Deputy Speaker. It seems the Ministry of Agriculture and Livestock Development has not taken the previous Statement seriously. I beseech you, Hon. Speaker, to use your powers to ensure that the Ministry and all the responsible bodies implement the said measures. This will ensure the well-being of our fellow Kenyans, who rely on those institutions for their welfare. The sale of Round-Up and other carcinogenic pesticides to farmers (such as those involved in tea, potato, coffee and *muguka* farming) by Bayer East Africa, must be stopped immediately. It is important to note that, that issue also affects fisheries, as scientific evidence shows that when it rains, those harmful chemicals make their way into our rivers and lakes, thus impacting on fish farming.

We cannot accept that report. I hope the Committee does an excellent job in preventing the use of those pesticides, as the Government is spending a lot of money on cancer treatment. We have seen that the treatment of cancer has become a touristic activity. Many Kenyans go to India and other countries in the hope of getting treatment.

Hon. Speaker: You have made your points.

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, I pray that we take this matter seriously.

Hon. Speaker: Woman Representative for Nairobi City County, do you want to contribute to the same issue?

Hon. Esther Passaris (Nairobi City County, ODM): Yes.

Hon. Speaker: Go ahead.

Hon. Esther Passaris (Nairobi City County, ODM): Thank you, Hon. Speaker, for giving me this opportunity to contribute. In the last Parliament, I was a member of the Departmental Committee on Health. Hon. Deputy Speaker, Hon. Gladys Boss, came to talk to us about the dangers of pesticides in our food, continued use of them and how they impact on our health. We are what we eat. We are eating to die, but not to live, if we continue having those products in the markets.

We hear countries that have products that they discover are not good being recalled and removed from all the shelves. It is such a shame that we are discussing this thing and the people

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who trade on those products have such impunity. This is not only about the Departmental Committee on Agriculture and Livestock and the Ministry of Agriculture and Livestock, but also it is about health and economic trade. We cannot trade with harmful products in our country that continue to harm our people. It is important that we have a multi-sectoral approach to this. We should ensure that we also do a lot of civic education, so that the public out there knows that the products they use in their farms will not help them in the long-term. They can end up killing them and future generations. We did a study in the Pan-African Parliament (PAP) on soil management and we are coming up with some law models. Some of those products that we put in our soil will take generations for us to get our soil back to its standards. It is important that we take this matter seriously and educate the public that those products should be removed from the shelves. No one should buy them.

I really hope that Generation Z are listening. They are the young generation who will eat those products as well. Most of the generations like Millennials and Generation X have cancer because of consuming contaminated foods. We do not want Generation Z and the next generation to follow suit. It is important for us, as the Government, to take this matter seriously. Pesticides are killing us. They are eroding our soil. We are eating to die, but not to live. I pray that we will have a solution that safeguards us. We should be looking for compensation. Most of those companies are rich. They have exploited Africa. Those products are banned in other European countries, but they dump them to us at low prices. People make astronomical profits. I really believe that heads should turn. We should beg for compensation for the people who have cancer in our country because of consuming foods that have been grown with those products.

Hon. Speaker: Hon. Mama Zamzam.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana, Mhe. Spika. Naunga mkono dada yangu, Mhe. Gladys Boss. Watu wengi sana katika nchi ya Kenya wanaugua magonjwa ya saratani kwa sababu ya yale madawa ambayo yanatumiwa katika mashamba yetu. Tusipokuwa makini, hospitali zetu zitajaa kila siku wagonjwa wa saratani. Ni dhahiri kuwa kuna watu wamejitokeza kwa kutaka kuvuna haraka. Wanatumia madawa ambayo yanaingizwa hapa kinyume na sheria kunyunyizia mimea ndani ya mashamba. Yanadhuru sana wananchi.

Dadangu, Mhe. Boss, amezungumza na nakumbuka akileta mjadala huu tulivyoanza Bunge hili. Naomba tumuunge mkono na tuweke taifa ambalo litakuwa huru na maradhi ya saratani, kwa kuweza kupigia pondo huu mjadala na kuhakikisha kuwa tunaweka sheria. Tupinge na tuzuie hayo madawa yanayotolewa mataifa mengine yakiletwa hapa Kenya kunyunyizia mashamba yetu. Wale ambao wanaleta, pia wachukuliwe hatua na wafungwe.

Ahsante sana dadangu, Mhe. Boss. Umekumbuka akina mama. Wengi wanalia. Hatujui ni nini ilikuwa inatuma. Ukiingia ndani ya *butchery* wakati mwingine, unapata hata kuku anadungwa zile sindano. Aliyekuwa mwembamba anafura and mtu anafurahia. Lakini hajui anakula kitu gani. Kwa hivyo, nakuunga mkono. Huu mjadala upite na uwe sheria.

Ahsante sana, Mhe. Spika.

(Hon. (Dr) John K. Mutunga stood up in his place)

Hon. Speaker: Hon. Mutunga, you can hear the outrage. Take your seat, Hon. (Dr.) Mutunga, shortly.

(Loud consultations)

Order, Hon. Members. Dr. Mutunga, go ahead. Give him the microphone.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, I have heard my colleagues speak on this particular issue. When we got this request for statement from Hon. Ruku, we forwarded it to the Ministry. We did not ask them to come before us so that we may ask straight questions on the details.

According to this Statement, safety control is handled by the Pest Control Products Board. It has membership from the Ministry of Health, besides those who are engaged in checking out what comes into Kenya and what is used here. Round-Up is an herbicide, but not a pesticide. It is not supposed to kill the pests, but weeds. Most of herbicides are dangerous. Most of the dangerous herbicides and pesticides are labelled. There is a label that is put on the branding, and then there is need for their safe use. There is a prescription on even how somebody should be dressed. There is a protective kit that is invented to protect people as they use those pesticides and herbicides.

Hon. Speaker: Dr. Mutunga.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, I want to conclude by saying that it is sad that we have pesticides and herbicides in this country that are carcinogenic. This Report says that glyphosates are not carcinogenic. I am happy to hear that my colleague, Hon. Ruku, has evidence. I am also very happy because there are peer review journals which have cited the dangers in some of the glyphosates. I will be very happy if you can form a joint committee which should have the Departmental Committee on Health, Departmental Committee on Agriculture and Livestock and the Public Petitions Committee, so that we can ask straight questions on what kind of evidence they have, and then present the evidence that we, as Members of Parliament, have, in order to protect Kenyans.

We should not take the fact that people did not protect themselves as an answer. What we should take is whether there is any evidence that it is causing cancer in our midst and it is actually banned in those other countries. If it is, we should propose promptly that it should be banned in this country.

I thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Order, Hon. Members. Hon. Mutunga, Hon. Deputy Speaker has clearly articulated this issue. She brought a Petition whose outcome was positive. She quoted international, academic and intellectual journals. To that effect, we also know as a fact that those chemicals are not sold in the countries that manufacture them. So, you cannot ask for any further evidence. Get to the Government agencies that allow those chemicals to come in, including the Kenya Bureau of Standards, engage them and bring back a very comprehensive report after the recess that is coming in two weeks' time, so that we, as a House, can assist the people you represent. You have heard Hon. Rindikiri from your region saying what he said and many other Members. So, get down to business, get the comment from the Implementation Committee, look at the Report from the Petitions Committee, and bring the response after the next recess. Hon. Geoffrey Ruku.

Hon. Ruku GK (Mbeere North, DP): I request that I be invited to that Committee to table my evidence.

Hon. Speaker: Even if you are not invited, go there!

Hon. Ruku GK (Mbeere North, DP): Thank you Hon. Speaker.

Hon. Speaker: Honourable Members, allow me to acknowledge the following – I do not know whether they are still in the Public Gallery – AIC Mesis Primary School from Kesses Uasin Gishu, St. Joseph International Science School from Ainamoi, Uasin Gishu, Karama Primary School from Tana River, Chebangang Secondary School from Konoin Bomet and

Kataret JSS from Chepalungu Bomet. If they have already left, we welcome them, nonetheless. They have been in our Gallery.

Also seated in the Speaker's Gallery are students from Starehe Boys Centre. The students are in Parliament for two weeks for a voluntary service scheme. This allows the young men to give back to the community by providing voluntary services to various organisations during the school holiday. On my behalf and that of the National Assembly, I welcome the students to Parliament and wish them a positive experience in their service to the nation. Students, you may take your seats. Next Order.

Yes, we have another one. Hon. Gabriel Tongoyo, are you ready with the Statement on security? Go ahead. Hon. Robert Mbui requested for that statement.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. As you had already said, this is a response to the Hon. Member from Kathiani Constituency regarding the issue of the national security regulatory authority. The Honourable Member had sought responses to six issues.

For the record, one, the Member wanted to know the constitutionality of the legal notice issued by the security regulatory authority on 20th June 2024 relating to the minimum wage.

Number two, is the step that will be taken to revoke the legal notice if illegality issues are found, and the measures put in place to ensure the entity comply with the relevant laws while executing the same directives.

Third, the details of the process leading to the determination of the minimum wage.

Fourth is whether the power and the function of the private security regulatory authority under section nine of Act 2016 also includes setting the minimum wage and whether the power vested in the authority under section 32 contemplates non-compliance with the minimum wage as a ground for cancellation of certificate of registration of security firms. And, of course, the reason for the failure of the authority to resubmit revised regulations as envisaged under the Security Regulatory Authority Act 2016.

Hon. Speaker, I want to respond as follows:

One, on 10th June 2024, the Security Regulatory Authority issued a public notice published as legal notice Number. PSRA002/2024, directing all private security service provider prospective users and their representatives to submit a legal commitment to comply with a set minimum wage for private security guards. The same legal notice has been a subject of court cases, namely, the Nairobi ELRCGRE043/2023 Protective Association of Kenya for the Private Security Regulatory Authority and Fazul Mohammed and three others, and Nairobi ELRC Petition No. E011 2024 John Kipkorir and Private Security Regulatory Authority and four others

The principle of *sub judice* mitigates commenting on the issues at hand. It states that what the authority issued as a notice was not supposed to be strictly interpreted as a legal notice, but as an administrative action to guide industry players. This was an ordinary public notice intended to be acted upon by the affecting parties. The form of the impinging notice should not be interpreted to negate its intention, which was clear to all parties concerned.

Hon. Speaker, should the court find the notice illegal, it will automatically lose its validity, thus rendering it null and void. No further action from the Cabinet Secretary for Interior and National Administration will be needed.

On question three, under the Labour Institution Act, 2007, councils are responsible for recommending to the Cabinet Secretary for Labour the minimum wage payable to workers under the conditions of employment, which cancels free patent bodies comprising workers, employers, and independent experts. The National Labour Board is entrusted with advising the Cabinet Secretary for Labour and Social Services on the appointment of the wage council. Once the wage councils recommend the minimum wage and the condition of employment, the CS may approve the same, after which a wage order is issued through the Kenya Gazette. The

Authority did not determine the minimum wage for private security guards but interpreted the relevant wage order, which is the regulation of wages amendment order 2022, legal notice No. 125 of 1st July 2022, as issued by the CS for Labour and Social Services. The order came into effect on 1st May 2022, which was the basis for arriving at the contested figures.

Regarding question number four, as per the above notice, the power and responsibility of setting the minimum wage is vested in the CS for Labour and Social Services upon the recommendation by the Wage Council. Under the said section, the Authority is mandated to provide and set a standard that ensures compliance with the minimum wage regulation. The authority acted in accordance with the section when it required the employers of private security guards to give a legal commitment that they would pay them the minimum wage as per the said wage order. In the process of setting a minimum wage, the Authority is a stakeholder and may make recommendations to the Wage Council. Those recommendations are to be considered alongside those of many other industry players.

The Ministry of Interior and National Administration and the Salary and Remuneration Commissions have no roles to play in the determination of wages for private security guards. Their roles, if any, are limited to State public offices. Under section 32 of the Act, the Authority is mandated to prescribe conditions when issuing certificates of registration and the condition for compliance with the minimum wage. Should it be free, it will be grounds for cancellation of the certificate of registration.

Lastly, the previous regulations - the Private Security Regulations, 2019 - were annulled by the National Assembly because no effective public participation was done. I hope Hon. Robert Mbui is listening. The Authority has developed new regulations that are currently undergoing public participation. This process has been hampered by lack of funds and, hence the delay in re-submitting them.

In conclusion, the Authority did its best to interpret the said wage order. The commitment to pay minimum wage was within the law. The public notice should not be construed as a legal notice in the strict sense of the word.

Thank you, Hon. Speaker. It is signed by Dr Raymond Omollo.

Hon. Speaker, kindly grant me one minute before the Hon. Member responds. I just want to add one or two things. For clarity, the minimum wage is defined as the minimum amount of remuneration that an employer is required to pay wage earners for work performed during a given period of time. Of course, the Statement clearly states that in this category in the private sector, the Wage Council establishes the wage in Section 43.

Hon. Speaker, for the record, the said legal notice clearly states the minimum payable wage for the day and night watchmen. It is clearly stated that for the day watchmen, it is Ksh15,201 and Ksh16,417 for the night watchmen, excluding house allowances, which are calculated according to the provided laws. Of course, it does not also include overtime.

I submit, Hon. Speaker.

Hon. Speaker: Hon. Robert Mbui, are you satisfied?

Hon. Robert Mbui (Kathiani, WDM): Hon. Speaker, I am not satisfied. In my opinion, the Report and the response are very economical with the truth. I have picked up three issues from the response.

The first one is when they argue that what the authorities issued as a notice was not supposed to be strictly interpreted as a legal notice, but an administrative action to guide the industry players. I have a problem with that because it is actually published in the Kenya Gazette as Legal Notice No.PSRA002/2024. When they argue it was not strictly a legal notice, they are just being economical with the truth.

Hon. Speaker, they must also realise that the Statutory Instruments Act states that every legislation that has a full legal effect must pass through the House. What they have done is

implement a programme and issue it to be published in the Kenya Gazette. Kenyans have already been convinced to follow it and yet, it has not gone through the House.

Secondly, they have also said my question was whether they have a right to determine the minimal wage before discussing it with the Ministry of Labour and Social Protection. They have said that the Authority supposedly followed the Regulations of Wages General (Amendments) Order of 2022, Legal Notice No.125 of 1st July 2022, as issued by the Cabinet Secretary. However, the figures that were reflected in their legal notice are totally different from those that have been given by the Ministry of Labour and Social Protection on minimum wage. That, again, is not exactly the truth.

