

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 16th February, 2012

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

**BILL**

*Second Reading*

THE COUNTY GOVERNMENTS BILL

*(The Deputy Prime Minister and Minister  
for Local Government on 15.2.2012)*

*(Resumption of Debate interrupted on 15.2.2012)*

**Mr. Deputy Speaker:** Mr. Mungatana you were on the Floor and you have 14 minutes to conclude your contribution.

**Mr. Mungatana:** Thank you, Mr. Deputy Speaker, Sir. Yesterday, I was at the point where I was saying that the Clerk of the County Assembly--- We have a problem as people from the marginalized areas and we do not want this punitive requirement of degrees being put there because we have already set the standard that even Senators will require only a post-secondary qualification. We would like to employ clerks who come from our county. Therefore, I will propose to the Minister an amendment, in that section, so that we can have a post-secondary qualification to allow us have better choices from within our counties.

Mr. Deputy Speaker, Sir, I also wanted to propose, to the proposed Clause 20, that any money Bill that comes before the County Assembly for consideration ought to have the assent of none other than the Governor. The proposal that the Minister has put here on Clause 20(3) is that it must have the effects or the recommendations of the County Executive Committee Member responsible for Finance. But the structure of the executive is such that the person who is responsible for the management of the finances, and must give report and account, is the Governor.

We want every Bill that is a money Bill at the county level to have the assent and concurrence of the Governor, as has been the practice here. Why is that so? Because if he has already presented a programme saying "I want to build these roads and hospitals," and then there is a money Bill that says, "no, there should be ten roads on this other side" and he is supposed to account at the end of it all, his plans will be thrown into disarray.

So, let us maintain the tradition that the person who is responsible for the money must be the person who will be accounting.

Mr. Deputy Speaker, Sir, still on Clause 28, on the County Executive, I wanted to propose to the Minister that amongst the list that should be there is the continual absence of the County Assembly Member. In fact, it should not even be an issue to debate, but we have not put that eight continual absence requirement where a Member will then lose his seat automatically. That one is not there and we need to look at it.

On then the number of people who ought to participate in a recall, I wanted to propose to the Minister that Clause 29(2)(b) must be made very clear so that it is only the people who participated in the last general election and 30 per cent of those voters are the ones who should be involved in terms of the preparation for the petition to remove a County Ward representative.

Mr. Deputy Speaker, Sir, I now want to address the Minister who, unfortunately, is not here and neither is his team - I hope they will be listening from somewhere - that on the part of the County Executive, we have said that the Governor shall, amongst other things, perform state functions within the County as the President may determine. I wanted this mandate expanded. I said it yesterday and I will say it again. We need to think together on how to make use of these positions of governors more extensively.

We must be very clear on the performance of state functions. First of all, we must have a proviso that this will be in writing and there will be state funds provided for the performance of state functions and this must not be limited to the county.

I am just thinking of a very practical example. There could be two counties which are neighbouring and they have an issue, and the governors are not seeing it in the same direction. Then there is a not so far neighbour from another county who might be able to understand those issues and be able to bring a third sense or a direction towards a solution and, before, maybe, the President or such high ranking officials come in, he might want another neighbouring Governor or a Governor from a different area to come and bring some understanding between the Governors who are having an issue that they are not seeing in the same direction.

Mr. Deputy Speaker, Sir, such a function must be supported by the national Government funding so that we do not have an issue where the budgets meant for the Governor and his work within the county are utilized because the President has requested him to do something which he ought to have done or the State ought to have done otherwise. The same should go if a Government's request is to represent outsiders. There should be a clear understanding in that direction.

Mr. Deputy Speaker, Sir, there is under (k) the provision that the County Governor will be the Chair of the equivalent of the National Security Council as provided in Article 239 of the Constitution. While I support that, we must have certain provisions within this Bill to allow the County Governors to be able to request for reinforcements wherever necessary. One of the functions of the County Governor will be to promote peace and order within the county. We are going to have practical problems in the counties. There will be a problem with inadequate rains, particularly during the dry season and inter-clan and ethnic issues; sometimes we may need reinforcement from the national Government. We must set up that kind of structure to allow the Governor to be able to have this kind of thing at his disposal. He must also be given the power to be able

to set up county police, where necessary and provisions should be made to enable him do that .

Mr. Deputy Speaker, Sir, in Clause 34 on the procedure for the removal of the County Governor, the proposal the Minister has put before the House is that any Member of the County Assembly who will have the support of at least one-third of all the Members, can initiate a process of removing the Governor under Article 181 of the Constitution. I think this is unfair. First of all, yesterday I said that for the Speaker of the County himself or herself the requirement is 75 per cent and I have said that was wrong. We should go to the requirement of two-thirds and I will be bringing an amendment to that effect.

Why would you want a Motion to be initiated to remove the Governor to require just one-third? We are speaking about a maximum of 25 people who will be elected as county representatives. Getting eight people to file a Motion to harass a Governor who has been elected from across the county is not right. It does not sound right; it can create a situation where there are eight people from different parties and things like that. What will be happening is that we will be having Governors spending a lot of time trying to do things which will have nothing to do with wananchi.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Mungatana argued very well yesterday about the need to simplify the removal of the Deputy Speaker in the County Assembly. I am following him very keenly, and want him to justify why he thinks we should make it easy for the Speaker of the County Assembly to be removed but make it difficult for the Governor to be removed. It is important that we understand this.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, it is obvious that Dr. Khalwale is not following my argument. What I am saying is that if you look at the County Speaker--- I need my time because I have other things to say!

If you look at what I said yesterday, and the HANSARD bears me out, the requirement is that 75 per cent is the majority threshold that is required to remove the County Speaker and I said that, that is a dictatorship. That means that the Speaker will never be removed. So, I said that we should go to the normal requirement of two-thirds majority. I am telling the House, and the nation, that the requirement here in Clause 34, which is dangerous, is for the County Governor--- The proposal by the Minister is for just one-third of the County Assembly Members to move a Motion that will initiate the process for the removal of the Governor. So, I am saying that we should go back to the two-thirds. Yesterday I reduced the requirement for the removal of the Speaker from 75 per cent to two-thirds. I am also saying that for the Governor, let us initiate the process with two-thirds majority of the Assembly to avoid---

**Mr. Deputy Speaker:** Order! For the benefit of the Chair, is it the process or is it the threshold? There is a difference because to initiate a Motion of no confidence against the Speaker, anybody can do that. But then for the Speaker to be removed even under our current Constitution and the Standing Orders, there is a certain threshold. Can you be clear on the requirement for initiation and the threshold for the removal?

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I am saying that in this House, for example, we have 210 Members. Anyone can initiate that process; but in the county we will have a maximum of 25 elected people. How difficult is it to get eight people to harass a Governor? Just eight people to initiate a Motion!

**Mr. Deputy Speaker:** Initiation or the removal?

**Mr. Mungatana:** Yes, Mr. Deputy Speaker, Sir. Now, I am arguing that, that is wrong! We should have initiation by two-thirds. That is my argument, and an argument is an argument!

Mr. Deputy Speaker, Sir, I come to Clause 36 which talks of the Governor and his proposals for those people who will hold the position of County Executive Members. He is supposed to make the proposals on So-and-so and then the County Assembly should approve, as provided in the Constitution. One of the things that has been put here, and which is very dangerous, is that contrary to the constitutional principle that one-third of all leadership should be of a different gender--- The argument that has been proposed by the Minister is that the County Assembly Members will be a maximum of 12. It is not possible to say that in all these counties we are going to have half women and half men. I propose that we must go back to the principle of one-third, so that they do not make it difficult for the leadership that will be chosen to run the County Executive in terms of its appointment. So, I will be proposing an amendment to the gender equality; I will go back to the usual requirement of one-third. It is a reality that in some of our counties it is going to be a tricky situation.

Mr. Deputy Speaker, Sir, I also want to propose that in the same Clause 36, it should not be necessary for the County Executive members to be told that they must be degree holders. I, again want to say that we make it a post-secondary education requirement. I wanted to propose again, in terms of the removal of County Executive members, that there be a requirement that the removal should be---

**Mr. Deputy Speaker:** Order! You have run out of time! The Chair did hear you a number of times insisting that your time was being taken away. This is a debate and not speech making; a debate naturally means that you debate in the House. As tradition holds, it is always within the time of that particular speaker. But because you are very passionate about it, and this is an area that we all want to see justice done to, I give you two additional minutes. Proceed!

**Mr. Mungatana:** Thank you, Mr. Deputy Speaker, Sir.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I want to thank you for giving hon. Mungatana those two minutes, but before they commence probably he should use them or another 30 seconds, to be even clearer. He is a very close friend, and I know that the hon. Member wants to run for governorship! I want it to be clear!

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

**Dr. Khalwale:** I am on a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, hon. Mungatana!

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I would like him to make it clear whether it is not his interest that is making him want to create a dictator of a Governor and make a democrat of a Speaker!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I think we are reducing this Debate into a very small thing. We have spent a lot of time thinking about the structures and it is unfair for Dr. Khalwale to talk like that. This diminishes his standing in my eyes because we are talking about serious issues! He cannot trivialise---

**Mr. Deputy Speaker:** Order! The hon. Dr. Khalwale is in order! Argue your case!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, this is not a personal issue. It is unfair to reduce my comments to a personal issue!

**Mr. Deputy Speaker:** Proceed! Explain to him the same!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I have explained to him! I do not know why his doctor mind has flown off this morning! I have explained to him and everyone is following what I am saying except him! I do not know whether he has been sent or what this morning!

I have said very clearly that we have to make it difficult to remove a Speaker or we have to come up with a procedure that is useful but not impossible---

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The country is following this Debate and it is important that we be very clear. The hon. Member should not mislead the Republic that it is the decision of the County Assembly that results in the removal of the Governor. The County Assembly, upon resolution, only recommends the matter and the final resolution rests with the Senate. Therefore, if that is his real problem, then he should be addressing the threshold at the Senate in the decision-making rather than misleading the Republic. Thank you very much. The doctor's mind is still with him! It has not flown away!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, it has, obviously, flown away! I wanted to say it very clearly, and let me say it again, that unlike in the House, we have a maximum of 25 Members. It is very easy to put a Governor in a state of continual stress. Getting eight Members to initiate a censure Motion is very easy. That one-third is very easy to attain. That is why I am saying that yesterday I argued that for the Speaker it should be two-thirds to initiate such a process. I am now arguing again that for the Governor, it should be two-thirds to initiate the process. Is that too hard for someone to understand?

I have not talked about the Senate process where hon. Khalwale thinks he will be!

**Mr. Deputy Speaker:** I am sure that this is about the initiation of the Speaker. I want to believe that this is in line with our own traditions here. I think one individual can initiate the removal of the Speaker but the threshold needed to remove him is 75 per cent under our Standing Orders before. But now, it is has probably been reduced to two-thirds. So, you had better clarify the difference between initiation and the threshold for removal. Even at the Executive level, whereas the Chair would like to give you more time, even at the Executive level, any Member of this Parliament can now move a Motion to remove the President. He does not need to have a certain threshold to initiate it. However, to remove him, you need the simple majority for the Executive. There is some wisdom in that. So, proceed! I just want you to be clear on that!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, what I am trying to say is very simple. I am trying to say that even the process of initiation, which is my argument, should be something serious. I am arguing that unlike at the national level, majority of getting eight Members to start that process can put Governors in continuous state of stress. That is my simple argument. So, we should have more numbers.

On Clause 41, there is a provision that if the County Assembly wants to sack or remove any Member of the County Executive, they need one-third majority in terms of the threshold. At the national level, and I remember correctly, if under the new Constitution, you want to remove any Member of the Executive you just need a simple majority resolution of the House. That majority is then given to the Speaker and the Speaker communicates to the President that there is no confidence in a certain Member of his Executive. The President will then remove that person. That is one way of removing

from office a certain Member of the Executive. In the county, there is a change, and the proposal that the Minister has brought is that one-third should approve. We are saying that we should maintain the uniformity. If at the national it is a simple majority, then at the county, it should also be a simple majority. If the County Secretary is of low education, there is a simple majority vote that we have lost confidence in him in the same manner that it is at the national. We should maintain the uniformity at the county.

Therefore, I want to propose, again, that, that amendment be brought by the Minister. Otherwise, we have many other things which I think my colleagues will be bringing to the Table. However, it is a good Bill and I would request all of us to support it although we should read it with a toothcomb so that we can remove the difficult areas that exist.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Hassan:** Thank you, Mr. Deputy Speaker, Sir. I would like to contribute to the Debate on The County Governments Bill in particular to the issues relating to the powers of the Governor. Given the fact that the power and the responsibilities that we will give the Governor are too much, particularly, in terms of the management of the resources of the county, in order to take action against abuse or misuse of office, it is important that we put stringent effective measures to remove and recall the Governor if need arises. I do not think that I agree with the argument that county representatives will use this as harassment. I think “harassment” is a negative word in that sense. I think it is important that we deal with issues of this kind with the knowledge that power is corrupting and, therefore, we must have proper checks and balance. The position of the Governor, if not checked can be used negatively and to the detriment of the greater group. I think this is in the essence of democracy which is informed by the will of the people. We must be able to make it easy for the people to remove and recall a publicly elected figure like the Governor. It is, therefore, all right for me for the Governor to be stressed all the time and to be under scrutiny knowing that if he or she does their job very well, then they will have the respect and support of the public. But, in case they make a mistake, particularly because this is a new institution, we must be very vigilant.

