

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 30th July, 2014

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Order, hon. Members! We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

Order, hon. Members! We now have a quorum. We may begin our business.

COMMUNICATION FROM THE CHAIR

VISIT BY NYANDARUA MCAS

Hon. Deputy Speaker: Hon. Members, we have Members of County Assembly (MCAs) of Nyandarua who are accompanied by their staff. Can we acknowledge their presence?

(Applause)

STATEMENTS

NHIF CONTRACTUAL OBLIGATION WITH PCEA CHOGORIA HOSPITAL

Hon. Deputy Speaker: Hon. Members, today being a day that we receive responses from the Chairs, we will start with the Chair, Departmental Committee on Health. The request was made by hon. Kareke Mbiuki.

Hon. (Dr.) Pukose: Thank you, hon. Deputy Speaker. I wish to respond to the Statement sought by hon. Kareke Mbiuki, the Member for Maara. The specific information sought was:-

- (i) the National Hospital Insurance Fund (NHIF) contractual obligations with the PCEA Chogoria Hospital;

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- (ii) when the outstanding claim shall be honoured to avert the collapse of the hospital; and
- (iii) the NHIF general policy on statements of the approved claims to their contractual hospitals.

My response is as follows:-

The PCEA Chogoria Hospital, was accredited and declared a hospital through a *Kenya Gazette* Notice under the NHIF Act and initially allocated a rebate of Kshs2,100 under Contract “B”. However, subsequently, in January this year it was changed to Contract “C” after this hospital wrote a request which was approved by the NHIF Board of Management.

The NHIF Claims and Benefits Regulations of 2003 stipulate the procedure and timelines for contributors to access services and for hospitals to lodge claims. The NHIF obligation to PCEA Chogoria Hospital is to pay claims lodged for payment that meet the approval criteria set by the NHIF to a maximum of Kshs1,700 per day, which is the gazette rebate for the facility.

On when the outstanding claim shall be honoured to avert the collapse of the hospital, the NHIF had paid Chogoria Mission Hospital recently. That is between March and June, this year. The Fund paid a total amount of Kshs25,727,200 and a further Kshs2,404,100 will be paid by the end of June as per the Statement when it was being sought.

The NHIF’s settlement of approved claims to contracted hospitals is guided by the Claims and Benefits Regulations of 2003. This was signed by Mr. James Macharia, Cabinet Secretary on 30th June, 2014.

Hon. Mbiuki: Thank you, hon. Deputy Speaker. I want to take this opportunity to thank the Chair of the Departmental Committee on Health, the Ministry as well as the NHIF for this particular response. More so, I thank them for the timely manner in which they responded. This really demonstrates that the Government is taking seriously the statements which are being sought by the Members of this House.

On the same, allow me to give the response which I got from Chogoria Hospital to highlight on the same. The Chief Executive Officer of Chogoria Hospital sent me an e-mail saying that the NHIF sent a team from the Head Office for reconciliation of the records in April after which there had been a very good response.

On average, the Meru Office had been able to pay the hospital Kshs7 million per month which is the average claim. The relationship has improved unlike before when the relationship between the hospital and the regional office was not conducive. As of now, the hospital says that there is no problem with the area office but in case of any future problems, they will always seek the assistance of the Committee.

Hon. Deputy Speaker, I would like to request the Chair to move with speed to ensure that there is a regional office in each and every county so that we, from Tharaka Nithi County, do not have to travel all the way to Embu or Meru County to seek the services of the NHIF.

Thank you, hon. Deputy Speaker. I really thank the Chair, Departmental Committee on Health for that timely response.

Hon. Deputy Speaker: Thank you. At least that is a response well received and satisfactory. Hon. Chris Wamalwa, is yours on the same? Is it a clarification?

Hon. Wakhungu: Thank you, hon. Deputy Speaker. I want to thank the Chair for the good response. Could the Chair clarify the timeframe it takes a hospital to be paid in an ideal situation after it has submitted all the required documents? How long does it take for it to get the reimbursement?

Secondly, I have seen some individuals apply for the processing of the NHIF cards so that they can access hospital facilities. In some regions, you will find hospitals sending people away unless they have that card. How long does it take a patient or somebody who has applied for the card from the NHIF to get it so that he can be admitted to hospital?

Hon. (Ms.) Gathogo: Thank you, hon. Deputy Speaker. I am also concerned because most of the time we talk about it and we think it is a very good thing. I am sorry to say that I am a victim. If a Member of Parliament can be a victim--- One time I had a patient and I had to take all the time to wait for the NHIF to update my card that is paid for by this Parliament. After that, I was made to pay cash for the services. If I can pay cash, what about the person who has no money and is waiting for the card to be updated? I paid Kshs34,000 cash and I have never been refunded the money. I am thinking about the common *mwananchi* who has nowhere to complain and has no money. We need to look at the NHIF properly so that we do not put our money there and when we need them to help us, they are not there to rescue us.

Thank you, hon. Deputy Speaker. I just wanted the Chair to note that.

Hon. Wandayi: Thank you very much, hon. Deputy Speaker. I have a follow up question. It is clear that the NHIF has been very useful to Kenyans in the past. I want to know from the Chair what the Fund is doing in terms of reaching out to potential membership. This is because NHIF officers in the countryside sit in the offices waiting for people to approach them other than them going out and taking proactive measures to recruit membership. This is one of the social security safeguards put in place through taxpayers' money. But more importantly as I conclude, the NHIF has in the past been very well managed even though we have had issues here and there.

Hon. Deputy Speaker, there is also a phenomenon that is creeping in. Recently, you saw what happened in the NSSF when attempts were made to remove some members of the Board of Trustee of the NSSF. We are now told that there is a union called PUSETU which is threatening to remove members seconded to the NHIF by COTU and FKE. What is the Ministry doing to forestall this catastrophe because it will cause serious problems?

Hon. Deputy Speaker: The clarification you are seeking, hon. Member, sounds like it absolutely has nothing to do with the one that is with us. It looks more like you need to come and ask your own Statement on the issues that you are raising. So, the Chair is at liberty to decide whether you want to address yourself to that or not. But before you come in, hon. Mwaura also wants a clarification. Finally, we will have hon. Kisoi. You take those clarifications first.

Hon. Mwaura: Thank you, Deputy Speaker. I want a further clarification with regard to this issue. As Members have said, it is actually true that it is taking very long for NHIF to reimburse people's money. In fact, if you go to their offices, you realize that they are highly overwhelmed and sometimes it is even very difficult to trace documents, if you are following up on an issue. So, I would want the Chair to actually report to this

House whether there are timelines in terms of their service charter; how much time they have given unto themselves and whether they are actually adhering to that, because in the process people are really suffering. Thank you, hon. Speaker.

Hon. Deputy Speaker: Okay, hon. Kiso. Members, on the question of length and claims not being paid, I think that point has been made. Let us not have further examples of the same. Hon. Kiso, I hope yours is not the same.

Hon. Kiso: Yes, mine is to seek clarification from the Chair, what NHIF will do to ensure that their systems and procedures of processing these claims are timely. As Members have mentioned, if we are victims of the same delays, then what will happen to someone who is in the furthest part of this country? I was a victim of the same and up to date NHIF has not updated my accounts and I had to pay money in cash. This is an issue of concern and we are not raising it as examples for our own benefit, but for the sake of the other Members who also need to know precisely how long it takes when you put your documents for processing. If even after the claim you pay cash, how long does it take for reimbursement? Thank you, Deputy Speaker.

Hon. Deputy Speaker: Clearly, Members have a lot of concerns about claims and the usual question was about claims. The initial question was about claims to institutions, now we are getting a lot of concerns about claims to individuals. So, can the Committee say whether they delved into the issue of claims to individuals? You can see there is a lot of concern that people have to pay cash yet they are fully paid Members of NHIF? Hon. Pukose.

Hon. (Dr.) Pukose: Thank you Madam Speaker and thank you Members for raising those very pertinent concerns. In as far as the issue of NHIF having offices at the county level is concerned, that is something the Committee is going to discuss. It is important to make sure that NHIF is able to have an office in each and every county. In terms of reimbursements, normally when a hospital puts up a claim, it takes two weeks for NHIF to be able to reimburse those facilities. So, that is the standard practice and that is what is happening. If there is any facility that takes more than two weeks to get reimbursement, we would like that to come to the notice of NHIF.

The other issues which have been raised about individual contributions and members failing to get reimbursed, that is a matter that the Committee should be able to take up because when the question was sought, that was not part of the question. We want the board to be able to reimburse those individuals what is owed to them. I think that is a serious issue and we can rest assured hon. (Ms.) Gathogo, hon. Munyao and hon. Mwaura that we will be able to take that seriously. Thank you.

Hon. Deputy Speaker: It is even better if you invite the Cabinet Secretary or the CEO of NHIF; you can even invite Members. Publicize it so that Members who have concerns can attend that session. I see your Chair indicating that he wants to speak. I hope you realize that once you have delegated the responsibility, you will just speak as an ordinary Member in this case.

Hon. (Ms.) R.K. Nyamai: That is appreciated; I just wanted to support my colleague, hon. Pukose in informing Members that NHIF at the moment is in the process of reaching out to the governors, to ensure that we have more membership on the ground. The Ministry of Health is also working together to expand membership through the programme of reaching out to the poor and the disabled where we hope to reach out to

524 persons per constituency, which will highly increase membership. Also, in terms of receiving first hand information, we also hope to have in place digitization process which is being worked out by NHIF to fasten the process of information acquisition.

Hon. Chair, I would like to appreciate the response that has been given by my Vice Chair. Thank you very much hon. Speaker.

Hon. Deputy Speaker: Okay, really you were on a point of information to the Chair that had been delegated.

Hon. Members, we want to move to the next Statement which is asked by hon. Chachu to the Chair, Finance, Planning and Trade Committee. First of all, is hon. Chachu Ganya in the House? Okay, if he is not in the House, is the Chair of Finance, Planning and Trade Committee or the Vice Chair or the designated Member present? We can give it a second round. The next Statement is also to the same Committee.

The hon. Vice Chair of Finance, Planning and Trade, the next two Statements are for your Committee. Are you ready to respond to these two Statements? The one sought by hon. Chachu; he is not in the House and, therefore, you table your response. You seem to want to settle down first. The problem is that even the second one is yours, so you really have to give us direction, one way or the other.

Hon. Mulu: On a point of order.

Deputy Speaker: Yes, hon. Mulu

Hon. Mulu: Thank you, hon. Deputy Speaker. Actually, my point of order relates to these two Statements. As you can see, they are all listed in the Order Paper and the Chair is not here. The Vice-Chair is just walking in. Is this a sign that this Committee is not taking the work of this House seriously?

Hon. Deputy Speaker: Your point is quite clear but as you are talking about the Chair, you are also not talking about the Member. This is because there are also Members who have been clearly informed that their Statements will appear on the Order Paper and they are also not here. So, the blame is on both sides. It is not just on the Chairs taking their responsibilities casually. The Members too are not taking their responsibilities seriously. The hon. Vice-Chair, can you give an explanation as to why your Committee, having been made aware that your Statements are coming up, is not here to respond?

Hon. Gaichuhie: Thank you, hon. Deputy Speaker. I was here earlier on. I had gone to get a copy of the Statement from the Clerk but unfortunately I was not able to get him. We had discussed about these Statements last week and I also said that we were going to issue them in the House today. So, we are now ready to read that one of Chachu Ganya. If he is in the House, I can answer him.

Hon. Deputy Speaker: Hon. Chachu Ganya is not in the House. That is why I said even hon. Members are also not taking their work seriously. They are complaining bitterly about Chairs of Committees and yet, they are also not in the House. The procedure that we have now put in place is that if a Member is not here, the response will be tabled and any further clarifications that they may want will be sought through the Committee.

Are you also ready to respond to the next one? First of all, we need to determine whether hon. Joseph Obiero is in the House. Again, hon. Joseph Obiero is also not in the House. So, both your Statements will be tabled. They will not be read out. So, you are off

the hook for now. Hon. Vice-Chair, just table the two and the Members can find further clarifications after they have read them.

Hon. Gaichuhie: Thank you, hon. Deputy Speaker. I will table the Statements and I also want to inform hon. Mulu that our Committee is very committed and we are ready to respond to all Statements that Members have requested. We have them in our Committee and we are ready to table them once we are given time or even read them to the Members.

(Hon. Gaichuhie laid the documents on the Table)

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

Hon. Injendi: Thank you, hon. Deputy Speaker. I asked for a Statement from the Chair of the Departmental Committee on Transport, Public Works and Housing on 16th of this month and he assured the House that he would provide the response last week on 23rd but I have not seen it.

Hon. Deputy Speaker: The hon. Chair of the Departmental Committee on Transport, Public Works and Housing, I believe that information is being addressed to you. Did you hear the comments from the hon. Member? You seem to have been engaged. So, I do not know whether you heard the Member.

Hon. Kamanda: I am sorry, hon. Deputy Speaker. Could he repeat?

Hon. Injendi: I was saying that on 16th of this month I raised an issue with you of which you said you would respond in a week's time which was supposed to be last week on 23rd. However, this is the second week and there is no indication that you are going to give the response.

Hon. Deputy Speaker: Can you remind the Chair what the issue was about?

Hon. Injendi: It was to do with the Kakamega-Webuye Road of which construction has stopped.

Hon. Kamanda: Hon. Deputy Speaker, last week we dealt with all the Statements that were supposed to be dealt with by my Committee. Maybe the Clerk did not list that on the Order Paper. We will revisit the issue this week or next week so that we deal with your Statement.

Hon. Deputy Speaker: David Ochieng, are you also on a point of order?