Finally, they have also avoided coming to the Committee on Delegated Legislation to bring in the regulations they were supposed to. They have argued that they did not have funds for public participation. The Committee constantly invited them, and if they had a problem with funds, they would have come to the Committee to explain their problem so that they could be given an extension of time. Instead, they found it easier to ignore the Committee and implement the Regulations with complete disregard for the rule of law and the Constitution. Article 94 of the Constitution is clear that no authority or nobody has the ability and the power to make anything with the force of law except Parliament. Therefore, Hon. Speaker, I believe what they have done is wrong. They needed to have just withdrawn that legal notice so that we can start the discussions when it is not in place.

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Chepkonga.

Hon. Samuel Chepkonga (Ainabkoi, UDA): Hon. Speaker, first, I take this opportunity to thank the Chairman for bringing the response to the question asked by Hon. Mbui, who is a member of the Committee on Delegated Legislation.

This is a matter that exercised the mind of the Committee on Delegated Legislation. I have listened carefully to what the Hon. Chairman of the Departmental Committee on Administration and Internal Affairs, which is in charge of security, has said. Unfortunately, I seriously depart from what he has said. He is my very good friend but, on this matter, it is very clear in the Statutory Instruments Act what a legal notice and guideline are. They are statutory instruments. The Private Securities Regulation Authority (PSRA) has no business seeking to implement the order issued by the Cabinet Secretary for Labour and Social Protection when they are residents of the Ministry of Interior and National Administration. No one has ever appointed them to implement a minimum wage, which is supposed to be implemented by the Ministry of Labour and Social Protection. That is within the purview and jurisdiction of a different authority.

Hon. Speaker: Yes.

Hon. Samuel Chepkonga (Ainabkoi, UDA): It is not their business to tell us that they were issuing a notice and some guidelines that had already been issued. The substantive Act itself does not give them the power to regulate wages. We have written to the Principal Secretary and the Cabinet Secretary, telling them that in no uncertain terms, these are regulations, and they must bring them to the House.

Secondly, the regulations were nullified by the last Parliament. The Hon. Chairman should be careful about this because the law is very clear. They are supposed to bring regulations within one year of the promulgation of the Act, which has been in existence for the last four years. They are in contravention of the law and should not purport and pretend that they are trying to implement the law when they have not brought the regulation as required within the statute itself.

The third thing that caused the confusion was the naming of the Act. It is called the Private Securities Regulations Act. These are not regulations. These are substantial laws. I want to ask the Hon. Chairman to move an amendment to remove the word "Regulations."

Regulations are supposed to be made pursuant to the sections contained in that Act itself. It is inconceivable that an Act of Parliament is also a regulation. We expect a better response than this from the Ministry. They are gerrymandering. They have not responded to the issues that Hon. Mbui has raised. We have told the Cabinet Secretary and the Principal Secretary that they must bring the regulations to the House. Fortunately, the person with a problem with the Regulatory Authority was removed by affliction of time. We are grateful for his removal. In any event, he has been a problem in that sector.

Therefore, Hon. Speaker, the court needs not pronounce itself on anything. The regulations are nullities in themselves. There is nothing to discuss.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Bashir.

Hon. Major (Rtd) Abdullahi Sheikh (Mandera North, UDM): Thank you, Hon. Speaker. I have keenly listened to the Statement by the Hon. Chairman. The Statement is misleading because PSRA claims that they took an administrative action, not a legal notice. However, the legal notice was published by the Government Printer in the Kenya Gazette. For this reason, it cannot be an administrative action. The most important part is that the regulations being cited and implemented by PSRA are the ones the 12th Parliament annulled. There are new regulations that are now in the works that have not even been brought to our Committee. That means that what they are implementing is illegal, and it is causing a lot of despondency in the industry. My advice to Kenyans and stakeholders in the security industry is that the regulations being implemented by the Private Security Regulatory Authority (PSRA) are null and void. They should not cheat Kenyans into thinking they are doing something legal. It is illegal because this House has not approved it.

The Ministry of Labour and Social Protection publishes the minimum wage. PSRA has no role or mandate to get involved in matters related to minimum wage. Their work is to implement what has been set by the Ministry of Labour and Social Protection. But they now want to do things the other way around - to set the minimum wage and to implement it. That is not their mandate.

I acknowledge the Chairman's resolve that this requires all stakeholders to get involved so that we can have a win-win regulation for both employers and employees. As it stands now, those regulations are not in force and are illegal. PSRA should stop harassing and interfering with the work of private security firms in the country.

I submit.

Hon. Speaker: Hon. Tongoyo, you have heard the Chairman of the Committee on Delegated Legislation, you have heard Hon. Mbui, and also Hon. Bashir. I direct you to re-look at the Statement. Certainly, that body on its own has no authority in law to promulgate what looks like regulations. Those regulations must come to this House. There is no other body in this country with legislative powers other than Parliament, which is the National Assembly and Senate, and county assemblies. Nobody else. Whatever office they are in, whatever they do must be subjected to this House to become regulations and have a force of law. So, follow it up.

Yes, Hon. Raso.

(Hon. Gabriel Tongoyo spoke off the record)

Hon Raso, take your seat. Let him finish. Let me listen to this first.

Hon. Gabriel Tongoyo (Narok West, UDA): On your directive, Hon. Speaker, I am well guided. In fact, you must have noted that we have been in conversation with the Chairman of the Committee on Delegated Legislation, and I think that is the spirit. But having said this, I think the big issue here is the cancellation of some licenses of some players — about nine in

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number. Actually, when you were interviewing the Cabinet Secretary, I think that question came up. For record purposes, those nine have been reinstated. I even have the certificates. The Cabinet Secretary reinstated them. I want to be on record that those licenses have been reinstated.

On the other issue, we will do as guided by you.

Thank you.

Hon. Speaker: Hon. Raso.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. You have guided us on what should be done. Looking at what the Chairman has presented in the form of a response for Hon. Mbui's request, the first thing is that anything that is related to labour has to be discussed. It is a two-sided issue: protecting the company and the individuals in that particular labour force.

Secondly, as you rightly said, Article 94(5) clearly states that nothing will have the force of law unless it is passed by this House. Thirdly, PSRA is a new organisation even if it is four years old and cannot work independently. It has to work with the Ministry of Labor and Social Protection to protect individuals working in those organisations.

Thank you.

Hon. Speaker: Hon. Tongoyo, follow up on that. At some point, you will be required to report back to the House on the steps you have taken. Give guidance to that body that if they want to make any regulations, they must follow the procedure and bring them to the House.

Yes, Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. I rise on the same Standing Order 44. I have talked with the Chairman of the Departmental Committee on Administration and Internal Affairs. If you remember, last week, I raised a statement regarding a child who was shot in my constituency. The Chairman has advised that the response is not ready. Perhaps, if he would be willing to commit to it, maybe tomorrow or the day after, it can be available. That is because my constituents are actually watching on television, and it would be nice if he would respond.

While on my feet, I would also like to request the Chairman the following: We had four fires in four markets in Nairobi constituencies, which is an issue of concern. We had fires in Toi Market, Umoja 2, Mathare and somewhere in Kawangware....

Hon. Speaker: Hon. Mwenje, you will do the House and yourself a very good thing if you can file even a question under private notice, which we can allow you to make a request on the Floor even on the same day. But when you ambush us with a speech coming in the guise of a point of order, it is not fair even to the Chairman that you are directing it to. File a question by private notice. I will allow you to bring it tomorrow. We all feel for Kenyans who have died in infernos in Nairobi and elsewhere.

Hon. Mark Mwenje (Embakasi West, JP): I am most obliged, Hon. Speaker. I will do that. Thank you.

Hon. Speaker: Hon. Tongoyo, on the issue of the child who was shot, can you bring the Statement on Thursday?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, regarding what the Member was trying to allude to, the major concern was how the child was doing. The child is doing well and is supposed to be discharged from the hospital. The problem was the pending bill at Kenyatta National Hospital (KNH). I managed to talk to the Ministry through the Principal Secretary, and we are trying to look into ways of helping.

Hon. Speaker: Do so. That is good enough. Next Order.

MOTIONS

ADOPTION OF SECOND REPORT ON FINANCIAL
STATEMENTS OF SPECIFIED STATE CORPORATIONS

THAT, this House adopts the Second Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Reports of the Auditor-General on the Financial Statements of the Kenya Medical Training College for Financial Years 2017/2018 to 2020/2021; the Kenyatta University Teaching Referral and Research Hospital for Financial Years 2019/2020; the Kenya Medical Research Institute for Financial Years 2012/2013 and 2013/2014; the Kenya Medical Laboratory Technicians and Technologists Board for Financial Years 2014/2015 to 2020/2021; and the Kenya Medical Practitioners and Dentists Council for Financial Years 2017/2018 to 2020/2021, laid on the Table of the House on Thursday, 22nd February 2024.

(Moved by Hon. Emmanuel Wangwe on 1.8.2024)

(Debate concluded on 1.8.2024)

Hon. Speaker: Hon. Members on their feet, take your seats. Order, Hon. Members. Take your seats.

(Question put and agreed to)

Next Order.

ADOPTION OF REPORT ON FOUR NG-CDF COMMITTEES

Hon. Speaker: Chairperson, Select Committee on the National Government Constituencies Development Fund, Hon. Musa Sirma.

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the National Government Constituency Development Fund for four (4) Constituencies Committees laid on the Table of the House on Thursday, 1st August 2024 and, pursuant to the provisions of section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraphs 5(2) and (10) of the National Government Constituencies Development Fund Regulations, 2016, approves the list of nominees for appointment to the following four (4) constituency committees of the National Government Constituency Development Fund –

1. WEBUYE WEST CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	David Lutali Sakari	Representative of Persons Living with Disability	Appointment, pursuant to Sec. 43(2)(d)

2. ISIOLO SOUTH CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	Wako Abdi Wako	Male Adult Representative	Appointment, pursuant to Sec. 43(2)(b)

3. NANDI HILLS CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	Henry Kirwa Mutai	Representative of Persons Living with Disability	Appointment, pursuant to Sec. 43(2)(d)

4. MUMIAS EAST CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	Joseph Owino Odero	Male Adult Representative	Appointment, pursuant to Sec. 43(2)(b)
	Philip Muyeyi Wanga	Male Adult Representative	Appointment, pursuant to Sec. 43(2)(b)

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

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

Hon. Deputy Speaker, before I move these names for adoption, I have an issue that is very pertinent to Members of Parliament. There is a problem with the procedure for nominating members of those committees in the future. We usually send the names to the Board, which subsequently sends them to the Principal Secretary for the State Department of Economic Planning and then to the Attorney General before going to the Government Printer.

There is a slight change of this procedure, pursuant to a circular reference OP/CAB.9/1A dated 25th November 2022. The subject is guidelines on the procedure for the appointment of chairpersons, board members, and chief executive officers of State Corporations and other bodies. The names now require express approval from the Office of the Head of Public Service prior to gazettelement. In line with this circular, the names of appointees to NG-CDF Committees are submitted to the Head of Public Service for approval before being printed for gazettelement by the Government printer.

The 2022/2023 gazettelements were, however, not affected by these guidelines. The first constituency to be affected by this circular was Tiaty Constituency. The Board received a request to replace a member which was done *vide* Gazette Notice 1284 of 15th January 2024. Two other constituencies were affected, Gatanga and Nyeri Town, and the names of appointees are still pending. I spoke to the Head of the Government Printer, Mr. Hassan, and requested that he gives me the regulation that changed the gazettelement process. He said he was given instructions to send the names of appointees to the Head of Public Service by word of mouth.

The term of office for all the committee members in the 290 constituencies will end from late 2024 to early 2025. In the meantime, the Board will continue receiving requests for replacement due to various issues, the key reasons being the death and resignation of members.

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We fear that the requirement of express approval of names by the Office of the Head of Public Service prior to gazettelement will derail the workings in the constituency.

The Select Committee on NG-CDF requests an exemption for the NG-CDF Board from submitting the names of appointees to NG-CDF committees to the Office of the Head of Public Service for approval. This is because we might not get the names within the required time.

Hon. Deputy Speaker, I beg to move the approval of the names and ask Hon. Murugara to second.

Hon. Deputy Speaker: Hon. Murugara, you can second.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. I wish to second the Motion by the Chairperson of the Select Committee on NG-CDF. I want to point out a few pertinent issues as far as this is concerned. While the proposals for replacement are agreeable to the House, we have been told of a letter by the Head of Public Service, which relies on the State Corporations Act. It is asking that the chairpersons of NG-CDF Committees be approved by him. Let me draw his attention to the fact that the NG-CDF Act is not subject to the State Corporations Act. It is *sui generis*, which means it stands on its own and is executed by a Board that is appointed under it to execute its work from the beginning to the end.

Therefore, the Head of Public Service has no power to ask for names to be submitted to him for approval. This is not subject to the State Corporations Act, which takes care of parastatals. I also want to point out that this circular appears to be a statutory instrument. It is trying to enforce some law, which we have not been told. If it is a statutory instrument, it must come to this House for validation. If it does not come, it is null and void. Alternatively, this House can call for that instrument to quash it.

Finally, delays, especially in gazettelement, would defeat the very essence and purpose of the NG-CDF Act. We require that as soon as the names of appointees are submitted, they be gazetted by the CEO of the NG-CDF Board. Once that is done, we move on to implement the Act. My position remains that the Board is supposed to gazette.

With those remarks, I beg to second.

Hon. Deputy Speaker: Okay. I think only a few members want to contribute.

(Question proposed)

Hon. Deputy Speaker: Member for Nyeri Town, Hon. Maina Mathenge.

Hon. Duncan Mathenge (Nyeri Town, UDA): Thank you, Hon. Deputy Speaker. I rise to support this Motion on the gazettelement of the National Government Development Fund committee members, especially the recommendation by the Hon. Chairperson about the exemption of the submission for approval of the names of the nominees to the Head of Public Service.

Nyeri Town Constituency presented the nominee's name for women way back at the beginning of 2023, in February or March. To date, that nominee has never been gazetted despite being approved by this House. In the course of the internal audit, Nyeri Town Constituency was flagged as having an issue because the National Government Constituency Development Fund (NG-CDF) Committee was not fully constituted in the absence of the gazettelement of that member who represents women. The women constituents in Nyeri Town are very unhappy with me as their Member of Parliament, apparently, because their representative has never been gazetted. We seem to have a loophole that has been exploited, and that is not provided for in law through a circular.

The members of the NG-CDF committee are largely volunteers. Those are people who are willing to devote their time, resources, energy and intellect to assist community development. If the local stakeholders have found a person who is fit to serve in that capacity

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and the person has volunteered, what is this bureaucracy around their appointment and gazette? We are found to attract audit queries, and there is a risk of the stakeholders' interests not being taken care of during the course of development. I seek that this House adopts the resolution for the exemption of the presentation of the names of the NG-CDF committee members once this House has approved it.

