

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 12th February, 2015

The House met at 2.30 p.m.

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

PRAYERS

Hon. Deputy Speaker: Hon. Members, we are just checking that we are properly constituted; I can confirm that we can transact business.

MESSAGE

CONCURRENCE ON PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL SOUGHT BY SENATE

Hon. Deputy Speaker: Hon. Members, there is a Message from the Senate.

Hon. Members, Standing Order No. 41(5) relating to messages from the Senate provides that:-

“If a message is received from the Senate at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits.”

In this regard hon. Members, I wish to report that I have since received a Message from the Senate on this Bill.

The Message states, “THAT, the Public Procurement and Disposal (Amendment) Bill, (National Assembly Bill No. 31 of 2013), as published in the *Kenya Gazette* Supplement No.139 of 18th October, 2013 and passed, with amendments, by the National Assembly on 23rd April, 2014 was passed by the Senate on Tuesday, 25th November, 2014 with amendments. The message continues to state:-

“The Senate now seeks the concurrence of the National Assembly to the amendments made by the Senate”.

Hon. Members, I wish to commit this Bill to the Departmental Committee on Finance, Planning and Trade for its consideration. I further direct that the Committee concludes work on the Bill within 14 days, given that a similar Bill, The Public Procurement and Asset Disposal Bill, 2014, which has constitutional timelines, is already under consideration by the House. The Committee will thus be expected to guide the House accordingly regarding the fate of this Bill.

Hon. Members, I am aware that the Clerk has since circulated the amendments, pursuant to Standing Order No. 145. I wish to remind you that the National Assembly will only consider the amendments made by the Senate, and not any other part of the Bill. I will guide you further on the procedure to be followed during the debate when the House Business Committee slots this Bill for consideration.

Thank you, hon. Members.

PAPERS LAID

(Hon. Chepkong'a stood up in his place)

Hon. Deputy Speaker: Hon. Chepkong'a, are you on a point of order or do you have a Paper to lay?

Hon. Chepkong'a: Thank you, hon. Deputy Speaker. I beg to lay on the Table the following Paper:-

The Report of the Departmental Committee on Justice and Legal Affairs on Consideration of the County Governments (Amendment) (No.2) Bill, 2014.

Hon. Katoo: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, Thursday 12th February, 2015:-

Sessional Paper No. 4 of 2014 on Governance, Justice, Law and Order Sector (GJLOS) Policy from the Office of the Attorney-General and Department of Justice, August, 2014.

The Constituency Development Fund Board Report on Projects Approval and Disbursement Status, December 2014.

The Report of the Auditor-General on the Financial Statements of the Energy Regulatory Commission for the year ended 30th June, 2014 and the Certificate of the Auditor-General thereon.

The Report of the Auditor-General on the Financial Statements of the Kenya Electricity Transmission Company Limited for the year ended 30th June, 2014 and the Certificate of the Auditor-General thereon.

The Annual Report and Financial Statements of the East African Portland Cement Company Limited for the year ended 30th June, 2014 and the Certificate of the Auditor-General thereon.

(Hon. Katoo laid the documents on the Table)

Hon. Deputy Speaker: Do we have the Pan African Parliament Report?

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today, Thursday, 12th February, 2015:-

Report of the Fifth Ordinary Session of the Pan African Parliament and the Annual Speakers' Conference (2014) together with the revised Protocol to the Constitutive Act relating to the Pan African Parliament.

NOTICE OF MOTION

ADOPTION OF THE FIFTH ORDINARY SESSION
OF PAP/ANNUAL SPEAKERS' CONFERENCE REPORT

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

THAT, this House adopts the Report of the Fifth Ordinary Session of the Pan African Parliament and the Annual Speakers' Conference (2014) together with the revised protocol to the Constitutive Act relating to the Pan African Parliament.

Hon. Deputy Speaker: Very well, I think that ends that business.

(Hon. Dawood stood up in his place)

Hon. Dawood, are you on a point of order? Are you on Standing Order No.7?

Hon. Dawood: On a point of order, hon. Deputy Speaker. It is about Notices of Motion. It is about a Notice of Motion which I gave in 2013 and 2014 and I am now giving it in 2015; I hope that today I will be heard.

Hon. Deputy Speaker: Hon. Dawood, you know that you have to get approval for it to be given.

Hon. Dawood: Hon. Deputy Speaker, I got a message on my phone but I cannot find it now; I have deleted it. I got a message yesterday in the afternoon that it has been approved. That is why I have said that.

Hon. Deputy Speaker: It would be on the list before me. Please confirm, so that it can be done on Tuesday; you are not on the list of those to give Notices of Motion.

Hon. Dawood: Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Gikaria, I see you are on an intervention.

STATEMENT

STATUS OF FOOTBALL IN KENYA

Hon. Gikaria: Hon. Deputy Speaker, I know the Standing Orders were amended regarding Statement issuing and how we are supposed to ask questions, but issues are now emerging. Maybe we will need to get further guidance on what we can do about issues which are coming up that need some urgent answers. I am talking about the status of the football in the country. You are aware now that the federation which is in charge of the management of football, the Kenya Football Association (KFA)---

There is going to be a lot of issues based on the Kenya Premier League (KPL) and Federation of Kenyan Football (FKF). I think now it is going to be an issue. Many young people are going to lose their jobs if we allow this mess to continue. We had expected the Cabinet Secretary in charge of sports, culture and arts, Mr. Hassan Wario, to be able to handle these issues amicably so that we do not have--- This weekend the premier league is going to start. We were advised that the President was going to mediate the other day but this did not happen. So, there is going to be a problem again. The thousands of young

people who are earning their living out of football are going to be messed up by having two leagues running concurrently.

The corporate world is going to run away from football. I do not know how we can address this through the Ministry of Sports, Culture and Arts. Now, this weekend there is uncertainty by these young people. The referees, players and other stakeholders within the football family are going to be affected. We left the federation to address the situation, but it has been unable. The International Federation of Football Association (FIFA) came here but they have been unable to mediate. I do not know what will happen soon.

I tried to get the Speaker in the morning, but he was unavailable. I wanted to know how best we can address these issues, especially the football family, which is going to be affected so much. I am saying this because I am in the football family and I know how it is going to affect my constituents, especially young boys and girls who have not had an opportunity of getting employed elsewhere, and who are earning their living from football.

Hon. Deputy Speaker: I think your point has been made, hon. Gikaria. I think you have prosecuted it well. What is open to us is really to call the Cabinet Secretary as we have been doing on Tuesdays. So, let us have it addressed, as a matter of urgency. Hon. ole Metito, who is standing in for the Leader of Majority Party, will do that. Even if it was not one of the matters to be handled, if we think it is very urgent the Cabinet Secretary (CS) can come and make a statement on the measures being taken by Government to address the problem.

Can we then move to hon. Wandayi? I hope it is not on football. Yes. I have given you the microphone.

Hon. Wandayi: Hon. Deputy Speaker, I just want to seek your guidance on some pertinent matter. You are aware that the education sector in this country is currently facing a crisis of monumental proportions. Since the commencement of first term earlier this year, there has been no learning in public schools in Mandera, Wajir and Garissa counties. The reason why there has been no learning is because teachers, who are supposed to have gone back on duty, have declined to do so. These teachers asked for transfers which have been declined by the Teachers Service Commission (TSC). I wrote a letter to the Speaker on Monday asking for time to raise this matter under a Motion for Adjournment. The Speaker advised that since the matter is with the Committee on Education, Research and Technology, we would have to wait for the Committee to accomplish their work.

I am rising now to kindly ask you to give a directive because this Committee has not given any indication as to when they will complete their work. As they “sit” on this matter children in those three counties are suffering. Teachers who are supposed to be on duty are suffering on the streets of Nairobi shuttling between TSC offices and Parliament buildings, demonstrating and picketing. We are facing a crisis and this House needs to provide a solution. We cannot continue to wait for this Committee for eternity; we need to know when exactly they are likely to bring us a solution to this problem.

We also need to know if the Committee has taken steps to summon the Cabinet Secretary in charge of security. This is because the bone of contention is that these teachers are being assured that their security is guaranteed in those areas, yet they are

apprehensive because they witnessed the massacre of their colleagues in Mandera. We need an assurance from the Government, through this Committee, that the teachers are safe enough to go back to those areas, short of which I will need to insist that the TSC transfers these teachers to areas where they feel they are safe and redeploy other teachers to those other areas. This is so that children are taken care of and at the same time the interests of the teachers are taken care of.

Thank you.

Hon. Deputy Speaker: Thank you, hon. Wandayi. That, indeed, is a matter of national importance and concern. I would like to know whether the Chair of the Committee on Education, Research and Technology or the Vice Chair, can guide us as to when their investigations are going to be over. Is any of the two available? Yes, hon. Melly. Can you give us an indication as to when you are going to be ready, which should be very soon? As you have seen, it is of grave concern to the country and particularly to the Members from that region.

Hon. Melly: Thank you. The issue is a matter of national concern and the Committee has been consulting with all Government agencies with a view to solving the problem. This is not only an issue for the Committee on Education, Research and Technology; we are trying to ensure that every issue is tackled or is handled as per what is happening. This is because some of the teachers who have not reported for duty, have reported incidents of their being threatened. Therefore, they do not want to go. We want to investigate everything; we will report back on this issue by next week.

An hon. Member: By which day?

Hon. Melly: By next week on Wednesday.

Hon. Deputy Speaker: Okay, next week on Wednesday. Now I would also like to confirm that I had already approved a Motion for Adjournment to discuss something still in education - school fees, but hon. Okoth was not in the House to raise it.

Hon. Okoth, you made a request on it. You make a request and then you are not in the House to prosecute it. Order, hon. Lelelit! Now we have passed the Order where you would have made your request for adjournment. I do not know whether you will now have to push it to next Tuesday. Who is that? Yes, what is your point of order?

Hon. Lati: Hon. Deputy Speaker, let me first of all thank hon. Wandayi for bringing this thing to our attention. If you look at the casual nature in which this matter is being treated, it is very typical of all the matters that concern pastoralist communities. If children in Nairobi had not gone to school for one week, it is not hon. Wandayi who is in the Opposition who would have brought this matter to our attention. The President, the Deputy President and everybody in Government would be on their toes to make sure that those children go to school.

We are getting tired. Looking at the way the Vice Chairman is speaking it seems as if, if hon. Wandayi did not speak today, the Vice Chairman would not have brought the matter to this House, or even discussed it with Members of this House. I think we are Kenyans as members of the pastoralist communities and northern Kenya in particular, and we are getting tired of being treated as second class citizens. It is enough for the Government, once it is told to do something--- This is very serious since children have not gone to school for all this time. What will happen to the Form Four students and

Standard Eight students of that part of our country? We are tired. I think we need some seriousness in this matter. Thank you.

Hon. Deputy Speaker: Hon. Members, I can see the whole screen is full. Hon. Members, to allow us to also do other business, I am inclined to give hon. Okoth a chance to present his request and we see if he is supported by other Members, so that at 5.30 p.m. as we talk about school fees, you can also bring up the concerns that you are bringing up about issues of children in the north not going to school. I think that will be a better way to proceed, so that you will have an hour to actually prosecute all the issues about education. I hope our Members in the Committee on Education, Research and Technology will also be here to take note of what will be said, so that they can expedite what needs to be done. Hon. Okoth, I am giving you this chance.

NOTICE OF MOTION FOR ADJOURNMENT UNDER S.O. NO. 33(1)

INCREASE OF FEES IN SECONDARY SCHOOLS

Hon. Okoth: Thank you, hon. Deputy Speaker. I request adjournment of the House on a definite matter of urgent national importance pursuant to Standing Order No.33(1). I seek leave to move the adjournment of the House for the purpose of discussing the ongoing crisis in the education sector regarding especially, school fees for Form One students, who are being charged as high as Kshs120,000 in some schools.

In the recent past, there has been unwarranted upward review of school fees by school boards of management, raising school fees to as high as Kshs120,000 annually. It is deeply disturbing that many parents and guardians are now unable to afford the high secondary school fees, causing many deserving students to fail to join secondary schools. This is an issue in many constituencies, as we have heard from hon. Members. I, therefore, seek the adjournment of the House to discuss the ongoing crisis in the education sector with particular emphasis on the school fees for students joining Form One.

Thank you, hon. Deputy Speaker.

(Several Members stood up in their places)

Hon. Deputy Speaker: Okay, hon. Members. Obviously, this is a matter that is in the hearts of all the Members. I, therefore, order that at 5.00 p.m. we will have one hour and a half on this.

Hon. Members: Now!

Hon. Deputy Speaker: Order, hon. Members! Let us be orderly because we have some business to finish. One hour and a half of just talking about the education sector, I believe, will be generous time. Can we then move on to the next Order?

MOTION

APPROVAL OF HOUSE CALENDAR

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Hon. Katoo: Hon. Deputy Speaker. I beg to move the following Motion:-
THAT, pursuant to Standing Order No.28, this House approves the Calendar of the House (Regular Sessions) for the Third Session of the Assembly as contained in the Schedule below:-

SCHEDULE

CALENDAR OF THE NATIONAL ASSEMBLY (2015)

PART I: SITTINGS

PERIOD

DAYS

Third Session, First Part Tuesdays (afternoon), Wednesdays (morning and
Tuesday, 10th February – afternoon) and Thursdays (afternoon)
Thursday, 30th April, 2015

Third Session, Second Part Tuesdays (afternoon), Wednesdays (morning and
Tuesday, 9th June – Thursday, afternoon) and Thursdays (afternoon)
27th August, 2015

Third Session, Third Part Tuesdays (afternoon), Wednesdays (morning and
Tuesday, 29th September – afternoon) and Thursdays (afternoon)
Thursday, 3rd December, 2015

PART II: RECESS

Third Session, First Part

) Short Recess

(b) Long Recess

Friday, 3rd April - Monday, 13th April, 2015

Friday, 1st May - Monday, 8th June, 2015

Third Session, Second Part

) Short Recess

(d) Long Recess

Friday, 10th July - Monday, 20th July, 2015

Friday, 28th August - Monday, 28th September,
2015

Third Session, Third Part

(e) Short Recess

(f) Long Recess

Friday, 30th October - Monday, 9th November, 2015

Friday, 4th December - Monday, 8th February,
2016

Hon. Members: Where is it?

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Hon. Katoo: Hon. Deputy Speaker, hon. Members are asking where the schedule is. It is at the back of the Order Paper.

Hon. Deputy Speaker: The Schedule is at the back of the Order Paper.

Hon. Katoo: Hon. Deputy Speaker, the proposed calendar was adopted by the House Business Committee (HBC) on 11th February, 2014. Hon. Members should look at it; it is informed by the following reasons: the Budget process and the passage of legislation with constitutional timelines.

Hon. Deputy Speaker: Hon. Katoo, just clarify whether you said 2014 or 2015.

Hon. Katoo: Sorry; it is in 2015. The House Business Committee met yesterday, 11th February, 2015. It is also important to note that it is now a requirement that the calendar of this House be approved by this House. It is then gazetted for the Kenyan public to see. Therefore, there are three issues that informed the drawing up of this calendar. These are the Budget process, the passage of legislation with a constitutional timeline and the approval of other legislative business.

Hon. Deputy Speaker, regarding the Budget process, it normally falls on the first part of the Session, which is between February and April. It has some fundamental deadlines set by the statutes and the Standing Orders. For example, the Budget Policy Statement (BPS) should be tabled by 17th February, 2015 which is Tuesday next week. I kindly request Members to follow up this because it is going to inform the business of the House from now up to December this year. After the BPS has been tabled by 17th February, 2015 – which is Tuesday next week – it is considered by Committees. Thereafter, the Committees should conclude their consideration by 1st March, 2015 for the House to adopt it.

Related to the same BPS is the Debt Management Strategy Paper, whose consideration by the House should be concluded by the end of February, 2015. We also expect the Division of Revenue Bill, 2015 to be introduced during the first week of March and passed by the two Houses by 31st March, 2015. We also expect to conclude the Supplementary Budget process, including the passage of the Supplementary Appropriations Bill, 2015 before we start considering the Division of Revenue Bill, 2015. This will pave way for the County Allocation of Revenue Bill, 2015 which is envisioned to be introduced in the Senate during the second week of April, 2015. It is normally forwarded to the National Assembly during the first week of May, 2015. Thereafter, the annual reading of the Budget is on the second week of June. Going back to the month of April, it is estimated that the Estimates of Revenue and Expenditure for 2015/2016 will be submitted on or around April, 2015 and go through the committee system by the end of May, 2015.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Consultations are too loud.

Hon. Katoo: Hon. Deputy Speaker, this will pave way for the introduction of the Appropriations Bill, 2015, which should be passed by the House on or before 26th June, 2015.

The other thing is the passage of legislation with constitutional deadlines, or timelines. We have three of these Bills that we should have passed last year and for

which we extended the deadline to 27th May, 2015. These are the Public Audit Bill, 2014, the Public Procurement and Asset Disposal Bill, 2014 and the law actualising Article 47 of the Constitution, whose Bill is not yet even published. On the same note, this year, which is the fifth year following the promulgation of our Constitution, Parliament ought to enact legislation covering the following subjects by 27th August, 2015. These include community land in accordance with Article 63 of the Constitution, regulation of land use and property which is in accordance with Article 66, agreements relating to natural resources as par Article 71 of the Constitution, the promotion of representation of marginalised groups in accordance with Article 100 of the Constitution and any other law required to be enacted by the Constitution.