NON-INCLUSION OF MINORITY REPORT BY
JUSTICE AND LEGAL AFFAIRS COMMITTEE

Hon. Ochieng: Hon. Deputy Speaker, I am also on a point of order. Thank you very much. I rise on a very different issue. On 4th of June this year the hon. Speaker made a very interesting ruling regarding a report by the Parliamentary Service Commission (PSC) to the effect that the words "hustler jet" should be removed from that Report. Today, I rise on an almost similar matter, based on Standing Order No.199(5) and (6). This is with regard to the report of the Departmental Committee on Justice and Legal Affairs and I would like to seek your guidance on that report before it is brought up for debate.

Hon. Deputy Speaker, I am one of the five Members who had prepared the minority report pursuant to Standing Order No.199(5) which states:

“A report having been adopted by a majority of members, a minority or dissenting report may be appended to the report by any member(s) of the Committee.”

Standing Order No.199 (6) states:

“A report of a select committee including any minority report, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit, shall be laid on the Table of the House by the chairperson of the select committee or the vice-chairperson or by a member authorised by the committee on its behalf within fourteen days of the conclusion of its proceedings.”

Hon. Deputy Speaker, the reason I stood up is because the minority report was not appended to the main report. They went ahead to do something that is not contained in the law by purporting to include something they are calling a report on minority views.

So, hon. Deputy Speaker, I want to seek your indulgence and guidance on this. The new Standing Orders state that minority or dissenting views should be appended to the report and this is what happens in the Commonwealth. I seek your guidance on whether this report is properly prepared given that five Members of that committee prepared and duly delivered a minority report that they wanted to be appended to the main report? Instead, something now being called minority views is presented to this House. May I get your guidance on that, hon. Deputy Speaker?

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

Hon. Deputy Speaker: Order! Do you want to support the opinion of the Member?

Hon. Wandayi: Hon. Deputy Speaker, I just want to add to what my friend, hon. David Ochieng has said. What is contemplated in Standing Order No.199(5) is that if there is dissenting opinion or a minority report then there shall be two reports and not one report. This is because the word “appended” here basically refers to the fact that, that minority report shall be attached to the main report.

So, hon. Deputy Speaker, these Standing Orders do not contemplate a situation where somebody will hide the views of minority Members inside a report which has not been agreed to by all the Members. Therefore, you need to make a ruling on this matter because we shall be setting a very dangerous precedent if we shall continue to be seen to be muzzling the views of the minority, not only in these Chambers but also in the committees. A minority report is a very important report because it gives the alternative view of the Members of the Committee.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Members, the consultations are too high. The Member is raising very weighty matters and we need to be attentive so that we can all use that even in future. You may also in the future have a minority view that you would want to be handled in a certain way. Are you raising a point of order, hon. Serut? It should be a point of order on the comments that the Member is making.

Hon. Wandayi: Hon. Deputy Speaker, I am on a point of order.

Hon. Serut: Hon. Deputy Speaker, I appreciate the issues being raised by my colleagues on the other side, but looking at the Order Paper, the report in question is not the business of the day. Why can our colleagues not wait until that report is presented before this House for them to raise those issues? Why are they anticipating debate on that report?

Hon. Deputy Speaker: Just finish the point you are making and then we will address that.

Hon. Wandayi: Hon. Deputy Speaker, this House cannot set a precedent which is going to haunt us as a House and as a country. The very fact that five Members can dissent is more than enough to compel the membership of a Committee to take into consideration the views of those Members.

With regard to the point raised by hon. Serut, a man I highly respect, this House again has a precedent. The matter of the report of the hustler jet was debated before the report was presented in the House. In fact, the Speaker made a ruling way before it was time to discuss that report. Therefore, we are in order to raise this matter at this point in time, so that we do not wait until that time to discuss these matters in plenary. Therefore, I call upon you to make a ruling to the effect that, that report as currently before the House is inappropriate, illegal and unconstitutional and must be retracted.

Hon. Deputy Speaker: Order, Members! The Member has raised some very weighty matters regarding admissibility of our report. I order that when that report comes to the House, a Communication be given before we have the report admitted, so that that matter can be addressed on whether it is admissible or not according to the Standing Order that you have cited, which is Standing Order No.199. So, a Communication will be given before that Order is addressed.

Next Order!

BILL

Second Reading

THE CLIMATE CHANGE BILL

(Hon. (Dr.) Ottichilo on 23.7.2014)

(Resumption of Debate interrupted on 23.7.2014)

The total time remaining for this Bill is 41 minutes. Hon. Chanzu had a balance of two minutes and he is not in the House. Therefore, the next Member is Tiyah Galgalo. She is the first one on my list. Is it on this Bill you had wanted to contribute earlier?

Hon. (Ms.) T.G. Ali: Hon. Deputy Speaker, I wanted to contribute earlier. So, this has been overtaken by events.

Hon. Deputy Speaker: What about hon. M'eruaki? You see, this issue of Members putting their cards in and not being present. Hon. Maj-Gen. Nkaissery, is it to contribute on this Bill?

Hon. (Maj-Gen.) Nkaissey: Yes, hon. Deputy Speaker. This is a very important Bill. As you realize, climate change has caused a lot of havoc in the world, especially in our country.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! We cannot hear the contribution from the Member.

Hon. (Maj-Gen.) Nkaissey: Hon. Deputy Speaker, first, I would like to thank the Mover of the Bill, hon. Wilber Ottichilo for bringing the Bill at the opportune time. As you realise, climate change has caused a lot of havoc. In our country today, we have persistent drought and occasionally, we have floods in areas like Budalangi. Globally, we have seen hurricanes and storms affecting the people. Some of them cause aircraft accidents like in the Sahara. We have also seen rising temperatures in the seas. We have seen the rise of some of the lakes like Lake Baringo in our country.

This Bill has come at the right time and it is important that we have a law that would address some of the effects of climate change. Some of the causes of climate change are sometimes man made. In our country today, you realise that we are discovering oil in Turkana and North Eastern. We have also discovered coal in Eastern Province, especially in Mwingi. These are going to emit carbon dioxide which is going to bring about climate change. It is important that we address these issues. We are going to be exploring oil in Turkana. As we refine this oil, we need to have a law to control the emission of carbon dioxide and how it will affect climate.

This Bill proposes the measures to be taken by the Government in mitigating these emissions. Kenya is not the only country that is concerned with the effects of climate change. You realise that there have been several international conventions to control climate change. One of those was the Kyoto Protocol which took place in 1995 in the City of Kyoto. The world is concerned about how to address climate change. We have realised that temperatures are rising. In our country today, the cold season has extended. We are heading to August and it is still very cold and occasionally, it is very hot. We did not receive the long rains that we were expecting in March, April and May and drought is now setting in.

In 2009, there was a follow up of the Kyoto Protocol in Copenhagen in Denmark to discuss these issues. So, we are on the right track as a country. So, I would like to urge this House to pass this Bill and enact this law, so that we can control the effects of climate change. This House needs to pass this Bill, so that we can set rules to mitigate against the effects of carbon dioxide emissions into the atmosphere. So it is important that we adopt this Bill.

With those very few remarks, I support the Bill.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Joseph M'eruaki.

Hon. M'uthari: Thank you, hon. Deputy Speaker. I rise to support this Bill, which is very important for us. We know that the issues of climate change are a global phenomenon which is a threat to existence in several ways. The increasing climate change has affected many sectors and it has a lot of influence as far as livelihoods are

concerned. Having a Bill like this which clarifies the roles and stipulates the possibility of creating a framework that will support mitigation of the impact of climate change is very important. I also congratulate hon. (Dr.) Ottichilo for the effort he has put in this, and the groups that were involved.

We know this is also a proactive way of responding to the issues that are of great concern as far as the environment is concerned. But the question of climate change is actually more than just the environment because it affects various sectors of life. So, this Bill creates opportunity for us to engage in ways that will reduce the impact of the effects of climate change. With the kind of impact created by climate change, if we do not respond as a nation, then even our development plan will be greatly affected; what we foresee in Vision 2030, development framework in our country will greatly be affected.

It is also important to note that this will also complement the efforts that are already put in place by the Government, like taking more seriously the question of relying and investing more in renewable energy like wind and also geothermal. That has less impact as far as the impact to our environment is concerned. This Bill will also harmonize the various existing policies on the climate change like what we have in the National Climate Change Response Strategy of 2010, the National Climate Change Action Plan of 2013-2017 and the East African Community Climate Change Strategy Master Plan. So, this Bill will go a long way in terms of creating registration that will also provide financing for the various activities regarding mitigation to climate change.

This Bill again provides various opportunities for us because it will support this process of shifting from high carbon to low carbon development framework, which is important as far as reducing climate change is concerned. This Bill also accords the opportunity for utilization of various opportunities as far as funding for activities to mitigate climate change is concerned, like the opportunity for Green Fund, Adaptation Fund and other funds which are of great concern.

Also the realization of the issues presented as per the object of this Bill creates opportunity for making awareness so that people do not take matters of climate change simply but seriously. This is because it concerns the whole life, all the spectra of development and without responding to it, we will expect disaster. We have seen the impact of climate change is very real. We can no longer predict even the weather patterns; it rains when we do not expect and we experience drought when it is supposed to be raining. We have incidences of floods and drought at the same time.

The other issue we have seen with the impact of climate change is the reducing glaciers on Mt. Kenya and on---

Hon. Deputy Speaker: Okay, your ten minutes are over. Hon. (Dr.) Robert Pukose.

Hon. (Dr.) Pukose: Thank you, hon. Deputy Speaker, for allowing me to contribute to this very important Bill by hon. Wilbur Ottichilo on the Climate Change Bill---

Hon. Deputy Speaker: Hon. Members, just to clarify, you resolved last week that Members have five minutes and not ten minutes as required. So, make sure you arrange your facts and arguments in the correct order so that you do not leave out the best for last.

Hon. (Dr.) Pukose: Hon. Deputy Speaker, climate change affects all human life in various areas, ranging from agriculture to health and all other areas that we live in. It is our responsibility to take care of our world, and to make sure that we maintain good climate that is good for survival for all human beings. As we are aware, when we look at our surroundings, we see areas which are affected by floods and cases of desertification following deforestation, especially in our water pillars, like Mt. Kenya, Mt. Elgon, Mau Forest and all these other areas where we have deforestation taking place. This issue of planting trees where afforestation is now taking centre stage is key in the maintenance of our environment. I know that one of the biggest challenges especially in rural Kenya is the use of firewood or charcoal by our people for cooking and other use. At the same time, we are confronted by other challenges like the use of renewable sources of energy, which has not developed much in our country. The Government needs to invest in wind power, solar energy and others. More often, when we have heavy rains, there are storms in areas like along Kerio Valley and other places. We have houses being carried away by floods or we experience earth tremors and all these affect humankind. It is important we think of how to deal with these issues. This Bill is timely and we are aware that in 2013, the same Bill was done but was not assented to because of lack of public participation. This time, there has been enough public participation and the Ministry of Environment, Water and Mineral Resources has given their input. We expect other stakeholders to also give in their input so that at the end of the day, we make a Bill that is good for our country and that can create a board that is able to look at most of these issues that affect climate.

We should protect our environment or make environmental issues a major issue in our education system. This is because it will enable our young generations to learn right from primary level through secondary level important concepts in guiding our climate. This will make sure we are able to conserve our environment and look at our ecosystem so that things work the best way.

We are aware that if the current trends continue, where we use fossil energy for other uses, we might affect our climate in such a way that temperatures will rise and melt glaciers.

With those few remarks, I support the Bill.

Hon. Wakhungu: Thank you, hon. Deputy Speaker. From the outset, I rise to support this Bill and to thank hon. Dr. Ottichilo for coming up with such a wonderful Bill.

It is clearly stipulated in our Constitution that any international policy or agreement that Kenya is a signatory to becomes one of the laws. If you look at the international policies like the 1998 Intergovernmental Panel on Climate Change, the Kyoto Protocol and all these treaties, Kenya is a signatory. It goes without saying that we needed this Bill like yesterday in order to domesticate it.

Hon. Deputy Speaker, our grandfathers never went to school, but when they were planning to plant, they used a technique or a trend analysis, whereby they knew what time the rains could come and when to plant. Unfortunately, this has really changed and it has affected agriculture because of the climate change. It is important for us to put in place measures to mitigate some of these risks.

In some regions, you find that they plant eucalyptus trees in water catchment areas. After some time, you cannot plant anything there. Therefore, with a Bill like this farmers will be advised on the kinds of crops or plants to plant.

Another issue I wanted to mention is about electricity. Electricity heavily relies on water. We have seen in many cases we have shortage of electricity. If we want to industrialize this country, electricity is very critical. We talk of things like laptops which need electricity. But if we do not manage the issue of climate change properly, once the levels of water go down, it will affect generation of electricity. That is why this Bill is important and it has come at the right time. We must put it in place so that we can develop mitigating strategies and once they are put in place by the Government, there will not be shortage of electricity in this country.

Hon. Deputy Speaker, based on the recent scientific report of 2014, we are told that temperatures are going to increase by two per cent by the year 2050 and that will be very dangerous. A lot of our eco-system and lives will be affected. For us to maintain this we must move with speed and put in place measures that will mitigate the issues of these temperatures. This is because once temperatures go up; they will affect the eco-system.

We are also talking about floods, storms, heat waves and such like catastrophes worldwide. Once this Bill is enacted, it will help mitigate these risks because they are so many. If we do not do anything, agriculture, health care, electricity generation and the entire industry are going to be affected. Therefore, this Bill has come at the right time and we must put in place measures to mitigate. We are told records show that this Bill was enacted in 2013, but unfortunately His Excellency the President did not assent to it. The reasons he gave were that there was inadequate public participation. Therefore, what we want to say is that it should go on and it should include the recommendations from the Ministry of Environment, Water and Mineral Resources and those of the Committee so that we can move with speed to have this in place.

