

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 10th March, 2015

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members making their way, take your seats. Hon. Members, because of the technological advances that we all appreciate, those of you that have the advantage of having mobile phones, when you get here put them on silent mode so that you do not embarrass yourselves like hon. Maanzo who is trying to touch various buttons and the gadget continues ringing because his constituents are still looking for him. Nobody is being denied the right to come with their mobile phones but it is only fair that we must be able to hear one another. Put them on silent or vibration mode.

The next thing that we are going to do, and I am happy that the communication that I am making is related exactly to this, if you are making your way in just remain where you are. Do not start bending down and pretending that you have become shorter than you normally are and yet you can be seen.

COMMUNICATION FROM THE CHAIR

RESOLUTIONS OF THE FOURTH ANNUAL LEADERSHIP RETREAT

Hon. Speaker: As you may all be aware, it is a tradition of the House to hold a leadership retreat at the beginning of every Session of Parliament with the objective of taking stock of the previous Session and planning ahead for the new Session. In this regard, the Annual Leadership Retreat under the theme: “Reflections, Planning and Forging Ahead” was held last week in Mombasa. The retreat brought together the presidium of the House, party leaders and whips, chairpersons of committees, Members of the House Business Committee, Parliamentary Service Commission and senior staff.

Hon. Members, during the retreat participants engaged in planning for the Third Session by discussing the calendar of the Session and priority business, the date of the next General Elections, improving decorum and the general conduct of Members owing to the unprecedented grave disorderly conduct witnessed during the last Session, the progress and challenges in the management of committees and processing of the 2015 Budget among other pertinent issues. The retreat was therefore not only timely and enriching but it also laid a foundation on which the Third Session has taken off. I take this opportunity to thank all those who participated in the retreat.

The resolutions emanating from the retreat propose improvements on various matters including the manner in which proceedings of the House are conducted and also

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touch on interparty relations, Members' welfare and the Constituencies Development Fund (CDF). I have since asked the Clerk to circulate these resolutions in form of a circular to ensure that we build on the experiences of the last Session in order to make the Third Session a success.

Among the issues discussed were:-

1. Procedure in the House: Presiding officers are to strictly adhere to the Standing Orders, enforce the Standing Orders without fear or favour and communicate decision without delay. Members to accord lady presiding officers respect - emphasis is on "respect".
2. Dignity in the House: Whilst upholding their political divergencies, leaders are to work towards harmonising differences so as to promote, protect and uphold both their personal dignity and that of Parliament.
3. It was agreed that the Standing Orders are to be amended to define clearly what is disorderly conduct or grossly disorderly conduct and provide punishment commensurate with the offences.
4. A code of conduct for Members of Parliament is to be developed by the Committee on Privileges in line with the provisions of the Public Officer Ethics Act, the Leadership and Integrity Act and Article 10 of the Constitution which deal with national values.
5. Parliament is to establish a special office to deal with discipline of Members.
6. Committee Mandates: The Liaison Committee is in consultation with the Speaker to enforce the Standing Orders to ensure adherence to mandates by committees to avoid duplication of roles and waste of public resources in multiple investigations and meetings. Committees are to hold their meetings on Mondays and Fridays to address the shortage of venues and afford Committee members more time to deliberate on issues. Committees, after that, should meet only when there is business to transact.

Committees are supposed to present reports of their investigations, visits, inquiries and considerations of Bills promptly as set out in the Standing Orders. Where Committees do not have technical capacity to investigate materials availed to them, the materials should be provided to bodies such as the Office of the Auditor-General, the Ethics and Anti-Corruption Commission and others to conduct further inquiries and submit their reports to Committees for verification and confirmation in line with Standing Order No. 203.

With regard to interparty consultations, Members are to consult widely and build consensus on contentious issues in a by-partisan approach. National interests should prevail upon individual and party positions. Parliamentary parties should regularly consult. Respective caucuses, among and between themselves, should develop consensus on various sensitive issues of national importance before such issues are brought to the House.

On operations of Committees, Standing Orders are to be amended to provide for Public Investments Committee (PIC) and Public Accounts Committee (PAC) to be

chaired by leaders of the minority parties. The Standing Orders are to be amended to provide for parties to be allowed to discharge and replace their Members in Committees.

On public participation, there is need to develop a common approach to avoid duplication of efforts on public participation for Bills requiring consideration by both Houses.

With regard to management of finances, a Member of Parliament who, having confirmed participation to a parliamentary event, fails to turn up without apology, or reason, is to reimburse Parliament all the expenses incurred.

(Applause)

About Members' welfare, the Parliamentary Service Commission should continue to engage with the Salaries and Remuneration Commission (SRC) in order to review all issues relating to Members, especially with regard to external travel.

On Bills with constitutional timelines, the Constitutional Implementation Oversight Committee is to renew its focus to ensure that all year four or five constitutional Bills are published within the stipulated timelines.

With regard to budget processes and timelines, all the Committees in the House are to stay within the timelines for consideration and passage of budget items. Committees are to prioritise their input into the budget proposals.

On regular performance review, the leadership is to meet at the beginning of each Session to review performance and propose changes to further improve performance and operations.

The other matters which are to be dealt with are matters for which we cannot anticipate debate because they relate to the issue of the date of the next General Election, tenure of the IEBC and the constitutional rule on not more than two-thirds of either gender that is provided for in Articles 81(b) and 27(8) of the Constitution.

On CDF, the Speaker is required to consult with the CDF Select Committee to prioritise the way forward with regard to the necessary amendments to the Constitution.

Thank you, Members.

(Applause)

Next Order!

MESSAGES

CONCURRENCE ON THE NATIONAL POLICE SERVICE (AMENDMENT) BILL

Hon. Speaker: Order, Members! We are now on Messages.

*(Hon. Ng'ongo walked in the gangway
while hon. Speaker was on his feet)*

What is this now?

Hon. Members, we have just said that we will be enforcing the Standing Orders strictly. So, when you see yourself being thrown out, just know that it is in keeping with those resolutions. We are on Order No.3 on the Order Paper, Messages. When that is read out, it means that if it is a Message, the Speaker will have to be on his feet. Therefore, those of you who are trotting in and doing all manner of things like shaking hands you should just --- You can shake hands because there is time up to 6.30 p.m.

This is a Message from the Senate, hon. Members. Pursuant to Standing Order No. 41(4) of the National Assembly Standing Orders, I wish to convey a Message received from Senate on 4th March, 2015. The Message was submitted by way of a letter dated 27th February, 2015 for presentation in accordance to Article 110 (4) of the Constitution which states thus:

“When any Bill concerning county government has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House”.

The Message states thus:

“The National Police Service (Amendment) Bill, Senate Bill No. 29 of 2014 as published in the *Kenya Gazette* supplement No. 103 of 2nd July 2014 as a Bill originating in the Senate was passed on Tuesday 24th February 2015 without amendments. The Senate now seeks the concurrence of the National Assembly on the said Bill as passed by the Senate”.

Hon. Members, I am now directing that the Clerk circulates copies of the Bill and upon being read the First Time, the Bill shall stand committed to the Departmental Committee on Administration and National Security. I further direct that before the Bill is scheduled for Second Reading, the Committee engages with the Budget and Appropriations Committee with a view to satisfy the requirements of Article 114 of the Constitution relating to Money Bills.

Thank you.

