

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 18<sup>th</sup> September 2019

The House met at 9.30 a.m.

*[The Deputy Speaker  
(Hon. Moses Cheboi) in the Chair]*

### PRAYERS

### QUORUM

**Hon. Deputy Speaker:** Hon. Members, we are short of the required quorum. I, therefore, order that the bell be rung for 10 minutes

*(Quorum Bell was rung)*

Order, Hon. Members! We now have the required quorum. Therefore, business will begin. Hon. Sankok, what is it? Take your seat and I will give you an opportunity later.

### MESSAGES

**Hon. Deputy Speaker:** On this particular Order, we will be having a Message, but I will step it down and give it after we finish Order No.7. So, let us proceed.

### PAPERS LAID

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Deputy Speaker, on behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table of the House:

The Reports of the Auditor-General on the Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2018 and the certificates therein:

- a) Kasipul.
- b) Narok South.
- c) Baringo Central.
- d) Belgut.
- e) Kuresoi South.
- f) Kuresoi North.
- g) Bahati.
- h) Kipkelion East.
- i) Kipkelion West.
- j) Sigowet/Soin.

- k) Kabondo Kasipul.
  - l) Bureti.
  - m) Garsen.
  - n) Nakuru Town East.
  - o) Fafi.
  - p) Cherangany.
  - q) Bumula.
  - r) Shinyalu.
  - s) Mandera East.
  - t) Sabatia.
  - u) Lamu West.
  - v) Bomet Central, and
  - w) Keiyo North.
- Thank you, Hon. Deputy Speaker.

### NOTICE OF MOTION

#### LEVERAGING ON ICT TO ENSURE ACCURACY OF INFORMATION IN POLICE CLEARANCE FORMS

**Hon. Deputy Speaker:** Hon. Gladwell Cheruiyot, Member for Baringo.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, aware that disclosure of information about previous criminal convictions through a Police Clearance Certificate has long been considered an important safeguard for employers and various organisations seeking individuals to serve in positions of trust; concerned that the Police Clearance Form includes cases that are pending before court, thus going against the principle of Article 50(2) of the Constitution which provides for the presumption of innocence until proven guilty; further concerned that the bureaucratic manual procedure of acquiring criminal data and laxity in updating the records results in erroneous information on the Police Clearance Certificate and consequently denies applicants employment opportunities; cognizant of the fact that in Kenya, based on an administrative directive from 1990, criminal records are waived after a term of 20 years except for serious offences such as murder, robbery, manslaughter, rape, defilement, treason or drug possession which remain as permanent records; noting that research has shown a clear nexus between crime and poverty and that a criminal record remains a permanent barrier for young people looking for employment as this will be shown in the Police Clearance Form which will perpetuate the cycle of poverty; this House urges the Directorate of Criminal Investigation to leverage on the use of information communication technology (ICT) to ensure criminal data availed in Police Clearance Forms is accurate and up-to-date.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Next Order!

### QUESTIONS AND STATEMENTS

**Hon. Deputy Speaker:** Hon. Members, we do not have statements. So, I will go straight to Questions and we will start with the Question by Private Notice by the Member for Saboti, Hon. Caleb Amisi.

### QUESTION BY PRIVATE NOTICE

*Question No.34/2019*

#### STATUS OF OWNERSHIP OF MENGO FARM IN SABOTI CONSTITUENCY

**Hon. Caleb Luyai** (Saboti, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

(i) Could the Cabinet Secretary explain the status of ownership of Land Reference No.11437, also known as Mengo Farm, in Saboti Constituency of Trans Nzoia County and the current occupants?

(ii) What steps has the Ministry taken to ensure the current occupants who have been on the farm since 1970, are not evicted based on illegal documents, false claims or by abuse of court proceedings?

(iii) When is the Ministry sub-dividing the land for the sake of issuing title deeds to the current occupants?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Lands.

We will go to the Ordinary Questions and we will start with Hon. Elisha Ochieng Odhiambo, Member for Gem.

### ORDINARY QUESTIONS

*Question No.386/2019*

#### STATUS OF ISSUANCE OF NEW CURRENCY NOTES

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for the National Treasury and Planning the following Question:

(i) What is the status of the issuance of the new currency notes?

(ii) Could the Cabinet Secretary explain the measures put in place to ensure smooth and easy transition from the use of the old currency notes to the new ones?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Finance and National Planning.

The next would have been Hon. Benjamin Mwangi, Member for Embakasi Central, but I have received a request to defer it and I comply. I will defer it to the next available opportunity.

*Question No. 400/2019*

#### STATUS OF OWNERSHIP OF LAND FOR DEVELOPMENT OF PUBLIC SCHOOL IN KOMAROCK WARD

*(Question deferred)*

We will go to the Member for Kamukunji, Hon. Yusuf Hassan.

*Question No.401/2019*

STATUS REPORT ON TREE PLANTING CAMPAIGN IN THE COUNTRY

**Hon. Yusuf Hassan** (Kamukunji JP): Hon. Deputy Speaker, His Excellency President Uhuru Kenyatta launched the national tree planting campaign in my constituency on 12<sup>th</sup> May 2018. Since then, we have not heard much about this campaign from the Ministry of Environment and Natural Resources.

I would, therefore, like to ask the Cabinet Secretary for Forestry and Natural Resources the following Question:

(i) How many trees have been planted, per county, since the launch of the tree planting campaign by H.E. the President on 12<sup>th</sup> May 2018 aimed at increasing the country's tree cover by 10 percent?

(ii) What is the current percentage of tree cover in the country *vis-à-vis* the targeted cover?

(iii) How have funds that had been allocated for this purpose been utilised both in campaigns and actual tree planting activities?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Environment and Natural Resources. The next one will be by the Member for Meru County, Hon. Bishop Kawira Mwangaza.

*Question No.402/2019*

MEASURES TO CURB CATTLE RAIDS IN MERU COUNTY

**Hon. (Ms.) Kawira Mwangaza** (Meru CWR, Independent): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(i) Is the Cabinet Secretary aware of the increased cases of insecurity as a result of cattle raids in Mula, Kamweline and Amwathi areas in Igembe North and Kandebene area at the border of Tigania East and Tigania West, Meru County where many people have suffered huge damages including loss of their lives, properties and livelihoods as well as displacement of families from their homes?

(ii) Could the Cabinet Secretary consider establishing more police stations in the said areas, increasing the number of police officers and reservists, and providing additional patrol vehicles and other facilities and equipment to curb insecurity in the county?

(iii) What steps is the Ministry taking to ensure lasting security and peaceful co-existence among the communities in Meru County and other neighbouring counties?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Administration and National Security. Before we go to the next Order, I am going to revisit Order No.3, which I had promised I will do at the tail end after Order No.7.

**MESSAGE**

## PASSAGE OF THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Deputy Speaker:** Hon. Members, pursuant to provisions of standing Order No.41, I wish to report to the House that I have received a Message from the Senate regarding its passage of the County Allocation of Revenue Bill (Senate Bill No.8 of 2019). The Message reads in part, and I quote:

“The Senate considered and passed the said Bill on Tuesday, 17<sup>th</sup> September 2019 with amendments. The amendments made by the Senate relate to the commencement of the Bill in Clause 1 and in its Schedules. The Senate now seeks the concurrence of the National Assembly on the said Bill in accordance with the provisions of Article 111 of the Constitution.”

The County Allocation of Revenue Bill is an annual legislation introduced in accordance with the provisions of Article 218 of the Constitution with the objective of equitably allocating the share of national revenue amongst the 47 counties. Given the urgency of the passage of this Bill, and in furtherance to the provisions of Standing Order No.124(2)(a), the House Business Committee, at its sitting yesterday evening, resolved that the Bill be prioritised for consideration by the House in all stages this morning.

Hon. Members, may I also take the opportunity to remind the House of the provisions of Article 111(2) of the Constitution, which provides the voting threshold for amending a special Bill.

“The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the Members of the National Assembly.”

A County Allocation of Revenue Bill is a special Bill concerning the county governments in terms of Article 110(2)(a)(ii). Therefore, this implies that any amendment proposed in this House to the Bill shall require to be supported by at least two-thirds of all Members for it to pass. This House should be accordingly guided.

Next Order.

**PROCEDURAL MOTION**

## EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER NO.40(3)

**Hon. Deputy Speaker:** Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to move the following Procedural Motion:

THAT, this House orders that the business appearing as Order Nos.9, 11 and 12 (i) in the Order Paper be exempted from the provisions of Standing Order No.40(3) being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or business sponsored by a Committee.

This is a very important morning because yesterday the President assented to the Division of Revenue Bill. The Senate, in their wisdom in what they call Senate *Mashinani*, passed the County Allocation of Revenue Bill, which divides the Kshs378 billion allocated in the Division of Revenue Bill among the 47 counties. The Cabinet Secretary for the National Treasury cannot

disburse the money he promised on Friday until we pass this Bill and it is assented to this afternoon by His Excellency the President before he leaves tonight for New York to attend the United Nations General Assembly (UNGA) Annual Conference at the UN Headquarters.

We have decided to use the time set aside for Private Members' Bills and Motions this morning to finish with the County Allocation of Revenue Bill, send it to the Government Printer over lunch time and then the President can have an opportunity to sign it so that county governments can access resources from Friday.

It is important. We will discuss more about what the Senate discussed yesterday. Instead of discussing the County Allocation of Revenue Bill, they were discussing the National Assembly. We will discuss that when we reach the Second Reading of the County Allocation of Revenue Bill.

I beg to move and ask Hon. Chris Wamalwa to second.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. I rise to second this Procedural Motion. It is true that today being a Wednesday morning, business is meant for Private Members. Because of the critical issue about funds going to the counties, it is in order that the House Business Committee decided that we must prioritise this Bill today.

As we know very well, the Division of Revenue Bill was assented to yesterday. It gives room for this money to be sent to the counties. Money cannot be sent to the counties without passing the County Allocation of Revenue Bill from the Senate.

As we move forward, we also call upon our governors wherever they are that as this money goes to the counties, we want delivery to the people. Some of them have prioritised corruption. We want accountability. I was just reading today's newspapers and looking at the ranking of the performance of some counties. I am sorry to say that there are some governors who are there for a second term and they are still last. The Governor for my county is still last. When you repeat a class, we expect you to improve and move forward. It seems these governors have been advocating to get money, but when it comes to performance, there is nothing we can see on the ground. We are calling upon the Members to pass this Procedural Motion, so that the money can go to the counties immediately and we can have service delivery to our great people.

I beg to second.

*(Question proposed)*

**Hon. Members:** Put the Question!

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Let us go to the next Order.

## BILLS

### *First Readings*

#### THE COUNTY ALLOCATION OF REVENUE BILL

*(Order for First Reading read – Read the First Time – Ordered to be read the Second Time today by leave of the House)*

## THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BILL

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)*

*Second Reading*

## THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Deputy Speaker:** Is it the Chair of the Budget and Appropriations Committee moving this one? Proceed and move it. It should be clear to Kenyans, therefore, that what we have just done is to fast-track this matter. It will end this morning.

*(Technical hitch)*

Maybe, for the time being, let us see if the gadget will work if I switch off from this direction and see if yours is working.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): It is working. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to move that the County Allocation of Revenue Bill (Senate Bill No.8 of 2019) be now read a Second Time.

As you have rightly said, what we have just done with the Procedural Motion moved by the Leader of the Majority Party is to fast-track it, so that hopefully this morning, we finalise with the County Allocation of Revenue Bill, which was finalised by the Senate *Mashinani* yesterday in Kitui County. This is to enable the national Government or rather the National Treasury to disburse funds in accordance with the schedule attached to the Bill, to county governments.

Hon. Deputy Speaker, I do not need to say a lot on the County Allocation of Revenue Bill because a lot was said during the debate on the Division of Revenue Bill, in terms of what we expect from our county governments. I want to re-emphasise that as the National Assembly and the Budget and Appropriations Committee, we are more than committed to ensure that our counties receive the money due to them at the right time without any undue delay. We regret the delays in disbursement of funds to our county governments which was occasioned by the disagreements on the Division of Revenue Bill, which we finalised.