We have spoken about judicial over-reach. We are also seeing other bodies in Government that are trying to over-reach the mandate of this House in terms of the approval and the subsequent steps. I support.

Hon. Deputy Speaker: Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker. I sincerely thank the Chairperson of the Select Committee on the National Government Constituency Development Fund for picking this out. Honestly speaking, it is an irregular, illegal, and unwarranted interference in the implementation of an Act of Parliament that has completely nothing to do with the Office of the Head of Public Service. When the amendments came to entrench the Office of Public Service, we warned the Members here that we were creating a creature that would consume us and eat us in due time. On the other side, my colleagues never saw it but now they have seen what it means to create an unconstitutional office with no mandate at all.

We need to call out the Head of Public Service. NG-CDF is not a State corporation or Semi-Autonomous Government Agency (SAGA). It is an entity created by an Act of Parliament that stipulates clearly the procedure to be followed in the appointment of the National Government Constituency Development Fund committee members, the procedure for their removal, gazette and the rest. We must call to order and stop this excitement and this stretching of executive powers beyond what is provided for in the Constitution. It is the people on the ground who know those people. The Head of Civil Service cannot purport to do another vetting or another approval process. For what purpose? Why does he want to get involved in very petty and minor village issues? There are bigger issues at the national level, instead of wasting time hampering the delivery of services to the *Wananchi* of Kenya. I, therefore, ask, as Sir George has clearly said, that, that particular instruction or circular, if any, should be ignored with the contempt it deserves. It has no form or force of law, just an over-reaction and excitement for something that has not happened. With those few remarks, I support the Motion and the request by the Hon. Chairperson that the dictates of the Head of Public Service should not control the particular appointment.

Hon. Deputy Speaker: Member for Nandi Hills, because I see you are affected.

Hon. Bernard Kitur (Nandi Hills, UDA): Thank you very much, Hon. Deputy Speaker. I appreciate the name of one of the nominees, Henry Kirwa Mutai, who was replacing one of the Persons With Disabilities (PWDs) or persons enabled differently, whom we lost. It has taken quite a long time for these names to appear here. It is also quite sad that it might take almost another six months for these names to be gazetted because they have to go through another approval by the Office of the Head of Public Service. That is quite unfortunate.

In the selection process, those officers were picked from the various corners of the constituency because the constituency is wide. It is quite unfortunate that a nominee took almost a year to be approved. This is because of the over-reach by some executive officers, like now the Head of Public Service. We need to make this process clearer and easier.

Hon. Deputy Speaker: What is your point of order, Hon. Pukose?

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Deputy Speaker, when I listened to the Hon. Chairperson of the Select Committee on National Government Constituency Development Fund moving this Motion, he clearly stated that he had a verbal directive. He did not produce any document to show that the Head of Public Service had given that directive. Therefore, it will not be good for us to accuse the Head of Public Service of something that we

do not have evidence of. When you listen to the Member for Nandi Hills, he says his list went through the Head of Public Service. However, we know clearly that this list has been sent here from the Board.

The issue that was being raised by the Chairperson of the Select Committee on National Government Constituency Development Fund was that there is a verbal proposal that after Parliament has approved, the list goes to the NG-CDF Board, then from the NG-CDF Board to the Office of the Head of Public Service, and then they can be gazetted. I think we are twisting it. So, we should avoid accusing the Head of Public Service when we do not have a clear directive, memo, or notice from his office. We will not do justice to the Head of Public Service as a House.

Hon. Deputy Speaker: Do you also have a point of order? You too? Hon. Owen, do you have a point of order, or should I let him finish first?

Okay, proceed.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much. Our Standing Orders are clear that not even a written newspaper can be admissible as evidence in this House. When we go on a trajectory of hearsay information while discussing the high office of a Head of Public Service, it flies in the face of our Standing Orders. The statement by the Chairperson of the Select Committee on the National Government Constituency Fund in this House is an unfortunate statement to have been made at that level.

If you allow me, if that statement is withdrawn, we will not go on that trajectory. I request that you request him to either substantiate in terms of records available or withdraw that record. The debate has moved from discussing NG-CDF to something that cannot be substantiated – issues to do with the Head of Public Service. So, please, request Hon. Musa Sirma – who I knew while I was in primary school as a very honourable Member of this House – to withdraw that unfortunate statement. That statement should not have been made by a ranking Member of his stature. Hon. Sirma should not teach us bad manners.

Hon. Deputy Speaker: Hon. Sirma, please, respond and clarify.

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Deputy Speaker, I wish to clarify that it is not an empty statement. It is about the current situation. The Member of Nyeri Town has confirmed it was from January to date. It is because of that long process that we are no longer getting our members gazetted. So, we want to be exempted from the provision of State Corporations so that we gazette our members immediately we pass their names in Parliament. If we will be waiting, Members will end up... The expiry of all committees will come to an end in December.

Hon. Deputy Speaker: Hon. Sirma, you are not responding to the issue. You are explaining how the process is inefficient. What Members are saying is that you have implicated the Head of the Public Service as having taken over the approval process and gazettement of the members of the NG-CDF boards across the country. Hon. Pukose responded by saying that it is not in writing and you do not have any evidence that, that has happened. It is hearsay. So, you need to confirm if you have a written circular to that effect. If not, you have to withdraw that position.

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Deputy Speaker, it is not about this statement being true. I have spoken personally to Mr. Hassan. I asked him to give me the reason why he has not gazetted. He told me that he was given a verbal communication by the Head of the Public Service not to gazette until he gets his approval. So, it is not hearsay. I can confirm that I talked with him 30 minutes ago.

Hon. Deputy Speaker: Hon. Sirma, you cannot use verbal communication to defend yourself. I will give you free legal advice. You must seek that Mr. Hassan to give you in writing what he told you verbally. That is the correct thing to do. Otherwise, you will get yourself in problems because you will not substantiate or give evidence to back-up what you are saying.

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The best thing is that you withdraw it, then go to seek a written letter to that effect from either Mr. Hassan or a circular from the Head of the Public Service that can become a subject of discussion in this House. Right now, the House is debating on speculation.

Hold on, Hon Sirma! There is a point of order from Hon. Elachi.

(Hon Beatrice Elachi spoke off the record)

It is a point of information.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. There was a circular, Reference N0.OP/CAB.9/1A dated 25th November 2022. Its subject was: “Guidelines on Procedure for Appointment of Chairpersons, Board Members and Chief Executive Officers of State Corporations and other bodies.” The names now require express approval of the Office of the Head of the Public Service prior to gazettelement. It is in line with this circular that the names of the appointees of the NG-CDF Committees are now submitted to the Head of the Public Service.

Hon. Deputy Speaker: That circular talks about State corporations. Hon. Sirma, my question to you is this: Is the NG-CDF a State corporation?

Hon. Musa Sirma (Eldama Ravine, UDA): It is a fund body, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is it a State corporation?

Hon. Musa Sirma (Eldama Ravine, UDA): It is other bodies.

Hon. Deputy Speaker: Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Deputy Speaker, the issue here is this: What is currently happening? We cannot sit pretty in this House and yet, we know that some of the names are in that office. We have been told that there was a circular. Even if its interpretation is wrong, that can be dealt with later. If the documentation is wrong, as soon as they hit the Office of the Head of the Public Service, he should send them back and say he does not need them there. If the documents stay there, what is happening will be factual. So, let Members state that, that practise should stop. If it is interpretation, it should stop with immediate effect. Therefore, the Chairman does not need to ask for exemption because there is nothing to be exempted from. Let this matter be sorted out now. We are in August and many committees will bring names.

Hon. Deputy Speaker: What is your point of order, Hon. Pukose?

Hon. (Dr) Robert Pukose (Endebess, JP): Hon. Deputy Speaker, for a document to be admissible in this House, there is a minimum threshold that it should meet procedurally. Ordinarily, a document is presented to the Clerks-at-the-Table who transmit it to the Speaker for authentication. After that, it can be discussed. The circular that the Member for Dagoretti North read is what is in her phone.

(Hon Musa Sirma spoke off the record)

A document must be presented. It should be on a letter head and signed. It must meet the minimum requirements as per our Standing Orders. If it meets them, it will be properly before this House and it can be prosecuted.

The Chairman of the National Government Constituencies Development Fund Committee has made a statement that he was informed by word of mouth by Mr. Hassan. He has now improved it to a statement. However, according to our Standing Orders, it is not proper before the House. The House does not debate in vain.

Hon. Deputy Speaker: Thank you, Hon. Pukose. I want to end this matter because we are bordering on discussing speculations. I direct that the Chairperson of the National Government Constituencies Development Fund Committee, Hon Sirma, to put this in writing

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as a matter that has been brought to our attention as Members of Parliament. He should write to the ND-CDF Board telling it to confirm what he has been told about all the appointments being cleared by the Head of the Public Service so that he can advise the Members of Parliament. He does not need to write to the Head of the Public Service because he reports to the ND-CDF Board. If he does that, this matter will be put to rest.

Hon. Baya, what is your point of order? I have already made a ruling.

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker, instead of all this, why can you not order that the NG-CDF CEO to appear before this House and clarify this matter. Those are some of the people who sleep on their job and pass the buck. They kick the can down the road. Ask the NG-CDF CEO to appear before this House so that we can ask him why there is a delay and have it on record that it is because of the Head of the Public Service. It is then that we can tackle this matter. To allow the Chairperson of the NG-CDF Committee to fly statements around will be unfair to the Head of the Public Service and the Members of this House. We would like to hear about this development from the CEO and then we deal with it. If it is the cause of the delay, we can deal with it. But to run around and allow him to do the way the Chair - whom I respect very much - has done, is not fair to the Members of Parliament and the Head of Public Service.

Thank you.

Hon. Deputy Speaker: Hon. Owen, the directions that I gave stands. The Communication must be in writing. It is the reasonable thing to do. It is through that, that we would get a proper communication which would be responsible, instead of summoning the Chief Executive Officer (CEO). We do not want any more verbal statements. Let us get it in writing. Thank you. Is that sorted? Please, confirm.

Hon. Musa Sirma (Eldama Ravine, UDA): I confirm. I will summon the CEO. There is no provision in law that warrants us to summon him.

Hon. Deputy Speaker: Hon. Sirma, the Ruling was not made by Hon. Owen. He is the CEO. I have ruled against it. My initial direction is that when asking for clarification, you communicate to the Board in writing. With that, you will have something to report to this House with. Are the instructions clear?

Hon. Musa Sirma (Eldama Ravine, UDA): Yes.

(Hon. Musa Sirma nodded in agreement)

Hon. Deputy Speaker: Thank you. Let us move on. Can I put the Question?

Hon. Musa Sirma (Eldama Ravine, UDA): I have not finished.

Hon. Deputy Speaker: Let us put the Question.

Hon. Benard Kitur (Nandi Hills, UDA): Thank you very much. With the direction that you have given, it would settle the matter. However, in future, we need timelines so that if a vacancy in the National Government Constituency Development Fund office occurs, we should have a timeline within which those particular names can be approved so that the representations can be sufficient. For example, my case was that of the persons with disabilities. And for close to a year, we have not been able to have the PWDs enabled differently in order for them to have a representation in the committee. And with the directions that you have given, going forward, occurrences of any vacancy within the committee must be filled within the shortest time possible, or we have a determinate time upon which those positions can be filled.

Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: Any other Member who wants to contribute to this? I can see Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM): I also wanted to support the nomination of those Members to National Government Constituency Development Fund (NG-CDF) in the four

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constituencies. It is important that we have people representing all the different brackets like the elderly, youth, women, men and PWDs because that is how NG-CDF works. It works in an orderly manner such that every sector within the community is represented. This enables everyone to know where they belong, and that their interests would be catered for. Even as we operate and administer NG-CDF, every sector is considered greatly.

There has been a heated debate here. For the record, it is important to note that the Chair who is also a proposer of this Motion and the Seconder have made very far-reaching comments on how NG-CDF operates. Sometimes, it is important not to gag the debate because when some of this information comes to the Floor of the House, it gives people in public offices an opportunity to realise the power that Parliament has. But if we stop any discussion such that when a person in a State department, office or a cabinet secretary is mentioned, and we are up in arms saying that we cannot have this conversation, we are reducing the power of this House. We must ensure that Members are given an opportunity to contribute because, at the end of every contribution, there would be a time for us to take a vote. And if any member does a transgression against anybody and they are wrong, the facts can also be laid on the Floor of the House.

I want to appeal to the House because the public is watching what goes on here. For close to a month or so, they have been watching. So, when we make pronouncements and stop each other from having conversations, you would be *salimiwad*, and we do not want that to happen. Going into the future, let us allow Members to contribute and take a vote. The Leader of the Majority Party does not need to get excited and stop people because you want to protect individuals. It is our country, and all of us must be alive to the fact that there are issues that are going on. The Chair of NG-CDF is aware of the delays because that is his mandate. If you are saying he is wrong, why allow him to continue serving as the Chair? If he serves as a Chair, it means we have given him a mandate. We must listen to him as a House because he is our eyes in the NG-CDF, and knows what is happening in there. Let us respect our membership. Let us allow the Chairs to work, and let us not protect people who are not in this House.

Thank you, Hon. Deputy Speaker.

(Hon. Robert Pukose stood up in his place)

Hon. Pukose, you already flogged this horse. It is dead.

Hon. (Dr) Robert Pukose (Endebess, UDA): Not on this one, Hon. Deputy Speaker.

We have all listened to the Chair on this debate and, therefore, I am standing under Standing Order 95(1) that the Mover be called upon to reply.

(Loud consultations)

As you are aware, there has been delays in the approval of this Committee. It has taken a long time for them to arrive here, and we should not continue delaying it further. I know Hon. Oundo and Hon. Robert Mbuyi, my namesake, agrees with me.

Hon. Deputy Speaker: Hon. Members, hear me out. The contentious issue was whether that particular circular from the Head of Public Service affects the NG-CDF Board and appointment of members. Now that we are not clear about it, there is no need to debate it. We would rather wait for a written communication to be obtained by the Chairperson, and then he can inform the House. We are giving him two days to do so. We can then debate about it when he would be presenting the letter to the House now that the debate is bordering on speculations.

Thank you, Hon. Members. I agree with Hon. Pukose. We will now put the Question.

Hon. James K'Oyoo (Muhoroni, ODM): On a point of order, Hon. Deputy Speaker.

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Hon. Deputy Speaker: What is it Hon. K'Oyoo?