Hon. Deputy Speaker it is, therefore, a wake-up call to the Committees of this House, specifically the Committee on oversight, which is the committee concerned with the implementation of the Constitution, to take a conscious decision to engage the Office of the Attorney-General, the Commission for the Implementation of the Constitution (CIC) and other relevant agencies to ensure that the Bills are introduced in the House in a timely manner.

Finally, we also have passage of legislation with constitutional timelines. We have about 20 legislations which we ought to have considered this year. That is why the calendar that is appended to the Order Paper has been arranged as proposed. We, therefore, propose that the House holds 123 sittings, excluding any special sittings, or morning sittings held on Tuesdays and Thursdays, which may eventually be inevitable.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultations are too loud.

Hon. Katoo: The consultations are too loud, especially on this side, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Katoo cannot even hear himself speak.

Hon. Katoo: It is true. The other side is very attentive.

(Hon. Kanini-Kega consulted loudly)

Hon. Deputy Speaker: Order, hon. Kanini-Kega!

Hon. Katoo: Hon. Deputy Speaker, I am just concluding. I urge the House that because of the tight deadlines especially those related to the Budget and constitutional Bills, it has not been possible to synchronise the recess period with school holidays as is the desire of most Members.

However, the short recess will bridge this gap to ensure that those of us with young families are able to bond with our school-going children. I request the House to approve this calendar for onward transmission to the public through gazettment.

I beg to move and request hon. David Were, who is a member of the House Business Committee, to second.

Hon. Were: Thank you, hon. Deputy Speaker. As has been indicated by the Majority Party Chief Whip, I am a member of the House Business Committee. We deliberated at length on this programme.

I beg to second.

(Question proposed)

(Question put and agreed to)

BILL

Second Reading

THE PUBLIC AUDIT BILL

(Hon. A.B. Duale on 11.2.2015)

(Resumption of Debate interrupted on 11.2.2015)

Hon. Deputy Speaker: Hon. Members, this was an ongoing debate and I recall that hon. Tonui had a balance of six minutes.

Hon. Tonui: Thank you, hon. Deputy Speaker. I had dealt with most of the issues which I had wanted to address in this Bill. I had expressed support for this Bill because I believe it is going to refine various activities which are going on in various sections of both the national and county governments.

This Bill is very important to us as a Parliament. It is the Office of the Auditor-General which assists us to deal with issues of oversight.

Hon. Deputy Speaker: Hon. Tonui, please allow me to recognize the presence in the House of Bahati Girls Secondary School from Bahati Constituency, Nakuru County. You are welcome to the National Assembly.

Thank you. You may continue, hon. Tonui.

Hon. Tonui: This Bill is very important to us in relation to our role of oversight, which we play as a House. We need to get detailed information from the Executive on how it is using Kenyan taxpayers' money. That is why the Office of the Auditor-General needs to be empowered by law and financially to ensure that we get that information.

This Bill is also critical in ensuring that the public do get access to information on how their money is used or misused by the relevant organs of the State. The Office of the Auditor-General is also critical when it comes to assisting the Ethics and Anti-Corruption Commission to deal with those who misuse public funds. This Bill should be supported by all of us. It is unfortunate that as a House, we have not been able to fund this office so that it can work effectively. I remember during the last Budget, we were not able to provide about Kshs2 billion which this office required to recruit adequate staff and become efficient in dealing with issues of audit, or audit queries. I believe in the next financial cycle we will rise to the occasion and ensure that the Office of the Auditor-General is allocated adequate funds to ensure that it takes care of the interests of the Kenyan taxpayer.

Clause 12 of this Bill provides that somebody can act as an Auditor- General if the occupant of that office is not able to execute the functions of that office. This is a welcome creation by this Bill because there should be no vacuum in that office. It should work all through.

I am also happy that there is a new position created of Senior Deputy Auditor-General who will be in charge of administration and accounting. This will be the accounting officer of the Auditor-General's Office. I believe that the issue of conflict of interest arises where the Auditor-General is the accounting officer, and is also the officer in charge of auditing institutions in both the national and county governments. I welcome this position, which is created by this Bill.

With that contribution, I thank you.

Hon. Gichigi: Thank you, hon. Deputy Speaker. I rise in support of this Bill. It is obviously our obligation, as a Parliament, to enact this Bill, it being a constitutional requirement. Kenya is not short of audit reports. We have several volumes of these reports. The challenge is not that audits are not undertaken---

(Hon. Members consulted loudly)

Hon. Deputy Speaker: Order, Members! Consultations are too loud. Please, find a quiet place where you can consult. You know the other facilities which are available within Parliament.

Hon. Gichigi: The issue is that once the audit reports are prepared and given to the relevant authorities, nobody takes them seriously. If they recommend certain sanctions against public officers, no such sanctions are imposed. If they suggest remedial or corrective measures, or that certain actions ought to be taken, nobody takes that seriously. I have had an opportunity to serve on the boards of parastatals in this country. I can tell you that every time you sit down to review the implementation of recommendations of reports by the auditors, including internal auditors, you find that there is probably only 20 per cent implementation. That is where the problem is. It is important that we change that.

I am happy that this new law is introducing provisions that require public organs to forward reports to Parliament.

The Auditor-General puts such measures in place. If public bodies do not act within three months after a report is done, we can sanction such bodies. I am happy about these provisions because they give operational independence to the Office of the Auditor-General. The strings that are used to tie this office to the Ministry are gradually being cut off so that the office can operate without any interference.

Further, we are giving this office financial independence. They are supposed to make their budget and present it to Treasury. The Treasury is supposed to forward that budget, as it is, to Parliament. In addition to that, the Office of the Auditor-General is permitted to appear before parliamentary committees to present their budgets, views and requests. I hope that the trend that has been established in the recent past--- The Budget and Appropriations Committee and the House have heard the cry of the Auditor-General and provided more funds than what the Treasury had allocated to that office. Such

financial independence will go a long way in making sure that the Office of the Auditor-General carries out its duties independently.

I am also happy about the new organisational structure, and I urge the---

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, this is an important constitutional Bill. The level of consultations is too high. Please, Members, if there is a Bill you need to be keen in, it is this one.

I would like us to hear those hon. Members who have taken time to study it. Let us hear what their contributions are.

Hon. Gichigi: Hon. Deputy Speaker, all of us know that about 30 per cent of the Development Vote of this country's Budget goes to waste. Once the provisions of this Bill are in force, it will be possible for us to arrest part of that wastage.

Further, the Bill seeks to give to the Office of the Auditor-General power to compulsorily obtain information from public bodies and officers. Public bodies or auditors cannot refuse to provide information demanded by the Office of the Auditor-General, unlike what used to happen in the past.

I have a few amendments that I will be proposing. One of them is on the Audit Advisory Board (AAB). There is a requirement that its members be degree holders, yet out of the seven members, two are not required to be degree holders. That is something we need to correct through amendment of Clause 25(2).

The other amendment that I will be proposing is on the requirement that the officers serve a three-year term, renewable once. This provision needs to be reviewed because most of the membership of the Audit Advisory Board is offices in the Government. We cannot say that such persons should stop serving on the Audit Advisory Board.

Hon. Deputy Speaker, I am happy that this Bill is going to enable the Office of the Auditor-General to submit its annual reports to Parliament in a timely manner, so that we can approve and use them when dealing with the Division of Revenue Bill. It is important that the Office of the Auditor-General completes its work in time and brings its reports to Parliament.

Hon. Deputy Speaker, I hope that we will be accessing reports of audits conducted at the county government level because money is being wasted in the counties. I ask this House that, in addition to the other oversight bodies that we have at the county government level, most of which are not doing their work, we look at what the Auditor-General says regarding expenditure of public funds in the counties. This is the House which participates actively in allocating resources to public entities. As a House, we undertake vertical and horizontal division of the annual national revenue. We give resources to the county governments and the national Government. Therefore, it is important that we also oversee and audit the expenditure of that money, especially through examination of audit reports.

Finally, it is very sad that we hear rumours to the effect that some officers in the Office of the Auditor-General seek and get bribes when they go to the field to carry out audits. It would be disastrous for this country for the persons who are supposed to tell us

who the thieves are, to go to bed with the same thieves. I hope that once this Bill is enacted into law, the punitive measures proposed therein will serve as a deterrent to corruption.

Hon. Deputy Speaker, I beg to support the Bill, subject to the indicated amendments.

Hon. Deputy Speaker: Yes, hon. Onyura!

Hon. Onyura: Thank you very much, hon. Deputy Speaker, for giving me the opportunity to also give my views on the Public Audit Bill.

This is a very important Bill in terms of management and running of public affairs in this country and therefore, we need to look at it carefully, and make sure that the legal framework we are setting up, particularly the powers that we are seeking to give to this particular office, will be as effective as possible.

The Office of the Auditor General is very important. This constitutional Bill, as it is, will assist us in ensuring that we give him the powers and the resources that he requires, in terms of both budgetary allocation and staff. It is important for us to ensure that the particular office is empowered and independent. One of the problems that we have within our various Ministries and other public organization is the level of wastage. We expect that if the Office of the Auditor-General is made effective and empowered properly, it will be able to bring down the level of wastage of public resources.

There are also the areas of corruption and flouting of rules and procedures. One of the things that the Office of the Auditor-General needs to strictly deal with is that of systems and control. We do not expect this office to use the approach of the police, who just look for mistakes. The Auditor-General's Office should concern itself with strengthening systems and making recommendations that will strengthen institutions.

Some of the areas they need to look into carefully concern individual projects within the various departments. Some of the projects tend to take too long.

Hon. Deputy Speaker, I have in mind road projects. Some of them, for some reason, which I cannot understand, tend to take very long. There is a road project in my constituency which was launched, or inaugurated at the time when the former Prime Minister was the Minister for Works. It is over 15 years ago. This road which is hardly 30 kilometers long is still not complete. At times you wonder what really happens. Is it because the planning was poor or the budgeting was not there, or could it be that money meant to go to such projects is diverted to other projects? These are areas that they really need to look at.

Hon. Deputy Speaker, the other area that I would really wish this office to look at carefully is the issue of procurement. In this country, there is hardly any procurement project, or process, that goes right. Everything that involves procurement somehow has got all manner of anomalies. I do not know why this is happening but, perhaps, there are too many loopholes in this area of procurement that may need to be addressed by an office like the one that we are discussing and trying to empower today.

Hon. Deputy Speaker, other issues that tend to also make it difficult to do projects that we would like to do are in terms of when funds are supposed to be disbursed. I am looking at what is happening even to our own Constituencies Development Fund (CDF) funds. As we are speaking we are into the seventh month of the financial year and what we have received is hardly 30 per cent of what we ought to get. It is difficult to

understand why the process is so slow; when that happens it makes it difficult for us to plan and implement our programmes the way we have planned them. What I am saying is that we also need to be looking at the systems; we hope that the office that we are discussing today, the office of the Auditor-General, will assist us in looking at some of the drawbacks and weaknesses that make such things happen. Controls and risk management are areas that they should be looking at. Obviously, it would really be sad that those who come to this office, if they cannot be themselves of the highest integrity, would make the whole process to be compromised, or will be doomed right from the beginning.

When it comes to matters of staffing, particularly appointment of the person who will head this particular unit and the senior managers who will support him, they must be people of proven integrity and of highest professional qualifications.

Hon. Deputy Speaker, the other area that we need to look at and ensure it is properly strengthened is follow-up. There are times when these officers or this unit goes round to examine the systems and at times even discover wastage and pure theft of resources. Recommendations are made but there is hardly any follow up.

Hon. Deputy Speaker, I am aware that these reports come to Parliament. It discusses them and even makes very serious recommendations but somehow they just fizzle out.

Hon. Deputy Speaker: Hon. Lessonet, are you on a point of order?

Hon. Lessonet: On a point of order, hon. Deputy Speaker. I just wanted to really confirm to the hon. Member that he gave CDF as an example, yet we are doing extremely well in getting money from Treasury; so far we have received 50 per cent of this year's allocation. We have also remitted the same to constituencies which have complied with the CDF Act in terms of the balances they are holding in their accounts and approval of projects. I just wanted to say that the hon. Member is not right to say that the CDF money we have received is 30 per cent. Therefore, he is not in order to mislead this House.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Onyura, the Floor is yours.

Hon. Onyura: Hon. Deputy Speaker, I am talking about my own experience, which is that what we have received is about 30 per cent. If the other amounts have been forwarded then, maybe, I would like to know when because at the time I left the constituency that had not happened. Anyway, I just gave that---

Hon. Deputy Speaker: Hon. Member, we will not continue with this line of thought, because really we are talking about the Auditor-General and the Public Audit Bill; you can always consult the Chairman, so that he can give you a clearer picture. Just continue because you have got a few more minutes to be on the matter at hand.

Hon. Onyura: I am properly guided hon. Deputy Speaker. In conclusion, I urge that we should be checking the reports that come from the Auditor-General---

*(Hon. Koyi stood between
hon. Deputy Speaker and hon. Onyura)*

Hon. Deputy Speaker: Hon. Waluke, can you, please, observe our Standing Orders on standing between the Chair and the person on the Floor?

Hon. Onyura: Hon. Deputy Speaker, we should be checking the recommendations and the reports that come from the Auditor-General seriously; if we do not do that then what is the point or purpose of wasting all these resources doing such a good law and then it is not followed properly?

I support the Bill. Thank you.

Hon. Deputy Speaker: The hon. Benjamin Langat, the Floor is yours. Can we have some volume at the Dispatch Box?

Hon. Langat: Thank you very much hon. Deputy Speaker for giving me this opportunity to contribute to this debate on the Public Audit Bill, 2014.

Hon. Deputy Speaker, from the outset I want to say that I support the Bill. The Auditor-General is a very good friend or partner, for that matter of Parliament. Parliament will succeed if we have a successful Office of the Auditor-General. Our oversight role as Parliament will be successful if we have a successful office of the Auditor-General. Therefore, I want to say that this House should treat the Office of the Auditor-General as a partner who needs to be supported, because they give us technical support in our oversight work.

Hon. Deputy Speaker, we are increasingly calling for accountability and Parliament is a champion of accountability. It is only the Auditor-General who can help us to achieve this. This Bill seeks to establish the Office of Auditor-General pursuant to the new Constitution, and is actually repealing the former Act. What this House needs to check is the independence of the Office of the Auditor-General; if the Office of the Auditor-General is not independent then we may not see much. We, therefore, need to check whether what is being proposed really supports the independence of the Office of the Auditor-General.

Hon. Deputy Speaker, a big part of independence comes from the ability to manage the financial bit. Will the Office of the Auditor-General be given powers and enough financial support? Over time, we have increasingly added responsibilities to this office.

Hon. Deputy Speaker, with the new Constitution in place, we got 47 counties and all of them must be audited. With the new Constitution, we created quite a number of independent commissions. We even added constituencies which meant that the Constituencies Development Fund (CDF) must be audited. We increased them to 290. This is the time to look at whether the Office of the Auditor-General has been given sufficient funding; if we increase responsibility and demand professional work from them without giving them support as a House, it will be an effort in futility.

Therefore, I want to make a few comments on these concerns. Already this Bill went under public debate outside there after it was read the Second Time. It has already been subjected to public and stakeholder debate. My committee is beginning to receive comments from the public and stakeholders. There are some concerns which this House needs to consider at the relevant stage.

Under clauses 4, 8, 25 and 27, the staff of the Auditor-General's Office is being subjected to the Public Service Commission (PSC). The PSC is brought in to help in recruitment of staff of the Auditor-General. We need to tailor the Office of the Auditor-General to the Office of the Director of Public Prosecutions, because the Office of the Director of Public Prosecutions (DPP) employs its own staff. We cannot talk about

independence if we have another commission--- In the Constitution, the PSC is independent. The Auditor-General, although he is an individual, he is a unique kind of an independent office. He is an individual but an office at the same time. We need to ensure that we give it independence in terms of looking for staff and employing of staff so that, that independence is not jeopardized. We do not want the Auditor-General to give us excuses like “I wanted to do this but because the PSC has not done this, I have not been able to do this”. We will look at those clauses in consultation with all the stakeholders and the Ministry of Finance; we will look at how we can safeguard this independence in terms of staff. The Bill proposes that the Senior Deputy Auditor-General will be recruited by the Auditor-General but appointed by the PSC. There will be serious concerns in terms of how that person will be loyal to the Auditor-General. We need to ensure that in the recruitment of Senior Deputy Auditor-General, the Auditor-General and the advisory board have the say.

I know in the issue of funding or budget process, the National Treasury will want to say they have limited resources but if we have a Budget of Kshs.2 trillion and we give less than 0.001 per cent for the purpose of guarding funds, this will be a joke. We need to give it sufficient resources. We need to establish a system where Parliament and the Auditor-General will discuss the budget of that office; Parliament will give sufficient resources, so that we do not risk that office getting curtailed.

Under Clause 40, there is the issue of audit of national security organs. Yes, we must maintain confidentiality. We must not disclose our security details but this House should know that all previous corruption cases have come from security related procurement. This time round, we need to ensure that we maintain confidentiality, but we strike a balance. We must also ensure that procurement in the security sector complies with procurement procedures and must be audited to avoid rampant corruption, which has been reported severally.

There is another issue which I want to raise as I finalise because I do not want to talk much. The Office of the Auditor-General can only recommend. This House needs to come up with a procedure of following up audit queries. We have a lot of recommendations in our files; year after year we see the same recommendations. I want to challenge the House, especially the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) to give us recommendations as a House on how we can ensure follow-up; we can ensure that when the Auditor-General reports, tomorrow we see an improvement. We want to see Government financial statements which are reported on as in the private sector. We want to see one day our Government financial statements receiving what we call in accounting sector “unqualified reports,” meaning the auditor was satisfied that all procedures were followed and all funds were used properly. Therefore, I want to tell the PAC and the PIC that we need recommendations on how we can make ensure that follow-up and action are taken on the recommendations of the Auditor-General.

