

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 17<sup>th</sup> July, 2013

The House met at 2.30 p.m.

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

### PRAYERS

### NOTICES OF MOTIONS

#### AMNESTY APPEAL FOR KENYANS REGISTERED AS REFUGEES IN NORTH EASTERN REGION

**Hon. Mohamed Diriye:** Hon. Speaker, I beg to give notices of the following Motions: -

THAT, aware that it is the right of every Kenyan attaining 18 years to register and be issued with a national identity card; further aware that the national identity card represents proof of Kenyan citizenship without which an individual cannot access basic services and the right to vote; noting that many Kenyans who live around refugee camps and the greater North Eastern region face great difficulties in obtaining national identity cards due to the complex procedures and the fact that some of them have registered as refugees, further compounding the challenges; this House urges the Government to extend an amnesty to those Kenyans living as refugees on the region who have wrongly registered as refugees and who face those challenges, so that they can be allowed to access national identity cards.

#### REVIEW OF FREE PRIMARY EDUCATION ANNUAL CAPITATION GRANT

THAT, aware that since the inception and implementation of the Free Primary Education (FPE) Programme in January, 2003, the enrolment has increased from 5.9 million pupils in 2003 to 8.7 million pupils currently, representing an increase of 47.46 per cent; further aware that in order to reduce the cost burden of FPE to parents, the Government established the FPE annual capitation per child at Kshs1,020 in primary schools; taking into account the need to meet the constitutional right of every Kenyan child to free and compulsory basic education; deeply concerned that the capitation grant has remained constant at Kshs1,020 since 2003 despite inflation levels having risen, thus undermining the purchasing power for schools; this House urges the Government to

increase the annual capitation grant per child from the current Kshs1,020 to Kshs1,200 for primary schools receiving FPE funds.

**Hon. Speaker:** Next Order!

### REQUEST FOR STATEMENTS

#### DISBURSEMENT OF MONIES TO YOUTH ENTERPRISE DEVELOPMENT FUND AND WOMEN ENTERPRISE DEVELOPMENT FUND

**Hon. Wakhungu:** Hon. Speaker, pursuant to Standing Order No.44(2)(c), I rise to request for a Statement from the Leader of Majority Party regarding the distribution framework for the Kshs6 billion that had initially been budgeted for the 2013 Presidential election run-off which His Excellency the President, during the official inauguration of the 11<sup>th</sup> Parliament, promised to give to Youth Enterprise Development Fund (YEDF) and Women Enterprise Development Fund (WEDF), through the Constituencies Development Fund (CDF) model. In his Statement, he should clarify the following: -

(i) Whether the money will be distributed at the constituency-level or the county-level;

(ii) Whether the money will be under the watchdog of the constituency Members of Parliament, County Women Representatives, Senators or otherwise;

(iii) What the terms of disbursement are; and,

(iv) When the money is likely to be disbursed.

Thank you, hon. Speaker.

**Hon. A.B. Duale:** Hon. Speaker, that is a controversial Statement, but I will seek the Government response and give the House an answer next week on Thursday.

**Hon. Member:** Why is it controversial?

**Hon. Wakhungu:** Hon. Speaker, this issue has brought a lot of anxiety. Some hon. Members are already lobbying. I humbly request the Leader of Majority Party to expedite it. If he can bring a Statement within this week, I will appreciate.

**Hon. Members:** Tomorrow!

**Hon. Wakhungu:** Even if it is tomorrow, we will appreciate because it is a matter of national interest.

**Hon. A.B. Duale:** Hon. Speaker, I am not aware of the national interest in this matter. I am not aware of anybody lobbying for that money. The Constitution is very clear. The Director of Budget and the National Treasury are aware of the votes and the money will be there. The earliest I can bring a very comprehensive Statement is Thursday next week.

**Hon. Wakhungu:** Hon. Speaker, because I have no powers to direct otherwise, I comply.

*(Laughter)*

**Hon. Muluvi:** Hon. Speaker, five weeks ago, I requested for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the security situation in Kitui East Constituency. Citizens continue to lose their lives. Over the weekend, three people lost their lives. In two locations, more than 26

people are yet to return to their homes. This is a serious matter and I request that I be given a Statement so that I can convey the same to my people.

**Hon. Speaker:** Is the Chairman, hon. Abongotum, present in the House? Is there any Member of that Committee who may wish to express themselves on that matter? I am surprised not a single Member of that Committee is present in the House.

Hon. Mutua Muluvi, now you can see the danger of the Statement being sought from your colleagues.

**Hon. Muluvi:** Hon. Speaker, I request the Leader of Government Business to take note of the issue and demand that we be given a comprehensive answer tomorrow.

**Hon. Speaker:** You have sought the Statement from a non-existent office. Did you mean the Leader of Majority Party?

**Hon. Muluvi:** Yes. This is a serious matter because as we are talking---

**Hon. Speaker:** It may be serious but if you demand a Statement from non-existent persons, it will just be not that serious.

**Hon. Muluvi:** Hon. Speaker, he has always told us that he is the man responsible for conveying information from this end to the Government. In the absence of the Chairman of the Departmental Committee, I request that he conveys the same message.

**Hon. A.B. Duale:** Hon. Speaker, a similar Statement was sought by the hon. Member for Mwala, which I was to give on Tuesday next week. I will combine the two and issue a Statement on Tuesday next week. The fault is, however, on the Chairman of the Departmental Committee and not me.

**Hon. Muluvi:** It is okay, hon. Speaker.

**Hon. Speaker:** Hon. Kombe, are you just being strategic or you are on some point of order? Hon. Mbadi!

### POINT OF ORDER

#### PROCEDURE FOR INTRODUCTION OF BILLS IN THE HOUSE

**Hon. Ng'ongo:** Hon. Speaker, I am rising on a point of order under Standing Order No.114 on introduction of Bills in the House. My concern is with respect to the fact that when I generate a Bill and take it to the Clerk of the National Assembly, he needs to refer the same to a committee. Clause (3)(b) states that in respect of a legislative proposal for which no Committee is in charge, he shall refer it to the relevant Committee for prepublication scrutiny and comments and the Committee shall submit its comments to the Speaker within 14 days of receipt of the legislative proposal.

That is where my issue lies. I submitted a Bill which was referred to the Departmental Committee on Finance, Planning and Trade which is chaired by my good friend and junior in campus, hon. Langat. The Bill was referred more than a month ago to the Committee for prepublication scrutiny. However, since that time, the Committee has not processed the Bill. It is now causing concern because the Bill touches on the pension of the former Prime Minister of the Republic of Kenya, the former Vice-President and the former Speaker of the National Assembly, whose position you have ably taken.

This Bill is important. It is because those great Kenyans are not enjoying any benefit from the State as we speak. I would have wished to get clarification why the Committee has not lived up to the spirit of Article 114 of making comments and referring the Bill to you within 14 days. Could I know the position of the Bill? As a way forward, let it be known to committees that those Bills have a deadline. When they are referred to

the Committees for prepublication scrutiny, it is not open ended. They strictly have 14 days to transact the Bills.

**Hon. Langat:** Hon. Speaker, yes, we are in receipt of the Bill from my good friend who claims to have been my senior in the university – let me just accept that. When the Bill was brought, it was decided that it be taken to the State Law Office and also the Constitutional Implementation Oversight Committee (CIOC). We received the Bill seven days ago; members of my Committee can bear me witness. We have already discussed the Bill and agreed that there were some consultations that we needed to hold with the Leader of Majority Party so that we get the way forward. However, I promise my friend that we will be through with the Bill very soon.

**Hon. Ng'ongo:** Hon. Speaker, Sir, it is good to listen to hon. Langat. It is good he has mentioned that some attention is being given to this Bill. However, as I pointed out, they had 14 days under the Standing Orders to transact the Bill regardless of the procedure of getting some input from the CIOC and the Leader of Majority Party. That is perfect, but they should have done it within the 14 days. How soon is this soon? I request that, that Committee processes this Bill and if we could have it next week for First Reading, I would appreciate.

**Hon. Speaker:** Hon. Langat, Standing Order No.114(3)(b) is very clear that you should deal with it and return it to the Speaker within 14 days. Therefore, that is the procedure as rightly pointed out by hon. Mbadi. This is not just to the Finance Committee alone; it is all the committees. The Standing Order No.114 does not exempt. So, it is not open ended. It is time bound. So, perhaps, hon. Langat, since people have been very busy urging the Government to do this or the other, we can urge you to state how soon this soon is going to be, so that hon. Mbadi can prosecute the Bill.

**Hon. Langat:** Hon. Speaker, Sir, I agree that 14 days is not an option, but you realize that we came in and we are operating under very difficult deadlines. However, I wish to seek your indulgence that we relook at this Bill and by next Thursday, we will have given our comments.

**Hon. Speaker:** Very well, that is more definite. Next Thursday!

**Hon. (Ms.) Abdalla:** Thank you, hon. Speaker, Sir. This is a follow up on the point of order from hon. Mbadi. Whereas he is well informed about the introduction of Bills that are charged to a Member or a committee, I wish to request for your advice on the way forward on Bills that emanate from the Government. We are aware that this weekend, we had a leadership meeting and one of the lessons that we learnt from similar jurisdictions was how Parliament protects its powers to legislate. We were informed that in the Legislature that we want to model ourselves to, namely, the US Congress, one of the issues is that legislation from the Government is brought to the House on request by a Member.

So, I am requesting for your guidance on how this matter will be addressed, especially because the Bills that are coming from the Government, so far, have been presented by the chairs of committees and yet, it is the same committees that you expect to scrutinize those Bills after the First Reading. So, I would like you to have your direction on how to address requests from the Government on its policies. I am aware that in this case scenario, the Government is linked to the majority in the House, but the procedures that we want to put in place must be aware that there will be situations where

Parliament will not be having a majority that is with the same party with the governing party. Two, we will also have situations where there will be a “hanged” Parliament.

So, I want your direction on who those requests will be going through and how we are going to address Government Bills going forward. So far, they have been moved and taken forward like the next Order by the chair of committees. Finally, Standing Order No.114 requires that the Clerk makes sure that if it is a money Bill, it goes through the Budget and Appropriations Committee. About 95 per cent of the Bills that will ever come to this House will be money Bills. That will clog the workload of the Budget and Appropriations Committee and I would, therefore, seek your advice and the way forward on how to handle those Bills.

**Hon. Ng’ongo:** Hon. Speaker, Sir, I just want to add to what hon. Abdalla has spoken to especially with regard to her last comment on the issue of referring any Bill that is considered a money Bill to the Budget and Appropriations Committee. This particular provision of the Standing Order needs to be looked into. As a way forward to amend that particular provision, we can put it in a way that every committee, when they are doing a report on a Bill, also subject it to financial scrutiny, instead of lumping all Bills to the Budget and Appropriations Committee. Over 90 per cent of the Bills will be money Bills and crowding that committee with all those Bills will slow down the process. In my view, as you make the ruling, we should consider seriously how we would amend this provision, so that instead of referring all the money Bills to the Budget and Appropriations Committee, we refer them to the relevant committees, but with a rider that each report should be accompanied by financial assessment.

**Hon. A.B. Duale:** Hon. Speaker, Sir, I totally agree with hon. Mbadi. After discussing with the Legal Department of Parliament, we have agreed that, one, the Attorney-General should not send a Bill to Parliament without a certificate of concurrence from the National Treasury. Parliament has done that. A letter has been done to the Attorney-General that any Bill that has financial implications, before the publication period and before it goes to any committee, the concurrence of the National Treasury should be sought. I am sure that will also help the problem. I also agree with hon. Mbadi that committees will also relook at the financial implications of their Bills using the expertise of the Budget Office.

**Hon. Speaker:** Let us hear some other contributions. This is on points of order. We want to develop a procedure. It is important and that is why I want us to discuss this.

**Hon. Langat:** Hon. Speaker, Sir, I want to thank hon. Abdalla for that request. A case in point is the Finance Bill, which brought up a lot of contradictions in the Standing Orders. In one section, the Standing Orders provide that the Committee on Finance shall bring the Bill to the House in the form in which the Cabinet Secretary presented it, plus a report of the committee. In another section of the Standing Orders, namely, the section which hon. Mbadi read on the committal of Bills in the House, it says that all Bills shall stand committed to the Departmental Committees. It goes ahead to say that except the Consolidated Fund Bill, the Appropriations Bill and the Finance Bill, which shall stand committed to the Budget and the Appropriations Committee, who will then look at it and bring a report. So, there is confusion in that the Finance Committee will introduce the Bill. From the Standing Orders, it looks like that is the business of the Finance Committee. Then the Budget and Appropriations Committee must also look at it and

bring some report. So, there are two reports which must come to the House regarding the Finance Bill.

So, there is a bit of confusion. When you are issuing the guidance as requested by hon. Abdalla, I would wish that you use the Finance Bill as a case in point, so that we are very clear in terms of how to transact the business of the Finance Bill in this House.

**Hon. Baiya:** Thank you, hon. Speaker, Sir. I also wish to speak to the direction that is being sought from the Chair. The Standing Orders as currently provided require that such Bill should be referred to the Budget Committee. The rationale for this is self evident that being a proposal that has implication in terms of drawing funds from the Consolidated Fund, Parliament should speak from one consolidated source which is the Budget Committee.

In seeking to give this direction, I would like to submit that it is imperative that the necessity of Parliament consolidating or speaking from one voice should uphold the position of the Budget Committee. The other Committee, be it the Finance Committee or whichever, that has a supplementary mandate should as well seek to direct its views which have financial implication through the same Budget Committee, so that we have one consolidated report making suggestions which have budget implications or which will require allocation of resources.

For instance, a budget has already been done. If the Bill has to go through, it will mean revising the existing budget. The only organ in Parliament which can harmonize that ideally is the Budget Committee.

Thank you.

**Hon. Abdi:** Thank you, hon. Speaker, Sir. My intervention is not related to the debate at hand but it is very difficult for us to follow the proceedings of the House from the back here. In particular, I am not able to hear your pronouncement. So, I will be grateful if you could instruct the technicians to deal with this problem of speakers because I can only imagine what you are saying at times. I think this is the problem for most of the Members who are sitting here at the back.

**Hon. Speaker:** You are saying that you cannot hear what I am saying from here? I have sympathy with hon. Yusuf because I was also having difficulties hearing what you are saying. I think the two of us have to improve on our decibels. We have to raise our voices a little higher than normal but it is good that you are always with your card. So, I am able to pick you.

On the issue of the procedure, before I get to you hon. Mbadi, let me hear from hon. David Ouma Ochieng.

**Hon. Ochieng:** Thank you very much, hon. Speaker, Sir. Under our Standing Orders, there is no such thing as Government Bill. All Bills are done by this House as Bills of this House either as public Bills or private Bills. The only thing that we need to take cognizance of is the fact, and you have said this yourself, that even chairs of committees are Members of this Parliament. However, if you remember what I said sometime back, you will realize that the reason the chairs of committees are not ordinary Members is that they have responsibility. That is why they have to go back to the Ministries concerned or continue liaising with the Ministries. That is their role. I think you really need to be firm that chairmen of committees will do their jobs based on our Standing Orders and based on the fact that under our current Constitution, there is no room for technocrats or the Ministers to come before this House to present their Bills.