Hon. James K'Oyoo (Muhoroni, ODM): I concur with you, and the direction you are giving the House. However, it is important to understand that this matter has affected so many Members, and the progress on the ground is not good. There would be an opportunity to debate this but, for the Members who are willing to ventilate on what I have, this is the time. Come that time, those who have had an opportunity to contribute may not necessarily get into it.

Hon. Deputy Speaker, if you do not mind, allowing 20 or ten minutes for more members to ventilate. This may not harm the House.

Thank you.

Hon. Deputy Speaker: How many Members want to ventilate on the issue as long as we are not speculating about the letter? As long as we are not discussing the alleged letter or a circular because that matter is mute for now. What we are discussing now, unless you do not want a certain name approved or so on... But if it is about the communication, in two days, we will have a chance to ventilate on it. Do we agree? Okay. The Mover should reply.

(Question, that the Mover be now called upon to reply, put and agreed to)

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Deputy Speaker, I want to thank you for giving us the direction. I also want to thank the Members for ventilating on the issues that touches on them. It is not my Committee Members who would suffer, but the whole House. And hence, we have to put this thing on line, and I will do so.

I beg to reply.

Hon. Deputy Speaker: Hon. Members, there is no need to speculate, and it is not because it is not a serious matter. But I think it is extremely serious that we should not be debating on hearsays. I think it is serious enough because it has affected many Hon. Members. Many Hon. Members have complained that it is taking too long for the names to be approved. That is extremely serious, but we want to substantively deal with it once and for all, and the only way is by getting the circular. I am not gagging anyone or saying that it is not serious enough, but we need to do it in a methodical and conclusive manner. Right? Thank you.

Hon. James K'Oyoo (Muhoroni, ODM): On a point of information.

Hon. Deputy Speaker: What is your point of information?

Hon. James K'Oyoo (Muhoroni, ODM): Thank you, Hon. Deputy Speaker. I wish to inform the Chairperson that there is a dire need for more fund managers because those who are serving are very few. This is inhibiting the quality work on the ground.

Hon. Deputy Speaker: Okay. However, that is something that you could have approached the Committee on. It is not part of this debate. It is inappropriately on record. I think you should approach the Committee directly if you want to get any results.

(Question put and agreed to)

BILL

Second Reading

THE DIVISION OF REVENUE (AMENDMENT) BILL
(National Assembly Bill No.38 of 2024)

Hon. Deputy Speaker: Give the microphone to the Chairperson of the Budget and Appropriations Committee.

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Hon. Ndindi Nyoro (Kiharu, UDA): Thank you, Hon. Deputy Speaker. I beg to move that the Division of Revenue (Amendment) Bill, (National Assembly Bill No.38 of 2024), be now read a Second Time.

I wish to take a moment to brief Members. As we are all aware, we had made a budget that was to be implemented in the Financial Year 2024/2025. The budget is two-sided, consisting of the revenue side and the expenditure side. When we came before this House, we debated and passed the expenditure side of the budget alongside the Appropriations Bill, which became an Act. Consequently, the revenue side had challenges and the revenue-raising measures that were in place were not realised due to challenges that we are all aware of. In that respect, the Government, including Parliament, had to come up with measures to balance the expenditure and the revenue side of the budget. This has necessitated budget cuts across all Government agencies and the two levels of Government so as to create a balance between the anticipated expenditure and expected revenue.

On the national Government side, we came before this House and passed the Supplementary Budget, which was signed yesterday by the President. It is now an Act. We were seeking to balance the budget in two ways. One, is by borrowing a little more. We borrowed an excess of Ksh176 billion and we have consequently made budget cuts of about Ksh145 billion of anticipated expenditure, especially for the National Government, which incorporates the Judiciary and Parliament. Because of the situation in the country, we had to do something unprecedented. In the budget-making process in Kenya, we have never had a budget amended through a Supplementary Budget barely a month after the signing of the Appropriations Bill. This is the first time.

The other unprecedented thing is that it is the first time we are amending the Division of Revenue Bill, which divides money vertically between the national and county governments. In a nutshell, this House had already passed the equitable share of Ksh400.1 billion to our counties, a figure that has never been there before. Upon revision of expenditure necessitated by the collapse of the revenue-raising measures, the amendment before us seeks to have a haircut in the equitable share from the proposed Ksh400.1 billion to Ksh380 billion. This ensures that all the levels of Government apportion the loss of anticipated revenue across the board. Therefore, the import of the amendment to the Division of Revenue is actually to decrease the amount from Ksh400.1 billion to Ksh380 billion in line with the current realities in the country.

The two levels of Government, that is the national and county governments, have taken a haircut and some have actually had their heads chopped due to the drastic cuts that we had to effect. Across the Arms of Government, the Executive is losing money, Parliament is losing Ksh3.7 billion, while the Judiciary is losing about Ksh2 billion. Austerity measures have been made to every Arm of Government and all the levels of Government, some of which we are effecting today, especially the counties through the Division of Revenue.

Hon. Deputy Speaker, I also want to brief this House that the Constitution permits a flow of 15 per cent when it comes to dividing the revenues through equitable share. Constitutionally, we are already past that amount with the current proposal of Ksh380 billion. We are already at 24.4 per cent which is way beyond the constitutional requirement.

Additionally, in our Report and in the Bill, we have recommended something else that we have not done in this House before. In our proposal, in anticipation of what you have been seeing, if you look at the current Supplementary Appropriations Bill, which is basically the main budget, we had to budget for Ksh68 billions of carry-overs. Carry-overs mean that we have cherry-picked a few items which, even if the year has lapsed, budget lines cannot lapse. They total to Ksh68 billion. However, the entire amount of carry-over monies that were not funded by the National Treasury, by close of last financial year, was Ksh221 billion. It, therefore, means our revenue-raising measures as of last year through debt and revenue,

ordinary and Appropriations-in-Aid (A-in-A), were short of Ksh220 billion. This is the debate I invite this House now. In light of that, we had to budget Ksh13 billion to National Government Constituencies Development Fund (NG-CDF) as carry-overs. We had to budget of over Ksh30 billion to our counties as carry-overs. We had to budget for Ksh21 to Ksh23 billion as carry-overs for pensions.

What am I trying to say? The way the Governments should work is that by the fall of 30th June, Kenya operates under what we call T + 2. After two days, there should be no disbursement from the National Treasury for the previous year's budget. That is what it means. However, we have already conducted public participation on some of these things like NG-CDF. You have gone through the long haul. There is no way that NG-CDF could have been denied this amount. Whether the year lapses or not, monies for pensions are not a problem of the pensioners. They had to be paid. This is the same with county governments. They have already made their budgets, which were approved by the county assemblies. They need the money. We are funding Ksh68 billion now, which is the money for the last financial year. As we all know, governments are run through time. Government is not in the business of wealth. It is always in the business of cash flow and revenue.

Therefore, since you cannot run the Government through receivables, you cannot run it through assets. You only run it through money that is coming in and out. We have done one thing. In anticipation, we have a year where the revenue-raising measures do not measure up. What do we do as a country? We anticipate raising Ksh2.6 trillion in ordinary revenue this year. What happens when we go to 30th June next year and we have only raised Ksh2 trillion? What will happen? This is the debate I am inviting this House. We have suggested in our Report and this Bill that when there is a shortfall in revenue raising, the two levels of government must carry that burden proportionately. What happens? Even county governments usually project their revenue, but they have a shortfall many times. Is it a new thing? No.

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

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

In the Government of Kenya, we have had shortfalls in revenue for the last many years. I am repeating that we have a shortfall of Ksh200 billion this year. The national Government is carrying this burden alone. By national Government, I mean the Executive, Judiciary and Parliament. We have to bite the bullet. I am anticipating a period where we have a drastic fall in anticipated revenue, then we make the national Government carry the burden. They may end up not even being able to pay salaries. Why will this happen? Our development expenditure in this budget, which we passed the other day, is Ksh640 billion. What if we have a shortfall of Ksh640 billion as a country? Then, it means we are obligated to fund all the other levels of government, but the national Government will have a deficit in funding, even on personal emoluments. That is what we must think of as a House. When there is a shortfall, the two levels of government should carry the same burden at the same percentage. When there is a surplus, it should also be incorporated. The two levels of government should be considered, although we have not had a surplus in many years. That is the main highlight in this proposal. I know there are provisions of the Constitution which we had to sit down with our legal experts, but we decided that this debate must start. If it does not start, then we are living a lie as a country.

With those many remarks, I want to buttress the point that we have also allocated over Ksh40 billion in conditional grants to our counties. We have done everything in support of devolution, as the Budget and Appropriations Committee. Beyond these resources, as I have said before, we have also appropriated Ksh44 billion in conditional grants. We have also appropriated Ksh8 billion for the Equalisation Fund, which is majorly supported and managed

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by our governors. They are doing a fantastic job. This shows there is nothing against anyone. It is basically where we are as a country. For the first time, I saw something I have never seen in Parliament. Members of Parliament rose and said we should cut our NG-CDF, which we did by Ksh10 billion. They also said, for the sake of our country, we cut our travel budget and any other non-core expenditure which we ended up cutting Ksh3.7 billion. We are just requesting that the same now percolates across all levels of government, so that we can live within our means as Kenyans, very unequivocally, directly and eloquently. I suggest that we must do it.

With those many remarks, I beg to move and request the very able Vice-Chairlady of the Budget and Appropriations Committee, the elegant, Hon. Mary Emaase, to second this Bill.

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

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Speaker. I beg to second the Division of Revenue (Amendment) Bill, 2024. I will be very brief. I want to make it very simple. We suffered a shortfall in the projected revenue, which was occasioned by the failure to enact the Finance Bill, 2024. As a result, this necessitated the re-arrangement and rationalisation of the estimates. We have already done that through the Supplementary Estimates I of the Financial Year 2024/2025.

The purpose and object of this Bill is to amend the Division of Revenue Act, 2024 to provide for the equitable sharing of revenue between the national Government and county governments, taking into account that shortfall. We are considering the downward revision of the projected revenues which we have just witnessed as a result of the collapse of the Finance Bill, 2024. We had initially projected revenue of Ksh2,948 billion, but now that has been revised downwards to Ksh2,602.1 billion. This brings us to a downward revision by Ksh346 billion, which the Chairman has explained that it has to be borne by both county and national governments. That means the county governments' shareable revenue has come down by Ksh20 billion, while that of the national Government has come down by Ksh325 billion. The amendment in Clause 5(1)(a) of the Bill seeks to protect county governments. If we have a shortfall at any one time, it limits the amount that shall be borne by the county governments. It shall not to exceed 15 per cent of the shortfall.

This is a very straightforward Bill. Kenyans have told us to live within our means whenever we have a shortfall. We have to share whatever challenges that are accruing from some of the actions or choices we make as a country. We are told choices have consequences. County governments' allocation is Ksh380 billion. This is a reduction of what we had initially projected. I appeal to them to prioritise their needs. They should look into pending bills and make sure to pay contractors that even previous regimes gave tenders. Services were rendered and offered. Let them be given priority and be paid their monies.

I second. Thank you.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): There is serious interest on this Bill. The first Member to have a bite is Hon. Christopher Aseka, Member for Khwisero.

Hon. Christopher Wangaya (Khwisero, ODM): Thank you, Hon. Temporary Speaker.

I also rise to join my Chairman and Vice-Chairlady in supporting the Division of Revenue (Amendment) Bill of 2024. It allocates revenue between the two levels of government: the national Government and county governments. In this Bill, the national Government will receive about Ksh2.2 trillion, while the county governments will get Ksh380 billion. Further, Ksh7.8 billion goes to the Equalisation Fund. This is within constitutional provisions. The Ksh380 billion allocated to the government is within or over the 15 per cent that is required. It is 24.2 per cent of the national revenues.

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This Bill was necessitated by a situation which saw the withdrawal of the Finance Bill of 2024 that led to a shortfall of revenue by about Ksh365 billion. This means that every Arm of government will bear the loss. County governments will lose about Ksh20 billion from Ksh400 billion, making it Ksh380 billion. As we do this, we need to call upon county governments to ensure they improve their own source revenue mechanisms at county levels to ensure that they generate as much revenue as possible.

We also need to ensure that monies allocated to county governments and the national Government are put to good use. For example, as per Schedule Four of the Constitution, county governments have clear roles to play. Some of the roles include providing water, health care, supporting agriculture and infrastructure.

As we speak, the Khwisero Constituency that I represent has a case. We have water projects that have stalled for even over four years. The Misango Water Project that is under the County Government has been an eyesore in the eyes of the residents of our constituency. I call upon the County Government of Kakamega to prioritise the implementation of that project to ensure Kenyans within Khwisero access safe and clean water.

We also have issues with healthcare - our hospitals, dispensaries and health centres. Our people are suffering due to lack of enough drugs in those facilities. We call upon county governments to prioritise supply of drugs in our hospitals, and the employment of nurses and doctors to ensure that our people are treated well.

Lastly and, as we unlock this Bill, I call upon the national Government to ensure that the funds are released to respective government departments and agencies on time. This will ensure that the implementations of projects that are earmarked in this Budget are done on time, and all pending bills within the sectors are paid to avoid the challenges that small and big suppliers and contractors are facing in this country.

I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Murugara Gitonga, do you want to speak on this?

Hon. George Murugara (Tharaka, UDA): Absolutely. Thank you very much. I beg to support the Bill. We must face the reality now. We are living in very difficult times. We have to think prudently about what exactly we are going to do so that the governments can run. The 2024/2025 Financial Year Budget allocated Ksh400.1 billion to county governments. Regrettably, the Finance Bill of 2024 fell through. In essence, it means the three Arms of Government and county governments have to tighten their belts. Expectedly, we have to cut on allocations. This is why we implore county governments to bear with the Ksh20 billion cut that they have to suffer. The same has honourably applied to the Executive, this House and the Judiciary.

These cuts do not mean that county governments cannot provide essential services or pay recurrent expenses. Possibly, the Ksh20 billion would have gone into pay rises which must now be frozen. Counties must also ensure that unnecessary travels to seminars, benchmarking, or to wherever county governments have to go are cut. Expenses on vehicles and personnel must go down. We know very well that our county governments are often extravagant. There is a hue and a cry out there that while the work that is done by the NG-CDF is visible, not much can be said about county governments. It is high time county governments lived to their expectations to ensure that the citizens there get the services they deserve.

We know very well that there is an employment embargo in place. The Government will not employ. County governments should also adhere to this. That, notwithstanding, we have natural attrition that we must always fill so that there is no vacuum. We have surpluses, if at all realised. If those are shared equally, the burdens that arise from this must also be shared equally. County governments must live with the cuts.