Thank you, hon. Deputy Speaker. I support the Bill.

Hon. (Ms.) Sunjeev: Thank you, hon. Deputy Speaker, for giving me this opportunity to contribute to this very important Bill. From the outset, I would like to say that this House, in as much as it has passed and will pass so many important Bills, the Climate Change Bill is equally important. Probably, it is even more important than the Matrimonial Bill. Climate change is something that touches the life of each and every person of the society and the communities that we live in.

Our industries are actually inter-connected. I feel that people have been taking the climate change concept rather as a joke. They have not been thinking or imagining it is a reality. Perhaps, we cannot see it with our eyes, so we do not believe it. But the fact is that climate change is a reality.

Hon. Deputy Speaker, I would like to say that as climate change affects each and every community; and today we have 47 counties, it is important to note that this Bill is going to trickle down to all the counties and they will also work towards maintaining the environment.

With those few remarks, I support this Bill and thank you very much.

Hon. Kiso: Thank you, hon. Deputy Speaker for giving me this opportunity to contribute to this Bill.

On the outset, I want to congratulate hon. Dr. Ottichilo for coming up with this Bill which is quite timely at this moment. My own father who used to climb mountains used to tell us about the glaciers on Mt. Kenya and Mt. Kilimanjaro and how they were diminishing. That definitely has serious consequences on the wildlife and the vegetation or the plants within those areas.

Hon. Deputy Speaker, it is not rocket science that the issue of climate change is of great concern to this country and the world over. This is a worldwide phenomenon because we also seem to be getting signs of declining water resources. A couple of years ago, a quick visit to Lake Naivasha and other lakes in that area showed that these lakes were completely drying up. When such Bill is informing us that climate change is now a reality, then this august House should consider passing this Bill without any problem.

Hon. Deputy Speaker, there are some things that are very important in this Bill. This Bill will enable us create awareness on the impact of climate change to this country. It will help us create an institutional framework to address challenges facing climate change in this country. We cannot coordinate and mitigate these issues of climate change haphazardly without having a coordinated framework or systems on how to address these issues. This has to get a professional background. This Bill is giving us quite a number of opportunities and especially our own commitment as a country to save our planet where life exists. We know that this planet; the earth, is the only place where abundant life exists. Therefore, as a nation because we are not living in isolation from the countries in global world, we should demonstrate our own commitment in addressing the issues of life through passing this Bill. This Bill will also help us increase awareness and educate our citizens to mitigate the effects of climate change and, therefore, the benefits of human survival. Climate change will affect human survival because we rely so much on water, vegetation and space to live.

Hon. Deputy Speaker, this is a timely Bill that this august House will need to put a lot of emphasis on. We all need to support this Bill. Without having sustainable management concepts in order to address issues of development, this country will be heading in the wrong direction.

With those brief remarks, I would like to support this Bill and congratulate hon. Dr. Ottichilo for it.

Hon. Bunyasi: Thank you, hon. Deputy Speaker. I rise to support this Bill. I think it is a great innovation and I would like to congratulate hon. Dr. Ottichilo for raising it. Indeed, this is a global matter and it is in our daily conversation. There are a number of concerns that I have though. Sometimes when we talk about things like climate change they appear like things that do not affect us today. It is like they are things out there. As we discuss the strategies for sensitization, I want to plead with the Mover that we break this down into how it affects our daily lives and what we are seeking to change.

What we are seeking to change is not some esoteric thing in the upper atmospheres rather it is what affects our lives down here. That is what is going to make sense to people and help change behavior. This is because climate change actions are behavior change actions that are now embedded in our culture and daily lives. They are things that we do as experts and also things that we do every day. For instance, it will be easier to explain to our people the implications of relying on paraffin lamps in a closed environment. How do they change to improve the health impacts of such lighting? There

are also problems like going to fetch firewood and water further and further away. These are the actions that are contributing in our own cultural and daily living to issues that translate later into climate change. We must bring it down to the level that we use the vocabulary of the different cultures which we are dealing with so that we can understand it better.

I know we may have issues of automobile emissions. These are still not big issues in our country. We are not yet at the scale of, say, New York or other major metropolitan areas. However, what is happening now within our daily lives also contributes to it.

With regard to issues relating to enforcement or implementation of proposals, we must not think that climate change actions will stand separate from the other actions; they must be mainstreamed. For instance, the National Environment Management Authority (NEMA) must ensure that the actions they seek to put in place include actions that affect climate change. Let us mainstream it like we mainstreamed gender. Let us not have a separate study policy. The various agencies must be implementing actions that are consistent with the change in our livelihoods and culture. This will enable us avoid having a deteriorating environment.

The proposal about the role of the Council is great. The Council's role should be more to ensure that there is adherence to policy rather than to enforce specific actions by themselves. If we do that we shall have pillars in enforcement and we shall not succeed. I think we should seek to ensure that it is everybody's business to ensure that the planet we leave behind – and we will leave it behind very quickly--- I know people are worried about the increase in temperatures by two degrees centigrade by 2050 which is about 36 years away. This is a generation away and it may not appeal to people immediately. We do not even know whether in fact 2050 is realistic or not, but the key thing is that the actions affect us already. In the context of Kenya, let us deal with our people. Let us embed in the law the things that will change and improve the livelihoods because the actions are here with us now. If they buy into that, they will be buying into climate change management and control, but the rest of it is going to be esoteric, that the actual implementation will remain in the annals of science as scientists go round the globe. They are even here with us at UNEP. We must bring it to the households of our people and to do that, I would expect that if we could then we embed it in the law or the regulations that ought to come before this House fairly quickly so that we see how we are domesticating, otherwise very esoteric science that is, as you all know, fairly complex even for educated people.

With those few remarks, I support.

Hon. Mulu: Thank you, hon. Deputy Speaker for giving me a chance to contribute to this Bill. I want to support this Bill. I start by thanking Dr. Ottichilo for this initiative because this Bill is very important. Whether we like it or not the negative effects of climate change are with us. We realize that out of the many planets in the universe, earth is the only planet where we can have life. If we do not do anything to this kind of scenario then it means that we might lose life in our planet. That is why I think this Bill is quite timely and we really need to support it.

The Bill has very positive things which need to be supported. Before I go to the positive things, I realize that my colleagues have mentioned some of the negative things which are associated with climate change. I remember when I was a young man my old

mun who was actually illiterate was able to predict when the rains would come and when they would end. Based on such predictions, she would actually prepare her farm and plant. These days it has almost become impossible to know when the rains are coming and when they would end. Most of our farmers now are relying on information by the Meteorological Department. If they are not able to get that information they will not be able to harvest anything and then we will start complaining that we do not have food. When, still, I was a young man there is a resting place we used to go and we could see Mount Kilimanjaro and Mount Kenya. We used to see glaciers. These days, when you look at those mountains you will hardly see anything. This is associated with climate change.

The proposal to have a council is a wise one. This is because through this council the country will be able to co-ordinate all activities relating to climate change from a central place. Anybody doing any work on climate change in this country will be able to know the direction to take. Most of the work on climate change is being done by Non-Governmental Organizations (NGOs) in uncoordinated manner. I think when this legal framework is in place, it will facilitate proper co-ordination of all activities related to climate change.

Part III of the Bill talks about climate change, response measures and actions. This means that it is very clear on what needs to be done. I like the proposal on financial provisions. This is because most times there is no funding. With this law in place we can be sure that climate change activities will be fully funded and they will have Government support.

Hon. Deputy Speaker: Thank you. Hon. Members, remember when we started I said that we had a balance of only 41 minutes. I will give the last opportunity to the Chairperson of the Departmental Committee on Environment and Natural Resource. I will then call upon the Mover to respond. There is a lot of interest in this matter because I have 16 requests here. However, we made the rules and we need to follow them.

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, I want to associate myself with the sentiments that have been raised by hon. Members. They have stated that climate change is a challenge. I want to associate myself with those who appreciate that climate change is a reality and disassociate myself from those who are climate-change deniers. I want to congratulate hon. (Dr.) Otichilo for his resilience. As you are aware, he moved this Bill and it was returned by the former President, His Excellency, hon. Mwai Kibaki on the grounds that the Bill did not receive public participation.

I will be speaking about the issues of public participation on this Bill because the contentious issues in this Bill are more political than scientific, and I need to make the House aware of the politics behind the reasons as to why this Bill was not assented to. The Bill proposes that a council should be held in the Presidency. This was a very contentious issue in the Coalition Government because, at that point, it was situated at the Office of the Prime Minister and there was a disconnect between the Office of the Prime Minister and the Ministry of Environment which led to an advisory from the Ministry of Environment to the Presidency not to assent to the Bill. The current Bill as framed recommends that we have the same in the Presidency. The Ministry of Environment and scientists in this sector set up a taskforce that went throughout the country and recommended, through stakeholders input that, for purposes of coordination and avoiding

the conflict that was there between the Prime Minister and hon. Michuki, we should take the council to the Ministry of Environment. That is not the view of the Chair of the Committee. That is not my view. That is the view of the public. So, those hon. Members in the Presidency and specifically the office headed by some gentleman called Singoer should know that we, as a Committee, are following the Constitution; that we should listen to what stakeholders have to say. Even I, as the Chairperson, with a different opinion, cannot impose my opinions when the public has said that this is how it should be put.

So, hon. Deputy Speaker, we need to appreciate that we passed a Constitution and even if it is the 20 per cent that my friend hon. Midiwo says is not so good and it needs to be changed but, as long as it is in the Constitution, we must follow it. If the stakeholders say that they want the council in Parliament with the Chairperson of the Departmental Committee on Environment and Natural Resources, that is what we should do. If they have convinced us, we should pass it. It really worries me that an Office in the Government can sit and decide that they are the ones who are going to determine what is going to be amended and what is not going to be amended in a Bill from Parliament. Where is separation of powers? Having respect for separation of powers not only requires us to do our work, but the interference on the Bills in this House is so severe that even when we pass issues on the Third Reading, you move and amendment, you are sure that you have amended a clause but, when that Bill is enacted, you see changes. At this point, I am dealing with nine changes in the Wildlife Management Bill on issues that I amended on this Floor. So, I want this House - and especially the leadership - to deal with the fact that there is interference in what we are passing in House. It would not be fair to say that Parliament is supreme when we pass Bills and we are not able to influence them at the Committee Stage. They want to influence them before they are published. As a Member of Jubilee, I am disappointed by those low standards and we must uphold the standards of legislative development.

(Applause)

The biggest role of any Committee of this House is oversight on budgetary provisions. When you have a component of a Ministry that is not the mother Ministry, how would you then hold responsible the Departmental Committee if funds are embezzled? If the climate change funds are embezzled in the Presidency, why would you hold responsible the Departmental Committee on Environment and Natural Resources?

Hon. Deputy Speaker: As the Chairperson of the Departmental Committee on Environment and Natural Resources, you can get an extra two minutes. But try to summarize.

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, this is my final point: That, when we are taking issues to another Ministry, we must add responsibility for budgetary oversight to the Departmental Committee that is overseeing. So, if this House decides that the council should be in the Presidency, then the Committee that oversees the Presidency must be responsible for managing and overseeing the budgetary provisions to that council in the Presidency.

With those few remarks, I beg to support and look forward to amending it to read the right way.

Hon. (Dr.) Ottichilo: Hon. Deputy Speaker, I seek that you allow me to donate my time, a minute each to two colleagues, who want to say something about this.

Hon. Deputy Speaker: It has to be a minute each because you only have five minutes.

Hon. (Dr.) Ottichilo: Hon. Deputy Speaker, I will donate one minute to my colleague and brother, hon. Omulele and one minute for my colleague, hon. Ogolla.

Hon. Omulele: Thank you my brother! For those who do not know, he is my father in this Parliament because he also donated part of his larger constituency to me to create Luanda. Thank you!

Hon. Deputy Speaker, I would like to quickly add my voice to support this Bill because this proposed law is quite complete in its layout. It provides a complete solution to the issue of climate. It also provides a very well balanced way on how the resources will be applied towards its activation and rolling out. So, it is a good Bill in that it ensures the future of our children and mankind itself.

With those few remarks - and adding to what my fellow colleagues have said - I support.

Hon. Ogolla: Hon. Deputy Speaker, very quickly because of time, I want to support the Bill much more so in terms of the issue of the council. It gives us a good opportunity in terms of doing two things: One is anchoring the international efforts and concerns. There are all manner of protocols and agreement but, locally, we have not had a chance in terms of where we are supposed to place this. The other thing is the anchorage of national efforts. There are many things even as we look at issues of carbon credits which need to be coordinated. As it is, nothing has been happening because some of those initiatives are getting lost or are not coordinated in a manner that can be useful to the country.

Another quick thing I want to mention is that many times, when we are talking about emissions and levels of emission, we run to the USA, China and all the other places. Those bigger emitters were at one time at the level of where this country is at the moment. We need to be concerned in terms of what it is that we are doing as a country - our national concerns - particularly when we are bringing in, at least, 20,000 pieces of motor vehicles each year and we are not doing anything in terms of carbon levels. This is where there is a big problem and we need to look at that.

Thank you.

Hon. (Dr.) Ottichilo: Hon. Deputy Speaker, I want to take this opportunity to thank all hon. Members who have contributed to this Bill. I am moved that all hon. Members who have contributed to this Bill have supported it without reservations. Climate change is a reality and it is going to be with us for many years to come. It is important, as a country, to put in place legal and institutional frameworks that will address this important and very serious global calamity. So, I want, once again, to thank hon. Members for supporting this Bill. I want to assure them that during the Committee Stage, the Departmental Committee on Environment and Natural Resources has worked very closely with the Ministry of Environment and Natural Resources and the Taskforce

on Climate Change to ensure that all the issues that have been raised by stakeholders are incorporated in the Bill.