Therefore, I agree with the proposals that are being made to ensure that--- When we were electing chairs, there was this feeling---

**Hon. Speaker:** Which chair are you referring to?

**Hon. Ochieng:** I am guided, hon. Speaker, Sir. When we were electing the chairmen of those committees, it was always known that they will be doing specific things. One of that was that they will be in charge of the committees that they will be chairing, including defending, bringing statements and answers to issues that are raised in this House and, above all, articulating the issues that affect the dockets that they hold. Until such a time that we agree that this is the wrong system, they must continue doing so with what I will say ability that used to be before we changed the Standing Orders to take away Ministers from this House. That is why there should be no worry about any Government or public Bill being brought before the House by the chairman of the committee.

Thank you very much.

**Hon. Gichigi:** Thank you, hon. Speaker, Sir. Unfortunately, I just got in when hon. Amina Abdalla was winding up her statement. What I got is the challenge of all the money Bills being sent to the Budget and Appropriations Committee. I want to draw the Chair and the House's attention to Standing Order No.23. It is partly based on Article 114 of the Constitution which is very specific when it comes to money Bills. With your permission, I would like to reiterate what it states. Article 114 reads: -

“(1) A money Bill may not deal with any matter other than those listed in the definition of “a money Bill” in clause (3).

(2) If in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of “a money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.”

Sub-article 3 literally defines a money Bill as any Bill that will have monetary implication. So, in my opinion, once this House, through the Standing Orders, defines the specific committee--- That is because the Constitution is not referring to committees, it refers to a committee. Once this House defines which committee should be dealing with those money Bills, I do not think it has an option of probably referring those Bills to different committees. It is a single committee identified for this purpose. In this case and under our Standing Orders, we are referring to the Budget and Appropriations Committee.

Thank you, hon. Speaker, Sir.

**Hon. Okoth:** Thank you, hon. Speaker, Sir. I also want to add my voice to the debate on the work between the different branches of the Government, Parliament's role and how to balance all that.

First, I must tell you that we do have a clear separation of powers with three branches of the Government. We are blessed to be in one of the most powerful branches of that Government with a very key role of making the laws of this country, including passing the Budgets of this country.

There is the Executive Branch of the Government that is led by the presidency, the Cabinet Secretaries and the different departments that they head. The committees here in our Parliament are also part of the Government. So, we have to liaise between the two

different branches of the Government. I would like to say that let us keep things the way they are. Let us not worry too much. I have experience of having lived, worked and studied in the United States of America where we have borrowed many of those structures on the separation of powers and the different branches of the Government working together.

The concern that has been brought up is what happens when we have a discordant Government where the Legislature majority is under the control of one coalition, for example, the Jubilee as we have today. It could have very easily been that we had a discordant Government with His Excellency Raila Odinga as the President in State House under which consideration is not unimaginable. As a minority party, it would have membership in committees. How they handle that is basically that the chair of committees comes from the majority group in Parliament. So, even if His Excellency Raila Odinga was President of this country in State House today, the chairs of the committees---

*(Loud consultations)*

Do not be so nervous, he is a Kenyan. If His Excellency Raila Odinga were president - watch my English! Those are all conditionals; do not get your feathers ruffled too easily.

Let us get back to the point. I am telling you that if he were President at State House, Jubilee would still have chairs of those committees by virtue of their majority in this House and their tyranny of numbers but the tradition in America is that vice-chairs of committees would come from the CORD Alliance. So, let us not pretend that any of those situations that are dynamic would be permanent. There are traditions and systems which work even when there is discordance between those two branches of Government. The minority party with fewer numbers in those committees would still have to lobby their members to pass Bills. This is important because it is a democracy and power comes from the people. The supreme power comes from the voter; it does not come from Parliament itself.

Parliament is a representation of the will and the voice of the Kenyan people. The presidency serves distinct functions as the executive leadership of Government in one branch and there is a reason for that. If Kenyans in their wisdom decided to have President Raila and a Jubilee leader in Parliament, that would be right too.

*(Loud consultations)*

Kenyans can decide that. It would have easily been that in 2017 we have---

**Hon. Member:** Sit down!

**Hon. Speaker:** Order! Order, hon. Members! Hon. Okoth will be heard! He will be heard!

**Hon. Okoth:** Do not be allergic to education. I am a teacher and I am willing to educate you. Do not be allergic to education; you will serve this nation better.

Since this matter is too touchy, let me give you a better example. If we find President Uhuru or Ruto going on and he has a minority in this House, he can still rule this country but his people in Parliament would have to really lobby the other people. It is not as easy as when you have a united Government or a united ruling coalition where the



powers at State House are represented in the same party with the same agenda and manifesto. It gets a little bit more complicated, but it is natural and it reflects the wisdom of the people to choose the leadership and the occupation; the direction of the Executive Branch of Government from State House and the Cabinet Secretaries under one leadership or coalition. To grant powers of those chambers in the National Assembly to some other group of leaders is natural.

So, I would say, let us not rush just because something seems a little confusing, to change everything. It is okay, Kenyans are wise people, they are not stupid and they will vote properly to make sure we have leaders who will serve this country. So, let us keep on with it, let us get educated---

**Hon. Speaker:** You have done very well for yourself, but can you withdraw the word “stupid”?

**Hon. Okoth:** Oh! I gladly withdraw the word “stupid”. I actually said, “Kenyans are not stupid,” but I withdraw that word and replace it with the words, “Kenyans are very intelligent and wise” and they will elect their leaders in ways that serve their interests, even if in their wisdom they decide to give us discordant leadership. This is particularly important today. I want my brothers and sisters in Jubilee to listen; Kenyans are very wise; elections have consequences and despite interference and warning from any other quarters---

**Hon. Speaker:** Address the issue. Now you have decided to assume you are in Kibra addressing a *baraza*!

**Hon. Okoth:** Okay, let me address the issue. The issue is to say that we, the hon. Members of this House, represent very wise Kenyans who granted us the power to represent them and who granted us a President in State House. So, we should not have any worry about it. They will listen and decide to vote for us. So, let us keep the system as it is and let us go out and campaign in the future to change the Government and influence the size of the House or anything like that.

Thank you.

**Hon. Speaker:** Very well. This is important because it is going to inform us what kind of rules we are going to have for the House. It is for that reason I gave hon. Okoth time, except for the digression, about other issues. Let us hear from the hon. Mutava Musyimi.

**Hon. Musyimi:** Thank you, hon. Speaker. I want to thank hon. Amina Abdalla for bringing this matter to the attention of this august House. I think as regards the law, the hon. Member for Kipipiri, hon. Gichigi and the Member for Githunguri; hon. Baiya, who are eminent lawyers in their own right, have reminded us of the provisions of the law.

That said, I do wonder what the architects of the Constitution had in mind when they gave this Committee a superior majority or rather a very generous majority of hon. Members. As you know, the other committees have, I think about 29 hon. Members while the Budget and Appropriations Committee has 51 hon. Members. It will be very interesting as you rule to invite your mind to, perhaps, just help us understand how come this Committee was given such a big number. Was it, perhaps, because of being aware that a lot of business which will come to this House has to do with money; what is now being called “Money Bills”, or was it to give the Committee the capacity to handle the volume of work that would, in any case, be expected of that Committee? I do not know.

Hon. Speaker, Sir, you are lawyer in your own right. The law is clear and the burden is also clear. I can tell you, like all the other committees, it is not easy being a Member of the Budget and Appropriations Committee. It is not easy chairing it, but it is a challenge that we have welcomed. We are on top of our work; we are not behind in any respect.

All the Bills that have come to us have been given our attention. We meet regularly. I just wonder, maybe we got that number because it is expected that we might cluster to give ourselves greater capacity to deal with the work that would be coming, which we are already doing. So, I too anxiously wait for your ruling. It will give me great comfort to know what you think on this matter.

Thank you, hon. Speaker

**Hon. Speaker:** Can we hear from hon. Kaluma! Just on this issue of those processes.

**Hon. Kaluma:** Yes, hon. Speaker, Sir, not on teachers strike.

Hon. Speaker, this is a very tricky situation. If we consider the number of Bills that will be coming to the House, with financial implications, they are many. If we are going to send all of them to the Budget and Appropriations Committee, there is a problem there. There are also constitutional and other statutory requirements to be complied with. So, there is need for relevant committees to deal with those matters.

Hon. Speaker, Sir, I wish to suggest a way forward. We have the Procedure and House Rules Committee. This matter should be referred to that Committee. The hon. Members who are interested in the issue should hold a sitting and then report back to the House. I believe all of us will be interested. The report needs to be debated by the House and we conclude the matter, instead of leaving the entire burden to the Speaker. That is my suggestion. We refer this matter to the Procedure and House Rules Committee and we get a report.

**Hon. Speaker:** Now we go back to the originators, hon. John Ng'ongo.

**Hon. Ng'ongo:** Thank you, hon. Speaker. This matter has been well canvassed. I just want to point out two issues that came up in the process. The first one is with regard to remarks from the Leader of Majority Party. He was specific that there is a suggestion that the Bills should come with the concurrence of the Treasury. I am particularly concerned with the terminology "concurrence". Probably, he should have said "with an opinion from the Treasury". If we are going to require concurrence from Treasury, nothing will be moving in this House. The legislative authority in this country is with Parliament, and not any other body.

I know that this is a Government Bill but I am offering them free advice because whatever they come up with will affect Kenyans. As a Member of the National Assembly, who represents the interests of the people of Kenya, I would like to advise that the advice they have given to the Attorney-General is not good advice. It should not be with the concurrence of the Treasury but rather with the opinion of the Treasury, so that the Cabinet can make a decision and bring the Bill to Parliament for us to legislate. Otherwise, the Treasury will stall every other action of the Government. I know how the Treasury sometimes behaves.

Hon. Speaker, finally, I was advised by some technical people that you should lower your microphone a bit, so that there is---

**Hon. Speaker:** So that you can see me?

**Hon. Ng'ongo:** Yes, hon. Speaker.

(Laughter)

Hon. Speaker, finally, I wanted to speak to the matter that hon. Langat talked about, with regard to the Appropriations Bill. Chapter 12 of our Constitution has given the Budget and Appropriations Committee a little more powers, in terms of the budget-making process. In terms of any other finance-related Bills coming from the Ministry or touching on the Ministry, the Committee has the mandate. However, for matters regarding Budget, the Committee will bear with the Budget and Appropriations Committee. That bit falls within the province of the Budget and Appropriations Committee. That is my view.

Hon. Speaker, the Member for Kipipiri spoke to the issue of Article 114. The reason as to why I made that suggestion was the understanding that Article 114 does not specifically speak to the Budget and Appropriations Committee, it talks of the relevant committee. Even under our Standing Orders, when we talk of the relevant committee, it does not have to be a specific committee. We need to harmonize the Standing Orders with our Constitution. We have spoken to this matter severally. We now need to act by having the Procedure and House Rules Committee look into the Standing Orders *vis-a-vis* the Constitution. The Standing Orders have quite a bit of contradictions with the Constitution.

Thank you.

**Hon. Speaker:** Obviously, it is the prerogative of this House to amend, improve and do whatever is necessary to any legislative proposal that comes from wherever. However, the House does not have to concur. That is something I would wish to confirm.

Finally, can we hear from hon. Amina Abdala?

**Hon. (Ms.) Abdalla:** Hon. Speaker, hon. Member from the opposite side of the House mentioned that chairpersons of committees are responsible for moving Bills, and that we should not be absconding from that duty. So, I thought since I am a chairperson of a committee, he might be implying that I am doing so.

Hon. Speaker, I am not trying to abscond from the responsibility. I am only trying to have you develop a procedure that does not deviate when it is one chairperson and take another shape when it is another one. We are trying to avoid a situation where the Leader of Majority Party may think that you are compliant but have a different rule for other people. So, my motivation is so that we have a procedure that is not at the whims of anyone who would be in any office at any time.

Hon. Speaker, I want to give you a practical example. We have just received a draft Bill from the Ministry of Natural Resources. My first notion was that because a policy is Government policy, I would simply table it but I understand that the procedure is now different for the Bills emanating from my committee whereas for other committees, you can see that the signatures are those of the chairpersons of those committees. So, because I do not want to make it look like a personal war, I want a procedure that is for me and for all other committee chairpersons.

Having dealt with that bit, a more procedural issue that is of concern to me is that all the Bills that we will be publishing will be published by the National Assembly. They come in a draft form. So, whereas I am happy for the Leader of Majority Party to move the Wildlife Bill, and for it to be sent to my committee, what procedure would we have when I am willing and ready to move Bills that may come to my committee from

Ministries? What procedures do we have to deal with pre-Bill proposals that may come from the Ministries, so that when we deal with the amendments to the Standing Orders, we do a comprehensive job?

Hon. Kaluma said that the Procedure and House Rules Committee should be dealing with this matter but what we are dealing with was handled by the Procedure and House Rules Committee in the previous Parliament. We were not able to anticipate some of the challenges that we are seeing now. In the beginning our thought was that the chairpersons of the committees, the Ministers and whoever else who would request a legislative proposal would direct it there. Luckily for Kenya, all the political parties seem to have the same policies. They only change according to what drama they want to bring to the House. Due to that want, we need to come up with a procedure that is standard for everyone, and which is not affected by the whims of anyone.

Thank you, hon. Speaker.

**Hon. Speaker:** Let us hear from hon. Pius Namwamba Ababu.

**Hon. Ababu:** Thank you, hon. Speaker. I was wondering whether I was going to catch your eye at all.

Let me, first of all, say that this debate is actually very good. It is something that should not surprise anybody. We are in a scenario where the House is evolving in a new dispensation. Confronting the challenges like the one we are grappling with right now is a natural consequence of the very fundamental changes that we have made in our legislative structure and even the traditions.

Hon. Speaker, I have two quick points but, first of all, let me just address the issue that the Chairperson of the Budget and Appropriations Committee referred to, with regard to the membership of that Committee. The bigger numbers provided for in the Standing Orders is nothing new. It is really not anything new. Anybody who understands the history of the Budget and Appropriations Committee since this House took on a more prominent role in the budget-making process would know that under the old system, during the last Parliament, all the chairpersons of committees automatically became members of the Budget and Appropriations Committee. So, the Budget and Appropriations Committee always had higher numbers than any other committee of this House.

I sat in the Budget and Appropriations Committee in the last Parliament not by virtue of being a member of that committee but by virtue of my position as chairperson of a Departmental Committee. That was necessitated by the need to have a meeting point, where all committees would be sort of at the same level in respect of the budgeting process. So, the issue of numbers, really, is neither here nor there, and it is nothing new. Again, those numbers are not in the Constitution. I heard the Chairperson of the Budget and Appropriations Committee, again, making reference to the makers of the Constitution. The Constitution does not make any reference to any particular committee and, therefore, to any numbers in any committee. That is a matter which is detailed in our Standing Orders, which we had the liberty, the authority and the power to change, to amend and to re-write as we deemed fit.