Therefore, this amendment to the Appropriations Act is timely. It is in line with what we have done in the Supplementary Appropriations Act that we are relying on until another one is put in place. Of course, people would like to know what happens now that we have lost the Finance Bill of 2024. We have also recently lost the Finance Act of 2023. The position in law is that the Supplementary Appropriations Act now in force becomes the operative law. We will have to live with that until another one is put in place.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Robert Basil.

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Temporary Speaker, for giving me the Floor. I rise to support the Division of Revenue Bill for a number of reasons.

It is good to live within our means. The Gen-Zs and many other Kenyans have said that the taxation in the Finance Bill 2024 was too much for them to bear. The Ksh380 billion allocation for county governments will go a long way in supporting health services that have already collapsed. It will be used to pay salaries as well as pending bills. It is important that the money is used prudently. We have seen a lot of wastage in county governments and particularly when it comes to the usage of money. We want the funds to be used wisely so that the citizens can see the value of their taxes. More importantly, the Ksh7.8 billion Equalisation Fund should be distributed equitably based on baseline data. Some areas have been marginalised since 1963 and it is important that constituencies that are going to be selected to benefit from the Equalisation Fund should be based on data that is available, and that is depicting or exhibiting disparities that have existed over the years.

The Ksh2.5 trillion allocation for national Government is going to support national Government functions. It is important to promote accountability and transparency when those resources are spent or implemented to support national Government functions. It is equally important to underscore the importance of equitable distribution of resources by the national Government to respective constituencies so that we can have uniform development across the country. There is outstanding and resounding disparities in different areas across the country simply because resources are not promptly utilised to support functions at both national and county levels.

I support the Division of Revenue Bill and request that the respective points that I have put across be respected when those resources are being utilised.

Thank you, Hon. Temporary Speaker. I submit.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Julius Rutto, Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you very much, Hon. Temporary Speaker for accommodating me to contribute in support of the Division of Revenue (Amendment) Bill of 2024.

As colleagues Members of Parliament have said, and as we are all aware, the unprecedented events that preceded the closure of last Financial Year, where the Finance Bill 2024 was rejected, put us in this situation. It is a unique situation that has never happened. We are probably writing a new story in the Parliament of Kenya where a situation like that has brought us to such discussions that probably would never have been predicted to happen.

We are aware of the provisions of the Division of Revenue Act, Section 2, that says that where there is a shortfall on revenue collection, the national Government bears the loss and when there is... It is not a unique situation that is caused by national Government activity but rather, it is a process that was stopped by the rejection of the Finance Bill. It is the right time to speak to ourselves. What do we do in such a scenario?

The reduction of what had been earlier provided for under the division of revenue and sharing of equitable resources as per the Constitution of the Republic of Kenya from Ksh410 billion to Ksh380 billion is something that has to be accepted by all quarters. I pray that the

other side of this House finds a reason to support the same. This is because as much as we would wish to take our hard position, the reality is that we do not have resources. As we speak, the development money for the national Government has been reduced by a tune of almost Ksh150 billion. It means that programmes worth Ksh150 billion will not be executed, leave alone the intended programmes. We are worried about the pending bills and the programmes that are ongoing because resources have not been provided. It is high time we discussed the Division of Revenue Act and amendments that are required. This is so that when we find ourselves in such a scenario, we are able to equitably share the burden. As we seek to adjust as the national Government, that is, Parliament, Executive, and Judiciary, devolved Government units should sit and re-look at their allocations on the other side.

Nevertheless, it is high time we spoke about county governments' own source revenue. I know they have been going through challenges in meeting their targets. It is high time we spoke to them about that particular scenario so that their intended development agenda and programmes to spur and grow devolution will now be supported effectively by the resources that they are endowed with. Most of the county governments have never managed to meet their targets. The reasons behind that are poor planning, poor policies, poor revenue collection measures and misuse of resources. That particular scenario helps us to speak to the Council of Governors and the devolved government units so that they can begin to re-look at the laws governing their own source revenue. If they are able to maximise their collection the same way we are pushing ourselves to the limit, they will reduce direct dependency on the core functions that they have to discharge and meet the mandate of devolved governments.

As we seek to put ourselves in the scenario of push and pull, it is high time Kenyans began to look at the situation we find ourselves in. Other issues and discussions need to come forth around what we are going to do henceforth. We are aware that the Court of Appeal made a ruling that invalidated the Finance Act of 2023. We are aware the Finance Act of 2023 sought to raise additional revenue of not less than Ksh200 billion. I know an appeal has been made to the Supreme Court but, who knows the outcome of that? I do not want to pre-empt the outcome of the ruling of the Supreme Court, but should it uphold what the Court of Appeal ruled, we will get into problems.

It is high time, as Kenyans, we asked ourselves questions about the situation we find ourselves in. Where are we going? Such court rulings affect the already affected basket that we have. We are now discussing the Division of Revenue Bill. I do not know whether we are aware that Supplementary Estimates II should be coming very soon. Who is going to survive in this situation? Will devolution and the national Government survive? I call on every agency to tread carefully lest we collapse the country. This is because the advent challenges that are affecting the existing framework of revenue raising measures will collapse the critical services that Kenyans require.

With those remarks, I support this amendment and request that, henceforth, we should have a discussion on how to absorb the reduction of the revenues.

Thank you very much, Hon., Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Beatrice Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Report and appreciate the Chairman and Members of the Budget and Appropriations Committee (BAC) for the work they have done. I know it has been a very tough year where we have to ensure that we meet the timelines and aspirations of Kenyans. We need to appreciate that every sector will have to share the burden. More importantly, this situation might teach us to scrutinise our budgets more carefully and see how we perform with them. It will now give us a way forward on what the President has always wished to have – an itemised Budget. This will help us. All I know is that it is up to us to make do with whatever little we have.

Hon. Temporary Speaker, we should be asking ourselves whether there is a way we can exercise prudence in how we dispense the resources that we are given. The other thing we should be asking ourselves as Kenyans is how we can ensure that, slowly by slowly, we come out of the International Monetary Fund (IMF) and all those things that have brought us to where we are today.

I also want to caution Kenyans that, as much as we are doing that, we also need to understand that we should not expect a lot. You cannot come again and start blaming people. With the little we have, even if it is one project, let Kenyans see that one project. That is what is of importance. Let it come out that we had this little, but we got this one project. The quality of the project can be seen and be quantified to show that public resources have been spent prudently.

The other thing is on the county governments. As we re-adjust everything, it is time we asked the county governments to come out openly on the much they collect from their local revenue. Is it able to support where we have had the deficit now? It is like, in Kenya, we have a local revenue that nobody cares about it. Nobody even says how much is collected. In the end, we are here talking of Ksh20 billion that we have reduced from the Budget. I am sure local revenue in each county could hit Ksh1 billion, that is, a total of Ksh47 billion from all the counties. It could even surpass that figure.

There are those who are able to collect even more, like Nairobi. If it is well organised, we can have more than Ksh40 billion. We can even become the first county that can share its revenue by giving loans to other counties. It is about the systems of collecting revenue. The deficit we have at the national level has to now start balancing with the revenue from counties. We must also know how the counties are performing. Is there a way for the Senate to introduce incentives such that if a county performs well and collects revenue efficiently, it could then receive additional funds? It is proper to reward effective revenue collection and responsible spending on development for the benefit of the people.

The other thing is with regard to education. You realise that in the year 2025, we shall be phasing out the 8-4-4 system. We are moving slowly by slowly. We must get it right with the Competence Based Curriculum (CBC) from the word go, in terms of having free education. It can happen and it can work. We must come out of this crisis so that we start re-organising our resources ourselves.

The other thing we should be telling our citizens now is that the courts quashed the Finance Bill 2023/2024. We have now gone back to the Acts. We are not hanging. There were good things that were meant for manufacturers and those are also gone. We also have to sit down with the Judiciary. While Gen-Zs are telling us to sit down, is it not fair to sit down also with the Judiciary? Not just a meeting, but we go for a workshop together and start looking at all the things that are coming up from all corners. The Gen-Zs are saying we need to practice good governance in each arm of Government. It also means the Judiciary must be part of that good governance. You must also look at the interests of the public. We are just sorting out Financial Year 2023/2024 and 2024/2025, but you have now taken us out completely, with all the gains we had put even in the other Bill. As much as it had a lot of complaints, there were issues of excise duty and manufacturing. We are now back to ground zero. Those are some of the things we must sit down and talk about.

We do not need to complain much, or talk about it in the media. We need to sit as two arms of Government and get a way out. Yes, nobody can control the judges in terms of their judgments. When the country is in such a vulnerable state, any arm that will try to put us to the brink will be very unfortunate. In the state we are in, we need every individual and every branch of Government to feel that we are committed to improving Kenya. We must also acknowledge the challenges we face and work to address them differently from the past. A good example is the formula we had for assessing loans for university students. Once you quash all those issues,

you should ask yourselves where we have taken the Higher Education Loans Board. Why have we done this? It is going to affect us. We are pleading with the Judiciary to look at everything as we move forward, knowing that there are new systems that are being put in place, including the education system. Let us not find ourselves again in the crisis we have been.

Hon. Temporary Speaker, as I support, I know that the Senate will have to look at what they had passed in the Division of Revenue Act (DoRA). It should realise that the counties and the Governors must realign. I am hoping nobody will run to court again because it has become rampant. I do not know why we are doing so. I am hoping that no one in the Senate or counties will rush to court so that we work within the means we have accepted, and see our country moving forward in this 2024/2025 Financial Year. We have to put in place proper governance systems.

I am hoping the new Cabinet Secretary will look at all these things, and bring us a report on our systems and where we are. We also need to look at all the sectors that give us revenue, like Kenya Ports Authority (KPA), and ask ourselves what to do with them.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Very well. There is heavy weight on this side. I will take two and then come back to this side. Hon. Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. I stand to support the Division of Revenue (Amendment) Bill 2024, that has been necessitated by factors which this House is a complicit party in the oath of all misfortune. We ought not to be here; we ought to have read the signs of time and made the necessary arrangements.

The Constitution of Kenya, under Article 203, is explicitly clear on what needs to be considered in the allocation of funds between the two levels of government. One of the two conditions I want to highlight is that the allocation should be in such a manner that allows the country governments to perform effectively and deliver services to the people of Kenya. The hallmark or the thrust of devolution was to enable services to be devolved adequately to the people of Kenya.

The question we keep on asking and we will continuously ask, and until somebody will have the courage to tell us so, is the amount that is being given to the county governments. Is it adequate? Is it excessive, or is it inadequate? That is the question we need to ask. Another question that we need to ask is this: Has there been any form of costing of services? This is to ascertain how much it costs to provide healthcare, water or other services to a particular person.

If we continue to politicise the process, as we have always done with grandstanding between the National Assembly and the Senate, then we will forever make politically orientated decisions, without a scientific approach to determine the cost of the services. We have always argued continuously, incessantly, and without flinching, that the cost of providing health care in Nairobi cannot be the same as in, say, Sio Port. They are completely different. Has there been any scientific approach to determine the cost? We just do it for the purpose of meeting the spirit and letter of the Constitution or just for political expedience.

I want to challenge the Budget and Appropriations Committee. From where I sit, the Parliamentary Budget Office is well resourced. The Heads are fairly educated and experienced people. They can undertake that research or develop a model even if the Commission on Revenue Allocation (CRA) is only interested in allocating funds between the two levels of government.

Another aspect that is very clear in the Constitution is the issue of fiscal discipline and effective use of resources. I wonder if there is any single time, before we do a Division of Revenue Allocation (DORA), when the Budget and Appropriations Committee calls for a report to indicate the situation and what we have. Also, to see if the amount given has been effectively and efficiently used. When we do the County Allocation of Revenue Bill, do we ever punish a particular county that has been wasteful in the utilisation of public funds or did

not allocate the funds as required in the Public Finance Management (PFM) Act, between the current expenditure and development expenditure? We should punish those who fail to comply and reward those who comply.

In the same vein as Hon. Beatrice Elachi has mentioned, the county governments were never supposed to be cost centres. They were supposed to be revenue-generating centres as well. Where does their own revenue go to? For heaven's sake, why would Nairobi County require money from the National Treasury? The land rates in Nairobi alone, are enough to run its affairs without depending on the National Treasury. Are we able to ask those hard questions, or we are so timid politically that we do not have the courage to ask those questions and get answers?

It is high time we got away from this minimalistic approach that we simply have to do what the Constitution says. Are we able to question? A typical ordinary Kenyan recognises the NG-CDF more than the county government projects. Consider that the NG-CDF is just a paltry, very small element of the money compared to the funds that are given to the counties. Time has come that we must interrogate. I want to ask the Chairperson of the Public Accounts Committee whether he has the courage to question the value for money from the funds allocated to the county governments. Yes, he will be put under pressure and orders will come from the House on the Hill, which he must comply with.

I see we are allocating Ksh380 billion to the counties as equitable share, excluding conditional share of revenue and when you calculate it, it comes to 24.2 per cent. This is not true. It is good to be factual and realistic to the people of Kenya. We have proposed the Budget of 2024/2025 based on projected revenue, which is close to about Ksh2.2 trillion. If you calculate, it is not 24 per cent. Let us be factual and realistic to the people of Kenya. We need to tell them the truth, that we are basically based on...

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Oundo. This may require the Chairperson of the Budget and Appropriations Committee to listen because you may have to speak on it. Proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I know...

Hon. (Dr) Makali Mulu (Kitui Central, WDM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Speaker. I do not intend to interrupt my good friend, Dr. Oundo. I think for the sake of informing Kenyans and without misleading them, he knows very well that the Constitution states the equitable share is on audited and approved reports. It is not on the projected revenue. I think it is important to go on record.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Dr Oundo you may proceed with that vindication.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I am firmly aware. For record purposes, Dr Makali Mulu and all of us know that we already have audited accounts for 2022/2023 Financial Year, which have already been laid before this House. If the House takes an inordinately long time to review and approve, then we cannot punish the counties. We cannot proceed to mislead the nation that we are giving them 24 per cent and yet, the truth of the matter is that it is far much less. As the Chairperson said, it is closer to the floor. We are not even anywhere above the floor. Probably, we have put a carpet to increase the distance from the floor to where it is. So, we need to be very clear on this one. We must call upon the House to move with speed.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Oundo. Did I hear another point of order? Yes, the Chairperson of the Budget and Appropriations Committee.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you, Hon. Temporary Speaker. When we are in this House on such a day, there are Kenyans at home who are watching us. As they watch, they take what we say with a lot of weight. They think as we talk in this House, we are informed. The Constitution is very clear that when it comes to equitable share, the basis is the last audited financial statements. There is no provision on the time the House should take in approving them. It talks about approved and not submitted. Therefore, in regard to this debate, what matters is the approved audited financial statements and not what was submitted. As Kenyans watch us, they are informed based on the reality and facts. The last audited accounts are for the 2021/2022 Financial Year. In that regard, we are apportioning 24.4 per cent to counties and that is the reality.