Hon. A.B. Duale: Hon. Speaker, I had the privilege to look at that Bill when it was still in the Senate. Nearly all the clauses in that Bill have already been done by this House in the same National Police Service (Amendment) Bill, 2013, if I am not wrong. The Chairperson of the Departmental Committee on Administration and National Security needs to give guidance.

I also heard your direction that the Budget and Appropriations Committee should look into that Bill taking into consideration Article 114 of the Constitution. My question is, and I need your direction, is the Constitution not very clear that money Bills can only originate from the National Assembly? I, therefore, need your direction on that. Are we working in reverse gear? I have seen a number of Bills in the Senate which are within the confines of Article 114. There should be a serious consultation between you and your colleague in the Senate to make it very clear that this particular type of a Bill can only start in the National Assembly. The provisions in the Constitution are very clear. We need to know that with regard to Bills that fall within Article 114, the framers of the Constitution were very clear about the spirit and the letter of the Constitution. As for now, I am seeing a money Bill which was to start in this House starting in the other House and now, again, you are referring it to the Budget and Appropriations Committee. I wanted to use the provisions within the Constitution which I think you and your

colleague need to consult on before Bills are introduced in either of the Houses. That way, you can guide Members from both Houses.

Finally, the leadership discussed public participation in Mombasa. If a Bill originated from this House, we conducted public participation and it is referred to the Senate, it would be of no use and a waste of resources when the Senate conducts a new public participation. I have in mind the Mining Bill. It went through this House and stakeholders were involved. However, when it went to the Senate, I saw in one of the newspapers an advertisement where the Senate is calling for another set of public participation.

The results of a public participation done by any House can be used by the other House because we are talking to the same people. We are not doing public participation in Tanzania or Uganda. So, if public participation was done by a committee of this House, then the records of that committee should be transferred to the Senate. If the Senate has done public participation, then the records of that public participation should be availed to the National Assembly.

Hon. Speaker, we need you to give direction so that we protect the resources of Parliament and the time consumed.

Hon. Angwenyi: On a point of clarification, hon. Speaker, Sir.

Hon. Speaker: Hon. Members, it is also fair those of you who were in the leadership retreat in whatever capacity, either as a commissioner or any other, to regularly update yourself with the Standing Orders. There is nothing like a point of clarification. Just look at your Standing Orders.

Hon. Midiwo.

Hon. Midiwo: Thank you, hon. Speaker. Let me also add my two cents to the issues canvassed by the Leader of the Majority Party. The main points I wanted to raise are only three. The first one is the one which he has articulated correctly. I find it to be duplication of duties and misuse of public funds that once a Bill leaves either House there needs to be another public hearing. Once it is advertised, who would be coming to give a differing opinion? Suppose the second public hearing negated the views passed by this House, would it not therefore mean that it is somebody outside the Chambers of elected Members disallowing the views of Members and of other members of the public who originally presented their views in the public hearing? So, I want to agree with the Leader of the Majority Party.

We have appealed to you away from this Chamber, in the House Business Committee (HBC), to seek a session with your colleague in the Senate or we do a meeting like the one we did in Mombasa to have both the House Business Committee and Privileges Committee of the Senate meet so that we can figure out how we do this cross-mobility of Bills. It seems to me that some people may just be trying to create work for themselves. It is not a good way to use public funds.

Secondly, I also want to agree that the substance of the Bill cannot be in question once it leaves either House. My understanding of the issue of money Bills is very different from the way the Leader of the Majority Party understands it. I understand money Bills to be those ones of budget. However, there is no legislation in either House that does not have financial implications unless they just want to pass sessional papers and bring them here for us to consider. That is an issue that is also contradicting and we

need to set a proper precedent for our country and for the future. Through your wise counsel, we need to figure out what is a money Bill. It will go a long way in clearing the contradictions and unnecessary controversies.

I thank you, hon. Speaker.

Hon. Speaker: I hope it is on the same issue.

Hon. Angwenyi: It is the same issue, hon. Speaker. Now that you have told us the issues which were discussed in Mombasa, please clarify them for some of us. If we would like the Senate to discuss money Bills, do we have to make an amendment to the Constitution? If so, will it require a referendum so that we can join *Okoa Kenya* and we get it done? On the issue of the Constituencies Development Fund (CDF), do we require a referendum to amend that law to align it to the Constitution? Thirdly, when legislations go to the National Assembly or the Senate, what part does the Attorney-General play? If he has any part to play, why can he not advise you and the other Speaker so that we have proper legislation brought on the Floors of the Houses?

Hon. Ng'ongo: Thank you, hon. Speaker, for allowing me to also say one or two things regarding the point of order raised by hon. Duale. First, the issue of public hearing should be very easy. I would request you to communicate with your colleague in the Senate so that the House originating a Bill should be the one tasked with the responsibility of conducting public hearings. That way, when we see a Bill originating from the Senate, we do not subject it to public hearing again. In the same manner, if a Bill originates from the National Assembly, it does not make sense for the Senate to conduct public hearing again.

However, the issue of money Bills is very clear. The Constitution is not ambiguous on what a money Bill is about. A money Bill is required by the Constitution to only originate from the National Assembly. It does not mean that it cannot go to the Senate. It talks about originating the money Bill. Money Bills should originate from the National Assembly. A money Bill is defined in Article 114(3) as follows:

“(3) In this Constitution, a “money Bill” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.”

So, what amounts to a money Bill is very clear and is spelt out in the Constitution. The communication between the two Speakers should be that if there is a necessity for such a Bill then it should originate from the National Assembly. However, it can still find its way to the Senate if it touches on matters that affect the counties.

Thank you.

Hon. Speaker: Very well. Hon. Members, the matter has been sufficiently canvassed. I just want to announce that consultations are ongoing between myself and the Speaker of the Senate on some of the issues that you have raised especially with regard to public participation and, more particularly, what hon. John Mbadi has just stated. The two of us are in agreement that when a Bill originates in one House, it is that House,

using the provision of Article 118, which should undertake the necessary public participation and hearings after which the Bill can go through the other processes and be referred to the other House.

Should the need arise to see what the public said, then the records from the Committee of the House which undertook the public hearings will be availed to the other House to consider. It is not healthy for each House to conduct public hearings purportedly to comply with the requirement for public participation. That is being addressed and we will be coming back to both Houses with appropriate Communication.

With regard to the issue of money Bills, each House has a responsibility to make whatever findings in the process of legislation. Therefore, this House is perfectly entitled to make findings that comply with Article 114 of the Constitution as read out by hon. Mbadi.

However, it will be difficult for the Chair not to receive Messages when they come as Messages. The requirement and the responsibility of the Chair is to communicate those Messages and then the rest is left to the House to deal with. Unfortunately, this is happening even with regard to Motions. You can see clearly that certain proposals in Motions will result in imposition of expenditure of public funds. If, indeed, any Member wishes to move any Motion or a Bill that he or she knows will result in imposition of an expenditure of public funds, the Budget and Appropriations Committee ought to look at it. I have not seen any Motion or Bill brought by any Member that proposes imposition of a tax. They are on expenditure. If, indeed, it has those kinds of implications in any of its provisions, so as to comply with Article 114 of the Constitution, it is fair that the Budget and Appropriations Committee looks at the proposal and in turn consults with the Cabinet Secretary in charge of the National Treasury. That is the requirement. If we do not follow those requirements, we shall be acting in vain. We will pass Bills which will not be implementable because they did not comply with those constitutional requirements. That Bill has been referred to the Committee and the Committee should feel free to look at it and in consultations with the Budget and Appropriations Committee, as I have directed, make whatever reports they find appropriate in that regard.