Hon. Speaker, the issue I really felt the urge to contribute to is the matter of committees and especially the chairpersons, and how the committees and the chairpersons interact with the Government *vis-a-vis* the role of this House as an independent and autonomous arm of the Government within the framework of separation

of powers. The challenge we are facing is that we have erroneously treated chairpersons of committees as a replacement for the Cabinet in this House. They are not! A chairperson of a committee is not a replacement of a Minister in this House. It has erroneously been suggested and even purportedly practised; that a chairperson of a committee can take the flack for the Government. He should not. He must not because a chairperson of a committee in this House is not an extension, he is not an appendage and is not a part of the Executive. The reason as to why we created a scenario where we have chairpersons of committees communicating what the Government has brought to the committee is because we removed the Minister from here. We said the forum for interaction between this House and the Executive will be the committee.

That is the forum for interaction. So, a Cabinet Secretary comes before the Committee and he interacts with the Committee as an extension of this House. What the chairperson of the Committee does is to convey that interaction to this House. In performing that role of a conveyor, the chairperson of a Committee does not become part of the Executive. Therefore, the chairperson of a Committee merely communicates what has occurred in his or her Committee. In so communicating, you do not come here and be defensive for the Executive.

Remember that ultimately the three cardinal responsibilities and roles of Parliament; legislation, oversight and representation have not changed merely because we have changed the form of Government. A chairperson of a committee still has a role to play in oversight, in similar manner as any other Member of a committee. Therefore, perhaps, one of the things that we need to do is to reorient the leadership of our committees to understand that when you are a chairperson of the Budget Committee, in this House you are not the Cabinet Secretary for Treasury. You do not come here and behave as if you are on call by Treasury to defend the Treasury here. This applies to all chairpersons of committees.

Once we understand that our role is really to convey--- Perhaps, we need to revisit our Standing Orders and ensure that the committee becomes the forum that we envisaged, such that a person who asked a question on the Floor should actually be facilitated to attend the committee meeting where the Cabinet Secretary is appearing. That is the forum where the questioner or the originator of a question should come to engage and interact with the Cabinet and by extension with the Government. What the chairperson merely does is to report to the House for further interaction.

Finally, in terms of originating Bills, Article 109 of the Constitution is very clear. Any Bill may originate in the National Assembly. When it comes to money Bills, again, the Constitution is very clear in terms of how to deal with it. You will find this in Article 218. In my view, it will be erroneous to say that any Bill with any financial implication should go to the Budget Committee. We have a tradition in this House where committees have dealt with matters that are directly under the purview of that committee, be they of a financial or any other nature. If you are going to direct every single Bill with any financial implication to the Budget Committee, you are going to clog the operations of this House. We need to revisit those matters and simply understand that this is not about turf wars. This is about procedures that facilitate debate and process and not merely for purposes of this one holding onto this or the other thing.

Thank you.

**Hon. Speaker:** Well spoken hon. Ababu Namwamba. I should be making a communication on this specifically because as you rightly pointed out in terms of what is provided for in Article 109 of the Constitution, any Bill may originate in the National Assembly. For avoidance of doubt, it is any Bill. I hope I am speaking to everybody including those who may not be in this Chamber. It is any Bill. Therefore, it is the method of originating it; how we process it once we originate it that we should make clear for smooth running of the House. Since issues have been raised in the recent past whether the chairpersons of committees are the owners of the Bills which obviously do not originate from them, we need to determine how that is supposed to be treated.

The other issue is about what hon. Okoth spoke about. People may have thought that he was joking. Those are serious matters and we need to provide for them. We need to provide for whatever kind of eventuality. Therefore, I should be making a communication relating to this procedure in the course of next week.

*(Hon. Speaker consulted with the Clerk-at-the-Table)*

I am consulting to know which date is available to me. The issues suggested by hon. Kaluma must all be taken into account. Those are issues that require the attention of the Procedure and House Rules Committee or all of those issues that may for the time being, for the convenience of the House, be dealt with by the Speaker exercising the dictatorial authority of Standing Order No.1. That should be in the course of next week. It is, however, important that we take everything that has been said into account.

**Hon. Wakhungu:** Hon. Speaker, five weeks ago I requested for a Statement from the Chairman of the Departmental Committee on Justice and Legal Affairs, hon. Chepkong'a, regarding provisional results of the Independent Electoral and Boundaries Commission for purposes of getting political parties fund. As I mentioned earlier, some political parties are dysfunctional because of lack of funds. Hon. Chepkong'a invited me to attend one of the Committee meetings as you had directed but, unfortunately, the chairman of the IEBC did not come. When he came the second time he did not have the results. I wonder whether or not there is commitment in terms of the time allocated in responding to those Statements by chairpersons of Committees.

This is now an emergency. It is four months down the line since we had elections and there are no results. I seek your indulgence that this is expedited and we have the results which is a prerequisite in time of sharing the political parties funds proportionately.

**Hon. Speaker:** Also, more fundamentally during the budget-making process one would have expected that the relevant Committee applied its mind to the provisions of the Political Parties Act that requires that not less 0.3 per cent of the national revenue be put in a political parties fund which provision is also anchored in Article 92 of the Constitution. So, it is not a spurious issue. I do not know how much the relevant Departmental Committee applied its mind. Hon. Kaluma, you are a Member of that Committee and you may wish to say something.

**Hon. Kaluma:** Hon. Speaker, Sir, if I may say something, in the context of the processes and the thinking that needs to go through the Standing Orders, those matters came to the Justice and Legal Affairs Committee and, indeed, we met the Registrar of Political Parties. It was clear to us what the minimum ought to be, but when the matter

went to the Budget and Appropriations Committee and not all of us sit there, the report we got was that the amount that was initially proposed was left at that. It is also something to look at in terms of the ongoing debate as to how the various committees relate. It was also an issue, it is not only the funding of the political parties, but the money is even for the Judiciary. Most of us in the Justice and Legal Affairs Committee understood the sectors quite deeply in terms of their needs. The money for the Judiciary, we had proposed an amount which was again reduced not taking into account what we believe is not priority like aeroplane and others. Again, we met the Director of Public Prosecutions and we had considerations in terms of how best that office has to function and the number of additional persons who needed to be employed as State Counsel and the need to phase out any police prosecutors and others. Then it goes to the Budget and Appropriations Committee and the membership of the Justice and Legal Affairs Committee is not in a position to get the Committee to appreciate this. It becomes a problem.

I wanted to suggest to the House, borrowing from what hon. Namwamba has proposed, that there is need for chairs of all committees, and I do not know how we will make it possible in our Standing Orders, to sit in the Budget and Appropriations Committee, so that the thinking base of the Departmental Committees goes to that Budget and Appropriations process. That is the difficulty that we faced. We were alive to those realities and we proposed them. The Budget and Appropriations Committee dealt with the money proposed by the Treasury and proceeded to allocate it though being alive to those issues.

**Hon. Speaker:** But also, bear in mind the fact that you know part of the reason. The House took too long to form committees such that I have not seen any single report from a committee that was submitted to the Budget and Appropriations Committee. This is what the Standing Orders require, that every committee submits its report on the areas that are within its mandate. Of course, the fact that the House took so long to form committees, obviously, may have impacted on this issue. I can see hon. Musyimi, the Chair of the Budget and Appropriations Committee, has something burning.

**Hon. Musyimi:** Hon. Speaker, Sir, I just wanted to inform the Member that the number that came to us from the Treasury was Kshs15 billion for the Judiciary. We raised that by Kshs1 billion. In respect of the Office of the Director of Public Prosecutions, we added an extra Kshs0.5 billion. A lot has been said here not too long ago about the Office of the Auditor-General. We added an extra Kshs0.5 billion. We also anticipated the current problem that we are having with the teachers. Once we did the rationalization, most of the money, in the region of Kshs6 billion, was given to the Teachers Service Commission in anticipation of the current crisis that is now with us.

Hon. Speaker, Sir, you are right in saying that the reports came late to my Committee. Indeed, by 5 p.m. the day before the time I was supposed to table that report, only three reports had arrived before my Committee. They were coming in at about 9.00 p.m. and 10.00 p.m. and we sat until midnight. So, I do not want to hear incorrect information being given in respect of the efficiency of the Committee. A lot of hard work was put in by the Members of the Budget and Appropriations Committee.

**Hon. Speaker:** Now, can we hear some response to the point raised by hon. Chris Wamalwa?

**Hon. Cheptumo:** Thank you, hon. Speaker, Sir. It is true, as raised by the Member, that it has indeed taken too long for us to report back to the House. Yesterday, the Chair of the IEBC appeared before the Committee and he did not have an answer to report to us. We directed him to appear before us tomorrow to deal with the very issue raised by hon. Wamalwa. So, we will deal with it tomorrow and I believe after that, we will give a report to the House.

**Hon. Speaker:** I quite agree with what hon. Namwamba has said. Requests for Statements are not answers, they may not be satisfactory to the person seeking the request, but it will be the report. The Committee is required to just come and table a report. The House may decide to discuss it, express anger, happiness or whatever, but it will just be a report because the chairs of those committees are not Cabinet Secretaries. They are not representing the Government. They will merely be purveyors of information. This is a report, the Member requested for this and this is what we have got. We do not want to appear like we are holding the chairs of committees to the accuracy and the adequacy of information.

Members requesting Statements are also required to appear before those committees, so that when that information is being given, you have the chance to interrogate the relevant Government agency or official, so that what comes here is a report. We must constantly have this in mind, so that you do not come here and start holding your colleagues and saying: "You said that policemen were sent there and they have not been sent". That is not the business of the person who is reporting. If you never got it there, the committee can report that you said that policemen have not been sent and the Cabinet Secretary said that they have been sent. They can report that because that is what they are supposed to do. They are not supposed to say: "We actually went there. We went to Kiminini and found that there were 20 policemen who had been sent there". To require that, the House will just be paralyzed. We should just take it that way.

So, hon. Wamalwa, tomorrow, the Committee is sitting with the IEBC. It will be fair that you also avail yourself.

**Hon. Gichigi:** On a point of order, hon. Speaker, Sir. Speaking to the issue that you have just dealt with, instead of having an *ad hoc* sort of arrangement I would propose, under the Standing Order No.1, that you make a directive that in future, whenever a committee is interacting with relevant Government officials, the person who sought a Statement from that committee, as a matter of fact, be invited to attend those proceedings. We should make it mandatory.

**Hon. Speaker:** Well, we cannot make it mandatory because it may well be that on the particular day the committee is meeting that Government functionary, the Member may be indisposed or on some other parliamentary business elsewhere. It is just, perhaps, that we can only encourage the Members requesting for Statements to avail themselves to those committees to participate. Well, that matter will now rest. I will give a ruling sometime next week if and when I am available because I suspect that I have limited time.

Next Order!

## PROCEDURAL MOTION

WAIVER OF COMMITMENT OF AGRICULTURE, FISHERIES



## AND FOOD BILL TO COMMITTEE

**Hon. Angatia:** Thank you, hon. Speaker, Sir for giving me this opportunity to executive the Procedural Motion.

I beg to move the following Procedural Motion:

THAT, this House orders that the referral of the Agriculture, Fisheries and Food (Amendment) Bill (National Assembly Bill No. 16 of 2013) to the relevant Departmental Committee in accordance with Standing Order 127, be waived.

I had indicated in the morning that the agriculture sector is in a crisis because this Bill is supposed to create an organization called Agriculture and Food Authority.

**Hon. Oyugi:** On a point of order, hon. Speaker, Sir. Without anticipating debate, I have looked at the content of the amendment that the hon. Chair of the Committee has proposed, and there is a rider to that particular amendment. I will read the last part of section one of that article, which means that different dates may be appointed with different provisions. Indeed, my understanding of the law is that we do not need an amendment to this particular section because you can truncate the various provisions of this particular Act. My understanding is that whereas it is important, for example, to hold the operationalization of the body or the Act as is anticipated, it is the law that created it that hopes that this can be done in some distant future and not all of it at ago. All of it can be operationalized in parts. That is one of the things that I would like to raise.

Hon. Speaker, Sir, the second thing I would like to raise is the fact that if you look at the provisions of the Constitution, the Fourth Schedule, Part 2, of course, agriculture forms part of the various functions of the county governments. Of course, you have rightfully ruled this afternoon that Article 109 does give the National Assembly the power to originate all manner of Bills. This particular Act that we are discussing was originated by the last Parliament. However, if you look at Article 112 read together with Article 109 of the Constitution, it does anticipate that whereas an Act of Parliament does raise issues concerning county governments, the two Houses, both the National Assembly and the Senate, will look at the two Acts together so that there is hopefully some concurrence.

Hon. Speaker, Sir, you will appreciate that county governments are charged with acts of agriculture. The problem, for example, the Departmental Committee on Agricultural, Livestock and Cooperatives will be having in operationalizing the Act that was proposed is that we need to obtain a bit of concurrence with the Senate and the National Assembly, as the Constitution anticipates.

Whereas it is possible to discuss and amend in the manner that the committee does propose, I was seeking the Chair's direction and guidance in terms of how to proceed with an Act that was enacted when the Senate was not in existence. Now the Senate is in existence and this matter touches on the county governments and it is fairly fundamental in terms of how we move forward with agricultural issues.

Thank you, hon. Speaker, Sir.

**Hon. Speaker:** Let us not get excited about such things that are happening elsewhere.

**Hon. Ng'ongo:** Thank you, hon. Speaker, Sir. On the issue that has been raised by hon. Neto, if the Bill or the proposed amendment will touch on agriculture, fisheries

and food as a function of the county governments obviously, that becomes a Bill concerning counties.

Probably we need your ruling whether the proposed amendment only touches on policy issues. This is because that is a function of the national Government. So, it is a bit delicate but I am sure you can give a ruling whether this touches only on policy, agriculture, fisheries and food. If it is not then it becomes a Bill concerning counties. We will proceed, if it is.

However, allow me to also raise another issue on the same. If you look at what this Motion seeks to do, you will find it is to waive committal of this Bill to the Committee. I want to raise objection to that. We will not debate this Motion because if you read Standing Order No.127 which the Motion seeks to bypass it says: -

“(1) A Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question put.”

Already this Bill is committed to the Committee. You cannot again ask this House to waive what has already been given. Probably, what I think the Chair of the Committee should do is to apply provision of Standing Order No.127(5) which says: -

“If for any reason, at the commencement of the Second Reading the report of the Committee has not been presented, the Committee concerned shall report progress to the House and the failure to present the report shall be noted by the Liaison Committee for necessary action.”

Even though the Liaison Committee is mentioned, the Standing Order talks about the Committee reporting to the House. This Bill went for First Reading this morning. What the Committee will do when we embark on Order No.9 is for the Chairman to rise and report to us that they are not ready with their report but they have no objection with the Bill going through the Second Reading.

Hon. Speaker, Sir, this Procedural Motion, in my view, is contrary to our Standing Orders because the Bill is already committed to the Committee. So, we cannot waive that provision.