I would like to take an example of Limpopo in South Africa. South Africa has already experimented with the process of having Governors. We know that the State of Limpopo is now bankrupt because it has had a corrupt Governor who was supported by a corrupt Assembly and a corrupt leadership. Therefore, we must learn from that experience. There is another experience in the Philippines where the governors have looted the resources of the counties that they were given responsibility. As we embark on this road, we must emphasize the fact that as we give the governors the power to manage the counties, we must also be given the means to recall or remove them if need arises.

I think, as the Good doctor has said, the assemblies only began the censure. However, the process of removing a Governor can only be held at the higher level of the Senate. Therefore, this is a very long process and it will not be as easy as my hon. colleague mentioned here earlier on. Looking at the experience of other countries, we must learn lessons and we must not be misled by the fact that the governors in this new experiment we will carry out will be just as good as any other. I think we must also be prepared for the worst and put the necessary legislation in the County Governments Bill to ensure that if the Governor does not do his or her job well, then we will have the

means to remove and recall him or her before the damage is done to the national resources of that particular county.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Imanyara:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also make my contribution to this very important Bill that has been enacted pursuant to the provisions of Chapter 11 of the Constitution. The starting point, as the preamble to the Bill points out, is indeed, the Constitution. The underlying factor in the entire Bill is structured in a way to ensure that it complies with the provisions of the Constitution.

Mr. Deputy Speaker, Sir, apart from Chapter 11, we also have Chapter 2 of the Constitution. It is important for us to recognize the purpose for which the counties are set up. So, in looking at these Bills, we must not just look at Chapter 11 of the Constitution, but the Republic itself as set out in Chapter 2, particularly Article 6(2) of the Constitution which provides that the governments of the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and co-operation. So, it is important that the County Governments or the County Assemblies that are set up may be distinct, but the principle underlying their formation is that they have to operate on the basis of consultation and co-operation. Therefore, it is co-operation between the various arms of the Government and also the Senate. If we look at Article 96 of the Constitution, the purpose of the Senate - I will quickly refer to it - the role of the Senate is that the Senate represents the counties and serves to protect the interests of the counties and their governments. Therefore, all legislation that we enact such as this one ought to have in the contents systems and structures that ensure that consultation exists between the various levels.

Mr. Deputy Speaker, Sir, looking at the entire system of implementation of the Constitution now led by the Judiciary and the Executive, the legislative devolution that is taking the legislative power to the counties and establishing the links between the Senate and the National Assembly are not clear or are lacking. This Bill could be strengthened further in that regard by looking at the provisions of the Bill in relation to the setting up of the Standing Orders. If you look at the purpose of the Senate and the requirements of Article 2 of the Constitution, then there is need for the county Standing Orders to be consistent so that if, for example, one county government has power to make Standing Orders, they do not make Standing Orders that are contrary to the spirit of the Constitution or that are not consistent to the national good. So, my suggestion is that the power to create or to set up Standing Orders as is set out in Clause 13 of the Bill be relooked.

If you look at Clause 13 of the Bill, you will see that the country assembly may make Standing Orders consistent with the Constitution. We need to remove any ambiguities by ensuring that those Standing Orders are subject or are consistent throughout the 47 Counties. The only way to do that is to ensure that there is a role of the Senate in this, so that, for example, if the County Assembly provides its own Standing Orders bearing in mind the local circumstances, there is provision to refer those Standing Orders to the Speaker of the Senate for general approval to ensure that the Standing Orders of the entire 47 Counties are consistent and are also similar, so that we do not create small nations within nations in the governance structures. That is an issue that came up at a seminar that was organized by the National Assembly at Naivasha which I

had the privilege of attending on the Chair's behalf. That issue was addressed at substance, but I do not see it reflected in this Bill. Unless we do so, we will run the real risk of having small republics within the enclaves of the country that determine or make laws not consistent with the national good or that make it difficult for the inter-relationship that is recognized in Chapter 2 of the Constitution. That is an issue that the Minister ought to look at and if he does not, I personally would present an amendment that ensures that this clause is consistent with both Article 96 and 6(2) of the Constitution that recognize distinct and inter-dependency nature of the counties, but the need for co-operation and consultation, so that what is Kenya remains Kenya and we do not have motives of assemblies that may think they are States within a State.

The other issues that are raised are generally consistent with the overall principles of the Constitution and I do not see any major areas of conflict except to make it clear that all functions, the exercise of all authority under the County Governments Bill must be always consistent to the Constitution. That must be made clear and attempts by any quarter to limit under the guise of giving the President power to perpetuate the Provincial Administration through directives to the County Assemblies must be resisted. Therefore, it must be recognized as a principle that the entire Act is subject to the Constitution.

With those remarks, I support this Bill.

**Dr. Otichilo:** Mr. Deputy Speaker, Sir, I rise to support this Bill. First, I want to take this early opportunity to congratulate the Deputy Prime Minister and Minister for Local Government for spearheading the drafting of this Bill. I want to thank the taskforce that was led by Mutakha Kangu who made this work possible.

Secondly, I want to go on record that this Bill highlights the major importance of devolved governments as construed in the Constitution. The Bill is generally good and captures the spirit of the Constitution as regards the devolved country government systems as envisaged in Chapter 11 of our Constitution. I am very happy with the way the Bill has been drafted particularly in terms of County Governments and their role, the role of the Executive, how the Governor will execute his duties and the powers that he will wield. It also talks about how he will nominate the executive committee and how the executive committee will be vetted by the country assembly.

There are quite a number of issues under that Chapter on the Executive that I wish to recommend that we need to look at particularly as regards the nomination of chief officers. Their qualifications have not been clearly stated in the Bill. It is necessary that the qualifications of the chief officers of the County Governments are well stated in this Bill. So, we need a statement stating the qualifications of the chief officers of the County Governments. Also, the qualifications and the experience of the county secretary who will be a very important person in the county government, have not been stated clearly. It is important that the qualifications are stated clearly, so that there is no confusion. There is a risk that the Governor could appoint somebody of lesser qualification yet we need a qualified, experienced and seasoned person to be the county secretary.

Mr. Deputy Speaker, Sir, under Section 48 under the devolved units, I am very happy with the way it has been done. We have the urban areas and cities. We have already passed a Bill on urban areas and cities. We have the sub-counties which, in essence, will constitute the constituencies. We also have the wards and so on. It is the County Assembly that will decide what other devolved units we should have. However, in the meantime, it has been indicated that we can continue with the locations and sub-



locations. My view is that we should clearly state this in the Bill. We should not leave it open. This is because if we do so, there is a risk that each county may propose its own smaller units after the wards. So my view is that we maintain the same locations and sub-locations as they exist today.

Under county public service, the Bill is very clear. It is in consistent with the current Public Service Commission (PSC) regulations.

Under citizens' participation, I find the section is fairly good. However, it is not articulate on how citizens will participate in the county government systems. There is no institutional framework on how the citizens will participate. Therefore, it is important for this Bill to make it very clear for the citizens' participation in the management of county affairs. This is because the devolved government is all about making people to participate in the Government at the lowest level. Therefore, it is important that the institutional framework for their participation is clearly stated out in this Bill.

When it also comes to civic education, it is clearly prayed that civic education is extremely important. However, the institutional framework on how civic education will be carried out at the county level is not clearly stated out. As I said, the institutional framework, the arrangement and the funding is not very clear. So this is an area that is extremely important. As we go to the devolved government system, civic education will be extremely crucial. Therefore, it must be clearly stated on how it will be carried out on the short term, medium term and long term.

I am thoroughly excited and happy with the section that deals with county planning. For the first time we are, at least, coming up with a clear vision on how we should run our government and how planning is so crucial in the management of our resources. This section clearly gives out very systematic procedures on how our county planning will be carried. It also stipulates what categories of planning will be undertaken. I am particularly interested in the proposed integrated development plan that each county must prepare for ten years. This is a very important document that will guide the County Governments in executing their development mandates for the counties. So, this is a section that is important. I am fairly happy the way it has been structured in this Bill. It is very good.

Mr. Deputy Speaker, Sir, apart from the integrated development plan, we have the county sectoral plans and the county spatial plan. This is a very important plan for each county. Spatial planning is very important. This will help us not to repeat the same mistakes we have had in our country. We have had no spatial plan and, therefore, the development of our plans has been haphazard.

I wish to note that planning is extremely important. However, it cannot be undertaken without comprehensive and up to date information. Under the county planning section, there is no option of how the data for planning will be collected and collated. I wish to note that it is important that under this Bill we have a requirement that every county government establish a county statistical and information bureau. Without information bureau, the planning process will not take place. We must create an institutional framework for collection of statistics and information to allow the planning to take place in this Bill. So, I will be proposing amendments, so that we have inclusion of units for collection and collation of data.

Planning now needs technology; it is technology based. I have gone through this Bill, but I have not seen any area where technology is expressed as going to be the main

tool for planning. I will, therefore, hope to bring an amendment that will encourage the establishment of a GIS data base system. This is because planning without a GIS data base system, it will not be possible to plan. So, it is important that this Bill has this facility to ensure that planning will be interactive, easy accessible and be updated on time.

There is lack of budgeting for collection, analysis and dissemination of information and data in this Bill. So, again, this is an area that is lacking. I intend to bring amendments that will enshrine in this Bill a facility to ensure that budgeting of collection and collation of information is a continuous process. As I said, without information, planning will not be possible.

Having said, I wish to note that there are quite a number of sections where I would wish to bring some amendments if the Minister or the relevant Committee will not have done so. There are a quite a number of areas. For example, the title of the Bill is a bit misplaced. It read as follows: "The County Governments Bill". However, when you read the Constitution, you will realise we are talking about devolved governments. So I wish the Minister would consider the title of this Bill to be "The Devolved County Government Bill". We want it to be very clear. This is an issue that we will discuss with the Minister at the Committee level and probably when he tables his amendment here.

Mr. Deputy Speaker, Sir, there are a number of amendments I wish to bring on board which I do not want to go into their details. These are issues like shared services; what does that mean? When you look at the definition given, you find the issue of public/private partnerships is not included in that definition. There are quite a number of issues that would need to be addressed. For example, Section 17 says the official language of the County Assembly shall be Kiswahili and English languages. However, our Constitution also recognizes sign language. We have also indicated that the Kenyan Sign Language (KSL) will also be part of that language.

*(Applause)*

So, these are the areas that we need to amend, so that this Bill conforms to our Constitution.

Mr. Deputy Speaker, Sir, under the County Executive, Clause 31(2) (b) says that the Governor shall perform such a state function within the county as the President may determine. This is not very clear because it could actually bring in the issue of the President controlling or ensuring that certain things are done at the county level, and yet we want the county to be quite independent. So, we need to amend that on the basis of mutual consultation. There must be some consultation, but not just as determined by the President. So, those are some of the amendments that we need to make.

Mr. Deputy Speaker, Sir, as I said earlier, we have not given the qualifications of the county secretary, yet this is a very important position within the county. We must state categorically what would be the qualifications and experience of the county secretary, so that we do not appoint a secretary that will let down the county government.

Mr. Deputy Speaker, Sir, also on the issue of decentralized units, earlier, the taskforce had talked about village fora and councils, but I do not find it in this document. It is important that we create a forum where the village or people at the lower level participate in this process.

Mr. Deputy Speaker, Sir, without labouring into many tiny amendments that I intend to bring, I wish to say that, overall, this Bill is very good. I want to thank the Deputy Prime Minister and Minister for Local Government for steering this very important process, but there are a number of amendments that we need to make.

Mr. Deputy Speaker, Sir, I beg to support this Bill.

**Mr. Njuguna:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this very important Bill.

Mr. Deputy Speaker, Sir, let me start by appreciating the good work that has been done by the Taskforce led by Mutakha Kangu and the other members. I also note that the Kenya Land Alliance contributed immensely to this report. Both players portrayed a high degree of diligence and hard work.

Mr. Deputy Speaker, Sir, of great concern to me is the establishment of the County Governments. It is stipulated clearly in this Bill that the County Governments will come into formation immediately after the elections. I note a few observations on the formation of these 47 County Governments in the country. Before the formation of these County Governments, their various headquarters must be in place. Also, the County Assembly halls, governors' offices and accommodation, county public offices and the offices the deputy governors and their accommodation must be in place. We know that there are areas in this country that do not have these facilities. Therefore, it is important, as we plan for the elections, that these facilities are provided by the Government. We also note that there are marginalized areas in this country where the same facilities are non-existent. Therefore, it is important, as we prepare for the elections and County Governments, that funds are set aside and released to the identified County Governments, to start these constructions immediately.

Mr. Deputy Speaker, Sir, on the county symbols, it is stipulated clearly that every county will have a flag, coat of arms and public seal. My critical observation on this one is that no county government should ape or copy symbols of any other county government. This must be clearly identified because *wananchi* should not be put into confusion, as we embark on this very important phase of the County Governments.

Mr. Deputy Speaker, Sir, on the County Assembly quorum, the proposal of one-third, in my view, is very high. To realize that threshold sometimes may be very burdensome. Therefore, I would propose an amendment; that we have a quarter of the assembly membership for purposes of making meetings successful.

Mr. Deputy Speaker, Sir, on county wards, it is indicated that every county government will have 25 wards and, at least, five wards per constituency. We have said in this House that we need to reconsider this criteria in some areas in this country by creating variation, because of the land mass and interest to make sure that services are delivered to the common man. For example, in my constituency we used to have eight wards and now we have five wards. Therefore, it will be difficult for a citizen to travel for about 50 kilometres to go to his ward representative to get services. I would propose that in certain constituencies the variation be raised to six wards.

