

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th March, 2014

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. B.A. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Tuesday, 25th March, 2014:-

The Report of the Auditor-General on the Financial Statements of the Salaries and Remuneration Commission (SRC) for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of the Jomo Kenyatta Foundation for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of the National Council for Science and Technology for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of the National Oil Corporation of Kenya for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of the Export Processing Zones Authority for the year ended 30th June, 2013.

Half-year Report of the Ministry of Information, Communication and Technology for the period July to December, 2013 pursuant to Article 153(4)(b) of the Constitution.

Hon. Speaker: It is hoped, therefore, that other Cabinet Secretaries will follow suit and make sure that they also fulfil their obligations under that Article 153(4)(b) of the Constitution.

Hon. (Ms.) Kajuju: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Tuesday, 25th March, 2014:-

The Report of the Committee on Regional Integration on the consideration of the East African Community Cross Border Legal Practice Bill, 2014.

The East African Community Integration Education Bill, 2014.

The East African Community Co-operative Societies Bill, 2014.

Hon. Speaker: Very well. Hon. Members, in keeping with your own Standing Order No.251(4), the House has 21 days within which to consider this Report. Therefore, it behoves the Chair of the Committee to move with speed to ensure that it is listed for debate and possible adoption by the House within those 21 days from the date of today.

NOTICE OF MOTION

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ADOPTION OF REPORT ON REGIONAL INTEGRATION

Hon. (Ms.) Kajuju: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, pursuant to the provisions of the Standing Order Nos.212 and 251, this House adopts and approves the Report of the Committee on Regional Integration on the consideration of the East African Community Cross Border Legal Practice Bill, 2014; the East African Community Integration Education Bill, 2014 and the East African Community Co-operative Societies Bill, 2014.

The Paper is laid today, 25th March, 2014.

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Grace Kipchoim!

MEASURES TO CURB INSECURITY/CATTLE
RUSTLING IN MARIGAT

Hon. (Ms.) Kipchoim: Hon. Speaker, pursuant to the Standing Order No.44(2)(c), I wish to request for a Statement from the Leader of Majority Party regarding the rampant insecurity in the country, especially in Marigat District of Baringo South Constituency.

Cattle rustling continues to be a serious security threat in the country causing loss of lives, livestock and properties worth millions of shillings. This affects the economy of this country. In Marigat District in particular, it appears that cattle rustlers suspected to be from Baringo East District have been causing havoc leading to loss of many lives and theft of stock. Regrettably, the political leadership from this region of Baringo East District and its environs has been on the forefront in abetting the menace. In the Statement, the Leader of Majority Party should inquire into and report:-

- (i) details of cattle rustling activities in Marigat District in the last ten years;
- (ii) steps being taken by the Government to restore peace and order in the constituency concerned;
- (iii) the number of those rendered widows, widowers and orphaned children as a result of the cattle rustling menace in Baringo South Constituency, including the information on the number of schools closed due to insecurity;
- (iv) plans by the Government to compensate those individuals who have lost all their properties and sources of livelihood, including putting in place resettlement plans for the people of Mukutani and Ilhamis wards where residents fled their homes;
- (v) what the Government is doing to stop cattle rustlers who are, in addition to invading various areas, engage in killing, theft and have also displaced the owners of the land; and
- (vi) what action the Government will take against the political leadership that is found to be abetting the menace.

Hon. Speaker: Yes, Leader of Majority Party!

Hon. A.B. Duale: Hon. Speaker, it looks like the request requires a very comprehensive Statement. I will give an answer next week on Thursday from the Ministry of Interior and Coordination of National Government.

Hon. Speaker: Hon. (Ms.) Kipchoim, is that okay?

Hon. (Ms.) Kipchoim: Hon. Speaker, it would be okay but we will not be here in two weeks' time. Therefore, I would prefer that he brings the Statement this coming Thursday. Nevertheless, it is okay.

Hon. Speaker: Hon. John Waluke, what is out of order? Hon. Members, from now henceforth, I will require you to always indicate the particular Standing Order on which you claim to be raising on points order. That way, you will not engage in other debates in the pretext of rising on points of order.

Hon. John Waluke, I understand that you are seeking a Statement. Please, proceed.

DETAILS OF FIRMS PROVIDING SECURITY
SERVICES TO COMPANIES

Hon. Koyi: Hon. Speaker, pursuant to Standing Order No.44(2)(b), I hereby seek a Statement from the Leader of Majority Party regarding companies that offer security services to some parastatals and companies. In the Statement, the Leader of Majority Party should present a list of security firms providing services to the following companies, giving details of the companies' directors and shareholders and how the services were procured:-

- (i) Geothermal Development Company Limited;
- (ii) KenGen Limited;
- (iii) KETRACO Limited; and
- (iv) Kenya Power Company Limited.

Thank you, hon. Speaker.

Hon. Speaker: Yes, Leader of Majority Party!

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, this is a heavy Statement. So, I need three weeks to bring the response.

Hon. Speaker: Is that okay, hon. Waluke?

Hon. Koyi: Hon. Speaker, three weeks is a long time. Maybe, a week or one-and-a-half weeks can do.

Hon. A.B. Duale: Hon. Speaker, I need to involve the Registrar of Companies and the various parastatals. So, if I am given three weeks, I will bring a fair answer. I want to beg the retired Major Waluke to agree with me. Three weeks is not long because I have to consult widely.

Hon. Speaker: Hon. Waluke, remember that the Leader of Majority Party does not hold sittings like Departmental Committees.

Hon. Koyi: Hon. Speaker, I agree with the Leader of Majority Party.

Hon. Speaker: Yes, hon. Simba Arati.

GRABBING OF PUBLIC LAND BY PRIVATE DEVELOPERS

Hon. Simba: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Lands regarding grabbing of public utility land by private developers. In the recent past some private developers have grabbed public land, especially land owned by public schools, for instance, Lavington Primary School, Milimani Primary School, Kilimani Primary School, Kileleshwa Primary School and Kawangware Primary School, all located in Dagoretti North Constituency. The Chairperson should, therefore, inquire into and report on the following:-

(i) clarify the current status of those parcels of land and give the number of acres owned by each school;

(ii) what steps the Government is taking to recover the alleged grabbed land; and

(iii) what action the Government is taking against such grabbers, especially in respect of Milimani Primary School.

Hon. Speaker: Yes, Chairperson of the Departmental Committee on Lands. Hon. Alex Mwiru or his deputy! Is there no Vice-Chairperson of the Committee?

Hon. Members, the request is referred to the Committee. They will give a report when they come back.

Yes, hon. Sharif A. Ali, Member for Lamu East!

STATUS OF ELECTRIFICATION PROJECT IN LAMU EAST

Hon. S.A. Ali: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I request for a Statement from the Chairperson of the Departmental Committee on Energy, Communication and Information regarding installation and provision of electricity.

(Hon. Simba whispered to hon. S.A. Ali)

Hon. Speaker: Hon. Arati Simba, stop harassing the hon. Member who is on his feet. The Chairperson of the Departmental Committee on Lands and his deputy are not in the Chamber. So, I have directed that the request be forwarded to them and that they bring a response in two weeks' time. There is nothing we can do. I am not going to allow people to speak for hours on end.

Proceed, hon. Sharif.

Hon. S.A. Ali: Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Energy, Communication and Information regarding the installation and provision of electricity.

Hon. Speaker, the Government initiated rural electrification project in 2007 in Lamu, and in particular, at Kizingitini, Kiunga and Faza divisions. However, the project stalled, leaving many households without electricity. The Chairperson should inquire into and report on the following:-

(i) the status of electricity project; and

(ii) when the work on the project will resume.

Thank you, hon. Speaker.

Hon. Speaker: Yes, Chairperson of the Committee on Energy, Communication and Information.

Hon. Kamau: Thank you, hon. Speaker. I would like to request the Member to give us two weeks.

Hon. S.A. Ali: Thank you, hon. Speaker. I will request the Chairperson and his Committee to invite me so that I can share with them some information, regarding this issue.

Hon. Speaker: Very well, hon. Kamau, you have no problem inviting the Member, do you?

Hon. Kamau: Absolutely not, hon. Speaker. Indeed, he should consider himself invited as we speak right now. We will inform him of the exact date, maybe, in the next one week or so. He will have an opportunity to ask the questions he has and give us some information that we may need.

Hon. Speaker: Very well. There is no debate. You will be invited. Yes, Hon. Bare Shill.

IRREGULAR EXPORT OF GOLD

Hon. Shill: Thank you, hon. Speaker. You will recall that on 4th June, 2013, that is nine months and 21 days ago, I asked a similar question and up to now, I have not got any answer. Today, I am repeating the same question.

Pursuant to Standing Order No.44 (2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance, Planning and Trade regarding the irregularities in export of gold from Kenya. Available information indicates that the only two gold mines in the country produce not more than 50 kilogrammes per year. However, two private companies, Skyhawk International Limited and Ushindi Export Limited were allegedly exporting 1,200 kilogrammes of gold per month to United Arab Emirates (UAE), from the year 2005 to mid 2013. In the Statement, the Chairperson should inquire into and report to the House on:-

(i) the total amount of gold exported by Ushindi Export Limited and Skyhawk International per year, including the supply and source of gold from those companies from the year 2005 to 2013;

(ii) the companies in UAE to which those two said firms trade with and the amount of duty and tax being paid by the same firms to Kenya Revenue Authority (KRA) from the year 2005 to 2013;

(iii) why the two said companies are exporting gold and transacting in cash instead of transferring funds through banks. There are allegations of huge sums in cash that the said firms have been transacting with foreign banks through Jomo Kenyatta International Airport (JKIA); and

(iv) the possibility of that cash in dollars being used for funding of terrorism, purchase or smuggling of arms and money laundering.

I want this matter to be treated with the seriousness it deserves and answered in the shortest possible time. I am an MP who has suffered because for nine months, I have not got any answer.

Thank you, hon. Speaker.

Hon. Speaker: Well, it is also a fact that this question or Statement you are seeking, you also directed it in the last Session to the Departmental Committee on Environment and Natural Resources and they have done some work. Yes, hon. Amina Abdalla, before hon. Benjamin Langat responds.

Hon. (Ms.) Abdalla: Thank you, hon. Speaker. Indeed this same question was brought to our joint committees with hon. Langat, but due to constraints of time because he had so many Bills, we decided that my Committee would work on it and the report is ready. We are requesting you, despite the lapse in time, to be allowed to table it. It is in your office for approval.

Hon. Speaker: Can you table it next week, hon. Amina?

Hon. (Ms.) Abdalla: If you approve, I can even table it tomorrow.

Hon. Speaker: Can it be on my desk in the next 30 minutes and you will see how fast it can be approved?

(Laughter)

Hon. Bare Shill has indicated that he is an MP who has suffered for nine months. We do not want to subject him to any further suffering. So, if it is on my desk in the next one hour, it will be approved for tabling even in the course of this week, say Thursday. Those of you who have been out of the country may not know why on Thursday, you may not transact that business. Let me welcome you back from the Caucus of Women Status in New York.

Hon. Amina Abdalla, can you table this report tomorrow?

Hon. (Ms.) Abdalla: Yes, hon. Speaker. I will table it tomorrow.

Hon. Speaker: Hon. Shill.

Hon. Shill: While I appreciate the Chairlady of the Committee on Environment and Natural Resources, my question was directed to the two committees. What I am especially very interested in is the money laundering aspect, whereby I believe there is a kind of syndicate especially between the Government, Kenya Revenue Authority (KRA) and Central Bank of Kenya (CBK). This is the part which I am very much interested in and I really want it to be addressed. I would really love, while she tables her report, the Chairperson of the Committee on Finance, Planning and Trade should also do the same.

Hon. Speaker: It will depend on the Government functionaries that were invited before either of the Committees. We must be economical with the way we spend our time so that we do not keep inviting people in and out of here and, sometimes, we are not holding meetings. We do not want too many people loitering around here claiming to be appearing before committees.

Hon. Langat, would you want to express yourself.

Hon. Langat: Thank you, hon. Speaker. Hon. Shill has said that he has been suffering and that, he be given a Statement within the shortest time possible. He is trying to preempt that report. He should, first and foremost, wait to see the report and see whether the questions he has raised have been captured, instead of trying to preempt the question and saying that part of it has not been answered. I would really support the route that hon. Amina Abdalla has taken to table the report and then we will have time to query it.

Hon. Speaker: Very well. Let us not preempt debate, including the allegations of existence of syndicates. Hon. Mary Mbugua.

CAUSES OF INSECURITY IN NAKURU COUNTY

Hon. (Ms.) Mbugua: Thank you, hon. Speaker for giving me this chance to seek my Statement. Pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the general tendency of insecurity in Nakuru County.

Nakuru County is very large and has 11 constituencies from Mai Mahiu to Olenguruone. Nakuru County has become the bedrock of insecurity. Insecurity has become a major problem to the residents of the area and they are living in fear. This has made business and investment in the county very difficult. There has been constant loss of lives, rape cases, robberies and other series of attacks by armed robbers and gangsters, some of whom have been arrested with unlicensed fire arms. Where do those firearms come from and who sells them? We all know firearms are with the policemen or those in the security sector or power.

Hon. Speaker: What you are saying now is not in your Statement.

Hon. (Ms.) Mbugua: With the potential of Nakuru County being an investment hub for this country, security must be a priority for the national Government. There should be no compromise. The Chairperson should, therefore, inquire into and report on the following:-

(i) give data of insecurity cases that have been reported to the police and action taken by them; and

(ii) the policy of the Government on armed gangsters who are found with firearms without a licence.

Could the Chairperson respond to that?

Hon. Speaker: That is the end of the Statement which I have.

Hon (Ms.) Mbugua: Thank you.

Hon. Speaker: Hon. Abongotum.

Hon. Abongotum: Hon. Speaker, we will require more time to investigate this matter. I request that we be given two weeks and we will then come with a comprehensive Statement on this matter. Two weeks, hon. Speaker.

Hon. Speaker: Very well. Hon. Mary Mbugua, is two weeks okay with you?

Hon (Ms.) Mbugua: Hon Speaker. I think two weeks is too much time. I believe one week can be enough.

Hon. Speaker: Hon Abongotum.

Hon. Abongotum: Hon. Speaker, because we are really investigating many reports, we could have a compromise of ten days. Ten days will be sufficient.

Hon. Speaker: Okay, ten days it will be. Hon Hassan Dukicha.

STATUS REPORT ON DISAPPEARANCE OF JOSEPH MBOTE KAMAU

Hon. Dukicha: Thank you, hon. Speaker. Pursuant to Standing Order No.44 (2)(c), I wish to request for a Statement from the Chairperson of the Departmental

Committee on Administration and National Security regarding the disappearance of individuals across the country. There have been various cases of people disappearing without a trace and no action has been taken by the relevant agencies. The families of those people usually have challenges getting assistance from the Provincial Administration and the police on the whereabouts of their beloved ones. In one case, a Mr. Joseph Mbote Kamau, an employee of the then Ministry of Water and Irrigation in Tana River District, disappeared in 2007. To date, nothing has been done to establish his whereabouts. His family is now in dire straits because he was the main bread winner.