Thank you.

**Hon. Speaker:** Indeed, in the morning when we reduced the publication period in keeping with that Standing Order, no Question was put. Automatically, the Bill stood committed to the Departmental Committee on Agriculture, Livestock and Cooperatives. I, therefore, agree with hon. John Mbadi that we should not be having the Procedural Motion in Order No.8.

On the other issue that was raised by hon. Neto, this is an Act of Parliament which is already in place having been passed by the last Parliament. The issues it seeks to address are really issues of policy at the national level of Government. In so far as it becomes necessary to apply any section of that Act in dealing with whatever functions that maybe under the Fourth Schedule, then the Act will have to be amended. Those particular functions will automatically be transferred to the relevant level of the Government in terms of our constitutional provisions. Therefore, I direct that we move on to Order No.9.

Yes, the Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives. Read out the Order!

*(Debate on Procedural Motion dropped)*

**BILL***Second Reading*

## THE AGRICULTURE, FISHERIES AND FOOD (AMENDMENT) BILL

**Hon. Speaker:** Yes, let us hear from the Chairperson of the Committee on Agriculture, Livestock and Cooperatives; hon. Savula Angatia.

**Hon. Angatia:** Hon. Speaker, Sir, the objective of this Bill is to amend the Agriculture, Fisheries and Food Act, 2013 so as to extend the commencement period of the Act by a further six months in order to allow for the carrying out of administrative actions, including promulgation of regulations that are necessary to operationalise the Act.

This Bill does not touch on issues related to the Fourth Schedule of the country's Constitution. The Bill only seeks to extend the commencement date. We are not going to discuss the content of the Bill. This Bill does not also concern the county governments---

**Hon. Speaker:** Hon. (Dr.) Eseli, are you rising on a point of order?

**Hon. (Dr.) Simiyu:** Hon. Speaker, Sir, I still would like your guidance on this. When I go through the Constitution on the functions of the National Assembly and the Senate I understand, while I respect your ruling, those are policy issues. It is supposed to be with the consultation of the Speaker of the Senate. When you concur that this has got only policy issues, then we can go ahead and debate it. I do not know whether that had been done but, I fear the way we are having it, there is no need to light more fires.

**Hon. Speaker:** I have already ruled that the debate on this Bill proceeds. You can proceed, hon. Angatia.

**Hon. Angatia:** Thank you so much, for that ruling. We have nothing to report. It is only requesting for an extension of a commencement date. We are not going to discuss the nitty gritty of the Bill. This is because it is already going to commence on 24<sup>th</sup> July, 2013. It was signed by His Excellency the retired President Mwai Kibaki in January this year and the Cabinet Secretary took over the office in May, this year. There are no structures in place to operationalise the Act. So, what we are seeking here is just only an extension. So, there is no reporting.

On that note, I would ask my vice-Chairman to second the Bill. Thank you.

**Hon. Mbiuki:** Thank you, hon. Speaker, Sir. I stand here to second this Bill. I also want to thank hon. Members for allowing us to move this particular Motion on the Bill and to fast-track the publication period from the normal 14 days to five days, which was passed early today morning.

During the last Parliament, the Bill was passed by this House and the publication date was 25<sup>th</sup> January this year. According to Section 1, the commencement date is supposed to be exactly six months from the date of publication but because of the transition the necessary institutional legal framework which was supposed to be enacted had not been done.

Therefore, while bearing in mind that the Cabinet Secretary as well as the Principal Secretary, plus the hon. Members of the Departmental Committee are equally new and also need to be part and parcel of this process, we agreed – we met as a

Committee through the initiative of various stakeholders – that the level of preparedness of the Agriculture, Livestock and Fisheries Ministry to implement this particular Bill when it is an Act was not there. Therefore, we met as a Committee and deliberated on this matter and we were taken through the process by the Cabinet Secretary, and in particular, timelines which the Ministry is going to adhere to.

Hon. Speaker, Sir, some hon. Members alluded that there are some people who want to scuttle this particular Bill but we want to assure them that as a Committee on Agriculture, Livestock and Cooperatives, we shall stand firm to ensure that this particular Bill is implemented in full. Therefore, there should be no worry. This particular Bill is in conformity with the new Constitution. There are laws which will be done by the national Government as well as laws which will be done by the county governments.

Hon. Speaker, Sir, the major intention of the Bill was really to review various anomalies which are in the current legal and regulatory framework. Quite a number of laws which are governing the agriculture sector are obsolete; majority of which were enacted prior to the Kenya's Independence.

Hon. Speaker, Sir, in the absence of strong rules to put up competition in the sector, it is also hindering competition within the sector. The agriculture sector has more than 60 parastatals and this particular Bill wants to collapse them into three for easy administration and to ensure the ambiguity and overlapping of some of those State organs are not there. So, I want to urge hon. Members that due to the unpreparedness by the Ministry of Agriculture, Livestock and Fisheries, we allow for the extension of commencement date from 25<sup>th</sup> to 24<sup>th</sup> July 2013; by six months, so that the entire framework can be put in place so that enough consultation can be undertaken by the Ministry to ensure that this important sector does not collapse.

Hon. Speaker, Sir, there are serious challenges in this particular Bill. It is supposed to be done through an election but as we are speaking here, there are no regulations to ensure that those elections are done in a proper and transparent manner.

Hon. Speaker, Sir, we have various crop authorities; Kenya Sugar Board, Kenya Cotton Board and Kenya Pyrethrum Board and collapsing them overnight is going to bring serious chaos. That is why we are humbly requesting this august House to consider this extension to ensure that the right framework is put in place before the commencement date.

With those few remarks, I beg to second.

Thank you.

*(Question proposed)*

**Hon. A.B. Duale:** Thank you hon. Speaker, Sir. I had the privilege of serving in the last Parliament and this Bill was called AFFA Act, but today it is called ALFA because in the last Parliament, the hon. Members who were coming from the livestock keeping areas, more so the pastoral community, thought that the AFFA Bill was dollar-driven and that it was not in the interest of the Kenyan people.

Hon. Speaker, Sir, when the then Minister for Agriculture, hon. Sally Kosgey, could not listen to the then Minister for Livestock, hon. Kutu and to the leadership of the livestock producing areas, we went into a consensus and agreed to remove the livestock aspect of it. Today, I am seeing what hon. Members from the pastoral region saw was

coming. Apart from the extension, the Chair of the Agriculture, Livestock and Cooperatives Committee is asking to extend the operation date which is coming into effect on 24<sup>th</sup> of this month, next Wednesday, so that it gives the Government and the Cabinet Secretary six more months to do it.

Hon. Speaker, Sir, I want hon. Members to listen to me and relook at the whole AFLA Act.

Hon. Speaker, for some very mischievous reasons, consultation was not done on the Bill that resulted in this Act. Sisal was lumped together with sugarcane. How do you mix the two? They want to bring under one Authority, the Pyrethrum Board of Kenya, the Sisal Board of Kenya, the Coconut Board of Kenya, the Kenya Sugar Board, the Coffee Board and the Kenya Tea Board. In my opinion, the agricultural corporations are sector-based and crop-based. Through the Kenya Tea Board, it is easier to do research on tea and market it. When you put together sisal and sugar, what are you doing? Sugar and sisal are grown in different parts of the country. Why take coconut from the coastal region to the people of Kericho, who serve tea? Therefore, I want hon. Members to critique the Act, and not just deal with the question of extension of its effective date that the Chairman of the Committee is seeking.

Secondly, this exercise was donor-driven. How do you amalgamate all those corporations? How many Kenyans will lose their jobs, starting with the Managing Directors of those institutions to the most junior workers? Thirdly, you can imagine the bureaucracy that will be created for one Director-General to serve the Coffee Board of Kenya, the Kenya Sugar Board, the Pyrethrum Board of Kenya, the Sisal Board of Kenya and the Coconut Board. It is not possible. This was mischief perpetrated by a donor organ at the Ministry of Agriculture then. The then Permanent Secretary, Mr. Kiome, in consultation with a few other people, decided to kill the vibrant agriculture sector.

Hon. Speaker, the Chairman of the Committee is asking for an extension of the Act's effective date, which is quite in order since after 24<sup>th</sup> July, 2013, which is next Tuesday, unless we will have amended the Act to push this date forward, we will not be having the Sugar Board of Kenya or the Tea Board of Kenya or the Coffee Board of Kenya. This is a very serious matter. The Act talks of six months from the date it received presidential assent. Six months from the day the former President assented to the Bill takes us to 24<sup>th</sup> July, 2013, which is the day by which all the institutions captured in the Bill must have collapsed into one. Therefore, I want to thank the Chairman of the Committee for doing better than the Attorney-General (AG) of the Republic of Kenya. The AG brings Bills to the House only a day before the lapse of such periods. The Chairman of the Committee has at least saved the farmers in the various sub-sectors of the agriculture sector.

Therefore, I want to urge hon. Members to look at the entire AFFA Bill. I would like to inform hon. Members that it was called AFFA Bill. If you *Google*, you will see that in some sites it is called the ALFA Bill but it is no longer ALFA Bill. Hon. Chachu will agree with me that we said in this House, under the leadership of the Minister for Livestock Development then, that we did not want to be part of this quagmire. The architects of the Act that produced this Bill wanted to lump the Livestock Marketing Board and the Kenya Meat Commission (KMC) together with the Sisal Board of Kenya. What has meat got to do with sisal? What has tea got to do with sisal? What has coffee got to do with sugar? We even wanted the Sugar Board of Kenya to be strengthened so

that the Sugar Levy Fund could help farmers to develop the access roads. The roads from the farmers to the factories are in very bad shape. Tractors use fuel. They pay money to the Fuel Levy Fund. During that time, we asked why the Ministry of Roads should not use the Fuel Levy Fund to develop the access roads. Here, we have a person saying that we are devolving yet he is creating a different system. Our position on this matter is informed by the spirit of devolution. As a country, we are devolving but in this case we are being told that we have to combine all those institutions into one.

Hon. Speaker, therefore, I support the extension of the Act's effective date. In fact, I would ask hon. Members that we extend the effective date of this Act by a year, so that this House can have more time to look at it. So, I expect hon. Members to amend the Committee's proposal to read "one year", so that hon. Members from the various sub-sectors of the agriculture sector can go back home and initiate consultations among the stakeholders on this matter. Some of the sub-sectors are still very young while others are well developed. The coconut sub-sector, for example, is still at a very early stage. Why should we kill it by lumping it together with tea and coffee? Some of the sectors are doing very badly due to a lot of corruption, while others are doing very well. Why mix them?

Hon. Speaker, I support the Motion and request that an amendment be introduced to the Motion to provide for one year, so that the 11<sup>th</sup> Parliament can look at what the 10<sup>th</sup> Parliament did. This Act is a product of the Bills that were brought to this House at the wee hours of the night. I remember that it was brought here at 10.00 p.m. Lucky enough, we have an able Chairman.

With those remarks, I beg to support.

**Hon. Speaker:** Yes, hon. James Wandayi.

**Hon. Wandayi:** Thank you, hon. Speaker, for giving me the opportunity to contribute to the Motion.

Hon. Speaker, if you can recall, in the morning, I talked about resistance within the bureaucracy, against this Act. It is now clear that the reason as to why this Act has not been operationalised as envisaged by the Act itself is because of people being uncomfortable with it. This discomfort is, of course, genuine but the Government bureaucracy, headed by the Minister, was not forthright to the Committee when they appeared before the Departmental Committee. The reason as to why I supported the extension, which I still do; is so that we get ample time to not only look at this matter afresh but to look at it with a view to repealing the entire Act.

As ably put by the Leader of Majority Party, if you look at this Act, you will see a tendency towards centralisation of decision-making and resource allocation, which is contrary to the spirit and the letter of the Constitution. Therefore, my position still remains but let us extend this period to whatever date. In my view, six months is adequate but let us not waste time by indulging the Cabinet Secretary with a view to making him operationalise the Act because if it comes to fruition in the way it is crafted, it will take us more than 30 years back. Therefore, I grudgingly support the extension of the effective date – this is really a waste of time as it should have been done much earlier – so that when the Committee reconvenes next week, we take definite steps to not only relook at the Act, but to repeal it altogether, so that we can start from a clean slate.

With those very few remarks, I beg to support.

**Hon. Speaker:** Yes, hon. Kabando wa Kabando.

**Hon. Kabando wa Kabando:** Thank you, hon. Speaker. I rise to support the Motion.

Hon. Speaker, very many of the laws that were passed as the last Parliament was coming to sunset, were meant to comply with the implementation of the Constitution. This was, indeed, one of them. The need to overhaul operations of State corporations in the agriculture sector need not be gainsaid. It is important to improve their governance and ensure that the myriad problems that people experience, particularly the farmers, are resolved through a legislation that will bring synergy. Therefore, the request by the Committee and even the presentation by the Cabinet Secretary, have a lot of merit. It was meant for the Departmental Committee to take stock of the situation and take responsibility over this change.

The membership needs to internalize the intricacies within. It is also true that not every stakeholder even in those State corporations will be keen. I do not think the issue here is very much to do with job protection. This is because they could be 100 jobs, but the agriculture sector could create one million jobs every year which are well managed and which are as a result of good governance and stability in the sector.

If you look at all the subsectors where we are talking about coffee, sugarcane, tea and pyrethrum, indeed, the small-scale farmers are not at the same level. As much as this law has some deficiencies and we need to be prudent in its operationalization it is only true that some draconian statutes need complete overhaul in order for them to be in agreement with the current terms and also expand the benefits of agriculture to the large population which constitutes the small-scale farmers.

We request the committee to watch and checkmate the implementation. It also behooves this House to give the Cabinet Secretary an opportunity in this new dispensation to take charge and responsibility and be collectively involved in the process of this implementation. Can you imagine next week on Tuesday all those institutions collapsing and you are giving a performance target to the Cabinet Secretary that within one year he or she should deliver the targets in accordance with the contracts signed by the bureaucrats in the Ministry! As a question of good governance, it is in order to support an extension so that responsibilities of the House and the Executive are correctly positioned.

As we do this, I am sure there will be some opposition. It is important to admit that not everybody is keen to have reforms within the sector; there could be those who belong to the small segment that has dominated and monopolized. However, it will be an advantage to postpone a solution for a day so that the solidity of the long-term solution is predictable, durable and beneficial.

I congratulate the Chairman and support this Motion fully aware that in my constituency, Mukurweini, coffee growing is dominant. I know many constituencies will benefit from non-piecemeal reforms that will have stability.

I strongly support.

**Hon. (Dr.) Simiyu:** Thank you, hon. Speaker for this opportunity to support this Motion and to the surprise of the Chair, I guess he thought I was going to oppose.

Hon. Speaker, I would like to tell the Chairman that he should not go for half measures. He should have gone for full measures and brought here a Motion to completely repeal that Act. This is because that Act was crafted by people with ill motive in the Bretton Woods institutions. The whole idea of that was to collapse the agricultural

backbone of this country. This matter was brought in at a time when the House was under a lot of pressure passing constitutional Bills – there were deadlines to be met. Many people were out there trying to campaign and retain their seats. So, nobody paid special attention to this particular Act when it was passed.