Communication will also come relating to the results of the consultations between the two Speakers.

PETITIONS

ALIGNMENT OF CRIMINAL LAWS TO CONSTITUTION

Hon. Speaker: Hon. Members, Standing Order No.225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member.

I, therefore, wish to convey to the House that my office has received a Petition signed by one Joseph Mwathi Nyanjui, a death-row inmate on behalf of all death-row inmates in the Republic of Kenya. Among other prayers, the Petitioner is praying that the National Assembly amends the Criminal Laws (Penal Code and Criminal Code) - for avoidance of doubt, it is Penal Code Cap. 63 and Criminal Procedure Code Cap. 75 - with a view to aligning them with the provisions of the Constitution of Kenya, 2010.

Hon. Members, the Petitioner states that the law as currently formulated constrains judicial officers in exercise of discretion when making judicial decisions contrary to Article 160(1) of the Constitution. He, therefore, prays that the National Assembly:-

- (i) enacts legislation to provide for provision for a Government sponsored advocate to represent accused persons at all stages in capital offences trials; and,
- (ii) reviews criminal laws (Penal Code and Criminal Procedure Code) to provide judicial discretion on capital offences.

Hon. Members, this Petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is required to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order No.227(2). I urge the Committee to find ways of engaging with the Petitioner, who is in incarceration as he proposes weighty constitutional matters relating to the Bill of Rights.

Thank you.

(Several hon. Members stood up in their places)

Is there something out of order? Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, the matter of death-row inmates is actually a matter that this House and this country must pronounce itself on. In the last Parliament, I raised this matter because one of the problems that we have with the correctional system is that we have many people who have been convicted on death-row sitting in our prisons leading to congestion among other problems. Some of those are the problems that we have been having with crimes being committed from prisons. This is even a problem with the prison authorities. I have had conversations with the prison authorities and the matter of death-row inmates is a problem even to them. Some of those fellows have been sitting there for over ten years. They have been convicted, but they do not know their fate. They are sitting in prison and consuming public resources. That Petition is timely.

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

Hon. Speaker: Hon. Amina, what are you saying?

Hon. (Ms.) Abdalla: On a point of order, hon. Speaker. Is it in order for the Member for Changamwe to cross the Floor without bowing to the Chair, not once, but thrice?

Hon. Speaker: Hon. Member, I saw you crisscrossing. What are you trying to do? Hon. Member for Changamwe, Omar Mwinyi, go and do the right thing!

Hon. (Eng.) Gumbo: Hon. Speaker, as I was saying, this House must pronounce itself on this matter. It is true that once they have been convicted to hang, this causes a lot of anxiety and congestion in our prisons. The burden they exert on our prison system is enormous. The Petition is timely and the House should pronounce itself on it.

Hon. Maanzo: Thank you, hon. Speaker. First of all, I apologise to the House for the ringing of my phone. As a practising lawyer, I had opportunity to practise in this area.

Since 1986, no death-row convict has been executed. In our Kenyan laws, there is provision for somebody to be sentenced to death. Even when the sentence has been passed and all mechanisms have been exhausted on the fate of that person, those people are just kept in prison. There is no execution of death sentence in this country. Therefore, there is need for this House to give direction and if need be, amend the laws. I believe that the death sentence is still relevant in Kenya. If you do not have it at all, people will become very bold. It is similar to the case of robbery with violence and murder suspects being released on bail as the current Constitution provides.

The Constitution also provides that even suspects of terrorism should be released on bail. This has a bearing on the crime wave in the country.

Hon. Speaker, this is a very important matter. Therefore, I urge hon. Members with ideas to join the Committee and participate in its deliberations. I will also do so.

Thank you, hon. Speaker.

(Several hon. Members stood up in their places)

Hon. Speaker: Hon. Members, I want you to listen. According to your own Standing Order 104, you shall remain seated; you shall not remain standing in the passageways and gangways. I can see so many of you standing, including hon. King'ola. If you want to speak to the Leader of the Minority Party, you can even crawl and place yourself besides him. You should not stand in front of him. You are not being courteous to him.

Hon. Makau, if you want to address the Leader of the Minority Party next time, come quietly and kneel beside him. The same applies to you, hon. Mirenga, if you want to consult him.

Hon. Members, before we proceed to the next Order, let me recognise the presence of pupils of Logos Christian School from Nairobi County, in the Public Gallery.

Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The 2014/2015 Half-Year National Budget Implementation Review Report from the Controller of Budget, prepared pursuant to Article 228(6) of the Constitution.

The Annual Report and Financial Statements of the Kenya Dairy Board for the year ended 30th June, 2013.

The Annual Report and the Financial Statements of the Kenya Meat Commission for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of the National Police Service Commission for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Independent Policing Oversight Authority (IPOA) for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The National Alcohol and Drug Abuse Status Report for the period of April to September 2014 from the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA).

Sessional Paper No.2 of 2013 on the National Industrial Training and Attachment Policy.

Sessional Paper No.3 of 2013 on the National Productivity Policy.

Sessional Paper No.2 of 2014 on the National Social Protection Policy.

Sessional Paper No.4 of 2014 on Governance, Justice, Law and Order Sector.

Thank you, hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Lands! He is to lay a Paper. The Chairperson being absent, the Paper is dropped.

(Paper dropped)

Hon. Members, before we move to the next Order, I have a reminder, particularly to Chairpersons of Departmental Committees regarding one of the Papers laid on the Table of the House by the Leader of the Majority Party – The 2014/2015 Half-Year National Budget Implementation Review Report from the Office of the Controller of Budget. You will recall that I indicated that all Committees need to study such Reports and regularly make reports to the House of what they make of them. Those reports monitor, among other things, the implementation of the budgets. You are the people approving budgetary allocations to Government Ministries, departments and other national State organs.

Those reports must form part of the regular business of Departmental Committees. I will soon issue instructions to officers responsible for every Committee to make it part of the business that must be considered by every Departmental Committee. That is more important than investing in rumours. In as much as the Committees can investigate and inquire into anything, please; this is more important because it touches on how public resources, which this House approves to every Government agency, are being applied. Therefore, every Departmental Committee should take a copy of this Report so that within the next few months, before the third report comes up, you will have given this House your report relating to your mandate of monitoring the Budget implementation process. That is really playing the oversight role correctly.

Next Order!

NOTICES OF MOTIONS

Hon. A.B. Duale: Hon. Speaker, I beg to give notice of the following Motions:-

ADOPTION OF SESSIONAL PAPER ON NATIONAL INDUSTRIAL TRAINING POLICY

THAT, this House adopts Sessional Paper No.2 of 2013 on the National Industrial Training and Attachment Policy, laid on the Table of the House on Tuesday, 10th March, 2015.

ADOPTION OF SESSIONAL PAPER ON NATIONAL
PRODUCTIVITY POLICY

THAT, this House adopts Sessional Paper No.3 of 2013 on the National Productivity Policy, laid on the Table of the House on Thursday, 10th March, 2015

ADOPTION OF SESSIONAL PAPER ON NATIONAL
SOCIAL PROTECTION POLICY

THAT, this House adopts Sessional Paper No.2 of 2014 on the National Social Protection Policy, laid on the Table of the House on Tuesday, 10th March, 2014

ADOPTION OF SESSIONAL PAPER ON GOVERNANCE,
JUSTICE, LAW AND ORDER SECTOR

THAT, this House adopts Sessional Paper No.4 of 2014 on Governance, Justice, Law and Order Sector, laid on the Table of the House on Tuesday, 10th March, 2015.