Otherwise, this office needs the support of this House in terms of the budget, legal framework and any other support that this House may give. I have already said that this is our very strong partner. We cannot succeed without the Office of the Auditor-General and the Auditor-General cannot succeed without Parliament. Therefore, I want to call upon the House to support this Bill.

As a Committee, we are open to stakeholder consultation between now and the Third Reading. We shall be bringing committee amendments. I also want to encourage hon. Members to look at the Bill, suggest amendments and, if possible bring them through my committee, so that they are easy to introduce at the Committee Stage. We want to pass a nice law that will ensure that the Office of the Auditor-General is now and in the years to come given the responsibility that we have given big offices.

I support and encourage hon. Members to support. Thank you.

Hon. Mwadeghu: Mhe. Naibu Spika, naomba nichukue nafasi hii nichangie Mswada huu, ambao umeletwa Bungeni kuhusu Mkaguzi Mkuu. Niko na mambo matano au sita ambayo ningeomba niyaangazie ili tupate mwelekeo unaofaa kuhusu Mswada huu, ambao umeletwa Bungeni.

Kitu cha kwanza ni uhuru wa Mkaguzi Mkuu. Mkaguzi Mkuu ambaye anahusika na ukaguzi wa vitabu vyote, au hesabu zote za Serikali pamoja na mashirika ya Serikali, anahitaji kuwa na uhuru wa kuajiri wafanyikazi wake. Tukiangalia kipengele kimoja Tume ya Uajiri wa Umma, kwa kimombo “Public Service Commission” ndio inatakiwa kuajiri wafanyi kazi wa Mkaguzi Mkuu.

Utakubaliana na mimi kuwa tukifuata mwenendo na mtindo huo, tutakuwa tunamnyima Mkaguzi Mkuu wa Serikali na mashirika yake uhuru wa kuwachagua wafanyikazi ambao anahitaji kulingana na vyeo, majukumu na sifa zao. Kama vitengo vingine vya Serikali vinaajiri watu wake vyenyewe, kwa nini tumnyime Mkaguzi Mkuu wa Serikali uwezo huo? Maoni yangu ni kuwa apatiwe uhuru wa kuwaajiri wafanyikazi wake kulingana na uwajibikaji wa ofisi yake.

La pili ni kiapo. Mkaguzi Mkuu anahitajika kula kiapo mbele ya Mkuu wa Sheria. Kwa nini aapishwe mbele ya Mkuu wa Sheria? Kwa nini asiapishwe mbele ya Rais? Haieleweki ni kwa nini aapishwe huko. Kwa nini asikichukue kiapo chake mbele ya Rais? Naomba tuyachunguze mambo haya ili tuone ni vipi tunavyoweza kumfanya Mkaguzi Mkuu awe na uhuru, aonekane kuifanya kazi yake bila upendeleo na bila kufuatiliwa ama kuwa na uoga.

Jambo lingine ambalo ningeomba kuangazia ni makadirio. Hivi sasa, inabainika wazi kuwa inambidi Mkaguzi Mkuu kupeleka makadirio yake kwa afisa anayehusika na fedha kwenye Hazina ya Kitaifa. Kwa nini ayapeleke huko? Kwa nini haya makadirio yasiletwe Bungeni kama ana uhuru wake? Hii itampatia Mkaguzi Mkuu nafasi ya kufanya makadirio yake, kuyaleta Bungeni kama vile sisi tunayafanya yetu na kama vile wanasheria wanaleta yao wenyewe. Kwa nini alazimishwe kuyapeleka makadirio yake kwa kitengo cha fedha ambacho yeye mwenyewe ndiye anakikagua? Inabainika wazi wazi mara nyingi kuwa akiomba kuongezewa fedha, fedha zake zinapunguzwa ili asiye akawa na nafasi ya kuchunguza mashirika yote pamoja na Hazina ya Kitaifa.

Kila wakati, Hazina ya Kitaifa inapunguza fedha za Mkaguzi Mkuu ili isipate nafasi ya kufanya ukaguzi wa kutosha. Kama itawezekana--- Niko na imani itawezekana kwa sababu nimemsikia mwenyekiti wa kamati ambayo inahusika na jambo hili, mhe. Langat, ambaye alikuwa hapa, akisema kuwa atapokea na atakubali mapendekezo ambayo yatatoka kwa umma pamoja na sisi Wabunge ambayo yatapendekeza kuwa Mkaguzi Mkuu apatiwe uhuru wa kutekeleza wajibu wake kama vile Katiba inavyomhitaji.

Jambo lingine ambalo ningependa kuchangia ni kuhusu majukumu ya Mkaguzi

Mkuu. Majukumu haya yameongezeka. Hivi sasa tuna Serikali za ugatuji 47, na zote zinahitaji kuangaliwa na Mkaguzi Mkuu. Fedha ambazo amepatiwa ni zile zile alizokuwa akipatiwa wakati hatukuwa na Serikali za ugatuji. Tuulizane wazi: Je, hiyo ni haki? Hawezi kuifanya hii kazi kama ana fedha zile zile ambazo alikuwa nazo wakati ambapo hatukuwa na Serikali za ugatuji. Kuna mashirika mengi ambayo yameundwa. Kuna ile hazina ya maeneo ya uwakilisha Bungeni ambayo tunaita CDF. Mkaguzi Mkuu anahitajika kufanya ukaguzi huko, na fedha ambazo anazo ni zile zile ambazo alipangiwa.

Tumeunda mashirika mengi na yote yanahitaji ukaguzi wa vitabu kutoka kwa Mkaguzi Mkuu wa Serikali. Hataweza kuifanya kazi hii kama hataongezewa fedha. Kama makadirio yake yatapitia katika Hazina ya Kitaifa, ninasikitika na nina uoga na wasiwasi kuwa hatapatiwa fedha ambazo ataomba. Makadirio yake na ombi lake yanafaa kuja moja kwa moja Bungeni, ili yashughulikiwe na Bunge. Yeye atakuwa na uhuru wake na sisi tutapata muda wa kuchangia na kumuuliza “Hizi fedha unazozomba, ni za kufanya kazi again?” Yeye ataijibu kamati ya Bunge na kuieleza vile anavyotaka kuutekeleza wajibu wake. Hapo, tutamsaidia na kumpatia peza za kutosha ili kuwajibika. Lakini ikiwa ni lazima apitie katika Hazina ya Kitaifa ninasikitika kwamba hataweza kupata kile atakachohitaji.

Nikiongea kuhusu usalama, mara nyingi tumeambiwa Mkaguzi Mkuu hawezi kukagua vitu ambavyo vinanunuliwa na ambavyo vinahusu usalama wa nchi. Hapo ndipo kuna ufisadi wa hali ya juu. Pendekezo langu ni kuwa aruhusiwe kukagua na akitoa ukaguzi wake, si lazima huo ukaguzi uchambuliwe ama uwekwe hadharani. Unaweza kupelekwa kwa Rais kwa sababu hata Rais angependa kujua ni mambo gani ambayo yanatokea katika mashirika, hasa katika mashirika ambayo yanahusika na usalama. Kwa mfano, jeshi letu linanunua vifaa ambavyo vinahitajika. Lakini tukiangalia vile Mswada huu umeletwa, kuna pahali ambapo wanataka kujikinga kabisa na vitabu vyao visichunguzwe. Je, nani atagundua kama kuna ufisadi kama hatutamtarajia Mkaguzi Mkuu aangalie hivyo vitabu na angalie fedha za umma zimetumiwa namna gani?

La mwisho, ni sikitiko kuona kuwa kila mwaka na kila muhula, Mkaguzi Mkuu akitoa ripoti yake, inaletwa Bungeni. Inaenda kwa Kamati mbalimbali, wanazijadili na kisha wanatoa maoni yao na wanapitisha maamuzi. Maamuzi haya yakipitishwa, hayatekelezwi. Utaona kwamba wanaohusika wanaachwa na wanaofanya wizi wanawachwa. Hawashughulikiwi. Wakati huu, kwa sababu tunakuja na sera na uwajibikaji mpya wa ukaguzi, ripoti yoyote ya Mkaguzi Mkuu ikitwa Bungeni, tukiipitisha, wale ambao hawajatekeleza majukumu yao kulingana na ripoti ya Mkaguzi Mkuu, basi wachukuliwe hatua. Wasiachwe waendeleo hivi hivi. Inaonekana ni fedheha. Mwaka baada ya mwaka, ripoti zinakuja hapa Bungeni, tunazichangia, tunazizungumzia, tunatoa mapendekezo yetu na baada ha hapo mambo yanakwisha. Ripoti inawekwa kwa kabati, inaokota vumbi, inaliwa na panya na kombamwiko wanailalia. Tunafaa kusisitiza na kuweka wazi kuwa wakati huu ripoti ya Mkaguzi Mkuu ikipitia Bungeni, itatekelezwa.

Hon. Deputy Speaker: Your time is up.

Yes, Hon. Gikaria.

Hon. Gikaria: Thank you, hon. Deputy Speaker for giving me this opportunity to air my views regarding this very important Bill which, as you earlier indicated, is a constitutional Bill.

The Office of the Auditor-General is a very important office in this country. It is very unfortunate that so much has not been done in this office regarding corruption for so many years. This is because, as we have the Ethics and Anti-Corruption Commission, the Auditor-General, who has the responsibility of going through the accountability of every public institution, has always fallen short of what they are supposed to do. So many matters have been raised in Parliament and in other areas regarding the Office of the Auditor-General. One of the issues that have always been raised is about the finances – that they do not get enough finances and qualified staff to carry out this very important function.

Hon. Deputy Speaker, if you look at what is happening in the country now, it is just because of the laxity of this very important office. So much money has been given to both the national Government and county governments. A study which came out the other day showing how counties have managed their resources is shocking. It indicated that most of this money cannot be accounted for. An allegation has been made – I do not know whether it is true or false – that if the Auditor-General walks into your office to do an audit, there is always a briefcase for them to carry. It is a matter of how much money a public institution has misappropriated and how much money is the auditors' cut. It is an allegation which cannot be justified, but going by what has been happening, I think there is some truth in it. I hope that this constitutional Bill is going to bring some changes.

There are a few issues which have been raised regarding the establishment of the office, and how it is supposed to work. First of all, I want to comment on the functions of this office. As has been stated in Clause 7--- It is to give assurance to the effectiveness of internal audit. There is no point of us going to check where money has already been lost. It is important for us to have internal mechanisms that can be used to raise the red flag whenever necessary, and indicate that if we are not careful, we are going to lose a lot of money.

Parliament has taken over the responsibility of the Auditor-General in some places. Some of the committees have raised the red flag, and we have stopped projects where we could have lost money. If this aspect is going to give assurance of effective internal audit, then we are very certain that our money will not only be safe, but will not be “eaten”.

I was told about what used to happen in Singapore. The government decided not to go after the people who had stolen its money; instead it would first do an audit or make a follow-up. This is what this Bill will be able to do once it is enacted into law.

Secondly, the Office of the Auditor-General should undertake audit activities not only in the national Government but also in the county governments as well as in all other public institutions. This is where the bulk of corruption takes place. If they are given this function through this proposed law, then I believe that most of the money will be saved. Under Clause 7 the Auditor-General has to satisfy himself or herself that all public money has been used and applied to the intended purposes. This is where we lose a lot of our money; we have given you a lot of money to do development; instead you use other

mechanisms to have money intended for a particular purpose diverted to Recurrent Expenditure.

I will particularly say this about Nakuru County. People say that there is a very high wage bill and counties continue to employ; you miss the point they are explaining. If money has been set aside for development, then it must go to development, and that development should be done according to the percentage given in the Budget. This is what will increase growth of the economy and the counties in general. Therefore, not only should we check corruption but should also check wastage and diversion of money.

I am told that in the public financial management regulations, where we use the Integrated Financial Management Information System (IFMIS), the Budget Controller should specifically ensure that whatever money has been voted to a particular Vote is spent on that Vote. Unfortunately, a lot of supplementary budgets have been allowed, more so at the county level. Today we had a committee sitting where we saw some supplementary budget proposals by counties seeking to relocate money from one direction to another. That is where, as Parliament, we need to come in very effectively and be able to take care of such issues.

Lastly, Clause 8 is about the determination of remuneration. It stipulates details, subject to Article 230. We need to be careful here. The Salaries and Remuneration Commission is the body that has been vested with the responsibility of saying how much should be given in terms of remuneration. This Bill seeks to give the same function to the Auditor-General, so that he can decide how much money his employees should be given. This is something we need to look into and come up with some amendments.

The powers found under Clause 9 are very important. They will enable the Office of the Auditor General to conduct investigations through their own initiative. This is important. Yesterday we saw Senator Sonko carrying a lot of documents, and trying to raise the red flag. It has been written by so many other quarters that a particular institution is misusing its resources, but we see nothing happening. The Auditor-General should carry out his own audit. They do not need to rely on an alarm raised by Senator Sonko or any other person. We want the Auditor-General to take up this responsibility. They do not have to wait until the red flag has been raised for them to start an investigation.

Of course, they can also seek professional assistance. If they think that they are incapacitated in terms of the personnel within their office, the law gives them the power to engage professionals. The professionals will be able to do an audit of a particular department and give a very comprehensive report that can be relied on to stop wastage and bring to book the people who will have misappropriated public funds.

I agree with the independence aspect, and it has been spoken about. However, I disagree with my colleague, the Minority Chief Whip, where he says that the Auditor-General should take an oath before the President. I think the way it is, an oath before the Chief Justice is a very good idea, so that he does not feel intimidated by the presence of the Executive.

The last aspect we really need to look at is the amount of money given to this office. They have always claimed that it is not enough. I totally agree that money might not be enough. Now that we are in the budget process, we need to assist this office to be given enough money.

Last but not least is the penalties and what will be done under Articles 60 to 66.

Hon. Deputy Speaker: Hon. Gikaria, your time is up. Let us have hon. Anami.

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

Hon. Deputy Speaker, this being a constitutional Bill, it is very important that it is passed, so that the Office of the Auditor-General can start operating under the proposed new law to enable it carry out its functions as provided in the new Constitution.

We should support this Bill because it will give the Auditor-General independence to initiate work, co-ordinate and sue the persons concerned. In this country we have been talking about impunity and wastage of public funds. We have also been talking about underperformance because everywhere you go, you find stalled projects. These stalled projects represent the wasted opportunities for this country. They are also a representation of stolen opportunities and funds. So, the establishment of this Office is very important because it will save us from more of these malpractices.

I would like to comment on management of internal controls in public institutions. At the moment we have very many public institutions – we have 48 governments, including the county governments. Therefore, supervision and management of internal controls in these offices is very important. There is an outcry all over about the usage of public funds. Some of these are just suspicions and fears being expressed by members of the public. We have talked of public participation, but we do not have a clear dimension on where the public comes in, when to have social audit and then forensic audit. The establishment of this Office will enable us to educate Kenyans. It will also enable public servants to deliver on their assignments.

We should encourage establishment of the headquarters which is slated to be in Nairobi. However, we also need to categorically state that branch offices will be opened within the counties so that in every county we have an office of the Auditor-General, who will on day-to-day basis follow up with management of public resources. This should not just be on books kept; it should also be on the behaviour and conduct of public servants as has been expressed in Chapter 10 of the Constitution. We have the responsibility to uphold the principles of the Constitution. Our Constitution is very clear on how we must behave as public servants. Therefore, I think the work of the Auditor-General should also embrace that concern about the performance of every other public officer. We have a lot of misinformation because people talk about things they do not know. The Auditor-General should take interest in these things and even have a programme within his or her establishment that will follow up with the performance of public servants. This should embrace even concerns that relate to hate speech, misinformation and misguided principles and policies that are applied by the public servants. The Auditor-General should take interest in this because we would like to have a society that is all inclusive by embracing and being benevolent to everyone. This way, national values will be promoted.

One area that is interesting in this Bill has to do with the powers provided for the Auditor-General. There is that one of personal initiative. This is where I need to propose the principle of not taking an oath before those that will be audited by the same Office.

[Hon. Deputy Speaker left the Chair]

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

There is the issue of capacity building. When it comes to corruption, it is not only public servants who are involved in corruption. We also have partnerships and performers in the private sector who initiate corruption practices. The Auditor-General should have the freedom and powers to sue such institutions. We need to capture this very clearly in this Bill. Empowerment, therefore, of the Auditor-General's Office is very important. This House should find it of interest to empower the Auditor-General. If, indeed, he has to bring order even in the private sector then he must rise above board so that he can address all the players in this sector.

The constitutional provision on equitable distribution of resources to the counties and other sectors in this country should be upheld. The Auditor-General should find it in his interest to also examine this within public institutions. We have instances in public institutions where the Executive carry on meetings in their mother tongue. The Auditor-General needs to stretch his interest in such areas because we would like to achieve equity and avoid gap discrimination.

The advisory board proposed here is important. This is because the Auditor-General needs to have source of power and guidance. We need to have others contributing on this matter. I support this Bill especially as far as regularizing our operations and embracing our national values are concerned.

I thank you very much.

Hon. Mwangi: Thank you, hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important Bill. One of the biggest reasons why this country has dragged behind in development is because of corruption which has been here for the last more than 50 years. This has happened when we have the Office of the Auditor-General. This is one of the offices which have not been having teeth to bite because it only recommends. I think now is the time we should give the Auditor-General the teeth to bite. During the Anglo Leasing saga a report was brought to this House but by then it was not possible for this House to do its job properly due to interference from the Executive. If we are to give this office power then let it be independent such that they can take the perpetrators of misuse of public funds to court.