As the Leader of Majority Party said, this Act goes completely contrary to devolution and completely contrary to the aspirations of Kenyans with regard to devolution. Granting six months, I would support that, but I urge the Chairman to bring a Motion to repeal this Act within three months. His Committee should then craft a Bill that is more compatible with the devolved system of Government that we are running currently.

If we keep on adopting things that we know are going to hurt us--- It has been a tradition of this country at times when we are under pressure from the donors that we adopt things that eventually kill us. I come from a settlement scheme area. At one point they brought an idea that we do away with agricultural extension officers, cattle dip attendants and so on. This virtually collapsed the dairy industry and people have been destitute ever since. That is what this Act is intending to do.

I would like to task the Chairman and his Committee to craft a Motion within three months that will repeal this Act altogether. They should then craft another Bill that is more compatible with the aspirations of all Kenyans.

**Hon. Kemei:** Hon. Speaker, I want to support the extension of six months. When we sat in the Departmental Committee on Agriculture, Livestock and Cooperatives and we were faced with a big institution that was now being established and it would take effect in the next few days, we realized that we were not going to be in a position to mid-wife it. We are talking of an institution that will bring together 41 parastatals in the Ministry of Agriculture. We are talking of an institution that will handle eight major crops grown in this country and most of them with different marketing systems and value chains. We are talking of hundreds of regulations and circulars that govern the entire agriculture sector. Some of them are still colonial. It was not going to be practicable for this country to implement the ALFA at this point in time. We therefore ask for an extension of six months so that the Committee looks at this Bill critically to see whether or not there are merits in this Act.

In terms of fears, we must admit that any change anywhere brings about conflicts, confusion and resistance. However, look at it critically, we are dealing with institutions most of them technically insolvent, moribund and outright corrupt. We must take action on them. The only thing that we must do is to study this critically so that when we come back, we are able to tell the House the direction we are taking. We should not fear the autonomy of some of those institutions. The Kenya Sugar Board is different from the Sisal Board of Kenya, or the Pyrethrum Board of Kenya. The Act gives them management autonomy so that they are able to discharge their services professionally. We are simply asking that we get the extension of six months and once we are done with that, we should be able to sit with the Cabinet Secretary and all the stakeholders.

We understand that there are certain peculiarities that may not relate to crops and that is why the livestock component was removed from this Bill. I support the extension of six months.

**Hon. Opiyo:** Hon. Speaker, Sir, I rise to support this Motion. I want to register certain observations about this Act that we are talking about. The mood of the country is



that we are moving towards devolved systems. For us to embrace a body that is collapsing several boards into one centralized system could be a disservice to this country. I would suggest that while we extend the time that will be taken for us to operationalize this Act, the Committee on Agriculture, Livestock and Cooperatives, which has asked for this extension should move with speed to study the Act with a view of bringing an amendment or a Bill that seeks to repeal it.

I come from a sugar growing region and I represent Awendo Constituency where sugarcane is mainly grown. It would be sad to get somebody from a sisal growing area to sit on a board that deliberates on matters affecting production of sugarcane. This Act has the ability to slow down the response and reaction time to issues that affect specific sectors. There will be a lot of bureaucracy at the centre that will have the effect of slowing down the rate at which they respond to specific issues. If I have an issue, for instance, with a road or a bridge, it would be easier to deal with the Kenya Sugar Board to help me fix it because they understand it as a challenge that affects my area and their sector specifically. But if I have to deal with a board that amalgamates up to eight sectors, it might be difficult. They might not feel the effect of such challenges that we may be facing.

We do not want to be seen to be getting people out of their jobs. As I speak, we have eight directors or nine who are elected. At the moment, all those boards have elected members engaged in those particular sectors. We have lawyers and accountants in those sectors. I would like to urge the Committee, while seeking for extension of time within which this Act will become operationalized, to move with speed to ensure that we fix what was done in the last Parliament. It is imperative to notice that this Act was passed at a time when most of the Members of Tenth Parliament were engaged in campaigns to retain their seats. For that matter, it might not have been given due attention. Now that we are able to look at it critically, I urge this House to read this Act and decipher what best we can do with it, so that we do not hurt this country. I support this Motion and urge the Members to look at it with a view of repealing the entire Act.

**Hon. M'uthari:** Hon. Speaker, Sir, I rise to support this Motion. Given the importance of the agriculture sector, it is important that the entire Act is reviewed and then see what can be done to improve the livelihoods of our people. We all know the importance of this sector and the many people that it engages. It plays a major role in the economy of this country. At times, things are done in a rush or to please certain quarters to the disadvantage of farmers and the people who are involved.

So, this will give the Members an opportunity to look at the Act and see what needs to be adjusted and how well it can be done, so that at the end of the day, it is for the benefit of the farmers. I support the extension.

**Hon. Nuh:** Thank you, hon. Speaker, Sir, for the opportunity. I rise to support the Motion for the extension of time, so that the line Ministry can get enough time to prepare itself to operationalize the Act. It is imperative to note that the Act means well for this country in general. As you are aware, we are coming from a scenario where every item is under a board. Today you start something, they form a board of directors for it. Those were just avenues to create jobs for cronies. You can ask yourself what the Pyrethrum Board or the Sisal Board has achieved since Independence other than creating jobs for people. You have a Managing Director there and a Board of Directors with many vehicles.

The funds that are given to the Ministry of Agriculture every year are taken by those people in terms of allowances and earnings. There is no research that they have done except for the Tea Board or the Coffee Board. Many of the others are moribund and have no business being in place. This Act should have come into force much earlier than this. It should have come into force last year or during the last Parliament. You are aware that most of the money that is given to this Ministry is normally used on Recurrent Expenditure. It rarely goes to the people who are in need of it. Agriculture has been devolved and I do not think we need as many boards as 47 in number at the moment. If we have nine which have secretariats that are dealing with every subsector, we are going to have leaner organizations that might be more effective than they are today.

We should change our attitudes. The new Constitution has come into force and the issue of having every person in a board so that he becomes relevant in this country must be put to a stop. I support that Act and I want it to be operationalized. I come from an agricultural constituency. Sugarcane is grown in my constituency. I want to have a board that is of use to the sugarcane farmers in my constituency and not a board that just gives jobs to certain people who have been in those boards for the last 20 years. They are never changed. A man becomes a board member when he is 25 years old and he is there until he is 60 years old. I know one gentleman from my constituency who has been a member of a board for many years. So, those boards are of no value to this country. I believe that we need to put the Act in place. It is the right thing that this country has done. Every time a law is passed here, people come and say that it was passed when Members were out campaigning. Those are stories. The few that were here did their best and a good job.

**Hon. Gikaria:** Hon. Speaker, Sir, first and foremost, I want to admit that in the morning when this was brought, I got a little bit confused about the 14 days and five days and then later we heard about six months, but now I understand the issue as debate goes on. I wish to indulge you because of the new Members. I wish to request that during the recess in August, we can get one week of induction so that we can know the proper procedures as to what we are supposed to do. We can also understand some of those things that are a little bit complex.

All the same, I support the extension of six months. I come from a region where we have pyrethrum and it has been a problem for the last almost eight years that the industry has collapsed. We have a board with a chairman, but the industry has not yet picked up even after being given a lot of money by the Central Government. If this is clustered with many other crops, it will even be a bigger problem for us to revive the pyrethrum industry in Nakuru County. I admit that you directed us in the morning that we go and get the Act and try to acquaint ourselves with it. I was a little bit relieved when I got the small amendment. However, I got a little bit confused when I got the Act. When I approached a few Members to assist me try and salvage the pyrethrum industry, it became a bit difficult.

Hon. Speaker, Sir, I want to admit and thank the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives. We would like to have an extension so that we can read the ALFA Bill as we have been told by the Majority Leader and see how best we can deal with this within our regions.

I want to agree with the speakers who have spoken before me that we request the Chairman to repeal--- As much as it concerns the county governments, we can even now

engage the Senate when it comes to the actual repealing of the relevant sections. However, I am purely interested to have some changes because of the pyrethrum industry. If this industry is revived and given proper attention, it will increase job opportunities to almost 200 and very many other people will benefit.

Hon. Speaker, Sir, I beg to support that we get another six months so that we can look at the Act and amend it.

As the Leader of Majority Party had put it when he was making his contribution, I totally agree that those things were rushed through the last Parliament. Hon. Kabando wa Kabando has also said that they were rushed to meet a deadline without due consideration of the effect that it will have on the local areas.

As hon. Neto has just said, again, we will devolve governance. So, we also need not start centralizing those issues again. We need to decentralize and take them back. Of course, there are those that have not been of any material use but now that we have the governors in office, they can take up that issue.

In my region, we engaged the Governor and all the 11 Members from Nakuru County. The Managing Director of the Pyrethrum Board of Kenya (PBK) told us that the Act is already operational and we should keep off because it is not our business any more. I think this will give us an opportunity as Members of Parliament from Nakuru County and the county government to look into this Act and see how best we can revive the pyrethrum industry.

Thank you, hon. Speaker, Sir.

**Hon. Kaluma:** Thank you, hon. Speaker, Sir. There appears to be consensus in the House in supporting this particular Motion. I only need to add something by way of jogging the memory of the House.

Sometime in 2000, there was a popular Act in the finance sector which would have brought a huge benefit to the nation. That was the famous “Donde Act”. That Act was merely killed because the date of commencement was stated to begin one year before the Act was legislated. Of course, the House will remember how much has gone into prohibiting that important law from becoming operational. I know we are making efforts to get it back. There has been more than one attempt to get that Act in place.

I wanted to remind hon. Members about that fact. I want to support this Motion and urge the membership in this House that we risk crushing the entire Act if we do not agree on the amendment being sought here.

There could be issues with the parent legislation and this was the problem when, as lawyers, we were looking at it, which I regret having participated in killing. I think we are thinking of how we can reintroduce that Bill.

In terms of the previous legislation, there was no single provision which had a problem. It was just the date of commencement. My thinking is that we support this and we extend the period so that we properly operationalize the Act. In terms of the substance of the Act, we can sit as a House through the relevant committees, processes or as individuals and we see what amendments we need to make so that we have a properly functioning Act and a law that serves our people well.

Hon. Speaker, Sir, there is something as I end my contribution that confuses me. In our developing nation those functions which have been taken down to the county government are exclusively functions of the county government. There is no level at which the national Government should intervene. It is something that we also need to

begin thinking about very seriously. This is particularly in context of an important Bill or statute like this. There are some functions which we need to begin engaging in. If you left all of them, going by the nascent state of the county government structures - of course, it was debated in the House the experiences we are already seeing - we could just but kill those very important sectors of our national governance. I urge fellow hon. Members that we pass this one, we save the statute, we sit in good time with a cool and sober mind and we see what amendments we can deal with so that we have an Act that benefits us.

There is a very good reason why there is a county government and a county assembly. There is a reason why we are Members of the National Assembly. We take into account the interest of the entire nation. As the Speaker rightly says, I would not believe that there is any limitation to our legislative mandate.

We read and reread our Constitution and slept over it. I do not think there is anybody who is saying that the hands of this important national institution--- I know that this is the only institution where the entire nation is assembled. In my view, we are called the National Assembly. I remember last time I said that when I speak, it is Homa Bay Town Constituency speaking. That is the case for all hon. Members here. So, we cannot shy from responsibility and begin saying that this is a function touching on the county government and we cannot do this and that unless we seek the concurrence of this other institution. I think we should be bold enough as national leaders when issues like those come up, we take them up and deal with them.

Hon. Speaker, Sir, I urge the House that we support this and move as fast as possible to look at the Act so that we can move forward as a nation in this important sector.

With those many remarks, I beg to support.

**Hon. (Ms.) Chepkwony:** Thank you hon. Speaker, Sir. This is the first time I have caught your eye. I beg to support the Bill because there is tea industry where I come from and, it has so many issues. If it were to be merged with coffee, sugar, or sisal, as some hon. Members have said, I do not think the small-scale farmers would get the best service.

Hon. Speaker, so those who passed the Bill during the last Parliament did not think broadly about changes that are taking place in this country, for example, devolution. Our Government is now devolving into counties and farming and other activities will be efficient.

Hon. Speaker, Sir, if we merge everything and take it to the national level, I do not think the Chief Executive Officer will manage issues of the whole country. For that reason, we support the extension so that we can see which ones deserve to be merged and which ones can remain as they are.

Hon. Speaker, Sir, concerning roads in the tea and sugarcane growing areas, the mode of transport is different. For example, in sugarcane growing areas, tractors are mainly used, while in the tea growing areas, they use lorries and pick-ups. Therefore, it needs close management. The cess for tea should go to the tea growing areas, while the cess for sugar should go to sugarcane growing areas.

Hon. Speaker, Sir, the pyrethrum industry has totally collapsed and we do not know which sector will agree to use its funds on it. So, for that reason, it is unfair to merge all those parastatals. For instance, sisal is grown in Mombasa, how can you expect a CEO in Mombasa to manage the tea industry? What knowledge will he have of the tea

industry? So, even if we are going to extend and talk about it, we are going to deal with it individually and see the ones which can be merged and those which will not.

With those few remarks, I support the Bill.

**Hon. (Ms.) Mathenge:** Thank you, hon. Speaker, Sir. I do not want to complain that you have caught my eye for the first time and you have noticed me.

**Hon. Speaker:** I only notice hon. Members from the screen.

**Hon. (Ms.) Mathenge:** Okay. I want to say that when this Bill was tabled in the Cabinet, it brought a lot of acrimony; first, because there had not been enough consultations amongst the stakeholders. I remember hon. (Dr.) Kuti almost cried when livestock was included in the Bill. One of the concessions made were that livestock would be removed from this Bill so that hon. Kuti could be accommodated.

Hon. Speaker, Sir, the other issue that was also raised at that time was that of merging all those sectors, which have nothing in common, and some of them were even dying. One of the biggest concerns at that time was that the Pyrethrum Board of Kenya was also being merged. At the same time, the then Minister for Agriculture had brought a paper to the Cabinet proposing to sell off all the assets of Pyrethrum Board of Kenya. Then we asked, "How will you merge this pyrethrum with all those other groupings while already you are winding up the Pyrethrum Board of Kenya?" So, we realized that we were being coerced into passing the Bill.

Hon. Speaker, Sir, if I remember correctly, we did not come to a consensus. So, as I support the Bill, I plead with the Chairman, I want to ask him not just to apply for consent but to relook at the Bill *in toto* because it is not going to help the farmers of this country and Kenyans who form over 80 per cent of the population. So, I would like to ask him to seek leave to repeal this Bill so that we can sit down again and relook at it. It was felt that it was not necessary but some people were just trying to build a name for them at that time.

Thank you, hon. Speaker.