Of particular interest is the incorporation of county governments. In the initial Bill, the county governments were not in place and, therefore, they were not incorporated. However, in the amendments to come, we are incorporating the role of county governments. The Bill is stating that the county governments will have to incorporate in their counties integrated development programmes on climate change and legislate for climate change at the county level. We are happy that the county governments have been involved in the discussions of this Bill and they have endorsed the amendments that the Committee will be bringing on board during the Committee Stage.

I do not want to belabour on this matter. As you are aware, this is an international issue and as we talk, tomorrow, the key leadership of this country will be meeting at the Safari Park to discuss the issue of climate change and all the international experts on climate change will be convening tomorrow morning to discuss this issue because the global community is planning to come up with an international agreement that will bind all the countries to address this very important and challenging threat to the survival of mankind on this planet.

Hon. Deputy Speaker, it is in this regard that the Secretary-General of the United Nations (UN), Ban Ki-Moon has convened a meeting of all Heads of States in New York in September to discuss climate change. Hon. Members can see that climate change is a major global issue. If this issue is not addressed, this globe runs a risk of having a major collapse of life supporting systems.

Hon. Deputy Speaker, with those few remarks, I want to thank all the Members. Once more, I beg to move that the Bill be now read the Second Time.

Hon. Deputy Speaker: Thank you, hon. Otichilo! Since we are not properly constituted, the question will be put in tomorrow's Session. We, therefore, move to the next Order.

Hon. Members, before the Member moves the Bill, first of all, we want to recognize the presence of students from Nyawa Primary School from Keiyo North, who are in the Gallery. Feel welcome in the National Assembly particularly this week when it is Parliamentary Week.

Secondly, hon. Members, remember the Resolution that we passed last week to the effect that the Climate Change Bill and the Kenya National Aids Authority will be limited to a maximum of one hour and thirty minutes, with five minutes being given to each Member, 10 minutes for the Leader of the Majority and Minority and 15 minutes for the Mover. I just want to remind you so that you are aware.

Hon. Opiyo, you have the Floor.

THE KENYA NATIONAL AIDS AUTHORITY BILL

Hon. Opiyo: Thank you, hon. Deputy Speaker. I beg to move that the Kenya National AIDS Authority Bill, National Assembly Bill No.2 of 2014, be now read a Second Time.

The Kenya National AIDS Authority Bill of 2014 is a Bill for an Act of Parliament to establish the National AIDS Authority to provide for its composition, functions, and powers and for connected purposes.

AIDS remains one of the biggest challenges to this nation. Over time, AIDS has ceased to be a purely medical or health issue. HIV/AIDS has become a social and economic issue. This has called for the need to relook at our strategies in combating this menace.

[Hon. Deputy Speaker left the Chair]

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

The Bill as proposed intends to provide a legal framework for the establishment and functions of the Authority. It will be a successor of the National AIDS Control Council which was established through a National AIDS Control Council Order 170 of 1999.

Hon. Temporary Deputy Speaker, the National AIDS Control Council as currently constituted has got its fair share of shortfalls. There have been allegations of opaqueness in appointments and poor utilization of resources allocated to it. For some time, NACC has operated under the Office of the President and drew its funding from OP.

Lately, it has been placed under the Ministry of Health and, therefore, draws its funding from the Ministry. This has posed several challenges. As we speak today, many of our constituency AIDS control committees that we formed immediately we got elected to Parliament are moribund or dysfunctional because of lack of funds.

The fight against HIV/AIDS is very important to this nation. It has been noted that AIDS remains one of the central impediments of national health, development and wellbeing. It has lowered life expectancy very reasonably. It has also deepened poverty in Kenya and reduced economic growth. It has further exacerbated hunger in many parts of this country. It has also worsened basic health indicators. This, therefore, calls for this country to treat the fight against HIV/AIDS in a very special way and dedicate energies to it in a manner that will reasonably give a realistic change towards the fight against HIV/AIDS.

Hon. Temporary Deputy Speaker, when this Bill finally becomes an Act, it seeks to establish an Authority as a body corporate with perpetual succession powers and a common seal thereby giving it the full autonomy that comes with the status of a body corporate; and that, funds to this Authority will be sought directly from Parliament and allocated.

Initially, as I said, it drew its funding either from the Office of the President or from the Ministry of Health. That has got its challenges because once the money goes to various ministries, the ministries decide how to give it out to its organs. That is a bit unfortunate because it does not accord the fight against HIV/AIDS the kind of importance that it deserves. So, the Authority will now seek direct funding from the Exchequer through the National Assembly and this will now relieve it of dependency on the mother ministries. The Bill is divided mainly in four parts. Part I composes of preliminary

provisions. Part II has got the provision on establishment, powers and functions of Kenya National Aids Authority as the body for the formulation of policy and coordination of all matters pertaining to the prevention and control of HIV/AIDS. The fight against HIV/AIDS in this country has been very un-coordinated. That is the reason why, in the wisdom of the formulators of this Bill, we thought, instead of limiting the fight against HIV to control, we thought it is good to give powers to that Authority so that it can coordinate and control HIV/AIDS. That is because there are many bodies in this country. Some of them are Non-Governmental Organizations (NGOs), some are private initiatives and some are from the Government of Kenya. We want a body that will coordinate the fight against HIV/AIDS across the country, within the private sector as well as the public sector, so that all the energies and resources are directed towards the fight against HIV/AIDS are felt; they are synergized and felt across the country. As of now, every other person and every other organization may come up and decide to fight HIV/AIDS and the impact is not at the level that this country wants. Actually, recently, there have been statistics to the effect that there have been minimal reductions in the rates of infection in this country. That is not enough! The rates of infection are still way above what is acceptable for this nation.

The Part III comprises of financial provisions that seek to grant the authority financial autonomy and also subject the resources to transparent audit processes. Part IV has the miscellaneous provisions including the transition provision which will be repealing the National Aids Control Council. Part V - and which I hope is the last one - provides for delegated powers.

We also have Schedule I and II. Schedule I has got the regulations regarding the mandate and the conduct of business and the affairs of the Authority. Schedule II has got the transitional provisions. I want to ask this honourable House to consider this Bill as being important to this nation.

At this point, I want to thank the Committee on Health. In the process of coming up with this Bill, there has been a lot of consultations with the Committee. They have put a lot of energy and their minds to this Bill. I hope at the correct stage, they will be bringing up amendments which they feel will serve to better this Bill for the good of this nation.

With those many remarks, I wish to move the Bill and ask hon. (Ms.) (Dr) Nyamai, the Chair, Health Committee, to second the Bill. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you hon. Member for Awendo for your splendid work. Before the hon. Member rises to second. I see the hon. Member for Bureti. Are you on an intervention? Is something out of order?

Hon. Sang: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I wish to acknowledge the presence of students and staff of Bondeni Academy in my constituency. It is one of the best performing academies in my constituency. I want to welcome them to the Speaker's Gallery. Thank you

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you so much, the visiting young people from Bondeni Academy. You are welcome in the Chambers. All right. The Chair of Committee on Health. Are you able to press your intervention button?

Hon. (Ms) R.K. Nyamai: Yes, I did. Thank you, hon. Temporary Deputy Speaker. I rise to second this important Bill. First of all, I would like to congratulate our colleague hon. Opiyo for finding and investing his time on this Bill. This is a very important piece of legislation within the current constitutional dispensation. This Bill seeks to provide a framework for establishing powers and functions of the Kenya National Aids Authority, so that we can have a kind of institution that controls funding for HIV/AIDS. As most of us are aware, this country receives a lot of funding for various activities for HIV/AIDS. There is money that goes to International NGOs, local NGOs, Community-Based Organizations and Faith-Based Organizations. But the question is: Is that money properly used. Does that money, which is meant for people who are sick, reach the people who deserve it the most? So, this is a very important Bill coming at this time. This Bill envisages the creation of an institution which will perform various functions. Those functions include mobilizing of resources for HIV/AIDS and control - including control and prevention and the management of grants. As I said earlier, this is an important area that must be given the attention it deserves. The Committee considered various submissions from various stakeholders who are interested in matters of HIV/AIDS. This Bill has received proper consultations, with the Ministry of Health, itself. I would like to state clearly that it has the full support of the Parliamentary Committee of Health and we have consensus on general principals of the Bill. The Committee also proposes various amendments in this Bill, which will seek to be introduced at the Committee Stage. The Committee proposes to introduce a fund. As we sit here today, funding for HIV/AIDS is dwindling and we are aware of various international donors - including UN-AIDs - that are stating clearly that funding for HIV/AIDS is going down. The question is: What will happen to our people who are relying 80-90 percent on funds that are coming from donors? That is one of the concerns of the Committee. The fund, as amended in the new Clause 2 which will be introduced, shall also be administered by the Authority when it is established.

Hon. Temporary Deputy Speaker, one would ask: What is the rationale behind the introduction of an HIV/AIDS Fund? Kenya is one of the countries that receive money from the Global Fund. This country ought to adopt innovative methods of fundraising. We need an institution that focuses clearly on innovative ways of fund raising funds as opposed to expecting to be provided with a certain amount of money every year or every five years.

Funding from donors and the Government has also dropped, thus raising concerns on the future of HIV programmes. For example, we have a programme called TETOWA that is "The Total War against AIDS" that is coming to an end. It has been a very important programme for this country. Some of the projects are being implemented in our own constituencies. We have also seen a reduction of funding at times to projects that are happening in our own constituencies through the Constituency Aids Committees (CACs). So, it is a concern to every Member. I would like to encourage hon. Members seated in this House to support this important Bill.

Hon. Temporary Deputy Speaker, a high proportion of Kenyans are currently on anti-retroviral treatment. Those are life-saving drugs and, hence, they directly depend on those donors. When you look at how much are we giving as a country to HIV/AIDS, it is a question that needs reflection by us as a legislative arm of this Government.

The funding that we are receiving towards HIV is also quite low and it is important that we have a fund where our own Government also has an obligation to ensure that we have sustainable funding for HIV. The dependency is risky owing to unpredictability of the funds that we are receiving from donors. This means that we will require a national programme of this nature which will respond to the national problem as opposed to giving our very important programmes to be fully funded by the donors.

Hon. Temporary Deputy Speaker, a mechanism of this nature is also going to demonstrate the Government's commitment in addressing HIV/AIDS, and also Tuberculosis (TB) which require urgent response.

Hon. Temporary Deputy Speaker, also in line with this, our Millennium Development Goal (MDG) No.6 focuses on combating HIV/AIDS and other diseases. So, having a sustainable fund is very important. So, in brief, I would like to say that the importance of that fund is to provide support for HIV interventions in a sustainable way, to reduce the countries over-reliance on donors and also to address the funding gap in HIV.

Hon. Temporary Deputy Speaker, I, therefore, support this very important Bill and state that, at the Third Reading, the Departmental Committee on Health will be bringing various amendments which we have had proper consultations with the proprietor of the Bill, hon. Opiyo, and state that we are rightly behind him in supporting it.

Thank you very much, hon. Temporary Deputy Speaker.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, I take it that the request list as I see it contains Members wishing or desiring to speak on the Bill before the Chamber and so, we will begin with the Member for Cherangany.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker for giving me an opportunity to speak on this very important issue affecting our nation.

The Temporary Deputy Speaker (Hon. Kajwang'): Members, even as you speak, I wish to remind you of the Resolution you made on 23rd July 2014 reducing the maximum period of time that Members are speaking. So, five minutes each for Members contributing and ten minutes for the Leader of the Majority Party and the Leader of the Minority Party and 15 minutes for the Mover to reply. Thank you.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker. First of all, I would like to say that I agree that HIV/AIDS has become an epidemic in this country and needs some help to curb it. However, I have a concern which lies squarely with what this Parliament is doing.

Hon. Temporary Deputy Speaker, we have engaged in this system of forming boards and councils. We are entering into a problem because this country is already facing a very big problem of the huge wage bill. If we continue forming boards and councils, who is going to pay them? Where are we going to find money if we continue creating those independent bodies?

Hon. Temporary Deputy Speaker, the second thing is that I wanted to contribute to the previous Bill on climate change. If I had been given a chance to contribute to it, then my contribution would have been the same as this one. That is because we are

forming a board or a council on things that can be taken care of by the already existing councils and boards in those ministries.

Hon. Temporary Deputy Speaker, there is no need for us to double the work that can be done by a council that is already existing. One thing that I want to emphasize is this: Let us empower the councils that are already there. HIV is not a permanent thing that will be there forever. What about if we form a board or a council that we have to finance and then tomorrow, HIV is long gone in this country? Will we come back again and repeal the same board when we are already giving them a period of time that they are going to work within? We need to make sure that we see that and, as Members of Parliament, pay close attention to those things. Otherwise, we will end up being a House that ends up giving people jobs and yet, we are complaining about the huge wage bill of this country.

Hon. Temporary Deputy Speaker, I realise that there is the importance of having financing control---

(Loud consultations)

Hon. Korir: Hon. Temporary Deputy Speaker, hon. Members of Parliament are consulting loudly.

The Temporary Deputy Speaker (Hon. Kajwang’): Order, hon. Members. Proceed.