Hon. Temporary Deputy Speaker, some of the issues which have been given in the Bill are very important. We can see more powers being given to this office to safeguard the interests of Kenyans by way of giving information. However, I have an issue on concealing of information. Some of the information which is being concealed belongs to the Ministry which is concerned with security. There was a time when our security apparatus bought Mahindra vehicles. If they can conceal such information, how will this Parliament be able to implement its role of being a watchdog of public affairs?

Hon. Temporary Deputy Speaker, I oppose that. Even if there will be concealing of important information, this House should know which areas, where it happened and how to curb it. It is not enough to say that the information should not go to the public.

Hon. Temporary Deputy Speaker, as I conclude, there is one issue whereby the Office of the Auditor-General will now be able to get information of bank accounts. I

think this is where the problem is. When public officers loot public money they take it to the bank. We have no powers to get evidence. It is only said that those are allegations. Let us stop creating wealthy people overnight. Let us move this country forward. It is time to say no to corruption by giving this office more powers.

With those few remarks, thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the Member for Alego Usonga.

Hon. G.W. Omondi: Thank you, hon. Temporary Deputy Speaker for giving me the opportunity to put my voice in this Bill and from the outset, I support it.

Hon. Temporary Deputy Speaker, in our Budget and Appropriations Committee we see a lot of things which really bother us and at one time we are wondering why the Auditor-General is not given powers to be able to rein in the various Ministries more so, at the county level. However, having looked at this Bill and comparing it with what was there before, I come to the conclusion that the old Bill did not give the Auditor-General a lot of room.

Hon. Temporary Deputy Speaker, I will look at this new Bill in relation to the scope that the Auditor-General had before and what is given now. Clause 7 gives the Auditor-General powers to look at the systems and how the money has been spent at the various Ministries more so, at the county. In other words, this Bill strengthens, widens and expands the functions of the Auditor-General's Office. He will execute his functions with the required depth and expectation of this House as delegated to it by the voters.

Hon. Temporary Deputy Speaker, we have read in the newspapers about lack of provision by the county governments of development funds. Governors say that they have given enough funds and the World Bank is saying the opposite. This could have not been the case if the Auditor-General had actually looked at these figures. The Auditor-General did not have powers to audit the funds. With this Bill, Governors will have nowhere to hide.

Hon. Temporary Deputy Speaker, the other bit which was lacking was enough personnel and it is provided for in Clause 23. Whenever we ask the Auditor-General why they are not doing their work with the depth that is required, the answer has always been lack of personnel and resources but now Clause 23 gives the Auditor-General powers to outsource services. This will go a long to help the Auditor-General carry out quality audit.

Hon. Temporary Deputy Speaker, the other thing that has been lacking in the previous Bill is credibility. The Auditor-General could audit, check books and eventually simply say that the books were not properly kept. This Bill, more so in Clause 53, gives the Auditor-General powers to recommend the withholding of funds. So, in other words, the entities being audited, knowing very well that the Auditor-General has got teeth to bite, will be more careful and will take the Auditor-General's recommendations seriously.

Hon. Temporary Deputy Speaker, the other bit is that the Auditor-General will be more responsible.

(Loud consultations)

Hon. Temporary Deputy Speaker, can you save me from hon. Obura and hon. K'oyoo who are talking loudly? Hon. Obura, thank you for listening.

Hon. Temporary Deputy Speaker, the final bit that I am looking at is that the Auditor-General will now be more responsible because in Clause 4 the Auditor-General will be a corporate body that can be sued and also sue. This was lacking in the previous Bill. Now information can be passed by ordinary *mwana* to the Auditor-General and if they fail to address it, they can be sued for negligence. Similarly, they can also go ahead and sue institutions that are not responsible.

Hon. Temporary Deputy Speaker, with those few remarks, I think this Bill is timely. We came up with the Constitution of 2010 but we did not take into account how funds were going to be administered at the county level. With this Bill, I think many people are going to be brought to book. I support.

The Temporary Deputy Speaker (Hon. Cheboi): Very well! We are going to make good progress. I am sure hon. Members understand that we have a matter on Adjournment at 5.00 p.m. If we go at the speed which I have seen the last few hon. Members picking, I think we will have many of you contributing.

Hon. Manje: Thank you, hon. Temporary Deputy Speaker, for giving me this chance to contribute to this very important Bill and it is constitutional. The rationale behind the creation of the Office of the Auditor-General is to ensure that public money is utilized in a prudent, efficient and transparent manner. You will find that taxpayers pay taxes so that this money can be put into proper use. It does not make any business sense or country development sense if this money is collected as taxes and then it is misappropriated. This is why the Office of the Auditor-General is created. So, apart from that, we should note that it has an enormous tax to ensure that the country develops because if taxpayers pay money and it is not put to the intended purpose, then it means the country will never grow.

Apart from auditing the national Government, the Auditor-General's Office is responsible to audit another 46 governments; the county governments and all the Ministers in charge of our various sectors. It is also responsible for auditing constitutional offices that we have in our country and other public sectors including Parliament and all the courts. Therefore, it requires real empowerment so that it can make sure real auditing is done. In the process of accounting, if that section of auditing is not well taken care of, then it means that there will be a lot of wastage. If there is a lot of wastage, it means that that entity will not be making any profit or development.

There is a lot of corruption going on in our country and it can only be captured if we have a very good audit Office and the personnel properly selected. If you put somebody who is corrupt into the system then what you will be doing is extending corruption. I do not know whether some Kenyans had ever realized that stealing public money is equivalent to a person stealing a cow in the middle of Pokot. The concept is the same. The difference is that this is stealing from the Government while the other one is stealing from an individual. At the end of the day, the main objective is the same. To offer oversight to these bodies, we require a strong and independent audit Office.

Hon. Temporary Deputy Speaker, having said that, the accounting officers should be held responsible for the money given to them. In other countries, for example, you will find that the budget allocated to an accounting officer depends on how much he accounts

for the previous funds that were allocated to that sector. So, we should try as a country to see how we can factor this one. If an accounting officer is misappropriating funds, there is no point of giving that accounting officer another allocation or budget to spend. We should also have a very good correlation between what is reported by the Auditor-General and the report we get from the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). When the PAC, for example, recommends a certain sanction, then the country or the enforcers should ensure that the reports or recommendations are implemented. You will find that Parliament will recommend, for example, the Ethics and Anti-Corruption Commission (EACC) to act on a certain report but when we report that, nothing goes on after that. This one is very discouraging especially to the country and to hon. Members.

We would also hold responsible the accounting officers who allow this uncontrolled expenditure at the accounting points. You will find that an accounting officer will misappropriate money and the following year, he will use the same trick to continue misappropriating funds, for example, the current issue that is going on now about Mumias. If it went ahead for about eight years unreported, then it means that our auditing function was not operating at that particular time. We hear from our international community that there is a lot of misappropriation at the county level and we are not taking care of that. It means that what we are doing as a country is that we are giving people direct money. We are giving the Governor a lot of money, billions, like you have seen in newspapers. Some have been given Kshs12 billion, Kshs10 billion or Kshs8 billion yet the auditing section of it has not been improved in the equivalent. Then it means that most likely those governors will continue misappropriating that money because the previous amounts were not properly audited.

It is as simple as logic. If you want to construct a house and you buy materials like cement, sand, ballast and may be roofing nails and you give a *fundi* without supervising as the owner of the house, then go after a year to check whether the house is complete, most likely you will find everything was misappropriated. It is possible the house has not been built beyond the foundation level and you will have yourself to blame. If we do not empower the Office of the Auditor-General, then as a country we will not develop the way we are supposed to develop.

Hon. Temporary Deputy Speaker, you have travelled. We have all travelled as hon. Members and if you go to a country that is developed, you will see the sense and impact of a government. If you go to a country that is not developed, you will see the government is not doing anything because there is a lot of wastage. So if we put those controls properly, then the entire country will develop.

With those few remarks, I support this Bill.

Hon. Irea: Hon. Temporary Deputy Speaker, I rise to support this Bill. This is a very important Bill. There is a saying that power without control is useless. Whatever amount of money we give to public offices without having control from the Auditor-General will not be helping people but promoting corruption. During the Recess, I saw an advertisement in a newspaper, *The Business Daily*, where the Government was recalling all the monies held by parastatals. That monies that had been given by the National Treasury are being recalled shows that the Government is not keen on what is happening to that money. It is high time Kenya starts a Kenya Reserve Bank which is not the Central

Bank of Kenya (CBK) so that when money is given out from the National Treasury and public institutions and parastatals are not using it immediately, it can be put in the reserve bank. The reserve bank will be paying a small interest to those parastatals unlike now where if money is given to a parastatal, the head of the parastatal goes to discuss or negotiate the kind of interest he can earn on the money before using it. This will minimize corruption.

The Office of the Auditor-General should be devolved to various counties so that for money sent to counties, there is an audit by an external office which is not under the county government. That audit will help because right now the way money is being used in the counties is as if there is no control because the only control is in Nairobi, in the Transition Authority and the Auditor-General's Office. So the Office of the Auditor-General should be devolved so that weekly and daily checks can be done on how the county governments are using the money. Some county governments are using the money properly but others are not even able to use the money. They are returning it unused. They are given money and they are returning it. So if there is an Auditor-General's Office within the counties, the people managing the counties, the public officers, can also get advice on the expenditure and how they can use that money. On the reserve bank, Kenya releases money to parastatals which then put the money to commercial banks at certain interests. When counties do not have money, they borrow the same money at double interest rates.

That is why I am saying that if we have money that is not being used immediately, we will end up with a reserve bank, from which money can be borrowed by the county governments at a fixed rate. The way it is now, county governments borrow money even when they have some money in the reserve account. Why? The interest rate at which county governments borrow money from commercial banks for a period of between three and six months is very high. This promotes corruption because they can go back to share the spoils.

Therefore, this is a very important Bill. It will provide checks and balances. It will also provide openness. If you go to the websites of the county governments, you will not find the details as to how they use their money but other details about the counties are there. They should go ahead and show how much money they have received from the national Government and how they have used it. The Office of the Auditor General is very important. This Bill should give power to that office to enable them access information and share it with Parliament and the public. That is very important.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this important Bill but before I speak to the Bill, let me point out the fact that I was not here when the Calendar of this House was being discussed. I hope that at some point, we will get a chance to re-open debate on the matter because, as you know, before we went for the elections last time, the Supreme Court gave a ruling on the one-third gender rule. There is no institution other than Parliament that has the power to make a declaration that will have an effect of the Laws of Kenya. The Supreme Court had given a ruling that we have to find a way of operationalising the

constitutional requirement of the one-third gender rule as per Article 81 of the Constitution. I hope that this aspect will be taken into account given that it is a matter that has been pending. Even if it means re-visiting that particular Article, we should address it.

Hon. Temporary Deputy Speaker, having said so, the Bill before the House is very important. However, I would like to correct the impression being created by some of my colleagues; that it is a constitutional Bill. This is not a constitutional Bill but rather a Bill which has got a constitutional timeline, and which should have been accomplished last year.

It is a fact that the role of Parliament and that of the Office of the Auditor General – which carries out public audit – are almost similar. Their role is to promote good governance and accountability in the public sector to ensure proper safeguards of public resources placed in the hands of public officers. This is the underlying theme behind the need of ensuring independence of this important constitutional office. It is, however, not possible to guarantee independence where an institution does not enjoy financial autonomy; or where that same institution we are calling independent has to answer to other agencies of the Government, particularly with regard to staff recruitment.

I have a list of members of staff who hold positions of public accountability. Looking at the Bill before us, the Accounting Officer in the Office of the Auditor General, as per Clause 161(b) of the proposed Bill, is the Senior Deputy Auditor-General. This Bill somehow says that the recruitment of senior officers, including that of the Accounting Officer, will be carried out by the Public Service Commission. With all due respect, this provision definitely begs serious questions. Having an accounting officer in the Office of the Auditor General – which is an independent constitutional office – who is answerable to the Auditor-General or the Public Service Commission is not tenable. It is a fact that whoever pays the piper calls the tune. How are we going to make this office independent when its accounting officer is going to be appointed by somebody else? How are we going to engender independent decisions, considering the fact that the same Clause 16 makes the Senior Deputy Auditor General the head of administration and management at the Office of the Auditor-General?

Hon. Temporary Deputy Speaker, I believe that this particular provision is unconstitutional. Looking at Article 251, one appreciates that asking the Public Service Commission to appoint staff for the Auditor-General is actually unconstitutional. Article 252(1) of the Constitution states as follows:-

“252. (1) Each commission, and each holder of an independent office-

(a) may conduct investigations on its own initiative or on a complaint made by a member of the public;

(b) has the powers necessary for conciliation, mediation and negotiation;

(c) shall recruit its own staff;

(d) may perform any functions and exercise any powers prescribed by legislation, in addition to the functions and powers conferred by this Constitution.”

More importantly, going back to where we started, part (c) says that each commission or each holder of an independent office shall recruit its own staff. The Office of the Auditor-General is an independent office and, therefore, shall recruit its own staff. There is no exclusion. The operative word in part (c) of Article 252(1) is 'shall'. I do not think it would be possible for us to allow the provisions under Clause 16 of this Bill without violating the clear provisions of the Constitution.

Hon. Temporary Deputy Speaker, looking at the Bill again, we have, under Clause 25, a body called "Audit Advisory Board". Looking at the functions of this body and its membership, one is tempted to think that this body, as provided for in this Bill, is actually an indirect way of eroding the independence of the Office of the Auditor General. I have tried to look at this Bill clause by clause. I am also convinced that Clause 20, as currently framed does not, in my view, guarantee the Office of the Auditor-General the required financial autonomy for meaningful independence.

Hon. Members have spoken here on the need for the Office of the Auditor-General to be given financial independence. The functions of the Office of the Auditor General are critical. We have seen the pillage of wastage that every year the Office of the Auditor General uncovers. Of course, I agree that if we make the functions of internal audit more efficient, some of the issues that the Auditor General uncovers year in, year out might be minimised. With the functions that we are trying to give to the Auditor General in this Bill, Clause 20 needs to be looked at with a view to giving that Office the requisite financial autonomy that would enable it to discharge its functions.

Under Clause 40, we have restrictions with regard to auditing of national security organs. I think this expression of "national security organ" we use it, in my view, to spread unnecessary alarm. It is true that some but not all of the work that the national security organs undertake is confidential and borders on State security. But I think to make it so diverse is more or less trying to ring-fence the national security organs from scrutiny. When, for example, the National Intelligence Service (NIS) purchases toilet paper, what is the difference between that and what we do here when they purchase Bic pens? It is the same thing. They do many things. They construct houses and they do renovations. It is the same thing we do here. We cannot make it so restrictive.

As I rush to conclude, I think clause 72 is rather vague because does it, for instance, include performance auditing for purposes of identifying efficient, effective and economic use of public resources? What would be wrong with that?

Having said all that, as we get to the Committee stage, I will be looking to propose several amendments to this Bill which I will bring before the House.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, let us have hon. Dido.

Hon. Dido: Thank you, hon. Temporary Deputy Speaker for this opportunity. I rise to support this Bill. From the outset, what I want to say is that doing the same thing all over again; the same way and same formula, we should not expect different results.

The Auditor-General's Office is established under Article 229 clearly on auditing and reporting. But what has happened in recent times? It is as if this office does not exist. I believe with this Bill, we are kicking some life into that office. This is because lack of Auditor-General's Office in any country is looking in the face a national economic collapse because it is going to be free for all, taxpayers' money is going to be taken and

there will be no follow up and there will be no recourse to court. In the process a country such as ours would become a paragon of corruption.

Hon. Temporary Deputy Speaker, all hon. Members who have spoken before are pointing out that by making this office independent, by making it efficient and effective, it means we want to rein in corruption. We want---

(Hon. (Eng.) Gumbo consulted loudly)

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. (Eng.) Gumbo! You are creating some disorder back there. You have just had an opportunity to contribute, let hon. Dido be heard in silence.

Hon. Dido: Thank you, hon. Temporary Deputy Speaker for protecting me. I think hon. (Eng.) Gumbo should be candid that he was heard in silence.

Looking at this Bill, I think we need a paradigm shift in terms of addressing what the Auditor-General should do. I particularly have three areas; the periodic audit, the performance audit and the forensic audit. It is the sort of things this office can carry out to be efficient because when we say that we want to devolve this office so that it is at the counties, at the lowest level, at the grassroots, the danger is what we already have with the internal auditors who used to be in the districts and provinces who are no longer effective. I do not believe they are still there. I believe the bodies are there but the working minds are not there. It is the reason why today all the counties are reporting massive corruption but not a single entity has been brought before the courts.

One other area that I think is important is that of code of ethics because under Chapter Six of our Constitution, it tells exactly what is expected of public officers; people held in trust to watch over public resources. In the earlier days, all public officers were supposed to declare their wealth but it appears this has waned and is no longer the case. When individual accounts are going to be checked, individuals can go to court and ring-fence that. Unless we go back in time to see where we went wrong, as public officers, as leaders, we must provide the necessary impetus and support to this office so as to act in public good.

I want to talk about recruitment. One is the recruitment of the Auditor-General. I believe the office holder must be appointed with transparency and merit. It should be most qualified Kenyans, bereft of parochial political, organisational or professional interests. This is because unless this individual is sought, as a good Kenyan out there, then I think we will just be going back. The individual will be politically connected and he will be serving his master as opposed to serving public good.