**Hon. Oyugi:** Thank you, hon. Speaker, Sir. I rise to support---

**Hon. Speaker:** Are you on a point of order or I have heard it from Dr. Nyikal?

**Hon. (Dr.) Nyikal:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** There is a point of order. Hon. Oyugi, just hold on so that we can hear from hon. Dr. James Wambura Nyikal.

**Hon. (Dr.) Nyikal:** Thank you, hon. Speaker, Sir. Much as I find this debate interesting, I do notice that there is strong consensus on the debate on this Bill that we extend the time and that we reconsider the Bill, if necessary. Would it be in order at this point to call on the Mover to reply?

**Hon. Speaker:** Can we hear the contribution from hon. Aghostino Neto Oyugi and then I will put the Question?

**Hon. Oyugi:** Thank you hon. Speaker, for indulging me on this one. I appreciate and thank you very much.

**Hon. Member:** But he has contributed already!

**Hon. Speaker:** The hon. Aghostino Neto Oyugi did not contribute to this debate. He stood on a point of order to raise points which we have already ruled on. So, he is perfectly in order and he is above all of you. So, we must follow the procedure, first come first served.

**Hon. Oyugi:** Thank you very much hon. Speaker, Sir, for protecting and giving me a chance to contribute to this particular Bill. I appreciate and thank you very much.

I rise to support the Motion on the Bill. Of course, I am happy that the issues that I raised in my points of order have been properly canvassed by my colleagues, some of whom were in the Tenth Parliament, with the other hon. Members.

I just would like to tell the Chair that this particular Bill is one of those Bills that I did participate in, in the Tenth Parliament when it was coming to see the right of the day. It was one of those acrimonious Bills and I remember we were very few of us, about 10 or 15 hon. Members and it was about 11.00 p.m. in the night. I can tell you, hon. Chair that there was fist to cuffs on this particular Bill. Hon. Members did exchange and the Serjeant-At-Arms had to be called in to get us out of this Chamber. It was that bad because few hon. Members thought that we were being short-changed. I am happy the hon. Murugi does state very well that there was not even concurrence at the Cabinet level.

Hon. Speaker, Sir, the reason why I was asking that we reconsider this, perhaps, I did not canvass the point of order properly; it is because, if we had to operationalise the Bill as it is right now, I think as country we will be facing collapse. Agriculture is the backbone of this country and 70 or 80 per cent of Kenyans get employment from the agriculture sector. Indeed, it is true that the then Minister for Agriculture and other operatives were stronger than us, and had other intentions in bringing this particular Bill. I think it was not properly intentioned.

Hon. Speaker, Sir, we were trying to meet constitutional deadlines in terms of legislation with issues relating to agriculture, but I do not think that we met a constitutional deadline. We made it in the wrong way with the wrong legislation. It is not possible for us to collapse all the various sectors of agriculture. Kenya, being an agricultural country, we ought to emphasize and use appropriately our comparative advantage in this part of the world. Kenya can grow anything and we can export anything. It is agriculture that is going to make us be one of the great economies in this particular region. The more boards we have, the best and the merrier.

If we can grow potatoes and have a potato board or if we can grow sorghum and have a sorghum board it means we will put more money in research and in terms of making agriculture the backbone of our country to give us more money. So, whereas I rise to support this particular Motion on the Bill, I am really of the impression that the Departmental Committee on Agriculture, Livestock and Cooperatives did not just ask us for extension. Of course, hon. Members have spoken very well and they want this particular Act repealed.

I come from a sugar belt region and 60 per cent of my constituents are sugarcane farmers. They are totally uncomfortable with this particular Act because the Kenya Sugar Board, for example, that sustains most of the work down there is going to be amalgamated, fussed with something that we do not understand and which is totally postulate. If my role here is to represent the voices of Ndhiwa, I really think this Act is not in their best interest. Let us extend this period, but let us not extend to operationalise, but to bring in various Acts. Perhaps, we should be having specific Acts for various sectors of agriculture. Let us have Acts for every agriculture sector, like the sugarcane, pyrethrum and the rest, so that we can facilitate research and other various agricultural production; one to create employment, but to also support the developing economy.

With those remarks, I support the amendment and appeal to the Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives to bring a Motion to repeal this Act with consequential legislation that will be touching on various agriculture sectors.

Thank you very much, I support.

**Hon. Washiali:** Thank you, hon. Speaker, for giving me this opportunity. I rise to support the Motion.

**Hon. Speaker:** Let us hear a point of order from hon. Njagagua

**Hon. Njagagua:** On a point of order, hon. Speaker. As somebody said, this is the National Assembly, and a lot of things come to light in this Assembly. Is hon. (Ms) Mathenge in order to say that she was coerced to assent to the Bill? Had the President delegated the work of assenting to the Bill to her? Is she in order?

*(Laughter)*

**Hon. Speaker:** Unfortunately, hon. Mathenge is not on the Floor. So, she may not have a chance to respond.

Proceed, hon. Washiali.

**Hon. Washiali:** Hon. Speaker, I rise to support the Motion reluctantly. I am one of the oldest Members of the Committee on Agriculture, Livestock and Cooperatives. I was a Member of the Committee during the Tenth Parliament, where I served for five years. Luckily, I am still a Member of the same Committee.

I want to request my colleagues that they should not wholesomely condemn this Bill. I would request the Chairman of the Committee that as we extend the effective date of the Act, we organise a *kamukunji* and invite the Agricultural Sector Co-ordination Unit (ASCU) to come and educate hon. Members on what informed them in coming up with the Bill that produced this critical Act. The Act, whose effective date we are extending, is not the Bill that we passed. The Bill that we passed, whose effective date I think we should be extending - I intended to bring amendments to it tomorrow during the Third Reading - is the Agriculture, Fisheries and Food Authority Bill. This Bill requires some changes to include the Authority, which is not indicated here.

Hon. Speaker, even though today we talk of 26 per cent of the population of this country depending on agriculture directly, we should agree, as a House, that the agriculture sector has given us a lot of problems. Farmers receive their fertilizers late. When they are supposed to be harvesting, it is when they receive fertilizers for planting. Farmers in the pyrethrum sub-sector are owed money by the Pyrethrum Board of Kenya for deliveries they have made to it for many years. They have never been paid. Where I come from, we have the Kenya Sugar Board which is supposed to supervise sugarcane farming, but farmers who elected me to this House have not been paid for six months. So, we should ask ourselves what benefits we are getting from all those boards, which are supposed to be managing those sub-sectors?

I had the advantage of travelling quite a bit during the Tenth Parliament. Unfortunately, in the 11<sup>th</sup> Parliament, I do not see chances of travelling at all. The truth of the matter is that I have been to the Republic of South Africa, Germany and Israel. I did not see anything like the National Cereals and Produce Board (NCPB) in Israel. I did not see anything like that in Germany, yet Israel and Germany are countries we are proud of.

In fact, if there is anything that we have to borrow in agriculture, we should go to Israel. Israel does not have the numerous boards that we have in Kenya. The big question we need to ask ourselves, as a House, is what changes the many boards we have in place have brought or translated to benefits that have changed the lives of the farmers who have elected us to this House.

Hon. Speaker, therefore, I support the Chairman on his request for extension of the effective date for the Act. As we approve this Motion, I would like to ask the Cabinet Secretary for Agriculture and ASCU to come up with a programme with clear timeline that they will have to meet so that by the end of the six months period, they will have put in place structures to enable them operationalise the Act. Even when the President was opening the Agricultural Society of Kenya (ASK) Show in Nakuru he talked about this Bill and explained to farmers what was required to be done to benefit them. Therefore, this House should not be used to protect the jobs of individual members of the boards of the parastatals that will be affected. If those directors have not been benefiting farmers, it is high time they went home, so that farmers can benefit directly through the authority that will be put in place.

Hon. Speaker, with those remarks, I beg to support.

**Hon. Speaker:** Hon. Washiali, I do not understand when you say that the Bill that you support is not the one under discussion. The Bill being debated now is titled “The Agriculture, Fisheries and Food (Amendment) Bill, 2013”. It is the same Bill that is on the Order Paper. You may have been referring to the Act, if you had a different thing in mind.

Proceed, hon. Cyprian Kubai.

**Hon. Iringo:** Thank you, hon. Speaker, for giving me the opportunity to support this Procedural Motion. I support the extension.

Hon. Speaker, agriculture is the mainstay of our economy in terms of feeding our people and the commodities that we export. After listening to the hon. Members who spoke earlier, especially those who happened to be around during the Tenth Parliament, I am convinced that the Bill that resulted in this Act was passed haphazardly. In fact, the Leader of Majority Party, hon. Duale, put it clearly that it was passed during the wee hours of the night, when most of the Members present were tired and sleepy.

**Hon. Speaker:** Hon. Kubai, there is a point of order from hon. Benjamin Jomo Washiali.

**Hon. Washiali:** Thank you, hon. Speaker. My colleagues have repeatedly said that the Bill was passed during the wee hours of the night, others said that they were coerced and some said it was passed when we were supposed to be on the ground campaigning for our re-election. I think we need some guidance. When does Parliament stop to pass Bills? Such statements will reflect this House badly, if we allow them to pass unchallenged. In order for us to have worked that late, a Procedural Motion had to be passed by hon. Members to extend the sitting hours of the House, something which was accordingly done. Therefore, nobody should look at anything that was approved by the House with suspicion or claim that Members were coerced or say that Bills were passed during the wee hours of the night. I do not know what wee hours of the night the hon. Members are talking about.

**Hon. Speaker:** Hon. Members, even if the Bill was passed during the wee hours of the night, there is nothing wrong with that, as long as the House was properly



constituted and sitting at such time. There would be a problem if the House was not properly constituted. So, as long as the House was properly constituted, there was nothing wrong about the time when the Bill was passed.

Proceed, hon. Kubai.

**Hon. Iringo:** Hon. Speaker, I am sure that those are the words of our colleagues who sat in the Tenth Parliament. They are not my words.

Hon. Speaker, as I was saying, lumping together of all these subsectors in the Bill is being unfair to the agriculture sector. I think we should be devolving and putting more emphasis on individual crops so that they are managed professionally and scientifically. Lumping them together means that attention to some of them will not be there and they will not be recognized. There are those that will get more attention and others will be left to die. I support that we allow this extension. This should apply to the Bills that are pertinent and are the backbone of this country. We need to provide ample time so that we research on them and get to the bottom of issues. That will enable us to come up with resolutions that are of benefit to future generations of this country. We should not rush to complete issues and in the short run we start regretting.

I support this extension. We have an *ad hoc* committee that was formed to look into the issues of *miraa*. I believe that by the time we are ready to work on this one we shall have come up with a report and in essence include *miraa* as an agricultural crop. That way it will be recognized in the Act and therefore save the people of Igembe from the agony of terming *miraa* a drug and yet it is not.

I strongly support.

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

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Shebesh) took the Chair]*

**Hon. Bunyasi:** Hon. Temporary Deputy Speaker, I rise to support this Motion. We need to look at the entire legal framework that was set by the last Parliament. I have no quibbles about the Bill that was passed. I do not believe it was conceived overnight; it was as a result of a huge effort. I do not even believe that there was some conspiracy from outside agencies that got this done in a way that belittles our professionals, politicians and the entire Government structure then. I feel that this is a creation of Kenya. We must learn to accept that everything has consequences. We must learn to deal with the consequences.

As I support the Motion that we extend the period to six months, I would like to plead with the Chairman of the Departmental Committee in charge of agriculture to look carefully at why the extension needs to be six months or longer with a view to taking on board some of the sentiments that have been expressed on the Floor. From my understanding we may need to have a new look of the architecture of our agricultural institutions.

I want to agree with the hon. Members who said that there is nothing inherently wrong with merging institutions. Some of the institutions were moribund, but some of them may have common interests. This extension will give us a chance to look again at the question of jobs and whether the cost of those jobs was worth the losses and costs

being imposed on the sector. I see there are very many strong reasons on either side of the argument. The extension must be sufficient enough for the Committee so that it brings to this House a working arrangement that is fully consulted including public participation. The House should be able to look at it at the policy level before any enactment is done.

Hon. Temporary Deputy Speaker, I come from a sugarcane growing zone and I would not stand here to say that sugarcane must be protected because it covers us. In case of sugarcane, it is much easier to get specific services to farmers, for example, road maintenance. However, there are other instances where you might want to have those arrangements on an ecological basis. So, you serve the farmer from a point of view of many aspects that affect the farmer.

We will have an interesting debate when the Bill comes up. I support this extension, but urge the Chairman to ascertain whether or not he needs six months or two years. Once we have the extension, we will have enough time to make all the changes and then come back to the House.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Speaker, I stand to support. I agree with hon. Washiali that there is need for wide consultations on this Bill. I looked at this Bill when it was before this House. I am one of the people who sat here during the wee hours and I brought several amendments. I know it was acrimonious which is typical just like the Marriage Bill is bringing acrimony even before hon. Members know what it is all about. That is the nature of legislation.

However, in order to carry people along it is good for hon. Members to know or listen to the sides like hon. Washiali who thinks that there is need for a big institution and reduce bureaucracy and like hon. Junet and others who can convince us why we need to have all those small units. For myself, I had pushed for separation of fishing from the Bill. However, I was convinced to allow it eventually. This is because, really, if you compare fish and tea and pyrethrum, they are really incomparable.

So, we will have to look at whether we need to collapse fish with livestock and so on. The extension gives us a good opportunity to reexamine. The only thing is that it regrettably takes away some of the good amendments that were bringing sanity in some of the industries, for example, the fishing industry. I had brought an amendment on *ex situ* and *in situ* fish breeding which the more we delay in passing this Bill the more time we take in terms of operationalizing that. Even the issue of the grant that we had passed that should benefit fishermen will be delayed. Fortunately, in relation to the grant, we passed a Motion which got a hurdle because when it came to budgeting it was said that it is a county function.

This goes back to the same thing that hon. Members have said here. That even as we pass those Motions and Bills which have county and national functions, we need to ask ourselves the place of the National Assembly in this structure. Is the constituency a unit of devolution? If it is a unit of devolution how does it sit within that structure of devolution?

Hon. Temporary Deputy Speaker I want to disagree with my brother--- Not my brother actually, but my uncle hon. Kaluma in terms of his sentiments on devolution. I think if you look at why we are extending this period, it is because the Ministries are not ready. We are within a period of transition. In this House we are using the same reasons to attack governors. I think we are moving in the wrong path. Devolution is the sure way of bringing sanity and equality and equity to this country. We know that there may be

governors that are excited and may be bringing motorcades. So what? Even us we bring our motorcades without being governors. Let us spend less funds and encourage our governors. We need to give them direction if they are going wrong, but we must support devolution. We are not going to support devolution when at every single opportunity we find, we attack governors and Senators.

Hon. Temporary Deputy Speaker, if we are having teething problems in terms of devolution, let us proactively sit with our Senators and governors and stop this chest thumping. The first time we were attacking Senators and now we are on a war path with governors. Very soon, we will be on a war path with ourselves. Let us bring sanity and we need to take leadership and bring Senators and governors together in order to ensure that we effect devolution for the benefit of Kenyans, especially the marginalized areas of this country.