Hon. Korir: Hon. Temporary Deputy Speaker, I would also like to reiterate that we give the county governments the powers to control and manage the AIDS epidemic because they are closest to the people. They are the ones that know the problems that people are facing. If we create a board here in Nairobi, it will not know what is happening in Cherangany or Kisumu. However, if we have boards in the county governments that are able to take care of the people, then that will be fine. Let us take the money that we want to give the board here to the county governments so that they can take care of their people. There are areas where there is no AIDS. But there are areas where there is a lot of HIV. Why do we not give the county governments that money because they know the number of people that have HIV in their counties? They will take care of their people and control HIV? That is the best way to manage to the HIV/AIDS epidemic. That is because they can also educate the people. They can know which areas in the village that need more education. They can know which areas need more emphasis than we the people in Nairobi.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you so much. Member for North Imenti, and you know you have the compliments of the Speaker because you came to my constituency with my full knowledge and participation.

Hon. Dawood: Thank you, hon. Temporary Deputy Speaker. I visited your constituency last Saturday for a wedding. The people were very happy and they greeted you *in absentia*.

I would like to congratulate hon. Opiyo for bringing this Bill to Parliament. This is the right move in converting the Council into an Authority, unlike the previous speaker who said that it is a waste of funds. The HIV/AIDS is not going anywhere in the

foreseeable future. All over the world, cases of HIV/AIDS are increasing by the day and we need to tackle that scourge. We have a problem in this country in that most of the donors who have been giving us money for HIV/AIDS programmes are pulling out. We need to come up with structures and resources as proposed in this Bill. The Authority will mobilise resources for HIV/AIDS programmes. It is a timely Bill.

However, one of the few issues that hon. Opiyo could look at is the qualification for the chairperson of the Authority. The 12 years experience in a related field is a bit too much. This will preclude the younger people who would want to be chairpersons of that Authority. We are encouraging the youth to be in the fore-front in many of these things. He has put a requirement of a university degree from a university that is recognised in Kenya. That should generally be a university degree which is recognised by the Commission of Higher Education, whether it is from Kenya or from overseas. We have people who have university degrees which are recognised in Kenya, but are not necessarily from a Kenyan university.

The other issue is the ten years experience for the Director-General. With this, you do not want any youth to be employed in those fields because when you require chairpersons, director-general and members of staff to have experience of more than ten years, then I believe you will be talking of the old people who probably would not understand what HIV/AIDS is. It is a foreign thing for most of them.

The other thing is that, as a country, we need not just to look towards the East. We need to look towards the West as well. The West has been our partners for a very long time and forsaking them now for the East, we will lose out on the grants and all the resources which go towards the HIV/AIDS programmes. Many Kenyans will lose their jobs. We have lost many programmes under HIV/AIDS. The Government needs to seriously think how we are going to tackle this. We should not reverse the gains that we have made in the war against HIV/AIDS. In the next few months, probably, many people will be missing their HIV/AIDS medication because of that unfortunate policy. Maybe, it is misunderstanding, but the organizations which were supporting HIV/AIDS are moving out in droves from the country. We need to arrest that situation.

With this Authority, we even need to think about how we are going to empower the Constituency Aids Committees. They are like moribund committees, which do not function. I have been to one or two in my constituency and it is only a talking shop. Nothing is happening and I believe it is the same in all the constituencies. We need to have this Authority in place to empower the Constituency Aids Committees, so that we can move further in this war against HIV/AIDS.

With those few remarks, I would like to congratulate the Mover and support this Bill.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support this very important Bill. I want to commend hon. Jared Opiyo for bringing this Bill. It has taken a long time for us to think this way from the 80s, when AIDS was discovered. Since 1998/99 when AIDS was declared a national disaster in the country, we have had various institutions dealing with HIV/AIDS, including NGOs. That is where the problem comes in because even the money that we receive in terms of aid towards research and treatment of HIV/AIDS has not been handled well. There has been competition between the Office of the President and the Ministry of Health. Professionals

in the Ministry of Health felt that they should be the ones to deal with it, but the Office of the President also felt that, maybe, because it had the matter of AIDS at its heart, it was the best placed to deal with it.

You can imagine the kind of confusion that has brought. They do not have experts in the Office of the President. This has been taken round in circles. We even had the Ministry of Special Programmes, which tried to deal with the matter. This has been handled in a very haphazard manner. That is the reason why the committees that we set up in the constituencies several years back have not been functional. Even the reporting has been a big problem. So, with an Authority like that one in place - the Kenya National AIDS Authority - it will be easier for us to handle HIV/AIDS.

Some of the Members have said that this will be a waste of time because you want to take the money to the counties. We know what is happening in the counties. Even the simple medical issues which the counties are supposed to be dealing with, they are not dealing with them. For instance, they are not equipping hospitals. They are not having doctors. For example, in Vihiga, Mbale Hospital does not have doctors. It does not have medicine. So, if we take this to them, it will be a bigger problem added to them. In fact, we need a specialised unit. I hope that when it comes to staffing that Authority once it is in place, we will treat it as a specialised unit where we will have experts who can deal with these matters.

We had Prof. Obel who carried out research on the treatment for HIV/AIDS. But because of the tug of war that was there at the headship of KEMRI, we did not realise good outcomes out of that. If we have a specialised body like the proposed Kenya National AIDS Authority, it will be much easier to have experts there. They can deal with the matter based on the findings that they make. The most important thing with those bodies, as we talk about them, is adequate funding. If you do not have adequate funding for those highly skilled institutions, the people you employ there will also get demoralized. That will create a problem because they will not be able to do their work.

Fortunately, Kenya has highly qualified and skilled personnel, but our country does not seem to appreciate talent. That is the reason why you find that some of them are demoralised. Even doctors in hospitals are not working to their maximum because they are not properly paid, housed and, generally, they are not respected. What they are doing is not respected. It is not very easy to train a doctor. Therefore, once we put them in those institutions, we must give them due respect that they deserve. We must pay them well and provide funds for their research, so that they can do their work adequately. It is not a must---

The Temporary Deputy Speaker (Hon. Kajwang’): That is all the time we have for you, hon. Member. Let us have the Member for Seme. I am bringing you here very purposely, so that you can direct the debate. Let us understand some of the technical things that we are looking at here. This is a very important debate in this country and I am sure members of the Republic are watching to understand what it is that Members of this National Assembly want to do.

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I think this is an extremely important Bill, and I rise to support it. I think we need to go a little bit back in the history of HIV/AIDS in this country, which goes back to 1982, when the first case of HIV/AIDS was diagnosed and we were not sure what

it was at the time. Because of the slow progress of the disease itself--- When the first diagnosis was made, a large number of people in this country were already affected. Because of its multi-sectoral nature, all aspects of the society were affected. In terms of human resource, we lost many qualified people like teachers, doctors, nurses and others. It had a marked effect on the agricultural sector. It had a marked effect in all areas. The national response at the time was to recognize the multi-sectoral nature of the epidemic. It was also feared that HIV/AIDS was a contagious disease that would move directly from one person to another, but we now know better. There were numerous stakeholders who got involved because many sectors were affected. The mode of transmission was not clearly known and it was necessary, therefore, to get a national response. That is how we ended up with the National Aids Control Council (NACC). At the time, it was housed in the Office of the President, but it later on moved to the Ministry of Special programmes.

The challenge we had at the time, was that the response was purely prevention. That is because there was very little in terms of treatment. Things have changed a lot and now we have fairly effective ways of ameliorating the effects of HIV/AIDS. The people who are on drugs do live a fairly normal life. As late as 2003, we had less than 10,000 people in this country who were on treatment for HIV/AIDS and, basically, no children and yet, they were affected. Now, we are talking of over probably 3,000 figures or a lot more. But, by the end of the year 2003, we had moved to actually over 2,000 people on treatment.

So, a lot of impact has been there and the response, through NACC, has attempted for the first time to put in place institutions that will guide the response of this. It had Constituency Heads of Control Council that we have today. On top of that, in every Ministry and Department, we had AIDS Control Units. The other functions that were extremely important were to get all the multiple stakeholders in terms of funding and implementation to actually operate in a coordinated manner. I think we have made a lot of progress. We have come from prevalence of about 14 per cent and in some places up to 25 percent to as low as 6 percent.

Of course, there are areas like western parts of Kenya that are still very highly affected. A lot has been done by NACC, but there have been issues of appointment of members, the control of funds, coordination of implementers and coordination of funding. Again, it was actually established through a legal notice as far as I know. So, in my mind, when we now come to have an Act of Parliament that puts in place an Authority, that is something that we need to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, you also just have five minutes like every other Member.

Hon. (Prof.) Nyikal: Let me say one thing.

The Temporary Deputy Speaker (Hon. Kajwang’): No! Say three things because we want to know whether the establishment of the authority will enhance the prevention of HIV/AIDS. Number two, whether the counties have the capacity to handle those kinds of things and number three, whether we are just creating some other bigger enclaves that are going to gobble up more funds. Those are issues that we want you to look at. Alright, so you only have two minutes to say those three things. Can he have the microphone?

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker. Now, if we have an Authority that is established by an Act of Parliament, I think it will strengthen the structures that already exist. But, most importantly, the Bill as seen in the Committee will actually introduce an amendment so that we have a fund that does not exist in this country. We have asked for it for many years and, therefore, the funding has been to a large extent by donors. I think that is thoroughly inadequate. The donors are now withdrawing and, therefore, it is important that we put in place a fund.

The other issue that you have raised is on the devolution that we have of health and the new Constitution. It is important that we do harmonize the functions of this Authority with those that are at the county level, so that we streamline all those functions. I would actually even propose that we have a special levy, because the amount of money needed is colossal and it has all been coming from donors. We must have some levies, so that we can raise the funds locally. This was foreseen five years ago. We have not moved and, if the donors move out today, we are going to be in terrible problems. So, I support that we have this Authority. It will help in funding, coordination and harmonization at the county level.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right, Member for Nyeri Town. Let us now have the gender voice here.

Hon. (Ms.) Mathenge: Thank you, hon. Temporary Deputy Speaker. First of all, I have just come from a conference that was held in Melbourne - AIDS 2014. I will be tabling a substantive report on the issues that were raised. When NACC was put under the Office of the President, it was because of the cross-cutting nature of HIV/AIDS. I am not sure that when we put it under the Ministry of Health, it is going to be better or worse. That is because the issue of funding will still be there. It will be treated just like any other disease when it is not.

As I look at the Bill, one of the other issues - like the stakeholders are saying - will be the management, including Government departments, community-based organizations and faith-based organizations. However, we are missing the parents, the homes and schools. One of the issues that was raised in the conference was that the adolescence is now where the new infections are. So, we need to put in the schools, so that we can provide sex education and reproductive health, so that our children do not grow up to be HIV carriers. The other small point that I would want the Bill to look at is whether we have gazetted HIV/AIDS as a disaster. That is because I believe it is still a disaster in this country. It should be pegged to where other disaster issues are.

In the last Cabinet, we passed the Aids Trust Bill, which is the one I believe hon. Nyikal was talking about, where we would look for homegrown solutions. One of the things that was stated in this conference was that a lot of the funding that will come into this country will be pegged on some issues that are not true to Africa. Everything that was mentioned was on men having sex with men, commercial workers and so on. So, unless we have our own home grown solutions, I can see all the funding going away because we are not towing the line. So, I hope the Ministry of Health is really going to ensure---

The Temporary Deputy Speaker (Hon. Kajwang’): Member, just as you are going on, are you saying that there is no issue of females having sex with females?

Hon. (Ms.) Mathenge: Well, it is there, but that was the biggest thing. We are going to get fewer funds. But the category with the largest funds is the men having sex with men, and not women having sex with women.

The Temporary Deputy Speaker (Hon. Kajwang’): Proceed.

Hon. (Ms.) Mathenge: They hold the pass and so, we have to tow the line. I am sure even the females who were there were supporting it; those who have sex with women. What I am saying is that we are going to be forced to tow the line and that may not be compatible to our culture and beliefs in Kenya. Even as we provide drugs, which is a right – because it is a right for us to provide drugs to anybody who has HIV/AIDS.

The theme of the conference was: “Stepping up the Pace”. It was resolved that by 2020, the new infections must be reduced and by 2030, HIV/AIDS must be eradicated. The way to go about it is a formula which was being referred to as 90, 90, and 90. That is 90 per cent of all sexually active persons must be tested for HIV/AIDS. The other 90 per cent of all people tested for HIV/AIDS must have access to ARVs and it must be affordable. The other 90 is 90 per cent of all children who are born must be free of HIV/AIDS virus. If we do that, I am sure we shall overcome the epidemic.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. That was very illuminating. We want to congratulate you for ably representing us at that conference. When you table that report, I think Members will greatly benefit. The Member for Rangwe, hon. George Ogallo Oner, what is out of order?

Hon. Ogallo: Hon. Temporary Deputy Speaker, it was actually Prof. Nyikal who had wanted to speak. He came here and he wanted to speak on the Bill!

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Order, hon. Members. I have a request from the Member for Rangwe on an intervention. How come your card is here? Is somebody using your card?

Hon. Ogallo: Hon. Temporary Deputy Speaker, I am informed that Prof. Nyikal, the Member for Seme, made a request from my gadget.

The Temporary Deputy Speaker (Hon. Kajwang’): Can you take control of your card, so that you do not unduly interrupt the proceedings of the House?

Hon. Ogallo: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Member for Seme, I have understood where the problem is. Let us have the Member for Shinyalu.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I want to start by saying that I support the Bill. I support this Bill strongly because we are a country with people who have the tendency to forget very soon where we are coming from. The other day, we declared HIV/AIDS situation as a disaster and everyone was moving towards dealing with it. It was even mainstreamed in all public institutions. We have forgotten that very fast. The impact of HIV/AIDS is not only medical. It has socio-cultural dynamics that could change the society entirely. That is what is happening. We, therefore, need interventions like legislation to make sure that we are able to control and prevent the instances of HIV/AIDS.