Hon. Speaker, in his Statement, the Chairperson should inquire into and report on:-

- (i) the status of that person's disappearance case;
- (ii) what can be done to assist the family of that man as they have no access to his bank accounts and other properties to support themselves; and
- (iii) mechanisms put in place by the Government to keep track of the progress of cases on missing people.

I thank you, hon. Speaker.

Hon. Abongotum: Hon. Speaker, from what the hon. Member has stated, Mr. Mbote disappeared in 2007. Since we want to get to the bottom of this matter, we will require that we be given two weeks so that we can do thorough investigations and report to the House. That is my humble request.

Hon. Dukicha: I have no objection, hon. Speaker, Sir.

Hon. Speaker: Very well. Next Order.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD

Hon. Musyimi: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period for the Supplementary Appropriation Bill (National Assembly Bill No.10 of 2014) from 7 to 4 days.

Hon. Speaker, upon approval of Supplementary Estimates by the National Assembly, the Budget and Appropriations Committee is charged, as you know, with the responsibility of introducing the Appropriations Bill in this honourable House pursuant to Section 7(h) of the Public Finance Management Act, 2012 and Standing Order No.207(3)(d). The Budget and Appropriations Committee Report on the first Supplementary Estimates for this financial year was approved by the House on 26th February, 2014. This necessitated the introduction of the Supplementary Appropriation Bill, 2014 to this House to appropriate funds to be spent.

My Committee has met and reviewed the Supplementary Bill. This Supplementary Bill, 2014, proposes to allow the Treasury, if approved, to issue Kshs.74,582,057,672 from the Consolidated Fund Services (CFS). My intention is to seek the indulgence of this honourable House to reduce the publication period from seven to four days so that our people can get the funds which they urgently need.

I beg to move and request the honourable Leader of Majority Party to second the Motion.

Hon. A.B. Duale: Hon. Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

BILLS

Third Reading

THE MARRIAGE BILL

*(Resumption of consideration interrupted
on Third Reading of Marriage Bill)*

Hon. Midiwo: On a point of order, hon. Speaker. Sorry to interrupt you, hon. Speaker, but before you put the Question to this item on the Order Paper, out of concern, I beg your indulgence. Since we passed this Bill last week, there has been a lot of noise directed towards Parliament and, in particular, male Members of Parliament. I wish to put the record straight because the reputation of this House is on the line. First of all, there is an attempt from some quarters to dictate the independence of this Parliament and to dictate how we debate independently and objectively on Bills that are laid before the House.

First of all, if you allow me, hon. Speaker, last Tuesday - that is seven days ago - we all agreed that we put a particular Bill on the Order Paper for the Third Reading. In the House Business Committee meeting which I attended, both genders were present. No lady hon. Member asked you as the Chair of HBC to postpone the Bill so that they could get the required number. The question begs why there were so few hon. Members of the female gender the day this Bill was being discussed.

An hon. Member: They were in New York.

Hon. Midiwo: You can say "New York", but every hon. Member is elected to come here and represent Kenyans here and not in New York. New York cannot be so important. A request could have come to the Chair or the HBC to delay the debate on the Bill until some hon. Members are in the House. It is wrong for somebody to say that the men are using their numbers. That day, there were less than 40 hon. Members of the male gender.

(Loud consultations)

You will have your time. Let me just talk.

The other issue I want to raise is that on this Bill, which the Chair is supposed to put the Question, there was not a single clause that attempted to abolish polygamy. Nobody stopped anybody from amending the Bill and this was an opportunity to abolish

polygamy. That would have been an issue of debate and that is the work of hon. Members. Even so, some hon. Members are being hypocritical and saying that we stood on this side---

Hon. Speaker, an hon. Member raised the issue here but he never attempted to bring it to the attention of the Chair that he had an amendment to abolish polygamy. So, he is a hypocrite who is trying to tarnish the name of other hon. Members.

Hon. Speaker, I also want to say this: With all due respect to the church, we want them to use legal experts. If we are going to talk about issues of marriage, we will never interfere with them. They need to ask somebody to read the Bill for them before spending a whole Sunday demonizing hon. Members. I feel very offended because issues which were never canvassed on the Floor of the House are issues which have been subject of debate. I even saw it on *Al Jazeera* TV. It is not fair to us. If you are going to criticize us be, at least, truthful so that we take the fair blame for whatever we do.

Therefore, I want to plead with the Chair - and this is very last - that, from your Chair, at least, tell the media that we are here and our mandate is to legislate. When we legislate, the media cannot go out there to misrepresent the facts. One local daily said: "MPs pass Bill to legalize Polygamy." Such Bill has never been to this House. Such an amendment has never been brought here. No amendment has been brought here. For the media to keep tarnishing the name of this House is something that we must talk about because we are here by right. We are here not to do favours or to legislate wrongly. We want to defend our rights through the right channel.

Thank you

Hon. A.B. Duale: Hon. Speaker, I have two similar sentiments, but I will come back to one. But the first one is on the Marriage Bill. We need to put the record straight for everybody and for the country. One, it is the Constitution that has given powers to this House to do three key functions - to legislate, represent and play oversight role. So, whether you call it a marriage Bill, the Supplementary Appropriation Bill which we are going to deal with today or call it the Mining Bill, the Water Bill and the Budget Report, that is the preserve of this House. But before a Bill comes before this House, various stakeholders are engaged, right from the parent source institution. It goes through the Kenya Law Reform, the Commission for the Implementation of the Constitution (CIC), the Cabinet and the Attorney-General (AG). It comes to Parliament for the First Reading and then goes back to our Departmental Committees, so that we can look at that Bill again through the stakeholders for 21 days. It comes here for Second Reading, where hon. Members will express on it.

Finally, it comes for the Third Reading through the Standing Order. Any hon. Members of this House and even their representatives and their constituents can engage them to bring an amendment to that Bill. An amendment will be discussed and a Question put. I want to confirm - and it is very sad and very dishonest--- I do not want to name the hon. Member but that hon. Member comes from my region. He was not in this Parliament the whole of Thursday and I heard him on the vernacular FM station talking about the amendments. I thought I was alone. But hon. Nuh from Migori called and asked me to hear what that hon. Member was saying on the FM station and whether he was in the House.

To our very good colleagues, the female hon. Members, there was no single amendment on the Order Paper from them.

Hon. Speaker, I want to say this for free that the amendments that I brought here were crafted by top Muslim lawyers in Kenya. The Catholic Church should go back and talk to its lawyers and read the Bill. But that, again, lies with the President. I hope the Bill now leaves Parliament and the recourse is with the President.

Hon. Speaker, the other issue is what I saw in the headline of one of the daily papers - *The People Daily* - where the Speaker of the Senate, my good friend and serious founder Member of the party I belong to within the Coalition, and the Senator for Busia, were casting serious aspersions on the Chair and hon. Members of the Budget and Appropriations Committee on the Kshs.80 million they allocated in the Budget for us to get experts to review the Constitution.

Hon. Speaker, in my opinion, it is unheard of - and I might be wrong - but from the little experience I have gained being in Parliament, it is unheard of for a Speaker of another House to criticize the functions of what the Committees have done and, more so, through the media. It is also unheard of for a Senator of another House to stand in a political rally and, again, criticize the work of another House.

Hon. Speaker, I have nothing against the Senate, but I think there should be decorum and respect. It will always be expected that the Chair, as the hon. Speaker of this Assembly, will not criticize the leadership and what goes on in that House.

I am sure that the Budget and Appropriations Committee under the chairmanship of hon. Mutava Musyimi, brought the report to convince the whole nation, the National Treasury and all the stakeholders. More than ever, I will stand to be counted that, after the experts review our Constitution and they do a cost-benefit analysis, we can come together as a country, both sides of Parliament; the Opposition and the Government and all the political leadership and have a national dialogue conference.

I am sure if my colleagues are watching me, unless the television is not showing them, I want to urge my colleague, the Speaker of the Senate and the Senator for Busia, who was an Attorney-General in the worst days of this country---

An hon. Member: Repeat it!

Hon. A.B. Duale: Worst days of our country! The days when people were being taken to Nyayo Torture Chambers! He should not even speak. The people of Busia should even rethink of reelecting him. He should not cast aspersion on a report of this House which has been passed.

Thank you, hon. Speaker.

Hon. (Ms.) Muhia: Thank you, hon. Speaker. Is it in order for the Leader of Majority Party to mislead this House that there was no single amendment by his female colleagues while the amendment I had on Article 11 regarding persons with disabilities and the bit about mental illness was drawn by hon. Mwaura and I? I am a member of Kenya Disability Parliamentary Caucus (KEDIPA). That amendment was thrown out.

Hon. Speaker: Are you saying that, that amendment was thrown out?

Hon. Members: Yes.

Hon. (Ms.) Muhia: Hon. Speaker, this amendment was also supported by women Members.

Hon. Speaker: Hon. Wanjiku Muhia, was the amendment moved by you or by hon. Mwaura?

Hon. (Ms.) Muhia: I am a member of KEDIPA.

(Laughter)

Hon. Speaker: Was it moved by you?

Hon. (Ms.) Muhia: Hon. Speaker, that aside, is hon. Jakoyo in order to say that churches are misleading the country and the House by debating the Bill? Are Kenyans not at liberty to discuss anything? They can discuss. The church can discuss anything. Kenyans have the liberty to discuss---

Hon. Speaker: Hon. Members, I think the point brought out by hon. Midiwo is a simple one and, for the avoidance of doubt, Chapter 8 of the Constitution is so clear. Article 94 should put everybody to rest. It states:-

“The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.”

(Applause)

Article 94(3) states:-

“Parliament may consider and pass amendments to this Constitution, and alter county boundaries as provided for in this Constitution.”

So, this is just to advise even those slightly elderly lawyers that they should just go back to this one.

(Laughter)

Yes, it is important that our lawyers keep abreast of the provisions of the Constitution because you may have been a member of the Committee of Experts (CoE) but you have forgotten. People suffer from momentary lapses of memory. It is true. So, this Constitution grants Parliament the power to consider even amendments to it, including amendments to alter boundaries of counties so that everybody else out there should also be aware.

The other more important provision is Article 94(5) which states:-

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

This is so that we leave spiritual matters where they belong. They deal with matters of the spirit, but matters to have the force of law are vested within Parliament. So, anybody is at liberty to say what they want to say, including even doing summons in the mountains or anywhere they wish. However, if you want to make a matter having the force of law in Kenya, you must lobby Parliament. This is the truth. It is straightforward.

Hon. Members, the Bill that is before the House is titled: “The Marriage Bill (National Assembly Bill No.13 of 2013.)” That is the title of that Bill. Anybody with a

Bill with a different title for instance “Polygamy Bill” and others is not in possession of the Bill that is before this House.

(Laughter)

He must, therefore, be reading something that is not here or something that is a figment of their fertile imaginations and certainly not this Bill. So, this is the Bill that was before the House and is now before the House and to which I am required to do only one thing now – to put the Question.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

*(Order for First Reading read - Read the First Time and ordered
to be read the Second Time today by leave of the House)*

Hon. Speaker: Next Order.

Second Reading

THE SUPPLEMENTARY APPROPRIATION BILL

Hon. (Dr.) Simiyu: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Eseli, do you have a point of order or we allow hon. Mutava Musyimi to move it?

Hon. (Dr.) Simiyu: Hon. Speaker, it was just about what the Leader of Majority Party said about the former Attorney-General. But I think it was overtaken by events. He exhibited some dictatorial speech.

(Laughter)

Hon. Speaker: Hon. Midiwo.

Hon. Midiwo: Thank you, hon. Speaker. I seem to be raising too many issues but I apologise in advance. Hon. Duale raised a point which we also need to address for the sake of the independence of Parliament and respect between the two Houses of Parliament.

Hon. Speaker, hon. Duale said something very important but let me refer you to Standing order No. 87(5). It says:-

“It shall be out of order for a Member to criticise or call to question the proceedings in the Senate or the Speaker’s Ruling in the Senate, but any debate may be allowed on the structures and roles of the Senate or Parliament.”

Hon. Speaker, that particular section of Standing Order No.87 prohibits the Speaker of the Senate or the former Attorney-General from making the type of comments they made. I want to address myself to an issue. This particular House has passed a budget to audit the excesses of the Constitution which we have and that is taxpayers’ money. What comes to mind over the last few days is that the leadership of Jubilee and that of CORD have tended to imagine that they can direct the way this House legislates. This House has powers to talk about the excesses or otherwise.

Hon. Speaker, to say that it is premature to talk about the Constitution, somebody is trying to gag this House from working. Let me say that the President has raised certain issues whose answers will now lie in the opening of this document.

Hon. Speaker, there are several issues we must look at. We were told: “For this Constitution, just pass it. It is good but only 20 per cent is bad.” In fact, the Principals then told us that they would immediately, after the passage, embark on auditing the bad 20 per cent. I wonder, as a Member for Gem, and the Deputy Leader of Minority Party, how my own leadership can say that when the Senate and governors are agitating for more money - and that requires constitutional amendments--- They say it is good for them but when we say “deal with other issues”, they say it is premature. When we say that we deal with other issues in this document, there is even a safety net. Most of the issues we are talking about require a referendum. So, this House has limited power in most of the issues to do with the Constitution. It is good that even leaders inside and outside Parliament respect the roles and independence of Parliament. Even if we discuss it, at some point, it shall go to the public.

Hon. Members were here and they passed a Budget of Kshs.80 million to help the Auditor-General tell us where we are spending unnecessarily. We have said that the political office structure is in itself, one that we cannot afford. As a country, we have said it here every other week. So we only want to request our leaders, whether they are the top Executive or the top Opposition in the country, to leave us alone so that we can do our work as Parliament.

(Applause)

It is important because if we just keep quiet, some of these people and their children may never suffer--- But for many Kenyans, their grandchildren will ask: “What did the Parliament of the day do then?” This Parliament has a duty, together with the leadership.

Thank you.

Hon. Speaker: Hon. Members, I am sure that the business appearing on the Order Paper listed as No.11, the Supplementary Appropriation Bill (National Assembly Bill No.10 of 2014) which hon. Musyimi was just about to begin moving, this is the perfect occasion. The Supplementary Appropriation Bill - and I am sure hon. Ng’ongo will tell us - contains most likely the provision that hon. Midiwo has referred to. This Bill should be dealing with those provisions; the allocations that are raising eyebrows wherever they may be. Of course, we must remain alive to the fact that the Constitution itself in Article

94 has provided clearly that this House, as a House of Parliament, has the power to consider amendments to the Constitution. It can also advise to the contrary. So, I think we could allow hon. Musyimi to move this so that then I am sure---

(Hon. Ng'ongo stood up in his place)

I can see hon. Ng'ongo wants to contribute to that. I do not know whether he wants to second. Hon. Ng'ongo, just allow hon. Musyimi to move this so that we can express ourselves more properly when we are debating this Bill.

Hon. Musyimi: Hon. Speaker, I want to thank this House for finding it appropriate to reduce the publication period from seven to four days.