As I said yesterday, I wish to take this opportunity to thank the President for signing the correct version of the Bill. The Chair of the Budget and Finance Committee in the Senate said in Kitui County yesterday that we altered the date when the Division of Revenue Bill was deemed to become effective. I tabled a copy of the HANSARD of the Mediation Committee meeting which is clear. It is good for leaders to remain truthful to the people of Kenya because records are there. The Mediation Committee meeting was not covered by our HANSARD Department in Parliament only. Videos are there about it. It was an open meeting and members of the Press were present. When the Chair from the Senate purports that the amendment was casually introduced in the meeting, one wonders how serious and casual amendments are introduced. He was the Vice-Chair, seated next to me. When the Legal Officer explained the genesis or the import of that amendment, he consented and said it was okay. There were not less than seven

Senators out of the nine who were charged to sit in the Mediation Committee meeting. They all consented by keeping quiet. We are told that silence means consensus.

*(Applause)*

If you do not agree with any amendment that has been proposed in a meeting, you simply raise your hand, rise on a point of order or catch the Chair's attention. I can confirm to the Hon. Senators that at my age, my eyesight or vision is still very good. Within the precincts of County Hall, I could have noticed any Senator who intended to oppose that particular amendment. None of them opposed the amendment to change the commencement date. Therefore, it was passed as proposed and that is what we signed against. Therefore, let it be on record that it is the Chair of the Budget and Finance Committee in the Senate, Senator Mahamud, who sought to alter the Report and the Bill which was passed by the Mediation Committee. He called me over lunch time when I was very busy in the gym and you can bear me witness because I was with you there that afternoon.

**Hon. Deputy Speaker:** I do not go to the gym. So, I do not know what you are talking about.

*(Laughter)*

Again, the Chair of the Budget and Appropriations Committee, I do not want you to be very agitated because you are in the National Assembly.

Proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Switch on the microphone, Hon. Deputy Speaker. You are prone to get agitated when you see Senators in Kitui County purporting that the date was amended in this House while they know the facts. If they were sleeping in the Mediation Committee meeting, they can go back to the HANSARD or simply ask the members of the Press who covered the meeting what transpired since it was an open meeting.

What I want to be on record is that, we, in this House, stick to our rules and procedures. We cannot alter anything that has been passed by resolution in a Mediation Committee meeting through phone calls from the gym and I do not know where the Chair was. I only disclosed that I was in the gym when he called me. I told him that we cannot alter a Committee Report through phone calls. If we need to alter anything, we must re-call the sitting and change anything. The Vice-Chair was seated there and he did not object to the amendment. None of the Senators who were seated there objected to the amendment. Therefore, as leaders, let us be honest and be true to the word "integrity" in leadership. The dishonesty which I have seen with our Senators is amazing. They claim to be the protectors of devolution and devolved governments, but they are killing devolution. Clause 1 of this Bill says that this Act may be cited as the County Allocation of Revenue Act, 2019 and shall come into force upon publication in the gazette, whenever that will be. You can read the mischief that they sought through their illegal and unprocedural amendments to the Division of Revenue Bill and publication of this Bill with a commencement date that will be upon gazette.

We know the politics they are playing is the one that they have taken to the courts of law. We should not allow the Senate or Senators to play politics with matters that touch on the lives of Kenyans. This money will go to the devolved governments to provide water to households that have no water. It will provide drugs and offer healthcare to Kenyans who are suffering. The



Senators said in Kitui County yesterday that they have witnessed somewhere a hospital which has been closed down. It is not happening in one county. Hospitals have been closed down in a number of counties because members of staff have downed their tools due to lack of salaries. In other places, there are no drugs. There are places where Kenyans are suffering. You have seen the outbreak of cholera even in Nairobi County because of dirty water. These are issues that ought to be addressed by counties getting their money at the right time. Therefore, I want to urge our Hon. Senators to, please, play politics with anything else, but not the disbursement of money to the counties because they are doing Kenyans a great disservice.

I want to move on to the schedules. The issue of own-source revenue was canvassed during the Division of Revenue Bill. As much as we are looking at the Kshs378 billion that will go to the county governments, Kenyans must also ask what the county governments are doing to ensure that they collect adequate revenue, so that in times like this one when there is a delay of disbursement of funds, they generate enough revenue in their counties to offer services to Kenyans. Some of the counties that naturally would receive a lot of money are Nairobi, Mombasa and Kiambu where I come from. I can see Kiambu County will receive almost Kshs9 billion and I hope the acting governor can ensure that we get services to the people of Kiambu County. The Leader of the Majority Party, there is an acting governor in Kiambu County. From the Schedule, a number of counties, because of decline in their own-source of revenue and the formula that is used to share this money, have lost the money that go to them. A case in point is Mombasa County. Last year, they received almost Kshs1.1 billion more than they are receiving this year. This is on account of what they are losing because of not being able to collect more own-source revenue. This is one of the counties that you expect to have collected more taxes from their own-source revenues because of the very good outturn of tourism in the last financial year. This is where we are asking the governors to be innovative. When you travel, and a lot of us travel outside the country, you realise that there are usually levies that go to governments of cities in your hotel bills. Probably, it is time for our county governments to become innovative in counties like Mombasa and other tourist destinations to charge such levies and get more revenue other than dancing to *Tetema* and other dances in some fora. They should be more innovative in collecting revenues.

(Laughter)

I want to agree with what the Leader of the Majority Party is shouting here. If some governors are not dancing *Tetema* somewhere in Mombasa, they are socialising with socialites in Los Angeles. That is the time they should be using to...

**Hon. Deputy Speaker:** Sorry. What is *Tetema*? Anyway, let us proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): *Tetema* is a song that has been banned by Ezekiel Mutua of the Kenya Film Classification Board (KFCB) and yet there are governors who are very good at dancing in fora. When they are not dancing to the *Tetema* beat, they are socialising with socialites in Los Angeles. As they socialise with those socialites, they need to realise that the hotels they board in Los Angeles have a levy charge on visitors or tourists in that city. The money goes to the city government. If for instance, we should charge a levy to both local and foreign tourists who visit hotels in Mombasa we would, maybe, be in a position to upscale revenues and benefit the people of Mombasa. The same thing applies to Nairobi County. In Kiambu County, there has been a small increment. Nandi County seems to be doing relatively well and many other counties. I do not want to mention particular counties. It is a challenge to

our governors to ensure that all resources we allocate to counties are used for the benefit of the people in counties to provide them with services that they yearn for.

Hon. Deputy Speaker, I appeal to our good Senators to stop playing politics with county funds. We know they are charged with the responsibility of protecting counties, but protect them by ensuring that they receive their money in due time without playing unnecessary politics.

Hon. Deputy Speaker with those remarks, I beg to move. I request the Leader of the Majority Party to second.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to second the County Allocation of Revenue Bill, 2019.

It is an important Bill in ensuring that the Kshs378.10 billion allocation that has been provided for in the Division of Revenue Bill is divided among the 47 county governments, pursuant to Article 218(1)(a) of the Constitution. The spirit of the Constitution was to ensure that there is flow of resources from the central Government to county governments and to the grassroots where most of our people have a lot of problems. The country has tried before to ensure that centralisation of public resources through the District Focus Programme is in place. However, the trickle-down effect still faces a lot of challenges. I observed that the substantial resources that have been allocated to county governments since the onset of devolution have impacted positively on the counties we come from. Maybe it has had an impact in headquarters of counties where you might see big cars and some development. But when you go to rural constituencies, I am sure Members here will agree with me, you will not feel the fruits of devolution. Let us be very honest. We are all here to appropriate money to the central and county governments. A time has come when we must assess the achievements of devolution. We need to go back to Bomas and ask about the successes of devolution 10 years down the line.

With resources available to counties from development partners, national Government, own source revenue and private investors, by now, counties, in my opinion, should have become sustainable. We have seen that the focus of the Senate and the Council of Governors is on the equitable share of revenue. Where is the other revenue collected by counties? In some instances, the former county councils used to collect more money than the current county governments. That is the problem we have. If you check Machakos County, you will find that the Mavoko Municipal Council used to collect more than what the current County Government of Machakos County collects. Even the little they collect does not go to the central account. The governors have been talking about the Kshs316.5 billion while the President yesterday signed Kshs378.1 billion. In the Division of Revenue Bill and County Allocation of Revenue Bill, there is Kshs8.9 billion allocated for roads in counties. I ask colleagues: Are roads done by counties in our constituencies? The answer is no. There is about Kshs2 billion allocated to village polytechnics annually. Is that money felt in the village polytechnics in our constituencies? The answer is no. In constituencies that have Level 5 hospitals, each hospital, including the Garissa Provincial Hospital, gets Kshs450 million annually. Is that conditional Government grant to Level 5 hospitals like Kakamega, Garissa, Mombasa and Machakos Level 5 hospitals felt? There is direct money from the Division of Revenue Bill and the County of Revenue Allocation Bill to counties. The Kenya Medical Supplies Authority (KEMSA) has closed accounts of all counties because they are unable to pay for the drugs they were supplied with. Let us call a spade a spade.

It is very sad that statutory deductions are not remitted to the Kenya Revenue Authority (KRA). For example, there is no way the Clerk of the National Assembly will not remit my Pay As You Earn (PAYE) to KRA. It is very sad for a county to have arrears of Kshs1 billion not paid to KRA because the counties have not remitted statutory deductions like the National

Hospital Insurance Fund (NHIF), the National Social Security Fund (NSSF), PAYE, Value Added Tax and the Withholding Tax. This House and the Budget and Appropriations Committee must ensure that, in the next financial year, the Government must link the KRA database to the Integrated Financial Management Information System (IFMIS), so that whenever a contractor in the counties is paid money, the Government gets its money. How come governors have arrears of Kshs2 billion to Kshs3 billion?

I want Members to look at the Bill and see the contradictions in it. The whole of yesterday the Senate was discussing the National Assembly and they were saying that the President has committed an illegality. The President has not committed an illegality and that is why the Chief Justice has asked for the mediated version and we will give it to him with the HANSARD Report. Between 1<sup>st</sup> July and September 2019, and Hon. Makali Mulu who worked in the National Treasury said it, some counties accessed some resources as overdraft from the National Treasury. If you set the commencement date of the Division of Revenue Bill as the date the Bill is assented to, how do you account for the money given to some of the counties for those two months? It is logic.

Look at Clause 11 of the County of Revenue Allocation Bill today. It tells us that those guys have gone to eat *mandazi* in Kitui - and their legal team. I am so ashamed. I am not a Senator and I am proud of the legal team of the National Assembly. Look at Clause 11 of the Bill. They say that the Schedule prepared under Section 17(7) of the Public Finance Management Act shall reflect that the disbursement of the money allocated to counties in the Financial Year 2019/2020 is effective from 1<sup>st</sup> July 2019. If they say that in Clause 11, but in Clause 1, on the commencement date, they talk about, “upon assent” or “upon the Act being gazetted”, which is after the President signs and it has to wait for 14 days, are they not contradicting themselves? They are contradicting themselves! The head of the Legal Department in the Senate must resign. He is not advising our colleagues in Kitui. I am told they are more than the population of Kitui. Every street in Kitui now has either a Senator or staff of the Senate.

*(Laughter)*

That is what I have been told. I have a friend there who asked me: How come the Senate is more than the population of Kitui Town? In fact, this is a contradiction. They cannot tell us that counties must be given funds immediately and say that the commencement date should be upon the publication of the Act.

Two, in Section 11(2), they are saying that “notwithstanding the provisions of Section 1, the National Treasury shall transfer to the counties the total disbursement due in the first quarter of the Financial Year 2019/2020 within seven days of the approval of the Schedule by the Senate”. Approval of either House of Parliament does not become a legal instrument. It becomes a legal instrument when the President appends his signature. The Legal Department of the Senate needs to tell the country the type of advice they are giving.

Yesterday, we were accused of being an appendix of the Executive. We have cornered the Senators. They cheated the governors. They must have had a deal with the governors outside that if they brought Kshs335 billion, certain things would happen. They did not deliver. Governors were telling me that Senators have cheated them. They made the governors not to get money. We told them from day one the amount available from the raised revenue is Kshs316.5 billion. Period! I thank the Chief Justice. Yesterday, you saw them accusing the Chief Justice for delay. Delaying what? The Chief Justice told them that the matter before him is a function of the

Legislature. He cannot appropriate money. The Judiciary cannot appropriate money. I tabled their budget here just like the Parliamentary Service Commission budget. We must ask ourselves how much this Senate *Mashinani* costs. I am told the seat that Speaker of the Senate sat on in Kitui was bought by the Senate. He could not sit on the chair of the Speaker of Kitui County Assembly. So, they bought a chair for over Kshs50 million. They are going to leave that chair there. I am told the whole of the county assembly of Kitui has been refurbished. Computers have been bought. Everything has been done and after Thursday, they will leave. I want to tell the Senate that they will not come to Garissa, we will demonstrate.