The other thing is on having an acting Auditor-General. That is a good safeguard in the Bill but in the Third Reading what this House must reinforce is to ensure that, that office does not have a gap of more than three months so that the incumbent is active, available and able to perform his duties effectively.

Finally, it is on the powers to obtain information, particularly in the audit of national security organs. Any individual holding public office and using public funds must be accountable. Any safeguard in this Bill to protect individuals means this Bill will not be for public good.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, I will give an opportunity to the hon. Member for Gatanga, followed by the hon. Member for Kiminini and if time allows, we will have the hon. Member for Githunguri. This will depend on how all the hon. Members manage time. We only have some 11 minutes to the next Order.

Hon. H.K. Njuguna: Thank you, hon. Temporary Deputy Speaker. I will be brief. On the outset, I would like to say I support this Bill because of the oversight role that is anticipated and taking into cognizance the oversight duties of Parliament. If we have to play our role in effective financial management of public resources in this country, there is the assumption that we should have back up. This Bill is supposed to give us that oversight back up. I have looked at Section 2 of the Act, which one of the objectives is effectiveness of public spending.

What is anticipated in Section 2 is that in this Bill the Auditor-General shall provide prudent and efficient economic oversight in public financial management such that Kenyans will have value for their money, particularly when talking about the taxpayers' money. When we have an annual budget of Kshs1.8 trillion, it is only fair that there is in place proper financial controls and proper oversight on the use of that money. We know that although this office is supposed to be very important towards ensuring proper financial management, it is an office that has been toothless. As long as this Act is going to provide the necessary teeth in providing oversight in the use of this Kshs1.8 trillion or thereabout, then the Bill needs our support.

I have looked at Clauses 29 to 40 where the Bill talks about the audit that the Auditor-General is supposed to carry out in State organs. He is supposed to carry out periodic audit, annual financial audit, performance audit, procurement audit and forensic audit. In my opinion, if these audits are going to be carried out in State organs, then we will have proper oversight. With proper oversight, it is possible to stimulate the necessary economic growth and development in this country. If this office operates as per this Act, then we are headed somewhere. I am made to believe that without this office not much can be achieved in terms of value for money in our annual anticipated Budget.

I also take cognisance of the fact that the Auditor-General is supposed to report to Parliament. Once he reports to Parliament, we are supposed to take action upon the recommendations of the Auditor-General. We are even allowed to withhold money for the organs that have been reported to misappropriate funds or organs that are not carrying out duties effectively. Parliament is even authorised to recommend action on officers who have not performed their duties as required. So, for me this Bill is crucial. It is important because it is setting out the necessary parameters towards sound financial management of our resources. Therefore, if it is done then it is possible that even other organs like the Anti-Corruption Authority and our courts will be able to act and act accordingly.

In this regard therefore, I support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Kiminini, not Kimilili. I could see the confusion from hon. Murunga. You are likely to be speaking on the next one if you have interest in it.

Hon. Wakhungu: Thank you. I rise to support this Bill and because many hon. Members have talked about it, I do not want to repeat. We indeed know very well that this is a Bill that has a constitutional timeframe. From the records and Schedule Five of

the Constitution, it shows that we are supposed to have done this in 2014. Unfortunately, it has delayed. We are now doing it in 2015 and I think it is a wakeup call to the Commission for the Implementation of the Constitution (CIC). This is because if we continue delaying like this I do not think we are going to achieve much and yet we know very well that the CIC has only one year to go.

The Office of Auditor-General is very important.

The Temporary Deputy Speaker (Hon. Cheboi): By the way, hon. Wamalwa, for purposes of your own organisation, you have some four minutes to go.

Hon. Wakhungu: Four minutes? Okay, I will move very fast. The Office of the Auditor-General is very critical. It has so many powers but who oversees its functions? When you look at the Constitution, it talks of the Parliament. However, I have gone through the Act and I have not seen the answer. The Auditor-General is very powerful. It is important that we put some framework to check his powers to avoid abuse of power.

I serve in the Public Investments Committee (PIC) where the Auditor-General brings reports to us which form the basis of our work. I want to say that most of the reports are not timely. They come late. If there are issues of corruption, they are overtaken by time. It is my humble request as we speak today - I know the Auditor-General is listening - that we get timely reports. We cannot intervene if reports come when events have already taken place. When it comes to the Budget and Appropriations Committee which I serve, we tried to increase their budget allocation. I have seen in many occasions the Auditor-General complaining that the funds allocated to him are not enough. He has a shortage of personnel.

I know we are going to add more funds to strengthen that office. My humble request again is that the Auditor-General should try as much as possible in the spirit of devolution to have an operating office in every county. Right now we know a lot of misappropriation of funds is going on in the county governments because a lot is going unchecked.

I was just looking at some of the offences. It is very clear that anybody from the Audit Office who fails to disclose conflict of interest commits an offence. We know so much has been going on and it is important that there is disclosure. We are getting conflicting reports. I am saying this because of one case that I am aware of. We had reports of misappropriation of funds, violation of procurement rules in some referral hospital but we were shocked when the Auditor-General moved in and within two months, these people were given a clean bill of health. So we were wondering whether it was done objectively or the issues of conflict of interest and bribery were there.

I was also looking at Clause 10 which provides for independence. I do not think it is going to work because of this issue of the advisory board. The way you have listed the functions of the advisory board is like you have a school; you have the Chief Executive Officer and a board of management. The board instructs the Auditor-General on what to do. When we come to the Committee of the whole House, we have to move some amendments because the level of independence is questionable.

When you look at Clause 12, it talks about the Deputy Auditor-General. It is good for purposes of succession planning. When you look at Clause 20(2) where we will bring an amendment, we are told:

“The budget estimates of revenue and expenditure referred to under sub-section (1) shall be submitted to the Cabinet Secretary responsible for finance not later than 30th March each year for review and submission to the National Assembly in accordance with Article 221 of the Constitution, and National Assembly shall, pursuant to Article 249 (3) of the Constitution, allocate adequate funds to the office of the Auditor-General.”

With the recent Executive Order, I do not think we have any Cabinet Secretary for Finance. This is Cabinet Secretary in charge of Treasury. So we need to do some amendments.

When you look at Clause 21, I am happy about it because of the issue of data. There is no way the Auditor-General is going to do an audit unless he has been given the required documents. I think it is going to add a lot of value.

Lastly, this is important although I know I do not have time, we need to strengthen the Office of the Ombudsman.

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Wamalwa! If you need more minutes you can recoup when this comes up again. I think that marks the end of that particular bit. I will therefore give an opportunity to hon. Member for Kibra to prosecute his Adjournment Motion.

Please, proceed quickly. Hon. Members, I want to notify you that we already have 23 requests. So, maybe you should be processing in your minds whether we really need to proceed with the five minutes, or we make a different decision. So, let us have you proceeding before we make that specific decision.

Hon. Members: Five minutes!

The Temporary Deputy Speaker (Hon. Cheboi): You will not shout from where you are sitting. I have said that if there is anybody who will have an interest in bringing it lower, it will come to the Floor for you to make the decision.

Proceed quickly, hon. Okoth.

Hon. Okoth: (*Inaudible*)

The Temporary Deputy Speaker (Hon. Cheboi): I do not know if you are on HANSARD. I do not think so. Can you stand somewhere there then we will locate you from where you will be? Come next to hon. Member for Kiminini.

Hon. Okoth: Thank you, hon. Temporary Deputy Speaker for the promotion. I feel that I am standing as the Leader of the Minority Party. May I start by actually recording my appreciation for the consideration and indulgence by hon. Deputy Speaker, Dr. Laboso, who allowed us to proceed with this matter of national importance. It is a matter that is dear and concerns parents across this country and the future of our children especially---

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Okoth. What is it hon. Member for Webuye West? Are you on a point of order?

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

The Temporary Deputy Speaker (Hon. Cheboi): What is it?

Hon. Sitati: Hon. Temporary Deputy Speaker, I did not want to interrupt the hon. Member. I want to request that now that we are proceeding with that Motion, kindly can we reduce the time given the sensitive position of the Motion and many Members would want to---

The Temporary Deputy Speaker (Hon. Cheboi): That is fine. I know that. So that we do not waste too much time on it, I will put the Question immediately after he submits and then you will make a decision.

Hon. Sitati: Most obliged. Three minutes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Proceed, hon. Okoth. I will put the Question at the right time.

MOTION FOR ADJOURNMENT UNDER S.O. NO. 33(1)

INCREASE OF FEES IN SECONDARY SCHOOLS

Hon. Okoth: Thank you, hon. Temporary Deputy Speaker. Let me begin by actually saying that it is really thoughtful and helpful in a way because I can see the Cabinet Secretary for Education, the Principal Secretary for Education and other leaders from that Ministry are actually in the House to listen first hand to the concerns that the Members of the House will bring in this Motion on behalf of the people of Kenya. So, this is a great consideration. I would like just to put that on record that they were present to listen to us directly as we talk about this.

Thank you for coming.

The Temporary Deputy Speaker (Hon. Cheboi): Well, even if that is the case hon. Okoth, just proceed with your Motion. For the rest I do not know how we will notice that. If it was in court, it would have been judicial notice. However, let us hope that it is going to be “legislative notice”, if that term exists anywhere. Maybe hon. Baiya who is senior would be able to tell us.

Proceed so that we do not waste too much time on it.

Hon. Okoth: According to Article 43 of the Constitution, free and compulsory basic education is a right for all Kenyan children. This is enshrined in our Constitution in Article 43 (1) (f). It is also in the Basic Education Act under sections 27, 28, 29 and 30. So, what brings me to discussing this? If you look at the reality of what parents and Members of Parliament present today, many of our children are being denied the right to go to secondary school to join Form One this year because of some bureaucracy, or other decisions that are yet to be made properly and policies to be put in place to realise that.

If we go to the political context, the Free Primary Education (FPE) experience that was initiated under President Kibaki has been a huge success in this country. It has had its challenges. However, we can say that the commitment of our country to make sure that all children can go to primary school is something that is worth emulating across the African continent and any other parts of the developing world where children do not have access to education. Kenyans are thoughtful leaders in many ways. We decided that after ten years of experimenting and improving on the FPE and even committing to it as a standard, that we would go ahead with it not just as a policy but as a constitutional right. We are saying that basic education up to Form Four will be free, fair, compulsory and accessible to all children.

We committed to that. In the political context we started 2013 by implementing this Constitution. When you look at the Coalition for Reforms and Democracy’s (CORD)

Manifesto, it promised free day secondary school to be implemented in 2013 at the presidency of hon. Raila Amolo Odinga and hon. Stephen Kalonzo Musyoka. Unfortunately, they did not get a chance to come to implement that policy. It did not come to pass.

When you look at the Jubilee side, the Jubilee Manifesto made the same promise. President Uhuru Kenyatta and Deputy President William Ruto promised that there would be free day secondary education by 2015. That is what brings us here today. We are in 2015 and the Ministry of Education, which is charged with implementing this issue, has a task in its hand and I think it is failing the children of Kenya. Children can only be children once. They never get a second chance to go to school. If we do not guarantee them their rights, it is not a favour we are doing them. If we do not deliver on their rights and put policy and decisions in place, we are betraying these children, robbing them and stealing from a future generation. It will come back to haunt us because the security, economic, social and health implications for young people who do not go to school are too immense. This lack of education and a guaranteed education for our children will hurt this country and stop us from reaching Vision 2030. It will make Kenya more insecure, less healthy and a country with a lot of social problems, including early pregnancies, early motherhood and many other negative things. However, the picture does not always have to be this negative.

Head teachers and school committees who are charging too much are keeping so many deserving Kenyan children from going to secondary schools. Public secondary schools do not belong to head teachers or to the boards of management; rather they are public assets. They belong to all the children of Kenya. They are denying them a chance to go to secondary schools by setting up very high fees. We must take that as an issue that is a responsibility for the Ministry of Education to follow through. The Ministry of Education has its own existing circulars. I find it very problematic that circulars that have been issued by the Cabinet Secretary for Education in the last two years have not been enforced. When this issue first became a national cry a few months ago in the previous year, we were talking about schools that were charging between Kshs90,000 and Kshs100,000. Today, when Members speak, they will quote schools that are charging Kshs120,000. We are the only country in the world where public secondary school education costs twice as much as university education.

Hon. Deputy Speaker, I pay fees for children from Kibera to go to university. We pay typically Kshs30,000, Kshs40,000 and Kshs60,000 for a student to attend a university yet we are being asked to pay Kshs80,000, Kshs90,000, Kshs100,000, Kshs110,000 and Kshs120,000 to send a child to secondary school.

This would make Kenya a very unique country and it is a situation we must challenge. It is something that the Ministry is aware of. It is something that our national leadership at the top is aware of. In fact, last year, the Kilemi Mwiria Commission was called together and it issued a report on this very same issue. On August 2014, their Report was published. It was handed to President Uhuru Kenyatta at State House in November 2014. I would like to bring it to the attention of Members of the House because somehow this Report did not formally make it to the House for debate. I would like to familiarize Members with aspects of it because to me, as a member of the Education, Research and Technology Committee, it is a key part of my business. The

participants in the Kilemi Mwiria Report included the Chairman himself, Dr. Kilemi Mwiria, a respected expert on education issues. The Vice-Chairperson of that Commission was Dorothy Kamwiru, Principal of Alliance Girls High School and the Head of the National Schools Principals Forum. Mr. William Sossion, one of the leaders of Kenya National Union of Teachers (KNUT), also signed this Report. I believe I have 15 minutes?

The Temporary Deputy Speaker (Hon. Cheboi): You have ten minutes and specifically a minute to go.

Hon. Okoth: This Report was signed by all the important people here. When we say we need to implement it, this is the time. The Report has suggested and proposed that day secondary schools will cost no more than Kshs 24,000 with parents paying Kshs 11,000 and the Government paying Kshs 12,000. Boarding secondary schools will cost no more than Kshs 52,000 and parents will only pay Kshs 39,000 and the Government will pay Kshs 12,000. It begs the question why we are allowing head teachers to be the biggest extortion cartel in this country and to deny the children the right by charging double the fees that are proposed in this report.

I wish that the resolutions of the Motion for Adjournment that we are pushing today will be binding on the Executive; otherwise this House will just be debating in vain if we cannot come up with binding resolutions for the Executive to implement. My proposal is that all children going to Form One should pay school fees---

The Temporary Deputy Speaker (Hon. Cheboi): Before I put the Question, we have 33 requests meaning if we are going to take five minutes each, it is going to take us 150 minutes which is two-and-a-half hours. So make your decision that Members speak to this Motion for three minutes.

(Question proposed that speaking time be reduced, put and agreed to)

With regard to the three minutes, we will be strictly following the list as it is. I will not have to juggle between the two sides of the House, we will start with hon. Yusuf Chanzu. We have a problem with your specific area. In the meantime, as we have hon. Chanzu looking for a good place to speak, let us have hon. Ochieng'. Put your card, hon. Member for Muhoroni.

Hon. Oyoo: My card is there. Thank you very much.

The Temporary Deputy Speaker (Hon. Cheboi): I have given the chance to hon. Ochieng' but I will come back to you. Hon. Chanzu, please take your seat somewhere else and put your card in the intervention slot.

Hon. Ochieng': Hon. Temporary Deputy Speaker, you are taking one of my minutes. I hope I will be added one more minute. Thank you so much.

I also want to thank hon. Okoth for this very important Motion. This is the worst time for Members of this National Assembly. Around 70 per cent to 80 per cent of the calls we receive now are calls that relate to school fees. They are of people crying, literally moaning about the fact that their child has got either 430 or 450 marks but they do not know where to go. It is time we stopped the blame game and this Assembly and the Ministry concerned sat down and worked on a proper formula for funding education.

We have said Kaimenyi must go. We have said so many things but it does not help even if he went tomorrow. We are the ones who approve and apportion money. We must sit down and say how we want to fund education in this country. Article 53 of the Constitution is very clear that we must have free primary education. For this to happen, this is one of the areas where we need to realize that progressively, we should be going forward in reducing school fees and not increasing it.

The biggest scandal after the Anglo-Leasing and Goldenberg scandals was the Free Primary Education scandal. It has gone haywire. Our children are languishing in bad schools. There is no infrastructure. I have seen the Minister here and I want to tell him that he has the necessary legal instruments to implement Free Secondary Education (FSE) and Free Primary Education (FPE). Please act. It is very important that the Minister concerned acts in areas where he has the opportunity and the capacity to do so. In terms of monies required for us to have true Free Primary Education and Free Secondary Education even for a day, we are now in the process of doing supplementary budgets. Can we be told how much it will cost so that this Parliament can have the opportunity to do this? The Ministry must rein in on this class of people, the so-called principals and head teachers of schools. If there is a circular, it should be implemented.

Finally, the Kileleshwa Report should be brought before this Assembly so that we know what is in it and see which parts of it can be implemented.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): We are still having problems with your microphone hon. Chanzu. I will proceed and give hon. Gikaria the opportunity. I had asked you to be somewhere else and put your card in the intervention slot. Hon. Member for Nakuru Town East. Let us avoid speaking to the Gallery. In the absence of that particular Member, hon. Member for Kesses.

Hon. J.K. Bett: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to contribute on the subject of school fees.

Even though education is a fundamental right for every kid, there have been great disparities in school fees amongst national schools, provincial schools and day schools. The question that Members beg to understand is why it is that certain national schools charge fees of Kshs 100,000 while others charge fees of Kshs 50,000 and are able to manage the schools within the financial year. This calls for the Cabinet Secretary and his Principal Secretary to make sure that if there are schools in the same category, the variation in school fees between School “X” and School “Y” should be more or less the same. Otherwise, we will believe that schools are now being used as conduits and avenues for corruption. It is even mentioned through the grapevine that certain County Directors of Education are colluding with certain principals of certain schools so that they cannot---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Member for Kesses, let us forget about the grapevines and go by facts.