The Temporary Speaker (Hon. Omboko Milemba): I think that matter can rest there. You may now proceed, Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. Let the matter rest, but it is a point of debate. I think the people of Kenya have heard and will decide whom to believe.

As I conclude, it is important as a country that we look at how we handle our matters because we appropriate funds each year. As I stand here today, and this is based on unverified information, counties have not received close to Ksh30 billion. This is what was appropriated in the Financial Year 2023/2024. Again, we are misleading the nation that we have given them a certain percentage and yet, the truth of the matter is that all the money has not been disbursed. Why use unrealistic estimates, revenue projections, or simply decide to frustrate devolution by failing to release disbursed funds on time? For what benefit will it be, if counties are given development funds on 30 June? They cannot absorb it and the law is very clear on roll-back. We end up creating artificial pending bills. When the funds come on the last day, the guys at the National Treasury and counties compete to loot the money. They allocate those who have done nothing. At the end of the day, when the auditors come, what do they see? They find that funds have already been spent with no project that adds value to the people of Kenya undertaken! I pray that Hon. Mbadi is nominated to the position of a Cabinet Secretary of the National Treasury and Economic Planning. I hope he will have the courage, get the latitude, be responsible, and have the freedom to instill some sanity at the National Treasury.

Hon. Temporary Speaker, with those few remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Joseph Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Speaker.

I rise to support the Division of Revenue Bill as presented by the Chairman of the Budget and Appropriation Committee.

When we were contributing to the Appropriation Bill, 2024 (Supplementary 1), I said that we were living in unique times which have come as a result of the people of Kenya exercising their legitimate concern through the sovereign will of the people of Kenya under Article 1.

When the people of Kenya rejected the Finance Bill, the President and this House agreed with them. However, it comes with consequences which are supposed to be shared across the board – the county governments and the national Government. Those are the two avenues which the taxpayers' money is channeled to. This has resulted to a reduction of about Ksh3.7 billion allocation that is meant for this House. Members no longer travel to hotels in Mombasa and elsewhere. We have been oscillating between Bunge Tower, Continental House, and the utilities within Parliament. It means that Parliament has complied. Kenyans have complied with the austerity measures as a result of the rejection of the Finance Bill, 2024. The National Government has faced a cut in the budgetary allocations to the Judiciary, Parliament, Executive and the county governments.

A reduction of Ksh20 billion meant for the county governments is evident in the Supplementary Budget 1, which is the main Budget that we passed in this House. The Exchequer did not release the money allocated to the national Government totaling to Ksh410 billion and Ksh30 billion meant for the counties. Adding Ksh380 billion to Ksh30 billion, the total is Ksh410 billion. Many people will see it as if there is an increase, but it is not. It is what was not financed being brought forward. If you add Ksh380 billion to Ksh30 billion, it becomes Ksh410 billion. When we say division of revenue and using the approved audited accounts of national revenue, the House should request the Auditor-General to fast-track the auditing of the national revenue accounts as we also fast-track its approval. This is so that we rely on the 2022/2023 or 2023/2024 audited accounts instead of the ones for 2020/2021. If we head towards that direction, the amount of money that would go to the county governments and the national Government will rise as a result of the latest revenue. However, five years down the line, you will get less money. The country needs to know that, perhaps, we have a Budget like the one that we have but, at the end of the year, the national Treasury would not be able to release money to the county governments because of a shortfall in revenue collection. Kenya Revenue Authority should target to raise around Ksh270 billion to Ksh300 billion or above. But as long as we collect less, our Budget will only be good in figures but in reality, the cash flow to the county governments and the national Government will be less.

If the courts oppose or undermine the many mitigations that are meant to raise revenue, the National Treasury will not have enough money to finance the Budget. Therefore, there would be a shortfall in the national Exchequer releases. As a result, we will get pending bills both in the national and county governments. We must also have a conversation with the Judiciary. As they condemn Parliament for lack of participation, one of these days, we shall also ask the Judiciary to take their rulings for public participation and we ask Kenyans to tell them their opinions.

The uprising in Bangladesh is as a result of a court ruling. Those rulings at times affect the citizens of this country and can be a source of an uprising in Kenya. Kenyans need to know that with pending bills, the county governments and the National Government Constituencies Development Fund (NG-CDF) are unable to get all their money at the end of the financial year. The KRA is unable to raise all the money that is required using the approved revenue-raising measures because of litigations in court and, hence, the burden being forwarded to the next financial year. It will be worse now that the courts have already pronounced themselves on the Finance Bill, 2023. The Chairman of Budget and Appropriations Committee should prepare another supplementary budget which is simply another main budget. As a result of negating the Finance Bill 2023, we may, again, resolve another reduction of the Budget and, as a result, the Budget and Appropriations Committee will, again, prepare another supplementary budget or re-introduce the Finance Bill, either in piecemeal, or as a whole, so that the country can survive. Those are the realities that are facing the country.

If you look at the audited and the approved budget accounts of 2020, 2021 and 2022, it is about Ksh1.5 trillion. What could have happened if we had used the 2023/2024 Budget? The Government and every deserving entity would have gotten more money, but the reality is even if we do this, we will not raise enough as anticipated in the revenue raising measures. We shall have a Budget in figures but in reality, we do not have the money to run the country. What do we do then? Generation Zoomers (GEN Z) and other authorities would express themselves as they have done. We must live within our means. If the county governments were to live within their means with their programmes, how much would it cost and how would it develop the country?

I was part of the stakeholders of this country that reviewed the Constitution of Kenya, 2010. We wanted the county governments to create wealth, and not to be sources of “eating” areas. We want the county governments to create industries. How do we develop this country?

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One, is to increase our agricultural production. Two, is to resuscitate our industries so that we build an industrial revolution in Kenya and then grow the agricultural revolution. Those are the two things that can improve Kenya and build the economy.

Hon. Temporary Speaker, I will ask you for more time because I have something to share. With the current reality, we might soon ask the county governments for their revenues, especially the ones that have been converted to cities. It is time for this House to have a conversation. If you have converted yourself to a city, then it means that you can run autonomously using your own revenue. Nairobi, Mombasa, and other counties must survive with their own revenues. But again, that was...

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

(Hon. Joseph Makilap spoke off the record)

No, Hon. Makilap. That was a good speed, but there are also strong minds on the list. Hon. Caroli Omondi, you may proceed.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Temporary Speaker. I will try to be brief so that my colleagues can also have a bite of the cherry. It is time we re-looked at our budget making process. For the last 24 months, the courts have consistently told us that we got it wrong. As a country and a Parliament, it is time to re-look at this. We must figure out how we can re-work the legislative framework for budget-making in this country, so that we do not suffer the continuous embarrassment of having our finance bills declared unconstitutional, twice successively. It is quite an indictment on Parliament as well as other arms of government.

I agree with the concept that both benefits and burdens should be shared proportionately. However, when I look at what has been presented here, several issues trouble my mind. One, I see that we are still using the projections contained in the Finance Act of 2024/2025, and as we all know, it is dead and buried. We are still basing the 15 per cent projection on that. That worries me. If you look at the way all these things are designed, you realise that counties are operating on the last audited accounts of revenues received and approved by this House, and that are 24 months behind. I think they are for the Financial Year 2021/2022 and yet, the national Government is operating on current actuals. That, in itself, does not create equity and proportionality in the sharing of revenue.

Looking at the proposals on how revenues will be shared and money distributed, I am just wondering how a county government can plan. We were a bit quick to dismiss what Hon. Oundo was saying but, if you think about it, 15 per cent is on the most recent. For some reason, the Constitution did not say last audited, but most recent. Most recent could be even five years. It simply means the last audited and approved accounts by Parliament. It could be any audited accounts. For instance, if five years ago, you raised Ksh1.7 trillion and last year you raised Ksh2.3 trillion like we did last year, and so, if you base 15 per cent on five years ago, then you can clearly see the injustice that is being done to the counties. I am wondering whether it would be so difficult for the economists and the finance experts in this House to advise us on how to share both the 15 per cent, which we have no option about because that percentage vests as a constitutional provision. So, if it is calculated, we have no power to reduce it. We have to avail it to the county governments.

Hon. Oundo was trying to say that there is a portion which is based on projections like what we have now. For that, there should be some equitable share if there is a shortfall. But if the monies are never released to the counties on time and in the amounts that are envisaged, how can they plan for their development? There is a very fundamental question here that we need to discuss. We need to know whether or not it is time to review both the provisions of Article 203 of the Constitution, as well as the framework that we have for budget-making as

they relate to revenue sharing, division of revenue and disbursement of funds to the counties. If this situation continues, I can guarantee you that a very quick look at the current proposals in this Bill will attract litigation and going by recent precedent, we do not know how that will go. I want to suggest that this House sits down and re-looks at the entire budget-making framework so as to get it right. We have good economists, lawyers, finance experts and public sector experts and, therefore, we need to re-look at this process. Otherwise, we will keep going around in circles without delivering on the promise of devolution.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Joseph Oyula. Is he in the House?

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Temporary Speaker, for giving me this chance to also add my voice to this Division of Revenue (Amendment) Bill, 2024. This Bill is as a result of the unfortunate situation that we went through in the Finance Bill. Once the Finance Bill was rejected, it meant that the revenue was going to drop by a certain margin. The division of revenue, which had already been done, had to be automatically affected. That is why this proposed reduction has been brought before this House. Let us accept that this is good work that has been done by the Budget and Appropriations Committee, because we cannot pretend that the revenue will be collected. It is one thing to say that we have revenue in the book, but the actual money may not come. If you foresee that there will be no actual funds coming to the Exchequer, then you have to revise your budget accordingly. It is important to live within our means, and that is why this exercise is important both to the country and this House.

The arithmetic that has been done is also good. The Budget and Appropriations Committee has worked very hard to make sure that they reduce complaints from any source. This proposed Division of Revenue (Amendment) Bill as adjusted by the Budget and Appropriations Committee should be supported. County governments have enough sources of revenue and if they miss them from the Exchequer, they should be able to raise more than enough from their locally generated revenue.

It is only unfortunate that most county governments do not realise the importance of collecting revenue locally. They want to depend on what they get from the national Government and yet, if you compare the revenue they used to raise in the past during county councils, it was much higher than what they are raising now. They should be looking at doing better than the former local authorities. The sources of revenue are mis-directed. Revenues are collected and banked in other accounts instead of going to the Exchequer. They should accept whatever decision is made from this House. The reductions proposed have been looked at very carefully by the Budget and Appropriations Committee and, therefore, we need to accept and approve this Division of Revenue (Amendment) Bill, 2024.

With those few remarks, Hon. Temporary Speaker, I beg to support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Japheth Nyakundi.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker. I also support the Division of Revenue (Amendment) Bill. This has come because of the austerity measures that we are undertaking as a country. We know this has also come because of the rejection of the Finance Bill, 2024.

Initially, we had appropriated Ksh400.1 billion that was supposed to go to the counties. I was lucky to be among those who sat in the Mediation Committee between the National Assembly and the Senate. We spent a lot of time deliberating on this issue. We increased the money going to the counties by approximately Ksh15 billion. But that notwithstanding, we are here again to reduce the amount going to the counties by a tune of almost Ksh20 billion. This is not because we do not support devolution, but what we are undergoing as a country. We support devolution because, in one way or another, it has worked. It has changed the lives of

many. In some places, it has created employment opportunities and so many other things. Difficult times call for difficult measures. The difficult measure that we have to take is to reduce the amount of revenue that goes to the counties. However, we call upon them to make sure that they enhance their systems, so that they can collect more revenue. I believe that they do not use their mechanisms to collect more revenue.

Lastly, as I support this Bill, we call upon the county governments to use the money that is allocated to them in a proper manner. We do not see many roads being constructed. Most of them are being constructed by Kenya Rural Roads Authority (KeRRA). Early Childhood Development Education (ECDE) classes are not being constructed as compared to the money that we get from NG-CDF. It is just a drop in the ocean, but you can see the projects that are being done by NG-CDF all over the entire country. They are being done in a proper manner compared to what we see in the county governments.

We know that money was to enhance Community Health Promoters and building Levels 1, 2 and 3 hospitals. When we allocate some money to them, they should reduce the travel expenditure of members of the county assemblies (MCAs) and employees. They should cut costs. The national Government—from the Judiciary, Executive and Parliament—has cut its budget. It should also go down to the county governments. The MCAs should reduce the expenditure they intend to use during this financial year, so that they can absorb what we will give them. I call upon the National Treasury to release the money on time, so that those projects can be implemented.

With those few remarks, I support the Division of Revenue (Amendment) Bill. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute. I rise to support the Division of Revenue (Amendment) Bill, which has come as a result of the circumstances that we have just gone through. It then gives us the opportunity to reflect on how we do our things and how to respond to the needs and feelings of our people so that, next time, we do not get ourselves into those circumstances. What we went through was not a surprise at all. It came along. We looked at it and we were told. However, we went our own way as if we elect ourselves to this House.

This is justifiable because of what happened. We have to rise and reduce the funds that we can give out. In this case, the counties reduction will be about Ksh20 billion. It is unavoidable at this time. Traditionally, we make the budget and then we raise the money. Maybe, we should start thinking of raising the money and see how much we can raise, and then make the budget. That is just a thought. But whatever it is, the shortfall must be addressed.

I will only raise a few things. The Chairman of the Budget and Appropriations Committee raised an issue of what we should do when we have a shortfall or surplus. Logic dictates that if there is a shortfall or surplus, it should be shared proportionately. However, that should be under the assumption that all the money that we put in the books is released to the counties. Right now, counties can tell you that they are expecting huge sums of money, but it has not been released. If you are going to think of sharing the surplus and shortfall, we must also think of whether we appropriately and adequately release the funds.

Hon. Temporary Speaker, whenever we discuss the Division of Revenue Bill, although this is just a revision, it always makes me think of whether we have looked at our devolution in details. It is now over 10 years, but you still see issues—that to some extent—are linked to the structures of devolution that we should have overcome by now. If you look at the functions up to today, we are still talking of whether we know what it costs to run the functions at the county governments.