*(Laughter)*

I want them to give the money they are going to spend in Garissa to the people in order for them to get water and healthcare. The people of Garissa will not allow it to happen. I will talk to my Senator, Sen. Haji. They will not come and enjoy themselves in Garissa. Can you imagine buying a seat for the Speaker of the Senate in Kitui to the tune of over Kshs50 million? That is very imperial. We passed this Constitution in 2010 to kill imperial presidency. Now the governors and the Senators have gone back to imperial ways. Governors sit on big chairs. You have seen the chairs the President and the Deputy sit on - small wooden chairs. One time on my way to Garissa, I passed through a place in Kitui called Ukasi where the Governor of Machakos was having a function and I saw trucks carrying his toilet.

*(Laughter)*

His toilet and tents were carried to Ukasi. How long does it take you to spend Kshs10 million to host a governor? You carry his toilet, special tent and special chairs. How can the Senate go and dine with the Governor of Kitui who we know is the mother of corruption in Kitui County? How? I was in the 10<sup>th</sup> Parliament when that governor was the Cabinet Secretary for Water and Irrigation and you know what happened to the National Water Corporation. I was in this House in the 10<sup>th</sup> Parliament when that Cabinet Secretary was in charge of Health. You know what happened in KEMSA. The other day, I heard that the whole treasury of Kitui was burnt down. Can you imagine? There are two female governors and they cannot lecture us on corruption. They have a bad history. Hon. Laboso, may her soul rest in peace, was a good governor. When I see the two remaining lecturing me on television about corruption, I ask myself what has happened to Kenya.

Hon. Millie Odhiambo will agree with me that from the Parliamentary Public Accounts Committee (PAC), we know what Waiguru went through with the National Youth Service (NYS). Yesterday, they were being taken round by Ngilu. I support the Senator of Kitui. He objected. He said he was not going to work with her. The Senate is supposed to oversee counties. The Senate Public Accounts Committee, led by Sen. Kajwang' has never produced one report indicting a governor since the Senate started. They sanitise the reports of the Auditor-General. Let us call a spade a spade. Why is it that the PAC of the National Assembly has indicted Cabinet Secretaries and Principal Secretaries here? Why is it that the Senate PAC has not done that? Every day when you go near the Table Office, there is a huge crowd of governors being escorted. The moment they enter there, they face one Senator Wamatangi. We want to ask Sen. Wamatangi whether he is the father of that Committee. I am told there is somewhere people meet

before you appear before the Senate PAC. There is a club where people meet. I am challenging Sen. Kajwang', why he has not indicted any governor.

We know what happened when Governor Wambora was indicted in the Senate. We know what happened to Governor Mutua. The County Assembly of Machakos indicted him. When he came here, he saw few guys and did a few things and thereafter, he was told, "my friend, you are as clean as white cotton". We must say it.

This law is contradicting itself. They are telling Ukur Yatani, the acting Cabinet Secretary, that he must give counties money within seven days and the commencement date they have put is after the Act...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it Hon. Ichung'wah? He is seconding you and you are saying there is something out of order?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, of course, I appreciate that the Leader of the Majority Party is seconding me, but I was wondering whether he is in order to name Senators by name.

**Hon. Members:** Yes!

**Hon. Kimani Ichung'wah** (Kikuyu, JP): He is naming Sen. Kajwang' and Sen. Wamatangi and purporting there is some club somewhere where they meet to do certain things.

**Hon. Deputy Speaker:** I presume before you allowed him to second you, you must have discussed something somewhere.

Proceed, Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, this is the problem of the leader of *Tangatanga*. He does not know that the only place you can exercise freedoms of thought and speech is on this Floor. This is the only place where the Directorate of Criminal Investigations (DCI) or anybody else cannot touch you. There is freedom of speech. Even the Committee of Hon. Kamanda, the leader of *Kieleweke*, cannot call you. The National Cohesion and Integration Commission (NCIC) will not call you. This is where Tom Mboya, JM Kariuki and Martin Shikuku used to speak. We must speak our mind. I have challenged you and I want to see a record where the Senate PAC has indicted one governor. It cannot be an ordinary thing.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Speaker.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I have to finish. I have no choice.

**Hon. Deputy Speaker:** Leader of the Minority Party, I do not see any person who has placed a card here.

Proceed.

**Hon. Aden Duale** (Garissa Township, JP): I have been given a chance to proceed and that is it, Hon. Millie. She is my good friend and also one of the people who have problems with the Senate. I talked to Hon. Junet last night during the House Business Committee and he is the one who gave the Senator for Migori the certificate. That man did not win in the nomination of the Orange Democratic Movement (ODM) and yesterday he was abusing this House. The House must know that they took this House and the law we passed on appropriation to court. This man, who is the leader of *Tangatanga*, sometimes is very intelligent. I was in the Mediation Committee and they asked: "How do we deal with the commencement date of the Bill?" The Vice-Chairperson of the Senate's Committee on Finance said: "Let it be 1<sup>st</sup> July." The other Senators, including Hon. ole Kina and all those people who go to Jeff Koinange's Bench... During the Mediation Committee sitting, I told Hon. ole Kina and Hon. Sakaja that we are not on

Jeff Koinange's Bench. I told them: "This is a Mediation Committee sitting, my friend." Hon. Makali is my witness. Those who go to NTV breakfast shows - Hon. Jakoyo, Hon. Khalwale, Hon. Wamatangi, Hon. Chris and others - please note that going to morning shows is different from attending a Committee of the House. It is about facts and figures. So, I told ole Kina: "We are not before Jeff Koinange, my friend. This is a Mediation Committee." So, this man proposed and Mahamud seconded. If you want to hear what the late Tom Mboya and the late Jomo Kenyatta said in those days, you can go to the HANSARD. Forget about the written one. You can listen to their voices. So, our Speaker, the Clerk and all the team went and picked the HANSARD and listened to it. Hon. Kimani Ichung'wah was proposing and Hon. Mahamud was seconding. The Senators were quiet. They were very busy. So, their case in court has collapsed, as far as the appropriation is concerned.

By the way, we have cornered these people. The problem is the Chairman of the Budget and Appropriations Committee. We have even agreed that the allocation of money in this House must be on *pro rata* basis. We must share money in terms of unit cost and the cost of a Member of Parliament. Today, the Senate, which has 67 Members has more resources than the National Assembly. They are travelling around the world. If you watch the Senate in the afternoon, you see that they only discuss statements and petitions. Nothing else. They are buying seats for county assemblies at Kshs50 million. Go to Kitui today, there is a seat for the Senator and Speaker. The cost of that seat is Kshs50 million. Even Makau Mutua, for the first time, because the Senators are occupying his eight-room hotel in Kitui, tweeted: "These are the fruits of devolution".

*(Laughter)*

You know, Prof. Makau Mutua has ashamed himself. He has a small cottage called Kitui Villa. It has eight rooms only. He tweeted last night that the fruits of devolution have come to Kitui. I was about to tell him: "Can you declare your interests, my friend? You are a recipient of that fruit and not the people of Kitui". So, let us finish this Bill. We cannot change the commencement date because we have to have two-thirds of all Members of the National Assembly. However, the country must know that this House wants the counties to get money. The Senate does not want the counties to get money. Article 96 gives the Senate the duty to protect the counties. You cannot be a father in a house, charged with the responsibility of protecting your children, and you poison and kill them on the other side. They are the ones who are killing devolution. Kenyans must know that. The President said: "Let me sign the County Allocation of Revenue Bill before I leave tonight for the United Nations General Assembly". The President yesterday told the Cabinet Secretary for the National Treasury, in our presence, that he must disburse Kshs50 billion before Friday. With this kind of a commencement date, the Cabinet Secretary will wait until the Act is published after 14 days. Who is killing devolution between the National Assembly and the presidency? It is the Senate.

Hon. Millie, Hon. Sophia and many people who were there know where power was when the Constitution was crafted. Power was in this House. Some of us decided to come to this House. They were cheated by elders who were former ministers like Hon. Kiraitu Murungi, Mutula Kilonzo, Moses Wetangula and James Orengo. These are tired people who wanted to rest in that House.

*(Laughter)*

People like Murkomen and Hassan Omar, who are young blood, went there. They had not read the Constitution. Hon. Sakaja and even my friend, Hon. Mwaura, are regretting. He is saying: “I should have been nominated to the National Assembly”. Senator Sakaja told me: “That place is dead”. That House is for retiring after you have served as a minister.

*(Laughter)*

Finally, the Speaker of Kiambu got close to Kshs9 billion. The people of Kiambu and other people I do not want to name have been saying: “Our money has been taken by the pastoralists”. You now have enough money. You have money close to Turkana and Mandera. Kiambu people, can you leave us alone? Ask your governors. The problem is that you all have acting governors. You do not want to utilize the money we gave you.

I beg to second.

**Hon. Deputy Speaker:** Now, Leader of the Majority Party, you have seconded. What is your point of order, Hon. Omboko Milemba? What is it? Is there anything by the Leader of the Majority Party that is out of order? Let me propose the Question, then I can give you the first shot to move whatever you want.

*(Question proposed)*

What was it, Hon. Milemba?

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. I rise under Standing Order No.97. County government issues affect all of us, as we have seen from the Mover and the Seconder. They range from tax matters, delivery of service, roads, hospitals, oversight issues and the rogue Senators. I ask, through your kind Chair, that we reduce the time for Members to speak to three minutes, so that everyone gets a chance.

**Hon. Deputy Speaker:** I hear you. Hon. Members, we will dispense with that, so that we can save on time. Move your own Motion if you have a different opinion. Let us work on this first. Let us dispense with it. I have 31 requests here.

*(Question, that debating time be reduced, put and agreed to)*

Three minutes it is.

We will start with Tindi Mwale, who is top on my list of requests by Members.

**Hon. Nicholas Mwale** (Butere, ANC): Thank you, Hon. Deputy Speaker. I start by saying that it is important for counties to get money to operate. However, as we debate and talk about giving the counties money, we need to look at the functions given to county governments and how the money should be properly utilized.

Therefore, I do not have much to say or dispute the Bill. I support the Leader of the Majority Party on what he said that we need Senators to know or to read the law and understand that the issue of budgeting is solely for the National Assembly. Therefore, they should not try to incite the governors by telling them that the only way to get money is by going to courts or try to suggest that the President made a mistake yesterday by signing the Bill into an Act of Parliament. Therefore, I support the Bill and I am of the opinion that...

*(Technical hitch)*

**Hon. Deputy Speaker:** Hon. Tindi Mwale, did you finish? We seem to be having a challenge with the system here. So, switch on your microphone again.

**Hon. Nicholas Mwale** (Butere, ANC): Thank you, Hon. Deputy Speaker. I was summarising. I am of the opinion that the Senate needs to understand its functions. It should know that the primary responsibility of budgeting is with the National Assembly. I support the Leader of the Majority Party. He said that the Senate should respect the National Assembly's opinion and it should not blame the President for signing the Bill.

Thank you.

**Hon. Deputy Speaker:** Okay. Hon. Metito. Quickly please.

**Hon. Katoole Metito** (Kajiado South, JP): Thank you, Hon. Deputy Speaker. I support the Bill. Three minutes is a short time. I have three issues. One, it is time we let the Kenya Revenue Authority (KRA) to be the sole revenue collector in the country because there is a lot of unaccounted revenue being collected at the country level. What we are seeing is the KRA tightening its belt. Therefore, as the National Assembly, we should prepare a Bill to authorise the KRA to be collecting revenue all over, then it is disbursed to the counties through the County Revenue Allocation Bill.

Second, I support the Senate on the need to review the County Allocation Formula given by Commission on Revenue Allocation (CRA). After the census results are out, now that it considers population, poverty index and a counties land size, there will be need to review the formula. It is long overdue. Some of the counties are not getting their fair share. So, on this, I support the Senate.

The Big Four Agenda is mainly on devolved functions like food security, universal health care, housing and manufacturing. If you see the conditional allocation to counties, most of it is on health and housing. Because of the youth polytechnics, we are now moving to be a technical skills competency country. Therefore, if we revive our polytechnics using these conditional grants, together with the Technical Vocational Education and Training Institutions (TVETs), from the national Government, we will have a lot of personnel with technical skills that are required in moving our country to the next level to be a middle income country. Therefore, the conditional grants should be used properly. We can use the conditional grants to Level 5 hospitals and foregone health user fees through National Hospital Insurance Fund (NHIF). It is high time we stopped going abroad for treatment and build good hospitals in this country. Since it is a devolved function, we should support it by allocating more money through the Conditional Revenue Allocation.