Hon. Temporary Deputy Speaker, we have poverty. When you trace poverty, it takes us straight to HIV/AIDS. Sometimes, we do not even have information about how

many children are orphaned and, socially speaking, what kind of attention do we, as the leadership of this country, have to give to those orphaned children---

The Temporary Deputy Speaker (Hon. Kajwang’): Order! There is a caucus from Homa Bay County which is very pleasing! I am sure you are discussing matters of HIV/AIDS. But, order, hon. Members. Even as you caucus, do it in low tones so that other Members are able to participate. Proceed.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker, for that intervention. I hope the time lost will be granted to me. But I wanted to emphasize the point that we have many orphaned children who have come about because of the HIV/AIDS pandemic. This Bill needs to accommodate those children. They are many in number. We need to have the statistics of those children. We have had instances – and I can tell you for sure that, in my constituency – and I know hon. Members here will bear me witness--- When you consider the situation of orphaned children, they are up to 30 to 40 per cent in each classroom. They do not have the necessary facilities even to give them education. Now, if that is at the education level, you wonder how they are surviving back in their families. The situation of poverty has been aggravated by the impact of HIV/AIDS. We need an HIV/AIDS control and prevention authority to collect those statistics so that we can know the ultimate impact of what we are dealing with. Sometimes, we indulge in a lot of casual treatment of issues. Like when we talk about mainstreaming of matters concerning HIV/AIDS in public institutions, every now and again, we keep passing the buck and saying: “It is not me! It is so and so!”

For me, I want to suggest that both the National Government and county governments should take HIV/AIDS as a serious phenomenon that we must deal with if we want to guarantee ourselves of productivity and sustainable development. There has been very many recommendations. But they have been shelved. There have been very many reports. But they have also been shelved. We need to look back at what is it that has been done before, so that we can build on it.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. The Member for Mbita. Is the hon. Member for Mbita in the Chamber?

An hon. Member: No!

Hon. (Ms.) Odhiambo-Mabona: Sorry, hon. Temporary Deputy Speaker. I was consulting. Thank you for giving me this opportunity to support the Bill. I want to thank the hon. Member for bringing the Bill. It is a timely Bill. If you know from the statistics that we have been given, the incidences of HIV/AIDS are alarmingly high in this country. It is against a scenario with dwindling resources for dealing with the scourge.

It is, therefore, important that we have a legal institution that has the mandate of dealing with it. I want to speak very briefly. I do not want to talk a lot to it. The epidemic varies widely between and within provinces, with a 15-4 difference in HIV/AIDS prevalence between the most heavily affected province – which is Nyanza – and the least affected – which is North Eastern.

If you look at the epicenter of the disease even within Nyanza, it is my constituency in Mbita. It is because of that reason that I am very, very keen that we have body that can deal with this. In Mbita, the bodies that have supported efforts in dealing with the epidemic have been mainly international institutions. We have been supported mainly by America. But because we know the money is reducing, I want to encourage the

Government to set aside resources to cater for the disease. That way, we will not rely entirely on external funding to deal with HIV/AIDS.

Another issue of concern to me is that the persons who are most heavily affected with HIV/AIDS are women and the young persons. I want to encourage that we put in place strong awareness campaigns. I know the issue of stigma has gone down but it is still a big challenge. I have noted, especially in my constituency, that the issue of stigma is no longer the main issue. But the issue of nutrition is a big challenge. When people are using ARVs, they must also have a good nutrition base, which they do not have. We want to encourage the Government not only to provide the medicine, but also a basis for people who cannot be able to access food and nutrition to do so, to enable us to reduce the scourge. So, I want the Government to provide medicine which is meant for people who cannot access food and nutrition. This will enable us reduce this problem.

Finally, in relation to child-headed households, there are very many children whose parents have died of HIV/AIDS. In my constituency I have a lot of children who are leading households. There is no clear Government policy on child-headed households. I am hoping that once we provide this framework, we will then go ahead and amend appropriately the Children Act, so that we not only provide for children who are considered vulnerable, or in need of care and protection, but will also have a whole section dealing with how to protect children who come from vulnerable households, especially those who head fragile households.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, even as you contribute, remember that we are debating the Kenya National Aids Authority Bill, whose objects have been stated in the Memorandum Reasons and Objects. I know that we all have various issues around the subject of AIDS, but, please, condense them. Find how they relate to the Bill that has been proposed by the Member, so that we are as relevant as possible to how this Member wants to midwife this Bill.

Hon. Omulele: Thank you, hon. Temporary Deputy Speaker. In fact, I was wondering about the issues that my brothers and sisters were speaking to with regard to this Bill. I think some of them are totally extraneous to what is clear in this Bill.

I wish to start from the point that this Bill is actually timely. We want to create a central authority, which will be dealing with matters AIDS in this country. I say so because in this country you will notice that people have lost the fear that was in them and was usually associated with the scourge. People have started looking at the scourge of AIDS as a very ordinary thing. People are behaving in a way that is likely to only increase the scourge. We must set up an authority that will tell our people that as much as we have dealt with AIDS and made people who are suffering from it capable of living a normal life, we must address it as a disease that we need to eradicate; to eradicate it we need to change our behavior totally. It should not be looked at as an ordinary disease, but as a life-threatening disease. So, I think that in creating an authority, rather than having the council the way we have had it, we should have a national focal point, which will be dealing with this issue and at the same time provide direction.

As much as we have devolved health matters to the counties, the national Government must be in the forefront in fighting this scourge. The national Government

must state its position and then we take this matter to the counties and tell them that we have to deal with this issue in a clear way as a nation.

This Bill will provide a very clear way in which we shall appoint the people who will deal with matters AIDS. The Authority will be subjected to public scrutiny and it will be formed through Parliament. So, we shall have people who are relevant in dealing with this matter. We shall look at their papers and shall know who it will be that we will be delegating to deal with this national scourge.

I support this Bill because we shall have autonomy of this Authority. It will act autonomously, and will have its own budget which will be directed to very specific functions. That way, we shall not have the corruption that has crept into the Council. People have identified this scourge as a vehicle through which they have been enriching themselves. Through this law we shall audit the accounts of this Authority and know exactly where our shilling will be used in relation matters AIDS. I think this will be an Authority that we need. I have addressed the point that you raised, namely whether we need it as a national body or we should devolve it. I think we need it.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang⁷): According to the Constitution the national Government still retains the policy framework for matters of health. Is that correct?

Hon. Omulele: That is correct, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang): All right. Thank you.

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Speaker. I want to support this very passionately. This is because since 1982 when this scourge was discovered we have had quite a number of issues. I want to take this opportunity to first of all thank donors for having taken it upon themselves to help us fight this menace. Indeed, we have come a long way and, actually, we have succeeded in a way. Today, if you go out there you will find people declaring themselves victims of AIDS. We know that 20 years ago it was not possible to see that. We have, therefore, done so well in our fight against this epidemic. Therefore, for us to continue and complete this war, I want us to have a central authority to deal with this disease.

I do not agree with some Members, or the view, that we devolve this to the counties. Look at healthcare in this country. The counties have failed. We had a debate here two weeks ago. We said that healthcare cannot be taken care of by the county governments because they have failed. So, we want it to go to the central Government. There are constituency committees of AIDS out there, but they are poorly funded. This Authority will be in a position to deal with this matter more effectively than what we are doing at the moment. I suggest that for us to continue the war on AIDS, we should support this Bill and have an Authority in place.

Donors are actually unhappy with the way funds have been used. We are all aware of that. Funds have been misused by, especially, local NGOs. Because the donors are pulling out we should step in as Parliament and also Government, so that we continue with the war. I have seen reluctance on the part of the donor community because of the behavior of some NGOs. Most of them misuse funds coming from donors in USA and Europe. Let us have a central Authority picking up this matter so that we fight AIDS. The functions of this is authority, as stated are very noble, because it will mobilize resources.

It will be able to regulate funds that will be generated. It will be able to do the control of the resources that will be used in the war against HIV/AIDS. Therefore, I support the Bill. Let us all support it, so that we can move forward with the war against this epidemic.

Hon. Sang: Hon. Temporary Deputy Speaker, thank you for giving me this opportunity to support my friend, Hon. Opiyo. I know he has done so much on this Bill. I have seen him four times trying to bring this Bill to the Floor of this House and I want to start by congratulating him. I know he is struggling to ensure that this authority comes into being. I want to also confirm that in issues of HIV/AIDS, we have come from far. For a very long time, some years back, people did not know how HIV was transmitted. People through coughs, contact and other ways they would contract HIV/AIDS. But because of information that was given to the populace, they realized that HIV/AIDS is transmitted in particular ways. They realized that it is transmitted through sexual intercourse, blood transfusion and other ways. I want to congratulate former regimes, starting with the one of former President Moi for fighting and recognizing that HIV/AIDS was killing a good number of Kenyans. I think he declared it a disaster some years back. That also led to the establishment of a council. The council has done well so far; when you go to villages, you will see the HIV/AIDS issues are given a priority. We have people dealing with awareness and other things. When it comes to issues of awareness, over 98 per cent of Kenyans are aware of the existence of this particular disease. They are also aware of how it is transmitted. The council has done well.

The issue of the council trying to transform itself into an authority is welcome. I know a good number of us may wonder why an authority on HIV/AIDS. Why not on malaria? Why do we not have an authority to deal with malaria? Why do we not have an authority to deal with Tuberculosis? Why do we not have an authority to deal with other conditions like pneumonia? I want to quote one of my friends, who said that this particular disease is special. It killed a good number of our friends. It has killed a good number of our relatives. It has killed a good number of our citizens and I know everywhere you go in Kenya, people have lost lives. People have lost relatives and people have lost a lot of human resource. That is what Hon. (Prof.) Nyikal was alluding to some few minutes ago.

This is a special condition. One of my friends said that the condition of HIV/AIDS will be with us for some years and then it will disappear. Then what next? What will we do? I want to say that it is our prayer that it disappears as early as yesterday. Unfortunately because we are still sexually active; because we are still active on other issues, this particular condition is still with us. On the challenges that the council faces at the moment are issues of finance. These issues are everywhere and I want to thank my friend, Hon. Opiyo, for coming up with this Bill, so that we create an authority. If you read newspapers last week, the USA is pulling out. I know there are issues of employment and some non-governmental organizations were laying off a good number of staff. We are seeing challenges where we are coming from; I want to confirm here that we need this authority. One of the objectives of this authority is to source for funds, and I know once it does that, we are going to benefit and probably deal with the challenges of the orphans we see.

Hon. Temporary Deputy Speaker, I want to thank the national and county governments because as we speak, we have a good number of orphans at home. On issues of bursaries, we have been trying as much---

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

Hon. Eric Keter: Hon. Temporary Deputy Speaker, thank you for giving me this chance to contribute. First and foremost, I would like to thank Hon. Opiyo for having thought of this Bill, so that we can debate it. AIDS is very real and it causes a lot of harm to our people; it kills even important people who contribute to the economy of this country. But the way we are handling it is below standard. We need to look at this issue practically. Last year I convened the AIDS Committee in my constituency. One year down the line, what is happening is that people are asking: "What are we supposed to be doing?" "Can we resign because we are not doing anything?" The challenge we have in this issue is that we do not have the funds. That is the real thing. What is happening is that no action is taking place. No programmes are taking place in the villages about the youth or churches. I think we should address this issue squarely, so that we see where we can get funds and whether we give funds to the national Government. At the same time, we should convince the county governments to set up departments dealing daily with officers--- If we continue at the same rate as we are now--- I told them to be patient a bit as we see what to do about it. I have hope that we are going to address this matter through this Bill.

I would also like to contribute to the fact that we need research. I remember some time ago, as another hon. Member has said, Prof. Obel, when he was in KEMRI, discovered a product that tended to alleviate this problem. But later I do not know what happened. It died naturally. We need to encourage our scientists, as a country, to engage them so that we come up with some research that is going to assist us to fight this disease.

I would like to end by saying the curriculum in school should be defined in a way that we educate our youth on this disease from primary school level through secondary school level to college level. There should be a curriculum. There should be a lesson devoted to this HIV/AIDS as a subject. If we do that, then we shall lessen infections and deal with people with anti-social behavior because this disease comes as a result of anti-social behavior. It comes as a result of poverty levels; at times people forget and resort to immoral acts and they are infected with the disease at the end.

So I support this Bill and I emphasize the need for us to be practical. Let us hope that this authority will succeed the council which is currently working on this issue.

I want to end my contribution by saying that let us be practical and let the people understand the issue. Let the national Government and the county governments handle this issue properly.

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

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Balambala, you are sitting in a unique place and I am not used to seeing you in that part of the House.

(Laughter)

Hon. Aden: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. Indeed, I am sitting in the territory of hon. Outa.

Hon. Temporary Deputy Speaker, I want to take this opportunity to add my voice in support of this very important Bill. HIV/AIDS is a pandemic that has cost us the lives of many young and resourceful Kenyans. This is a pandemic which must be fought continuously in order to save this nation.

Of late, focus in trying to educate our so-called sexually active generation of this nation on the HIV/AIDS appears to have gone down tremendously. I think this is a worrying trend; mostly this is associated with lack of funds to run programmes.

I join my colleagues in saying that it is very important that we start a widespread sensitization and education programme, especially amongst our children and young generation. I noted with great concern attempts by some Members of Parliament to introduce Bills that would introduce contraceptives in our schools. That is not a very encouraging and good thing to do. Really, we must aim for abstention from the causes of HIV/AIDS, mainly sexual intercourse at a young age, or outside marriage. These are issues in which we need to carry out sensitization campaigns in order to limit the spread of this very dangerous pandemic.