Mr. Deputy Speaker, Sir, on civic education, it is clearly indicated that this will be conducted at the county level. I would propose that this be transmitted to the sub-county level and even wards, so that the citizens are educated on the importance of these County Governments. Therefore, regular civic education must be provided, so that the citizens are educated on matters of the County Governments.

Mr. Deputy Speaker, Sir, on county planning we have seen in the recent past many deaths due to collapse of buildings. Therefore, county planning and development is a key component in this Bill. Therefore, I fully support the laid down procedures to be followed. The county government will have a responsibility to make sure that no buildings; either rental or business premises, will be occupied until thorough inspection is done, in order to avoid loss of human life. Therefore, it is important that, as we will have the County Governments, a firm foundation is laid.

Mr. Deputy Speaker, Sir, on County Governments accounts, I have not seen anywhere in this Bill the issue of county audits raised. It is important that we make sure that operations and finances in the County Governments will be transparent and that officers will be accountable.

To conclude, it must be indicated where the swearing in of members of the first County Assembly in each county will take place. This must be done during the day, so that the citizens in each county can come out in big numbers to witness the first county government in that area.

Mr. Deputy Speaker, Sir, this legislation is a milestone and historic in the lives of Kenyans.

With those few remarks, I fully support the Bill.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I would like to start my contribution by thanking the task force that was led by advocate Mutakha Kangu. I want to remember that this gentleman, who comes from my county, has made a great contribution to the new Kenya that we are talking about today, right from the days of the Bomas of Kenya processes. It is just about time that he was given – I do not want to call it a reward but allow me to use that word – an opportunity to continue using his experience that he has acquired over the years.

I want to note that this Bill is, indeed, the backbone of the new Constitution to the extent that we want to finally see the issue of development following the Executive; it is a matter that will be left in the dustbin. As we do this, we want to warn the incoming governors that if it was bad for development to follow the Executive to where his village was, it will be equally bad for people to want to become governors, so that they can take goodies to their villages or run our counties according to their whims.

Mr. Deputy Speaker, Sir, it is for this reason that I want to support this Bill, and note where it provides that the governor must be removed whenever necessary. I want to disagree with hon. Mungatana that we should make the process of removing the governor from office difficult. To the contrary, the process should be made easy. If the County Assembly establishes that people have elected a corrupt governor, they must have an opportunity of quickly initiating the process of that governor's removal, so that the matter eventually ends up with the Senate with a view to him being replaced, so that we can have a man who is corrupt-free being in charge of a county government.

I want to appeal to the Minister, on the issue of preparedness for the County Governments. It worries me that somebody might be thinking, especially in the Treasury, that the issue of the county government is a small matter. If you move around the world and go to the Republic of South Africa, you will appreciate that the provincial assemblies of Gauteng and Kwa Zulu Natal are actually bigger than the National Assembly of Kenya. This thing is not a joke. If you go to the provincial government of

Toronto in Canada you will appreciate that it is almost five times the size of the National Assembly of Kenya.

Mr. Deputy Speaker, Sir, it is, therefore, important that hon. Mudavadi works with the Treasury with speed, so that the process of establishment of the infrastructure that is required for County Governments is immediately put in place. In order for us to do this, it might require us to do a bit of smart thinking. We have, for example, counties that are privileged to have the provincial headquarters. It is possible, since we are phasing out the Provincial Commissioners (PCs), that we can use those provincial headquarters as the seat of the County Governments in those particular counties, so that we can free money that would have been used to do construction going to other counties that do not have such facilities.

At this time, the Minister should be telling us whether the Ministry of Public Works has by now created a model County Assembly building and a model governor's residence. These are things that are going to be very important. By the way, it is just around the corner. Therefore, I want to urge hon. Mudavadi that he must rush to the Treasury and get the funds now, so that construction work can start taking place. Otherwise, there are counties which will be unable to conduct debate at all.

Mr. Deputy Speaker, Sir, I want to comment on Clause 4 of the Bill. Clause 4 refers to the issue of symbols. It is important that it be clear that whereas county assemblies should be free to choose their own symbols, they should not attempt to do so by creating a replica of the national symbols. May I mention that this is a serious matter? Just a few days ago, I saw a presidential aspirant launching his presidential bid and his portraits were in the national colours, yet we know that the national colours on the flag are actually protected.

I want to comment on the issue of qualifications of County Assembly members. It has not been made clear in this particular Bill, but I remember that in the Elections Act, we have referred to the issue of qualifications of County Assembly members. We have to think this thing through. Clause 9 provides for the roles of the members of the county assemblies. Allow me to comment on it.

Mr. Deputy Speaker, Sir, the first role of a member of the County Assembly is to maintain contact with the electorate. How much education does a County Assembly member require to make that contact? Members of county assemblies will be supposed to present views, opinions and proposals of the electorate to the county assemblies. How much education will such a member require to have to do this? Members of the county assemblies will be required to attend sessions of their respective county assemblies. How much education will one need to do so? Finally, County Assembly members will be supposed to provide a link between the county assemblies and the electorate and facilitate service delivery.

There are some areas in this country where the level of education is not very high. If we push too hard on academic qualifications, we will end up locking out able men and women who will have represented their areas; we will have residents of Nairobi who were born in those villages going back to their respective counties and pretending that they represent those people when they actually come from Nairobi. I want us to think through this matter. I believe that we should leave it open.

Mr. Speaker, Sir, we should not insist on Form Four and above qualifications for County Assembly members. The process of natural justice will eventually bring out the

kind of leaders that the people will need. After all, somebody said that the people get the leaders they deserve. If you think you want to be led by somebody who does not have Form Four education and above, it is up to you. It is not up to the statutes to dictate to people.

I am saying this because we are the ones who have decided this. We did not ask the current councillors. I remember that when it came to senators and Members of Parliament qualifications, we said that one should have education level of Form Four and above. Surely, how can we expect the same level of education for senators and Members of Parliament to apply to councillors? We must be fair to these people.

Mr. Deputy Speaker, Sir, I want to comment on the qualifications of the Speaker of the County Assembly. Hon. Mudavadi, you have not indicated in this Bill what the qualifications of the Speaker of the County Assembly should be. It is important that we indicate here that the Speaker of a County Assembly must actually be somebody with very good education in order for him to be able to guide debate. Therefore, if you provide that he should have a minimum qualification of a university degree it will be acceptable, for purposes of functionality.

On the issue of the Speaker and his removal, I want to insist that we must maintain a very high threshold for removal of the Speaker. I am not saying the County Assembly representatives will behave like some of the councilors. However, you have seen councilors behave sometimes in very unacceptable ways. They can make debate so impossible that every time the Speaker wants to guide debate he is threatened with removal. We should make the threshold higher, so that the Speaker can firmly be able to dictate and guide debate.

Mr. Deputy Speaker, Sir, I want to comment on Clause 12. It refers to the issue of the Clerk. I want to agree with what has been provided and I support it. However, I want to request that urgently the process of training of would-be clerks in all the provincial assemblies should immediately go underway. This is because if we do not do it now, we will have these county assemblies without clerks. I want to propose that preference be given to Principal Clerks who are currently serving in this National Assembly; affirmative action be given to Deputy Clerks and Clerk Assistants because they are the ones who already have some knowledge.

I would be happy to see my good neighbour and friend Mr. Mwangi becoming the Clerk, for example, of the Kiambu County Assembly, or if not better, he should become the Clerk of the Senate. We do not want to allow people coming from outside and then taking the jobs of these very-well educated young people that we have in this Parliament.

I want to comment on electoral wards. The taskforce has suggested that there should be 1,450 wards. We have no problem with this. However, when I attended the IEBC meetings in Kakamega, I found that they were taking lightly the views of hon. Members. The views of wananchi in certain places were simply an outcry that a particular ward should not vote in a particular area because of community interest.

I want to thank Mr. Mudavadi because his taskforce has clearly indicated here in Clause 27(6)(b) that community interest must be considered. It says:-

“Community interest, historical, economic and cultural ties will be put into consideration when you are deciding on electoral wards.”

This is the time for the departmental committee to hear and remember what the people presented to IEBC when they were in various counties.

I remember the people from Mumias West in Kakamega talked passionately about two sub-locations; a sub-location called Bukhuyi and another called Ruwe. All what these people were asking was that the commission exercises this proviso of community interest, so that the people of Bukhuyi and Ruwe sub-locations in Mumias East can vote in Mumias where the rest of the community is. I hope the relevant departmental Committee will put this into force.

Similarly, we have in Lurambi in Kakamega County, the people of Butso North. They are saying they do not want to go and vote in Nabakholo. They want to vote in Lurambi Constituency. Surely, these people are not asking for much. Already given in this particular Bill the Minister is recognizing that if communities want to remain together they should be allowed to do so. So, allow the people of Butso to vote in Lurambi instead of forcing some of them to vote in Lurambi and others in Nabakholo. For the benefit of this House, even the people of Nabakholo, do not want the people of Butso to vote in Nabakholo. Why are we forcing these people to vote together when they have where to go?

Finally, so that I do not forget my own constituency, the people of Shitoli Sub-Location said that they want to vote with the rest of the people in Central Idaho Ward. Therefore, I hope that that the Committee will put this into consideration since we have already put the petition.

Mr. Deputy Speaker, Sir, in my mind when I read this Bill there is a formation of a structure of administration. I see clearly at the top you have the governor, then you have the sub-county administrator and then you have the ward administrator. It is true that the Minister has left it open that thereafter the other levels below should be left to counties to decide. Maybe there is need for us to guide them. This is because at the ward level you have left it hanging at the location. Most of the wards are pegged on locations. So, this means that the sub-locations and some of the locations have got three, four, five, six sub-locations. It means that there will be something hanging on what happened to the sub-location before you go to the village.

On this structure, all of them are appointed by the governor. It, therefore, means that, at the end of five years, the governor will go away with these people because he appointed them. If he has lost the new incoming governor will want to make his own appointees. The danger with this is that there will be no institutional memory. I want to propose in this Bill and I hope Mr. Washiali will allow the Minister to listen to this, that the sub-county and the ward administrators should not be appointees of the governor. This is because when he goes away and he has lost, he goes with them. The incoming will appoint his own people. They should be members of the County Public Service, so that they serve as institutional memory.

The governor does not have a shortage of people to appoint. The governor will appoint chief officers and many other officers. If we do not do this, this is tantamount to asking the institutional memory to be lost with the administration of that governor. By time this governor goes away, the Government will have spent a lot of money training these administrators. So, all the money will go to waste.

May I remind the Minister that he need to express in this Bill that the village elders who will be doing administrative work, be paid a salary. They should not be left to be walking around collecting people's chickens, goats and stuff like that. This is for real. It happens in many parts of this country and not just in Luhyaland alone.

I want to speak on the issue of representation. Article 96 of the Constitution of Kenya provides that the senator represents the County Governments. The same Constitution provides that the Member of Parliament represents the members of his constituency. So, in this Bill, when I see a situation whereby the senator who represents the county has not been captured, we are leaving a vacuum.

I want to propose that since the senator represents the county, the senator should be given an opportunity to sit in the County Assembly during the Budget Speech, so that he can listen to the ideas of the County Assembly Members. Having listened to those ideas, he will then carry them to the senate and defend that budget. If you do not allow the senator to sit in the County Assembly optionally, especially during budget, it means he will be attempting to defend a budget for that county, a document that will be foreign to him.

Finally, I want to urge the Minister to be brave. I know he is trying to be nice so that he does not lose his popularity on this presidential ambition. However, he has to be brave on this one. In this Bill, he must put it in black and white the role or fate of the provincial administration.

Some people think with the County Governments, that the provincial administration will go away. You have to come out clearly, so that the governor knows if the DC, chief or sub-chief is not going away, how he will relate with them. My submission on this one would be as follows, because we have a sub-county and that sub-county has got a sub-county administrator we let that sub-county administrator to superintend the sub-county medical officer, the sub-county agricultural officer, the sub-county veterinary officer and so on. However, on matters of security, the sub-county administrator should superintend somebody and that person should be the current DC.

So do not remove the DC. Retain the DC, you can give him a different name but he will be in charge of security and he will be superintendent by the sub-county administrators. Similarly, as you go down, you retain the chief, the sub-chief and the village elder only that you give them different names so that these people are specifically in charge of security.

With those few remarks, I support.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, I support this Bill. I want to thank the Minister for Local Government for a well thought out Bill which I think is well anchored on the provisions of our Constitution as far as the Chapter on devolution is concerned.

Mr. Deputy Speaker, Sir, for some of us who come from the marginal north, the Bill of Rights and the provisions of the Constitution on devolution are the key milestones in terms of what we want to achieve as a people. I strongly believe that if well implemented, this Bill which really brings life to the whole issue of devolution will ensure our people will be well represented. For the first time they will have the destiny of their development and of their future in their hands. To ensure governance at the county level, we will be accountable to our people. It will also ensure that all the issues we have been complaining about for the last 50 years since this country gained Independence, for the first time, we will be able to be drivers of our own destiny.

It addresses the issue of socio-economic development of our counties. It even goes further and ensures that we have sound and well integrated planning for our counties. It will also enable us to harness our own advantages as counties in different parts of this county.



Mr. Deputy Speaker, Sir, I really want to commend the Minister for having brought to life all those provisions in the Constitution which really give life to the whole concept of devolution. It will enable even those parts of the country considered poor or marginalized to have their destiny in their hands. For too long, some of us have felt that, as a nation, this country has never planned for us.

Marsabit County is supposed to be part of Eastern Province. For us to get support from the administration in terms of security or any management aspect of our region, we have to travel to Embu. It is even easier and faster to get to Nairobi than Embu. It is the same for the Turkanas who have to go to Nakuru. For the first time, our development will be anchored and centred in our own counties.