The Supplementary Appropriation Bill, 2014 has taken into account all the recommendations of this House on the first Supplementary Estimates for this Financial Year. Critical input by this House included reductions on allocations to the Salaries Review Commission (SRC) meant for the wage conference by Kshs.50 million, thereby giving the SRC Kshs.120 million; reducing funds for the Ministry of Devolution and Planning meant for Civil Service Reforms Secretariat by Kshs.293 million and reduction of funds for the National Treasury meant for wages for temporary employees by Kshs.126 million, among others.

The House reallocated those funds to other needy sectors. This included Kshs.100 million for the Gotu killer bridge in Isiolo; Kshs300 million for the Director of Public Prosecutions (DPP) to employ additional prosecutors and an allocation of Kshs.200 million to the State Law Office, among others. You may recall that this money totaling Kshs.500 million was taken out of the Vote of the Judiciary because of lack of absorption. We had occasion last week to meet with the Judicial Service Commission (JSC). We discussed this matter and also took the opportunity to make the point that the Judiciary needs to be a little bit faster in engaging Parliament because there is no point complaining once the horses have bolted. We request the Judiciary and all the spending agencies in the Government to try and be in step with the budget making process. It is the same thing we told governors last week. Budget-making is a continuous process and I take this opportunity to plead again: Let the spending agencies take that into account and engage the Budget and Appropriations Committee on a continuous basis. That is the Parliamentary Service Commission (PSC), JSC, governors and so on.

Hon. Speaker, on the matter that has received a bit of attention from the Floor so far, we allocated Kshs.80 million to the PSC to undertake, through a Committee of seven persons to be working under the Auditor-General and reporting to my Committee and thereafter to this House, a socio-economic audit of the Kenya Constitution, 2010. Let me take this opportunity to just say that the journey for this new Constitution has been very long. The heavy lifting work was done in the 1980s and the 1990s. We thank those who paid heavily to make sure that this country got a new Constitution. Can I say from a professional point of view that every time you overhaul a key governance document like a constitution of an institution, whether it is a private company or a country like in our case as we are discussing, it is recommended in pragmatic terms that every five years or so, you do a mid-term review. It is my hope that, that will be one of several mid-term audits that this country will need. We need one this year. We need another one in another

five years and another in ten years so that, as we settle in the Constitution, we do not find ourselves entrenching and accepting bad habits. So, this is important so that we accept to ourselves whether some of the challenges we have are purely managerial or whether they are systemic; whether they are institutional or whether they are created by the structures that we have adopted, either through the Constitution or the laws that we make as Parliament, or through the administrative arms of the Government of the day.

So, hon. Speaker, this House in its own wisdom passed and approved that we spend Kshs.80 million on the recommendation of the Committee. I feel very proud to be part of that Committee and part of this House. I know that the right people will be got, men and women of integrity from across the country, who will help us look at ourselves and see where we can improve and what we can do better. My Committee noted that despite the Government reorganizing some of its programmes in different Ministries, revision of budgets before the end of the financial year should be discouraged. This goes against the principle of public finance management of predictable budgeting. The preparation of supplementary budgets to reallocate funds within these sectors, as I said, should be discouraged. I do not wish to speak for long. We have had opportunity to discuss these issues.

I now beg to move and request the Leader of Majority Party to second.

Thank you!

Hon. A. B Duale: Thank you hon. Speaker, I beg to second. From the outset, I want to say it very clear that Standing Order No.124 gives exemption to this kind of Bill. It allows all the three stages to be discussed in one sitting. I am sure all my colleagues would want to know that.

The preparation of Supplementary Budget Estimates, both for Recurrent and Development budget had a request for additional funding of Kshs.356.8 billion. This amount is comprised of Kshs.149.7 billion for Recurrent Expenditure and Kshs.207.2billion for Development Expenditure. Despite the resource constraints and the need to curtail borrowing to have a sustainable level in both macro and micro-economic environment, the request from the various departments of Government, Parliament and Judiciary; the key areas have been rationalized. In this regard, only requests of high priority as well stipulated by the Chair of the Budget and Appropriations Committee have been considered for funding under the Supplementary Budget Estimates. This Bill actually makes a provision for giving the statutory sanction for public expenditure. It is only after we deal with this Bill that the statutory function is complied with.

The gross additional request considered in the Supplementary Budget Estimate is in excess of Kshs.121.8 billion, of which salary related expenditure was Kshs.16 billion, operation and maintenance was Kshs.12.7 billion and ongoing new projects is Kshs.93.1 billion. Some of the key specific expenditures considered in these Supplementary Estimates include, Kshs.4.6 billion to cater for the outstanding allowances for the Police and the Prison Services; Kshs.16.8 billion for salaries of teachers carried over from the Financial Year 2012/2013 and the harmonization of the commuter allowance, of Kshs.1.8 billion to cater for the shortfall of the second phase of the implementation of the 2010/2013 Comprehensive Bargaining Agreement (CBA). There is Kshs.2 billion to cater for the court award for health workers at the Kenyatta National Hospital and Moi Teaching and Referral Hospital. An amount of Kshs.3.4 billion for security operations

and evacuation of Kenyans from South Sudan; Kshs.1.1 billion for the by-elections and legal expenses; Kshs.6 billion for car and house mortgage scheme for MPs; Kshs.6.7 billion to cater for CDF and construction of houses for the health workers in the constituencies; Kshs.20.8 billion for roads implemented by Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KeRRA). This needs to come out clearly so that Members can be aware of the kind of money that the National Treasury is allocating through the Budget and Appropriations Committee. There is Kshs.6 billion for the Rural Electrification Programme; Kshs.2.5 billion for the Seed and Fertilizer Fund; Kshs.1.4 billion for strategic grain reserves and Kshs.16.6 billion for donor-funded project.

The recommended expenditure has been financed through rationalization of non-productive expenditures and money accrued from the slow moving projects, including strategic interventions. This was used to cater for what happened in the Financial Year 2012/2013. The savings that have been made were done through rationalization and non-productive expenditure. When the Chair of the Budget and Appropriations Committee tabled the Supplementary Budget Estimates, the media said that the National Assembly has reduced the budget of the Judiciary by Kshs.500 million. That is far from the truth. The Kshs.500 million was part of the infrastructure improvement of the Judiciary. Between now and the end of the financial year, if you look at the absorption rate, that money could not have been spent. The Budget and Appropriations Committee and the National Treasury agreed that the same money will be available in the next budget. The country is being fed with information that the National Assembly and the Budget and Appropriations Committee have slashed the Judiciary budget by Kshs.500 million because of matters that I do not want to delve into. I want to make it categorical that, as legislators and national leaders; we have no intention to deny service and resources to key institutions and our people, be it the Judiciary or Parliament, Executive or the county governments. That business will not be the business of this House and I am sure my colleagues will agree with me. Absorption rate was very key and that is why the Kshs.500 million was reallocated.

In the proposed Supplementary Estimates, what the Government did was to realign and took into account the new organization of Government. Because of the 18 Ministries that we have now, a number of transfers of expenditure within and across Ministries, departments and agencies will have to be done. I do not want to dwell much on that but the highlights of the Supplementary Estimates and the Bill gives out that from the Consolidated Account, it provides for the issuing out of the Consolidated Fund of a sum of Kshs.65,559,675,041 for the year ending 30th June, 2014, having regard for the proposed reduction of Kshs.4,616,093,663 therein appearing in this Bill. I want to assure hon. Member that despite the challenges the country is facing, the Supplementary Estimates were prepared, looked into by Parliament and Budget and Appropriations Committee with a view to fundamentally safeguard the macro-economic environment of our country. This is essential in creating an environment for doing business, which is a key driver of economic growth. I want to finally assure Members that the Government will ensure that the funds allocated to them, whether it is through Supplementary Estimates or through the main Budget, will be used and utilized efficiently to achieve the

intended services that have been approved by this House. Those resources will be used for the services approved by the Budget and Appropriations Committee and the House.

With those remarks, I beg to second.

(Hon. Member crossed the Floor without bowing to the Chair)

Hon. Speaker: Order, hon. Member. You do not just start sneaking around.

(Question proposed)

Hon. Ng'ongo: Thank hon. Speaker. I rise to support this Bill. Ordinarily, once this House passes the Budget and Appropriations Committee Report regarding the Supplementary Budget, then that should actually form what goes into the Appropriation Bill and, therefore, very little debate will be of value to this Bill. You will allow me just to make three comments regarding this Bill.

First of all, I have no doubt in my mind on the extent of powers that the National Assembly has with regard to appropriating funds for expenditure in this country. For those who are in doubt, I think we need to go through Article 221 of the Constitution. It clearly gives the appropriation of funds in this country to the National Assembly. Therefore, once the National Assembly discharges its duty, if you read Article 221(4) it says:-

“Before the National Assembly considers the estimates of revenue and expenditure, a committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly.”

That committee is the Budget and Appropriations Committee.

So, hon. Speaker, that Committee is the Budget and Appropriations Committee. It has a constitutional mandate and responsibility to discuss and propose a report to the National Assembly on any proposed expenditure by the Government. Therefore, as long as the Committee of the House did or discharged its responsibility, no other person can challenge that in law.

I just want to remind hon. Jakoyo that Standing Order No.87 that he has read out is referring to the contents of speeches. A similar Standing Order is found in the Standing Orders of the Senate. They are also prohibited from discussing proceedings of the National Assembly. If the speech by the Speaker of the Senate or the other Senator who was mentioned was made on the Floor of the Senate, then it is very unfortunate. However, if it was made out there, why should it bother us? Any other Kenyan can talk the way he or she wishes. Hon. Ethuro is not excluded from talking as any other ordinary Kenyan, whether he is attending funerals or he is enjoying himself at the coast or wherever he is. However, if he made that remark on the Floor of the Senate then that needs to be challenged because that is clear violation of our Standing Orders.

My concern with the way we have transacted this Supplementary Budget and the Supplementary Appropriation is that if you look at what is contemplated in Article 223, because that is where the Government derives the power to spend or have the Supplementary Appropriation Bill on the Floor of the House, it envisages a situation where the Government has overspent and not where the Government contemplates to

overspend. Therefore, I keep on asking myself whether in future we would still like to continue going the way we are going. This is because we cannot approve the Supplementary Appropriation Bill for an amount that has not been spent by the Government.

This Article provides that the national Government may spend money that has not been appropriated. If that happens then they need, within two months after the first or initial expenditure, to bring a request to the National Assembly for approval of the same which will then be followed by the Supplementary Appropriation Bill.

Hon. Speaker, I know they say that old habits die hard. However, I would wish that the Government takes steps to actualize or operationalize the provisions of the Constitution as it is without hanging on to old ways of doing things. The way the Supplementary Budget is today should radically be different. We can have as many supplementary budgets as possible as long as the Government can convince us that there was necessity to either overspend because of needs that were not anticipated or it has overspent because the amounts that were provided were not sufficient.

I also want to talk about certain or specific allocations or amounts that have been appropriated through the Appropriation Bill. You will realize that we even added the Constituencies Development Fund (CDF) in the Supplementary Budget but in actual sense, it was not adding anything to that Fund. What we have done is just trying to correct what the Ministry has failed to do. The Ministry is required by law, and through the CDF Act, that any amount budgeted in a year must be transferred to the CDF Fund Account. At the end of the year, you will realize that the Ministry or the Treasury has failed to transfer that fund to the CDF Fund Account. Therefore, they call it a budget which has lapsed and yet it cannot lapse because the law protects the CDF Fund.

The same applies to the county government funds. The law protects, through the Public Finance Management Act, the Kshs.210 billion that was allocated to the counties. This money must be transferred to the County Revenue Fund Account before 30th June so that even if it is not spent, that amount is available. That is how the Treasury should act until we change that law. So, the Treasury should not ask us next year to provide, through the budgetary process, an amount that has already been protected by the law. This distorts the budget process. This is because you will be forced to re-budget the CDF and yet it is already protected through an Act of Parliament. The same applies to county government funds.

I would like to inform the Treasury that even as they wait for the counties to spend the money, they should know that the amount that we budgeted for the 2013/2014 Financial Year should be transferred by the end of this financial year to the County Revenue Fund so that they do not ask us in the 2014/2015 Financial Year to, again, appropriate through the Supplementary Budget an amount that they should have taken care of.

Hon. Speaker, I also want to add my voice on what the Leader of Majority Party has said. I think those who are reporting debates in this House, whether it is the media or through talk shows need to be factual and truthful. It was reported that the Budget and Appropriations Committee re-allocated Kshs.500 million from the Judicial Service Commission (JSC) just because of the issues that Parliament had with the Judiciary, and

this is not true. Some of us would not like to take money from the Judiciary because of the differences which exist between us.

We realized through interrogation of the Budget that this amount could not be spent by the Judiciary. Since we are doing the Supplementary Budget and this is a capital expenditure and the remaining period is short to carry out the procurement process, what else could you do? You would re-allocate the money to other needs.

Finally, hon. Speaker, I am concerned that if you look at these Supplementary Budget Estimates, you will realize that we are increasing the expenditure by over Kshs.65 billion. My concern is that this country has had a policy on debt management. Our policy has always been that we reduce domestic debt because it has a lot of economic implications. It crowds the private sector. We have also said that if you borrow domestically many times then you increase interest rates in this country. We had planned to borrow Kshs.106 billion from the domestic market but what we have ended up doing in this financial year, which is coming to an end, is to borrow Kshs.135 billion. We have increased it by 28 per cent.

With this increased expenditure, chances are that we will even borrow more. This is distorting the economy. We need to be careful and the Government needs to be serious and focused in its financial planning. This is because it will hurt us badly.

Hon. Speaker, I am speaking to the Office of the President. If the President is serious on reducing expenditure and if the President was serious when he proposed that he wanted to cut his salary, why is it that he asked us to approve Kshs.330 million more on foreign travel? What is it for? State House should start by implementing austerity measures before they---

Hon. Speaker: Yes, hon. Angwenyi.

Hon. Angwenyi: Thank you, hon. Speaker. I rise to support this Bill. I want to just pass one or two messages. One is that in future all our budgetary processes should target those sectors that can improve the economy of this country. For example, we should allocate more funds to industrialization where we will create wealth and employment for our kids so that we do not have rampant insecurity as we have now. We should increase funding to the tourism sector so that we can create wealth and increase income of Kenyans in this country.

Thirdly, we should increase allocations to such areas as horticulture, coffee-growing and tea-growing which earn foreign exchange to this country. I urge the Budget and Appropriations Committee to look into these areas so that we can enable our country to compete with other countries.

A few years ago, Kenya was the leading exporter of horticultural crops but today, we have been overtaken by Ethiopia. What is it that this country has done to overtake us?

A few years ago, Kenya was also the preferred tourist destination in East Africa but today, it is Tanzania. What is it that this country has done to overtake us?

We should look at those issues instead of spending money on the Recurrent Expenditure where we do not create wealth for this country. We will not be doing this country justice until and unless we attend to those issues that can improve the economy of this county.

There is the issue of Kshs.80 million to audit our Constitution. I do not see why it is raising a lot of hullabaloo. We are tasked with the issue of saying whether the

Constitution, which we promulgated some four years ago, is serving the purpose and the intention of Kenyans. We need to establish whether we have a better Constitution which will serve us better. Is it serving us better? Do we need all these commissions, for example? We have the Commission on Revenue Allocation which says that we should do away with the Provincial Administration. The day we will do away with the Provincial Administration in this country, this country will be worse than Somalia. I can assure you of that. Is that what the Chairman of the Commission on Revenue Allocation wants to advocate? The Chairman wants to try to manage Parliament, which gives him the budget that he uses to share those funds.