We had a Transition Authority that failed to do its job because of its structure. It was actually placed in a ministry, which was administrative. If you look at the legal aspect which

was done by the Commission for the Implementation of the Constitution (CIC), that was a body where all the laws were looked into. So, this is something we should look into. It did not happen, but we should do it now. It has been talked about long enough.

The other aspect of devolution that comes to mind is the functions. If you look at them generally, coming up with policies and standards is a function of the national Government, while rendering a lot of services are functions of the county governments. However, we still have huge sums of money that remain at the national level. We thought policies would take less money. In my mind, devolving functions is incomplete.

If you look at the health sector, for example, many functions that could be under county governments are still with the national Government. What happens with health, water, agriculture, and early childhood education in county governments does not link to policies that are done by the national Government. It concerns delivery, but not just in the functions like education, and security that are national. If you look at it carefully, it doubles what the county level would do and yet, issues of policy and standards remain un-addressed because the national Government is not doing them.

The other issue we should probably look at is the budget process. By the time the Budget Policy Statement (BPS) is tabled to give rise to the Division of Revenue Bill, the National Assembly that deals with the budget process knows very little of the needs of the counties. We have had to go into mediation every time. When it comes from there, we understand the needs of the counties. We should not understand when we have disagreed.

If the Inter-governmental Budget and Economic Council (IBEC) together with the Commission on Revenue Allocation took this matter seriously, I have always thought needs of the county governments should have been compiled by the time the BPS is tabled. They should even be available to the National Assembly and the Senate to look through so that we do not have situations like now. When we are saying that we have given above the constitutional requirement of 15 per cent of audited accounts, you will find that 75 per cent of the money is still with the national Government. I think we should look at those issues. We need to look at what IBEC and the Commission on Revenue Allocation do. We should look at how the information they have feeds into the discussions of division of revenue.

Finally, Hon. Temporary Speaker, as all Members who spoke before me said, we should look at the local revenue to be raised by county governments seriously. I know they deal with it locally. With the national Government, we clearly know what Appropriations-in-Aid (A-in-A) will be raised by the time we are doing sharing. On the other hand, we have no idea what county governments will raise. Again, we are in the dark in that area. We should look at all those things in our devolution. Maybe, it is somebody to look at the Constitution again, particularly in relation to resources so that we tidy that up.

With that, I support the Bill.

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

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Division of Revenue (Amendment) Bill. This very important Bill appropriates revenue across the two levels of government as per the Constitution. The Constitution is very clear on how to share revenue between the two levels of government, or what we call the equitable share.

I thank the Chair and the Members of the Budget and Appropriations Committee for sitting down now to come up with Supplementary Appropriations Bill No.1. Essentially, Supplementary Appropriations Bill No.1 is the Appropriations Bill we lost due to the cancellation of the Finance Bill of 2024. The Chair and Members of the Budget and Appropriations Committee went through it to ensure they legalise, through this Division of Revenue (Amendment) Bill, what fell with the dropping the Finance Bill of 2024. In summary,

they ensured that the revenue shared with the counties was in line with the Constitution. They also looked at non-essential areas to reduce the budget.

Hon. Temporary Speaker, I laud my colleagues for emphasising that this Bill is timely and aims to illustrate the concept of living within our means. The Bill cuts expenditure at the county level, the legislature and all the other arms of Government, such as non-essential travel. The Office of the President has also undergone budget cuts as outlined in the Bill.

I urge the Budget and Appropriations Committee to explore ways to incentivise other sectors of the economy so that we can generate more revenue without increasing taxes. The Kenya Revenue Authority (KRA) can pinpoint those areas, especially within the high revenue bracket, for us to expand the tax base. Kenyans did not want us to raise taxes through the Finance Bill 2024, but we can still incentivise certain companies and large taxpayers to boost revenue. County governments also need to follow suit by reducing expenditure on non-core areas and supporting the growth of small and medium-sized enterprises (SMEs). Large counties like Eldoret, Kisumu, Mombasa and Nairobi need to strategise on how businesses can thrive to raise their revenue, instead of solely relying on the national Government.

This Division of Revenue Bill is based on the last audited accounts, as rightly stated by the Chairperson of the Budget and Appropriations Committee. I commend the Committee for that because they have managed to allocate 24 per cent as per the last audited accounts. Hon. (Dr.) Makali Mulu, who is an authority in this field, has also highlighted this. While considering the last audited accounts, it is important to assess the performance of previous remittances to both the counties and the national Government. This evaluation will help us identify areas that have the potential to yield higher returns on investment.

Now, allow me to touch on the education sector and other important sectors in this country. Education is a service-providing industry, and it is crucial to have a well-educated civil service and population. This will enable them to understand Government policies and programs more effectively. This makes it easier for the Government to implement programmes even in the rural areas. Therefore, it is essential for implementing officers such as chiefs, county government officials and ward representatives to be well informed. Investing in those sectors is a great service to our country.

The other issue that I really want us to look at as a House is that as much as we give a lot of money to the county governments, how effectively is that particular money used? What is the effect of the money that is sent to counties *vis-a-vis* the other forms of funding? We have the NG-CDF which is a very small fund. The Budget and Appropriations Committee and the Ministry of National Treasury and Economic Planning should look at the impact of each and every coin that is sent to counties. County governments have been in existence for around 10 years. It is time we review them and look at how effective the funds we give to them are used, so that we can spur development, growth and grow the economy. We cannot continuously rely on the national Government to be the only source of raising revenue. It will reach a time when what the national Government raises cannot be able to run both the 47 county governments and the national Government entity.

Secondly, let us also look at every function that is devolved and cost it so that when we send money for health to counties, we are sending an adequate amount of money. That will enable us to have drugs in those hospitals and enough money for roads, water and other services. Even if those monies are not enough, how efficient and effective are county governments structures in making sure that the money remitted is effective on the ground?

I have gone across counties and constituencies in this country. The NG-CDF can easily be seen in terms of school development and infrastructure on what the NG-CDF has been mandated to do, and even the construction of police stations and roads. That is because even though Kenya Rural Roads Authority (KeRRA) is not a function of the NG-CDF, it is sent through the constituency roads committees. In effect, it is important to make county

governments lean and more effective, to make sure that not all the money is lost in bureaucracy, paying salaries and running errands. Let more than 40 per cent of the funds reach the common man, and it shall be seen in services and all manner of work that is done.

Lastly, on the issue of the Equalisation Fund and the revenue that we send to counties through the Division of Revenue Bill, I want those monies to be sent on time. I ask the National Treasury, as much as we are budgeting what we have, let us make sure that any funds that we are supposed to transmit to counties, be taken there on time so that *wananchi* can have a feel that good work is done.

With those remarks, I support. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Onyango K'Oyoo.

Hon. James K'Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Speaker for giving me the consideration.

At the outset, I want to support the Division of Revenue (Amendment) Bill, which has been very well and ably canvassed and articulated by the very able Chairman of the Budget and Appropriations Committee, Hon. Ndindi Nyoro, in this House. I support by saying that we are very happy that the Government has done everything to make sure that changes are made to enable it meet the aspirations of our budget, a move that has necessitated cuts in various essential services.

My main reason for supporting this is that the Government needs to give services to its citizenry. So far, the Government is on course and several programmes are taking place. But I am afraid that many programmes are going to be affected by the various cuts. I am afraid that while the Government, through the Budget and Appropriations Committee, has made remarkable cuts in various essential services, the services by the Government ministries and county governments do not show or prove that we are in a delicate position.

The problems that Kenyans have, or we have against Gen-Zs, is perception. We are reducing the budget to help meet various aspirations, and I am happy that you have made significant sacrifices. The National Government Constituencies Development Fund (NG-CDF), for example, has seen a big reduction in its allocation. However, since the judgement in leadership and politics is through perception, the Government, through the county governments, has not demonstrated that we are in a dangerous zone — that the economy is not supporting our aspirations.

The county governments used to be stand-alone governments which were collecting revenue and executing various public aspirations. They were building schools, hospitals and also building roads. Nairobi County was a standing government on its own, and it was doing a lot of services to meet the aspirations of Nairobi residents. The same applies to Kisumu, Eldoret and many others. However, since devolution, the work of the county governments and the revenues that are collected have not only disappeared, but they have sublimed. All the time, they are making noise about the release of the exchequer from the Government quarters and yet, there is no demonstration on the ground that even after the government has released their part of the bill, that they are doing something for the people.

All that you see from the local people is flamboyance of the political class of the county governments. We see governors being driven around in different vehicles with so many people that we do not need at this point in time. This must be corrected. There are rumours of people who are looting a lot of money. It can be shown, even in Dubai and in Kenya, serious developments that belong to the top leadership of the county governments. I am wondering whether the body that is called the Ethics and Anti-Corruption Authority (EACC) was quietly disbanded or somebody asked them to go for a break until they are recalled. As if that is not enough, when you come to the next Government, the President dissolved the Cabinet because the Cabinet Secretaries were not performing. There is a Ministry that is run by a technical team

that is headed by the Principal Secretary, and then there is the image of the Government, which is the Cabinet Secretary.

I am sorry that we are soon going to pass in this House, the various appointees to various ministries. They were fabulous leaders just the other day, but once they have been approved by this House, go and check the offices that they occupy, and whether the fabulous developments which have not been done before will have been done. As if that is not enough, consider the cabinet secretary's escort routine when he or she is leaving the office and going home. The entourage involves fuel guzzlers that are taking money and also security officers who are meant to be safeguarding public trouble points. They are all there. Since the Cabinet was dissolved, I have not heard any incident where a cabinet secretary who used to be escorted by two vehicles has been injured or harassed. This must stop. The Government must demonstrate that we are serious.

Let me share with you my experience involving Dr. Paul Rono, a Principal Secretary in the controversial Ministry of Agriculture and Livestock Development, who was mentioned with Linturi in the fertiliser scandal. I am happy that in his wisdom, the President has fired Hon. Linturi. I believe this one should also be left out. Yesterday, he purported to visit the sugar belt that is shared by my constituency and that of my colleague, Hon. Melly. While I believe the Principal Secretary is not involved in politics, he came to my constituency with fuel guzzlers carrying secretaries and directors. Everything came to a standstill. Work was not done, and farmers who had been summoned waited from 9 a.m. to 6 p.m., only for him to see them for just 10 minutes. There was no value addition in his visit. A lot of money was spent and they expected us to receive him. Hon. Melly and I had received intelligence that he was coming at the behest of a local sugar company that is entangled in land fraud. Therefore, we did not waste our time going to receive him. The kind of flamboyance that that public officer was showing to the people is what is giving the Government and our political parties a bad image. We want to cut the meat where it hurts. We have already sacrificed and it hurts. Everywhere, even in Parliament, we are sacrificing. The Government, through the Ethics and Anti-Corruption Commission (EACC), needs to be very serious and spare nobody. Government appointees must stop excessive flamboyance and behave in a manner that shows we are going through an austerity period.

As I support this Bill, I want His Excellency the President to be very tough and strict. He should maintain a lean Government and put measures in place to ensure that there is no further wastage by the appointees.

Thank you very much, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Omboko Milemba): Is Hon. John Waithaka, Member for Kiambu, in the House?

Hon. John Waithaka (Kiambu, UDA): Yes.

The Temporary Speaker (Hon. Omboko Milemba): Give him the microphone.

Hon. John Waithaka (Kiambu, UDA): Thank you, Hon. Temporary Speaker, for giving me a chance to support the Division of Revenue (Amendment) Bill, (National Assembly Bill No.38 of 2024). I want to start by commending the Chairperson of the Budget and Appropriation Committee for doing a very commendable job under very difficult circumstances.

Kenyans rejected the Finance Bill, 2024, and that is why the Government is in a very difficult situation. This means that both the national Government and the county governments must share the burden of reduction in revenue as required by Article 218 of the Constitution. Articles 209 and 210 of the Constitution gives county governments the authority to collect revenue. Therefore, they should understand the situation in the country and put in proper measures of raising revenue so that the services they provide, like healthcare and others, do not come to a stop.

In the 2022/2023 Financial Year, the county governments fell short of their revenue collection targets. For example, in Nairobi, out of a projected Ksh17.5 billion revenue collection, only Ksh10.2 billion was raised. In Mombasa, out of a target of Ksh5 billion, only Ksh3.9 billion was raised. In Kiambu, where I come from, out of a target of Ksh3.4 billion, only Ksh2.4 billion was raised. In Narok, Ksh4.2 billion was the target but only Ksh3.1 billion was raised and in Nakuru, out of a target of Ksh2.3 billion, only Ksh1.6 billion was raised.

As you can see, the county governments are falling short of their projected targets. I urge them to come up with clear policies on how to raise their own revenue. They should embrace technology and enhance their revenue collection systems. Hon. Temporary Speaker, I was once told a story by my late father. In the story, the Nairobi City Council used to loan money to foreign governments in the 1960s. It was efficient in collecting money. Not knowing who their tax collectors and taxpayers are is one of the problems facing our county governments. For example, the Budget and Appropriations Committee approved a Bill that I brought to this House. It was to have an address system in the country. County governments would know where all taxpayers are by using an address system to identify all the people who are supposed to pay tax.

I support this Bill so that we address and mitigate this issue. The county governments' allocation will reduce now that the Government does not have enough money. This will enable us to have an equitable solution to our problem.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Thank you very much for using fewer minutes. I ask future speakers to do the same because most of the things have been ventilated upon.

Let Hon. Esther Passaris speak on this debate.

Hon. Esther Passaris (Nairobi City County, ODM): Thank you for giving me an opportunity to contribute to the Division of Revenue (Amendment) Bill.

I commend the Budget and Appropriation Committee for all their work. We have all been mentioning how we have had an unprecedented history happen in our country due to the protests by the Gen-Zs. It has brought us to a point where we have to come back and look at our revenue because we will not be having the Finance Bill of 2024.

I take this opportunity to mention a few people who lost their lives during the protests. There was Rex Masai, Evans Kiratu, Eric Shieni, David Chege, Beasley Kamau, Ibrahim Kamau, Kennedy Onyango, Abdikadir, Charles Ngere and Eucabeth Mukei. These are just 10 names of the people that lost their lives. Lest we forget, we are talking about this today because the country reached a point where our children rose up and said enough is enough. Why did they say enough is enough? It is because they could see that the country was not headed in the right direction. We, as the representatives of the people, actually failed to do the job we were elected to do. All the three Arms of Government failed the people of Kenya. We are here discussing the Budget because we failed the people of Kenya.

We have to ask ourselves some hard questions on the Budget. I recently saw strike notices coming out left, right and centre. Everybody wants collective bargaining agreements honoured. People want the promised jobs. They want people hired. We have a shortage of teachers and medics. Some people who are past the retirement age are still in Government. We have to start cleaning up. Our young people will do it if we cannot.