Mr. Deputy Speaker, Sir, on issues of security when our people are killed by Ethiopians before those reports get to Embu and then to Nairobi, maybe two or three days have elapsed. The Governor who is the representative of the people, being the chairman of the County Security Committee, will ensure that we link with Nairobi fast enough and take the necessary measures and actions to safeguard the lives of our people. I want to commend the Bill on that particular element. I know it was a very acrimonious issue at one point. There was a lot of debate on this but I am so glad a decision has been made. I think it is in the best interest of this county for the security and safety of all Kenyans.

The Bill also goes further and ensures that the minorities and marginalized groups within our counties are well protected and their interests are well catered for by the county government as well as the National Government as clearly articulated in our Constitution. Four out of the ten minority communities in the Republic of Kenya are from Marsabit County. Those are; the El Molos, the Dasnach, the Rendille and the Gabra. As provided for in the Constitution, this Bill will ensure that those minorities will have their rights and space to meet their development needs. This is not because we want to do so but because the law says so and the Constitution provides for it. I really commend this Bill in that particular aspect.

Mr. Deputy Speaker, Sir, in terms of county planning and integrated development planning for our counties, I hail from a county whereby not a single planning has been done in the last 50 years. Not a single title has been issued to people of North Horr Constituency. It is not only that, when they plan they come and carve out our land for national parks. For the first time this county will take a critical role to plan and ensure that whether it is in terms of land use planning, industrialization or keeping of livestock in terms of putting up ranches if need be, we will be able to harness the opportunity.

With a sound planning, a good county government with a vision the so called less endowed parts of this nation may be can give resources and enable this country develop and harness a lot of resources which up to now have not been appreciated.

Mr. Deputy Speaker, Sir, when you look at planning in most of these constituencies in arid areas we get more funds for agriculture, especially North Horr which is a desert and not a single part is arable, instead of getting money for livestock keeping. There is very little we can do in terms of cultivation unless you go into dry land irrigation which we are yet to. This does not make any sense. This is planning that is urban-based and highly centralized in Nairobi. People of northern Kenya have not given the opportunity to plan for their own development and what will make sense in their own economic well being.

This Bill also gives the county the capacity to raise own revenues, locally or internationally. If the people from Botswana are able to sell beef or our friends Ethiopians to the Middle East and other parts of the world, why not people of northern Kenya? Marsabit County produces the most number of goats in Kenya but is there a single market for livestock in Nairobi? There is this informal trade called Kariobangi managed by cartels of brokers. For the first time, as a county, we will be able not only to transact business nationally but also sell our livestock and products anywhere in the world including the Middle East. This Bill and the Constitution provides for and enable us to do that. May be ten years from now, Kenyans who have been dependent on food aid for 50 years may be in a position to feed parts of this country.

Mr. Deputy Speaker, Sir, I do not understand the rationale behind capping the wards to 1,450. Some of our wards are as big as the whole of Western Province. I have five wards now in an area of 4,000 square kilometres. I wonder how a county representative will be able to represent his people in an area without a single tarmac road, a single public transport and with less than ten vehicles available for use. I think there are some elements of this that need to be re-thought if Kenyans have to be represented.

I also commend the Bill for the professional management of our counties. It ensures that people of integrity, people who are well trained and people with university degrees will be steering the management of those counties. Any part of this country whether Hola, North Horr or Isiolo has enough graduates. I totally disagree with my friend Mr. Mungatana who said that for some of those in marginal areas we should go for post-secondary education. This is not necessary. We want our counties to be well managed professionally. We have the capacity. We have the resources. We want our counties to compete with the best in Kenya. We want our counties to compete with Nairobi, Kiambu and others.

Mr. Deputy Speaker, Sir, I totally support the Bill as it is and I will be the first person to oppose that amendment if it is brought to the Floor of this House.

In terms of accountability of our County Governments, it is very important that the Governors are managed and whatever they do are approved by the county representatives. All the appointments should be vetted professionally by the sectors set up with the counties to ensure that we have sound managers with integrity and necessary qualifications running the business of our counties. The Constitution provides for that and business should not be as usual any more in this country.

Mr. Deputy Speaker, Sir, the Bill also provides for gender equality in our counties. Some of us hail from counties whereby it has been very difficult to have women representation. For our own cultural reasons, it has been difficult to elect women to any organ of representation. I am so glad that the Constitution, and in fact, this Bill will actually condition and force our people to elect women. We have educated women of integrity who are capable of running the affairs of our counties and who can provide the support we need in the development of our counties. For our cultural reasons it has been difficult for us, but for the first time our people will be forced and conditioned by the law to elect women to those useful offices in our counties. This Bill, I am so glad, gives the necessary weight to that element.

In the whole of Marsabit County there is only one elected councilor. I am proud to say that she hails from North Horr. For the first time, women will have important roles to

play in the development of our nation as well as our counties. I thank the Minister for that element of the Bill.

As the Minister has clearly provided for in the Bill, it is important to give our people the necessary civic education. They need to understand and appreciate these issues. Today we have a crisis in Marsabit County just because we have never understood the whole concept of devolution. We have never appreciated the whole concept of us coming together as nations and communities to govern ourselves. There is so much for all of us. There is enough for all of us in terms of governance. There is no reason for us to be at war when, indeed, we can sit round a table and understand what is there in terms of governance and management. We can all be party to this. In order to reduce unnecessary tensions and conflicts in the most of these marginal constituencies, it is important for the Ministry to conduct civic education in local languages so that our people can understand exactly what the County Governments are all about. Right now, in some quotas, due to lack of understanding, it is viewed as unnecessary rivalry between different ethnic communities especially in areas where there are two or three dominant ethnic groups within a country. Civic education will go a long way in enabling us to live in peace. It will enable our counties to take off in a way that will make us realize the gains of County Governments.

Mr. Deputy Speaker, Sir, with those few remarks, I support the Bill.

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): Thank you, Mr. Deputy Speaker, Sir. I would like to support this Motion. I want to thank the Minister for bringing out a very well thought out Motion. This Bill touches on of the most important aspects of our Constitution. Apart from the Bill of Rights which is very important, this is a very important aspect of our Constitution. This is because devolved governance is one of the key pillars of our Constitution. I would like to thank the Minister for initiating action on this Bill much earlier. The task force was put in place many months ago. In fact, this Bill is as a result of a lot of public participation. A lot of thought has gone into the Bill and, therefore, what we have today is a refined document which has gone through many hands. I thank him for that initiative.

Mr. Deputy Speaker, Sir, devolved governance is going to be one of our key successes in this Constitution and its implementation will actually bring great changes in this country. We must get it right because this is the beginning whereby we are going to have the system of government in this country change. Our Constitution states that the people of this country who are sovereign will exercise that sovereignty at two levels: The County Governments and the national government. These are two separate entities. This Bill tries to operationalize that. We will, therefore, support the Bill and make sure that it is enacted as soon as possible.

The Bill clearly sets out the functions and powers of the County Governments. These functions and powers are consistent with the provisions of the Constitution. They ensure that nothing in the Constitution is left out. The Bill foresees that the County Governments will have their own symbols, flag, and court-of-arms. This is an indication that the government at the county level is a fully fledged government in dependent of the national Government. Any attempt to have the national government exercising authority over the county government must not be allowed. I am happy that the Bill has set out those instructions very clearly.

A County Assembly is actually a Parliament of that assembly. The functions and the role of the assembly are well spelt out. For the first time in the history of this country, we are going to have people exercising executive power at the local level. So, the legislative power of the county government must be allowed to function. In the Bill, part of the legislation has been left for them to do as envisaged in the Constitution. We should not attempt to legislate for the County Assembly fully. I am happy that the Bill emphasizes that role as envisaged in the Constitution.

The executive function of the County Assembly is very important because without that function nothing can work. I am happy that that has been spelt out. With regard to County Executive, I think the qualifications of the county secretary must be clearly spelt out. Whereas we have the qualifications of the members of the assembly mentioned in the Elections Act – I agree with post secondary qualification because we should not dilute that any further. We need to have people who are qualified for that post. Any attempt to dilute the powers given to the County Executive as led by the Governor should not be accepted. The Bill is good on that. The role of the Governor is clearly spelt out. As I said, the separation between the central Government and the county government must be clearly spelt out in this Bill. Of course, there will be a relationship between the two arms of Government.

Mr. Deputy Speaker, Sir, the county public surveys have been clearly spelt out. Without public surveys, the legislative and the executive arms will not function well. So, it is important that we enact in this legislation public surveys that will oversee functioning of the public service within the counties. I can see that we even have ward administrators who will be appointed by the public service. So, we need to appoint people with integrity. They must be people who have the qualifications and able to impartially manage discipline and enforce the code of conduct.

Mr. Deputy Speaker, Sir, the nation will be made up of County Governments and this is provided for in the Constitution. After dissolution, there will be a commission for the transition. The commission shall comprise of a chairperson who shall be an advocate of the High Court. I think we are very much in love with the advocates of the High Court. I do not think it is necessary to have an advocate of the High Court. If we must spell qualifications as required for somebody to run that commission, I do not think it is necessary to limit the advocate of the High Court. It is only in this country that qualifications are put for somebody who has a legal background. I have no quarrel with my legal colleagues but I think it is not necessary to put that qualification there.

Mr. Deputy Speaker, Sir, as I mentioned, this is a very important Bill. At the Committee Stage, we will request the Committee to look at it with a tooth comb. I am happy and I have compared this Bill with the first draft that was written by the task force and I think a lot of improvement has been done.

With those few remarks, I beg to support.

**Mr. Ngugi:** Mr. Deputy Speaker, Sir, thank you for giving me this chance to make my contribution to this Bill. First of all, I want to say that this is a Bill that has gone through a lot of consultations. The Committee of Local Authorities has been involved in various workshops with the Ministry in trying to come up with this Bill. At the same time, I want to thank the Minister because when we passed the Constitution, he was the first to set up a task force that looked into matters of devolution in a very thorough manner.

Therefore, this Bill is a result of all those consultations, the results of the findings of the task force and others that are related to it, including the Intergovernmental Relations Bill and the Transition to Devolved Government Bill, which are the basis for a legal framework for devolution. It is from now that the Ministry for Local Authorities and other Ministries can have a basis for setting up county staff and county systems. I also want to say that this is a very important Bill because the whole purpose of passing the Constitution was so that we can devolve the Government to provide resources and governance to the local areas. It is saddening to see that this Bill is coming at the last hour. In the past, Parliament has been castigated that it is the one delaying things and yet in this instance, Parliament has been ambushed. Parliament has always arisen to the occasion. Parliament has extended the working so that we can be able to pass this Bill so that we are not seen as the ones holding the passing of this Bill.

Mr. Deputy Speaker, Sir, this Bill actualizes Chapter 11 of the Constitution. It also provides for what is in the national government to be duplicated in the County Governments. Having two levels of government means that whatever is happening at the national level should also be happening at the county government. So, the way this Bill is set is that, all the functions that are being carried out at the national level have also been devolved and are going to be carried out at the county government. That is why it establishes the County Assembly. In the national government, we have the National Assembly which is the body that is charged with making laws for the country, overseeing the Executive and is also charged with representing the people at the constituency level.

At the county level, the County Assembly is the body to do that work. It is the body that would be making the laws at the county level and over-sighting the executive. The Executive in this case at the county level is the governor, his executive at the county level. This then shows the separation of powers from the legislature to the executive and even to the judiciary. This is why it is important that we understand this Bill. We should also understand the Intergovernmental Relations Bill and the Transition to Devolved Government Bill. The three Bills are inter-related. So, when you read them together, the questions that you may ask or deficiencies that you may think are in the County Government Bill are covered in either the Intergovernmental Relations Bill or the Transition to Devolved Government Bill.

Mr. Deputy Speaker, Sir, if we take the role of the Governor, he is like the President of the County. The functions of the President at the national level have been mirrored at the county level. However, there has been one or two shortcomings in the drafting of this Bill because if the Governor is the President at the county level, then he should be unfettered, just like the President at the national level in hiring and firing of his Ministers. At the county level, that is the Executive Committee. In this Bill, you will find that there is a suggestion that the Executive Committee should be employed on a competitive basis. That cannot be because at the national level, you cannot say that the President will get his Ministers from the Public Service Commission (PSC). The President hires his Ministers and has the right to fire his Minister for any reason. However, in this Bill, it has been provided that the Government can be petitioned by the County Assembly to fire his Ministers on certain grounds. So, it is really good because it is an extension of what happens at the national level.

Mr. Deputy Speaker, Sir, in this Bill, the official languages are said to be English and Swahili. Even at the national level, we have a third language according to the Constitution. That is the sign language. Sign language has been left out in this Bill. That is one of the few amendments that will be put forward so that this Bill is in tune with the Constitution and provides for everybody as stipulated.

This Bill provides for a decentralized county establishment. Other than the county, the Governor can decentralize the county into smaller units. People have been wondering what will happen to the provincial administration. When we went round the country we assured the provincial administration that nobody would lose his job when we pass the Constitution. I still stand by that statement that no Kenyan should lose his or her job on account of us having passed the Constitution and now passing laws of devolution. However, the role of the provincial administration must change. The provincial administration mentality is a colonial relic. If you go to Germany, Brazil, France or Australia where there are devolved governments, there is no provincial administration.

It is my view that the Provincial Administration will be made development co-ordinators. If it is a DC, he has to be a development co-ordinator. In a province like North Eastern, they can be peace and development co-ordinators. If it is a DO and there are several Ministries holding a workshop, it is his role to co-ordinate the Ministry of Agriculture, the Ministry of Health and the Ministry of Education. So, the role of the Provincial Administration cannot exist in its present form, but the administrators will be reformed so that they even play a better role in future.