Thank you, hon. Speaker.

DEVELOPMENT OF CURRICULUM FOR EMERGENCY
TRAINING OF MEDICAL PERSONNEL

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

THAT, aware that Article 43(1)(a) and (2) of the Constitution provides for the right of the highest attainable standard of health for every person; further aware that emergency health care is an important component of standard health services; concerned that many lives continue to be lost due to lack of adequate emergency healthcare and poor response to emergencies in the country; noting that only 13 per cent of the public health facilities in the country have basic components to support emergency cases; deeply concerned that emergency patients are exposed to untrained personnel and/or good Samaritans who, in most cases, worsen the situation; cognisant of the need for the country to have a well coordinated emergency care system; this House resolves that the Government immediately develops and implements a national curriculum for emergency training of all medical personnel in the country.

Thank you, hon. Speaker.

Hon. Speaker: Next Order!

MOTIONS

APPROVAL OF NOMINEE TO THE KENYA NATIONAL
COMMISSION ON HUMAN RIGHTS

Hon. Speaker: Hon. Members, before the Motion is moved, I just felt that it is fair I bring it to the notice of the House that hon. Isaack Mwaura has just handed in a proposed amendment to the Motion. It is fair for me to let the House know that the Motion has just been brought and that contravenes Standing Order No. 55 (1). It does not, in my view, fall in the category of Standing Order No. 55 (2) where it would have given the Speaker the latitude to allow it to be moved at this late hour. It is not exceptional and, therefore, this is just to alert the House that hon. Mwaura proposes to delete the word “rejects” and substitute it thereof with the word “approves”. He is advised to lobby as many hon. Members as possible to reject the Motion in its current form. That is because his is a Motion to negate. I also would like to bring to the attention of the House the import of this Motion which is that the Departmental Committee on Justice and Legal Affairs recommends that the House rejects the appointment of the nominee.

If the Committee in the House agrees with the Committee, then the nominee stands rejected. If the House does not agree with the Committee, then the nominee’s name remains just there. If the House does not agree with the Committee, then the name of the nominee cannot be forwarded. That does not mean that the name will be forwarded to the President for appointment. It does not mean that. It is good to borrow some previous practice. Those of you who were in the Tenth Parliament will recall that the House was directed on similar matter. I have consulted and I agree with that direction by my predecessor, hon. Marende, that, any hon. Member will be at liberty to move a Motion seeking approval. The Motion must be moved in a proper way and not in the manner that hon. Mwaura has brought his when the House is already in Session. So, should the House not agree with the Committee then the name will remain; not rejected and not approved. That means that, any hon. Member will be at liberty to move a positive Motion to the current one. I am sure hon. Midiwo will recall that in the Tenth Parliament, a similar position did obtain.

I just wanted to let the Mover know so that you can understand what it is. Hon. Midiwo, you want to raise a point?

Hon. Midiwo: Yes, hon. Speaker. Not too much of a hullabaloo. I want you to be clear because the House will recall, through the HANSARD, that I was the one who raised that issue when the Committee on Security led by the former Member of Parliament hon. Kapondi, tabled the names of the members of the Police Service Commission. You could not be more right that your predecessor gave a ruling. The way you are saying it, hon. Members, probably, need you to just explain it in our language. That is because even I had to jog my memory and it is just because I was involved. You need to make it clear that if hon. Members of this House disagree with the Report of the Committee, it means that the House approves or agrees with the nomination. You will have to explain that to us. It does not mean that we will have approved at the end of it, what has been rejected by the Committee. The person who has been rejected by the Committee does not stand appointed or the name sent to the President. So, it is good to simplify. That is all I am asking for, hon. Speaker.

Hon. Speaker: Exactly. If the House does not agree with the recommendations of the Committee, that does not amount to approval of the nominee. That is the correct position; it does not amount to approval of the name.

Hon. Chepkong'a: Hon. Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of a Nominee for Appointment to the Kenya National Commission on Human Rights, laid on the Table of the House on Thursday, 5th March, 2015, and in accordance with the provisions of Section 11 of the Kenya National Commission on Human Rights Act No. 14 of 2011, rejects the appointment of Dr. Samuel Njuguna Kabue as a Commissioner to the Kenya National Commission on Human Rights.

Hon. Speaker, as you know, the nominee's name, Dr. Samuel Njuguna Kabue, was forwarded to this House by His Excellency the President through your Message. On 18th February, 2015 you communicated to the House that Dr. Kabue had been nominated as a Commissioner with the Kenya National Commission on Human Rights (KNCHR) and you submitted the name to the Departmental Committee on Justice and Legal Affairs for vetting.

As required by the Constitution, the National Assembly published the intention of vetting Dr. Kabue in, at least, two dailies as required by Article 118 (1) (b) of the Constitution which states as follows:-

“Parliament shall—

(b) facilitate public participation and involvement in the legislative and other businesses of Parliament and its committees”.

Pursuant to that publication, we received a number of submissions and memoranda from a number of individuals and bodies namely:-

- (i) The National Gender and Equality Commission,
- (ii) CBM,
- (iii) Autism Society of Kenya,
- (iv) National Gender for Persons with Disabilities,
- (v) United Disabled Persons of Kenya,
- (vi) Kenya Disability Parliamentary Association,
- (vii) Brian Resource, Training, Production and Dissemination Centre, and,
- (viii) The Association for Physically Disabled of Kenya.

All those bodies supported the nomination and approval of Dr. Kabue as a Commissioner. However, we received two submissions in opposition. They were from the Ethics and Anti-Corruption Commission (EACC) and one Mr. Lempaa Suiyanka who is an advocate. In fact, he swore an affidavit in opposition to the appointment of Dr. Kabue.

Hon. Speaker, we then invited the nominee for vetting. He went through the due process. After the conclusion of the hearing, we then recessed as a Committee and considered the memoranda that had been submitted together with those which were in support and opposition.

While conducting the hearing, hon. Speaker, the Committee was guided by the Constitution of the Republic of Kenya, the National Assembly Standing Orders, Public

Appointments (Parliamentary Approval) Act Chapter 136 of the Laws of Kenya, the Kenya National Commission on Human Rights Act No. 114 of 2011 and common conventions, practices and usages.

While vetting the nominee, we found him to have met all the required qualifications as stated in the Act.

Hon. Speaker, when we considered the nominee, we were alive to the fact that he is a person from the disabled community. We were, indeed, very sympathetic to him because he qualifies in all respects. However, the law requires Parliament to consider something, while vetting the nominee under Section 11(5). Before a nominee is forwarded to the President, a selection panel is normally constituted for purposes of interviewing and shortlisting persons to be appointed as commissioners to the Kenya National Commission on Human Rights (KNCHR). Section 11(5) states as follows:-

“ The selection panel shall within seven days of receipt of applications under Subsection (4) consider the applications, interview and shortlist, at least, three persons qualified for appointment as chairperson and eight persons qualified for appointment as members of the Commission and shall forward the names of the selected candidates to the President for nomination.”