Still on the conditional grants, on roads, which are also given as a conditional grant, it is important that counties repair those roads for purposes of services and products. For example, in the agricultural sector, food will reach the market and that will improve the economy of our counties...

**Hon. Deputy Speaker:** Your time is over. Let us have Hon. Sophia Abdi Noor.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Deputy Speaker for giving me this chance to contribute to this important Bill. First, I want to thank the Members of the Mediation Committee from this House. They were focused, committed and meant well for this nation. That needs to be on record. We do not have to be blamed for something that this House did not commit. We need to audit our Constitution to find out what is working and what is not working. By now, we have seen what has worked and what has not worked.



I was in my constituency yesterday. While I was there, I visited health facilities in my constituency. Some of them have been closed down for the past two years. Their services have not been enjoyed by the people in my constituency. Some of the health facilities that have been closed for the past two years are: Handaro Dispensary, Sangole Dispensary, Ruga Dispensary, Jalish Dispensary, Buthwalhama Health Centre, Bodhai Health Center and Ijara Health Center which was the last to be closed. It has been closed for two months now. These centers were closed because there were no health personnel to run them. We allocate resources to all health facilities and health centers in this country. We do not know where these resources go to.

We need to name and shame governors who are not performing and appreciate and honour those that are performing. I want to honour Prof. Kivutha Kibwana for performing as a governor in this country. It is unfortunate that we are playing with something as crucial as health facilities. We have lost a high number of people because the emerging health facilities have been closed for two years. The mandate of county governments is clear. It is high time counties adhere to them. Their mandate and functions go with resources. I want to appreciate the Budget and Appropriations Committee. In my county, we got Ksh7 billion that they were allocated. That money should be used properly and shared equally in all sub-counties so that every sub-county in...

**Hon. Deputy Speaker:** Your time is over. Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I also support the Bill. I will start by putting some records straight. The Leader of the Majority Party said that Senators are more than the people of Kitui Town. Kitui Town is in my constituency and it has more than 10,000 voters. So, there is no way Senators can be more than the people of Kitui Town. The other thing is that we are happy in Kitui County. I am happy with what I am seeing in my town. I do not mind the Senate going to Kitui County again because our people are benefiting. The third point is that, even as I support this Bill, this House should not have a problem with the effective date of County Allocation of Resources (CARA) Bill. CARA is anchored on the Division of Revenue Act. The effective date of the Division of Revenue Act is 1<sup>st</sup> July, 2019. So, even if CARA becomes effective in October or November 2019, we have no problem with that. In terms of timing, there will be no problem. So, this House should not bother to change the effective date of CARA. It will still be okay.

It is now clear which House is committed to devolution. As late as 8.00 p.m. yesterday, this Bill was not with this House. The House Business Committee (HBC) went an extra mile to ensure we have it in today's Order Paper. In the Order Paper, it is the first item to be discussed. So, it is dishonest, on the side of the Senate, to say that this House is not committed to devolution. I want to encourage the Senate to be proactive. If they were to be proactive, what we are doing today would have been done by mid-July. Because of the push and pull between us and them, we are now in September.

As I conclude, I can tell you for sure that, we cannot recover the implementation time we have lost. It is already gone. They are only going to pay for the recurrent cost. The development vote cannot be taken back. So, you realise that in terms of economic growth, we are likely to experience not the full implementation of the Budget, but some 80 or 90 per cent. Automatically, it will have adverse effects to our economy. So, I want to encourage Kenyans to, as we move forward, consider time. Indeed, time is of essence when it comes to Budget implementation.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Dawood Rahim.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. I want to agree with the Chairman of the Budget and Appropriations Committee. I support this Bill. Yesterday, during the funeral of Sen. Mithika Linturi's father in Igembe, one of the MCAs said that it is the Members of the National Assembly who are messing up this country and also devolution.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

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

He mentioned Members of the National Assembly and talked about *Punguza Mizigo* and the issue of reducing the number of Members of Parliament and all that. I think he should have gone straight ahead to mention senators because they are the ones who have messed up devolution. When they go back and forth regarding the assent date, they actually miss the point. That is because the more we delay, the more we delay counties to get their money. We need to see how the money gets to the counties and how it is going to be used. Fortunately, my County of Meru has got some funds. At least, it has been added another Kshs30 million so that it can sort out...

We need to see how the conditional grants to hospitals and roads are going to be used. We are doing many roads which we are not supposed to be doing. They are actually under KeRRA. We need the transport committee to clearly state the classification of roads. Many a time when we go to *mashinani*, we have a problem in the sense that the MCAs claim that the roads are supposed to be done by Members of the National Assembly. However, the truth is that those roads are supposed to be done by county governments. We need to know more about the monies from the Fuel Levy which are forwarded to the county governments. The matter needs to come to the National Assembly so that we know which roads are to be constructed by the county governments. There was a time, about a year back, when auditors from the county went to audit...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your time is over. Let us have the Member for Suba North, Hon. Adhiambo Akoth.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to say that I support. Both Houses support devolution. Because we support devolution, let us talk to each other and not at each other. I would also want to encourage the Senate that because they know that the Constitution does not give them authority, let them make amendments to have the authority they require. I also want to encourage the National Assembly that when we have that authority, let us be magnanimous in the way we exercise our authority.

I also want to encourage the national and county governments to enhance revenue collection so that we do not have the crisis that we had because of lack of resources. I also want to encourage timely disbursement of resources to the counties so that they do not complain that

they have to return money because there is no time. At the same time, I encourage our governors to utilize resources well so that it is the public that would defend them where they think the National Assembly is not defending them.

I also want to challenge a notion that women governors are corrupt. I do not know of any case relating to the work of governors that touch on women governors. Even though there may be cases that touched on them before that, I am sure they are being dealt with. But, as governors, so far, they are doing well. That is a good sign for women. One of the other notions that I would want to challenge is that I heard the Leader of the Majority Party speaking about governors who were in Los Angeles and slaying and yet the performance survey show that such governors are actually doing very well. Maybe, we should encourage them to slay more in Los Angeles if it is what brings better performance. That in itself, maybe, shows that they are doing well.

Finally, I would want to encourage that even when we are mad with the Senate, let us follow our rules. We cannot discuss Members of the Senate or mention their names without substantive Motions.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Alego-Usonga, Hon. Atandi Onunga.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Speaker. I was not on my seat. I would like to support this Motion. The truth of the matter is that there are some counties that are doing very well and there are some counties that are not doing very well. A case in point is my county, where you hardly can see anything progressive going on. I think as we pass this Bill, I would...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Atandi, which is your county?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Hon. Temporary Deputy Speaker, I was saying that Siaya County is doing very badly. The only thing you see in the county is contractors who are doing roads. They have resources in their pockets because they are paid on time. But when you go to hospitals and health centres, nothing is going on.

The other issue is that the Constitution mandates county governments to conduct public participation before they develop their programmes. In my county, what the people want to be done is not being done. So, I want to ask the Senate to ensure that county governments are implementing programmes based on what the people want.

The other issue is that there are some county governments that have said they want to be dissolved. A case in point is the county of Taita Taveta. I was surprised when the Deputy President of the Republic of Kenya said that the county government should not be dissolved when the Governor himself, who was elected, had said that the county government is moribund and doing nothing. I want to urge elected leaders in this country, especially the Deputy President, not to continue to interfere with the operations of county governments. County governments are independent and if they want to undertake anything like dissolving themselves, nobody should come out and say that the county must continue to operate.

Thank you, Hon. Speaker. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Hon. Members, please, join me in welcoming students from Kirwara High School in Gatanga Constituency, Murang'a County, who are in the Speaker's Gallery. We also have pupils from Kitwamba Primary School in Gatanga Constituency, Murang'a County and, pupils from Kigathi Primary School in Mukurweini Constituency, Nyeri County. All are in the Speaker's Gallery. They are welcome to watch the proceedings of the House.

The next on the request list is the Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. Let me say that today is a relief to Kenyans and especially to county governments because now we are talking about money going to them. But this has been reached after a long tussle and a big pull and push between the Senate and the National Assembly. The picture that the Senate has been painting of us out there has been very unfair. The Senate has been laying blame on this House whereas it is the Senate which had brought about the bottlenecks. Even county governments, especially the governors, have been cheating Kenyans that the money they are allocated is only Kshs316 billion.

Hon. Temporary Deputy Speaker, the counties are not telling us how much they collect annually or monthly as cess.

Secondly, they never disclose to the public that they receive money from the Fuel Levy which is apportioned to the Kenya Rural Roads Authority (KeRRA) and themselves. When we go back to the counties, most Members of County Assemblies (MCAs) claim that roads should be done by KeRRA, which is a body under the Ministry of Transport. But they equally get a portion of the same money and yet, we do not see that money making roads. Let the public know today that county governments are not disclosing the amounts they are getting to the public to the extent that the blame is laid on us while it is them who should have done the roads.

More so, they should have taken the Kshs316 billion from the word go and work with it. If need be, they should call for a Supplementary Budget but, when they say they do not want that money and they say the money is being withheld, it becomes absurd.

So, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you. Let us have the County Woman Representative for Baringo.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Speaker. First, I appreciate the Mediation Team both from this House and the Senate and the President of the Republic of Kenya for becoming patient and saying that we fast-track this issue so that by afternoon today, he assents to it so that our counties can get money on time.

It is also important that this House stops supremacy wars and superiority complexes that are bringing the tug of wars between the two Houses. Let us know that whatever we do here cascades down to the lives of the people of this country. The issue of the money has affected the lives of the people in our counties and it is so sad especially as far as healthcare is concerned.

I would also urge the governors that, as they are given the money, we would like to see tangible changes in people's lives at the grassroots. We are aware that there are some dispensaries which are not functional even up to today because they have not been equipped and have no personnel.

As we pursue the Universal Health Care (UHC) which is an agenda that the President has set, we want to see healthcare get down to the people so that before issues come to the referral facilities, patients would have been attended to from the dispensaries. We cannot be having money wars and yet, year-in, year-out, we talk of roll over. I keep on wondering what is this thing called roll over year-in, year-out and yet, people are suffering. If the Integrated Financial Management Information Systems (IFMIS) is the problem, can it be addressed? When you tell a *mama mboga* in Baringo County about IFMIS, she will wonder which animal is that. It is important that the national Government at the National Treasury level works harmoniously with the counties such that the money is released on time and money is not rolled over to the next financial year whereas people are suffering.

It is unfortunate that a county like Turkana, which receives Kshs10.5 billion, still experiences hunger. That is abnormal. I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Mavoko. Hon. King'ola Makau.

**Hon. Patrick Makau** (Mavoko WDM-K): Thank you, Hon. Temporary Deputy Speaker. I could not agree more with Hon. Duale today. I am surprised at how the senators are behaving like "flower girls" to governors. Today, I call upon all Kenyans to stop paying any fees to the county governments because they do not declare the locally collected revenue.

Hon. Temporary Deputy Speaker, I want to confess to this House that I was the last Mayor of Mavoko and I used to collect Kshs1.5 billion. The other day, I was shocked to see Machakos County declaring Kshs400 million from the whole county. Remember, there used to be Mavoko Municipal Council, Machakos Municipal Council, Masaku County Council and Kangundo County Council. So, with all those local authorities combined, I expect Machakos County to be collecting more than Kshs3 billion. I am wondering why Senators cannot introduce guidelines and structures to the money that we are releasing to the counties. Governors must be transparent enough to tell Kenyans how much money they are collecting from Kenyans. Governors are collecting money from all the *mama mbogas*, slaughter houses and quarries. That is the money they are using to entertain themselves.

Hon. Temporary Deputy Speaker, if you see the functions of governors, you would think they are State functions. All that money is going to such functions; including toilets, kitchens and cooks. We cannot allow it. I am wondering: When did the senators and governors have that kind of marriage? The Senate is supposed to be the oversight authority of counties but, what we are seeing today is that they are emulating the governors. Senate *Mashinani* is a session of spending Government money. We cannot just sit here and let the senators insult us left, right and centre. It is high time they knew that, that is a house of resting. They should rest, respect the President and wait for the time to impeach the President. That is the work they can do best but, overseeing our counties is not their work. The National Assembly has authority to control and determine how much money is going to the counties.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. Much as I rise to support this important Bill, it is my humble request to the two Houses in terms of sibling rivalry because Article 95 of the Constitution is very clear when it comes to the determination of sharing revenue. The vertical sharing is a key responsibility of the National

Assembly but, when it comes to horizontal sharing of the county revenue allocation, is the responsibility for the senators. So, we need to work together in synergy.