Mr. Deputy Speaker, Sir, there is overlap between the Executive and the Legislature in the appointment of the County Clerk in this Bill. It seems that the appointment of the Clerk in this Bill will be done by the Executive – the Governor. We need to move an amendment to that Clause so that the appointment of the Clerk is the responsibility of the County Assembly so that the County Assembly is the Legislature. They should play all the functions for legislation and manage their debates and the people who work for them. That is why I have even suggested to the Speaker and to you and to the Clerk, who run our National Assembly that the National Assembly has a duty to devolve or to help in providing for devolvement of our Parliament. For example, our Centre for Parliamentary Studies and Training (CPST) will be the school that will be the school that will train the clerks and other staff that work in Parliament in readiness to be deployed to the counties.

So, Parliament cannot just sit tight and leave the Executive to do the devolution work including the making of Standing Orders. Parliament should provide, even if it is a template, on which the county assemblies will make their standing orders. If Parliament plays that role, then it would have played the role in devolution and it would have helped the County Governments to be on the right foot.

Mr. Deputy Speaker, Sir, in Parliament, we have the Parliamentary Service Commission, but in the county assemblies, we do not have an equivalent. So, there is need to enrich this Bill by providing for a sort-of Parliamentary Service Commission which will be the body, whether comprised of one member as a county commissioner, or three members of the County Assembly, charged with the welfare of the County Assembly members.

This is a good Bill, but it has some gaps. For example, on the Attorney-General, the Constitution provides that he will be the legal advisor to the national Government and

to the county assemblies. However, when it comes to representation in court where counties are sued, the Bill and the Constitution are silent. There is need to provide that the Attorney-General can also represent, at the request of the county government, where it is sued other than in matters that are criminal.

Mr. Deputy Speaker, Sir, this Bill needs not to take us backward. This Bill needs to recognise the fact that we have come from far as the National Assembly. For example, this Bill provides that there has to be a Motion in the County Assembly before a Bill is discussed. That is something that we dispensed with in this Parliament and the Executive does not have to go through the rigor of bringing a Motion to the Assembly, the Motion is discussed and when it is passed, only then can a Bill be brought to the House. We need to move an amendment to clause so that the Executive can directly bring a Bill to the County Assembly, it is discussed and passed into law.

There other issues on the recall clause. You cannot have different standards for Members of Parliament to those ones of the County Assembly members. As we say, we are mirroring the National Assembly to the county government. We need to apply the same rules that we are applying for the recall of the Members of Parliament.

On the issue of a Governor, we said that a Governor is like a mini-president and he cannot be the one who runs the county, hires his own Cabinet and yet he cannot fire it for whatever reason. The Governor should be able to have unfettered power to hire his Cabinet, which is the County Executive. The only proviso, like it is in the National Assembly, is that when he hires the executive committee or the cabinet at that level, they have to be vetted and approved by the County Assembly. However, when it comes to firing them, the Governor should have unfettered power to fire them, but not to fire them according to Article 40(1), which requires the Governor to fire them on certain conditionalities. That is not so for the President in the case of the National Assembly. For example, if a Minister was appointed by the President of the National Assembly and after some time, he was disloyal, disloyalty is enough ground for that Minister to be dismissed, but you cannot say that the President has to fire them because of incompetence or other malpractices. Those grounds need to be clearly spelt out so that you do not have any legal tussle when we go to County Governments.

Mr. Deputy Speaker, Sir, as I sit down, I would like to say that, as a Committee, we have been involved in the making of this Bill and when it was to be brought to Parliament, we held a workshop on Thursday and Friday in order to go through it and pick some flaws in it. This Bill was committed to us on Tuesday when we opened Parliament. For that reason, we did not have time to prepare a report to guide the Members of Parliament on this. This is in the process; the report will be tabled in this House on Tuesday and it will guide the hon. Members so that the required amendments can be moved when we go into the Committee of the Whole House.

Further, public participation is key to the new dispensation, and in this regard--- The Bill was committed to us on Tuesday; we did not have time to have stakeholders consultations, but we have arranged for tomorrow and Saturday to have stakeholders consultations, so that their input can be in our report which will be tabled here on Tuesday.

Mr. Temporary Deputy Speaker, Sir, I want to say once again that this is a very good Bill, even though it needs a few amendments. For hon. Members to fully understand this Bill, I repeat that they have to read it in conjunction with the Transition Devolved

Governments Bill and the Intergovernmental Relations Bill; if you read the three of them, then you will get the full picture.

With those few remarks, I support.

**Ms. Karua:** Thank you Mr. Temporary Deputy Speaker, Sir. I rise in support of this Bill, which is very well crafted. It will need polishing here and there but I want to commend the Minister and his team.

I want to begin by congratulating Kirinyaga County for emerging number one in the Kenya Certificate of Primary Education (KCPE) results in the country; I also congratulate Kabare Zone in my constituency for being the number one zone in the whole country.

*(Applause)*

This Bill is the mother Bill of devolution because it spells out the functions and roles of county government and the key officials. I am very happy to see that right at the outset in Clause 3, where the object of the Bill is stated, the provisions of the Constitution are restated. Therefore, from the outset we are reading Clause 3 and Clause 5; this Bill is giving effect to the provisions of the Constitution; therefore, any of the provisions will have to mirror, or replicate, what is in the Constitution. If you look at it there, it goes on to say: “giving effect to Articles 200, 174 and 175 of the Constitution”. I need not read all of them. That shows that the framers of the Bill were very conscious that they could not go outside the Constitution, and the Bill has to accord with the Constitution.

Mr. Temporary Deputy Speaker, Sir, I want to begin where my good friend, hon. Ngugi ended, that the governor will actually be the president of the county. The role the governor will play in the county is the role the President plays in the entire nation; therefore, the hiring and firing of the County Executive should be left to the governor subject to approval of his appointees by the County Assembly. As the Americans say, the buck will stop with the governor in the county, and in the country, the buck stops with the president. It is the governor who will be going to seek election and then re-election. So, if anything goes wrong with the county, or if any service is not delivered, the person to be blamed by the electorate and to be censured by being denied re-election will be the governor. We, therefore, should not make it difficult for the governor to fire any of his appointees. After all, it is the governor who will have gotten the mandate from the people.

Mr. Temporary Deputy Speaker, Sir, I want to appreciate Clause 9 which, spells out the role of the members of the County Assembly. I was a bit apprehensive when I saw that (a) of Clause 9 is calling on the member of the County Assembly to maintain close contact with the electorate and consult them on issues before or under discussion in the County Assembly. I thought it was a bit vague, because I do not know what will amount to consultation; but reading on, I realised that in Clause 89 the modalities of such consultation are provided for; there will be town hall meetings and other modalities. So, that is why I am actually saying that this Bill is well crafted. On reading the earlier sections you may think that there is a lacuna, but when you go further on you will find that the very area is provided for, as I related Clause 9(a) to Clause 89.

Mr. Temporary Deputy Speaker, Sir, on the qualifications of the members of the County Assembly, I want to say that we should leave it as the Bill is – post secondary



school education. These are no longer councillors. These are members of a legislative body, County Assembly, which will mirror the National Assembly. What the National Assembly does for the nation, the County Assembly will do for the county. These are the people who will approve the budget and the policies of the governor. They must have capacity to see that things are in accord with the Constitution, with the principles of fairness and equity within the county. They will need the requisite education and knowhow to steer the county. We, therefore, need to realize that the role the County Assembly will play is in a mini way the same role the National Assembly will play to the nation. We should, therefore, leave the qualifications as suggested. I believe that in every county, there are enough men and women, the youth included, and all people included who are capable of steering the affairs of the county, and who have the requisite knowhow. For those who may not attain the qualifications and want to run, it is possible to go back for courses if you had "O" levels which will help you attain the post-secondary school education. Even those who have no "O" levels, it will be possible to book for the International General Certificate of Secondary Education (IGCSE) Examination, which is coming in June and the results will be out in September, for you to attain the qualifications. Let us support better qualifications for better performance. The County Assembly will be making laws for the county. We, therefore, need people who can do all these functions, and all the functions that are spelled out for the County Assembly members in Clause 9.

The role of the County Assembly is also spelled out. Most of our people, because we have not been able to start civic education, are hazy about what role the County Assembly will play. It is clearly stated that it will follow what is in the Constitution. One of the key things they must perform, and is in the Bill, is to approve the budget and expenditure of the county government in accordance with Article 208. It will also approve the borrowing by the counties. It will approve development and planning, and also perform any other role that is in the Constitution. When you look at those roles, you would not want to go below the education standards provided for in the Bill, which are Form Four and post-secondary school education. For those who may feel left out, I have already indicated that there are many ways in which they can pull up their socks and be compliant by the time we go to elections, which looks to be December this year.

Mr. Temporary Deputy Speaker, Sir, for the removal of the Speaker of the County Assembly, I can see that the threshold of the people to petition is one-third. In order to balance, and not to make it too easy to remove the Speaker--- The speaker should feel a sense of belonging and not be worrying every time that he could be removed; we should not make it impossible but also we should not make it too easy. I think that the threshold for the removal of the Speaker should move from one-third to a half of the members of the County Assembly, because these are small units, but the threshold on voting should remain at two-thirds. That will give the Speaker stability so that he does not make rulings in fear. I think that would balance the interest of democracy as well.

When it comes to the removal of the Governor and the recall of the County Assembly Member, we should remember that we passed a law here for the recall of Members of the National Assembly. The same methodology should apply to the Governor in relation to the county and to the County Assembly Member in relation to the ward. So, if we say that the threshold is 25 per cent or whatever we put it, it should be the same in relation to the units. We should also be subjected to judicial processes so that a

court on a preliminary basis certifies that on the face of it, the allegations look serious enough. These are elected Members just like the Members of the National Assembly. Let us be fair and mirror the same procedures we reserved for Members of the National Assembly. We should learn to use National Assembly because Parliament now will refer to both the Senate and the National Assembly and I think the removal procedures should mirror those ones.

I have also been looking at the issue of ward administrator and county administrator. This is on Clauses 50 and 51. I am wondering whether we have been conditioned by the issue of Provincial Administration. Whereas it is clear that the Governor will need his eyes and hands all over the county, do we need another level of administrators? If the Governor has nine Ministries or nine Executive Members who have portfolios, if it is the portfolio dealing with education, is it possible that he will have education officers in each constituency? Is it possible for us to prescribe that he has the same in every ward? What if it is a service that is not necessary to have in the ward but it can be at the constituency? I am thinking that this clause should be worded that the establishments can be by the County Civil Service at the Governor's request but we stop this relic of administration. We want to convert even those who are in administration to new thinking. They will either be officers or coordinators but having an administrator mirroring the Provincial Administration does not give the idea of transformation that Kenyans are yearning for. I urge that we rethink that as we come to the Committee Stage.

I appreciate very much Clauses 63 and 95 because the two relate. This is protection of minorities. Many people in cosmopolitan counties have been very apprehensive as to what will happen. It may not be possible to have representatives of each minority group in the County Assembly. So, they are sleeping worried on what will happen to them. I want to tell them that there is good news under Clauses 63 and 95 where the protection of minorities within the counties is enshrined. When it comes to jobs under Clause 95, each county will be required to have close to one-third or 30 per cent of the jobs occupied by the minorities. In Clause 63, the protection of minorities' human rights, services and everything is offered. People should not be apprehensive. This is in line with the constitutional guarantee that every Kenyan is entitled to settle and live anywhere in the country. We should remove the notion that people will be at risk for being in counties where they are a minority. I want to congratulate those who worked on the Bill for remembering to include that.

I also want to hail the preparation for civic education which is in Part 10 of the Bill. Until people understand all these clauses, they will continue entertaining worries and that is why civic education is key and as Members of the National Assembly, we should also supplement the civic education provided by making sure that we engage with the public wherever we meet them to inform them of the protections that are available in the Bill.

Clause 36 is on Gender Equality. Once again, I congratulate the framers. There is no county where you will fail to get enough men and women who are graduates and who can be members of the County Executive. I heard my friend, Chachu Ganya, saying that there is an elected councilor in North Horr. I want to tell him that in his County of Marsabit, in Logologo, almost 10 years ago, there was a lady councilor who was elected twice. So, in all corners of the country, Kenyans are ready to give able men and women responsibility. This Clause on Gender Equality should not be tampered with. We should

leave it as it is. The County is the second level of Government and this is the level at which we must start integrating the participation of Kenyans irrespective of gender in the affairs of governance so that we can have both perspective of men and women.

On the issue of Planning on Clause 100, I am very happy to note that there is provision for the county taking into account harmony with planning at the national Government level. If you visit a country like the United States of America, you notice the infrastructure and that the design of development is in tandem with other areas. Whichever state you visit, you will notice that there is some harmony in the way the planning and development is. I think it is very important, as we embark on devolution, as we have two levels of Government to know that the two levels are dependent but also interdependent. We should know that we remain in one country and, therefore, we need to relate to each other on the things we do whether it is in planning, education or any other area like environmental standards. These are things that we must note. I also note that it is quite clear that the counties will follow the policy as laid down by the National Government. This is really what will hold us together.