Actually, we do not need that commission. What is the work of the Treasury? The Treasury can allocate those funds. They have a Budget Department, Audit Department and the Monitoring Department. Therefore, that commission should be done away with if this can be done without going for a referendum. Those are some of the issues which have been raised by this new Constitution that we must attend to, to find out whether they are serving the country or hurting it.

With those few remarks, I beg to support.

Hon. Wakhungu: Hon. Speaker, I rise to support this Bill. If you look at the Salaries and Remuneration Commission (SRC), for instance, one of the critical things that it is supposed to have done is to put in place a remuneration policy. We are having the problem of the wage bill because the SRC has failed in its mandate. So, when you look at this Bill, there is a recommendation that their budget should be reduced. Indeed, we support that because if you are given a job and there is no output, it is useless. The SRC, by now, should have put in place a remuneration policy. Up to now, we do not have any policy in place. That is why we are having these problems when it comes to the wage bill.

When you look at the Director of Public Prosecutions (DPP), the office has been allocated money. You find that many people in this country are behind bars because of poor investigation. A lot of research has been done and showed that because of the poor investigations that we have in this country, people are suffering. So, by strengthening the DPP, it will enable the office to employ professionals who can investigate matters in a professional manner. We have a lot of cases. This is also an issue of the Judiciary. The issue of saying that Kshs.500 million was diverted from the Judiciary is very wrong. If you remember, we have had many appeal cases and the election of many Members of Parliament has been nullified. I hope that the Judiciary is not revenging. We have had petitions and people have gone to the High Court and of late, so many appeals are going through, for instance, the case of Mary Wambui in Othaya and the case of Mathare, just to mention a few. So, I am hoping that they are not trying to revenge.

Any project that you do, you must do monitoring and evaluation. So, the Kshs.80 million that had been allocated to audit this Constitution is very critical. You can plan, but when it comes to implementation, emerging cases might come into play. So, there is an ideal case and the real case. This audit will help us to determine whether there are wastages in this Constitution. We want to identify where the wastages are. Maybe that is why the Senate is worried because this audit report might say that this Senate has not added any value. Maybe Kenyans might say that we abolish the Senate. So, from this audit, we are going to know where the value of the Senate is and where the value of the

National Assembly is. Maybe that is why hon. Amos Wako and hon. Ethuro are on the frontline to attack this audit. The audit is very critical. Even when you go to school, there must be a report card. You must be able to know where you have done right and where you have done wrong, so that you can put a corrective action in place. This Kshs.80 million is going to add a lot of value.

We have been told that there are a lot of wastages. We will be able to determine the issue of the wage bill. We will be able to know where these wastages are or where we allocated wrongly, so that when we come in for a referendum, we will be coming in an informed perspective. If the positions of nominated Members of Parliament- I know hon. Sakaja is looking at me, but nominations will still continue. We will also do an evaluation and see whether these nominations have added value or not. This will come from this audit. If they have not added value, then we scrap those positions. The Women Representatives are here. I know they have done a lot of work, but from the audit, in case there is no value added, Kenyans are free to determine whether the Women Representatives will be there or they should not be there. We are going to know this from the audit. So, this audit will tell us so much. With regard to the issue of the new 90 constituencies, it is very important that this audit must be there.

Another issue is about the CDF, which is very critical. We will get to know what value the CDF has added. We will also determine the issue of the Kenya Urban Roads Authority (KURA) and the Kenya Rural Roads Authority (KERRA. When you look keenly at the Supplementary Budget, these are the things that they have mentioned. So, I support that the audit must be there and where there are deviations, we must put a corrective action. So, I strongly support this.

Hon. (Ms.) Wahome: Thank you, hon. Speaker. I want to take this opportunity to support the Appropriation Bill. I also want to say that I am back from Geneva, where the Inter-Parliamentary Union was going on. We did very well because we brought home two seats. I also heard somebody from the Senate Floor saying that by the National Assembly sending Members there, it was running away from business. I bring greetings to you from the General Assembly from Geneva. I wish to thank you, hon. Speaker, for the nomination.

I am concerned about a statement that was made by Dr. Chris Wamalwa. I think he should not go that way. There are some live wires! Although I support the audit, we should not be targeting the women seats in this. First and foremost, I think the problem started when we increased the constituencies from 210 to 290. Then from the 210, we look for seats both for men and women in the county, because we still must ensure that the principle of representation is carried forward. The wastage of money in this country is humongous. I want to add my voice to those who have said that the audit is necessary. It is likely to reveal the gaps within our governance system and I think the Executive and Parliament, including the Senate, are likely to be affected.

For example, the Ward Representatives are employing about eight officials, and their pay bills will be borne by the Kenyan taxpayer. In every village, there will be an official who will be paid from taxpayers' money. Why do we need an assistant chief, chief, a Sub-County Commissioner and Regional Commissioner? Above all, we are employing other persons we are calling "village administrator, sub-county administrator" and "ward administrator". Those are the areas where we spend a lot of money. There are

expenses related to tea and flowers. We have fleets of vehicles assigned for use by people who cannot even afford to maintain their own vehicles. Some of them now have between three and four chase cars. Those are the areas we must look at, particularly with the governance system that we have adopted.

When we talk of auditing, it does not mean that this House is not supporting devolution. The enemies of devolution are those people who are not willing to evaluate what devolution have brought to this country, two years down the line. We must agree that appropriation is necessary but most importantly, we must acknowledge the fact that Kshs.80 million is a very small cost in terms of supporting an evaluation audit that will help us to move forward. We must identify the areas where we are losing money.

I support rationalisation of the salaries of workers in the entire nation, starting with those of commissioners. I support a reduction in the number of commissioners as well as the number of commissions. One will realise that commissions have now taken a different course. They are taking different courses from those of the departments or Ministries that we have. They do not even create a convergence or meeting point.

I do not think that the intention of the Constitution was to create centres of conflict in this country. There are centres of conflict between the Senate and the National Assembly that have been created by some people who are not willing to appreciate the roles and mandates that they have. There are centres of conflicts between the Inspector-General of Police and the Chairperson of the Police Service Commission. There are centres of conflict between the National Land Commission and the Cabinet Secretary.

All these conflicts actually attest to the fact that we have duplicated mandates. Therefore, we need to be very realistic. We must bite the bullet. Where we need to cut, let us be brave and do so. I think the National Assembly would be the last to suffer that kind of audit in terms of our work. In law we say that the thing speaks for itself. Therefore, the product of the work that we have done on the Floor of this House should be able to vindicate us.

This country is supposed to be setting the pace. Let us learn from other countries that have had devolution, which are now rectifying some mistakes. One example is Uganda. Some West African countries have gone that route, and have seen that devolution is really a foreign concept that is very expensive to implement. Therefore, even though we support it, we must cut those things that this country cannot support.

Our call for audit should not be misinterpreted by the Senate. The former head of the legal bar, hon. Amos Wako, must be reminded that he is an elder and, therefore, he must be careful about the statements that he makes, particularly when they are directed at the National Assembly. We must remind ourselves where we have come from. We must agree that this country is bigger than all of us. We must stop the “big-man” syndrome. That is one of the problems that are ailing this country.

We have seen His Excellency the President take a ride across the border. That is the way. Why do we need to send two vehicles from Nairobi to Mombasa to receive a Cabinet Secretary who has taken a flight? Obviously, once they get there, there will obviously be---

An hon. Member: On a point of order!

Hon. (Ms.) Wahome: Hon. Speaker, all I am saying is that we do not---

(Loud consultations)

Hon. Speaker: Order! Order, hon. Members! You may not like what she may be saying, but if you give her some little time to finish what she is saying, you will have opportunity to say it differently.

An hon. Member: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Members, there is nothing that is out of order. Proceed, Alice. This one is a heckler! Anybody whose name does not appear on my screen is heckling.

Hon. (Ms.) Wahome: Hon. Speaker, I think he should be telling us what is ailing the coastal region because the things that are happening there need more sober heads, especially when it comes to debating that matter.

I was saying that we do not need entourages. We do not need senior Government officers to actually have all this largesse around them. Each Member of Parliament has three workers; a personal assistant, driver and secretary. We must all learn from the humble lives of the hon. Members of this House.

With those remarks, I beg to support the Supplementary Appropriation Bill.

Hon. Speaker: Yes, hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, hon. Speaker, for giving a chance to contribute to this Bill. I have a serious concern on it.

Under the Recurrent Expenditure, the Ministry of Interior and Coordination of National Government has been allocated a whopping Kshs.5 billion. Are they going to spend this money during the months of March, April, May and June? It is not in arrears. This turns the entire Budget-making process upside down. I do not understand. The Presidency has been allocated Kshs1.5 billion extra. I do not have a quarrel with the allocation to the Ministry of Defence because our soldiers are out there, defending this country.

The current expenditure of the Ministry of Environment, Water and Natural Resource has increased by Kshs.827 million but the allocations for irrigation, small dams and water pans have been removed. So, the people who prepared this Supplementary Budget are taking this country in an opposite direction from where were going before. I would like hon. Members to look at the money that has been allocated for infrastructure. Infrastructural development has been assigned a paltry Kshs.131 million against a request of Kshs9 billion.

Unless the Government makes roads, as Members of Parliament, we will all have failed. It will not be the Government that will have failed. So, I find it unacceptable that this House, which has the authority to pass this Supplementary Budget, can accept this kind of budget. This Budget has a meaning. It will affect us once we pass it.

Hon. Speaker, we have removed the entire allocation for irrigation but we have allocated money for purchase of maize. It is true that the country is experiencing drought. We must raise some money to feed our people, but we are ignoring the best alternative, which is irrigation, so that next year, we do not provide funds for importation of maize.

It defeats logic that we can provide money for purchasing maize and fail to provide money for irrigation. The allocation for irrigation has been removed from the Supplementary Budget. So, as Members of Parliament, how can we sit here and watch all

this happen? How can we sit here as Members of Parliament and pass a budget which does not look at the interests of our people? I am reading the documents and the information I have here that is supported by the Committee's Report. While we may pass this---

Hon. Speaker: Let us hear from hon. John Mbadi. What is your point of order?

Hon. Ng'ongo: On a point of order, hon. Speaker. I am disturbed that my hon. colleague has continued to mislead this House. He has not understood the two columns, the supply and appropriation-in-aid. He is taking it that the appropriation-in-aid column was what was requested. "Supply" means money from Government resources. "Appropriation-in-aid" is money from external sources. So, he cannot know where we have reduced money, because it is not in this Report. I just wanted to inform him because I know MPs have a lot of work and sometimes they come to the House before they have read the Bill properly.

(Laughter)

Hon. Nyamweya: I think he is misleading the House. Clearly, I am referring to D110.

Hon. Speaker: The Leader of Majority Party, what is your point of order?

Hon. A.B. Duale: On a point of order, hon. Speaker. We do not want to turn the House into tutorials between hon. Manson and hon. Mbadi. Hon. Mbadi, the great accountant has laid it very well. If hon. Manson is yet to grasp, then there are specific rooms at the back.

I want to also help hon. Mbadi and give further information, that this Bill we are discussing is a creation of Parliament and is based on the report from the Budget and Appropriations Committee, which we approved. So, you cannot at this stage criticize one by one. Now, I have realized the criticism is based on accounting, booking keeping and manuals, which hon. Mbadi can do better than me.

Hon. Speaker: Hon. Nyamweya, just go ahead and say what you understand best.

(Laughter)

Hon. Nyamweya: Hon. Speaker, I must correct the impression being created. I am reading from the Bill and it clearly states---

Hon. Speaker: Just say as you see it.

Hon. Nyamweya: Thank you. Then finally, as I continue contributing on this, of course, there is money which has been given to KERRA and Kenya Railways Authority. While there was a mistake earlier, the funding which has been done is inadequate. As Members of Parliament, we come from rural areas and even if you come from an urban area, there are no roads. If there are no roads, it does not matter what you do, we will fail as Members of this august House because that is the truth.

If we go back to the former Government, the big thing which made President Kibaki more popular was roads and nothing else. When you look at this Budget as we debate it, we cannot give money to buy food and not give money for irrigation. It does not add up. Why should you want to buy maize this year and the year after? Clearly, the

money for irrigation has been removed and it is in the Report which I have gone through. Let us look for a way of improving the wellbeing of ordinary Kenyans as we do this budget. It is not figures we are reading, it is a budget we are passing and which can help this country to move forward and reduce poverty. The rainy season is here, but the money which has been allocated to control floods has been removed from the Budget. These are the big issues I am raising and as we debate this, let us not pass it for the sake of it. It is going to affect our people; the farmers, the drivers and the transporters. Looking at it, I find that the Supplementary Budget given here is not meant to help this county but to enrich a few people who are getting allowances.

I will go to another area where reduction has been made. Yes, it is our Budget and it has been passed by the National Assembly, but are we doing the right thing even for ourselves? We come from constituencies and we represent people here in Parliament. There is the Ministry of Interior and Coordination of National Government where reductions have been made in the Supplementary Budget and yet people are being killed in this country. If we reduce capital expenditure for this Ministry and people are being killed in this country, how then do we help the country achieve security? These are the issues I am trying to highlight, so that as we debate, we know exactly what we are doing. We have increased money on Recurrent Expenditure, but removed all the money to help us make this country secure.

Looking at the Ministry of Devolution and Planning, they have reduced the money by Kshs.1.65 billion. Which sectors are being affected? These are the sectors which help the very poor person and helpless people from Kano Plains and Bundalang'i. They help in preparedness so that when it rains, people get shelter and dykes are built to stop flooding. As much as I support this Budget, I do not find it helpful to this country. We, as Members, need to wake up and do what can help this country.

With those few remarks, I support.

Hon. Speaker: Hon. Members, I think it is important that I draw your attention to the fact that debate on this Bill will be limited because Order No.12 is the Committee of the whole House on the Supplementary Appropriation Bill. Those of you who may have objections to any reductions, can go and sit with those who can craft things quickly to bring any proposed amendments that you may have. It is your right to do so. Of course, this House continues to sit even on Wednesday morning.

Hon. Katoo ole Metito.

Hon. Katoo: Thank you, hon. Speaker---

Hon. Speaker: Hon. Katoo ole Metito, not hon. Gladys Wanga.

(Laughter)

Hon. Katoo: Thank you, hon. Speaker. I stand to support this Bill and let me go straight to some of the votes. Talking of Vote D106, on the Ministry of Education, Science and Technology, one of the issues that were raised when the Budget Policy Statement was being discussed was the issue of completing the centers of excellence, which were done some years back through the Economic Stimulus Programme. It is good that we approve this Bill because in that Budget Policy Statement, there was an amendment that was brought by the Chair of the Budget and Appropriations Committee,

which I am sure took into account the issue of the completion of centers of excellence. An allocation of Kshs.5 million per constituency was to be given and it is the right time we released this money for that purpose. Also, still on that vote I would like to urge the Ministry of Education, Science and Technology not to let the physical infrastructure of these schools to be totally forgotten by the Government. Those facilities like classrooms, libraries and laboratories really require some repairs, renovations and maintenance or even building new ones because the Free Primary Education (FPE) has brought many pupils into our education system. Therefore, CDF left alone to construct classrooms for these institutions will not be enough.