On the commencement date, the Division of Revenue Bill that was just assented to by His Excellency the President is, indeed, important that it was taken to 1<sup>st</sup> July but, I do not know why the senators were contrary and yet in their today's Bill, they are actually proposing the 1<sup>st</sup> of July. This will expedite the process of giving the money to the counties immediately, so that they do not starve.

As the money goes to the counties, it is indeed important for the public to know that it is actually Kshs378.1 billion that is being taken to the counties and the counties must demonstrate what they are using that money for. Their responsibility as far as healthcare is concerned is key. If you go to hospitals in my own county of Trans Nzoia, there are no roads and yet the county is getting almost Kshs6 billion. We are calling upon the Governor plus the Executive to pull up their socks. When you go to the grassroots, the only tangible projects are done by the National Government Development Constituencies Fund (NG-CDF). The money allocated to counties has nothing to show for it. It is, indeed, important that they be accountable.

I have seen the ranking of governors. My Governor has continuously been ranked at the bottom. He is doing his second term and I expect him to improve. But, instead, he is worsening. So, I am telling him to wake up. It is the responsibility of the county assemblies to oversee the counties. It is not the responsibility of senators. Senators are just there to propagate their interests.

With those few remarks, I support.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members. Please lower your voices. We must listen to the contributions by Members.

Let us have the County Women Representative for Meru or the Member for Kathiani. It is not because he sat next to the Member for Kiminini. It is because he has requested.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I want to begin by saying that it is important for the two Houses of Parliament; the Senate and the National Assembly, to respect each other. I condemn the senseless attacks on the National Assembly by the Senate which occurred yesterday in Kitui. Thank God, it was in Kitui and not here because we could not have withstood such kinds of insults from our neighbour.

When the Mediation Team was named, it was so that we could break the impasse on the Division of Revenue Bill. I overheard one Senator clearly saying: "*Bado mapambano*". It means the Senate has decided that they will fight everything that comes from this House. I thank God that the Division of Revenue Bill has now been signed into law. When you look at how money is supposed to flow in this country, obviously, the first thing that happens is that the Budget is drawn by this House. Thereafter, we have the Division of Revenue Bill which is the vertical allocation of resources between the national Government and the counties. That is also done by this House. Finally, it goes to the Senate for them to divide the revenue horizontally amongst the counties.

So, the Senate, instead, of protecting devolution, has been fighting it. The reason why I am saying this is because the senators do not ensure that public participation is done in the

counties on projects that are implemented by the governors. Senators are not protecting the funds that go to the counties and, as a result, you have seen a number of governors being named for being corrupt. There is also an obvious issue of conflict of interest and, as the Leader of the Majority Party has said, there seems to be discussions between the Senate and the Council of Governors (CoG) on how to do deal so that the money that comes from this House is increased.

It is unfortunate that we have these kinds of conflicts. We know that these issues are the ones that make us not to accept the proposals from the Senate. There is a lot of wastage of public funds. When the governors get money, I propose that they try and rehabilitate the dilapidated polytechnics. For example, in Machakos County, the dispensaries that were built under the National Government Constituencies Development Fund (NG-CDF) are not functional. Also, there is a lot of wastage of public funds on hiring toilets and chairs and that should come to a stop. That is only if we, as a House, can stand firm.

Finally, it is only NG-CDF which is visible out there. I wonder when they say my Governor is number one in Kenya! In my constituency, it is only NG-CDF which is working. So, I wonder what criterion was used to do the ranking.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member 001.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to inject my voice to this important Bill, which I stand to support because I was a member of the Mediation Committee. I want to congratulate my colleague for doing a thorough job. We did this for the interest of Kenyans and those who are suffering in the counties.

The Senate has been very un-genuine to Kenyans. I hear that amorphous political Non-Governmental Organisation (NGO) called Senate has graduated to a nomadic legislative NGO and is loitering around the country. In fact, nowadays, it is more *tangatanging* than some of us. I hear the other time they were in Eldoret. Now they are in Kitui spending a lot of resources meant to serve the common *mwananchi* or *Wanjiku*. The Senate is supposed to oversight county governments. They are the ones who should scrutinize the budgets from the county governments to ensure that resources allocated by this House are...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I will add you one more minute.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I think there is a problem with this gadget. The Senate is supposed to oversee the county governments and scrutinise the budget to ensure that all monies appropriated by the National Assembly go to the intended purpose and to assist *Wanjiku* in healthcare and water. Unfortunately, they have gone to bed with governors. Nowadays, when governors are summoned to the Senate, before they come, they pass through a certain club to negotiate and are given a clean bill of health.

That amorphous political NGO should be dealt with in the upcoming referendum. We can do away with it if it has no function. That is because the county governments are being overseen by the county assemblies and national Government by the National Assembly. Therefore, it has no mandate...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Order Members! The Members who are upstanding and consulting loudly, please, let us observe decorum in the House.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Pukose, what is out of order?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Speaker, I stand under Standing Order No.95. I know this is an issue which Members are very emotive about because it concerns their counties. Considering the weighty matter before us, Members should go to the Third Reading because we expect the President to assent to this Bill today. Also, it has to go to the Government Printer and that is a lengthy process. I know Members are agitated, but I think this is the right thing for us to do so that we can release the money to the counties.

I request that the Mover be now called upon to Reply.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Order Members! Hon. Sankok, can you resume your seat? Of course, I respect you given the nature of your dressing in Kenyan colours. Order, Members! Hon. Pukose is right, of course, pursuant to our own Standing Orders. He stood under Standing Order No.95 on closure of debate by calling upon the Mover to reply. Therefore, I move to put the Question.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover to reply.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Ichung'wah has replied and, therefore, I will put the Question. Let us have the Leader of the Majority Party, before I put the Question.



**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. Through you, please, indulge me under Standing Order No.1, because we cannot amend this Bill. We will need the two-third majority and we know we cannot get it. I want to inform my colleagues that even the Committee of the whole House will take only two minutes. This is because there are no amendments and we need to conclude and send this Bill to the Government Printer for the President to sign before the end of the day.

**Hon. Members:** Put the Question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, I have to follow the procedure and where we are now, is for me to put the Question.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Next Order!

#### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) left the Chair]*

#### IN THE COMMITTEE

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

#### THE COUNTY ALLOCATION OF REVENUE BILL, 2019

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We are now in the Committee of the whole House. We will go straight to the Bills. We have two of them. We shall start with the County Allocation of Revenue Bill (Senate Bill No.8 of 2019).

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*(Fourth Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We are done with that Bill. Let us have the Mover.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the County Allocation of Revenue Bill (Senate Bill No.8 of 2019), and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with that Bill. We shall get to the next one, which is the Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019).

#### THE LAW OF CONTRACT (AMENDMENT) BILL

##### *Clause 2*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There is an amendment by the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by—

(a) deleting the word “security” appearing in the proposed new subsection (1A) and substituting therefor the word “assets”;

(b) inserting the following proposed new subsection immediately after the proposed new subsection (1A)—

(1B) For the avoidance of doubt, subsection (1A) shall not be applied retroactively.

It is just to rectify a drafting error.

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*Question, that the word to be inserted in place  
thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with the County Allocation of Revenue Bill (Senate Bill No.8 of 2019), as well as the Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019). Let us have the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) in the Chair]*

## **REPORTS AND THIRD READINGS**

### **THE COUNTY ALLOCATION OF REVENUE BILL**

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Can we have the Chairman to do the reporting? Let us start with the County Allocation of Revenue Bill (Senate Bill No.8 of 2019).

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the County Allocation of Revenue Bill (Senate Bill No.8 of 2019) and approved the same without amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover of the Bill, Hon. Ichung'wah, to move the agreement with the report.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Pukose to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): I second.

*(Question proposed)*

**Hon. Members:** Put the Question!

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover of the Bill to move the Third Reading.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the County Allocation of Revenue Bill (Senate Bill No.8 of 2019) be now read the Third Time. I also request Hon. Cheptumo to second.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**Hon. Members:** Put the question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Is that the mood of the House?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I confirm that the House is properly constituted for me to put the question.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the next Bill for reporting. Let us have the Chairperson.

#### THE LAW OF CONTRACT (AMENDMENT) BILL

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Mover of the Bill to move for agreement with the Report.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I also request the Deputy Leader of the Minority Party, the Member for Kathiani, to second the Motion of agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Mbui for seconding. Give him the microphone.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Members! Hon. Chris Wamalwa and Hon. Mbarire, I am sure you are doing your work. I can see Hon. Chris Wamalwa wants to talk to you to consult.

Yes, Hon. Mbui.

**Hon. Robert Mbui** (Kathiani, WDM-K) I second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Can Members resume their seats?

*(Question proposed)*

**Hon. Members:** Put the question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Is it the mood of the House for me to put the question? Very well!

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover of the Bill.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, of late, we are behaving like the House of Commons. People come to the House when they want to remove a Prime Minister. We should bring the Prime Minister here in future in a parliamentary system.

Hon. Temporary Deputy Speaker, I beg to move that the Law of Contract (Amendment) Bill (National Assembly Bill No.1 of 2019) be now read the Third Time. I request Hon. Ahmed of Wajir North to second.

**Hon. Ibrahim Ahmed** (Wajir North, ODM) seconded.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Wajir has seconded. Bowing is procedural.

*(Question proposed)*

**Hon. Members:** Put the question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There being no interest to speak on this in the Third Reading, I move to put the question for Third Reading. I confirm that the House is properly constituted.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Next Order.

## **BILL**

### *Second Reading*

#### THE BANKING (AMENDMENT) BILL

*(Hon. Jude Njomo on 11.9.2019 – Morning Sitting)*

*(Resumption of Debate interrupted on 11.9.2019 – Morning Sitting)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, Order No.13 on the Banking (Amendment) Bill (National Assembly Bill No.55 of 2019) is a resumption of debate that was interrupted on Wednesday, September 11<sup>th</sup> 2019, in the Morning Sitting. There was a balance of 25 minutes.

This Bill was by Hon. Jude Njomo. For those Members who contributed to the same, as a matter of procedure, we do not contribute twice to a Bill or a Motion. The Member for Rangwe is consulting. Let us have the Member for Seme, Hon. Nyikal - that is if you did not contribute to the same. The records show that you did not. We have an issue with the machines. Give Hon. Nyikal the microphone.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to speak on the Banking (Amendment) Bill.

Banking is the key support system for business in this country and elsewhere. This amendment Bill seeks to find out how the banking industry can ensure that those who venture into business succeed. Business is the mainstay of any economy and the economic growth of a country because it generates income, creates employment, generates products that we can sell and get foreign exchange and provides taxes to run our systems. Businesses must be supported. The main support for businesses worldwide is credit. Credit makes it possible for businessmen and companies to run their businesses and get returns. Returns on any investment depend on the interest rate that is applied.

Interest rates are the main determinants of the cost of running a business and, therefore, the returns that the businesses will bring to the investors. Therefore, if the interest rate is high, it is not possible for businessmen or companies to run their businesses and make profits, employ people, create products and pay taxes. I do not know of any business where you get such huge returns and pay back an interest of 20 per cent. You must then be running a business with a profit margin of 50 per cent. Such businesses are rare. It is, therefore, the role of the banking industry on one hand and the Government on the other hand to support businesses so that we can have economic growth. If the interest rate is such that business people cannot take loans or if they do so they cannot make any profit, then the support that the banks are supposed to provide does not make any sense.

Therefore, this Bill that seeks to cap interest rates which we had passed earlier but were brought back because of minor necessary amendments is of interest. We must look at it in the context of the history of the attempts by this House to cap interest rates. We are aware of the Donde Bill. It did not get anywhere. The banking industry got together and frustrated it out of existence. We passed Hon. Njomo's Bill, the one we are seeking to amend, in the 11<sup>th</sup> Parliament. There was word out there that the court had stopped its implementation. Luckily, the court did not stop it. It said that there was need to make amendments in order to make matters clearer. For example, if you are talking of 4 per cent interest rate capping, is it per annum or per month? I must thank the courts for that. Again, you can see very clearly that the court process was motivated by the banks, which have formed a cartel. The banks are insincere. I cannot comprehend the reasons being given by the banking industry as to the need for higher interest rates. If you have low interest rate, I do not see how people will not take loans. According to the law of supply and demand, if the interest rates are low, more people will take the loans. However, the banks turn round and say that if the interest rates are low, people will not take loans. They sit together as a cartel and bring in tough conditions that make it impossible for people to take loans. In effect, they do not give out loans because they want higher interest. They are more interested in the money they will make than businesses running. If you have a lot of

businesses running, the little interest that they get and large number of people taking loans will be good for them. The economy will be prosperous. If you deny people loans because you think the interest rate is low, that is thoroughly counter-productive.