As I conclude, I have also seen Clause 120 on the Suspension of the County Governments. Let everyone who wants to be a Governor realise that you cannot do anything that is against the Constitution. You must be equitable to every citizen and you must protect the human rights of every citizen in your county. Being a mini-president or the President of the County or even being the President of Kenya does not absolve you from observing the Constitution. Therefore, anybody seeking for responsibility in the new dispensation, be warned, I, included, that we have to adhere to the Constitution, respect the rights of everyone, we have to discharge our duties to every citizen without fear or favour. I want to repeat and say, let Kenyans rest assured and be comfortable with devolution. Nobody will be marginalized because they are in a county as a minority. You will have all your rights as a Kenyan because it is ordained in our Constitution and by this mother of devolution. This law is the mother of all devolution laws.

I beg to support.

**The Assistant Minister for Regional Development Authorities** (Mr. ole Metito): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to echo my support in this very important Bill. As my colleagues who have spoken before me have said, this is one of the very important Bills that will help Kenyans realise the full benefits of the new Constitution.

I want to start by agreeing with my party leader that as we have the devolved governments, we need to hold our country together. So, the relationship and the link between the County Governments and the national Government has to be very clear. Let me not anticipate debate because maybe that will come in the Inter-Governmental Relations Bill, but it is very important. Immediately we passed the new Constitution, I had opportunity to visit Canada and New Zealand and I remember Kenya being congratulated in those countries for having passed a new Constitution overwhelmingly and peacefully, but there was a rider that everybody was putting into that, that Kenyans should also be very careful not to have 47 independent countries in the name of counties. That tells you that the link between the two levels of governments has to be very clear, definite and strong for the purposes of holding the country together.

Coming to the Bill, I want to start with Clause 4, which talks about every county enacting legislation prescribing county symbols. This has been said by many speakers,

but I just want to put a rider that the issue of the county symbols, for example, the county flag, there is no need of having a mosaic of flags across the 47 counties. County governments will really implement mostly the policies or directions from the national government and even the county flags should more or less be uniform all over the 47 counties. Maybe slight differences should just come with the names of the counties if they will be prescribed on the flag. That is for purposes of having uniformity across the counties.

Mr. Temporary Deputy Speaker, Sir, Clause 7 is about the composition of the County Assembly. When Dr. Khalwale was contributing, he said that among the Members of the County Assembly should be the Senator, so that he can sit in the County Assembly chambers and even if not, participate in debate, listen to how revenue for that county is planned to be spent. If you take the constitution of the current county councils, the Members of Parliament from those county councils are e-officials. So, I would like to add a rider that it is not only the Senator who should sit from time to time in the County Assembly, but also all the elected Members from that county, for example, the women representative and the Members of Parliament from the county, should not be treated as strangers in the County Assembly where they come from. They may not engage in active debate, but from time to time, they may be in the chambers and get to know what is happening in that county.

Clause 9(2) deals with the issue of the role of the County Assembly. I have an issue with what it says that a member of the County Assembly shall not be directly or indirectly involved in the management affairs of that county. The members of the County Assembly may not be directly involved in the executive function of the county government and its administration, but it is very different as elected members of that County Assembly not to be indirectly be involved in the management and administration affairs of that County Assembly. That “indirectly” needs to be looked into. Clause 20 is about the procedure of exercising legislative powers. Clause 20(3) says that:-

“In case of a power Bill, the County Assembly may proceed only in accordance with the recommendations of the relevant committee of the County Assembly after taking into account the views of the County Executive Committee member responsible for finance”.

We are tying the hands of the County Assembly members who have powers to legislate. When a relevant Committee of this House makes recommendations on a matter, the whole House as constituted is not tied to make a decision or resolution based on that report. So, the issue of tying the County Assembly to only proceed in accordance with a report of a relevant committee is not giving that county the power to exercise its legislative powers. So, they should not be tied to debate in accordance with the report of that relevant committee.

Clause 28(2) deals with the issue of the recall of the County Assembly members. It states that it can only be initiated 18 months after the election of the County Assembly - that is quite in order - but we should also put a rider that it cannot be initiated maybe one year to the next general election. So, if it can only be initiated 18 months after the general election, then the unnecessary recall during the campaign period should be avoided. Maybe you can only initiate the recall from 18 months after the election to one year to the next general election. Clause 29(2)(b), still on the petition for the recall and even in (1), the petitioner should be a registered voter in that ward. It should also be a

voter who voted in the last general election. This should engage Kenyans to vote. If you did not vote in the last general election, even if you are a registered voter, then you have no business initiating a recall of a County Assembly member. You should be a voter who voted in that ward in the last general election. That goes to 29(2) (d) whereby the register of 30 per cent of voters in that ward has to be listed. The 30 per cent should also have voted in that ward in the last general election to have a say on the County Assembly member recall or petition. Clause 40 is about the Executive Committee members of the Governor, being individually and collectively accountable to the Governor. They should also be accountable to the County Assembly. They should not only be accountable to the Governor, but to the County Assembly.

My closing remark is about the removal of the member of the Executive Committee. There are several ways, according to this Bill, through which a member of the Executive Committee can be removed. One, by the governor for all those reasons listed down there and two, by a motion in the County Assembly supported by at least one third of all the County Assembly Members.

Mr. Temporary Deputy Speaker, Sir, I agree with that, but I do not agree with Section 41(3) all the way to (6) which provides that once a motion has sailed through asking the governor to dismiss a member of the executive committee, he then forms another committee to investigate. I do not think it is fair to again form a committee to investigate, like what is anticipated in Clause 3 that the County Assembly shall appoint a select committee comprising of five members to investigate the matter. You then bring that report to the County Assembly and ask it to either agree or disagree with the recommendations of that report and it is then that the motion will be upheld. These are elected County Assembly members. When they pass a vote of no confidence to any of the executive members, I think the governor is outrightly bound to dismiss that executive committee member. I would agree to an investigating committee in the county public service. However, when you talk of the executive, these are political appointees. So I believe once a motion goes through, that executive member stands dismissed. There is no need of forming another committee of the County Assembly to investigate what the County Assembly has passed.

Finally before I sit down, there is the issue of the County Assembly raising taxes and revenues to top up the 15 per cent that will come from the National Assembly. I know we have resources in this country that will fall under the County Governments while others will fall under the national government, but it will be very good to have a national resource, but the county government in which that national resource is found should have a share of the revenue that is generated from that resource. I have in mind national parks, for instance, Amboseli National Park in my county. Being a national resource at the national government level, it is wise that the county in which that resource is found should have a percentage of the revenue collected in that resource to go to the county government. That will help County Governments to mop up such resources to top up the 15 per cent of the revenue they get from the national Government. This Bill just says that the county government can raise revenue and taxes in its jurisdiction. However, it should be made clear that even those resources that go to the Central Government must leave a certain percentage in the county government where those resources are found.

With those few remarks, I beg to support.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. I want to start immediately with the County Executive. What captured my attention as I was going through this Bill is the oath of office for the county governor. Looking at it, you will find that he is one of the officers of the county who is not committing himself to the Constitution. I want to look at that together with the provision as spelt out in Article 31(2)(b) that the governor shall perform the state functions within the county as the president may determine. When you combine these two, you see some curious omission that goes a long way to undermine the authority of the governor in the county. I would have preferred that a lot of borrowing in the oath office, particularly as far as the Constitution is concerned should have been borrowed from the oath of office by the president.

The second thing is on the name County Executive committee. We have been discussing this silently with Mrs. Odhiambo-Mabona, but I do not want to go her direction. My direction with it is that the County Executive committee should be renamed the County Executive branch. The whole idea is to bring a paradigm shift in the way things are done at the county level. We have been used to committees at the local authorities' level and people do not usually take them seriously. So in recognizing the fact that at county level we have a full Government with its three branches, then I think a better name should be County Executive branch. When the governor constitutes, he does not constitute a committee, but he constitutes a branch of government that shall be served with the responsibility of executive function. There is also the function that the governor shall chair meetings of the County Executive. I want to suggest that the Minister will give it some thought.

*(Mr. Mudavadi pointed at a copy of the Constitution)*

I can see that he is referring me to the Constitution. So, I will apply much more thought to it at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, the other thing is that we are passing this Bill in pursuit of the constitutional provisions as contained in Chapter 11. These objects are very dear to the people of Kenya. It is through these Bills that we can ensure these objects and their realizations. We have been hearing time and again that the Office of the President has not shown enough goodwill for the true realization of devolved government in as far as reorganizing the Provincial Administration is concerned. My take on this is that since the President's oath of office is to serve the people of Kenya and to protect the Constitution and it shall be the oath of office for the governor, they are both serving the people of Kenya. I do not foresee a situation where the governor would be pulling in a different direction against the president.

In that connection, I would want to see a county government that is fully under the county governor and that works hand in hand with the national government at which point, in my view, there is totally no need for the continued existence of the Provincial Administration because I expect the President to be in good working relationship with the governor and consultations can go either way.

With that I want to recommend that the thought of bringing another Bill here from the Office of the President to see to the continued life of the Provincial Administration

runs counter to the Constitution and the spirit of it. I want to say in advance that I do not think that such a Bill will find space in this House.

Mr. Temporary Deputy Speaker, Sir, as we move on, I am aware that there is The Transition to Devolved Governments Bill. It is important that we take cognizance of the fact that we look very ill prepared for the transition. Most of the counties are still wondering where the Governor will be sworn in. I think steps need to be taken to establish the seats of powers in the respective County Governments. We need to move with speed, so that we have a place where the County Governments' functions are being carried out from.

Mr. Temporary Deputy Speaker, Sir, we must guard against disrupting service delivery. We have passed here the Cities, Municipals and Urban Cities Bill. Only Nairobi, Mombasa and, I think, Kisumu, have met the threshold. The service delivery in big towns like Nakuru, Homa Bay and Kakamega run a risk of service disruption, particularly at the transition, when I expect the repeal of Cap.265; living nobody with the responsibility to collect garbage and render the services that the local authorities were doing. I think it is important that serious thought is put into that, so that in the transition provisions of this Bill, a mechanism or provision can be put in place, that secures in a transitional manner, the continued service provision by the outgoing members of the local authority.

Mr. Temporary Deputy Speaker, Sir, we seriously need to look at the capacities of the County Governments to raise their own revenues. I can see from the Constitution that the County Governments are allowed to levy property rates and entertainment tax. By legislation they are also allowed to impose other taxes. I think it is important that this provision for raising revenue is put in place well in advance, so that County Governments have a sound financial base from where they can take off. I think we have areas like the agricultural and hotel accommodation cess, which need to be captured in order to ensure that we have a strong financial base.

Mr. Temporary Deputy Speaker, Sir, as we go into the County Governments, what we are pursuing is to see to it that each and every county gets adequate finances to enable it carry out its own functions. At this point, a lot of goodwill is required from the Ministry of Finance. Everytime you speak with the Ministry of Finance, you get the answer "we do not have money for that." The money that we have in this country belongs to the people of Kenya and must be used to the best benefit of every Kenyan in this country.

Mr. Temporary Deputy Speaker, Sir, at the risk of repeating what others have said, I beg to support.

**The Assistant Minister for Energy** (Mr. Magerer): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to also add my voice on this very important Bill.

Mr. Temporary Deputy Speaker, Sir, from the outset, I want to thank the Deputy Prime Minister and Minister for Local Government, hon. Mudavadi, and his team for the effort that they have put in trying to come up with a Bill that will actualize the dream of devolution, that has been held by Kenyans for a long time. This Bill will give opportunity to areas that have been systematically ignored, marginalized and given the last consideration in terms of priority for development.

Mr. Temporary Deputy Speaker, Sir, the Bill, by and large, meets the requirements and expectations of the people of Kenya, especially those in areas that have waited too long in the queue to have their own say on what is going to be brought in terms of development in their areas.

Mr. Temporary Deputy Speaker, Sir, as we enact this Bill, it important, of course, to note that many issues that have been raised by my colleagues who have spoken earlier, are going to be thrashed out. Particularly, the Constitution talks about a certain percentage that has been fixed in terms of passing revenue to the County Governments. We need to transfer some essential services from the central Government to the County Governments. Of course, this will come along with the same in terms of the finances, because such activities will require financing.

Mr. Temporary Deputy Speaker, Sir, on the issue of County Assembly members, I support the level of qualification that has been set given the work that they are expected to do. The capping of wards at 1,450 appears to be a bit low, especially when we are now pushing all the activities to the county level. This assembly is going to be very important since this is where resources are going to be shared. Some areas may have unique issues in terms of land size and also population. Therefore, I want to request or suggest to the Minister that this capping be reviewed upwards, probably by another 300, so that we go to around 1,750, to take care of some of the wards within some constituencies, like mine, which are large. We have different issues that we need to address and it has been very difficult, of course, to try and put together some wards because of the needs that differ in those areas. I know that the 1,450 wards that were suggested are not cast in stone. I believe that this number could be increased, so that we can also have a bigger representation of the people at the County Assembly level, for assurance in terms of the sharing of resources.

Mr. Temporary Deputy Speaker, Sir, I think my colleague, hon. Ngugi, talked about the governor not being allowed to have absolute authority in terms of suspending or sacking the committee members. This is clearly provided for under Clause 41(1). This is important because these are appointees of the governor, and the governor must have a leeway in trying to have them work in the best way possible to have the county move in the right direction.

Mr. Temporary Deputy Speaker, Sir, right now, the Provincial Administration is basically in charge of security matters all over the country. As we move to the counties, it is prudent for the county governor to be in charge of the county security committee. At the sub-county level, we could also have an officer to be in charge of security matters within that level, and he will be chairing the security committee at that level.

Such an arrangement will ensure that security matters are taken care of at all levels. That is a duty which is currently being performed by the Provincial Administration. This Bill does not envisage the extension in terms of service by the Provincial Administration. Therefore, the duties of the county governor, as provided under Clause 31(1)(b), where it is stated that the governor shall take and subscribe an oath, and that after assuming office, the governor shall perform such state functions within the county as the President may determine.