When those applications were invited, the persons who applied for this position and were considered by the selection panel were a total of 13. In that list, we had the name of Dr. Kabue. The selection panel carried out the interviews, shortlisted and forwarded the names to the President. In the shortlist that was forwarded to the President, the name of Dr. Kabue was not included. Consequently, the Committee, looking at the shortlist dated 18th September, 2013 that was forwarded to the President--- Again, let me say that those are not documents of the National Assembly. They are documents that were given to the Committee. It is the duty of the Committee just to review the documents. We did not originate these documents. So, the letter that was forwarded to His Excellency the President on 18th September, 2013 and signed by Mr. Erick Mutua who was the Chairperson of the Selection Panel had the following persons for membership of the Commission:-

1. Henry Omusundi Maina.
2. Nelly Awori Matheka.
3. JedidahWakonyo Waruhiu.
4. Naomi Nyambura Wagereka.
5. Eric O. Ogwang’.
6. Suzanne Shatikha Chivusia.
7. John Kamanda Mucheke.
8. George Morara Monyoncho.

Those are the names that were forwarded to the President. As required by Section 11(5), these names were then forwarded to the President for purposes of appointment and being forwarded to the National Assembly for vetting. His name was not contained here. Although we found him to be qualified, the process in which he went through in terms of appointment did not comply with the law. Consequently, the Committee felt, as required by the Constitution under Article 73---Before I read that, the letter that we received from the objector, one Mr. Suyianka Lempaa, whom we had also rejected after coming through the same process in which he had not been shortlisted, said he was also objecting to Dr.

Kabue being approved as a nominee to the KNCHR because his name was also forwarded to the National Assembly, but was not in those who had been shortlisted by the selection panel. I see some hon. Members have a lot of interest and they are seeking to make amendments. Mr. Suyianka has said in this affidavit that he has legitimate expectations that this House will reject the nominee like we rejected him.

Article 73(2)(b) of the Constitution which guides this House states as follows:-

The guiding principles of leadership and integrity include-

(b) Objectivity and impartiality in decision-making and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices.”

To ensure that we are objective and impartial, we must apply the same yardstick that we applied on Mr. Soyianka Lempaa in rejecting him, notwithstanding that, that is a person who is from the disabled community. As we have always said, disability is not inability. That person is totally qualified. It is just that the process was not followed. As a National Assembly, even if we want to amend the recommendations of the Committee, we will also be required to amend Section 11(5) of the Act itself so that we comply with the law. Do not only reject what the Committee has said. You must also move an amendment to Section 11(5) of the KNCHR Act. Considering all those, the Committee came to the unanimous decision as follows:-

That this House rejects the nomination of Dr. Samuel Njuguna Kabue as a commissioner to the Kenya National Commission on Human Rights because the process leading to his nomination does not comply with Section 11(5) of the KNCHR Act No. 14 of 2011.

Secondly, that a new selection panel be constituted to receive applications, interviews and shortlist them for nomination in line with Section 11(1), (4) and (5) of the KNCHR Act No. 14 of 2011. As much as I have heard that hon. Mwaura is seeking to make amendments, I would have expected him to have---I am not saying anything. He is my very good friend. Since we published this, he should have come to the Committee so that he can also support the nominee. It is unfair, and late in the day, for him to move this amendment because there is no hon. Member who was denied the opportunity to come and support. There are very many who supported. What we are saying is that we must stick by what the law states. Until we amend the law, we must live by it.

I would like to request hon. Ochieng to second.

Hon. Ochieng: Thank you so much, hon. Speaker. I rise to second this very important Motion. As I do so, I want to start by reminding us of the role of Parliament. One of the major roles of Parliament, according to the Constitution, is to protect the Constitution and to promote the democratic governance of the Republic.

The Motion before the National Assembly today is very important. As the Chairman has said, we do not have a problem at all. In fact, in terms of qualifications, Dr. Samuel Njuguna Kabue is so able and so qualified to be a commissioner of the concerned commission. That is not in dispute. What is in dispute, and this you will find in our recommendations--- I want to read the recommendation for the House to hear.

“That this House declines to approve the nomination of Dr. Samuel Njuguna Kabue as a member of the Commission because the process leading to his nomination does not comply with Section 11(5) of KNCHR Act No. 14 of 2011.”

This National Assembly is known for complying with the law. I want hon. Members to note that this Report is coming from none other than the Departmental Committee on Justice and Legal Affairs. Who then among all other committees is better suited to know when the laws have been broken or not? That is why I want hon. Members to look at the recommendations of this Committee in that light. In my opinion, the first Committee that must be in the forefront in ensuring that the Constitution is respected is the Committee on Justice and Legal Affairs. I want to let hon. Members know that this recommendation was done by the Committee unanimously.

There was no voting or haggling. We all agreed that the person concerned qualifies, but the process through which he was brought to the National Assembly is wanting. That is why we recommend that a new selection panel be constituted to receive applications. In that process, even Dr. Kabue will have a chance to apply again. He is qualified. He will be interviewed and his name will then be sent to the President in a proper manner.

Hon. Speaker, whenever it comes to approval of names in this National Assembly, sometimes, we take interests that are far away from what we need to look at. As we speak, we are having a crisis with commissions because, sometimes, we approve names of persons here who join the commissions and then they do not do a good job. Those people know that whether they are qualified or not, their names speak for them and so, they will be approved. We need to let this country know that this National Assembly believes in due process of the law; upholds the Constitution and will ensure that the democratic processes of this country are followed. That is why I want to agree with my Chairman that we should not look at the name or Committee Members.

Hon. Speaker, you have been very consistent in your Communications and reminders to us since you came to the National Assembly. Consistency is a virtue, especially when you are looking at meeting the dictates of the law. If we rejected Lempaa, who was as qualified as Dr. Kabue, why would we be going back and say that because this person is able or is this and that, then we should pass him? I say no. When he appeared before us, he was not looking for sympathy or empathy. He said that he should be treated like any other person. That is why I plead with this National Assembly to understand that we are not the Executive; we are the National Assembly. We are set up to ensure that the laws are followed. We know there is a Government and that the Jubilee Coalition is the one running the Government. However, where the President has been advised to do something that goes on the face of the law, we, as the National Assembly, must advise as such and ensure that the law is followed.

With those many remarks, I second this Report and implore Members that the name of Dr. Kabue will still find itself back to the House if the due process of the law is followed. Thank you.

Hon. Speaker: Hon. Ochieng, you have seconded. I imagine that I have the bulk of what you said.

(Question proposed)

Hon. Njagagua: Thank you very much, hon. Speaker for giving me this chance to contribute to this Motion. My position is to support the Report by the Departmental

Committee on Justice and Legal Affairs. It is unfortunate that the legal team or the presidential advisors advised him to submit a name that was not shortlisted for approval by Parliament. This is actually looking down upon us because we do not expect that people who have sworn to defend the Constitution will come around and start to trample upon that Constitution. It is also unfortunate that Dr. Kabue is very well qualified to hold this position, but he was never shortlisted. So, in my opinion, either the Presidency or the people who were appointing wished to use Parliament to approve a name that was never shortlisted through the back door. That is because the *daktari* was never shortlisted.

Hon. Speaker, we must appreciate that public funds, time and resources were used during the process of shortlisting. This has gone down the drain because the eight persons whose names were submitted to the President were never considered. However, I believe other extraneous issues and matters were used to forward this name to Parliament. So, as I contribute to this Motion, I believe that somebody somewhere should be surcharged for the misuse of those public funds or resources that were utilized.