I support.

**Hon. Nuh:** On a point of order, hon. Temporary Deputy Speaker. Judging from the mood of the House, would I be in order to request you to ask the Mover to reply?

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Have you already contributed to this debate hon. Junet? If you have contributed, you know the Standing Orders do not allow you to then raise that kind of point of order.

**Hon. Langat:** Hon. Temporary Deputy Speaker, this is a pretty simple Motion that we give the Cabinet Secretary time to adjust themselves and see how they can implement this Act. The request for extension of time is reasonable to the extent that even us in Parliament came through a transition period and our budget process was not done as usual. Therefore, this request by the Cabinet Secretary that we give him time to sort himself out is reasonable. We need to support.

Having said that, the Act as it is today, as has been said, has a lot of issues. The issues are so fundamental that even the time that the Chairperson is requesting is not enough. The sectors of this economy are so different in terms of their levels of development. Therefore, I would plead with the Chairman to allow amendments at the Committee stage, so that we can extend time to one year or two years, so that we can relook at those issues properly and soberly. I agree that at the time we passed the Bill in the Tenth Parliament, the House was in the mood of changes. It was in the mood of bringing changes to the Constitution, so that anybody who opposed was seen to be anti the new Constitution. The mood of this 11<sup>th</sup> Parliament is sober and the Members are willing to deal with those things soberly.

Those issues are fundamental. For example, where I come from and my friend from South Mugirango, we grow tea. We also grow a bit of sugarcane. If there is a sector which has remained stable for a long time when others were dying it is the tea sector. Out of the other crops, it is the only crop that has been performing well. We only need to encourage it as opposed to using it to subsidize the other crops which are not doing well. If we want to save Government's money, we should look at the sectors which are not doing well, for example, pyrethrum and then we can merge them, so that when we are giving support, we give support to more than one sector. But sectors like the tea sector should not be merged. Coffee was just about to do very well, but if we lump it together with other sectors, the attention that has been given to coffee farmers will cease to be there.

Therefore, we need more time to relook at the Act itself, so that we do not interfere with the sectors that are earning some income for this country and providing employment opportunities. Given the issues that have been raised, I want to ask the Chairman to consider making the extension to one or two years, so that we can look at those things soberly. I would also encourage him to organize a forum for us, so that we can look at the main Act and not the Bill, so that we can understand it and we can assist him to propose amendments that should come through the Committee.

With those few remarks, I support that the Bill be read the Second Time as soon as possible.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, I rise to support the request that the Bill be read the Second Time. It is important to know that the agriculture sector is the mainstay of this country. Therefore, it is important that we give enough time to this sector, so that they can organize themselves.

Firstly, I know for sure that there are so many sectors. We have talked about the tea sector. I quite agree with the Member who has just mentioned about tea. We also have pyrethrum. As we talk about food, it is important that we give the Ministry of Agriculture, Livestock and Fisheries enough time to organize itself. I request that when they come back after six months, I expect the Ministry to have a food policy for this country. I get amazed that countries like Egypt and Israel have food policies, which are very dry. In recent years, this country imported maize from---

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chepkong'a, once you have pressed the intervention button for a point of order, I can see it. You do not have to shout.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, he is wasting my time. He should wait for me to finish and then he can raise his point of order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Wanyonyi, please, give hon. Chepkong'a a chance to raise his point of order.

**Hon. Chepkong'a:** On a point of order, hon. Temporary Deputy Speaker. This system, at times, requires standing up to support it. It does not have eyes except you. You know, of course, where I come from, we are an athletic county and I was trying to exercise that prowess originally from that region.

On a more concrete note, I rise under Standing Order No.95 as read together with Standing Order No.83. Would I be in order to request you to call upon the Mover to respond? There is consensus in the House, particularly when the Leader of the Majority just walked in, we thought that we do not want him to contribute when he has not heard too much. He can take priority easily. Would I be in order to request that the Mover be called upon to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chepkong'a, we still have very many requests. So, I have to ask the Members what they feel about your point of order. So, I will put the Question as to whether we should call upon the Mover to reply.

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

The Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives, please reply.

**Hon. Angatia:** Hon. Temporary Deputy Speaker, I thank all the Members who have supported this Motion. I will donate one minute to Hon. Wanyonyi to finish his points.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, I was just making a very important comment. The thing is---

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. F.K. Wanyonyi, have I given you the Floor?

**Hon. F.K. Wanyonyi:** But he has donated to me one minute.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Chair, can you repeat whom you have donated time to contribute.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, I have donated half a minute each to Hon. Wanyonyi and Hon. Kajuju.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Go ahead Hon. Wanyonyi.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, since the Chairman is very mean on donating a minute, I support the Motion.

*(Laughter)*

**Hon. (Ms.) Kajuju:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity to speak. I also thank the Chairman, Departmental Committee on Agriculture, Livestock and Cooperatives for donating half a minute to me.

There is a very important point that I want to raise before this debate is concluded. I support the Bill and the Motion. I also support the Majority Leader when he talks about extending the period for this Bill for one year. This is because as the Chair remembers, and you are my friend on this, the *ad hoc* committee on *Miraa* has 90 days to table its report. I have looked at the Crops Act and consulted my brother, Hon. Kareke Mbiuki who has been in the Ministry of Agriculture and he has told me that the Crops Act will collapse once we pass this Bill on agriculture.

If my Committee and this House agrees with me, among the scheduled crops that should be classified together is *miraa*. Therefore, I pray that if we also get one year instead of six months then we shall be able to persuade this House to have *miraa* classified as a scheduled crop so that it can also be part of the crops that will be brought on board in this Bill.

Otherwise, I support. Thank you, Hon. Temporary Deputy Speaker.

**Hon. Angatia:** Hon. Temporary Deputy Speaker, in conclusion, I would like to thank the Members who have contributed to this important Motion. Hon. Temporary Deputy Speaker, I request you to put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed  
to a Committee of the whole House tomorrow)*

**MOTION****MECHANISMS FOR WASTE DISPOSAL IN NAIROBI CITY**

THAT, aware that Kenya and specifically Nairobi, hosts the headquarters of the United Nations Environment Programme (UNEP); cognizant of the fact that Nairobi hosts more than four million Kenyans; concerned that the capital city chokes in waste; further aware that there is no proper garbage collection, safe and friendly disposal mechanisms; concerned that Dandora hosts the largest dumpsite for garbage generated in the city; deeply disturbed that the dumpsite has affected the health of the residents in Dandora; this House urges the Government to, amongst other measures, devise friendly waste disposal that should also include putting up recycling plants within the dumpsites, that will ensure garbage collection and disposal from the point of generation.

*(Hon. Gakuya on 17.7.2013)*

*(Resumption of Debate interrupted  
on 17.7.2013 – Morning Sitting)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Who was on the Floor when this Motion was being debated? Is Shukra Hussein not here? She is not here. I will take any other Member. If you have placed intervention that you want to contribute, can you be clear that you are now contributing to the Motion by Hon. James Gakuya. Be sure that this is the Motion you want to contribute to so that I do not call upon somebody who is not ready to contribute to it.

**Hon. Onyura:** Thank you very much, Hon. Temporary Deputy Speaker. I rise to contribute to the Motion by Hon. James Gakuya. I support this Motion because it raises a very important matter. It raises the issue of garbage and waste management. This is one of the areas I would like to say that we have largely failed. This is because management of garbage is very poor indeed. It is haphazard, it is poorly coordinated and I think to some extent harmful.

It is high time we looked for ways, structures and approaches that can transform or completely change and improve the way we have managed our garbage and waste. This is a way that will be beneficial to this country, be it in the cities or in the rural areas.

This is a matter that we should be thinking very much outside the box. The way garbage is being managed now is very poor. We should learn from other countries or jurisdictions how they manage their waste.

If you have visited or travelled to other countries or cities, you will not smell the stench or offensive smell that you will smell when you visit the dumpsites. You will get a foul smell when garbage vehicles pass in this country.

Hon. Temporary Deputy Speaker, I think we need to institute a lot of research in this area to find out whether there are ways, even as we manage our waste, it can be useful to us. For example, if we can get a way of managing and recycling waste like polythene bags and plastics, we will create employment opportunities and we will clean up our environment. It will also be an income earner to many people. I know that those things can be done. It is only that we, as a country or a nation have not seriously applied our minds and resources towards this venture.

I believe that the Motion that Hon. Gakuya has brought up, so long as it is handled properly and we put in place structures and organizations that can manage it, is something that will be highly beneficial to this country.

Hon. Temporary Deputy Speaker, I beg to support this Motion.

**Hon. (Ms.) Mathenge:** Thank you, Hon. Temporary Deputy Speaker. I also want to thank Hon. Gakuya for bringing this Motion to this House. However, I would also like him to relook at the matter in a holistic manner because garbage and dumpsites are not only in Nairobi. I think this is all over the country and that is why I requested for a Statement from the Cabinet Secretary, Environment, Water and Mineral Resources so that we can know whether they have a waste management disposal policy for the entire country. We also want to know whether funds have been set aside for the governors to deal with waste disposal. Also, to understand whether there is any funding that has been set aside for the counties to deal with waste disposal.

Hon. Temporary Deputy Speaker, if you want to know that you are approaching a town or shopping centre in Kenya, it is not the goats, it is not the people that you see, or will show you that you are approaching a town, it is plastic papers that fly all over. We need to devise a way on how to deal with this.

If you travel outside Africa into the western countries, you will be amazed at the level of cleanliness and waste management. We need to look at waste management and disposal, not just as a way of sweeping dirt, but from where it is seen. In most cases, it is done into the drain pipes, so that when it rains, we even have to deal with overfilled drains, but how do we economically manage it and ensure that waste is translated into energy? I hope when the statement will be given by the Chairperson of the Departmental Committee on Environment and Natural Resources, she will have a proposal of how the Ministry envisages to see waste not just as disposal but also how we can convert it into energy and that is how the western world deals with wastage management.

Hon. Temporary Deputy Speakers, the posts that were used to fence Aberdares forest were made from recycled plastics and we do not have to waste the plastic papers that are flying all over. We can convert them into usable material that our youth, whom we are crying every day that they do not have employment, can actually be gainfully employed by managing the waste disposal.

Hon. Temporary Deputy Speaker there must also be high penalties for people who dump waste. Some of those trucks which collect garbage just deposit it anywhere without care of where they are depositing it. Among the hazards that are occurring are high rates of respiratory problems for the elderly and the young; alongside the dumpsites most of the occupants of those house actually have a major respiratory problem. We need to look

at this and know whether there is a funding that can actually deal with this. There is also the issue of the properties that are around or near dumpsites. Their values are depreciating instead of appreciating, while in the rest of the urban areas the property values are appreciating. We need to look at this and find out how those people who have found dumpsites at their doorsteps can be compensated.

With those remarks, I wish to support hon. Gakuya and urge him to join me and the rest of us so that we can look at dumpsites in a holistic manner, not just in Dandora but in every urban town of this country.

Thank you very much. I support.

**Hon. (Ms.) Kedogo:** Thank you hon. Temporary Deputy Speaker. I just want to support the Motion because as far as we know, Dandora has very many less fortunate members of society and there is even a high level of poverty. Garbage is actually being put in that area and yet we have so many people living there. So, there is no adequate sewerage system and the one that is there emits waste into the river which people use. So, that is actually creating health and environment risks and urine that seeps into the soil also kills plants that are there because of uric acid. Even the air that comes from the garbage is harmful.

Hon. Temporary Deputy Speaker, if you look at the United Kingdom (UK), they have a better system that they are using on garbage disposal. If you look at other countries, besides UK, we also have New Zealand where they have put levies on garbage and waste disposal. If we can get a better way of disposing garbage, our country would not lose so many people through respiratory diseases.

Hon. Temporary Deputy Speaker, I wish we would get a way of disposing plastics and glass so that we can recycle them. If we do that, we shall create jobs for our youth and put measures in place so that we do not expose our people to risk. I would request that we look for a way through which we can form a committee which can do research and find better ways of waste disposal.

Thank you so much.

**Hon. Manje:** Thank you hon. Temporary Deputy Speaker, for giving me this chance to contribute to this very important Motion. This Motion is very dear to me because my constituency which is just next to Nairobi shares the same problems with Nairobi City. Garbage disposal is part of the problems that I am facing in Kajiado North.

Hon. Temporary Deputy Speaker, when I was elected the Member of Parliament for Kajiado North, I realized that one of the issues that I was going to face is a lot of garbage in my constituency, especially from Ngong Town and Ongata Rongai areas. When I did some investigation, I found that some of the garbage comes from Nairobi, Dagoretti, Karen and Langat areas. This meant that the dumpsite at Dandora is not accessible and that is why they are bringing this material to my constituency.

Hon. Temporary Deputy Speaker, this Motion is very important because the solution will be given in what hon. James Gakuya has come up with. I want to bring to the attention of this House the kind of materials that are brought to my constituency and also taken to Dandora. Some of them are very harmful materials from hospitals; *Jua Kali*, Industrial Area and also all sorts of materials which are very harmful to the residents of Dandora and my constituency. So, we share the same problem.

I want also to say that some of those dumpsites like Dandora are not restricted and, therefore, anybody can dump any form of material there. In my area, one of the



dumping sites is Ngong. One day there was a van which deposited half part of a human body, meaning that the dumpsites are not controlled. We have to get a good method of disposing waste materials in our country.

Hon. Temporary Deputy Speaker, there was a research done from the soil around Dandora area and it was found to contain heavy metals like lead, mercury and other very harmful materials. This means that we do not control or manage this waste and it would be very harmful to our people. There was also another research that was done to check the rate of respiratory diseases amongst the people around that area and it was found that 50 per cent of school-going children and old people in that area were infected. Therefore, we have to come up with a solution, as a country.

Hon. Temporary Deputy Speaker, wherever there is a dumpsite, it attracts street families who feed on those deposits. This means our people are living a very disgraceful life through such dumpsites. Therefore, it is time we came up with ideas on how to deal with such issues. Another issue that I would like us to note is that Nairobi River passes just across Dandora dumpsite. So, some of the materials are taken downstream. Therefore, the people living on the lower side of Nairobi have also been exposed to those harmful substances.

Therefore if, as a House, we do not come up with an effective way of controlling the situation, our country will never develop. One of the indicators of development in a country is the environment. If the environment is green, it responds to the development needs of a country. The area occupied by the dumpsite is about 100 acres of land. If we create a recycling plant, it will occupy about 20 acres, meaning that the remaining 80 acres can be released for development. Some people think that the material at the dumpsite can be burnt. When that material is set on fire, it produces some very toxic gases that affect people. So, there is no solution other than creating a recycling plant.

Hon. Temporary Deputy Speaker, a recycling plant will create employment for our youth. We cry for employment yet garbage disposal is a chance we can use to create jobs for our youth.

With those few remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Yes, hon. Benson Makali Mulu.

**Hon. Mulu:** Thank you, hon. Temporary Deputy Speaker. I also rise to support this Motion because waste disposal in this country has become an issue of concern.