Hon. J.K. Bett: Yes, let us go by facts. We want to request that we have schools in the same category charging more or less the same fees. There is no way that one provincial school is charging Kshs 50,000 while another one is charging Kshs 35,000 yet they are both able to manage their costs of running the school for the whole year. We also want to take this opportunity to ask the Cabinet Secretary and the Principal Secretary

what became of the bursary money from the Ministry of Education through Members of Parliament. It is long overdue. We should have received it. We have so many problems as Members of Parliament. For every ten calls, eight of them will be addressing the issue of school fees.

We have seen children who have scored high marks, but they cannot join national schools. They opt for cheaper schools because they cannot afford the fees. So, we want to ask the Cabinet Secretary, now that he is here, to expound on the issue of bursaries from the Ministry of Education through the Members of Parliament. Let us have regulation of the same.

The Temporary Deputy Speaker (Hon. Cheboi): I have ruled, hon. Member for Kesses. Let us not speak to anybody outside the Chamber. This is not a Committee meeting. This is the Chamber. So, advice yourself specifically and by the way, your time is up.

Hon. J.K Bett: I stand guided, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): I am still having a problem with hon. Chanzu's card. It is not indicating. Probably you will approach the Dispatch Box to see if it will be working. In the meantime, we will have the Member for Kandara.

Hon. (Ms.) Wahome: Thank you, hon. Temporary Deputy Speaker. I am happy to contribute to this Motion. I want to thank hon. Okoth for bringing it. It is an urgent matter in terms of how we deal with it. As we address it in this House, many children are still at home because public schools in this country are more expensive than universities. If you go to Alliance High School, Nairobi School and Lenana School, their school fees range between Ksh70,000 and Ksh98,000. The Members of this House are aware of the specific costs because we are paying school fees through our Constituencies Development Fund (CDF). The other thing is that when the children get to school, more than half have not paid school fees and they are sent home within the same week by the principals. We have lost education. I have seen the Cabinet Secretary addressing the public and the principals, setting guidelines and none of those guidelines have been implemented. Where is the problem?

Is the Cabinet Secretary possibly in collusion or in cohort with the principals? It is not possible that he is the Executive and then the principals within his Ministry are continuing to do this unchecked and unaddressed. To date, there are schools which have no facilities and they will charge Kshs40,000 or Kshs39,000. The school fees also have an item on uniform. The uniforms are bought at specific outfit centres at between Kshs11,000 and Kshs12,000 per unit. Are these not enterprises for the principals and that is why they specifically recommend a certain place where the uniforms should be bought? There is a whole list from buckets to toiletries. If you look at the lists, the parents are using between Kshs20,000 and Kshs23,000 to exhaust the list including the books. It is time something is done.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Member for Vihiga at long last.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker. I want to thank hon. Okoth for bringing this Adjournment Motion. The issue of education is very hot right now and we cannot be talking about what we cannot implement. We talked about free

primary and secondary education. This was in own campaign manifestos from 2003, but the reality is not there.

My colleagues have talked about high school fees, but there is something that is very worrying. As the Cabinet Secretary tries to justify the marks obtained by pupils in the Kenya Certificate of Primary Education and the selection to schools, there are many pupils who obtained over 300 marks who have not been admitted to any school. He was telling us today that they are going to have a second selection, but if you have so many of them out there who have not been admitted to any school, I do not know whether he is going to create schools. If they are more than half of them who are not joining any school, how is he going to do it in the second selection? I do not know if it is going to work.

So, there is the Basic Education Act, which we passed in this House in January 2013 and I do not know whether the Ministry looked at it. It provides precisely that no student will be chased away from school for none payment of school fees. It is in the law that we passed in this House. I know we were just going for elections and Members were busy that time with campaigns and may not have understood it, but the law is there. It is only the parents who can be pursued in the issue of payment of school fees.

I have been paying school fees for a student in Keveye, who is in Form Four now. On Friday last week, we paid Kshs20,000 and for the balance of Kshs27,000, the student is at home now. I was asking whether these students must pay fees in the first two months. The balance is almost half. So, you wonder whether we are going for performance or for collection of fees. When the Cabinet Secretary is announcing results, I have never seen him saying that a certain principal scored highly because he was good at chasing students for fee balances. He only talks about the scores that the principals have achieved and not how good they were at chasing students away because of school fees.

We must have our priorities right. I want us to implement the Basic Education Act. We are trying to bring a law here which will help administratively to get the parents to come and commit themselves to pay. The law says there is a penalty.

The Temporary Deputy Speaker (Hon. Cheboi): Member for Muhoroni, put the card at the intervention slot. It is deleted from here.

Hon. Oyoo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Motion. I take this opportunity to thank my colleague, hon. Okoth. This Motion could not have come at a better time. I come from a constituency which I inherited from professor who was also a senior official in the Ministry of Education. When I took over, I found a lot of challenges and I wanted to take education to a different level. It was very dear to my heart. I wanted to prove that good things depend on dreams and not on what people have read in books. I found the infrastructure very wanting and it is still wanting, although I am doing my best to improve it. I also found the challenge of students failing to go to school even those who are admitted to national schools because of lack of school fees. So, I brought a concept of paying school fees for students who are admitted to national schools from public primary schools in Muhoroni Constituency. I paid their school fees 100 per cent.

Last year, I am proud they were 54 of them. The Equity Bank, the Kenya Commercial Bank and the Co-operative Bank took care of some and I pay schools for the

rest. What shocked me in the course of my intention is those who went to Alliance High School, I paid the scheduled amount, but when they came back in the midst of the year, I found that the school fees had gone up by 40 per cent. The parents were called and engaged in some tet-a-tet and agreed that because the school wanted to do certain things, they would increase the fees by 40 per cent. When I called the students for evaluation at the end of the year, I found that there was a new structure again and I had to dig deeper in my pocket. At the moment, I am doing a list of 64 students who were admitted to national schools this year. In certain schools where I paid more, the school fees has gone down while others have increased.

I have also sponsored university students who are doing Architecture, Engineering and Medicine and I am paying much less for them. Why should we pay more for secondary education when we are paying less for fabulous courses at the university? When we are trying to help the head teachers and the principals to enlarge infrastructure in their schools, they are busy developing their personal fronts. They are building houses. You do *Harambees* and raise funds, but there is no progress. They use part of the infrastructural development funds from the Ministry and what you raise in *Harambees* to develop their houses in their villages. When you make noise and petition them to be disciplined, they come to Nairobi and go back and say that it is business as usual.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, your time is over. Hon. (Eng.) Gumbo, you will have to wait for much longer. I have good reason for that and probably also the Member for Gatanga. Let us have the Member for Ugunja.

Hon. Wandayi: Thank you, hon. Temporary Deputy Speaker. Clearly, what is happening is a conspiracy to keep poor people entrapped in the cycle of poverty. Most of the Members here have been able to break through the cycle of poverty because they got a chance to acquire education. As I speak, children of the poor people in this country cannot afford to go to the schools they have been admitted to. Those places are traded. They are sold to children of people who are able. There is a conspiracy.

This is a conspiracy. This is, in fact, the ugliest face of capitalism which really defines this administration.

Hon. Temporary Deputy Speaker, the right to basic education is a constitutional right. In fact, if you read the Constitution properly that right transcends primary education up to secondary education. That is because children are children up to secondary education.

What we are seeing is basically discrimination on the basis of social and economic status which is also against the Constitution. Something, certainly, has to be done to rein in those principals and, more importantly, is for order to be restored in Jogoo House. I cannot believe that those principals are doing those things on their own. The principals cannot have the spine to go against Government policy. Somebody somewhere is urging them on and that person has to be named.

If I go on and on, you will realise that they have got crisis after crisis in the education sector in this country. In the morning, I said that the education sector is facing a crisis of monumental proportions. As we speak, six weeks after the commencement of the first term, children in Marsabit, Mandera, Wajir and Garissa have not learned because of insecurity, and the Ministry is unable to solve the impasse. Teachers have failed to go

back to their work stations because of fear of insecurity and yet, the Ministry is going round in circles. Something has to happen in that Ministry if order is to be restored. The right to education remains a right and cannot be compromised under any circumstances. This House has to take a position to address this matter once and for all. Heads must roll from as high as Jogoo House if this matter is to be addressed once and for all.

In conclusion, I want to say that what is happening in those three counties that I have mentioned is a national crisis. The matter of teachers camping around Parliament and the Teachers Service Commission (TSC) has to---

The Temporary Deputy Speaker (Hon. Cheboi): Very well. We will have the hon. Member for Bomet Central.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to address this issue.

I come from a teaching background and have been a principal, having served for more than eight years. There is something which we are also failing to address. That is on how schools arrive on the issue of school fees structure. It is normally done by the schools and then taken to the Parents Teachers Associations (PTAs) to approve. Then it goes to the Board of Governors (BOG) and currently, the County Education Board. The greatest challenge to those exorbitant school fees structures are the rich parents. When they meet in the usual PTA meetings, they normally decide mostly on the things to do with boarding and, especially the menu which is sometimes out reach of the poor students. I would have wished that the Ministry thinks outside the box. Long time ago, I understand there used to be something that used to be called categorisation of schools in terms of high cost, middle level schools and low cost schools. There is no way you will ever manage the rich parents because they are the ones who are taking their kids to private primary schools and paying Kshs100,000. The same students will be admitted to Alliance High School and you expect to lower the school fees of Alliance High School to Kshs50,000. You will have a great challenge in doing that unless we encourage the establishment of more private schools at secondary school level, which can now take care of those rich parents. We have very many rich people in this country who have excess funds and when they go to those schools, they push around the poor parents. They are the ones who decide on the fees structure. So, if we could have a system of either categorising schools so that people can decide to go to certain schools based on their pockets, that would be the best way of addressing this problem. That way, the Government can concentrate on low cost schools which are fully funded to ensure that the kids of the poor are assured of quality education. That is where the emphasis should be. My proposal is that we categorize secondary schools and then the Government can concentrate on the low cost schools to offer quality education to the students from poor families.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Othaya.

Hon. (Ms.) Munene: Thank you, hon. Temporary Deputy Speaker. I would like to say that the high school fees are making children of the poor not get education. We must think of how we are going to help the poor people. The rich people take their children to private schools and they pass well, while the ordinary people who take their children to public schools cannot pay school fees. When a child is admitted to a school,

the fees are as high as Kshs100,000. If one goes to Kenya High School, the uniform is also costly. We want to have a structure. It is good because the Cabinet Secretary (CS) is here.

(Hon. Tonui interjected)

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Tonui! You have been heard in silence and you want to interrupt the hon. Member!

Hon. (Ms.) Munene: Since the CS is the one in charge and was given that work by the President of this country, he should think of how he is going to help the poor families. There are some people who are employed and earn Kshs11,000 per month. They are paying rent and school fees. How can such people be able to take their children to secondary schools? We are, therefore, going to ruin our children because they are going to remain behind. If we are not going to have educated children, we will not go anywhere. So, we need our Government, through the principals, to have a structure on how much we are going to pay in secondary schools. That is because principals are colluding with parents who have a lot of money and are making the other parents suffer. We are asking our national Government to help the poor people. We want to have equitable laws for all our children to go to secondary schools.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the hon. Member for Kaiti.

Hon. Makenga: Thank you, Temporary Deputy Speaker for giving me this opportunity. I want to thank my colleague, the hon. Member for Kibra, for bringing this Motion for Adjournment to discuss the school fees problem in the country.

I want to say that the current fees structure is extremely high. In the real sense, the fees structure is prohibitive because most parents cannot afford the kind of fees being charged in secondary schools.

I want to give a very good example where a child has passed very well and has been admitted in a county school, but is not able to pay even a penny to get admission. It is unfortunate that we have the free primary education which was started by President Kibaki, but when we prepare our children to go to secondary school, they end up not even accessing their rights to education because they are not able to afford fees. Some schools are charging extremely high school fees. I have a fees structure here whereby a school is charging something called PE/BoM teachers and they charge about Kshs4,000 per child. The school has a population of about 500 children and yet, the number of teachers the BoM has engaged are only two. Therefore, the total amount which is collected per year is about Kshs2 million, and they end up paying only Kshs200,000. Where does the balance of the money go? Surely, this is something that has to be looked into very seriously.

The other thing I want to say is that there are no schools for the poor. Schools have been made very expensive such that the poor cannot access education and yet, we are being told that it is the right of the child to have access to education.

The Temporary Deputy Speaker (Hon. Cheboi): Your time is up. Let us have the hon. Member for Navakholo.

Hon. Wangwe: Thank you, hon. Temporary Deputy Speaker. From the outset, I want to congratulate my colleague, the hon. Member for Kibra, for bringing this very noble idea for us to shed some more light. Days are coming and going and we are finding that principals are becoming so wise than the Ministry of Education itself. Whenever the Ministry issues a directive, they camouflage it and end up with a different idea all together. You will find that sometime last year, the Ministry issued a directive that all certificates should be given to those candidates who did examinations previously. Now, principals are asking students to settle a big part of the school fees between first and second terms. I do not know whether Prof. Kaimenyi, the Cabinet Secretary (CS) for Education is aware that parents are now paying more during first and second terms so as to avoid the issue of fee balances in the third term. This is a very big challenge that is sending our students and pupils home just because the principals are going around the rule that they must give certificates to students.

On the main point today, you find that principals are charging more and yet, you find that most constituencies are subsidizing the buildings in terms of tuition blocks and residential blocks using the Constituencies Development Fund (CDF) money. In the fees structure, most of the money that we see is basically development money, and it is being subsidized using the CDF. County governments are chipping in to build dormitories and storage facilities like twin labs. Now the question is: Where do they want this money to come from? I want to recommend strongly that we implement the Kilemi Mwiria Report to the letter through the Ministry of Education.

I rest my case. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Taita Taveta.

Hon. (Ms.) Lay: Ahsante sana Mhe. Naibu Spika wa Muda kwa kunipa nafasi hii. Pia namshukuru Mhe. Okoth kwa kuleta Hoja hii kwa sababu ni jambo ambalo limetutatiza sana. Wakati umefika ambapo elimu yetu ya Kenya iweze kupigiwa msasa kamili kwa sababu kunayo matatizo mengi yameikumba, kuanzia wanafunzi mpaka wale ambao wanawaangalia kama vile wazazi au wale ambao wanawachunga. Kuanzia mambo ya kulipa karo na vilevile kuangazia mambo ya vile uchaguzi unaofanywa watoto wakienda katika kidato cha kwanza, unapata kwamba kuna kuwa na ubaguzi sana wakati wa kuchagua wanafunzi ambao wataenda katika kidato cha kwanza, na hii imeleta kero sana kwa wazazi ambao wanataka elimu bora katika maisha ya watoto wao.

Tukiangazia mambo ya kulipa karo, ni kwamba jambo hili limekuwa jambo zito sana haswa kwa wananchi wa kawaida wa Kenya. Pesa ambazo tunalipa kama wazazi ni nyingi mno. Mimi kama kiongozi anayesimamia kaunti yote nzima, sina kitengo ambacho kimetengwa kama CDF ama “bursary”, lakini kila mwaka lazima niandike cheki ya Kshs.800,000 ili watoto waweze kusoma. Unapata kwamba wanaopata mzigo huu sana sana ni wanawake. Wanawake wanaumia katika mambo ya kulipa karo za watoto. Ni kitu ambacho kinaumiza sana wakati pia akina mama wanatukanwa wakiambiwa: “Kwani hawa walimu ni wa mama yako”. Hilo ni jambo la kushangaza - kwamba hata sisi akina mama hatupatiwi heshima na sisi ndio tunaumia na kubeba mzigo wa wanafunzi ili waweze kusoma.

Tukiangazia pia katika mambo ya walimu, wamekuwa kila mwaka wanaandamana. Wakati umefika sasa kwa Serikali, viongozi na wanaoshughulika mambo

ya elimu kuketi ili jambo hili liweze kutatuliwa mara moja ili watoto waweze kusoma. Hii ni kwa sababu tunawanyima watoto haki yao ya kupata elimu. Kwa hivyo, katika mambo ya karo, ni lazima tuketi tuweke vichwa pamoja na tuhakikishe kwamba wanafunzi wanaweza kupata haki yao ya kusoma.

Vile vile, naangazia pia wanafunzi ambao hawapati zile alama za kuweza kwenda kidato cha kwanza. Kama mwaka jana, kuna watoto 2,000 ambao hawakuweza kwenda kidato cha kwanza kwa sababu hawakuweza kupata ile alama ya 200. Ni lazima tuketi chini tuangazie jambo hilo hili tusiwanyime watoto haki yao. Watoto wa miaka 13, tunasema waende “polytechnic”. Hakuna mikakati tumeweka ya kuhakikisha kwamba watoto wameenda “polytechnic”. Wengi wanaingilia mambo ya madawa ya kulevya na kufanya ukahaba. Kwa hivyo, ni lazima tuweke vichwa vyetu pamoja ili tuweze kulitatua jambo hili.

Ahsante sana.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Mogotio.

Hon. (Prof.) Sambili: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity.

An hon. Member: A pastoralist!

Hon. (Prof.) Sambili: Yes, I am a pastoralist.