Hon. Temporary Deputy Speaker, this is a very important Bill and I would like to thank hon. Jared Opiyo for bringing this Bill to this House. Indeed, this Bill will make sure that the HIV/AIDS affairs of this country will be managed by very professional people. The Chair will be required to have not less than 12 years of experience in the field of HIV/AIDS work.

Equally, the six board members will also be required to have substantial experience in the fight against HIV/AIDS in addition to having a qualification that is not below a degree. For the first time, this will ensure that only professionals, or experts, in this field will be involved in the fight against HIV/AIDS. I think that they will be in the front line in the fight against HIV/AIDS.

The clarity of appointments and the fact that the National Assembly will play a part in ensuring that only qualified persons will be appointed to this board are very important aspects of this Bill. This is a very encouraging thing. Kenyans would now like to see, among other things, Chapter Six of the Constitution being taken into consideration. This Bill has taken care of this.

On independence in decision-making moving this authority from the Office of the President will help a lot. The management of this authority will not have to look over their shoulders, or wait for directives on how to proceed as is happening right now; they will be able to make independent decisions. They will also roll out programmes across the 47 counties without interference from any quarters.

Hon. Temporary Deputy Speaker, I end my contribution by saying that the another benefit of this Bill is the fact that specific resources will be dedicated to this authority. What is happening now, and hon. E.A. Keter raised it earlier on, is in all our constituencies. We formed the constituencies AIDS committees but they are non-functional because there are no funds. This Bill says that some resources from the national coffers will be set aside for this authority, so that it can do its job well. This is a very important Bill. I support it and urge my colleagues to support it.

Thank you, hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Hon. Members, as you are aware, this Bill was allotted one-and-a-half hours following the House resolution. Therefore, we may not entertain more requests. I can see there is a lot of interest to discuss this Bill, but we will have the last speaker on it. This is the Member for Narok West, hon. Patrick Ntutu. He will contribute before the Mover is called upon to reply.

Hon. ole Ntutu: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to also contribute to this very important Bill. From the outset, I want to support this Bill, because it is very good, taking into account what has been happening in our country.

I also want to thank my good friend, hon. Jared Odhiambo Opiyo, for bringing this very important Bill to this House. I know that he has worked very hard to bring this Bill to this honorable House.

Hon. Temporary Deputy Speaker, the National AIDS Control Council (NACC) has done a lot since the HIV/AIDS was detected in our county. This is because the infected percentage of between 12 and 14 in this country was worrying. We have now come down about 6 per cent. I think they have done a lot.

Just like any other organization, the NACC has reached a point where its performance is now going down. We used to hear about HIV/AIDS every time we went to a baraza of a Chief and what the Government was doing about it. However, in the last three or five years, this has gone down in terms of advocacy and sensitizing our communities. That is why this authority will give impetus in terms of taking new measures. This is because things have changed in the way we have dealt with this disease in the last ten or 15 years. We have heard from our experts, particularly Prof. Nyikal that things have changed. HIV/AIDS is now affecting our youth more than what used to happen.

Hon. Temporary Deputy Speaker, the constituency AIDS committees have not been doing a good job because they lack funds. I think most of my colleagues have talked about this. These committees were formed, but they were not allocated any money to move around and sensitize communities on HIV/AIDS. It is time for us to create the Kenya National AIDS Authority, so that it can strengthen, harmonize and co-ordinate all issues pertaining to HIV/AIDS.

When you look at funding, for a long time we have been depending on donors. Just as in our budget, we used to depend a lot on donor funding, people giving us aids, so that we can talk about HIV and AIDS. I want to say that time has come for our country to do this work alone because we can do it. There are a lot of resources that we have as a country, having an authority that can deal, particularly, with HIV and AIDS I think will go a long way in helping us reduce HIV and AIDS infections in our communities. I think we have a lot of resources in this country. To give this authority power to mobilize resources that we have in this country for prevention, control and management of HIV and AIDS is something that is most welcome.

As I end, I want to say the independence that this authority will have---

Temporary Deputy Speaker (Hon. Kajwang’): All right; I now call upon the Mover to reply. Where is the Member for Awendo? This caucus from Homa Bay and Migori is very versatile. Is it? Is your name “temporary card”?

Hon. Opiyo: Thank you hon. Speaker, I want to thank all the Members of this august House for the contributions that they have put into this Bill. I really thank all of them for the focus that they have placed on this. There were some concerns raised by, I think, one Member to the effect that the country does not need authorities. Really, what we must do is weigh the benefits of having an authority against the negative effects. We may be too shy to create bodies to the extent that we may end up eating ourselves up. So, we really look forward to going through this Bill in the next stages, with the aim of making it an Act.

The other issues that came up will be dealt with as we move along. The most important thing is for us to have a Bill that will centralize the fight against AIDS, bring more focus, enable the authority to raise funds internally and externally, and, indeed, coordinate the fight against HIV and AIDS across board. We know that a lot of orphans are out; they have come as a result of HIV and AIDS deaths; I think we need to rededicate our resources, our energy and our thought processes to this fight.

With those few remarks, I beg to reply. Thank you.

Temporary Deputy Speaker (hon. Kajwang’): Thank you. I order that this Bill appears on the next Order Paper for the afternoon, when we will vote on it.

Next order.

BILL

Second Reading

THE ORDER OF PRECEDENCE BILL

Temporary Deputy Speaker (Hon. Kajwang’): Hon. Keynan, will you press your intervention button so that I can give you the microphone?

Hon. Keynan: Thank you hon. Speaker for giving me this opportunity to move this Bill.

Hon. Temporary Deputy Speaker, I bet to move that the Order of Precedence Bill be now read the second time.

The Order of Precedence Bill, National Assembly Bill No. 11 of 2014, was published on 21st March 2014 and matured on 4th April, 2014, and today it is here. The order of precedence is a sequential hierarchy of nominal importance of items. On the face of it--- I know many people who have gone through it might not have completely digested the importance of this critical Bill; therefore, I would want to explain the reasons why this is going to be a critical Bill in the orderly management of the public affairs of the Republic of Kenya.

The principal purpose of this Bill is to promote the good image of the country. Good image is in relation to how we manage our national functions or events. Sequence and orderliness in a way projects this country either negatively or positively. Because this country has decided to have democratically-driven institutions, it is only fair that each entity is placed in its rightful place. Therefore, in order to promote the good image of the Republic of Kenya and to promote orderliness, there is need to have order of precedence. There needs to be a law, a tradition, or a precedence that determines how

some of the events are supposed to be conducted. You realize that since the enactment of the new Constitution, there has been a lot of confusion, not because there is lacuna in the law, but simply because different entities, or different individuals, have abused the new law, and tried to outsmart other people. They have tried to solve a public relations related problem that results in personality clash; in the process they have created confusion all over.

The current Constitution has created a number of elected, selected and appointed positions. These positions, because they are new, have come with serious institutional crisis. This in turn has projected the national Government, the county government and other institutions badly over the last three years that we have had the new Constitution. Therefore, what we are trying to do, as Members of the National Assembly, is to cure this, so that we have orderliness in how we manage public functions; this will foster orderliness. It will also bring about discipline and decorum in our governance. It is further aimed at providing a yard stick for determining the proper position of all officers, their seniority, and hierarchy or purpose in all state functions. You must have realized that in the past different institutions, or office holders, have had titles. You need titles that come with positions. I want to go on record that it is not only in Kenya where titles are used. Since Kenya is a commonwealth country most of the laws in place--- Some are as a result of what we inherited from the British; other are a result of precedence or traditions that are borrowed from the British. It is only fair that we benchmark ourselves to what happens in other Commonwealth jurisdictions.

Therefore this Bill will rain in individuals who have given themselves titles that do not befit their social standing; this must be done within the confines of the law, and predetermined description of a particular individual. Therefore part two of this Bill will establish the order of precedence; in it we will be proposing certain amendments to change some of the things we may not have foreseen when this Bill was published.

There are a number of countries that have an order of precedence in an African context; Nigeria has a law; in the UK, there is a constitutional decree by a constitutional head; in Malaysia and Indonesia there is also an Act of parliament; there is also the case n a number of other countries. This has been predetermined and it is almost part of the tradition of those countries. In the Kenyan context because of the new Constitution, right now there is a rush to do a number of things, notwithstanding the constitutional provisions.

Part I is on the preliminary position, which I have already explained. Part II of the Bill establishes the order of precedence, with the President being the first in the list; he is followed by the Deputy President, the Speakers of Parliament, the Chief Justice and then all the other groups. In terms of titles, you must have seen that there has been a lot of confusion; for those of us who were in the last Parliament--- I do not want to accuse myself because I was also there, but I think there were some things that we did not foresee, and that have caused confusion and institutional crisis.

Therefore, one of the things that this Bill attempts to do is cure that anomaly, so that you, as a duly elected national representative of the Republic of Kenya and as a Member of the National Assembly, know the titles that befit you and those that are supposed to apply to other elected groups. One of the other things that actually this Bill attempts to do is sort out how these key office holders are supposed to be addressed; right

now it is a free for all. You can just sit, dream and give yourself a title the following morning and people will be confused as to who this new title holder is, who has emerged from this village.

Hon. Temporary Deputy Speaker, some might not really understand these issues but I think it is only fair that these issues are sorted out because Kenya is a member of the international system. The international system is a critical factor in how the Kenyan institution is going to be viewed. Quite a number of us have travelled, including Members of the County Assemblies (MCAs) and many other office holders. When we visit some countries there has been a lot of confusion; I am sure your office must have received even some serious complaints from some of the countries that we have visited. All this eventually adds up to either a bad or positive image of the Republic of Kenya; because we are elected to be Members--- Kenya is a civilized country and has one of the most generous and reformist constitutions; we must at all times strive to be a disciplined members of the international system.

Hon. Temporary Deputy Speaker, the international system is what brings together all civilised nations under the auspices of the United Nations (UN); therefore, as we promote, project and protect jealously the sovereign Republic of Kenya, how we perform our activities both inside and outside the country also contributes to how we are going to be viewed by our friends and how the citizenry that we lead will also relate to us.

Hon. Temporary Deputy Speaker, having looked at what this Bill is intended to achieve--- This is a symbolic hierarchy of the officials in the Government. These are officials elected, selected and appointed. Since the Greece era, the states of Sparta, Haven and many others existed; from them we borrowed some of the democratic tenets that are applicable today in both letter and spirit to different parts of the world; there has been in order. Even in your own family there has to be order. Without order, then there is going to be recipe for confusion.

We are proposing that we have an order, or precedence, that will take into account the following office holders. The first in the order of precedence will be the President of the Republic of Kenya. The second will be the Deputy President of the Republic of Kenya. The third will be the Speakers of Parliament; when I say "Parliament" I mean both the Senate and the National Assembly, so that there is no confusion. The fourth will be the Chief Justice of the Republic of Kenya. The fifth will be the Leader of Majority/Leader or Minority, and the sixth will be a Member of Parliament or County Governor. The seventh will be former Presidents and former Prime Ministers. Eighth will be Justices of the Supreme Court. Nine will be former Vice-Presidents and Deputy Presidents. Ten will be Judges of the Court of Appeal. Eleven will be Cabinet Secretaries/Attorney-General/Auditor-General. Twelve will be Principal Secretaries. Thirteen will be Chief of Kenya Defence Forces. Fourteen, Inspector-General of the Kenya Police/Director-General of National Intelligence Service. Fifteen will be Chairpersons of Constitutional Commissions. Sixteen will be Commissioner of Prisons. Seventeen will be ambassadors and High Commissioners.

Immediately after the Tenth Parliament adjourned *sine die* and just two days before the election, there was that purported Gazette Notice by the Sara Serem-led team that put the Member of Parliament as No.43 in the peking order. It is a reality that the most difficult position to get is an elected position. We know how difficult it is to be an

elected Member of Parliament or an elected Member of the county assembly. Therefore, that Gazette Notice really negated both the letter and the spirit of Article 1 of the Constitution, which says that the sovereignty of the people of Kenya is exercised by the elected representatives. If you read the same Article with Articles 93 and 96 of the Constitution, Article 93 clearly defines the role of the Member of Parliament. Therefore, having the Member of Parliament as No.43 in the peking order, or in the hierarchical order, was the most unfortunate thing that happened. That Gazette Notice is still in place and this is why you have seen confusion even in public functions. Where is the Member of Parliament supposed to be? How is he or she supposed to be addressed? This has come with serious institutional challenges; I hope and pray that once we pass this Bill, this confusion will not be there.

Secondly, I do not want to blame myself on the issue of titles because I was also there in the last Parliament. You realise that there has also been a lot of confusion and individuals have given themselves big titles that do not befit their social standing, or the positions that they hold. The second thing that this Bill attempts to cure is how you are supposed to be addressed as an elected person, a selected person or an appointed person. Whether you are elected, selected or appointed, we are all either as State officers or public officers to discharge our constitutional functions. For purposes of public address, the following titles shall be used to refer to the following persons. For avoidance of doubt, the President of the Republic of Kenya shall be referred to as His Excellency the President. The Deputy President of the Republic of Kenya shall be referred to as His Excellency the Deputy President. The Speakers of Parliament shall be referred to as the Right Hon. Speakers of Parliament. The Chief Justice of the Republic of Kenya shall be referred to as his Lordship the Chief Justice. The Member of Parliament--- This is a Member of Parliament and not a Senator or the Member of the National Assembly. He or she shall be referred to as Honourable Member. The Governor of a county shall be referred to as Mr. Governor or Ms. Governor. Right now I am told all of them are Mr. Governors.