I stand here to support the Motion by the Departmental Committee on Justice and Legal Affairs. The hon. Member who was seconding this Motion was heard saying that it is only the Departmental Committee on Justice and Legal Affairs that knows what is legal. I want to imagine, and I will seek your guidance, that all Committees of this Parliament are equal and they all use the law in their deliberations. So, it is not only the Departmental Committee on Justice and Legal Affairs that knows what is legal and others do not know. You guided us on the matter that if this Motion does not pass, the man's name neither stands, and is neither dropped nor nominated. Where does he lie? Does he lie say in purgatory? Does that name just remain? I would want to imagine that if we reject this Motion, then the name also goes. Like Lord Denning said, "fraud vitiates everything." It was a fraudulent move to send this name to Parliament when it was never submitted to the President.

Thank you, hon. Speaker.

Hon. Speaker: Leader of the Minority Party.

Hon. Nyenze: Thank you, hon. Speaker for giving me this chance to contribute to this very important Motion. I want to congratulate hon. Chepkong'a and his Committee of 28 Members for coming up with a thorough Report. They did due diligence and so the Report is fair, thorough and correct. As we have heard from hon. Ochieng, all the 28 Members agreed unanimously to reject the appointment of Dr. Kabue.

Hon. Speaker, this country has witnessed appointments which are skewed. This process of appointing people should adhere to the national values found in Article 10 of the Constitution. The national values require regional balance. These days, we do not hear of Mutunga, Ouma, Wafula or Osiemo. We want this one to be balanced. In the next appointments, we want to see the face of Kenya reflected. That way, we shall be adhering to the Constitution.

Hon. Speaker: Hon. Leader of the Minority Party, why do you not read the Report and see the Motion that we are discussing? You are introducing very irrelevant things. With respect, I do not want to throw you out for being irrelevant. However, if you force me to do so, I will have no option but to proceed and do exactly that.

Hon. Nyenze: Thank you, hon. Speaker. Dr. Kabue's name was not in the list of the eight names, as you have heard. His name was not forwarded to the President. We

have also seen that Dr. Kabue was ranked tenth in the shortlist. In my view, the Committee has done a good job. The nomination of Dr. Kabue violates Section 11(5) of the Kenya National Commission on Human Rights Act and it should be rejected by this Parliament.

A fresh recruitment under Section 11 of the Kenya National Commission on Human Rights Act must begin. As to where we can place Dr. Kabue, if we support the Committee's recommendation, the President could find another place to appoint him. In fulfilling the mandate, the Committee's recommendation considered the principles outlined in Section 7 of the Kenya National Commission on Human Rights Act which states:

"In fulfilling its mandate, the Commission shall act in accordance with the values and principles set out in the Constitution and the laws of Kenya and shall observe and respect:-

- (a) the diversity of the people of Kenya;
- (b) impartiality and gender equity;
- (c) all treaties and conventions which have been ratified in Kenya and in particular the fact that human rights are indivisible, interdependent, interrelated and equal importance for the dignity of all human beings; and
- (c) the rules of natural justice.

The Ethics and Anti-Corruption Commission had raised objections into the appointment of Dr. Kabue. That is a very serious point to consider. Even if all other bodies supported, that alone raises a red flag which the Committee did a good job to observe.

Hon. Speaker, I want to be relevant so that you do not rule me out of order. When I talk about the face of Kenya and refer to the relevant part of the Constitution that states that we show diversity, I do not think I am out of order. Any appointment in this country has to comply with the laws of Kenya. Many bodies including the Ethics and Anti-Corruption Commission have raised objections. Considering that Dr. Kabue is disabled, it would be unfair for the Government not to consider him for an appointment elsewhere. My plea is for the Committee to recommend an alternative place for Dr. Kabue, so that the disabled can also feel that they have not been rejected. As hon. Chepkong'a has said, Dr. Kabue is highly qualified. Many bodies have recommended his appointment. In the Committee's wisdom, there could be a rider or a recommendation that an alternative be sought.

With those few remarks, I support the Committee's deliberation.

Hon. Speaker: Hon. Members, there are several of you who have come to tell me that even though your names are on the priority here, you do not want to contribute to this Motion, but that you want to contribute to the other business. I have noted those who have come to say that.

I give hon. Mwaura a chance because like I had said earlier, he had intended to move an amendment, but he came late. It is only fair that we should hear him.

Hon. Mwaura: Thank you, hon. Speaker for that fair consideration. I rise to oppose the Report as submitted by the Committee. From the outset, the matter that we are discussing here is of great importance to persons with disabilities. If there has been a Commission that has been very forthright in advancing the rights of persons with

disabilities in this country since its inception, it is none other than the Kenya National Commission on Human Rights.

This Commission has had past members with disabilities like the former Commissioner, Lawrence Mute and Dr. Samuel Tororei. It is because of such participation that even the current Constitution of Kenya, 2010, was able to bring on board issues, concerns and representation of persons with disabilities in various aspects of governance including, but not limited to, the National Assembly.

Article 54(2) provides that five per cent of all members of the public in appointive and elective positions be persons with disabilities. Many appointments have been done in the past and quite a number have left out persons with disabilities. Five per cent is supposed to be achieved progressively. However, zero is not progress. The best way to quantify such inclusion or adherence to the law is only by way of ensuring that we have nominees with disabilities to various bodies.

We have heard submission to the point that this appointment is not in tandem with the law. I beg to differ. You cannot read the law selectively. If you look at Section 11(13) and I would want to indulge the House to read, it provides:

“In short-listing, nominating or appointing persons as chairperson and members of the Commission, the selection panel, the National Assembly and the President shall ensure that... have due regard to the principle of equal opportunities for persons with disabilities.”

That leads me to the question of the list. If you look at the list submitted to the President, the person with disability other than Dr. Samuel Kabue, is Mr. Eric Ogwang’, who is deceased. The next person on that list is none other than Dr. Samuel Njuguna Kabue. It is common sense that you go to the next qualified person.

Recently, we were looking at the nominees to the Teachers Service Commission. One Member rose to question how a lady who was number 22 in the interview was actually recommended for appointment. The justification was that we need to have gender balance.

It also applies to the marginalised groups of people. Dr. Samuel Kabue was the next most qualified person with regard to this appointment. In fact, the Constitution is replete with provisions that support this appointment. Article 27 calls for affirmative action, through legislative and other measures, to assuage past discrimination for previously disadvantaged groups. Therefore, this appointment is in order. I find it very interesting that the basis of the rejection of this nominee would come from the fact that Mr. Vincent Lempaa had been rejected by this Committee. If I recall correctly, the submissions then were that one of the key objections before the Committee was because there was no person with disability in the Board, as required by the Kenya National Commission on Human Rights Act, 2011. Therefore, in my opinion, the argument does not hold.

Hon. Speaker, the other issue that has been raised by the Committee is with regard to the Ethics and Anti-Corruption Commission (EACC). If you look at the annexure, the letter from the Commission clearly states that Dr. Kabue is being investigated, but it goes further to say it is a matter of verification. The letter indicates clearly that, the fact that there are no documents with the Commission does not mean that the person is innocent. That clearly indicates that mere allegations from the EACC would not constitute a guilty

verdict. Therefore, I would want to differ with the Leader of the Minority Party, who says that, just because there are mere allegations from the EACC, we should go by that persuasion. In the past this House considered nominees in respect of whom such allegations, if not worse, had been made. As a House, we go by the principle of one being deemed innocent until proven guilty.