Mr. Temporary Deputy Speaker, Sir, to me, this looks as if we still do not accept that the governor will be competent enough to be in charge of the responsibilities of his own county. In as much as we accept that the county governor will serve the people of



Kenya the same the President does, it is important to remove any doubt. Therefore, I suggest that some words like “subject to the Constitution” be added, so that we do not have the President directing the county governor to, for instance, arrest an individual within the county. Such a thing may not be a good show. I believe that an amendment to this sub-clause is necessary to remove the doubt.

As we move into the county government system, it is important for Kenyans, and for those who are charged with the responsibility of ensuring that we transit properly, to continuously remind themselves that Kenyans have said that they want a devolved system of governance and of development programmes.

Mr. Temporary Deputy Speaker, Sir, I heard my colleague who contributed before me, hon. ole Metito, say that there is no need of having flags for the counties to represent certain interests within the counties. If we are going to have one flag in all the counties, it will show that in our minds, we still do not want to move away from the centralised kind of thinking. The way this Bill has been formulated, it is upon individual counties to decide what they think is a good flag within their own county, and what will best reflect the identity of that particular county.

So, in as much as we could have issues about wanting to look like we are one country, we have one national flag but individual counties also should have their own counties. For instance, maybe, the flagship product in Kericho County is tea. There is nothing wrong in having a flag that depicts tea or something like that for that county.

Mr. Temporary Deputy Speaker, Sir, I do not want to take a lot of time because most of the issues have been addressed. I want to, again, thank the Deputy Prime Minister and Minister for Local Government for coming up with this very important Bill; I urge hon. Members to support it, so that we can begin to realise the fruits of devolution.

With those remarks, I beg to support.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill because it is a very important legislation for this country. It is a legislation that is going to help us to run the devolved governments that Kenyans have been longing for, for so many years.

Sometime back, the Executive used to talk of taking the Government to the people. This involved increasing the numbers of District Commissioners (DCs), District Officers (DOs) and chiefs amongst our people. These officers were deployed without resources, yet the Government was talking of taking the Government closer to the people. Those PCs, DCs, DOs, chiefs and assistant chiefs simply harassed Kenyans. They brought no resources. When they had *Harambee*, Kenyans had to cough out money. Ordinary people would sell their chicken and other animals to give money to the DCs.

Mr. Temporary Deputy Speaker, Sir, the new system we are coming up with is going to take resources to the people. We are going to have the Government amongst the people for the people. The Government is going to take resources to the people. That is why this Bill is very important for this country. That is why it is important, as it has been defined in this Bill, that we have properly qualified people or professionals to help us run the devolved government units. Such professionals will help the governor and the ward representatives to run the devolved units that are going to have so resources taken to the people at the grassroots.

In addition to having properly qualified public servants will help us run the County Governments, we must also tell Kenyans to go for quality leadership as they elect

their ward representatives and governors. Otherwise, the resources that we are going to take to the County Governments will simply be used in the same manner that the councillors use the local authorities money that is sent there every now and then. We have seen councillors fight when they elect one another to the office of mayors and chairpersons. When money goes there, they proceed on holidays in Mombasa or outside the country. So, we must have quality leadership in the devolved system of government that we are going to have.

Mr. Temporary Deputy Speaker, Sir, when you look at the aspects of the Provincial Administration as it is today, it is interesting that it is not captured in this Bill. This will cause us problems. We may end up with parallel governments. We have officers out there, who are called “Regional Commissioners”. We have DCs, DOs, chiefs and assistant chiefs. We are then going to have the governor, the sub-county administrators and officers of the other decentralised units. What are the roles of these two parallel systems? Are we not going to have problems? That is something which I hope the Minister will take into consideration.

How are the Provincial Administration and county government systems going to relate. If the Provincial Administration must remain in place, we must define its role. We must define the roles of the Regional Commissioners, the DCs, the DOs and other DOs as well as that of the chiefs. Otherwise, we shall have problems in the first five years of the devolved government system.

Mr. Temporary Deputy Speaker, Sir, there is Clause 11 here which deals with removal of the Speaker. I think the vote of 75 per cent is a little too high. Why can we not have two-thirds which is also being used to remove the Governor? Why 75 per cent? Why do we need to make sure that the Speaker remains even if that Speaker is a bad one by all means?

Mr. Temporary Deputy Speaker, Sir, I like the qualifications of the county, the way it has been defined by the Minister. It is good. I have heard a few colleagues make suggestions. However, the way it is, we are going to have resources in the County Governments. We must have people who are qualified and experienced to help the governor and the County Assembly manages the resources. If we have weaker people, then we may have the resources going in the wrong direction.

Part 4, Clause 27 we have 1,450 electoral wards. I am of the opinion that these are too few. I know we are also looking into the cost of running the County Governments. I would have suggested that we have 1,500 wards for the whole country.

This is also in line with what Mr. Magerer said. Why do we still need these powers from above for the Governor? Clause 31(2)(b) states that the Governor shall perform such State functions within the county as the President may determine. Where is the Constitution here? This one should be tied to what we have in the Constitution. The President may decide to say his or her own things. We should have normal and constitutional powers coming from above.

Mr. Minister, I wish you take that into consideration, so that that is tied to what we have in the Constitution. We can have the rogue president who can decide to suggest anything.

There is also the issue of the removal of members of the Executive Committee. What is defined here is good. I agree with the Minister here. Although I know a few people expressed their reservations, but I think that is good enough.

I do not think I have more to add. I only have those few remarks to give about the Bill. But no more unconstitutional powers from above.

Mr. Temporary Deputy Speaker, Sir, I support.

**Mr. Mwachugu:** Asante sana, Bw. Naibu Spika wa Muda kwa kunipa nafasi hii ili nchangie Mswada huu. Ninaomba nitoe pongezi zangu kwa mhe. Waziri wa Serikali za Wilaya na Mitaa kwa kazi yake nzuri ya kuwasilisha Mswada huu mbele ya Bunge hili. Ninaunga mkono Mswada kwa vile umezingatia maadili na uzito wa Katiba yetu.

Mswada huu umetilia mkazo swala la ugatuzi. Tumekuwa tukipigania ugatuzi tangu mwaka wa 1963 nchi yetu ulipopata Uhuru. Tunaweza kukumbuka vizuri kuwa miaka michache baada ya Uhuru, Serikali ya Majimbo haikuweza kufanya kazi vilivyo kwa sababu ilipigwa vita na Serikali kuu. Hii ni kwa sababu viongozi wa Serikali kuu hawakutaka Serikali ya Majimbo. Ilibainika wazi kuwa matakwa ya Serikali kuu au viongozi wake hayakwenda sambaba na matakwa ya wananchi. Serikali za majimbo zilinyimwa pesa za kuendesha shughuli zao. Kwa hivyo Serikali hizo hazikufanya kazi za kuwahudumia watu wake.

Wakati huu, ugatuzi wetu unajulikana kama County Governments. Hizi ni Serikali za Wilaya na Mitaa ambazo zimeunganishwa pamoja kuunda kaunti moja. Kwa mfano, tuna kaunti ya Taita Taveta. Kaunti hii imebuniwa baada ya kuunganisha Wilaya ya Taita na Wilaya ya Taveta.

Mimi kama mwenyekiti wa Kamati ya Bunge ya Serikali za Wilaya nimekubana na shida nyingi sana kutoka kwa miji na mitaa mingi hapa nchini. Tunapojadili akaunti zao, tumekuta mambo mengi ya kustaajabisha. Kwa hivyo, ni ombi langu kuwa Waziri wa Serikali za Wilaya na Mitaa asikilize kwa makini yale yote nitakayoyasema. Hii ni kwa sababu tumekubana na mambo mengi sana.

Jambo la kwanza ni kuwa Serikali hizi hazihifadhi vitabu ya matumizi ya pesa zao. Hakuna stakabadhi za kuonyesha kuwa hesabu zao zimekaguliwa na Mkaguzi Mkuu wa Vitabu vya Serikali. Serikali hizi hazijahifadhi stakabadhi kwa makini. Kila kitu kimeweka holelahola. Kwa hiyo, gavana ambaye atachaguliwa atarithi Serikali za Wilaya ambao hazijawahi kuweka stakabadhi ya matumizi ya pesa kwa miaka mingi. Mambo ya fedha katika serikali hizi hayajawahi kutiliwa mkazo.

Kama tunavyojua rasilmali za wilaya ni nyingi. Hata hivyo hakuna mtu ambaye ana hesabu ya rasilmali hizo katika wilaya nyingi. Tulitarajia kuwa Serikali za Wilaya zitakuwa zimeweka stakabadhi, vitabu na rejesta zao vizuri ilikuonyesha wapi, rasilmali hizi ziko. Tungependa kuona ploti za wilaya hii ziko wapi. Ni nani ana stakabadhi hizo ploti na kadhalika. Jambo la kuhuzunisha ni kuwa hakuna aliye na stakabadhi hizo. Sababu ni nini? Hawawezi kuzihifadhi kwa sababu nia yao kubwa ni ulaghai ili wazipore na waweze kuziua. Serikali za Ugatuzi zitajishughulisha na swala la rasilmali za wilaya. Lakini swali nyeti ni kuwa waanzia wapi na kumalizia wapi kwa vile hakuna stakabadhi za kutosha.

Katika kazi yetu ya Kamati tumekubana na wizi wa kustaabisha katika Serikali za Wilaya. Unakuta pesa za LATF au zilizotengewa kujenga barabara zimeibiwa. Hakuna rekodi za kuonyesha jinsi pesa hizo zilitumika. Madiwani wanafanya kazi kiholela. Maofisa wakuu ambao wamepelekwa huko pia nao wanafanya kazi kiholela.

Kwa hivyo, wasiwasi wangu mkubwa katika ugatuzi huu ni kuwa tunaunganisha Serikali za Wilaya kuwa kaunti moja lakini hakuna stakabadhi. Ninamuomba Waziri ahakikishe kuwa Serikali zote za wilaya zimeweka stakabadhi zao vizuri. Ni lazima

ahakikishe mabaraza yote yameweka stakabadhi ili gavana na baraza lake wataweza kuendesha shughuli zao vilivyo.

Ujenzi wa barabara unaendelea katika kaunti. Kuna mashirika ambayo yanahusika na ujenzi wa barabara hizo lakini hakuna stakabadhi ya kuonyesha hawa ni akina nani. Je, mashirika haya yatandelea na ujenzi wa barabara hizo? Hilo ndilo swali kubwa kwetu. Na kama yatakuwepo mamlaka yake yatakuwa tukilinganisha na mamlaka ya Gavana.

Katika kuzunguka kwetu na katika kupokea maoni kutoka kwa haya mabaraza, tumekuta uajiri ni kitu kingine ambacho kimeleta kero sana. Wale watu ambao wanaajiriwa katika mabaraza ya wilaya imekuwa watu wanaajiri ndugu zao. Ninashukuru katika Mswada huu, umeweka wazi wazi kua wale watacao ajiriwa watakuwa watu ambao wanasifa za kutosha, wamehitimu na wanaweza hizi kazi. Ingikuwa sio hivyo tungekuta hivyo hivyo haya mambo ambayo tumeyakuta katika mabaraza ya wilaya ndio haya haya yanapelekwa katika serikali za kaunti.

Bw. Naibu Spika wa Muda, ninaomba hata uajiri, wale ambao watakuwa wamepewa nafasi za kuajiri wenzao wahakikishe kuwa hao watacaoajiriwa katika serikali za kaunti wawe ni watu ambao wanasifa, wanidhamu na ni watu ambao wanaweza kutekeleza wajibu wao kama inavyo pasa.

Mapato katika serikali hii mpya, tumeangalia na kuona kwamba serikali za kaunti zitakuwa na uwezo wa kutoza ushuru fulani. Ushuru huu ni muhimu uangaziwe kwa sababu usipoangaziwa vizuri kihundi ya fedha ambao utakuwa unatoka katika Serikali Kuu utakuwa peke yake haitoshi kuendeleza kazi za serikali ya kaunti. Kwa hivyo, ushuru kama ushuru wa madini, mazao ya shamba, barabara na kadhalika ni lazima utozwe na uingie ndani ya serikali ya kaunti. Isipofanywa hivyo, kama ni huu ulaghai ambao tumeikuta katika mabaraza ya wilaya, tutakuwa tumetoa ugonjwa katika mabaraza ya wilaya na tukaupoleka katika serikali ya kaunti na tutakuwa hatufanyi chochote.

Bw. Naibu Spika wa Muda, huyu ndugu ambaye tunamuita Gavana tukiangalia Katiba imetupatia serikali mbili; Serikali ya Ugatuzi na Serikali Kuu. Kwa nini Gavana atapokea maagizo kutoka kwa Rais? Kama ni Gavana basiawena mamlaka yake, ashugulikie kaunti yake, amechaguliwa na wananchi na ashugulike kikamilifu vile inavyowezekana. Kwa hivyo ni muhimu mamlaka makuu yapewe Gavana. Awenaweza kufanya kazi zake bila kutatizwa ama uanza kusema, “Nimeambiwa na Rais nifanye hili jambo”. Ile karne tulikuwa nayo kuwa, “Nimepewa amri kutoka juu” hatuitaki tena. Tunataka Gavana awe ni Gavana anaweza kushughulia kazi zake, amechaguliwa na wananchi na atumikie wananchi.