There has been an argument that if the interest rates are low, then they would rather lend to the Government. This is a fallacy. If you are just lending to the Government that offers services and pays salaries... You cannot apply money for consumption and not for production. The banks are not sincere. If the interest rates are low, then they will only give loans to the Government. In the long run, even that argument is wrong. If the economy is not productive, then the money that you are giving to the Government does not serve any purpose. I disagree with that argument. As they complain about the capping of the interest rates, we know that the banks' profits are huge. The banks post huge profits year after year. Therefore, when there is a Bill like the one Hon. Njomo brought in the 11<sup>th</sup> Parliament, they come up with arguments basically to split hairs. The courts were wise. They decided that they cannot throw away this Act. They took it back to Parliament so that the ambiguities can be removed. To that extent, it is now back with us. I am sure we will pass it, remove those ambiguities and still have the interest rate capping as we wanted.

Hon. Temporary Deputy Speaker, I am not happy. If you look at this process, from the time the Banking Act was passed until now, you will see collusion between the banks and the Central Bank of Kenya (CBK). It has come out clearly that the person who took the matter to court is related to the lawyer of CBK. I do not see why the CBK did not come out clearly and say that, as much as the Act was passed, there are ambiguities in it. There was no need to go behind and get a pupil in their lawyer's firm to do this. That shows bad faith on the part of CBK. When a regulator is colluding with people they are supposed to regulate, that is a disaster. The CBK should not do that. The banks in this country are in business. Therefore, they are anti-economic growth. They are surely becoming the real lords of poverty. They are economic saboteurs. If you go to the bank, they charge you even for withdrawing your money. When you give them money directly, they charge you for that. The only thing that you are not charged in banks these days is the air you breathe. So long as you step there and you ask to get your account and to be advised on anything, it is charged. That appetite for higher interest rate that does not look into the welfare and economy of the country is counter-productive.

With those remarks, Hon. Temporary Deputy Speaker, I support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us now hear the Member for Kuria West.

**Hon. Mathias Robi** (Kuria West, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Bill. We know that the interest rates in many banks in this economy are very high. Many businesses cannot operate or borrow money from banks when the rates are very high. Many businesses cannot afford to buy assets or houses in cash. They must go to the bank to borrow money and then re-pay later.

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Jessica Mbalu) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

The interest rates are very high. When many people cannot afford to go and borrow money, you will find that even creating employment in some of the businesses become difficult. If we consider this Bill and reduce the interest rate, this Bill will assist many Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we have Hon. Gogo Achieng'? She has taken leave. Hon. David Ouma Ochieng'. That Member has taken leave as well. Hon. Kipyegon Ng'eno. He has left. Hon. Odege Mboya, the Member for Nyatike. I can see that Hon. David Ochieng' is walking quite fast. I will give you a chance to contribute.

**Hon. Tom Odege** (Nyatike, ODM): Thank you, Hon. Temporary Deputy Speaker. Allow me to join the previous speakers in supporting the Bill. Our main interest as parliamentarians is to defend the interest of Kenyans who elected us to be here and not to allow banks to exploit them. Trying to say that capping the interest rates makes many people not to take loans is a defeatist kind of argument since no one can go for high interest rate because it is high. What Kenyans are looking for is what they can afford and make their businesses work very well.

As people who represent Kenyans in this House, it is our responsibility to ensure that we protect our people who elected us. Before the interest rate capping, I took a loan. The interest rate and the period of the recovery of the loan were increasing each and every year. That is the kind of business which we have seen before. We cannot allow anyone who is also doing business in this country to subject our people to high interest rates so that they can make their profit. If they think that doing business with the Government is good enough for them, so be it. We cannot allow them to keep on threatening our people that if you do not do this, then they will do business with the Government. We also have the authority to make it very difficult for them to do business with the Government, so that we make them answerable to Kenyans. We will not allow this kind of arm-twisting which we have seen in our country today.

I also want to appreciate what our courts did. If we allow rogue businessmen in the country to exploit our people, we will end up in a situation where no Kenyan will afford to do business in the country since no one will have capital as we rely on banks. If banks think they can only do business with the Government because they can exploit it, then it is our responsibility, as a House, to fix that so that they are subjected to do business with Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kiai.

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill.

When banks in this country had a free rein to operate in a laissez faire economy, we found them wanting in the sense that they could not be controlled. What we had was a banking industry that was loading over the public or Kenyans. It had become extremely difficult for a businessman in the country to borrow a loan from any banking institution. Even the smallest of a loan had to be secured by collateral like land or something tangible.

In the current situation, the economy and Small and Medium-sized Enterprises (SMEs) are not growing because they are not supported by the banking industry. What we have in Kenya is not a banking industry, but a shylock industry whereby unless they are regulated via legislation, it means the public, businessmen and SMEs in the country will not grow. They have opted for easier ways out of doing business with Government because they are sure that their money will come back with handsome interest. That is why they have ignored majority of



Kenyans and businessmen in the country. Do we still need the banking industry that supports the Government? Do we still need an industry that is not responsive to the needs and aspirations of business and the economy of the country? My answer is no. The industry is being regulated via legislation because they could not self-regulate.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Before I give a chance to the Member for Ndhiwa, allow me to give a chance to Hon. Ochieng’.

**Hon David Ochieng’** (Ugenya, ODM): Thank you, Hon. Temporary Deputy Speaker. This Bill is not on online platform. So, I had gone out to pick it. That is why I was away when you called me out to speak. Thank you very much.

I stand to support the Bill. One of the many ambitions as a country is to industrialise. We hope that in the next 30 years, Kenya should have risen to a truly middle income country joining the rest of the world in raising the living standards of its people. One of the parameters of knowing whether a country is growing is the ease of access to credit or loans; the ease with which people are able to get money to do business.

Last week I heard the President talking about how Singapore has grown and that he hopes Kenya will go the Singapore way. I wanted to tell the President that such things do not just happen. Someone has to sit down and work on them. Partly, working on them means reining in on banks or institutions that prey on public needs and services; the banking industry today is known to make very high profits every year. In fact, nowadays they compete on the billions they will return in profits. If you see the bonuses paid to CEOs and the top executives of banks, you will be shocked. But employees remain with the same salaries. A CEO of a bank gets between Kshs40 and Kshs50 million in bonuses, but employees do not get a pay rise.

For us to grow, we must say as a country that the service industry will be run based on market fundamentals. When we leave market fundamentals to run the banking sector and it runs amok, then Parliament must and will always come to the aid of the public. That is why I support the Bill. The elasticity of the banking industry is very high. If banks would show goodwill or show that they are willing to walk with us in ensuring that the country grows, if they could show that they are disciplined, and if they could show that they are patriotic and that their interest apart from profits is also to walk along with Kenyans in helping the country grow, then we would have a reason to sit back and say that let them self-regulate. But the history we have is such that every time we allow them to self-regulate, they sit in board rooms and come up with charges and do things like fixing prices of loans and all that. That is why Parliament becomes a very important institution that should help Kenyans get what they need.

We have seen in the last one or two years the merger of banks or banks buying one another. Why? It is because they want to reduce competition. So, the day we allow them to fix interest rates and they have bought everyone else and they are three or four of them in the country, interest rates will be 25 to 27 per cent. Even when we have good economic times, you will never hear a bank saying it is going to reduce interest rates for those taking loans. But look at what happens anytime a small thing happens and financial markets are disturbed a bit, the

banks will raise interest rates claiming they even need to raise the interest rates of existing loans. If they could show goodwill and say that the economy is stable and the Building Bridges Initiative (BBI) is working among other things to reduce interest rates that would be fine. On the wake of the original Act of fixing interest rates, we have seen a proliferation of bank charges on other things. They are basically rising interest rates by putting so many other charges like negotiation and administration fees and many other fees that if you aggregate, you realise you are paying seven or eight per cent on the loans Kenyans take.

I wish the Government of Kenya, the Central Bank of Kenya and the National Treasury could agree with these banks that they are going to look at their license and renew it depending on how much of their lending goes to the SMEs so that we reduce what the Hon. Member talked about: reduce the appetite for banks to keep hoping that they are going to lend money to Government and get super profits. We need to put in place a percentage of their lending to go directly to SMEs. They should tell the amount of money they give out to SMEs in a particular year to help them do business and show the concessions they have given them. If you go to Dubai where Kenyans go, you will find that interest rates are as low as 2 or 3 per cent. In Singapore, the President talked about, interest rates being very low. People are able to access loans to do business.

In the country today, we have what we call Access to Government Procurement Opportunities (AGPO). We hope young people can do business. They get tenders but cannot service them because no bank wants to touch them. So, if they cannot touch an 18 or 19 year old, who is doing a cleaning business or a 21 year old who is doing a small business and has got a tender from a county government and needs just Kshs40,000 to do something; they decline to lend them money because they want to lend money to big people, how patriotic are they?

I urge the banking industry in the country to first understand that we are in this together as a people and as a country and that if they make super profits and all of us are poor, then they are basically poorer; if they make modest profits and all of us share whatever that is available on the market and do business to raise our living standards, all of us are richer.

So, as I support the Bill, I urge the President that there are things he needs to do to ensure that the services sector: insurance and the banking industries pull together to ensure that things are going well. They should be regulated so that our country is not lost to brokers, is not lost to middlemen, is not lost to barons or lost to people who do not mean well to us. I support the Bill and hope that we will not hear again that banks are talking to the Central Bank of Kenya and its Governor and others lobbying MPs to remove the interest rates caps. The banks should understand where the country wants to go and that this is for the long-term.

I support and hope that Members will also support. Thank you very much.

**Hon. Temporary Deputy Speaker** (Hon. Patrick Mariru): I had indicated that I would give a chance to Hon. Martin Owino, but I am afraid I may not. We have 25 minutes left for this particular item, and once the 25 minutes are done; we need the Mover to reply. Hon. Jude Njomo is not here. So, we will keep his reply pending until the next time when this business appears on the Order Paper again. In the circumstances, we have to go to the next Order.

## THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT) BILL

*(Hon. Ndindi Nyoro on 24.7.2019 – Morning Sitting)*

*(Resumption of debate interrupted on 24.7.2019)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): This Bill was being moved by Hon. Ndindi Nyoro. He had not completed moving it, and he is not here. We may not proceed with it until a subsequent time when it will be placed in the Order Paper, and Hon. Ndindi Nyoro will have time and space to complete his part as the Mover.

So, the Bill is stepped down.

*(Bill deferred)*

Next Order!

## THE EMPLOYMENT (AMENDMENT) BILL

*(Hon. (Ms.) Martha Wangari on 7.08.2019 – Morning Sitting)*

*(Resumption of debate interrupted on 7.08.2019)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Martha Wangari is the Mover. Indeed, Hon. Martha Wangari had moved and the Bill had been seconded, but debate had not commenced. Therefore, debate on this Bill is open. I suppose Members have refreshed themselves on that Bill. If you have not, you can get it online. Shall we have Hon. Gogo Achieng to go first on this one?

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I thank the hon. Member who has brought it to the House. Employment issues are very pertinent in our country, and more so when it comes to youth employment. As a nation, we need to rethink our systems and values. Especially, our governance system needs to support a mass of trained youth who are still going for training with the objective of having some form of a living at some point.

The way it is right now, Kenya is such that we have a big number of highly skilled Kenyans out there who require employment, but we do not have sufficient structures to absorb them or create conducive environment for them to be employed. It is important that as a country, we address seriously the issue of young people's employment. It is not only employment that is an issue. We should create a good environment for entrepreneurial engagement of the many

skilled youth out there. Not all of our young people who are training and getting out of training colleges can be absorbed in the already existing systems.

I want to look at young women who are also seriously engaged in work they have come up with, like business and other levels of earning a living. We have to go out of our way to teach our population that people should come up with their own ideas and learn to work in order to earn, engage and also save. Many systems that have been put in place are also not getting properly utilised. We have, for example, the Uwezo Fund that the Government has created to give funds to people to do business, especially women and young people. But people, especially in Rangwe Constituency, where I come from, are scared of taking loans from these Funds. I believe that this fear cuts across the board. It is important that we come out and train our young people. We should engage with them in serious training, follow up and looking at ways of mitigating against the bottlenecks that make people not to take loans from the existing affirmative action Funds.