On Vote D109, that is the Development Vote for the Ministry of Transport and Infrastructure. There was a Motion this House passed recently that compelled the Government to tarmack at least a 20-Kilometer road for each constituency in the country. I am sure Road Engineers at the county or constituency level proposed some of these roads. I am sure it is not possible for the Government to implement that House resolution in one financial year, So, I would advise that they do it in phases. They can implement in quarters and maybe through the Supplementary Budget. If we do that, by the time we end this term of five years in 2017, that resolution will have been implemented.

I know a lot has been done in terms of infrastructure. This Government is really trying a lot, with limited resources to actually do a lot in infrastructure, roads and even electricity supply. That is what will help in spurring economic growth to two digits, which is very much needed even for creation of jobs and also to take this country to greater heights.

Let me also say something about Vote D110, which is on the Ministry of Environment, Water and Natural Resources. My concern here is in the Department of Wildlife and Conservation. One cannot really underestimate the importance of tourism in this country. Some years back, it was even the highest foreign income earner, but what has been happening in the recent three years? There has been poaching, the killing of wildlife; our natural heritage. We are blessed as a country because not very many countries are left with this heritage; the wildlife. The way elephants and rhinos have been killed in the recent past is really worrying. If I have to give an example, the only rhino that we had in the Nairobi National Orphanage was killed by poachers and it was the most protected wild animal in the country. It was right at the doorstep of the Kenya Wildlife Service (KWS) headquarters and it was killed by poachers. So, if that rhino was not safe, what about those roaming in the big national parks? Through this Supplementary Budget, if a lot of money could be availed to the personnel in that department for buying of equipment and also increasing the number of personnel to monitor our wildlife, that will be very important. We do not want to hear of cases whereby over 300 hundred elephants are killed by poachers in one financial year. The Department of Wildlife Conservation needs to be supported. However, they also need to pull up their socks with the limited resources that they have to show their seriousness. By doing that, they will avert the looming talk that it might be an in-house thing or those charged with the responsibility of protecting these wild animals may have a hand in what is happening; they may be part of the poaching schemes.

With regard to D1 or D2, it is related to security. It is a Vote for the Ministry of Interior and Co-ordination of National Government. Insecurity has been very rampant in

this country. We really regret what happened in Mombasa where worshippers were killed in a church. We call upon the security agencies to be vigilant. We need to put a lot of resources to that Vote. Actually, it raises concern as has been raised by the previous speakers that there has been a reduction of Kshs66 million. This is a Ministry that does not really deserve such a reduction. On the contrary, it needs to be given more so that more vehicles and equipment for security are bought. The issue of handling *Al Shabaab* requires the use of sophisticated equipment. Therefore, this Ministry requires a larger vote than what has been given to it. This is not only through the Supplementary Estimates, but also through the main budget. It is a Ministry that should have a security status in terms of budgeting and not under public administration category.

Hon. Speaker, allow me to talk on D103. I know my colleagues have talked about the issue of CDF under the Ministry of Devolution and Planning. I will not talk much about the CDF. I would just like to ask for the release of the funds on time. We also want something to be done about the protection that hon. Mbadi had talked about. The CDF ought to be in a certain account as required by the law.

Sometime back, I think, in the 2010/2011 Financial Year there was the Economic Stimulus Programme. There were projects that fell in that Ministry, for example, there were markets to be constructed in every constituency. If you ask those in the Ministry, I am very sure they will tell you that the completion percentage is actually below 30 per cent. Through this Supplementary Budget and other budgets to come, this Ministry ought to complete those projects. The Ministry also needs to come out clearly and explain what is happening about the Uwezo Fund. This House had passed regulations on the Uwezo Fund. We have gone ahead as Members of Parliament to constitute the committees as required by the regulations. However, we see adverts being placed in the Press by the Ministry telling our constituents to go to the CDF offices to pick application forms while we know that those forms are not there. So, the Ministry should do the right thing. First of all, they need to gazette the names of those who were appointed to the constituency committees on Uwezo Fund.

Hon. (Ms.) Nyasuna: Thank you, hon. Speaker, for giving me this opportunity to contribute to this Bill. We spoke at length on the Report of the Budget and Appropriations Committee on the Supplementary Estimates. There are issues that we raised at that stage and we hope they will go a long way in assisting our people. I want to, particularly, raise an issue on the Gender Commission where Kshs.40 million was taken that was already spent. I hope the Budget and Appropriations Committee will find a way of rectifying that because we did not succeed in the amendment.

Hon. Mbadi is also whispering that no further amendment can be made on the Floor even when we go to the Committee Stage. However, the wage bill discussion is an important one and one that must be heard by all means. As we have this discussion, we must look at it holistically. We gave the Salaries and Remuneration Commission (SRC) Kshs.50 million to go and carry out a wage bill conference. Now they are saying that the tag line for the county discussions is: "Your salary, my burden." Are we not going to stigmatize public servants? The theme of this discussion is: "Your salary is my burden." So, they are going to every county and they meet *wananchi* who are also saying, "Your salary is my burden." They must review that tag line. We must have this wage bill discussion within an environment that is enabling and does not stigmatize any group of

people. Yes, I am back from New York, but when I was listening to my local radio station, that is what I was hearing that the SRC has such a tag line that states: “Your salary is my burden.” There must be a holistic approach.

Hon. Speaker, we must seal the leakages. This is why I support the idea of the audit. The audit must show us where the leakages are. We must also note as a House the propaganda that this Legislature is the cause for the high wage bill and begin cannibalizing ourselves. It is shocking to learn that it is the whole Chairman of the Departmental Committee on Finance, Planning and Trade who is introducing a Bill to remove women. Surely, hon. Angwenyi and hon. Mbadi should have serious discussions with that Chairman so that we bring legislation here that will help us grow our economy. We do not expect that Chairman to be the one bringing Bills that target removal of women. We must deal with corruption. This House works very hard.

Hon. Speaker: What is your point of order, Leader of Majority Party?

Hon. A.B. Duale: Hon. Speaker, you have heard hon. (Ms.) Nyasuna say that the Chairman of the Finance, Planning and Trade Committee is old; I want her to define how old he is and what “old” means.

(Laughter)

Hon. (Ms.) Nyasuna: Hon. Speaker, if I was coming from where my friend, hon. Musyoka comes from, I would have said, a whole Chairman of the Finance, Planning and Trade Committee. Anyway, this House works very hard. It is worth noting that we have so much work. We know that the other House has even reduced time. They said that they will not be meeting on Wednesday morning. We meet on Tuesday afternoon, Wednesday morning, Wednesday afternoon and Thursday afternoon. We sit here, in Committees and when we are not sitting in Committees, we are in our constituencies. Therefore, this idea of cannibalizing ourselves and saying that remove some people cannot be a debate we can have among ourselves.

I really would like to finish.

Hon. Ichung’wah: On a point of order, hon. Speaker. Hon. (Ms.) Nyasuna has gone on to dwell on irrelevancies on this debate and talk about cannibalizing each other while she cannibalizes the Chair of the Finance, Planning and Trade Committee. The Chairman of the Finance, Planning and Trade Committee is not in this House now and she has gone into the business of discussing a fellow hon. Member without bringing a substantive Motion on the view that the hon. Member holds on the question of the wage bill. Is it in order for hon. (Ms.) Nyasuna to conduct or give an opinion of a fellow hon. Member without bringing a substantive Motion - it is a view shared by other hon. Members of this House, including myself?

Hon. Speaker: Which view?

Proceed, hon. (Ms.) Nyasuna.

Hon. (Ms.) Nyasuna: Thank you, hon. Speaker. I am very relevant. Additionally, this is a House of record. Therefore, whether you are seated on your Chair or not, you always know what has been spoken. I am not discussing any hon. Member, I am discussing the content of proposals that he has made.

This is a matter that we have canvassed at length and I just wanted to really stress on this final bit, on the issue of whether hon. Members are valuable or not. Hon. Chris Wakhungu, if you bring this debate, you will have to tell me why the hon. Member for Kiminini is more valuable than the hon. Member for Homa Bay. We will really have to have that discussion.

With those many remarks, I support.

Thank you.

Hon. M'uthari: Thank you, hon. Speaker. I stand to support the report on the Bill. It is important that the Committee made some good considerations in their report on the Bill. The fact that we have reallocated some money from some sectors that are not able to absorb it and taken it to those sectors that are important, is a good gesture. As a country, this is the moment to look at ourselves and see where we are and where to allocate our resources. As we have the debate about the expenditure going on in the country at the moment, we have to ask ourselves where to put more money and where to put more emphasis. I believe there are certain sectors of the economy that we need to put enough emphasis. I believe that if we put more energy and more resources, instead of talking about the wage bill, we can be talking about production. Some countries in this world have been able to invest, especially in sectors like research, technology and innovation. You will be surprised to learn how much money we put in such sectors. If we put enough money, we can benefit from these areas. We can create more employment than we have at the moment. We can also create more wealth.

As a country, we suffer from a lack mentality. We are always crying of limited resources. We can reverse this and have abundance mentality, where we bake a big cake and share with all. At the moment, we cry of the small cake which is not enough for all of us. This can be done.

Hon. Speaker, if you look at agriculture, which is the mainstay of the economy, in terms of budgetary allocations, how much money do we allocate to that sector? At the same time, these are some of the functions that have been devolved. If you go to the Ministry, you will realize that not much is happening at that particular sector because of the wastage involved in terms of transferring even the functions. Therefore, at the end of the day, we end up spending money even with the human resource; as it has again been highlighted elsewhere.

When you look at the devolved units, we support the whole concept of devolution because that has the potential to equalize and have people in the particular areas which have been marginalized in the past. In many cases, I believe, even people participate in their own marginalization to a certain extent; especially the elite. So, in this case, when we look at how money is being shared and what is happening, there is some duplication of even human resource. At the county level, there are parallel structures that are more for spending rather than creating wealth, instead of mobilizing citizens so that they harness energy and come up with productive activities that can make our country move forward.

Therefore, I believe, as a country this the moment that we need to identify those particular sectors and areas. If we improve them, they will have a multiplier effect. It is important also in reallocation like we have KERRA and KURA allocating funds to such institutions. We know there are some roads that have been left incomplete because some

contractors have not been paid. Some of the roads are half done and by the end of the day, the Government will end up spending more money on the contracts.

It is important when money is appropriated for projects, planners and implementers keep track of everything that is happening. At the end of the day, we should know what has happened instead of waiting for the end only to realize that we have not done the right thing. We have spent money that is not there.

As a country, being an agricultural country, we could have thought about sectors like establishing factories for fertilizer manufacture. In the process, we can even reduce the cost of production so that we can stimulate growth. There are also crops which are grown in the Arid and Semi-Arid Lands (ASAL), like sorghum which has acquired some industrial value. It is bought by some of these manufacturers for making various products. It is also sad that these products are over-priced because of tax and this is transferred to the consumers who are farmers. At the end of the day, instead of supporting this production, they do not. I think the Chairman of the Budget and Appropriations Committee should look into this important crop. He should also look into the fact that the Government does not tax whatever is being derived from sorghum, which is promoted in the arid and semi arid areas. This is because if it overtaxes it, then its production is depleted and in the process we are not able to move forward as a country.

With those few remarks, I support this Bill.

Hon. Speaker: Hon. Chachu.

Hon. Ganya: Thank you, hon. Speaker. I support this Supplementary Appropriation Bill. I really want to thank and appreciate the Budget and Appropriations Committee. I think they have been doing a very good Budget and taking a lot of issues into consideration.

Hon. Speaker, I have an issue with absorption capacity. When Ministries are not absorbing the funds that we allocate to them in this Parliament, it means Kenyans are being denied some very critical services. I urge the Budget and Appropriations Committee that in future those Ministries that are not able to absorb funds are penalized. Some punitive measures should be meted on them because that is a sure strategy to ensure that Kenyans get the services that they require and the funds that we allocate to these Ministries are actually put to very good use.

I strongly support the Budget and Appropriations Committee's recommendation to put some money aside for a socio-economic audit of our Constitution. A Constitution is a living document. We need to review it and see to it that it serves Kenyans well. I was lucky enough to be a member of the Constitutional Implementation Oversight Committee of the Tenth Parliament. While the 26 of us who were in the Committee had the chance to really work on that document, the august House was not given the opportunity to even alter even a comma or full stop in that Constitution. If only Parliament, as an organ of the Constitution making would have been given an opportunity, I am sure many of these issues that we are facing today would have been addressed.

However, some quarters denied Parliament that opportunity because we were not trusted and it was very difficult for us to make even a single change to that document as a House, except for the Committee. I think that is why it is so critical for us to have this review and for experts to really engage with this document and see to it that we are able to fix what we need to at this juncture.

Hon. Speaker, it is also very great to see to it that the Budget and Appropriations Committee is forcing the National Treasury to adhere to the law of the land. The funds that are allocated to the Constituencies Development Fund (CDF) should at the end of the financial year go to the CDF and it is also the same for the counties' budget. We do not make laws in this House in vain. They must account for something and I am glad to see that the Budget and Appropriations Committee is enforcing that and it is reflected in this Supplementary Appropriations Bill.

Hon. Speaker, in particular I want to appreciate the fact that the Budget and Appropriations Committee saw it fit and gave Kshs.100 million to go to building bridges in Isiolo. I come from Upper Eastern and most of the times when it rains and when River Ewaso Nyiro floods so many vehicles are swept away. So many school children die and so many people have suffered over the years. This is one long lasting solution to the problem of the people of Isiolo, particularly those using that route when this Gotu Bridge is finally constructed. I really want to appreciate that even those marginal parts of this country are well constituted when it comes to the Budget and I want to commend the Committee for that. I really encourage them to do more and more so that they can even go to my county in Marsabit, Tana River and others that are very far from the technocrats who make the Budget. They need to understand, appreciate and ensure that those people are also cared for in our national Budget.

I also want to appreciate the fact that there is also Kshs.6 billion set aside for rural electrification. Even in marginal counties like mine of Marsabit today we have many centers like North Horr, Laisamis and Maikona where we actually have small power stations being established by the Rural Electrification Agency (REA) to ensure that our people get access to electricity. Most of our schools are also getting solar panels. This is very encouraging and I really need to appreciate it.

Hon. Speaker, as I conclude, the wildlife tourism sector is under threat. The poaching menace in this country is basically going to kill the tourism industry in Kenya which is a major foreign exchange earner for our nation. As Parliament, we have done our best. We have passed very progressive laws and maybe some of the most progressive in Africa with very severe penalties towards poachers, even we passed life sentences. The law is there. We even gave money to the Kenya Wildlife Service (KWS) to hire rangers. We gave them Kshs.200 million in the last Budget.