The recent Gen-Z revolution or protests were like a tremor. We should avoid the earthquake. We can avoid it if we listen. We should listen and act on everything they are saying. You know what? These are not strangers coming to tell us how to run our country. These are not strangers telling us that there is a lot of wastage. It is not strangers telling us there is much theft and corruption. These are our children. These are Kenyans. These are the people the Constitution swore to protect.

When I think about it, I sometimes feel that, maybe, we need to sit down and revisit our Constitution. Do we really need 47 counties? Did we actually start this exorbitant expenditure when we passed our current Constitution where we decided to have so many counties? I was trying to draw a parallel with California. California has the population of Kenya and 150 elected representatives. Compare that with our 2,000 elected representatives. Probably, California has a GDP of the entire continent of Africa. In Kenya, we are over-represented. California has chief executive officers running the various boroughs that they have within their State. We need to look quickly at whether our laws are adequate when it comes to fighting corruption. The former President said we lost Ksh2 billion daily, which comes to about Ksh700 billion in a year. We need money to be able to get this country right. If we deal with corruption, we will have solved that problem. Are we allocating money to deal with corruption? Are we putting appropriate structures in place to deal with corruption? If we are not, we are going to have a problem.

I saw some video clips running on social media after we did the vetting in which many people questioned the wealth of many of the people who were vetted. I, too, wonder how people make that kind of money. I have had businesses that collapsed and others that have done well but, I do not want that kind of wealth. I do not want that kind of wealth because, at the end of the day, it is ridiculous for one person to be worth so much and yet the only job they have ever had is being a public servant. That is like throwing eggs on the faces of the people who have elected us to work here on their behalf.

Out of the monies that are given to the counties, there is the basic share of 20 per cent for the Equalisation Fund to cater for a population at 18 per cent. Healthcare will get 17 per cent against poverty levels of 14 per cent. Agriculture will get 10 per cent; lands 8 per cent and urban at 5 per cent. When we come up with Kshs7.8 billion for the Equalisation Fund, do we ask ourselves whether the money we have already given them has had an impact on poverty alleviation. Devolution is supposed to sort out this matter, but some countries are so poor that children still study under trees. They have been given billions of shillings since we started devolution. Obviously, we have a problem and yet, all the former governors are shameless billionaires today.

While we look into the revenue sharing and monies allocated to the three arms of government, the most important thing we have to consider are pending bills. The national and county governments have impoverished many Kenyans by receiving goods and services from them, but not paying them. We are not providing money for the pending bills. We keep having committee after committee and yet, those are Kenyans who have employed people. They borrowed money from banks. Some of them are committing suicide and having serious mental health issues. We have to be a country that cares by taking a holistic approach. I pray and hope that, somehow, the three Arms of Government will sit down together and have a conversation about where we went wrong, what we are doing right and whether they are directing us to do right.

We want to say that we are independent, but we are dependent on each other. That interdependence means we must have a conversation. Are we going to allow the tremors we felt with the Gen-Z protests to become an earthquake that will engulf all of us? Are we going to deal with it and never have a tremor again by doing the right thing? History will judge us. The Finance Bill, 2024 is a void in our history because there are debts. People died and businesses were looted. People suffered irreparable damages. Loss of life can never be replaced. If this country does not change, all that sacrifice will be in vain. We have to make sure that history does not judge us harshly.

The 13th Parliament has a big job to do. It is not just about legislating on the national Budget or Appropriations Bills and Division of Revenue bills. It is about getting things right through listening and acting on everything that the Gen-Zs have put on the table. Every day I see them do a better job than the Ethics and Anti-Corruption Commission (EACC) in terms of

telling us how county governments are stealing money. They will do that on a daily basis. They will expose everything. Nobody is going to do anything in this country that will not be exposed. So, let us change our direction. Let us change direction and align with the dreams of our forefathers, who fought for our independence and put together the national anthem. We have taken that independence and thrown this country to the dogs. Let us bring back the lost glory, which requires us to be serious.

Thank you. I support.

The Temporary Speaker (Hon. Omboko Milemba): Naomi Wako.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this very important debate.

I congratulate the Committee for the great work they have done. A few weeks or months ago, we passed the Finance Bill, 2024. Since then, many things have happened. Kenya has gone through a lot as a result of the rejection of that Finance Bill. Our dream was that the Finance Bill would go through, and this Government would be able to achieve all its goals and empower the people in different ways. Our dream was to initiate our transformative agenda and effectively work on it. Unfortunately, it did not work.

John Stott, in one of his books, said that the world is suffering because we lack a listening ear. Many Hon. Members have said that we have failed in a way. The truth of the matter is, yes, that has come and what the country has gone through has served as a wake-up call. Today, we are here to support the Division of Revenue (Amendment) Bill that will guide us on how we will be sharing the national revenue.

With the coming of devolution, many marginalised areas and counties have seen the light of the day and have benefited. Devolution, in different ways, has empowered the people. It has brought about development and people have experienced some growth. Unfortunately, we also have some negative happenings as a result of devolution. However, if you look at the positive side, you will appreciate that the growth that many counties have realized over the last few years is from the time that we introduced devolution. If we want to use our resources effectively and efficiently, we must be good stewards.

What happened to our country was not good. Internationally, it has brought us down and has had some negative impact. As a result, we are now experiencing budget cuts that affect every area of the economy. As we do so, we need to make sure that every county becomes more responsible and more accountable. With the CEO and the governors in place, we have a lot of gaps and corruption that is going on. We need to conduct proper audit so that we get rid of issues of ghost workers, corruption, nepotism and other things that are highly practised in all parts of this country, so that we make good use of the resources that God has given us.

In the Budget that we passed, in the promotion of local manufacturers, we wanted to create our own wealth. We wanted to increase exports and reduce imports so that we could create our own wealth. Unfortunately, that has not happened. Today, I support this Bill so that we can encourage ourselves to live within our means and use our resources properly.

I congratulate Members of Parliament for denying themselves many things. I was in the 12th Parliament. During that time, we had more opportunities. We travelled a lot and we had good things. However, today, it is totally different. We need to know the negative impact of not passing the Finance Bill. It means that there will be minimal development, employment opportunities will be reduced and money that goes into the Ministries will be reduced. We need to tighten our belts. It will be tough and rough. However, we know that one day we will be out of this situation. I want to stop and give the remaining time to other Members to also speak. As I support the Bill, I would like us to remind ourselves that when the going gets tough, the tough gets going. Let us remain positive and make sure that we use our resources wisely.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Jessica Mbalu.

Hon. Jessica Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity to contribute to the Bill. First, I want to support the Division of Revenue (Amendment) Bill, 2024. I thank the Chairperson of the Committee for having a listening ear. We know why we are here. If I may borrow from the foreword of the Chairperson, because of the failure to enact the Finance Bill, 2024 into law, the Treasury was directed to prepare a revised budget for the Financial Year 2024/2025 to reduce the expenditure of the amount of revenue that is expected to be generated through the Finance Bill, 2024.

I would like to thank the Chair and his team for a well put Report. The import of this Bill is to amend the Revenue Act 2024 so as to provide for equitable sharing of the revenue raised nationally between the national Government and the county governments, taking into consideration the downward revision of the projected revenue.

The Bill is seeking to amend Section 5 of the Act by deleting and replacing Schedule No.5 of 2024 as contained in the Act. The Committee has gone ahead to propose amendments. The rationale for the proposed amendment of Section 5 (1) is to provide for the projected revenue shortfall to be borne by the county governments and the national Government.

In Sub-Clause 5(1)(A), the Committee is proposing to insert a new sub-clause immediately after 5(1) that says: “Notwithstanding the generality of sub-section 1, the proportion of the shortfall that will be borne by the county government shall not exceed 15 per cent of that shortfall.” That is within the constitutional threshold. The rationale of the proposal is to safeguard the proportion to abide by the Constitution in the event that a shortfall has to be borne by the county governments and the national government.

In the event of deletion and replacement of Schedule No.5 of 2024 within the principal Act, the Committee is appropriately guided. The criteria for sharing of revenue between the county governments and the national Government has been outlined very well by the Committee, through the leadership of the Chair. We have a total sharable revenue of Ksh2 trillion. We have been given the amounts that the national Government, the county governments and the Equalisation Fund will receive. This is a learning process. There are a few things we must look into as Parliament.

Firstly, we must revisit the budget-making process so that we do not find ourselves here again. Secondly, we must also have a listening ear. We passed the Finance Bill, 2024 and, thereafter, a lot happened in the country. Some of us from this side of the House were chanting, “No!” We rejected most of the provisions of the Bill because we had listened to the people. As representatives of the people, we had done our own public participation and knew what the people wanted.

As the Opposition, we were sure that the Bill that was being passed was not what Kenyans wanted. We saw the Generation Z coming out to express themselves. I thank the President for not assenting to the Bill. I also thank the Committee for revisiting it. That is why we are here debating and supporting. In as much as we support, there is need for prudent use of resources. In the last Parliament, the Chairperson and I served in the Public Accounts Committee. We saw the gaps in the expenditure of funds allocated to different ministries.

As Parliament, we want to see prudent use of funds allocated to ministries. As we raise money from Kenyans, we need to reduce corruption. Hon. Makali has been in Parliament with me since 2013. I am sure that he wants to contribute. I will give him four minutes. Kenyans are watching. Therefore, we must listen to them as we prepare our budgets. Since this Bill will go to the Senate, I am sure they will look at it, knowing that some functions are devolved and others are for the national Government. As the representatives of the people, we get NG-CDF and we know that all the projects under that Fund are visible.

With those few remarks, I support.

Hon. Wanjiku Muhia (Kipipiri, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Wanjiku Muhia?

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. I rise under Standing Order 95. Many issues concerning counties, corruption and the size of Government have been very well debated in this House. This indicates that Hon. Members know the solutions to issues raised about the budget of this country. Therefore, I beg you to call upon the Mover to reply.

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

(Question, that the Mover be now called upon to reply, put and agreed to)

Mover, before you reply, if you can donate part of your time to some Members like Hon. Makali Mulu.

You may proceed.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Temporary Speaker. I would have done exactly as you have directed but looking at Standing Order 95, I do not think it is possible for me to donate part of my time. Otherwise, I would have generously loved to hear some contribution from Hon. Makali Mulu, Ambassador Sigei; my sister, the Women Representative for Wajir County; Hon. Murwithania Rindikiri, the Member for Buuri and the Member for Karachuonyo. I know that they are very good contributors to debate in this House, and so is Hon. Naomi Waqo. It is only that I cannot do it procedurally. However, I am sure I will benefit a lot from our interaction as we move into the Committee of the whole House tomorrow.

I would like to thank all the Members for staying up to this late to debate this Bill. I am sure that Members will also turn up tomorrow as we go into the Committee of the whole House.

Otherwise, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the putting of the Question for this Bill will be done tomorrow. I thank the Hon. Members who have sat here the entire afternoon and the ones who have been mentioned by both the Chairman of the Budget and Appropriation Committee and Hon. Gimose, who was very ready to contribute to this debate. They will have a chance to participate in this process in tomorrow's Committee of the whole House.

(Putting of the question deferred)

Next Order.

MOTION

ADOPTION OF REPORT ON ENHANCING REPORTING OF PARLIAMENTARY BUSINESS ON ONLINE PLATFORMS

THAT, this House adopts the Report of the Select Committee on Parliamentary Broadcasting and Library on Enhancing Reporting of Parliamentary Business on Online Platforms, laid on the Table of the House on Wednesday, 4th October 2023.

The Temporary Speaker (Hon. Omboko Milemba): Is the Mover in the House? Hon. Waqo, can the leadership speak to that?

(Hon. Naomi Waqo spoke off the record)

(Motion deferred)

Next Order.

MOTION

ADOPTION OF REPORT ON THE INSPECTION VISIT TO SEMI-AUTONOMOUS INSTITUTIONS OF THE EAC IN UGANDA

The Temporary Speaker (Hon. Omboko Milemba): Is the Mover in the House?

Hon. Wanjiku Muhia (Kipipiri, UDA): Yes, I am. Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Regional Integration on its consideration of the Report on the Inspection Visit to the Semi-autonomous Institutions of the East African Community in Uganda from 9th -16th September 2023, laid on the Table of the House on Wednesday, 29th November 2023.

The Regional Integration Committee visits several institutions within the central and northern corridor mainly to familiarise themselves with what is happening within our Community, as it is termed the fastest growing economic bloc. In this case, the Hon. Members who visited the institution, like any other institution, have found two major challenges. One, is the lack of staff. This is now becoming a very popular song in all institutions.

Second, is the lack of finances. As a Committee, we are trying to think loud and even interact with the East African Legislative Assembly (EALA) and other Committees of Regional Integration to see whether we can have an alternative funding mechanism for East Africa because the remittance policy is no longer tenable. We are in the process of amending the Treaty. It has been there for a while.

One of the key issues that we want to deliberate on as the National Assembly of Kenya is the funding mechanism. We know that remittance depends on the possibility of each member State and capability. We often have countries that have very low Gross Domestic Product (GDP) and, therefore, they go for years without making any remittance. That means the East African Community (EAC) is held by only three States that contribute religiously. This has posed a danger to the growth of EAC because what is aimed to be achieved – be it free market or free movement of people and goods – is not achieved. Even though the institutions are there, they lack staff, technocrats and any other avenue that can assist the EAC.

As Members traversed Uganda, they interacted with the Hon. Members from there. We found out that within the Community, Uganda enjoys a good relationship with Kenya. As a Committee, we are also working hard to speak to the Council of Ministers to ensure that the Community enjoys a cordial relationship without the traditional perception of some countries. Kenya has found itself in a corner with some countries feeling that Kenyans are aggressive and, therefore, a danger to their interests; thus, continuing with their unwelcome tradition. We will, however, continue speaking and engaging with other partner States so that they can understand that aggressiveness is a Kenyan culture. It is just the same way as other partner States could be slow in the way they handle their matters, and we accept them. This will ensure that when we come together with different cultures and ideologies, we grow one strong EAC.

Hon. Temporary Speaker, I was to be seconded by Hon. Adipo, who has stepped out. I beg to stop there. If I am added a few minutes in the next Sitting, I will be happy to speak to two or three more points.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Muhia, you will have 16 minutes when debate on this Motion resumes, so that you may complete moving and invite your seconder.

Hon. Members, we may now be on our feet.

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 7th August 2024 at 9.30 a.m.

The House rose at 7.00 p.m.

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