We, as Members of the Kenya Disability Parliamentary Association (KDPA), together with other organizations of persons with disabilities, support the nomination of Dr. Kabue. Why? It is because we worked very hard with Dr. Kabue in the past, in pursuance of the rights of people living with disabilities. He has been a patriarch for persons living with disabilities. Therefore, in our opinion, there could be no better person who could execute the mandate – as provided under Section 6 of the Kenya National Commission on Human Rights Act – of protecting the rights, interests and concerns of persons with disabilities in the Commission.

Hon. Speaker, the various bodies that support Dr. Kabue's nomination include the Association for the Physically Disabled of Kenya, the National Council for Persons with Disabilities, and the United Disabled Persons of Kenya. These are some of the organisations that have been in the forefront in championing the rights of persons with disabilities in this country. In fact, if you look at the Curriculum Vitae (CV) of Dr. Kabue, you will see that he is exceptionally qualified. Due to the good work that he has done, he has been awarded an honorary Doctorate Degree. He is a holder of the Head of State Commendation (HSC) because of the kind of work that he has done.

Therefore, I submit that the President's nomination of Dr. Kabue is procedural. Indeed, Dr. Kabue represents persons with disabilities. He must not be seen within the narrow prism of ethnicity, as has been the case in this country. Dr. Kabue does not reign on the platform of being Kikuyu, Luo or Kamba. He reigns on the platform of persons with disabilities. I reiterate that we have confidence in him.

I urge this House to reject the Report of the Committee, so that we can have proper representation in this Commission.

With those remarks, I beg to oppose.

Hon. Speaker: Yes, Dr. Purkose!

Hon. (Dr.) Pukose: Thank you, hon. Speaker, for allowing me to contribute to this Motion. I rise to support the Report of the Committee in rejecting the nomination of Dr. Samuel Njuguna Kabue as a Commissioner to the KNHRC.

The Committee has done a good job because, for once, they have not disputed the qualifications of Dr. Kabue. As far as his qualifications are concerned, they have not disapproved. What they have disapproved is the flawed process that was used in nominating him. The list of the names that were forwarded to the Head of State for nomination did not contain the name of Dr. Kabue. Therefore, it would be wrong for the Committee to assume that the President was given the names by the Commission. Even if the seventh shortlisted candidate on the list died, and was a person with disability, the whole process should have been nullified. The President should have asked the selection panel to add a name of a person with disability on the list.

This House is correcting the mistake that was made. It is sending a very clear message – that if your name is not on the list that was forwarded to the President for nomination, you cannot have any other way, like approaching the President and having

your name submitted to Parliament for approval. The President might not have been informed that the nominee is not among the original eight persons whose names were forwarded to him for nomination. A shortcut was taken, which flawed the process. This House cannot rubberstamp a wrong that was done elsewhere.

Hon. Speaker, as the Jubilee Coalition and because of our command of majority in the House, at times some people take us for granted. They think that they can bring anything to the House, and we will just rubberstamp it. That is wrong. By rejecting this Report, we will be sending a very clear message – that the process must be flawless. We must operate within the law and commit ourselves to adhering to the law since we are the same lawmakers who make the law. Therefore, it will be wrong for this House to approve a wrong as if it is a right. Let the process be done afresh, following the proper channels. At the end of the day, if Dr. Kabue's name comes back, we will approve it so long as the process is done in the proper way.

With those few remarks, I beg to support the Report.

Hon. Speaker: Yes, hon. Chris Wamalwa!

Hon. Wakhungu: Thank you, hon. Speaker, for giving me the opportunity to contribute to this debate. I would like to thank hon. Chepkong'a, as the Chair, and his Committee; for work well done. This House is not a rubberstamp. The product of a fraudulent process is also fraudulent. Therefore, there is no way we can accept Dr. Kabue's nomination, however qualified he is. Qualification is not just academic; it also has something to do with personal attributes. For instance, issues like attitude. We are having serious problems in this House because some Committee Chairpersons have attitude problems, despite their strong academic qualifications.

How did Dr. Kabue's name find itself to the list that was submitted to the President? We should go further to establish the identity of the persons on the selection panel. It should not just be left the way it is. It is unfair to repeat this process. Hon. Members can imagine coming from an election and a Returning Officer sending the name of the wrong person to the Independent Electoral and Boundaries Commission (IEBC) for that person to be declared the winner. It is very unfortunate.

Hon. Speaker, I support the Report of the Committee, but we need to know the names of the persons shortlisted for onward transmission to the President. That is the list from which the President should have nominated the persons he intended to appoint. It is unfair to nullify the process and start it afresh just because somebody wants to bring on board the interest of Dr. Kabue. As we speak, this is not an issue of tribes or coalitions. I am happy that today the Jubilee Coalition is not abusing their advantage of tyranny of numbers.

I request hon. Members to reject the nomination of this person in totality, irrespective of his physical condition. We sympathise with his condition but it is unfortunate that the process was fraudulent. We do not want to entertain fraudulent processes.

Hon. Speaker, the Committee has clearly outlined the human rights Act that this process has violated. Who are we as Members of Parliament to go there and turn around everything? The earlier communication that you gave was that we reject him even if we support them. This person should not be entertained. Once Parliament rejects, the name should go in totality. Having issues of integrity, my friend hon. Mwaura, poses a lot of

questions. I sympathise with the disabled people but when it comes to integrity we cannot entertain this issue. So, I am humbly requesting Members that we pass this unanimously and reject Dr. Kabue because it is a fraudulent product out of a fraudulent process.

Thank you, hon. Speaker. I support the recommendation of the Committee.

Hon. Speaker: Hon. Dalmas Otieno, do you want to contribute to this?

Hon. Anyango: Thank you, hon Speaker. I would like to contribute to this Motion. Honestly, this is a very important Motion. I wish to congratulate the Committee for the step they have taken. I wish they had added that the Committee should investigate the process that led to the sneaking of this name to the President. Who exactly did that? Definitely, it is not the President who decided to go against the law. The reason I am so happy with the Departmental Committee on Justice and Legal Affairs is that as we are talking now, there are Kenyans who refuse to believe in our laws and instead they believe in their money. How was Kabue not included in the recommendations to the President if he is so eminently qualified? There could have been some influence to exclude him so that somebody else could benefit in the process. Was there any lobbying through the process that left out a person we know to be so competent? Hon. Mwaura should support the Motion to give a chance to Dr. Kabue to have a second round through the process so that he may be brought to the House to be approved. He should not reject the Motion. Support the Motion so that we give a chance to the right person.

We have to put our feet down this time. This is because there are Kenyans who believe that even in tendering, they can submit their tender applications one hour late and start lobbying and bribing so that they are included in the tender process. Parliament has to insist that these machinations, the throwing of weight and money, the adverse influences in our systems and against our laws have to stop and where Parliament oversees a process you will have no chance of getting away with it. There are rich Kenyans who believe that even if they have contraband goods they will move from Busia up to Mombasa. There are Kenyans who believe that narcotics will be imported, reach Nairobi and be sold to ruin our children because they have the money to change things. They have the money to implement a different law from the one which we have. This is so serious and Parliament has to send the message by rejecting this nomination. I wish we had even added that the Executive should apologise to Parliament for such a name having been brought to us without following the due. This is so that the message goes out clearly to Kenyans that as we proceed to enforce laws on corruption, bad influence and impunity, Kenyans will agree with Parliament that this will be done.