I serve in the Departmental Committee on Environment and Natural Resources and I can confirm that. Unfortunately, KWS needs an overhaul. That law that we passed is yet to be operationalised. The KWS actually lacks a board of directors. It is important to have that law in place. As we speak, there is no substantive Director. We only have an acting Director and no directors. It is a limping institution. I call on the President to take lead and ensure that the directors are appointed. The Cabinet Secretary, Ministry of Environment, Water and Natural Resource should appoint directors, the chairman and the Chief Executive Officer (CEO) so that, that law which we passed is actually operationalised and KWS takes the lead role in the fight against poaching.

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

Hon. Speaker: Hon. Leader of Minority Party.

Hon. Nyenze: Thank you, hon. Speaker. I just want to support this Supplementary Appropriation Bill, 2014 but as I do so, I want to raise some few issues.

Although the Committee has done a commendable job and we congratulate it for that, there has been some reduction in the allocation to irrigation and the Jubilee's promise was that they will irrigate one million acres. Any country that does not have food security and that does not take it seriously will be a beggar country or a banana republic. I think more money should have been allocated to irrigation so that we have food security in this country.

Hon. Speaker, however I am happy that there was an increase in the CDF allocation. CDF money has done wonders in all parts of this country through proper management and I think this increase will go a long way in helping all of us.

Hon. Speaker, I am also happy that the Director of Public Prosecutions (DPP) office has got more allocations. It was not enough before. If the DPP is allocated more money, there will be more prosecutors and this issue of corruption will go away. It is not only the DPP's office that should get more money; we should also allocate more money to the National Intelligence Service (NIS), the Criminal Investigation Department (CID), the Ethics and Anti-Corruption Commission (EACC) and to the Auditor-General. If we do these things, and these offices are well funded, we will not have these problems. I am happy at least the Committee found it wise to increase the money for the DPP.

Hon. Speaker, I also want to say that it is good that allocation of resources to the National Land Commission (NLC) has been separated from that of the Ministry. Of late, we have seen a lot of wrangles between the Minister and the Chairman of the NLC. I think that separation was a wise move so that this Commission has independence and resources and it will not be under the mercy of the Ministry because it is out to do a good job.

Standing Order Nos.40 and 243(3) read together with Section 44(3) of the Public Financial Management Act of 2012, require that the Supplementary Estimates must be accompanied by explanations of how the additional expenditure being requested relates to the fiscal responsibility, principles and financial objectives. This has not been done and we cannot understand why there were increases and reductions in most of the votes. I think the National Treasury, for next time, should take note and make these amendments because if they are like that, very many people will not understand it, but if there are explanations, even hon. Members will understand.

Hon. Speaker, I just want to say that institutions like KURA and KERRA have had their resources increased. This will go a long way because we will have good roads. Any country that wants to develop faster, first, it has to deal with infrastructure especially roads. It has to deal with IT these days. It has to do with agricultural investments and it has to do with manufacturing. I am happy that more money has been put for roads. One good thing that the Jubilee Government did was to connect electricity to rural areas where they would not have had it, were it not for the failed laptop project. However, they did well in many rural areas. I think the resources that have been allocated are not enough but I commend the Committee for allocating more funds to the Rural Electrification Programme because we need all schools to be connected even if laptops will not come. I think they will not come but we need to debate about it. I think it is good for this Government to stop that tender so that we think of other more urgent things like poverty--

Hon. Speaker: Leader of Minority Party, you might not be aware that the matter is pending before court. Please be informed!

Hon. Nyenze: Hon. Speaker, I am very sorry; I withdraw and apologize. Because it is in court, I will not comment because it not fair to comment when a matter is in court.

(Applause)

Hon. Speaker, my request because we have deliberated and it is like we have exhausted debate on this Bill, in fact, when I listen to hon. Members, there is repetition of what has been said before, my humble request is that in line with Standing Order No.95, you call for the closure of this debate.

With those few remarks, I beg to support.

Hon. ole Ntutu: Hon. Speaker, thank you for giving me this opportunity to also join my colleagues in supporting this Bill. I must say that this particular Supplementary Budget is a negotiated document between the Budget and Appropriations Committee, the various Departmental Committees of this House and the Treasury. Therefore, when you look at the various expenditures and reallocation that we have done as a Committee, we have done a very good job compared to last year when we were given the Supplementary Budget and we did not have time.

This time round, the Treasury knows that we are not just a House or a Departmental Committee to rubberstamp what they bring to our Committee. We went through it and I must thank the Budget and Appropriations Committee and the staff who have done a tremendous job. That was very good and we will continue to improve and make sure that what is brought to us is something that will go a long way in improving the lives of Kenyans.

When you look at our Constitution, the newborn baby, which is only three years old, is under attack and that is why we thought carefully that it is prudent to get about Kshs.80 million so that we can audit this young baby and find out what is wrong with it. This is because for just three years, we have not yet – I do not think we have owned this Constitution enough to know where it pinches. When you look at the various stakeholders who have been talking about this Constitution, it is like the country is already tired of this new Constitution and Kenyans forget easily that we have come a long way. It has taken us so many years to get our Constitution. When I see our male colleagues talking about our sisters, the Women Representatives, the issue of MPs or areas to be reduced, I wonder: Have we just forgotten where we have come from as a country? I understand there is a Bill coming to this House but I am asking my colleagues to hold it because I am one of those who are going to oppose with the strongest terms possible. This is because I do not think that is where we should go as a country.

When you look at what is happening in this country, we have now started mixing up the issue of the wage bill and the issue of the new Constitution. That is why, as leaders, we must come out strongly to say that we still need time for this Constitution to look at it. When you look at the USA, it has taken them over 200 years to relook at their Constitution. So, what is this urge of three years? We have already become tired of our Women Representatives, Senate and all these other things. We must oppose that with the strongest terms possible.

Hon. Speaker, when we talk of an additional allocation of Kshs.300 million to be made to the Director of Public Prosecutions (DPP), when you look at the many cases in our courts that are thrown out, it is simply because of lack of evidence. The reason why we thought it was wise to employ more staff who can help this country to catch those criminals, is because of the shoddy work that police do. The insecurity in this country is as a result of getting criminals who never go to jail because of the shoddy job that our police do. So, this was well thought out and that is why we added that amount. I want to urge my colleagues to support this Supplementary Budget because it is a well thought out document and we have worked tirelessly. I must thank my Chairman because he has done a very good job spearheading the Committee and all the Members have also done a good job.

With those few remarks, I beg to support.

Hon. (Prof.) Nyikal: Hon. Speaker, I rise to support this Bill. Being a Member of the Committee, I know how much work has been put in this and once again I appreciate our Chair. I support this Bill because the monies that we have put in certain areas are taking care of the welfare of our people. I start by looking at Vote 08 where we have put more money in the Ministry of Health. I will not tire of saying this: The health sector is the one area that we must always look at. Everything we do in this world is intended to improve our wellbeing which starts with health. No country can progress if the health of its people is poor. That is a good thing that the Committee did. I know that health services as of now are devolved but even at the headquarters level, we need to know we have to set the standards. We have to have the regulations.

Hon. Sakaja: On a point of order, hon. Speaker.

Hon. Speaker: What is your point of order

Hon. Sakaja: Given the fact that a lot of the issues that are being raised were also raised in the House when the Budget and Appropriations Committee gave its Report on the same, I would like to probably propose that pursuant to Standing Order No.95, the Mover be called upon to reply to this Bill.

Hon. (Prof.) Nyikal: Hon. Speaker I believe that will be after me.

Hon. Speaker: You cannot say---

Hon. (Prof.) Nyikal: I just said I believe hon. Speaker---

Hon. Speaker: Hon. Prof. Nyikal, you will have my sympathy. Conclude your contribution then I will put the Question.

Hon. (Prof.) Nyikal: We really must put in standards. We really must put in regulations because we need to have a standard healthcare. We need to have a regulated healthcare. We need to have a link, as I said before, between the monies that we allocate at the national level and the monies we allocate at the county level. How do they relate in health? There is the issue of human resource. Health workers are resigning *en masse*. Those are people - whether they are nurses, doctors or physiotherapists, go all over the world. If you take their issue like any other issue, they will not agree with you. They just wait and move out of the country. I support the need to put more money to build health facilities and houses at health centres. I think that is a good thing we did at the Committee. We looked at the area of infrastructure. The greatest success of the Kibaki regime was the infrastructure. Being there at that time, I knew the policy was infrastructure, infrastructure and infrastructure. I think the country has felt that.

The other area that I think is important is agriculture put together with the area of industrialization. I believe this country will not be industrialized until industrialization is based on the agro-industry. That is where our people are, and the only way to move forward is to improve agriculture, food production and export and to look at value addition and base our industrial development on that. That is a great thing and I think we need to put more money there.

Let me end by talking about audit. Audit is required. Everybody, wherever they are, is talking about the Constitution. They are jumping up and saying: “We want to amend the Constitution! Review the Constitution.” I know we have faced problems. We have faced problems in health. We have faced problems in Roads – KURA and KERRA had arguments that were here. We have faced problems with the wage bill which many people think is due to the Constitution. We have had problems with the governors. There is low absorption and what is being used, we are not convinced that it is being used properly. The question we have not asked ourselves is this: Is it just the Constitution or the process of implementation? Personally, I believe we have a good Constitution. The 20 per cent may not be a big problem now. Where our problem is, is the implementation of the Constitution. We did not think it out properly and even when we put up the walls for the transition, the transition would not have followed it. I believe this audit will bring out what the problems are. Are they the problems of transition or the problems of the Constitution itself?

Let me just give an example. If you live and are practising in a town and your family is there; your children are going to school and you decide you are moving to another town, because you know the prospects there are better, you must plan how you move. One day, you cannot take your wife or wives, remove your children from school and move everybody into that town yet, you neither have an office nor a house. That is exactly what we did when we said we were implementing the Constitution at once. I believe the decision by the Summit, for instance--- Devolution was a monumental error and the only way we can really find out how to go forward, is to go through this audit

With that hon. Speaker, I support.

Hon. Speaker: Hon. Members, let us dispose of this bit.

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

Hon. Musyimi: Thank you, hon. Speaker. I wish to take this opportunity to thank hon. Members of this House for their very incisive and accurate analysis of our situation. They have indicated which way the country needs to go. Budget is so crucial in the way we run our State of affairs. I have taken note of the comments that have been made and, where I may have forgotten, the Parliamentary Budget Office will look at the Hansard and assist us in the committees. We will seek to be faithful and adhere to the weight of the arguments as put across by the hon. Members of the National Assembly.

May I also take this opportunity, hon. Speaker, to thank the Treasury for their work, the various sectors for engaging us very strongly and the other spending agencies. I also thank the Members of the Committee. We try to work hard. We were asked to work hard and we will do our best to make sure that issues of budget and appropriations are

given the attention they deserve. Money matters are never easy but we seek to give leadership and be as inclusive as possible. I cannot respond to all the comments that have been made, but allow me to just indicate that, again, this country needs the audit.

Anybody who has been involved in running institutions - and many of us have been - will agree with me that an institution--- The Government is by far the largest institution in any country. If it has gone through changes in its mother law, it needs from time to time to do an evaluation of where it is going. I do not know why we should feel threatened by doing that which is professionally necessary and experienced by our people. I, therefore, wish to ask that we prepare to support that process and do so in good faith and in public interest.

As I close, I also want to just indicate that I know the issue of the gender commission - the Kshs40 million that was taken away. That issue was raised. Let me just say that this was taken away from the Commission. This was done on the recommendation of the Commission itself through the relevant Departmental Committee. So, we have sought to be faithful and to respect the work of the committees that we work with. That is the least we can do. It is not just a decision we made arbitrarily or unilaterally, we made it on the recommendation of the committees that report to us.

It was the same with the money that we gave the Director of Public Prosecutions and State Law Office. Just to remind ourselves that the justice chain is more than just the Judiciary. When you sit in the Budget and Appropriations Committee, you look at the entire Government. The justice chain is the Judiciary, Director of Public Prosecutions and other spending agencies in that chain. We stand for justice and we will seek to support the Judiciary as well, and will engage with them as time goes on.

With those few remarks and with much appreciation, I beg to reply.

Hon. Speaker: Hon Members, I have ascertained that the House quorates and, therefore, meets the threshold of Article 121 of the Constitution. I will proceed 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 today)*

Hon. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Cheboi) took the Chair]*

THE SUPPLEMENTARY APPROPRIATION BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, hon. Members! You can now resume your seats. What we have before us, of course, is the Supplementary Appropriation Bill, 2014. It is fairly short and I am sure we will be able to finalise it quickly.

(Clauses 3, 4 and 5 agreed to)

(First and Second Schedules agreed to)

(Clause 2 agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Musyimi: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation Bill (National Assembly Bill No.10 of 2014) and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE SUPPLEMENTARY APPROPRIATION BILL

Hon. Cheboi: Hon. Deputy Speaker. I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill (National Assembly Bill No.10 of 2014) and approved the same without amendment.

Hon. Musyimi: Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. A.B. Duale seconded.

(Question proposed)

(Question put and agreed to)

Hon. Musyimi: Hon. Deputy Speaker, I beg to move that the Supplementary Appropriation Bill (National Assembly Bill No.10 of 2014) be now read the Third Time.

Hon. A.B. Duale seconded.

(Question proposed)

Hon. Deputy Speaker: Does hon. Waiganjo want to make his last comment?

Hon. Waiganjo: Thank you, hon. Deputy Speaker. I think this was a fairly well done and balanced Bill. It is not always easy to come up with such a Bill in a country like ours that is facing many challenges. I think the Committee did its best to balance the Bill, although I still feel that security should have been allocated more funds. This is because we are faced with many security challenges. Nevertheless, I would like to say that the Committee has done a fairly good Bill and I want to commend it.

I hope that in future we should be able to look at areas that we feel we have denied funds. We need to allocate more funds to meet food security, so that our population is well fed.

I thank you, hon. Deputy Speaker.

Hon. (Ms.) Kanyua: Thank you, hon. Deputy Speaker. I also want to join other Members in supporting the passage of the Supplementary Appropriation Bill. Even as I support the Bill and the recommendations that the Chair of the Budget and Appropriations Committee has raised, I want to go on record as saying that when the Kshs80 million was proposed by this Committee for the purpose of the Constitution, I raised a concern on whether the new offices, some of which are occupied by Members like me are at risk in relation to the audit. The Chair and Members of the Budget and Appropriations Committee like hon. John Mbadi and others confirmed that the audit was only for the purpose of a cost-benefit analysis, and it was not an audit to be used for the purpose of removing from constitutional structures provision for some Members of Parliament. If, indeed, any of those measures is required, then we will have to go back to the people of this country in a referendum and ask them whether they want to change the structures in the law. So, even as we support the Bill, I think that we need to look at the Constitution.

We also need to have a very good view of where the country has come from and where it is going. The country has laws on the economy. In the Budget and Appropriations Committee—

Hon. Deputy Speaker: Order, hon. Member for Nyeri County! Remember this is the Third Reading and we are not really at the debating stage now.

Hon. (Ms.) Kanyua: I am winding up, hon. Deputy Speaker.

In the Budget and Appropriations Committee, there are many issues that concern supplementary matters. Questions might come up in terms of the funds that we are voting. Next year's Budget is also under consideration by that Committee. It is looking at how we can increase the funding by the country.

Hon. Deputy Speaker, thank you for the opportunity. I support.