It is on record and the truth that the Government has put up systems that can be used to have our young people and women of this country get money. Like in my Constituency, Rangwe, you just find people making it very difficult to get a loan. If you are entitled to get a loan of about Kshs100,000, there are...

**Hon. David Ochieng'** (Ugenya, MDG): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is it, Hon. Ochieng'?

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Temporary Deputy Speaker, I would not like to interrupt any Member, but I am lost on the Bill that we are now debating in terms of relevance. Just for clarification, are we discussing the Employment (Amendment) Bill or we are still on the Banking (Amendment) Bill?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ochieng', indeed, what is on the Floor now is the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019) that was moved by Hon. Martha Wangari. Hon. Gogo, I am sure you were prosecuting your submissions in a far and wide way, but the rule of relevance still applies. Please, bear that in mind. You can get it online so that your submissions are directed accordingly.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Temporary Deputy Speaker. I was not talking about the Banking (Amendment) Bill. I was following the relevant proceedings of the House. I do not see where I seem to have gone wrong. I am speaking on the Employment (Amendment) Bill. I do not see how the Banking Bill is being dragged in.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Proceed, Hon. Gogo. In fact, if you look at the mother's Bill, it is more about pre-adoptive leave before adoption. It relates to that one particular point.

Please proceed.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Temporary Deputy Speaker. With what I have already said, I support.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mugambi Gichuki, do you want to speak to this debate?

**Hon. Gichuki Mugambi** (Othaya, JP): Hon. Temporary Deputy Speaker, I wanted to speak on the Banking (Amendment) Bill, and not this one.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. Robert Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Employment (Amendment) Bill by Hon. Martha Wangari.

This is a Bill that seeks fairness. An employee means a person who works in service of the employer under an express or implied contract of service under which the employer has a right to direct and control the details of work performance and exclude contract for services.

One of the biggest challenges to this country is the issue of youth unemployment. The slow pace at which the youth access employment is a very big problem in our country. If you move outside there, you will find many graduates from the universities and others graduating from middle level colleges. Unemployment is a very critical issue. The other problem is that the Government is the biggest employer in our country. Thus, when the Government does not create opportunities to absorb those joining the job market, it becomes a problem.

We have a Bill in this House through which a Member is proposing to reduce the retirement age to close to 50 years, yet there are some skilled areas like becoming a professor, a senior consultant in the medical world. Even in law, for you to attain that status of being a senior lawyer or a judge in the various courts needs experience. These are issues that are catching up with us. It is high time the Government thinks of innovative ways to create employment, especially to absorb the youth because that is one of the biggest challenges. I am happy yesterday, the President in swearing in the current Director of the National Youth Service (NYS) advised her to think of ways to make the NYS absorb the youth and rejuvenate what has been lost through the bad image that the NYS has had in the past few years. The NYS was meant to give these youths skills to become self-sufficient and self-reliant.

Before the last election, we had the NYS going to many constituencies within the country. The NYS was absorbing youths and giving them skills and training so that these youths could also become entrepreneurs. They were opening accounts where they were doing some savings. Apparently, this seems to have collapsed after the elections. I think this is an area we hope the new director will look at and see how this can be jumpstarted to make these youths at home absorbed into the job market.

Another area is technical training institutes. I am happy some of the technical institutes are teaching skills like hairdressing, carpentry and masonry to youths without making it mandatory that they have some basic requirements. These are youths we can channel into the market of building and construction which is one of the Big Four Agenda of the President. This can only be realised if we align our youths to fit in various markets, not just waiting for absorption from Government. We should look for ways our youths can be innovative.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Pukose. What is it Hon. Wambugu Ngunjiri?

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker. I am just wondering whether we are speaking about the same Bill. My understanding of the Employment Bill that we had on the Floor is the one that talks about leave for adoptive parents. I was listening to *Mheshimiwa* Pukose and did not see as if he went in that direction at all. I thought I am the one who had the wrong Bill. I just want your guidance.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): As I said again, the Bill we are considering, especially if you look at the Bill, has only one clause around leave for those who adopt children because those who give birth have leave. That is what we are considering.

Hon. Pukose, I am sure you are taking a longer route to that. I think Hon. Wambugu is questioning the route because it is getting longer.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. You know my colleague in the *Kieleweke* team knows you can get things. You either *tangatanga* until you are *Kieleweke* or be *Kieleweke* and then you will be in *Tangatanga* later. These are the challenges.

Hon. Temporary Deputy Speaker, you can have different ways of approaching this. We cannot just talk about the leave. We are amending the Employment Act. What does it entail? We will not just go to look at the issue of leave and that is all. That way we will not debate. So, each of us has a different way of debating.

With these few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I know the Bill is restrictive to adoptions.

However, you have to work before you apply for any maternity leave. That is why we are trying to explore the environment that can bring work so that these people can also be considered to have leave. On that path, I think Members will agree and allow us to explore other areas in order to get there. I think it is important that we expand our scope. Not many who are adopting are employed. In my constituency, the unemployed mothers or parents are overwhelming. So, I would not restrict myself to that part of it. I will add my voice that the Government needs to do more to expand these employment opportunities to many Kenyans.

If you allow me to project my voice, one area is the role of the Ministry of Foreign Affairs in exploring opportunities outside this country. Many people who come to our country are employed. We are doing very little to have our people go outside to look for employment. Even if we can be allowed to get leave, I think the area of self-employment is underexplored. The formal sector cannot employ all of us. Therefore, we need to really explore the self-employment sector. The President got it right when he talked about manufacturing. The only problem we have is that people think manufacturing can only be restricted in town settings – Nairobi, Nakuru and Mombasa. No! Let us encourage small industries in rural areas so that many can be employed, then we can talk of parents seeking leave when they are employed well in those sectors. We should also help them with marketing products. Self-employment is okay, but, where do they take the products? That is what kills employment.

Lastly, we need to employ performance contracting. That is what is holding jobs for young people. So many people are non-performers and they sit in offices anyway. That is why we are pushing the Government to adapt a performance contract on this. Permanent and pensionable is not productive at all. Many people just sit in their offices. They leave their coats in the offices and go wherever, but at the end of the day, they do nothing. This kind of arrangement is what is denying our young people employment.

I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next, shall we have Hon. Wambugu Ngunjiri?

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I stand to support this Bill. I will try to limit myself on the issue of the Bill. Hon. Wangari introduced this Bill and the whole idea of adoption when, as a country, we are struggling with adoption. We have a lot of children in children's homes. This particular Bill is meant to encourage parents to adopt children. It is a fact that when you get a child through normal delivery, you get maternity leave. Ladies get a three month paid maternity leave. Hon Wangari is proposing that those parents who adopt children to be given similar leave. I support that position. Three months is the period that a parent should be given to get used to the child they have adopted. The Idea for a maternity leave when you get a child in hospital is to allow you to bond with the child. When you adopt a child you have more less the same expectation. You need to spend some time bonding with that child. I support the provision for maternity leave for parents who adopt children.

I also support this Bill for another reason. We need to encourage more Kenyans to adopt children. We keep talking about street children. The issues we have seen recently, for example, the child who was on social media making interesting comments, part of the problem is lack of parental guidance of children. Any step taken to encourage parents or adults – of course they have to be responsible and mature adults – to step up and take care of children who do not have parents, should be encouraged. As far as I am concerned, this particular Bill is in the right direction. It encourages adults and parents to reach out and adopt children. If they adopt a child, they will be with them for 10-20 years and they will make a difference in their lives. Once that child is an adult, you never know what they can become. I read somewhere recently where someone was talking about children who get adopted and why it is important for parents who adopt children, even if they have their own and the capacity to adopt another child, to step out and adopt. They will be paying in forward. You never know what that child will become in future. That could be the child who will hold your family that has your biological children together. Therefore, this Bill is God sent. I hope that my colleagues are going to support it so that we can do what we are supposed to do to those children who do not have parents.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Mwangaza Kawira. That Member seems to have taken leave. Hon. Kipyegon Ngeno. That Member has taken leave. Hon. Members, you must log in with your card for me to tell if you have an interest to speak. Unless there is a technical hitch, I will use my screen here to check. Yes, you have the floor, but your card needs to be logged in.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I rise to support the Employment (Amendment) Bill (National Assembly Bill No.15 Of 2019) that is before us. It is on giving an opportunity to adoptees of children an opportunity to enjoy both maternity and paternity leaves. That is critical. Our Constitution that we midwived and promulgated in 2010 pays great credence to Chapter 4 of the same Constitution on the Bill of rights. It pays much attention to fundamental freedoms that we enjoy. While crafting this fundamental chapter, the intention was to abhor issues of discrimination. A parent is a parent, whether they adopt or otherwise. If we are going to apply breaks on enjoyment of leaves, paternity and maternity, to new parents, then that will amount to discrimination which the Constitution talks about. I support the issue that parents who have adopted children must equally enjoy maternity and paternity leaves, three months for the mother to stay at home and attend to the kid and two weeks for the father, in line with the Employment Act. In relation to that, we understand the importance of having jobs. Joblessness in this country has become a menace.

Therefore, something drastic must be done. Due to joblessness, we have seen increment in cases of crime. It has become a disaster in this country. Also, we have seen an increment in cases of suicide out of desperation. If we are going to treat people differently, that will be unacceptable.

We have seen employers who in a bid to deter workers from enjoying leaves they fired them. In retrospect, these issues have created unwarranted deaths through suicide or frustrations by families which in return have caused divorce. Therefore, we must, as a country, while looking at our laws in line with the powers given to us by Articles 95 and 96 of the constitution, look at laws that are proactive to the Kenyan people.

On a peripheral matter, we must give jobs that mirror our qualifications. I want to thank the Government. For the first time, through the Public Service Commission (PSC), they provided internship jobs to most of our jobless youth who have attained trainings. That is something that we must give the Government a pat on their backs. We all understand that 30 job opportunities per constituency are still not enough. The Government needs to do a lot more. The biggest employer anywhere in the world is the Government. Right now, we have two tiers of government, the county government and the national Government. They must work in collaboration to create jobs to the jobless Kenyans. Otherwise, joblessness is a time bomb. When it explodes, we shall have nowhere to run to or nothing as recourse. With all that contribution, I support the passage of this timely and incisive Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Hon. Manje.

**Hon. Joseph Manje** (Kajiado North, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute to this important debate. I support it. We should endeavor to ensure that at least we create employment for our children. When a kid finishes school and he is not engaged in employment, the kid gets frustrated. With frustrations, depression begins in that particular kid. If you want to improve the living conditions of Kenyans, you cannot do it without creating employment however simple it is. We should make sure that when our children complete their education they are engaged for a monthly pay, even if it is a small amount. They have to get the basics. They should employ themselves to feed themselves and get shelter – to get the basic needs of a human being – so that they can be acceptable members of the society.

I want also to challenge the Government, through the KRA. When you harass people who are starting enterprises, you should know this is the only way to nurture them. When a person creates a company, it should be nurtured by the Government, through the KRA. You better give tax relief for some time and make sure that you do not harass them. For example, recently we saw big organisations and entrepreneurs being harassed. When you harass them, you do not consider the number of people they employ. I will give you a case. If you harass an entrepreneur who has employed about 1,000 people, you are forgetting these employees pay taxes in the form of PAYE; they contribute to NHIF and NSSF. That is the basic thing the Government should look at instead of the direct revenue that the entrepreneur pays. So, this Bill is prompt. We have to make sure that, at least, we create these job opportunities.

Another thing we should not forget about is the children who are in the streets. Kenyans should come out strongly and make sure that no kids in our country should call streets their home. These kids survive like animals. It is like they went back to the forest. Imagine they eat from dustbins. It is a hopeless life. We should make sure that at least we come together and create vertical mobility for all Kenyans, because we cannot grow when we ignore some of our people.

I support this particular Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. David Ochieng'.



**Hon. David Ochieng'** (Ugenya, MDG): Thank you so much, Hon. Speaker. I was waiting to speak to this Bill simply because I can see what has been happening in the country and you would imagine that adoption of children is left to foreigners. It is like it is for people who are white in skin and not for normal Kenyans. The truth is that so many Kenyans indeed adopt children, so many Kenyans care for children.

In my formative years, before I went to university, I used to teach at a children's home where we had more than 1,000 children picked from the streets of Nairobi, Nakuru and Eldoret and given a chance to go to school at a place in Ndalani called the Mully Children's Home. Most of these kids could not trace their homes. Most of them did not know their parents. When they got to 17 or 18 years and going to university or college, most of them would want to leave and go elsewhere.