(Laughter)

I want to thank hon. Okoth for bringing this Motion. I want to say that education is the greatest equalizer. It is the hope of every parent to get their child to move to where others are. It is very important that we really address the challenges that we have all talked about. I would like to say that fees are too high. It is true that children from poor backgrounds who have good marks because they have worked so hard, are called to national schools like Lenana and Nairobi School, but because they cannot afford, they get robbed of those places. People go to talk to them and they give those places to other children. That is a great disservice to those parents. I would like to say that we really have to look at this issue very seriously. The CDF is not enough, we need to be serious - as has been said - to support the parents. One of the things that may be causing a challenge is lack of teachers in schools. We do not have enough teachers and so parents and teachers employ teachers under the Board of Management (BoM). Although my colleague has said that some of that money may not all be used for paying teachers, let the Government look at this issue. Let us make sure we have enough teachers in schools so that parents do not have to pay for extra teachers. After all, some of those teachers may not be qualified and the children will suffer twice.

Secondly, I would like to appeal to principals not to send children home, when they have paid half of the fees. Let them not be sent home. Let the children stay in school and the parents go to look for fees balances. That way, those children can continue with their education.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for North Horr.

Hon. Ganya: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Motion. From the outset, I want to thank hon. Okoth, a great parliamentarian, which whom I share the same *alma mater*, for having brought this issue of national importance to this Parliament.

Education is a right and our children deserve that right. I thank the Government for appointing the Dr. Kilemi Mwiria's taskforce to look at the issue of education. The recommendations in that report are very good and very practical. I call upon the Government to implement that report in totality, especially the issue to do with fees for secondary education. The Jubilee Manifesto clearly states that this Government is going to provide free day secondary education and affordable secondary education. They have a duty and a commitment to this nation to fulfil their obligation. That was in their Manifesto. Kenyans are watching and time is running out. It is time this Government does what it committed itself to do.

I have listened to Prof. Kaimenyi's argument that he needs about Kshs.11 billion to implement that taskforce's recommendations. Yes, it is a lot money, but that is just 1 per cent of our total national Budget. This Government can re-allocate the existing funding within the existing Budget during this Supplementary period and ensure that we get that money to enable our students and our children to access good quality education in our secondary schools.

This Government is able to allocate money for digital toys called laptops. That money could be invested into free secondary education instead of those toys that nobody knows where they are. Students from marginal counties are suffering. The drought is biting and very few are going to secondary school this year, especially the ones joining Form One. Many students are dropping out due to lack of school fees and difficult conditions brought about by drought. I hope the Government will do something about this.

I call upon the Budget and Appropriations Committee to allocate enough money for education, particularly to enable free secondary education to be realized. As a Parliament, we have a duty to ensure that, that happens, as much as we call upon the Executive to implement the task force report. I call upon the Budget and Appropriations Committee as well as the Education, Research and Technology Committee to make it a priority.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Nambale, hon. Bunyasi.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. I want to thank hon. Okoth for bringing this Motion to the House. It is critically important. I have a series of questions. Who is in charge? Is it the Cabinet Secretary or the principals? Who really is in charge? How come circulars and laws are passed and they are ignored with great impunity? Is he unaware? Is he helpless because of lack of law? Is the law not strong enough? I get the sense that this House is willing to tighten the law if that was the case. It does not look like it is the problem. Somewhere along the line, the Cabinet Secretary should realize that one of the issues that speak directly to President Uhuru from households of people as far away as Busia and any other corner in this country is failure in education. People cannot get their children through school because of that hindrance. It speaks directly to the President. This burden is not his. If you go to my village and ask them who the Cabinet Secretary for Education is, they do not know. If you ask them who

the President is they know the President. They know that this is his regime. They know there is a failure on that side. The weight that needs to be put behind this has not yet been applied. This is a matter that should keep him sleepless because it is critically important.

Secondly, there are countries that offer education. When it is free education or education with an agreed levy, only that can be enforced. Anything else above that is not proper. If the Alliances of this day want to charge above the recommended amount, there must be donations from those millionaire parents. There is nothing wrong with parents donating more than the fees that are asked for. It should not be imposed upon other children who must solely be made to pay the maximum they are supposed to pay. This is one of the key things. We are heading into an election in two-and-a-half years' time. There is nothing more important before parents than education. As has been said by some of my colleagues, education is the one path that equalises in the long run. If the Government is silent on the abuses that are being committed by principals, then you are deliberately ignoring the plight of the majority of the parents.

It is my plea that the Kileleshwa Report and any other recommendation that need to come before the House ought to be brought, hopefully, during this Session. I can see the mood in the House. If there are budgetary issues to get it done, it will, hopefully, be passed. But it must be done.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the Member for Mandera West.

Hon. (Eng.) Mahamud: Thank you, hon. Temporary Deputy Speaker for giving me this chance. Let me thank my colleague, hon. Okoth, for bringing this very important Motion. This is something serious. There seems to be some disconnect between what is supposed to be done in the sector and what is happening in the field, as far as school fees structure is concerned. Unless something is done to bring some sanity in this, Kenyans are going to suffer. Kenyans have really taken advantage of the free primary education and also the proposed free day secondary school, which is not working properly as it should work.

Having said that, there is a serious problem where I come from. I think my colleague alluded to it earlier. Since schools opened this term, no teaching has taken place. The right of the children in that region has been really abused. The membership of the Kenya National Union of Teachers (KNUT) has done a lot of disservice to the children of that region. We know what happened in Mandera. There was a one-time event where, unfortunately, teachers were killed selectively. But what is happening today is very serious. As leaders of this country, we must come forward and talk in one voice that something must be done. The teachers who do not want to go to Mandera and Wajir should not be forced. They have said very bad things about that region. We have the right to have other teachers. Let the Teachers Service Commission (TSC) employ other teachers. If they want, they can transfer them or sack them. But for us, we want our children to have the right to education.

Those teachers have been employed there for the last ten years. All the quota for that region was given to teachers from outside that Province. Today, those teachers want to get transferred. I must tell this House that there are quite a number of teachers who are still there, especially those who are teaching in private schools. Only the members of KNUT have not reported. Something must be done. The KNUT is taking this country

hostage. The issue has been blown out of proportion and something must be done. This House and the leadership of this country must come out and help the children of those counties. We have been marginalised enough and we cannot take that anymore.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Rongo.

Hon. Anyango: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. It is a pity I only have three minutes. Let me say in those three minutes that we are managing an economy of inequalities. It is the education sector where the serious contradictions in the management of our public affairs are beginning to show. As of now, I sympathise with Prof. Kaimenyi. What is it that we need to equalise in the education sector? It is teaching, laboratories and books. Instead, the inequalities and priorities are given to food, compounds, environment and you will not attain the equality that we signed in the Constitution that we must attain.

The little metaphysics that I read tells me that when the sun rises in the morning, geniuses and fools are born from Mandera all the way to Busia. We have a duty to make sure that the best of them become real human capital assets for the Republic. So, this question of national schools inherited from the days of the *mzungu* administration, some equality and rationality has to be brought into it. Let us get standard food in all our schools and a cost can be given. Whether you are in a small primary school in Kapsabet or a national school, what you eat should be the same. If the parents do not like it, they can form their own schools and stop bothering the Cabinet Secretary for education for the purposes of keeping the fees high.

Decision-making in our economy is consumption-driven. The general attitude is that we are in it to make money and not to render relevant service. So, radical changes need to be taken in the education sector. "Professor, you are in charge. Find out what you must equalise."

The Temporary Deputy Speaker (Hon. Cheboi): No, hon. Anyango! You cannot, as a senior Member, speak to the gallery.

Hon. Anyango: Sorry, hon. Temporary Deputy Speaker. I was speaking to you and not the Professor. You must equalise performance in tuition. If all the teachers are paid the same way, the standards of performance in examination must go up right across the country without allowing discrimination to be perpetuated when we have a new Constitution that illegalises continuing discrimination. It illegalises promoting inequalities and non-inclusivity.

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over. Therefore, we will have the Member for Webuye West. There seems to be a problem with your microphone. Can you put it back at the intervention slot? I do not think that microphone is working well. As you organise yourself, we probably will be giving a chance to someone else to save time. Let us have the Member for Butula.

Hon. Onyura: Thank you very much, hon. Temporary Deputy Speaker. There are a lot of problems in the education sector but, because of time, let me confine myself to the issue at hand, which is about fees.

As it has been said, education is a leveller. We want all our children to get the same education. But it is becoming increasingly difficult for them to access it mainly because they are barred by the fees that are being charged.

Hon. Temporary Deputy Speaker, it is surprising that we spend so many resources – time and money – setting up taskforces like the one which was led by Kilemi Mwiria. They did a report and brought it to us, but nobody seems to be paying any attention to it. I do not know whether this is being done out of defiance. That is because the Ministry of Education cannot pretend that it does not know what they are charging. The calling letters are all over. Just pick up any invitation letter and you will see the kind of fees that are shown there. Some are fairly crafty in their letters. You will find that on page one, they give the fees structure as per the recommendations and, on page two, they have a whole list of things that need to be bought by the parents, and which the children must go to school with - costing up to over Kshs.50,000. On page three, they start enumerating other levies and charges which are even much higher than the school fees. So, the whole cost of taking a child to school adds up to almost Kshs.100,000.

The Ministry of Education should take charge and make sure that their directives are obeyed. There is no need of everybody lamenting from the top down to the peasants in the village. This morning, a parent called me while crying. That lady had gone to school with Kshs20,000, which she paid in cash. However, after that, she was told to go back with the child because they demanded, at least, Kshs40,000. How are we going to take our children to school in this kind of environment? The Ministry of Education should take charge and control the situation.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Mandera South.

Hon. Huka: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I would like to start by thanking hon. Okoth for bringing this very timely Motion.

The Temporary Deputy Speaker (Hon. Cheboi): In the meantime, the hon. Member for Webuye West, put your card in the intervention slot.

Hon. Huka, proceed.

Hon. Huka: Hon. Temporary Deputy Speaker, the issue of school fees is very touchy in this country. In Arid and Semi-Arid Lands (ASALs), where I come from, it is one of the greatest challenges facing the parents. When you look at access to education in ASALs, when we are just about to come up due to devolution, the school fees issue and the strikes that have been staged by teachers, especially in the North Eastern region, have actually pulled us back to where we were before.

Hon. Temporary Deputy Speaker, if a student from North Eastern pays Kshs60,000 to do a medical course, and a child who is admitted to Form One at a national school is asked to pay Kshs120,000, then it becomes very unfortunate to the parent. We have to stop this!

The poverty level in North Eastern Kenya is something that is well documented in this country. When a child from ASALs is asked to pay that amount of money, then it is as good as telling such a child or the parent that they are not good enough to access the environment and, therefore, they should remain within their confines. What was done by the terrorists in Mandera the other day is something very bad. As leaders, we regret what happened and also condemn it. Unfortunately, the Kenya National Union of Teachers has capitalised on that incident and played into the gallery of *Al Shabaab*. They talked to the

teachers from North Eastern and formed a union for them called: The North Eastern Teachers Association. They then asked them not to go to their working places.

My question is: If something like that happens in any other part of this country and the Government workers boycott, how are we going to work as a nation? For example, what happened in Kapedo? If the soldiers decide to take photos and say they are not going back there, what would happen to this country? That is what is happening with the teachers who are demonstrating around here and saying that they will not go to that part of the country because of the problems they are facing.

Hon. Temporary Deputy Speaker, let me conclude by saying that the Ministry of Education should take charge of the situation. The Ministry should come up with policies that they can implement, and not just giving directives without any format of implementation. The fees structure guidelines have already been given in the Kilemi Mwiria Report, and that is what should be implemented.

The Temporary Deputy Speaker (Hon. Cheboi): I will give the Floor to the hon. Member for Mvita.

Hon. Nassir: Ahsante sana, Bw. Naibu Spika wa Muda. Ningependa kusema kwamba sauti ya Bunge hili ni sauti ya Wakenya. Rai yangu kwa wakuu wa elimu ni kwamba wazibebe sauti zetu wakijua kwanba wamebeba maoni ya Wakenya na sauti ya kila mmoja alioko hapa ambaye amezungumza kwa bughutha kuhusu hali ya elimu ilivyo; hususan, masuala ya karo katika shule za upili. Serikali ilikaa na ikatengeneza Ripoti ambayo ilipeana.

Ripoti ya Jopo lililoongozwa na Kilemi Mwiria iliandika kwa umakinifu kwamba: Kama sekta ya elimu nchini ingepewa Kshs11 bilioni, basi kila asomaye katika shule ya upili atasoma bure, isipokuwa wale wasomao katika shule za malazi, ambao watalipa Kshs38,969. Naikumbusha nchi hii na Serikali kwamba Kshs11 bilioni ni asilimia 0.55 ya Bajeti ya Kenya ya trilion mbili. Ikiwa hatuwezi kusema kuwa tunachukua asilimia 0.55 ya Bajeti ya Kenya kwa sababu ya kujali masomo ya watoto wetu, basi tutakuwa tunaelekeza nchi hii kwenya mrengo usioeleweka. Kenya iko katika hali ya kipekee katika dunia hii ambapo wanafunzi wa vyuo vikuu wanalipa gharama za chini kuliko wanafunzi katika shule za upili.

Nataka tuweke wazi kuwa kama Serikali haitahakikisha kwamba ahadi iliyowekwa na viongozi wa zamani na wa sasa - kwamba fedha hizo zitawekwa - na ikiwa Bunge hili halitaweza kutenga Kshs11 bilioni ili wanafunzi wetu wasome, basi tutakuwa tunapitisha mabilioni ya kujenga majumba ya mahabusu zaidi kwa sababu tutakuwa, badala ya kujenga wanafunzi---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over. I will now give this opportunity to hon. Sitati. That must be Wafula. I am considering adding a few minutes to accommodate about five Members after the hour because I can see that the interest is immense.

Proceed, hon. Sitati.

Hon. Sitati: Thank you, hon. Temporary Deputy Speaker. The issues that hon. Members are raising are not new to the Cabinet Secretary of Education. What pains me most is that we have policies and guidelines about how much is supposed to be paid in terms of fees. However, the Cabinet Secretary has failed to crack the whip.

It is important that the House takes responsibility, particularly our Committee on Education, Research and Technology, to even summon the Cabinet Secretary to give us reasons why he has failed to organise his principals to bring the school fees down and affordable. The taxpayers' money has been used through the Mwiria Commission to give us a report and see how best this can be implemented. The same has been taken to the shelves and nothing is happening and yet, we have somebody to take care of that report. So, it is important that the Cabinet Secretary takes responsibility.

For the first time, if the Cabinet Secretary does not whip the principals, then this House should take the responsibility and whip the Cabinet Secretary and take him home. We should let the person who can implement our recommendations take charge of that docket. We cannot speak about fees every now and then and yet, parents are suffering. Our children are not going to school and it becomes impossible for the parents to access good education for their children.

Therefore, let the Cabinet Secretary note that we are not going to take those small issues that lead us to fail to help our parents take their children to school.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the hon. Member for Mukurweini.

Hon. Kabando wa Kabando: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I will just speak on three issues. First, the Government---

Hon. Gikaria: On a point of order!

The Temporary Deputy Speaker (Hon. Cheboi): What is your point of order, hon. Gikaria? You are eating into the Member's minutes.

Hon. Gikaria: Hon. Temporary Deputy Speaker, I am not going to contribute because I am still waiting for my chance but maybe, we need some guidance here. Much as hon. Okoth has brought a very important issue that resulted into the adjournment of the House, I am the Vice-Chair of the Implementation Committee and my issue is that the Cabinet Secretary formed a taskforce headed by---

The Temporary Deputy Speaker (Hon. Cheboi): What is your point of order?

Hon. Gikaria: My point of order is this: The Standing Order No.209(2), which forms the Committee on Implementation provides that:-

“(2) The Committee shall scrutinise the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine---”

The Committee on Education, Research and Technology has not even brought the report. Should we task the Cabinet Secretary for Education, Science and Technology even when the report is not here? As the Members of the Implementation Committee---

The Temporary Deputy Speaker (Hon. Cheboi): Honestly, the Member for Nakuru Town East, you are sneaking an opportunity to contribute. At this point, I do not want to consider that. Let us proceed because this was brought in perfectly. If anything has to be done, it will be done later. Proceed, hon. Kabando wa Kabando and I am going to add you a minute. So, you have two minutes.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker, I hope you are rewinding because my one minute has been taken away.

The Temporary Deputy Speaker (Hon. Cheboi): I have done that. Proceed.

Hon. Kabando wa Kabando: The fact that there has been a report commissioned by the Department of Education, completed after very comprehensive consultations from the grassroots to the national level and all the stakeholders - private, Governmental and non-Governmental, sponsors and charities--- They were all involved in the compilation of the report. The fact that the report is not being implemented means that there is run away impunity in this country that needs to be reined in.

We are finding the Presidency helplessly asking the Cabinet Secretary in charge to act. We are finding the Cabinet Secretary calling press conferences threatening principals. What is required is administrative and policy action implementation. It stops at that. But where we find helplessness of the Executive in charge of education in this county it means that there is inertia and that, that performance is below par. We are saying this in very good faith.

The Temporary Deputy Speaker (Hon. Cheboi): You only have one minute.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker, lastly, the County Government of Nyeri is supported by all the hon. Members of Parliament from Nyeri County. We entered into an agreement on issues of Form One admissions. That agreement was signed by the Principal Secretary in charge of education on behalf of the Cabinet Secretary (CS). There has been zero outcome and zero compliance on that. Therefore, there is impunity at Jogoo House and what we need to be told is: Who are these cartels that have held executives at Jogoo House captives that they are unable to move? We need to know who is sponsoring this impunity that they cannot comply on a report that is validated by the national Government and by the President himself, and which has been justified by the legal processes that were involved. This impunity needs to be terminated and the Cabinet Secretary in charge should, by latest tomorrow, be telling this country whether he is going to disobey the directives by the Presidency.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have hon. Murunga. I thought you had contributed on this one. Was it Kimilili or Kiminini?