Hon. (Dr.) Shaban: Thank you, hon. Deputy Speaker. I just wish to also join my colleagues in congratulating the Chair of the Budget and Appropriations Committee and his team for a job well done. I also want to mention that as the audit is being carried out,

it will be very important for Kenyans to remember that there is revenue that is collected at the county level and nobody really knows where the money goes. It is very important for that money to be looked into, so that we can close the loopholes through which money is lost, or is used for purposes that we know nothing about.

Also, it is important for us to know that as much as we provide money for Recurrent Expenditure--- It is important for us to do away with ghost workers. People talk about ghost workers, and it is necessary for us to establish whether they exist; we need to make sure that money spent on ghost workers is used for purposes for which it is meant. I know that all the women Members from counties are real and are here; they are not ghost workers; they are really working.

Hon. Deputy Speaker: Thank you, hon. Naomi Shaban for that. Hon. Members, we have to now put the Question. We have ventilated on this enough.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

MOTION

ADOPTION OF REPORT ON TERRORIST ATTACKS IN KENYA

Hon. Abongotum: Hon. Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Joint Sittings of the Departmental Committees on Administration & National Security and Defence and Foreign Relations on the Inquiry into the Terrorist Attacks at the Westgate Mall, and other Terror Attacks in Mandera and Kilifi, laid on the Table of the House on Thursday, 5th December, 2013.

Hon. Deputy Speaker, thank you for granting me the opportunity to move the Motion on this report, so that Members can debate it.

From the very outset, I want to say that the Departmental Committees on Administration and National Security and Defence and Foreign Relations are constituted under the Standing Order No.216(1) and are mandated to, *inter alia*, investigate, inquire into and report on all matters relating to management activities, administration, operations and estimates---

Hon. Deputy Speaker: Hon. Kamama, could you begin by moving the Motion which is on the Order Paper?

Hon. Abongotum: Hon. Deputy Speaker, I have done that.

Hon. Deputy Speaker: So, this is a continuation of your Motion?

Hon. Abongotum: Hon. Deputy Speaker, this is a continuation of the moving.

As I was saying, the Joint Committees on Administration and National Security and Defence and Foreign Relations was constituted pursuant to the Standing Order No.202(1), which states that:-

“Two Committees of the Assembly considering similar matters may, with the approval of the Speaker, hold joint sittings”.

I will not go to the list because we all know the Members of the Committee on Administration and National Security and the Members of the Committee on Defence and Foreign Relations. I will skip that part in the interest of time.

The Joint Committee was established after the terror attack on Westgate Mall on 21st September, 2013. The Committee was constituted with a view to establishing the circumstances leading to the terror attack at the Mall and whether there were any acts of commission and omission on the part of the intelligence and security organs in the country. So, the Committee further extended the scope of its mandate to cover other areas that have been affected by terrorist attacks; such areas include Garissa, Mandera, Wajir or the former North Eastern Province, and Kilifi in the Coast region.

The Committee held its first sitting after 21st September, 2013 and drew up the following terms of reference:-

(i) The Joint Committee had the mandate under Standing Order No.216(5) to investigate, inquire into and report on all matters surrounding the terrorist attack on the Westgate Mall;

(ii) The Joint Committee, in carrying out its mandate may inquire into any acts of omission and/or commission that contributed to this attack;

(iii) The Joint Committee may inquire into past terrorist attacks, including the findings and actions that may have been taken by relevant departments and agencies to bring the perpetrators to justice;

(iv) While carrying out investigations and inquiries, the Joint Committee may call witnesses from various departments and agencies including, but not limited to the national security, defence and intelligence;

(v) The Constitution, under Article 125, gives the Joint Committee the power to call for evidence by summoning any person to appear before it and give evidence or provide information.

In carrying out this mandate, the Committee may seek to:-

(a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;

(b) compel the production of documents;

(c) issue a commission or request to examine witnesses abroad;

(vi) The Joint Committee may make recommendations on preventive measures and steps to be taken drawn from the findings of investigations that will seek to improve security in the country and stem further acts of terror.

The Joint Committee decided to involve the public in the inquiry, especially the witnesses and victims of the Westgate Mall attack. To this end, the Committee placed paid advertisement in the mainstream print media on 30th September, 2013 requesting the members of the public to submit memoranda on whatever information they had on the Westgate Mall attack and other terrorist attacks in other parts of the country.

The Joint Committee further came up with a programme where its meetings were arranged between the Committee and witnesses, security organs, experts on intelligence gathering and security issues, as well as other interested individuals or groups, who would assist the Committee to get to the bottom of these attacks.

The Committee held a total of 20 sittings. Apart from the witnesses who appeared before the Committee, the following individuals, or groups, appeared before the

Committee:- the National Intelligence Service, Ministry of Interior and Co-ordination of National Government, the Inspector-General's office, Ministry of Defence, Department of Immigration Services, Department of Refugee Affairs, Nakumatt Supermarket Management, Kenya Red Cross Society, Althaus Services Limited, Dixons Electronics Limited, Securex Agencies Kenya Limited and Sony Holdings Limited.

According to the forensic report made available to the Members, and I want Members to pay close attention to this part, we established the following facts:-

(1) Four terrorists were involved in the attack at the Westgate Mall on 21st September, 2013. Their names are as follows:- Mohamed Abdi Noor of Somali nationality; Mohamed Hassan Dhulhulow alias Abu Baraa Al Sudani, a Norwegian citizen of Somali origin; Yahye Osman Ahmed alias Arab, a Somali national of Arab extraction and Ahmed Hassan Abukar of Somali nationality. These were the four terrorists who were involved in this terror attack.

(2) I want to report to the Members that all the four terrorists were killed during confrontation with the security forces. Their body parts like arms and personal effects were recovered from the scene of attack. Forensic investigations confirmed that the recovered body parts and unmarked arms belonged to the terrorists.

(3) Four AK-47 rifles believed to have been used by the terrorists were recovered from the scene. Two G-3 rifles, one Scar rifle and four live grenades were also recovered.

(4). Body parts, including one in a military boot, were recovered from the scene on 1st October, 2013. Two bodies believed to be of military personnel, one M4 Rifle and a military knife were also recovered from the scene on 22nd October, 2013.

5. One police officer died and eight others were injured.

6. Two empty ammunition belts of 5.56 millimetre calibre, two ammunition canisters and one empty AK47 rifle magazine were recovered on 9th October, 2013.

7. Four main suspects believed to be accomplices of the terrorists have been arrested and arraigned in court. They are Mohamed Ahmed Abdi, Liban Abdule Omar, Adan Abdikadir Adan and Hussein Mustafa Hassan. Seven other suspects have been arrested and charged in court.

8. Five other suspects are still at large.

9. A motor vehicle, Mitsubishi Lancer, Registration Number KAS 575X was used by the terrorists to perpetrate the attack.

10. Four Safaricom SIM cards were recovered from the vehicle used by the terrorists.

11. Sixty-seven people of different nationalities were killed during the Westgate Shopping Mall terror attack.

12. Over 200 people were injured during the attack.

13. Digital video recorders are still being analysed by forensic experts at the Criminal Investigation Department (CID).

Hon. Deputy Speaker, that is the forensic report from the CID. That is the most important part of it.

Hon. Deputy Speaker, the Committee made the following observations and conclusion on the Westgate Shopping Mall terror attack, amongst others:-

1. There was general information on the impending terror attack on all shopping malls and other strategic Western interests, especially in Nairobi County. The information was made available to the relevant security officers in Nairobi County.

2. There was general laxity amongst the police divisions over the terror alerts within Nairobi County.

3. An elite police squad from Recce Company of the General Service Unit (GSU) had contained the terrorists at one corner of the mall. However, there was poor coordination during the change-over to the Kenya Defence Forces (KDF) from and police units.

4. There was looting of business premises within the mall by individual security officers, and action has already been taken against the culprits. Some people had blamed me for having supported the KDF on this matter. I want to state that when we looked at the first CCTV footage at a session I chaired there was actually no looting. Subsequent CCT footages were shown when I was in Columbia. In the subsequent CCTV footages, there was evidence of looting. So, I want to apologise and state that I was not present when CCTV footages that showed looting were shown.

5. There was a nationwide or systemic failure on the part of the Immigration Services Department, the Department of Refugee Affairs and the Department of Registration of Persons, which was attributed mainly to corruption at the border control points and registration centres, mainly in Nairobi, Coast and North Eastern regions.

6. There was destruction of property occasioned by exchange of fire between the terrorists and the security forces.

Hon. Deputy Speaker, the Joint Committee made the following recommendations:-

1. The Government should declare war against *Al Shabaab* wherever they are. The war against terrorism should be intensified within and outside the country. The Government should collaborate with the international community for concerted efforts to bring peace and stability to the Republic of Somalia with a view to ensuring that the country no longer serves as a sanctuary for international crime and terrorism.

2. The Government should establish a national inter-agency co-ordination centre to be referred to as “Directorate of National Security”, with membership drawn from all the security agencies to ensure that intelligence gathering, information sharing and implementation are carried out expeditiously. The Directorate, premised on a single and secure information management programme, shall be reporting to constituting agencies.

3. The Government should carry out a radical surgery in the Department of Immigration Services and second trained security officers, including retired military officers, vetted administrators and National Intelligence Security officers, who have a security background to the Department. The Department should, of course, cease to victimise Kenyans of Somali origin. We found that sometimes it is easier for somebody from Somalia to get an identification certificate than it is for a Kenyan Somali.

4. The Refugee Act, 2006, should be repealed because it is redundant and cannot deal adequately with the emerging issues of terrorism. A new law should be developed to guide relevant Government officials on handling of the refugee phenomenon in the country.

5. On the refugee camps, we want to be very specific because the Ministry had promised that it would take action. We recommend that Dadaab Refugee Camp, which includes Dagahaley, Ifo, Ifo II, Hagdera and Kambios camps, as well as Kakuma Refugee Camps, should be closed and resident refugees repatriated to their countries of origin. The recent signing of the tripartite agreement by the Government of Kenya, the Republic of Somalia and the United Nations High Commissioner for Refugees (UNHCR) is a step in the right direction, but we need expeditious action from the Ministry with a view to actually taking all the refugees to their countries of origin. We know that there are very many refugees and action should be taken because refugee camps have become sanctuaries for terrorists.

6. The Government should fast-track the National Disaster Management Policy with a view to ensuring that legislation is developed to guard against haphazard responses to all disasters in the country.

Hon. Deputy Speaker, the Committee takes cognizance of the terrorist acts being committed against Kenyans from that time up to now. As a Committee, we really want tough action by the Government, especially within the areas that have been radicalised such as Majengo, Eastleigh and some mosques in Mombasa. We want action taken as a matter of priority.

The Committee is thankful to the Office of the Speaker and the Office of the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank all the witnesses for their co-operation and participation during the inquiry.

I would like to pay special tribute to the many gallant Kenyans who participated in the rescue mission at the Westgate Mall and ensured that hundreds of people were saved while the injured were delivered to hospitals. I also pay tribute to the security officers who lost their lives during the rescue mission, the Members of the National Assembly who donated blood along with other Kenyans, the many Kenyans, some of them from the Diaspora, who donated blood and funds and gave other support following the attack.

Hon. Deputy Speaker, on behalf of the Committee and pursuant to Standing Order No.199(5), it is now my pleasant duty to table in this House the Report of the Joint Committee on Administration and National Security and Defence and Foreign Relations on its inquiry into the Westgate Mall terror attack and terrorist attacks in areas such as Mandera and Kilifi.

Hon. Deputy Speaker, as I conclude, I now want to call upon my co-Chairman, the very able Member of Parliament for Tetu, hon. Ndungu Gethenji to second. I thank you.

Hon. Gethenji: Thank you, hon. Deputy Speaker. I wish to thank my co-Chairman of the Joint Committee on Administration and National Security and Defence and Foreign Relations. I also wish to thank all the Members of that Committee and my Committee, which is the Departmental Committee on Defence and Foreign Relations. I want to thank all those who participated and were incorporated into our inquiry.

In addition, I want to take a moment to condole with the victims of not only the Westgate terrorist attack, but also all the other terrorist attacks that have taken place on

Kenyan soil in the recent past, including in Wajir, Mandera, Eastleigh and most recently, Likoni.

In our inquiry, we endeavored to examine all the openings which terrorists exploit, penetrate our systems and harm our nationals. We endeavored to find where there was weakness and show it. We endeavored to observe Chapter 14 of our Constitution which refers to national security.

As a Committee, we were tasked with a heavy responsibility, indeed. We may want to go down to the nitty gritty of the events, it is important for us to take a global view of what happened not only in Westgate, but also of what is generally happening with terrorism that is beginning to affect our nation. The intention of the attack needed to be interrogated. What was it? Why did these people come here to do this to us? Was it to break our spirit as a Kenyan people? If so, then I say that they failed.

If their intention was to come here and cripple our security and intelligence machinery, that too failed. We killed them. If their idea was to traumatize the Kenyan public, the mall goes and the people who patronize the commercial centres that we have in this country, that too was a failure because Kenyans still patronize our commercial establishments. Investors are still building new malls all over the country, including here in Nairobi. If that was part of their agenda, that too failed. If the idea was to glorify the Mujahideen, the so called soldiers of God, then that failed miserably. No soldier of God will put a gun on an innocent woman or a pregnant mother, grandparents and so on. If that was their objective, it completely failed. We must, therefore, interrogate this question further: What was the objective? What is the objective of the campaign of terror in this country?

From analysis of what has happened historically, it is apparent that there is an attempt to destroy Kenya's prospects socially and economically in this region. This country is on the verge of an economic and social transformation. We are on the runaway to Vision 2030, and also to becoming a middle income economy. We are one among the few in Africa. If you look at the corporate landscape, all the multinationals in this continent either have a presence or a headquarters in Kenya. We know that Kenya is the only domicile of the United Nations agency in the developing world. Kenya is the gateway to the African hinterland. The LAPSSET Project, which is going to be the largest infrastructure project in the continent, is set to take off and this will open up this continent like no other project has ever done, and will allow development of infrastructure.

Hon. Deputy Speaker, this was a social and economic attack on the people and the Republic of Kenya. There are those who ask, "Why did this happen?" They will find the answer in Operation *Linda Nchi*, which reclaimed Kenya's territorial space and waters from the bandit group, *Al Shabaab*. Operation *Linda Nchi* and Kenya's decision to move into Somalia and attack *Al Shabaab* ended the bandit economy, which was choking Kenya's legitimate economy. This position of *Al Shabaab* in Somalia was allowing the transportation of contraband goods from Kismayu to Kenya; this ran into billions of shillings. The piracy and ransom racket which had grown tentacles into the professional and service sectors in Kenya was distorting our micro-economic framework, and also the way business is done in this country. It artificially inflated the value of real estate in Kenya.

This had a twin effect of increasing the cost of doing business and also the cost of living in this country. Indeed, it had choke-hold effect on maritime operations and logistics, which is the lifeblood of not only the Kenyan economy, but also the hinterland of the East Africa Community and beyond. The cost of shipping and insurance skyrocketed, and all this ended with the Operation Sledgehammer on 28th September, 2012.