One of the things that contribute to this serious problem in this country is the way garbage collection is being done. In most towns, garbage collection has been left to private companies. Private companies are normally organized when they go to pick up garbage from households. However, immediately they leave the households, they get disorganized. That is why the waste they collect drops off their vehicles as they drive to the dumpsites. When they get to the dumpsites, they do not care how they dump the garbage. So, it is as a result of carelessness that a dumpsite like the one in Dandora has become very expansive. As a result of unplanned dumping, a number of problems arise. For example, there are health challenges related to unplanned dumping of garbage. The people who live around dumpsites experience what is known as upper respiratory infection because of the environment in which they live. At the same time, most of them suffer from skin diseases because of the kind of emissions from the dumpsites.

Hon. Temporary Deputy Speaker, there are also social challenges. We have lately been reading in the media that in the area around Dandora, there are lots of rape cases. The dumpsite is expansive. The area is not lit. So, the women who live around that area find themselves getting into problems, more so because of the street families that live around the dumpsites. There are also cases of murder in that area. So, I really like the idea of coming up with a recycling place in that area. Such an initiative will, first of all, create employment for the same youth who engage in those bad activities. Once we have a waste recycling plant, we will have unskilled people grading the waste. Before the garbage is taken for recycling, there is some manual work to be done. So, there is creation of employment. Therefore, the young people who engage in crime and other undesirable behaviour will be engaged positively. They will make some money for themselves. At the end of the day, the income levels of the people living around the dumpsite will increase. So, we will be helping them to get employment, which will lead to better standards of living. That is why I think this Motion is very important.

At the same time, let us not forget that this problem is not unique to Dandora. It is actually a countrywide problem. For example, those of us who use Mombasa Road know that as one drives towards Machakos, the moment he gets to Athi River, the environment changes. The situation sometimes gets very embarrassing, especially if you are with your family and then all of a sudden the environment changes. One might think that somebody in the car has polluted the air and he or she may ask who has done so, until you shout that you are actually in Athi River. So, this is a major problem. It has social challenges. Therefore, it is important that we support this Motion, so that we can have garbage recycling plants all over the country. At the same time, as Kenyans, we need to change the way we conduct ourselves. It is only in Kenya, and in a few other African countries, where one can just walk around and dump garbage anywhere, without caring about the existence of garbage bins nearby. The local authorities have actually attempted to provide garbage bins in the streets. For instance, in Nairobi, the local authorities have placed garbage bins all over the city. However, we, Kenyans, really do not care. We throw litter all over the place. Therefore, we need to change the way we conduct ourselves. If we do so, we will make the work of local authorities much easier.

Therefore, I wish the Government could set aside some funds for provision of garbage recycling plants all over the country as a way of creating employment for our young unskilled people and put money into the pockets of Kenyans.

With those remarks, I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Yes, hon. Francis Munyua Waititu.

**Hon. Francis Waititu:** Thank you, hon. Temporary Deputy Speaker. I also rise to support the Motion.

Having been in Nairobi for a long time, I can see a very big change in this city. I remember that at one time we used to call Nairobi “the green city in the sun” but when I look at the dumpsite in Dandora, sometimes I wonder because this matter has been spoken to several times. The Government could have assisted the young people who do not have jobs to make organic fertilizers. I know that it is very easy to make organic fertilizers. We can even have an organic fertilizer making plant next to the dumpsite, where young men and women can work.

We could create jobs there by transforming the garbage into organic fertilizer. I know it is easy because I always see young men and women collect polythene materials to go and sell to not only local manufacturers, but also international ones who recycle the waste material and make good use of it. If we can enable the young men and women do the recycling by establishing a recycling plant for them, we would be adding value to their lives. During the Michuki times *matatus* would collect materials from specific points, but nowadays that does not happen. I think this collapsed with the demise of hon. Michuki.

In Lang'ata, there used to be "flying pans". Those existed because there were no sufficient places for garbage collection. If the Government can control garbage collection--- Juja Constituency borders Nairobi City and it is true that people bring their garbage from Nairobi to Juja. I think it is because we have so many quarries in Juja. The situation is very disturbing because sometimes you get to see human body parts in the garbage. If garbage collection is controlled, such things will not happen.

If we term this a national disaster, which I think it is--- Hon. Temporary Deputy Speaker I know you come from Nairobi City and you have big dreams about this city. However, with the garbage in our city we cannot do much. We need to manage garbage in all the 47 counties. This is not a matter affecting Nairobi only. We need to advise the county governments to put in place organic plants to recycle garbage. We need to start from there at the county level before the national Government comes in. We need to see what governors can do in their counties in terms of garbage collection. What are we going to do in our 47 counties, Nairobi included to ensure good garbage management?

I support this Motion.

**Hon. (Ms.) Kiptui:** Thank you, hon. Temporary Deputy Speaker. I rise to support the Motion and thank hon. Gakuya for coming up with it.

Without repeating what my colleagues have said, I think the major problem in this country is lack of town planning. There are regulations as to how towns should transact business and also manage garbage collection and disposal. Towns are now growing haphazardly and businessmen grab the opportunity of collecting garbage. They dump garbage anyhow.

This problem is not only in Dandora. When you approach Nakuru Town from the Baringo side the first thing that you see is a huge dumpsite that emits a heavy stench. You will find pigs roaming there and most times they have caused road accidents – the dumpsite is very close to the road. When it rains the water moves the garbage to the residential houses. This is a very serious issue because the dumpsite is now a source of diseases. In fact, it is the cause of death of animals and plants. The first thing we should do is to urge our Government to take seriously the issue of town planning.

In Mombasa, when you approach Kibarani on your way to the airport you are received by a stench coming from the dumpsite there. It is close to the airport and it poses a risk to the aircraft. The whole aspect of garbage collection and disposal should be relooked at afresh.

Developers spend a lot of money to develop estates. However, as soon as the houses are sold, the first thing you notice is the problem of garbage collection. This affects the value of the houses and the people who have invested in the houses do not recoup any money if they were to sell the houses. We need a policy that embraces garbage collection and disposal wholesale. The recycling plant that somebody mentioned

here is key. Also, we need to ask the National Environment Management Authority (NEMA) to play its role. It should make it its business to ensure that when houses are built the environment is kept safe and clean.

Hon. Temporary Deputy Speaker, we need to mechanise garbage collection. I once visited the USA and in Washington DC, I realized that the people who collect garbage are only three in a truck. This is because they have mechanized everything even the way the bins are emptied into the trucks and the way the garbage is sorted out. This makes management of waste very easy. By the time they reach the dumpsites they have already sorted out plastics from metals and glass.

We need a strong policy and also mechanize garbage collection. We also need to punish those who dispose garbage anyhow. I cry for the *Michuki rules* which had been introduced. The rules improved our transportation system. Before the *Michuki rules*, you would see people throw all manner of things including maize cobs, plastic bottles, papers and so on from their vehicles to the road. When the *Michuki rules* came in, they brought some sanity. We urge that those rules be enforced strictly.

**Hon. Macharia:** Thank you, hon. Temporary Deputy Speaker. I rise to support the Motion by hon. Gakuya that the dumping of waste at the Dandora dumpsite should be controlled. I lived near the dumpsite when I had just graduated from college and I can report that at night, huge stench gets into the households. Most of the challenges in the estate that I was living in, just a stone's throw from the dumpsite, included respiratory diseases and other diseases especially in young children who played by the dumpsite. However, the issue of waste and solid waste management is not only concentrated in Dandora.

Whereas Dandora is the case study that we have in Kenya where we have some of the biggest birds associated with dumpsites, we also have serious challenges in Molo Constituency. Currently, we have a factory called Timsales which at night releases fumes from electricity poles which get into the villages of Kasarani and Kapsita, where similar challenges like the ones in Dandora are being experienced. The residents get respiratory diseases. We also have a serious challenge in the disposal of dirty water from the same factory. The water is being consumed by the residents downstream and we are having serious cases of dysentery and stomach disorders.

Also, we have a serious challenge in the control of solid waste in terms of polythene papers. I know this is a national challenge and the late Prof. Wangari Maathai had initiated a policy for our shopping outlets to be required to use biodegradable bags instead of the polythene bags, but we did not do well on that. We did not get far with that, but I believe that in every constituency, management of solid waste is a huge challenge. The Mover of this Motion, hon. Gakuya, should move a Motion on the control of solid waste in terms of polythene papers.

With those remarks, I support the Motion.

**Hon. Gikaria:** Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion by hon. Gakuya on issues to do with Dandora. I have never been to Dandora, but Dandora has always been on the newspapers for the last 20 years on the bad side. What has been happening in Dandora is unforgivable. It is very unfortunate that the Dandora issue has been persistent for quite a while. We are just anticipating that this Motion might bring an end and some solution to the Dandora issue.

Like my colleagues have said, it is not only in Dandora. In this country, most of the places are choking with waste that is supposed to be collected and disposed in an orderly way. For example, in Nakuru, we started something called polluter-pay policy which provides that whatever you produce as waste, you pay for it so that it can be taken to the right place. That has really worked for Nakuru within the estates and the town itself but, unfortunately, after collection the problem starts with disposal.

There is a well-organized system where we have involved all the community-based organizations and some youth groups which come together to address it. They make money from the residents within the estates in Nakuru. One of the institutions that assisted Nakuru is the Kenya Wildlife Society (KWS) which came in handy. They gave some talk on the best ways to improve waste management within Nakuru. At the end of the day, all that mess used to land at the Nakuru National Park.

As hon. Kiptui was saying, when it rains, all the waste ended up at the Nakuru National Park. I remember one day when there was a very funny scenario where a Warthog on its search for food along the fence tried to get some food from a four litre tin and the tin stuck on its head. It took the intervention of the KWS management to free it. We can have, as Gakuya has proposed, recycling plants within the Dandora area.

I had an opportunity to visit South Africa on issues to do with waste management and they do not have dumpsites. They have a new technology called landfill sites which is a solution to waste collection. After collecting all the waste, it is separated. Some of it goes to making electricity and others are used for construction like hon. Esther has said that her gate has been made from solid waste, especially polythene papers. This is one of the best ways that we can deal with our waste. Unfortunately, NEMA has not been doing its work. Also, the residents have not been doing their work. We wanted to transfer the dumpsite in Nakuru to a location somewhere along the Delamere's Farm and Delamere had given us 50 acres to have a landfill, but because we had to get an environmental impact assessment report, the residents there said that they did not want the plant there because it was going to bring the many side effects that are associated with dumpsites.

The best managers of solid waste is ourselves. As you know, as a human being, we consume a lot of food and when it comes to take your waste, you know exactly where to take it yourself. So, if as a human being you cannot just dump your waste anywhere, then it would only be proper for us to be a little bit concerned that whatever we produce as waste should be managed. I want to believe that a recycling plant in this region will be one of the ways to try and solve the solid waste management problem in the country. If you read, it has its side effects, but the few residents in that region, just like in my area, if you try to relocate them, there is resistance. I want to believe that waste is money that we can use. We can use this waste and earn a living out of it.

I support the Motion. Like you have said in the past, urging the Government to do this and that is not the right way, but we need to come up with proper solutions and policies to address the issues, so that we can compel the Government to undertake those commitments. I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Kamanda, I am going to use my discretion because you are a Chair of a Committee.

**Hon. Kamanda:** Hon. Temporary Deputy Speaker, I also rise to support this Motion. First, the issue of recycling waste in Nairobi has been in place for many years. I remember there was a time that the then Nairobi City Council (NCC) with the World

Bank had come up with a feasibility study on how they will establish a recycling plant in Ruai. At that time, the NCC set aside over 1,000 acres in Ruai to put up this plant.

This is an issue that has been left to the City of Nairobi and yet the population is now close to 5 million people. This matter should not be left to Nairobi City alone. This matter should be looked at by both the National Government and now the county government. Why do I say this? This is because I know the amount of money that is involved. The Nairobi County Government cannot make it alone. However, if it joins forces with the National Government, it will be able to handle it.

I was in America a month ago and a delegation of senior officer from the National Government and the County Government to find out how we can set up the recycling plant in Dandora. Such trips have been there all those years. Every year you will hear that there is a delegation from this country visiting another country but no report is given on how this city can be saved.

It is high time that this Government stopped wasting money on those joyride trips. This is because they do not add value at the end of the day. If they add value, no reports have been given. This has not happened for five or 10 years. I have been in the NCC for many years and establishment of a recycling plant has been there all those years but nothing has come up.

Hon. Temporary Deputy Speaker, I would like to support Hon. Gakuya and say that it is high time that this matter was discussed by the Departmental Committee on Environment and Natural Resources, the Governor of Nairobi County and all of us as residents of Nairobi so that we can get a solution. This is because we cannot talk about Dandora all the years. We have been talking about the Dandora dumpsite for almost 20 years now and we will still continue to talk about Dandora dumpsite without offering a solution.

The people who have grabbed the 1,000 acres meant for a recycling plant in Dandora should return it to the Government. They are subdividing that land even now and the Government should move in and stop the grabbing of that land.

Thank you, Hon. Temporary Deputy Speaker. I support the Motion.

**Hon. J.K. Bett:** Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Motion. I would like to thank Hon. James Gakuya for bringing this Motion on disposal of waste as a problem to this House.

I would like to say that the problem he is experiencing in Dandora and the larger part of Nairobi County which include solid waste disposal, liquid waste disposal and to a big extent the noise--- Considering that we have the United Nations Environment Programme (UNEP) Headquarters in Gigiri, Nairobi, I suggest that it should join hands with NEMA and the relevant Government departments like the Ministry of Health and the Ministry of Environment, Water and Natural Resources so that they come up with methods and structures of how those wastes can be managed. We will be very glad if solid waste could be converted into synthetic fertilizer. On the liquid waste, we should find a way of recycling the same.

The other day, I visited Gambia and realized that, that country had put a *kuku* net around the disposal area where all solids in form of polythene papers and others were enclosed and sorted. Plastic containers were put in a separate place. The same applied to other solid waste. When I inquired, I was told that the plastics would be disposed

separately so that polythene papers were not blown by wind to areas where they were not supposed to be.

I would like to take this opportunity to request UNEP which is based in Gigiri to liaise with NEMA and the relevant Government Department or Ministry to come up with methods that can help this country to dispose of solid waste.

Hon. Temporary Deputy Speaker, if you visit other towns in this country, for example, Nakuru or Eldoret, you will find that waste is littered everywhere. I would like the county governments headed by the governors to set up special committees that can assist in the disposal of this waste. I thought that the Government should come up with policies that could motivate people to set up companies that help in garbage collection. I propose that those who import vehicles, for example, lorries and canterers can be exempted from payment of certain levies so that they are motivated to import lorries which can be used in counties.

I would like to tell the county governments headed by the governors that they should not waste a lot of money buying vehicles. They should set aside money that can be used to handle waste in their respective counties.

Hon. Temporary Deputy Speaker, with those remarks, I support this Motion. Thank you.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until tomorrow, 18<sup>th</sup> July, 2013, at 2.30 p.m.

The House rose at 6.30 p.m.