Nimesikia wenzangu wakizungumuzia kwa lugha ya kimombo kuhusu kama kutakuweco na bendera. Sawa, ni serikali. Kama Serikali Kuu ina bendera yake kwa nini serikali ya ugatuzi uko chini isiwe na bendera yake? Kuna shida gani? Labda swala ambalo litakalo tokea pia, wakiwa na bendera yao, watakuwa na wimbo wao wa kaunti? Nini kitakacho wazuia wasiimbe wimbo wao wa kaunti? Katika Katiba haijazuiliwa! Kwa hivyo, kama watakuwa na bendera yao ya kaunti na wimbo wao wa kaunti uwekwe. Nyimbo zote mbili zinaweza kuimbwa; mkaimba wimbo wa taifa na muimbe wimbo wa kaunti yenu kwa sababu ni kautni yenu. mnaipatia sifa, mnaiinua. Kwa nini muone haya kuwa na wimbo wenu wa kaunti? Kwa Kizungu tunasema *identity*. Tukisimama katika Kaunti ya Taita Taveta tunataka tuimbe wimbo wetu wa Kaunti ya Taita Taveta kwa sababu tunajivunia ile asili yetu. Na wenzetu wakiwa na bendera yao, kama ndugu yangu amesema juu ya Kericho; bendera yao anataka iwe na rangi ya majani kwa sababu

wanajani, sawa nao pia wawe na bendera yao ya majani. Hatuna shida. Sisi Taita tutakuwa na bendera yetu. Tunamadini na kila kitu. Kwa hivyo ninaomba, Waziri, ukiwa unaangalia Mswada huu, uangalie kuwa Gavana amepewa mamlaka.

Bw. Naibu Spika wa Muda, hadi sasa hatujajua kikamilifu kwa kuwa fedha zitatolewa za kutosha za kujenga makao makuu. Tumezunguka tukakubaliana kwamba kila kaunti itakuwa na makao makuu lakini sio kaunti zote ambazo zinamakao makuu ambazo yako tayari. Bila shaka zitatumia zile rasilimali; nyumba, nafasi na maofisi ambayo yalikuwa yanatumia hapo awali huku wanajitayarisha kujenga makao yao makuu. Lakini hata tukisema hivyo litakuwa ni jambo la kufadhaisha kama kila kaunti itatarajiwa itowe zile fedha imepewa za kujiistiri ziwe ni za kujenga makao makuu. Itakuwa hizo fedha hazitawasaidia.

Kwa haya mengi, ninaunga mkono Mswada huu. Ufanyiwe marekebisho hasa kuhusu rasili mali. Ifanyiwe marekebisho kuhusu vipengele ambavyo wale watakuwa wamevunja sheria za uwekezaji waadhibiwe. Wale watu ambao wako na rasilimali, tukizunguka nchi yote utakuta watu wako na rasili mali za aina tofauti tofauti. Kama sisi Taita tukona madini. Jee ni fedha kiasi gani tutazipata kwa madini yetu ambazo zitaingia kwa kaunti? Sikatai kwamba Katiba inasema kuwa madini yote ni ya Serikali lakini lazima kuwe na ugawaji. Yale mambo tumeyaona miaka ambao imepita hadi sasa has nikiangalia sheria ya kuvuna madini. Hivi sasa mtu mwenye mgodi anaweza kuvuna na hatakiwe na Serikali wala hakuna sheria yeyote ya kumushurutisha agawanyie Serikali chochote. Atavuna, aweke kwa lori aende nayo. Tunasema tuangalia, katika rasilimali ambazo ziko katika kaunti, wenyeji wa kaunti wanafaidika katika hizo rasilimali, Serikali inafaidika na Kaunti yenyewe inafaidika. Tusije tukawa na tatizo kwamba unakuta kaunti inamali lakini mali yote inaenda kwa Serikali kuu. Hatutaki kuona mambo kama ambayo tunayaona Pwani hivi sasa. Rasilimali tulizonazo ni nyingi, utakuka kitu kama bandari iko Mombasa lakini angalia hali ya ndungu zetu wa Likoni. Hauwezi kuamini kwamba bandari iko kwao.

Tunaomba tukiingia katika ugatuzi wale watu wamejaliwa kuwa na rasilimali--- Na ni nyingi hakuna kaunti imenyimwa rasilimali na Mungu, lakini kama rasilimali zote zitaenda katika Serikali Kuu basi huu ugatuzi hautakuwa na maana. Ni muhimu kuwa hizi rasilimali na fedha ambazo zitatoka katika kaunti hizi zigawanywe na kauti zipate pesa zake hapo hapo ndani na sheria ziweko ambazo zinaweza kustiri na kuhakikisha wenyeji wenyewe wanafaidika kwa mali hio.

Kwa haya mengi, ninaomba kuunga Mswada huu mkono.

**Mr. Mung'aro:** Ahsante Bw. Naibu Spika wa Muda. Pia ninataka kuchukuwa fursa hii kumpongeza Waziri wa Serikali za Wilaya kwa Mswada huu ambao tunachangia.

Mengi yameongewa lakini pia mimi nitachangia kidogo ijapokuwa mimi ni mwana kamati wa kamati ambao kuanzia kesho itajihusisha na washika dau hili kupata maoni zaidi juu ya Mswada huu ambao uko mbele yetu. Ningependa kuongezea kwamba kama tumeamua kuwa na serikali za ugatuzi na kwamba tunapeleka mamlaka mashinani, basi tusipeleke mamlaka nusu nusu. Lazima viongozi watakao chaguliwa kama Gavana na wale wengine wapewe uwezo kamili hili waweze kutatua matatizo ambayo yamekumba watu wa sehemu tofauti tofauti kutoka uhuru.

Jambo lingine ambalo singesita na sitaona haya kulisema hapa, ijapokuwa ninajua jana ilikuwa hoja katika Jumba hili, sisi hasa watu wa Mkoa wa Pwani tunawasiwasi kwa

hivyo tunaunga unga mkono kikamilifu kwamba kiongozi wa taifa atakae changuliwa katika siku sijazo awe ni kiongozi ambaye anaunga mkono Katiba hii. Hii ni kwa sababu sisi watu wa Pwani tunahistoria ya mwaka wa 1963, Kenya ilipata uhuru na serikali ya majimbo lakini kwa sababu majimbo hayo yalikuwa hayajakamilika kama haya ya sasa ambayo itakamilika 2015, wasiwasi ni kwamba tunaweza kurudishwa mwaka wa 1963 wakati ambapo marehemu Ronald Ngala na wenzake walienda kule Lancaster kupewa Katiba ya Majimbo lakini mwaka mmoja baadaye ikafutiliwa mbali na wakarudi pale pale kwa serikali moja ya Jamuhuri ya Kenya. Kwa hivyo ni muhimu kuelewa kwamba wale watakao kwenye nyadhifa mbali mbali hawatakuwa tu viongozi waliochaguliwa kwa ajili ya kazi zao lakini inapaswa wawe viongozi watakaotekeleza Katiba hii kikamilifu. Hilo ndilo litawaondoa Wakenya katika ugandamizi ambao umekuwa ukiendelea katika nchi hii.

Kwa upande wa mapato, lazima iwe wazi kwamba asilimia fulani ya mapato kutoka sehemu tofauti tofauti ibakie katika sehemu hizo. Lazima jambo hilo liwekwe waz. Isiwe tu ni jambo la kufikiriwa. Lazima jambo hilo liwekwe katika mswada huu. Kwa mfano inafaa ijulikane kwamba katika eneo la pwani kuna utalii, madini, mabandari, na vilindi. Sote tuko Kenya moja lakini watu walioko Masai Mara, kwa mfano, wanaweza kupata asilimia fulani ya ushuru wa utalii ili hali kule pwani hakuna ushuru huo katika mahoteli na mbuga za wanyama kama vile Tsavo. Kwa hivyo lazima ielezwe wazi katika mswada huu kwamba kuna asilimia fulani ya mapato katika sehemu hizo ambayo itakusanywa kama ushuru.

Nimesikia wenzangu wakijadili sana suala la bendera. Hawa magavana kutoka magatuzi yote 47 wanaweza kutumia bendera ya Kenya. Suala muhimu ambalo tungejadili ni lile la ushuru. Kila kaunti, ili tuweze kuhamasisha mambo ya usalama katika nchi, yapasa iwe na usajili wa nambari za magari yake. Tukifanya hivyo tutapunguza wizi wa magari na mambo mengine. Kwa hivyo sioni ugumu viongozi wote waliochaguliwa wakitumia bendera moja ya taifa.

Mwisho, ili niweze kuwapa wenzangu nafasi, najua tutapata fursa ya kuongea na washika dau kuanzia kesho. Nikiwa mwanakamati nitaweza kuchangia mswada huu zaidi. Ningependa kuisitiza sana hili suala la serikali za mikoa hasa kuhusu wakuu wa wilaya na wakuu wa tarafa. Ikiwa wanataka kuandikwa kazi wasipelekwe tu na serikali kuu katika gatuzi hizi. Pawekwe mipango hivi kwamba kila gatuzi itenge nafasi zake na wapewe nafasi ya mbele hao wakuu wa wilaya na wakuu wa tarafa. Wakiandikwa kazi basi wawe chini ya magavana na kuchukuwa amri kutoka kwao wala siyo kutoka kwa serikali kuu.

Kwa hayo machache, nashukuru. Nitachangia zaidi katika kongamano totakalokuwa nalo baina ya kamati yetu na washika dau wengine. Ahsante.

**Mr. Joho:** Ahsante sana Bw. Naibu Spika wa Muda kwa kunipa fursa hii muhimu ya kuchangia katika kufuma serikali ya mashinani ya ugatuzi. Ningependa kujiunga na wenzangu kumpongeza Waziri mhusika kwa kusimama imara na ofisi yake kukaa kidete katika kutengeneza serikali hii muhimu.

Jambo ambalo ningependa tuzingatie kama Bunge ni sisi kuwaunga mkono Wakenya. Hili jambo la serikali ya mashinani halikutoka kwetu bali limetoka katika mawazo ya Wakenya. Wamejiamulia kujitengenezea serikali inayoweza kutatua shida zao na uwezo wa kufikia serikali kwa karibu. Jambo ambalo ningependa tuzingitie ni marekebisho ambayo ni lazima yafanyike kupeana uwezo wa kiraslimali. Serikali yenye uwezo wa

kirasmali ndiyo serikali yenye uwezo wa kudumu. Uhaba wa raslimali ni uhaba wa uwezo wa serikali. Ni muhimu tuangalie wakati tunapounda serikali hii ya ugatuzi tuwape magavana uwezo kamili wa kuendesha serikali. Mamlaka ya afisi ya gavana na County Assembly ni muhimu sana, yawe yatakuwa yenye kufana na kudumu. Ninasema hayo kwa sababu county ya Mombasa ni ya bahati kuwa na bandari katika county zote japo tunaomba kwamba kuwe na bandari zingine kama Lamu. Kwa sasa tuko na county ambayo ina uwezo wa kuendeleza biashara, viwanda, utalii na kadhalika. Lakini tunakuta kwamba ukiangalia mifano iliyoko sasa, tuko na bandari ambayo inageuza mamilioni ya dola. Lakini sasa hivi bandari iko na shida kubwa ya kuweza kuteremsha mali kwa haraka ili meli ziingie nyingi na biashara iwe kubwa. Ukiangalia kwa kina utaona sababu ni kwamba bandari inaweza kuwa na bidhaa ama kwa kimombo wanasema “adequate equipment” lakini hazitumiwi kwa kikamilifu. Ukitazama kwa kina utapata kwamba barabara ama reli zinazo lingania na bandari hazijawahi kuboreshwa na mikakati sambamba ya kugeza bandari. Kwa hivyo utakuta kwamba bandari inashukisha mali lakini barabara ya kutoka kwa bandari na kuelekea katika maeneo ambayo mali inaenda haibadiliki. Haya ni kwa sababu wahusika katika serikali na uwezo wa kubadilisha na uwezo wa kutia rasli mali pahali ambapo patakuwa na mazao makubwa hawana. Kwa hivyo haitakuwa na haja tukitengeneza Serikali ya ugatuzi ambayo haina uwezo wa kujiamulia ni barabara gani na mipango gani ambayo itaweza kupeleka sera za fedha na za kimaendeleo sambamba.

Katika Serikali za ugatuzi kwa maoni yangu ziwe na uwezo ya kuwa na ushindani halisi na county zingine. Yaani ugatuzi ulioko Mombasa katika hali ya kuendesha Serikali na kuleta uwezo kwa wananchi kwa mfano sisi tukiwa tunafungua bandari huru Mombasa tutaraji kwamba county ya Kilifi ifungue bandari ya utalii ili tuweze kushindana kifedha. Tukifanya hivyo nchi yote itaweza kuwa sambamba na kuendelea mbele.

Kwa hivyo mimi naunga mkono Mswada huu lakini ningependa sana tuangalie marekebisho muhimu ya uwezo wa rasli mali. Mimi ni mmoja wa wanakamati na nina imani kwamba nitasimama imara na kungalia kwamba ugatuzi ambao unaletwa ni wa kufana na kudumu katika sera hii mpya na pia tusihadaiwa na siasa. Hata mimi nataka niungane na wale ambao wanasema kwamba ni muhimu kwa Wakenya na sisi wengine kupigia kura viongozi ambao wana imani kamili na Katika hii mpya na wataitekeleza. Kwa hayo machache ningependa kusema kwamba ninaunga mkono na ningependa tuangalie marekebisho tukiwa na uwazi wa roho na uwazi wa moyo ili tukamilisha kutengeneza serikali ya ugatuzi.

Kwa hayo machache, nashukuru sana.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, it is now time to adjourn the House, the House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.