The KDF took Kismayu but that has not been celebrated enough. Today, much of the peace and security that we enjoy is because of the end of the incursions from southern Somalia into Kenya by the *Al Shabaab* and their positioning on our borders. Even though we still have this phenomenon that continues to haunt us, that operation needs to be celebrated and endorsed. We now have a strong ally against *Al Shabaab* in the name of the Jubaland leadership. We also have a strong ally against *Al Shabaab* in the Somali national Government. What then is *Al Shabaab*? We may want to focus exclusively on this band of criminals and think that we will end all of our problems.

Hon. Deputy Speaker, *Al Shabaab*, as has been pronounced by its leadership is part and parcel of the *Al Qaeda* global terrorist network. As we know or have been told since 11th September, 2001 it is an organization that seeks to establish a global outfit using regions. In fact, "*Al Qaeda*" means "the base". So, the global outfit seeks to establish bases all over the planet from which to spread its philosophy. The Eastern seaports of the African continent are where the *Al Shabaab* has had its foothold; its foot soldiers are based there.

Hon. Deputy Speaker, this phenomenon needs to be interrogated very carefully because it is not only the phenomenon of *Al Shabaab* in the eastern seaports. The *Al Qaeda* in its planning and machinations have developed a strategy to traverse the entire continent of Africa in order to establish themselves on it, and create the kind of---

Hon. Deputy Speaker: Hon. Member, I will give you a chance; one minute one second for you to pronounce "seconding".

Hon. Gethenji: Hon. Deputy Speaker, I thought I had 30 minutes?

Hon. Deputy Speaker: No, it is only the Mover who has 30 minutes.

Hon. Gethenji: Thank you, hon. Deputy Speaker. In closing, may I say that we in this country need to support the activities of all the security forces? Parliament needs to support the National Security Council. We have Article 247 of the Constitution which requires that the National Security Council reports annually to Parliament on the state of the security of Kenya. We are now calling on the National Security Council to come to Parliament or present a report to Parliament, as required by the Constitution, so that we may get an update of the security situation of our nation. Even as we support the report that has been prepared by our joint Committee, and even as we move and support the recommendations therein---

Thank you, I beg to second.

(Question proposed)

Hon. Mwaura: Thank you, hon. Deputy Speaker. I rise to support this report albeit with some observations. This country has been treated to many terrorist attacks that have taken away the lives of very productive Kenyans. In this case, the major attack

that is part of this report is about the mall that actually symbolises the economic growth of this country and the middle class sophistication of this country. The people who are up there are high spenders and there are Kenyans from all walks of life; in particular people who were making meaningful contribution in their places of work, their families and any form of public endeavor---

Hon. Deputy Speaker, when I look at this report, I get worried because it seems not to really address the root causes clearly with regard to this specific incident. I think the report dwells on generalities and it is not specific on key interventions that would help this country move forward. It is important to locate the terrorism discourse within various ideological differences; of course what has been happening is that--- It is, indeed, an international war. We need to ask ourselves, as a country, why it is that we are so susceptible to these attacks. Why is it that Kenya within the span of 10 years has been vulnerable? Of course, a quick answer will be that it is because of our intervention in Somalia. But even before that intervention, this country was still attacked. You remember the August 7th 1998 bomb blast, the Kikambala attack and so forth.

I think there is a big failure with regard to how this country has been organizing its own security. In fact, the Westgate attack, was really the theatre of the absurd. Even some of the pronouncements were very awkward. Sometimes we were even told it was because of the moment--- Some statements were really comical. I think at some point we were even told that the building was coming down because of mattresses that were burning. That taking of Kenyans for granted or for a ride is totally unacceptable.

Hon. Deputy Speaker, if you look at why we were attacked, it was because of our porous border with Somalia. But more importantly, it was because of corruption; you can actually give some little money in this country and compromise the security of others. Our security officials have been cast in bad light to the extent that it was questioned--- There were even allegations of looting of the mall businesses. The explanation given later was that people had carried water in paper bags. I am wondering really whether there was no water in the barracks.

Hon. Deputy Speaker, we need to be true to the real issue at hand. The real issue here is corruption. It is laziness and compromise of our own national institutions even with regard to how we issue our passports and national identity cards. Anybody, as long as they can pay some little money here and there, can compromise our own integrity. We must also ask ourselves, as Kenyans, whether we would like to have a higher calling; whether we would want to be more patriotic to this country. We also want to realize that there is something that we hold dearly, and which we cannot lose.

Hon. Deputy Speaker, Kenyans have got a role with regard to ensuring that there is global security. I think we must look at how, indeed, we can actually provide long lasting solutions. There have been strong arguments around the fact that our security budget is still low. I beg to differ because we will need also to ask what we have done with the little that we actually have; what is it that we are doing? Just in the previous debate, there was a submission to this House that even within the Nairobi National Park, the only rhino that was there was actually killed by poachers. It means, therefore, that anybody can be subjected to attacks.

Hon. Deputy Speaker, hon. Members of this House, including hon. Maanzo, have been attacked. Therefore, nobody is actually safe. It is not really a question of spending,

but rather a question of co-ordination failure. Our institutions are not properly co-ordinated; they are easily corrupted; even if you provided whatever sums of money, I think it will disappear through a gravy train.

Hon. Deputy Speaker, as we speak, I do not know whether we are also asking ourselves whether the short intervention that we had of counseling and taking care of the victims worked.

The other thing is: What are the plans to reinstate the mall and to compensate our businessmen who had invested there, so that we do not kill their entrepreneurial spirit? This is because without security it is going to be very difficult for Kenyans of goodwill, or Kenyans who are ambitious, to actually invest heavily, so that we can create jobs for Kenyans.

Hon. Deputy Speaker, if you look at the basic security of our country, leave alone what you may call national security; Kenyans are at the mercy of the police. Corruption has made it very difficult to get simple justice achieved. You have communities being told, for example, that they need to fuel the car at the local police station. You have people being told that they need to pay certain police officers, so that they can provide security. I think we need to ask ourselves whether really corruption, as it is, is robbing us of our future. In my opinion, it is doing so.

When I look at this report, I think it is not in order to apportion blame to the refugees who are hosted by this country. I think you cannot say that because we have refugees, here we have terrorism. I think we must look at each other in the eye and say the truth. Refugees have been in this country from countries like Rwanda. Why is it that we did not have terrorist attacks by people of a similar background? Let us really address ourselves to the fact that if you look at our spending and how we carry ourselves as individuals in this country, there is no commitment to brotherly or sisterly caring for one another. I think it is everyone for himself and God for us all. So, it may go a little further, not just in terms of the simple intervention that we may have, and that may actually cure the situation--- We need to bring the country together with some sense of belonging.

Hon. Deputy Speaker, if you look at the way even Kenyans came out, and I think I want to really pay tribute to the common Kenyans---

Hon. Deputy Speaker: The Member for Saboti seems to be on a point of order. What is your point of order? What is not in order, Member for Saboti?

Hon. Wekesa: On a point of order, hon. Temporary Deputy Speaker. As much as I respect my fellow hon. Member, whom I know is articulating his point, is he in order to continue dishonouring this report? We know that it is purely based on the evidence we got from those who appeared before the Committee? In fact, the hon. Member was at liberty to appear before the Committee but he never did so.

Hon. Deputy Speaker: Hon. Member, are you purporting to have an opinion or to refuse him to have an opinion on the report?

Hon. Mwaura: Hon. Deputy Speaker, I think that Member is out of order since that is a point of argument. It is not a point of order. So, he is grossly out of order.

Hon. Deputy Speaker, as I see this matter, I think---

Hon. Deputy Speaker: There is another point of order from one of the Co-Chairs. Yes, hon. Member for Tetu.

Hon. Gethenji: Hon. Deputy Speaker, on a point of information. I rise to ask if my brother would allow me to inform him. He made a statement that terrorism is not linked to refugees, yet if he read our report he would find that the police gave us evidence that this terrorist attack was actually planned almost in its entirety at Kakuma Refugee Camp.

Hon. Deputy Speaker: Okay. Thank you. I hope you are informed.

Hon. Mwaura: Hon. Deputy Speaker, I take that information with a pinch of salt because I do not know whether I can fully trust this report. I grudgingly support it because it is before the House. I know we will---

Hon. Deputy Speaker: Now, order! Your time is up, anyway, hon. Mwaura; but this is based on evidence adduced by the police themselves, unless you have information other than what the Committee was given.

Hon. Member for Mvita.

Hon. Nassir: Thank you very much, hon. Deputy Speaker. This country truly bleeds and right now is in a lot of pain caused by people who have been acting in very inhuman and heartless manner. This country suffers atrocities that are beyond the imagination of many.

Hon. Deputy Speaker, on Sunday I went to the church that had been attacked in Likoni which is actually a neighbouring constituency, and the scene there was totally catastrophic. Blood was on the floor. There was stench. I went to the hospital and saw a child who is one and a half years old with a bullet lodged in his head. His mother had passed on. I wondered what words I could use to be able to console the victims.

Hon. Deputy Speaker, I would wish us to be clear on one thing: Terrorism knows no religion and it is not a monopoly of a certain religion. Due to the unfortunate happenings in this country, there are fears, and God forbid, that we will end up being like the Central African Republic (CAR).

I raised issues in this very House regarding sheikhs who had been killed, or had gone missing and later found dumped somewhere. They had been killed under very mysterious circumstances. I raised issues regarding Christian clerics who had been killed almost simultaneously in what was deemed to be religious killings. I raised those matters in this House and to the same Committee that is presenting this report. I raised issues when an arson attack was attempted on a Salvation Army Church. I raised questions as to why those who were behind such an attack had not yet been arrested.

I raised these issues about fighting terrorism because we cannot put a blanket condemnation on one religion. We cannot put a blanket condemnation on a whole society and institution; that is the reason I am hoping that the Chairperson will actually be clarifying these issues. He says that the mosques that he is referring to have been in existence prior to my birth and prior to the existence of *Al Shabaab*; we cannot say that the problem is mosques.

Hon. Deputy Speaker, I even praised the security forces in this very House when they foiled an attack recently in Mombasa. So, when praise is due we will praise the security forces, but we need intelligence forces to tighten their belt. Something has to be done. We recently approved billions, as the National Assembly, and said that the money needed to go to the security and the intelligence agencies. However, intelligence is not coming up properly with information.

As a matter of fact, I have already presented my notice of Motion to the Speaker's office and I hope he will approve it. In that Motion, I want the Government to ensure that every single house of worship, school, bridge--- I am talking about Mombasa County, because we have been the most affected; Mvita Constituency has ended up being the most affected. This is because there is no constituency in this country that is more cosmopolitan than Mvita, and where people have been able to live in harmony. People have been able to live peacefully in this constituency.

There is no other constituency in this country where you will get every religion, tribe or creed living together, but that is dangerously being destroyed.

Hon. Deputy Speaker, we cannot allow that. When I was walking into this Chamber, I was informed that in Likoni, people are being arrested randomly. They are being beaten left, right and centre, all in the name of--- That is happening at the grassroots level. This is important because this National Assembly houses some of the best brains and politicians whom this country can offer. What is happening right now is that by the actions of the police, we are ending up creating more radicals than reducing them. We cannot have a situation where people are just beaten and arrested randomly, all in the name of trying to pick a needle from a haystack.

What should have happened is that security forces should have relied heavily on intelligence. If we have a problem with our intelligence, then let us agree that the billions the taxpayer is giving for intelligence operations are not being used properly. We cannot, and we shall not, allow a situation where people's lives are at stake. We cannot allow a situation where every person is held to ransom. We are going to seek a Motion that is going to ensure that every house of worship; be it a church, mosque or temple; every single school, whether private or public; every hospital shall have CCTV cameras installed outside to reduce such kinds of atrocities. If we cannot know who is planning attacks, then, at least, we can reduce them.

Like my friend, hon. Mwaura, I take it that this report was done with seriousness and we cannot say that terrorism is a monopoly of a certain religion.

Hon. M'uthari: Hon. Deputy Speaker, I rise to support this report. The security situation in our country is a very serious matter. In fact, this report has come up with very important findings as far as security is concerned. As we discuss it, we need to read the whole report. We are told that the information was alluded to; there was information before the attack as in the case of Westgate attack. We know there are different security agencies in this Republic. For example, the National Intelligence Service (NIS) has to gather information and share it with other security agencies. So, why would they not act on this report?

If you read the Constitution, the different security institutions are given different mandates. It may be the right time to review some of these and see whether the people who gather information are given the mandate to do so, and prevent these incidents of terrorism. Maybe there were people who had information from certain agencies, but because their mandate did not involve prevention, they did not act, and as a result attacks took place.

On co-ordination, I support the Committee's recommendation that we have an inter-agency body, so that all the different agencies can work together to secure our borders from internal and external aggression.

Hon. Deputy Speaker, in the report, we are informed that the Recce Company were able to zero-in on those terrorists, but the other security agencies, or the armed forces destabilized the operation when they came on board and in the process, we ended up incurring losses. This requires this country to seriously review the arrangement and co-ordination of the various security agencies. This incident is a clear case, where instead of people working to save the situation there is competition as to who got the credit.

According to me, if there was information and some people did not act, then there were lapses. Why did the security agencies not act if they were told that there would be an attack at a particular time? Why do we keep some people in the armed forces, yet we are very insecure?

I think this is the right time we went through this report and, as legislators, came up with a system that can guarantee security. Development and Vision 2030 will not be realized unless we have security in this country. At the moment, Coast is one of the most attractive regions to tourists. Of late, many businesses have been destabilized because of the insecurity incidents that have happened in that region. Our tourism sector has been seriously affected. A lot of money has been allocated to the security sector, and the people who are entrusted with this responsibility should take serious measures, so that we are secure.

Hon. Deputy Speaker, I come from Igembe North Constituency and I am always invited to attend burials when somebody has been shot dead. We experience cattle rustling in the constituency. We are like an ATM to our neighbours, who think that we do not deserve to keep cows or cattle. Therefore, they come and steal them. I know there were some cows and other livestock which were stolen from my place. This is the case yet the district to which they were taken is known. Is there different treatment for different areas? We have to rethink the issue of security, both internally and externally, so that our country can be secure. This is because investment will be affected if there is no security.

Kenya is currently hosting many headquarters for international companies. They have come to this country because we have good infrastructure and because of our location. However, we are likely to lose them if we do not guarantee their security. Investors who are flocking our country are likely to go away and we will end up exporting nothing and losing jobs.

Hon. Deputy Speaker, as we look at these things, we need to come up with a system that will guarantee security. We need to think about security agencies which can be used to secure important installations and ensure that areas, which are visited by many Kenyans and foreigners like shopping malls, are secure.

We should avoid condemning one religion or community and instead address the root cause. Why does this happen? What is it that is pushing the youth into this crime? What can we do about the youth, so that they are better engaged? We do not have to come up with a programme that is like a token---

ADJOURNMENT

Hon. Deputy Speaker: Order, Members! Hon. Member for Igembe North, you will have three minutes when this debate next comes up on the Floor. We have come to

the end of today's sitting. Therefore, the House stands adjourned until tomorrow, Wednesday, 26th March, 2014, at 9.00 a.m.

The House rose at 6.30 p.m.