The Judges of the High Court or the Supreme Court shall be referred to as their Lordships. chairpersons of constitutional commissions shall be referred to as either Mr., Mrs. or Ms, whichever applies. A spouse of the President shall be referred to as Her Excellency the First Lady. A spouse of the Deputy President shall be referred to as Her Excellency. The list is long. We cannot have all individuals office holders.

Part II of this says that no other person who has not been captured under this is allowed to use the titles that I have already listed. Therefore, the issue of MCAs does not arise at all. This Bill, once enacted, will take precedence over any other law that is in place. That, again, is cured. That will be Mr. MCA or Ms. MCA, whichever applies. That is the second part of this Bill. It is not in any way to impute an improper motive on a ward representatives; this is meant to bring order because there has been a lot of confusion. Once this Bill is enacted, I am sure all the privileged persons in elected, selected or appointed positions will be comfortable and will enjoy using those titles because they will realise that those titles befit whichever positions they hold.

I want to clarify this, because it is an issue that has been in the public domain for quite sometime. One of the issues--- I want to say this to the Members of the Fourth Estate: You will not be punished. I want to bring out this because the other time, there

was an article and whoever had authored it did not read this Bill; he used his own creative mind to speculate on issues that are not actually captured in this particular Bill.

Nobody will be punished for not referring to a title holder by their title, and nowhere in this Bill is punishment spelt out. You will not be punished; if I am entitled to be referred to by whichever title and you do not use it, then you will not be punished. But, you will be punished if you give yourself that title because you will be masquerading. If, for example, you call yourself “His Excellency the President” and you know that certainly that title can only be enjoyed by one person in the Republic of Kenya, then you will be punished. Punishment can be a reprimand, or a severe reprimand; it can also include criminal prosecution. It is good to bring out this, because there was a misinterpretation. I want to repeat this, because I am sure whoever authored that article must be somewhere and is listening.

Nobody will be punished for not referring to a person who is entitled to a particular title by that title. But if you say that you are the hon. Member, for example, for Tiaty Constituency and you know that there is only one elected Member for Tiaty until 2017, then that is a criminal offence. Once this is clearly understood, then everything else will be symbolic.

Finally I want to say that democracy is extremely expensive, very challenging and very risky. At times Parliamentarians are seen nationally as individuals who are unnecessarily showy. We should be proud of the position. If we go by the content of that purported Gazette Notice--- I term it “purported” because we have challenged it in every way. I am sure you will eventually know that even the constitutional court actually agreed with some of our objections. You are aware that is now public information.

A number of contentious issues were spelt out in that particular Gazette Notice. Once this is done, any other group that will come, whether it is going to be Sarah Serem’s Salaries and Remuneration Commission, the Commission for the Implementation of the Constitution (CIC) or any other group, there will be consistency and predictability, and all this will be anchored in the law, and in the the creative minds of individuals, who may in the past have tried to be elected but found it very difficult to get an opportunity either because of their own omissions, or because the people thought otherwise.

These are the realities that we must address; please Members, I want you to feel free. This is a Bill that is tailor made to really determine how some of our public functions are actually supposed to be managed. I am sure once it is enacted each one of us, regardless of our positions, will enjoy their particular position; they will use all the titles and other amenities that are supposed to come with their particular title.

Having said this, I want to appreciate the comments by the Administration and National Security Committee; whatever they have proposed has actually enriched the Bill; I am sure once it is enacted, it will really guide everybody. At this juncture, I want to ask hon. Ochieng’ to second.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang): Hon. Ochieng, who is seconding for you?

Hon. Ochieng’: The hon. Member for Awendo Constituency.

The Temporary Deputy Speaker (Hon. Kajwang): Right. That is the hon. Member for Awendo Constituency. The other one you had in mind is the hon. Member for Ugunja.

Let us hear from the hon. Member for Awendo, whose name today will be temporary card No. 1.

Hon. Opiyo: Thank you, hon. Temporary Deputy Speaker; I want to appreciate hon. Keynan for the boldness he has displayed in coming up with this Bill. I think it takes a few Kenyans to right the wrongs that happen in this country. First of all, I want to observe that in the past we have had a lot of confusion at public functions with regard to protocol. This has been a bit unfortunate for me. I recall that during the *nusu mkate* Government, the coalition Government, we came up with the position of prime minister. It took us a long time to know how to address our prime minister. Some people used to call him “his Excellency” while others called “his Lordship”. It was a difficult thing because we did not have something like this Bill in place.

With the enactment of this Bill, I think a lot confusion will come to an end. Currently, we have a lot of elective positions in this country. We also have a lot of appointive positions in this country. When we sit at public functions we witness a lot of confusion with regard to protocol. I believe this Bill seeks to clear such confusion. I know that going forward we shall try to address the issue of elected members of county assemblies. First, maybe, one of us will seek to include them in the order of protocol because they are important players in the legislation in this country. I am also sure that one way or another we will come up with a title for them, and there will be no further confusion. Most importantly, this Bill is long overdue.

Hon. Temporary Deputy Speaker, in other democracies there are laws that govern issues of protocol similar to what is envisaged in this Bill by hon. Keynan. I believe that hon. Members of this august House will contribute to this Bill with boldness, so that we can sort out the mess that we face with regard to protocol in this country.

With those few remarks, I beg to second.

The Temporary Deputy Speaker (Hon. Kajwang): All right;

(An hon. Member walked across the Floor)

Order! You should freeze when the Chair is on his feet!

(Question proposed)

I have quite a number of requests here. I want to believe that these are hon. Members who want to contribute to the Bill under discussion. If you had pressed your button earlier, please release it, so that we know who wants to speak.

Hon. Member for Rangwe, have the first shot at the proposed Motion.

Hon. Ogalo: Hon. Temporary Deputy Speaker, with all due respect to hon. Keynan, who is a respected legislator and a Member of this House, and my friend, hon. Opiyo, who has seconded this Bill--- I have looked at this Bill and tried to see which problem in Kenya exists and is so crucial that it requires a Bill of this nature to solve it but I have not seen any. I would imagine that there is a crisis in this country, and when

people go for public functions they do not know who is supposed to speak; that would be a serious problem in Kenya and we would have to enact a Bill of his nature.

One of the objectives of this Bill is to maintain public order and decorum. I want to submit that we have order and decorum in public functions, and so we do not need a law for it. The other objective is to promote a national culture of respect. This is supposed to be done in churches and schools; we should not have a law for it. The other objective is to facilitate good governance in the Republic of Kenya. Now, we have a whole Chapter Six in the Constitution to deal with this and I do not think we require a law on it. There is an Act for the Salaries and Remuneration Commission (SRC) which guides it. We could amend it to give the Commission guidance, if need be.

If you look at the way the State officers are ranked--- They go up to No.10 or No.12, where we see the position of the Chief of Kenya Defence Forces. This is a position for a person charged with the responsibility of safeguarding our borders, but he is ranked even below the Principal Secretaries. We might be interested in creating order and decorum, but by all accounts, we will be creating disorder by passing laws of this nature.

Look at Clause 6 on the issue of flags. We have passed a law here about flags. This Clause 6 says that “His Excellency---” I even googled what “His Excellency” means and it is said that it is a title accorded to anybody of high ranking, and an ambassador, a governor or a President can be referred to by this title. I do not know why this House must waste its time trying to deal with governors calling themselves “His Excellency” or the MCAs calling themselves, “Honorable Members”. In any case, we have two tiers of Government, the national Government and the county governments. The counties have their assemblies. The people elected to those assemblies are honourable Members of those assemblies!

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Tiaty, you are on intervention. Can you be heard first?

Hon. Abongotum: On a point of order, hon. Temporary Deputy Speaker. I have a serious point of order in relation to what my good friend, hon. Oner, has just said. He claims that we have actually enacted a law in this House. Yes, we have enacted the County Governments Act, but as you know, the governors have refused to adhere to that law. They are actually flying national flags. That law is not being followed by the counties. So, would I be in order to say that hon. Oner is misleading the House because that law is not being followed?

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Rangwe, you do not have to respond to that because if somebody refuses to follow a law, it may not be a subject for debate. However, you need to watch a few things as you debate. It is the right of Members of the National Assembly to bring Bills before the House. When a Private Member brings a Bill, that exercise cannot be a waste of time. So, statements to the effect that it is a waste of time to debate a Bill in the House are actually out of order; I will rule you out of order if I hear it again.

Hon. Ogalo: Hon. Temporary Deputy Speaker, I stand guided. I did not intend to say that it was a waste of time; I just opposed provisions in the Bill and said that there are other mechanisms already dealing with the objects of this Bill.

Under Clause 6(i) and (j), the Bill claims that in future there will never be a woman president. To say that the spouse of a President cannot be called “Her Excellency” is saying that there is no time a woman will be a president of this country. This law, therefore, is not solving a problem.

Hon. Temporary Deputy Speaker, this country agreed to a devolved system of Government, where we have two tiers of Government.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Ugunja! I fear for Members who walk in and the first thing they do is place an intervention for a point of order. What is your point of order?

Hon. Wandayi: Hon. Temporary Deputy Speaker, that was a mistake.

The Temporary Deputy Speaker (Hon. Kajwang’): You are interrupting the flow of the proceedings of the House.

Hon. Ogallo: Hon. Temporary Deputy Speaker, you should apply sanctions against Hon. Wandayi. He is interfering with me for no reason.

I was saying that we have two tiers of Government, the county government and the national Government. There is someone heading that government called the governor. If the title “His Excellency” is supposed to be given to heads of government, then he is also a head of a government. Why can he not be called “His Excellency the Governor?” Who is getting hurt when a governor is called “His Excellency the Governor?” Who is getting hurt when a Member of the County Assembly, which is also an assembly of a government, a government created by the Constitution of the Republic of Kenya--- It is a government and assembly, and the two are similar to the National Assembly and the national Government. Since we call ourselves honourable Members of the National Assembly, there is nothing wrong in them calling themselves honourable members. We are turning this House into a House of war. We are fighting everybody. We are fighting with members of the county assemblies. Yesterday we were saying that they---

The Temporary Deputy Speaker (Hon. Kajwang’): You will run into problems with me. I am sure the term “war” is meant for another purpose but when you say that we are turning this House into an agent of war, I have a problem with you. Can you discuss this subject in a way that is parliamentary?

Hon. Ogallo: Hon. Temporary Deputy Speaker, I did not mean using guns and other weapons to fight other people. I was saying we are creating enemies unnecessarily.

The Temporary Deputy Speaker (Hon. Kajwang’): Use another terminology and I will not have a problem with you.

Hon. Ogallo: Hon. Temporary Deputy Speaker, I hope you will give me two more minutes.

The county assembly exists, but we have been fighting the MCAs every time saying they are traveling too much outside the country. The other day I was going to the United Arab Emirates as part of a parliamentary delegation. On the plane there was Hon. (Dr.) Oburu going to Greece with another parliamentary delegation. At the same time there was another delegation going somewhere else. Why are we not talking about our own travelling? We are only talking about travelling by MCAs.

Hon. Opiyo: On a point of order, Hon. Temporary Deputy Speaker.

Hon. Ogallo: Hon. Temporary Deputy Speaker, protect me so that I conclude.

I oppose this Bill.

The Temporary Deputy Speaker (Hon. Kajwang’): You need a lot of protection because many hon. Members think a lot of things are out of order.

Hon. Muchai: On a point of order, hon. Temporary Deputy Speaker. You gave guidance to the hon. Member on the Floor with regard to his choice of words in this House, some of which are unparliamentary. The words have not been withdrawn. They are on record; they are in the HANSARD. Is it in order for the hon. Member to continue with his submissions as if he is in the correct path?

The Temporary Deputy Speaker (Hon. Kajwang’): Let us hear what hon. Gikaria has to say.

Hon. Gikaria: On a point of order, hon. Temporary Deputy Speaker, I want to concur with Hon. Muchai that you have given guidance. Is the hon. Member in order to mislead the House that this House is at war or that it has created enmity with MCAs over their foreign trips? It is not on record that this House has discussed foreign trips of MCAs; it is the Auditor-General and the Controller of Budget who have come up with it. So, basically it is something that arose outside this House.

Hon. Angatia: On a point of order, hon. Temporary Deputy Speaker. My point of order is that we are discussing a Bill of the National Assembly concerning the order of preference. Is the hon. Member who was on the Floor in order to raise irrelevant issues concerning MCAs’ traveling and governors’ running of counties? We are discussing a law in the National Assembly and not issues concerning the counties.

Hon. Keynan: On a point of order, hon. Temporary Deputy Speaker, I appreciate the vigour and determination by Hon. Oner. He is a perennial opposer of anything that comes to this House. He has cast aspersions because Bills are brought to this House for the benefit of posterity. Therefore, the issue of politics among counties, MCAs and the National Assembly does not arise. This Bill is for posterity. Is he in order to impute an improper motive that this Bill is to be made for certain groups when it addresses the issue of decorum and orderliness in all--

Hon. Opiyo: Hon. Temporary Deputy Speaker, the Office of the Controller of Budget as well as the Salaries and Remuneration Commission (SRC) are on record commenting publicly on expenditure on trips by the MCAs. Is the hon. Member in order to say that this House is the one that has been discussing, or has been conducting discourse on, MCAs’ foreign trips?

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Oner, you do not have to answer any of the points of order but you can see the mood of the House. You can see the barricades that you are up against; the Chair has expressed himself on some of these issues that hon. Members have raised, and made comments to the effect that they are out of order. I think we need to leave it at that. Before we rise, communication from the Speaker’s Office is that the meeting of the House Business Committee (HBC) today has been called off until further notice.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, we have now come to the end of this morning’s sitting. This House, therefore, stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.02 p.m.