Hon. Kasuti: It is Kimilili.

The Temporary Deputy Speaker (Hon. Cheboi): Proceed, hon. Member.

Hon. Kasuti: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice on what has been said by my colleagues. Many parents are undergoing a lot of problems at the moment in various parts of this country, especially parents taking their children to Form One. Most of them who have reported to their respective schools without enough funds, especially in national schools are turned back to go and look for more. Some of them are not even in a position to feed themselves, but have to go back home with their children.

This morning, several parents called me and they were in tears wondering what they are going to do. They are not able to pay school fees demanded for by the various head teachers. We are just wondering why the directives and the circulars that were sent out by the Ministry of Education, Science and Technology were not implemented. The head teachers do not feel for the parents who are taking their children back to their homes. The children who go back home feel demoralised at the end of the day. When they go back to their schools, they cannot perform well because they have been sent back. How do they feel before their colleagues in schools? That is a practice that the Ministry of Education, Research and Technology - given that the CS is here - should stop. We

want that practice to stop. We want those children to continue and become Prof. Kaimenyi's of tomorrow. This is something that we must take very seriously. The issue of school fees must be taken very seriously. I want to thank the Mover of this Motion for bringing education issues to the attention of the nation.

Thank you very much, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the hon. Member for Turkana Central.

Hon. Nakara: Thank you, hon. Temporary Deputy Speaker. When other hon. Members are talking about free education, some of us have not yet realised the benefit of free education. This is because in the county I come from, Turkana County, the catchment for secondary schools are not boarding schools and you know we are pastoralists. Our children move with their parents from one place to another. The only way that we can realise the benefits of free secondary school is by making primary schools to be boarding schools in Turkana County.

The reason why I am saying so is because we take very few students to high school because we do not have boarding facilities in Turkana County. I am telling the Ministry of Education, if they want Turkana County to realise the importance or the benefits of free education, they must make us have many boarding primary schools.

We also want to appreciate the Cabinet Secretary for education on selection this year. They have done very well. Some of us from Turkana County have never taken more than two or three students to national schools but this year we have taken many students to national schools. We want that to continue because that is how even the poor man who is learning under a tree can go to a national school. I want to appeal to the Ministry of Education to assist because I know some students who were called to national school but they have not reported because of school fees and other issues. When those chances are there, they should not give to any other county. They should bring them back to us through the Director of Education so that we look for other students to fill the vacancies.

Finally, we also appreciate the issue of doing away with ranking because it brought a lot of confusion, competition, stealing of exams and so on. We want the status quo to remain. You cannot rank Lodwar High School with Alliance High School. Though Lodwar High School is a national school, the conditions and environment are not the same. So that issue has now motivated our students.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, eight hon. Members to go. Let us hon. Member for Samburu West.

Hon. Lati: Thank you, hon. Speaker. I want to thank the Cabinet Secretary and the Principal Secretary (PS) for being here today to listen to us. It is a good thing. There are things that have never happened in our country that are happening this time. There is no time in the history of our country where kids in one part of our country spent weeks and now months without teachers and there is very little that the Government is doing. There is no time in our country where we have gone to campaign and won elections and a person elected the President and the Government is the President who promised laptops for our primary schools and two years later the Ministry of Education has done very little to fulfil the promises of the President. I do not know what the Ministry can hear if it cannot fulfil the promises of the President of this country. Some of us are even worried

how we are going to go to the next election if we remain without the laptops. What are we going to tell our kids? School fees guidelines have been given but nobody is following them. I do not want to say someone is sleeping on the job but I want to say that someone is probably taking serious issues about education for granted and we need to wake up. I hope the principals and the Ministry that is here today can hear us loud, particularly on the issue of laptops. I do not know what we are going to tell Kenyans. We love this President and we love this Government but we will lack answers when that day comes, when people start asking us about laptops. I have never heard a single Press conference from the Ministry of Education telling us the truth about this laptop issue, telling us the truth about the kids in Mandera and when they are going to receive their teachers, which is a right.

On those counties like Mandera and Wajir, the Constitution of Kenya at the promulgation date, gave us a very important asset called Equalisation Fund. The Fund would have given us an opportunity to be equal with the rest of the country. We are today sitting here four years down the line knowing that money is somewhere stuck in Central Bank of Kenya (CBK) while our people are suffering through education and through everything else. I do not know any time in our history when money was required to help the needy, and it was not provided.

I want today to speak to the Ministry of Education; you have a responsibility to provide what the President wanted us to get. It need to be done so that when we go for elections in 2017, we will not lack answers. We do not want to give a chance to our friends in CORD on the other side to tell us what we have not done on our Manifesto. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Well, if I do not give hon. (Eng.) Gumbo time, I think I will be punishing dedication. Much as he has spoken before, I am giving him another chance.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy for giving me this opportunity to contribute. I will not repeat what most of my colleagues have talked about, but I want to start by thanking the Ministry of Education. I can see the senior officials are here and I would kindly request them to take the views of hon. Members seriously.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. (Eng.) Gumbo, avoid seeing them!

Hon. (Eng.) Gumbo: Okay, hon. Temporary Deputy Speaker. Education is a social equalizer. Some of us would be nondescript herdsmen in the village if we did not go to school. But because of the good education we had - the good engineering degrees we hold - we are now able to find ourselves in those privileged positions. It is no accident that countries that seek to develop fast, direct their resources at ensuring a highly educated and informed citizenry.

I want to take over from where my colleague, hon. Kabando wa Kabando has left. I think the officials of the Ministry need to come out and tell us who is holding them captive. That is because what we see are people who are unable to do anything to help our children. I read the Holy Bible and in there is a book written by Prophet Jeremiah when he was crying about the destruction of Jerusalem. It is called "Lamentations". I hope the officials at the Ministry of Education are not hoping to rewrite the book of Lamentations instead of taking actions that are going to help our children.

Unless we take this matter seriously, education---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. (Eng.) Gumbo, you quoted two books in the Bible and said nothing about them. Proceed anyway.

(Laughter)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I only quoted the Book of Lamentations written by Prophet Jeremiah and I have urged the Ministry of Education not to rewrite the Book of Lamentations. If we make education the preserve of the rich - which is what we are doing by charging those exorbitant fees - we are actually planning the destruction of our country. This is a matter that we cannot be passive to. This is a matter that affects all of us. Each one of us in the 290 constituencies is affected and I encourage the leadership of the Ministry of Education to take it seriously. Bring your budget here! Kshs.11 billion is nothing compared to Kshs2 trillion. We will approve it and all our children will go to school.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. We will, therefore, have the hon. Member for Laikipia East, hon. Mutahi.

Hon. Kimaru: Thank you, hon. Temporary Deputy Speaker. Indeed, it is painful; it is a shame; it is immoral; it is illegal and even unconstitutional to have children in this country at this time miss out of school and, more importantly, the national schools. As much as we might want to ignore the fact, national schools are important. That is where the top brains of the country meet. They do not only meet to socialize - which is also very important to create national cohesion - but they meet to compete and to have the best opportunities to advance their knowledge. When poor children fail to get opportunities in national schools, that is an injustice. On the basis that they are poor, they are denied that opportunity. All measures must be taken to ensure that education is affordable; not just at the national level, but all the way down to the village schools. The Government that we have cannot fail to deliver this vital service. Being a Government that we love and a Government that we believe is capable, it cannot run away from that vital responsibility. Children who should go to national schools must go to national schools even if they are poor. We know that national schools at times are expensive, but subsidies can be introduced. In the 1970s, that used to be the norm. Why can it not happen today until that reality is realised?

When we look at the cost of education, let us not delude ourselves that it is just about the principals. No, it is not. In many schools, we do not have teachers. We do not have infrastructure. The Government should provide those. It should subsidize those particular functions to make education affordable. Let us not bury our heads in the sand and keep saying that principals are doing this or that or they are not doing enough. The Government has a responsibility. An amount of Kshs.11 billion is proposed to be allocated to education. Is that enough? I think we need to up our act.

The Temporary Deputy Speaker (Hon. Cheboi): The Chair of the Committee, you will have the last chance but that is not now. I had promised Members that I am going to give five more Members after the hour. So, you will be last one. You convinced me that you had actually gone to do some very important civic duty in terms of satisfying

future votes and I think I understood that very well. So, I will give opportunity to the hon. Member for Kiminini.

Hon. Wakhungu: Thank you, hon. Temporary Deputy Speaker. I want to support this and I do not want to repeat myself. First, I have confidence in the current Cabinet Secretary (CS) because of his experience and having vetted him I have no doubt that he can perform. The question is: Why is he not performing? Is there a problem or a hindrance? The issue is this: The Ministry of Education bursaries, which the Ministry has been giving are no longer there. What is the reason? This is because this is the money that was meant for bright but poor children. I have looked at the Supplementary Budget and I have not seen any requisition from the Ministry. If the Ministry is listening now, please move with speed so that we can have that in our Supplementary Budget.

Secondly, hon. Temporary Deputy Speaker, the Ministry said that registration fee for Kenya Certificate of Secondary Education (KCSE) examinations should not be paid for. The question is: Does it mean the examination fee was removed and some fees somewhere was increased to compensate? It beats logic to reduce the examination fee and then increase the school fees to be paid. I am calling upon the Ministry of Education, we are here to work with you. If there is any issue, please come to us and let us see how we are going to resolve it. Our children must be able to go to school. We are told that they are going to provide free secondary school education for day schools if we give them Kshs11 billion. If you look at it, Kshs11 billion is about one per cent of Kenya's Kshs1.8 trillion Budget. If that is the proposal then they should move with speed so that we can pass that Kshs11 billion if at all we are going to have free day secondary schools because they form about 70 per cent of the schools in this country.

Education is key to success. Some of us would not be here today if it was not for education. We are going to work together as a team but we want them to pull up their socks. If you look at the Kilemi Mwiria Report, senior members of the Ministry of Education were involved. People from Kenya National Union of Teachers (KNUT) and Kenya National Association of Parents (KNAP) Secretary-General Mr. Musau Ndunda were there. Why can this Report not come to Parliament so that we see what amendments we can do so that the Committee on Implementation can move with speed and implement it? We are proud of our leaders who are here and we want to move together. If there is a problem, come before us because we have ears that can listen so that the children of this country can go to school.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): That is what the hon. Member for Nakuru Town East was saying. I think you should have said it in the manner which hon. Wamalwa has said in his contribution. Now, let us have the hon. Member for Baringo South.

Hon. (Ms.) Kipchoim: Thank you, hon. Temporary Deputy Speaker. At last my card has caught your eye. I have waited for long and I want to take this opportunity to thank the Government for waiving registration fees in both primary and secondary schools. However, my worry is that there is no gain in registering a student who has a lot of fees balance. Last holiday before we came back from recess, a poor mother came to my house with her children. One of the children, the first born had cleared secondary education in 2005 at Moi High School Kabarak but has not gotten his certificate because

he owes the school over Kshs105,000. The second born had a fees balance of Kshs45,000 in another secondary school and she was narrating her ordeal and I could not help even though I have the Constituencies Development Fund (CDF). This is because this parent had fees balances totalling about Kshs.500,000 in various secondary schools.

Hon. Temporary Deputy Speaker, my question is: The Executive had waived arrears and said that all pupils whose certificates were held in various schools were supposed to pick them sometime last year. Does it mean that the orders of our Executive are not being obeyed in secondary schools? Then what are we doing here because these poor parents have fees balances all over?

Even if their children clear school, poverty still exists. So, the only thing that is going to make us equal is education. If those people are denied education because of school fees, then we are not going anywhere. I want to ask the Ministry of Education to re-check what my colleagues have said - that we can waive those fees. They can assist those children from poor background to attend classes. We should not have schools for the rich and the poor. We can re-check the background of those students and look at where they come from and do a waiver to assist them to remain in those schools, even if the school fees are high. Some children will be called to those schools and the parents are able to pay. We cannot deny them---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over. We will, therefore, have the Member for Saboti.

Hon. Wekesa: Ahsante sana, Bwana Naibu Spika wa Muda kwa kunipa fursa hii ili nami nichangie hili swala la karo ya shule za upili.

Bwana Naibu Spika wa Muda, mimi nashangaa sana. Juzi, Waziri wa Elimu alinukuliwa na vyombo vya habari akisema kwamba iwapo kuna mtu ana habari kwamba shule fulani inaitisha karo zaidi ya kiwango ambacho kiliwekwa, amjulishe. Hilo si jambo la kujulishwa. Ni wazi linafanyika. Ni wajibu wake kuhakikisha kwamba shule zinaitisha pesa zinazofaa.

Kuhusu pesa za mtihani, tunajua ya kwamba Serikali ilitangaza wazi msimamo wake. Ingawa hivyo, kuna walimu fulani wanaitisha pesa za mtihani. Ni wajibu wa Waziri wa Elimu kuwafikia walimu kama hao na kuwaeleza kwamba kufanya hivyo siyo haki.

Wengi wameongea kuhusu Ripoti ya mheshimiwa Kilemi Mwiria ambaye alikuwa Mbunge hapo awali. Wakati umewaadia kwa Waziri kutekeleza ripoti hiyo. Asipofanya kitu, wanafunzi wengi ambao wanatoka jamii maskini hawatasoma.

Mwenzangu Mhe. Chris Wamalwa aligusia kutokuwa kwenye Bajeti pesa za *bursary* ya elimu ya sekondari. Sisi wote tunajua jambo hilo. Tulikuwa tumezoea kwamba hizo pesa zilikuwa zinawekwa kwenye Bajeti. Zinasaidia sana. Tunataka Waziri ama Bunge hili kupitia kwa kamati ambayo inahusika na maswala ya elimu watuambie kuhusu fedha hizo na kwa nini haziko kwenye Bajeti ya makadirio ya mwaka ambao unakwisha mwezi wa sita.

Ahsante sana.

The Temporary Deputy Speaker (Hon. Cheboi): We will have the hon. Member for Awendo.

Hon. Opiyo: Thank you, hon. Temporary Deputy Speaker.

First of all, I want to thank hon. Okoth who has brought a very nice Motion. I want to make a few observations. The level of poverty in this country is in such a way that, unless there is a serious intervention by Government with regard to lowering school fees, we actually risk stratifying our society further. There are already existing reports with regard to what fees should be charged. The Cabinet Secretary for Education and his team must move with speed and enact or rather enforce those recommendations. The notorious schools, especially the national schools, should be urged to establish endowment funds for those parents who feel that they can give a little more. In that way, even those schools could even start bursaries for the less fortunate students studying in those schools.

Hon. Temporary Speaker, with regard to the crisis in the north eastern frontiers in this country, I feel that the Ministry of Education and the Teachers Service Commission (TSC) must make a decision. Those students have waited for too long for their teachers. I also think that the teachers are raising very serious and legitimate concerns with regard to their security.

They have a right to be listened to. The Teachers Service Commission (TSC) must move with speed and either transfers the teachers or does what is necessary, so that learning can go on in those areas.

You have heard other colleagues raise the issue of bursaries. For unexplained reasons, the bursaries that are voted to the Ministry of Education, Science and Technology are not in the Budget for this year. I want to suggest, as way forward, that the Supplementary Budget that we are going to discuss in due course, must include money voted for those bursaries. Otherwise, I urge the Members of Parliament to reject that Budget if it does not contain those bursary funds. Members have a duty to protect funds that are meant to help the less fortunate in the country.

Hon. (Ms.) S. W. Chege: Thank you, hon. Temporary Deputy Speaker. First and foremost, I want to thank Members for their contributions to the Motion. The issue of education is important to our country because we are shaping the future generation.

The issue of school fees has been a big challenge. Last year, my Committee raised the said issue and a task force was formed. Towards the end of last year, there was a ready report of the task force with several recommendations, not only for school fees, but many other recommendations including the recommendation on school ranking. We have parents who are taking their children to Form One, and we do not have a clear guideline on how much school fees should be paid. We met with the Cabinet Secretary for Education (CS) today. On Tuesday, as a Committee, we are going to meet with Kilemi Mwiria, who was the Chairman of the task force. I urge the Members to go through that report. The recommendations are there.

The membership of that task force included everybody. The biggest concern that has been raised by hon. Ken Okoth and the Members of this House is that children from poor background are being denied equal opportunity to access education, which is a basic right enshrined in the Constitution. I would like to urge the Members of my Committee, as we meet Kilemi Mwiria and the Cabinet Secretary in the Ministry of Education, Science and Technology, that we need to come with a proper report that we can table in this House. If the Ministry is not able to look at the report and give us clear guidelines, I would urge the Members of this House, once we have the report from the Committee, to

support the report. We have a clear fees structure showing how much should be paid. As Members have mentioned, many children from poor families have been denied a chance.

I also want to speak to Kenyans this evening. Several corporate entities have come up to sponsor children. I would like to urge them to continue with the same spirit of sponsoring children from poor families. Education is the only equaliser. If our schools become too expensive and our national schools charge Kshs100,000, then that means that children from poor farmers in the villages, who are our main voters, would not access education. There is no way that equal opportunities are going to be given to those children.

I support and I thank the Mover of this Motion. I want to assure this House that my Committee is looking at the issue. We are liaising closely with the Ministry of Education, Science and Technology and hopefully, in two weeks' time, we shall be ready to table a report in this House on the same.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, it is time to adjourn the House. The time being 6.45 p.m, the House stands adjourned until Tuesday, 17th February, 2015 at 2.30 p.m.

The House rose at 6.45 p.m.