What is important in this Bill is to make it easier for Kenyans to adopt children and to recognise that parenting is a very important issue and adoption is part of parenting. If you have made a decision as a Kenyan to adopt a child, then the Government should come in and make it easier for you to do so by giving you enough time and enough room to think through it. Pre-adoption is a very important process in adoption. This is the time you check whether you really want to have this kid with you. That is why you need this period to test compatibility and whether the child would want to stay with you.

So, Hon. Wangari is saying that we should give adopting parents a chance to acclimatise and get used to this situation. You are not giving birth. You are just given a child that is already alive. That is why we are saying that over and above the maternity and paternity leave that parents get you need to give them a chance before they adopt so that they are able to make a decision whether they will do so or not.

However, my attention has been drawn to the proposed Section 29A(1)(b), which says that in case of a female employee who is married, the employee shall be entitled to three consecutive months pre-adoption leave with full pay from the date of placement of the child. But paragraph (c) says that in case of a male employee who is married, the employee shall be entitled to two weeks pre-adoption leave with full pay. I ask myself why. The female employee is not giving birth. She is taking care of a child that has already been born. So, why would you discriminate between the female and male employee? At the right time I will be proposing that if you are giving the female employee three months, do the same for the male employee.

Hon. Temporary Deputy Speaker, you know this because of your profession. Nowadays in considering where you are going to place a child, for example, in times of divorce or separation, so many things are considered. Sometimes you see children choosing to stay with their fathers. In most instances, indeed, courts grant custody of children to fathers. So, I would not know why Hon. Wangari decided that this should be reduced to two weeks. You are giving one parent 14 days and another one 90 days. Adoption is almost the same procedure. Parents need almost the same period of time to be able to acclimatise with the kid. So, I would propose that the period being given be the same.

I also want to join those who are proposing that there should be some incentives for such parents. You walk around this country and you see penury. As a Member of Parliament, every day you will be swamped with requests for school fees and most of the requests are from orphans. So, if someone is willing to add one parentless individual to their family, the Government should be able to give incentives. If it is not tax exemption, then it could be things to do with housing because you are housing an extra person and providing a service that Kenya needs to have. Taking care of our children is very important.

Therefore, I would propose, over and above the leave days, give some incentives that are within the reach of the Government. Also encourage employers that children of this country are the future of this country. Seeing them on the streets suffering is not what everyone else wants. Having government-backed programmes, policy mechanisms and tax incentives would signal to all of us that the Government means well for children and for those who are willing to go the extra mile to take in one more person as a family.

Hon. Temporary Deputy Speaker, I support with the rider that I will propose an amendment.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we have Hon. Chepkut.

**Hon. William Chepkut** (Ainabkoi, JP): Hon. Temporary Deputy Speaker, I support this Bill. Actually, the biggest challenge that the Government has is unemployment. There are many graduates who are not employed. That is why personally I support the Big Four Agenda of His Excellency the President, particularly the manufacturing industry. That is why the Government is very keen on the Technical and Vocational Education and Training (TVET), which is indeed very key. It is a catalyst and an enabler for the socio-economic development of our country. At the same time, they train skilled personnel. These include plumbers, masons and carpenters, just to mention a few.

Parenting and adoption of children is very important. The Government must give policy directions and, as Parliament, we should at all times ensure that we support objective policies which enhance creation of employment, particularly in terms of supporting innovation through provision of ICT infrastructure, for purposes of digital penetration of our society, just to mention but a few. We must go on record that even the young people who are looking for employment are paying statutory deductions. However, since we are empowered by the Constitution on Articles 95 and 96, we must have Government incentives that will give hope to young people graduating from TVETs and other institutions of higher learning, including universities.

Hon. Temporary Deputy Speaker, recently, we had a serious incident in my constituency where young pupils drowned in dams which were dug by Chinese who were building roads. So, according to powers given to us under Articles 95 and 96, the National Environment Management Authority (NEMA) must issue authority to all dams in the Republic of Kenya to be taken good care of. Much as Chinese companies are building roads, our innocent children are dying.

The management of street children must also be taken over by the Government. We want vertical mobility. The preamble of our Constitution states clearly that sovereign power belongs to the people. So, street children must be taken over by the Government. It is their responsibility. It is also good to have progression. Some children end up being great professionals, while others bring this country glory, honour and recognition through sports. We have great athletes who bring much honour to our country. Therefore, it is important to take good care of our children.

Employment can be created in different ways. One of them is by getting engaged in some work and being paid salary. That is why I am appealing that those who bring glory should be exempted from paying tax in the Republic of Kenya. At the same time, the national Government and the county governments must have good collaboration to ensure that our graduates from universities are absorbed in the public sector.

Today we approved the county government revenue-sharing Bill. We are waiting for the President to assent to it and then counties will receive money. As Members of Parliament, we are sensitive to the needs and wants of our people. That is why we are keen in ensuring that we implement Government policies to the letter.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ali Athman of Lamu East.

**Hon. Ali Sharif** (Lamu East, JP): Asante. Ningependa kuchukua fursa hii kuunga mkono Mswada huu na vilevile kumpongeza pakubwa Mbunge aliyeuleta hapa kwa sababu suala la ajira ni suala nyeti. Aliyeuleta Mswada huu amelenga masuala ya akina mama wanaofanya kazi, haswa wakati wanapojifungua na namna watakavyopata nafasi ya kupumzika watakapokuwa wakiwalea watoto wao.

Ukweli ni kwamba Waheshimiwa wengi wanaposimama kuchangia Mswada huu wanazungumzia neno “ajira” kwa ujumla katika nchi hii. Ukweli ni kwamba ile hali ya ajira katika nchi hii ni hali ambayo inahitaji kupewa kipaumbele tunapojadili kuhusu suala hili.

Mzazi anapojifungua mtoto ina maana ya kwamba mtoto yule ameanza maisha yake. Malengo ni kwamba mtoto yule atalewa na mwishowe atahitaji kazi. Tunajua vizuri namna nchi yetu ilivyo. Mheshimiwa aliyeuleta Mswada huu ametambua kwamba kuna dharura ya kuwapatia akina mama wanaofanya kazi muda wa kutosha wanapojifungua ili wajipange namna watakavyowaelekeza watoto hao. Naamini kwamba muda ambao wamepewa ni wa takribani miezi mitatu. Ningependa vilevile akina mama hao, baada ya kupewa miezi hiyo mitatu, kuwe na namna ambayo watakuwa wanasaidika kikamilifu katika kuliangazia suala hili la watoto. Hii ni kwa sababu, utotoni mwa kila mtu ni wakati muhimu sana katika malezi.

Hivi sasa, vijana wengi wako katika hali ya sintofahamu; hawajitambui ama kujielewa. Vijana hao pengine wametupwa na mama zao ama hawajui wazazi wao. Siku hizi idadi ya vijana ambao hawana kazi imekuwa kubwa zaidi kwa sababu ya tatizo hili ambalo lilianza hapo awali, na kwa sababu ya makosa ambayo hufanyika wakati mtoto anapozaliwa. Kwa hivyo, kuna dharura katika nchi hii ya kuwepo kwa mwongozo kamili wa kujua idadi kamili ya vijana wanaozaliwa, wanaoinuka, wanaosoma na hata wale ambao hawana kazi. Sielewi ni kwa sababu gani nchi hii haina watu wengi. Tukiangazia idadi ya wanaoishi katika nchi hii, ambao wamefikia kiwango cha kuwa na kazi zao ni takribani milioni 40 hivi lakini idadi ya wale ambao hawana kazi ni wengi sana. Hali hii pengine imesababishwa na kutokuwepo kwa takwimu kamili ya kuonyesha ni vijana wapi...

*(Technical hitch)*

Ningependa kusema kwamba serikali zote za kaunti 47 ni vizuri ziwe na *data* ya kuonyesha ni vijana wangapi hawana kazi na wanaohitaji kazi na kiwango chao cha masomo, ili nchi hii iwe na mwongozo mwema.

Itakuwa vyema wakati kila jambo linaanza liwe na utaratibu. Linapoanza na makosa basi hata huko mbele mambo mengi yataenda mrama. Ni dharura kubwa kwa nchi hii kuangazia mwelekeo na mwongozo wa wananchi wake hususan vijana hapa nchini kwa sababu namna inavyoenda ni kwamba wengi wamekosa imani kabisa na nchi yao. Unapata wengine wanafanya mambo ambayo hayastahili, wengine wanajiingiza katika mambo mabaya na tabia ambazo si njema katika jamii.

Kwa hivyo, kuna dharura kubwa hapa nchini ya kuweza kuangazia na kuwa na mipangilio kamilifu katika suala hili kwa wananchi na jamii.

Kwa hayo machache, naunga mkono Mswada huu. Asante.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. Waweru Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this extremely important and timely Bill by Hon. Wangari Martha.

I have noted while reading through the Bill that the Member has done some good research and is making some very good proposals. As we understand in this country, we have a crisis of children who do not belong to any formal family ending up being institutionalised. The institutionalisation of children in this country should be seen as a contributing factor to some of the social ills we see today. A human being was made to belong to a family unit. A proper full complete and whole human being is supposed to be accorded love and worth of fellowship in a complete family.

When we think about adoption it offers this opportunity to a child who does not belong to a nuclear family. Kenyans are also realising that when we institutionalise some of these children they end up not being brought up the way we would like our society to raise its children. So, there is a big buying into this whole idea of adopting children into families that already exist. As such I see this Bill as very timely.

Going into the details of the Bill, I realise the provisions given by the Hon. Member in Clause 29A (1)(a) and she is suggesting that:

“(a) the employee shall be entitled to three consecutive months pre-adoption leave with full pay from the date of the placement of the child”.

The Bill tells us that the placement of the child is legal. However, in 29(1)(b) it continues to say:

“(b) in the case of a female employee who is married, the employee shall be entitled to three consecutive months pre-adoption leave with full pay from the date of the placement of the child”.

This sits very well with me.

“(c) in the case of a male employee who is married, the employee shall be entitled to two weeks pre-adoption leave with full pay”.

For me this discrepancy sounds an alarm bell. I am proposing she should amend this clause so that there is parity between what is being accorded to a female and male employee. When you think about it, this child is being adopted into a family which he or she was not born into. The duties that shall be undertaken by either a male parent who is adopting the child or a female parent who is adopting the child are equal. When you think about it, we are not asking for the women to take leave so that they can breastfeed the child because this is not a child who has been born to them naturally. This is actually a child they found already born and they are adopting into the family. I feel that there should be parity between the genders in this Bill in a way that whatever is being accorded to a female employee who is adopting the child, should be accorded to the male employee who is adopting the child.

I still feel that this little Bill is good and it should be something that we embrace as Parliament and see its full fruition. I believe that there are processes that need to be undertaken when you are adopting a child. These processes are at times very tiresome. Some of them are actually very prolonged and gruelling administratively. When you think about it, I believe, whether this individual will be married or single, they will go through processes that can be very tiresome. As such, they require what is being provided for by the Bill with the addition that I am adding, of parity between the two genders.

I believe this Bill is timely, coming hot in the heels of a Cabinet decision that requires that we stop adoption of children by foreigners that is putting us Kenyans on the spot. We realise that most of the adoptions that have been done in this country were being done by foreigners.

We, as Kenyans, now must step up and own our children who are born in situations that do not allow them to be in a family setup and bring them into families where they can grow up with good care, good love and be brought up like normal children. With that, I believe that this is an amazing Bill. It is timely and I do support Hon. Martha Wangari for this amazing Bill with that small amendment on bringing parity between the two genders who shall be adopting children.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this important Bill before the National Assembly. It is a matter that many of us had not given thought about because, typically, the process of adoption in this country seems to have been a preserve of the very rich and foreigners. Indeed, this brings into the limelight the question of children and how we get children that we have adopted into a family and induct them. I know the process of adoption at times is by choice. Sometimes it happens by accident or by an act of God, but it seems the focus of this amendment is a process that is formal and a natural process. I support the amendments brought by Hon. (Ms.) Martha Wangari.

Hon. Temporary Deputy Speaker, I made...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, I am afraid it is 1.00 p.m. When this Bill is brought back to the Order Paper, you will have eight more minutes to complete your submission. For those who are still interested to speak to this, we still have two hours and 15 minutes on this particular Bill. So, more Members will get the opportunity to speak to this.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.