Hon. Speaker, from your own other rulings you are aware that this is a very bad example that has even forced you to refer and order investigations into some of these processes that definitely are against the law. We cannot allow Parliament to continue to develop disrepute by approving such a recommendation. We should insist on an apology.

Thank you.

Hon. Speaker: I notice that hon. Mwaura has pressed the intervention button. Are you on a point of order?

Hon Mwaura: Hon. Speaker, I beg to ask for your indulgence because I rose on a point of order when Dr. Wamalwa was speaking. I had issues with his language but he has since sat down. So, I am okay.

Hon. Speaker: Hon Members, I can see several of you have indicated that you want to contribute, but I want to get an indication of that. If everybody just says that they want to support the Committee Report, those who are not supporting like the Member for Emurua Dikirr--- If everybody is supporting then there is not much value in us repeating ourselves. Let us have hon. Ng'eno.

Hon. Kipyegon: Hon. Speaker, I am sympathetic with hon. Mwaura and the people with disabilities but we are in a catch 22 situation. I think the process will take over. If we want to approve the nomination of Dr. Kabue based on the fact that even in the composition of that Commission, we do not have a single person with disability; if we were to allow the nomination, somebody will also challenge it on matters of procedure that he was not among the people who were nominated. If today we decline to approve him, the Commission will still be challenged because there is no person with disability in that particular Commission. The best way for us as Members of this House is to follow the procedure and approve the procedure which has followed due process of law.

I stand to support the Motion simply because I feel if we approve this person, we would have contravened the Constitution and the process of selecting persons to commissions. I want to persuade my brother whom I also stand in sympathy with that let us give Dr. Kabue another chance to apply and then due process is followed. I want to say just like what my colleague hon. Otieno said: "Why is it that people usually flaw the laws? "Why is it that it is this House which comes to sanitise matters which people should have done?"

We have very great people with integrity who are advising the President on matters of law and procedure and yet they allow these matters to find their way into the Floor of the House. We have people who are also sitting on that panel who should have understood that the procedure itself has to be this way and what the composition of the Commission as it stands at now is and what the law of the Constitution says about the composition of a commission. This is so that they do not put the President and this House in a catch 22 situation. I wish to state like my brother said that even supporting this Motion, a very serious investigation should be done to those people who misadvised the President to do what he did.

I stand to support.

Hon. Speaker: Hon. Ng'eno, I thought you were going to move a Motion in that respect. Let us have hon. Ken Obura.

Hon. Mirenga: Thank you. I wish to ask that given that the general mood of the House is that the process which was used in selecting this nominee is flawed and instead of going round, I wish to ask that we allow the Mover to reply.

Hon. Speaker: Do I get that, that is the sense in the House?

Hon. Members: Yes!

Hon. Speaker: Very well. Then let me put the Question that the Mover be called upon to reply.

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

Hon. Chepkong'a: Thank you, hon. Speaker. First and foremost, I would like to thank all Members who contributed including those who opposed like hon. Mwaura. I just want to correct the wrong assertion that may have been made by hon. Mwaura that the law provides that a person with disability shall be appointed notwithstanding the provisions of the law. That is not what the law says. You must comply with the law in appointing such a person. It is unfortunate that Mr. Eric Ogwang, our good friend, passed on last year. We had recommended, as a Committee, for his appointment last year but he has since died. The recommendation of the Committee is for a new selection panel to be appointed so that Mr. Kabue be subjected to due process and be appointed in accordance with the law.

I wish to thank all the Members and I move.

Hon. Speaker: Hon. Members, for those of you who own and produce reports, move for their adoption, sign Bills and move them. What hon. Chepkong'a has done is what you should copy. If you are the owner of a report or a Bill, you must remain in the House when debate is going on so that when it comes to replying you know what it is that you are replying. You do not just come after three days and say you are replying saying that we will follow up what Members said. What did they say? You were not there and nobody has taken notes on your behalf. Very soon I will be directing that clerks in charge of Committees be in the House to take notes on behalf of Chairpersons so as to inform them. I have seen people owning Bills and when they are called upon to reply they come and say: "I thank Members because of what they said; we will incorporate" You will incorporate what if you have not followed debate? It is a learning process and a new system. In the past, Cabinet Secretaries used to sit here and listen. In their absence there were their assistants or technical staff from their Ministries to take notes so that when the owner of a Bill is replying, he is responding to every point of divergence that may have been touched or raised by hon. Members contributing. For instance, hon. Chepkong'a has addressed the question raised by hon. Mwaura that, yes, we consider disability but the law says you must go through a process of a selection panel and your name must be forwarded to the House. That is the kind of response we expect from the Chairpersons of Committees responding to debates.

Therefore, I put the Question.

(Question put and agreed to)

Next Order!

POINT OF ORDER

RULING ON BUDGET POLICY STATEMENT SOUGHT

Hon. Midiwo: There is a point of order.

Hon. Speaker: Yes, hon. Midiwo, what is your point of order?

Hon. Midiwo: Hon. Speaker, you recall that last week on Thursday, I raised an issue which you promised to give a ruling today which I think is of a constitutional nature about the Budget Policy Statement (BPS).

Over the weekend there were many stories from Members of Parliament reacting to that particular ruling that I had sought from you. It has to do with an additional Kshs3 billion in this Budget that Members of that Committee have arm twisted the Executive to give them to do some public hearing about the Budget. My understanding was that you were going to issue a ruling. Just to bring it to your attention, this is a Parliamentary Committee of this House. For them to go and arm twist the Executive to move monies around so that each Member is allocated Kshs61 million--- The highest amount of the Constituencies Development Fund (CDF) I have ever received since its inception is Kshs114 million yet some hon. Member purports to get more than half of what my constituency is getting for some purported public hearing. I have tried to engage Members of this Committee. Their reasoning is that Article 211 or 221, thereabouts, allows them to do it. That Article says that they may go and they must seek public hearings and in doing this particular paper, what they have heard must be factored in and must be considered. That is all it says. "Considered" does not mean being given money so that when you go to Gem or Ijaara, you are told we need a hospital or a school because education is a national matter and yet it was not factored, then they say they want to build for you a school. That cannot be the role of Members of Parliament.

My understanding and we must be very clear that our role is to interrogate the Budget. We are participating – merely participating - in the Budget process. That hon. Members of this House will go and arm twist the Cabinet Secretary and say for them to accept his proposals, he must give their constituencies so much, is the truth. I was informed in the corridors today by a Member that hon. Midiwo is spoiling pork for them. I want to plead with you that we interrogate the provisions of the Constitution which allow this Committee to conduct public hearing. In any case, I have seen in the same BPS that we have proposed Kshs28 billion for Parliament which I am sure the Budget and Appropriations Committee has its Budget in there which includes the amounts for the hearings. This House must know we have gone through this before. The least we can do now is that the Executive is willing is to divide that money equally according to constituencies and take it to the CDF.

(Applause)

We are not going to allow him that is why I plead with you to make a ruling before we begin this debate because something is very unconstitutional in the behavior of this Committee.

I thank you.

Hon. Ng'ongo: Thank you, hon. Speaker. I am not going to defend anything. First of all---

Hon. Wambugu: I thought I had the Floor, hon. Speaker. I am on a point of order.

Hon. Ng'ongo: I am also on a point of order. So, Captain, please sit down.

(Loud consultations)

Thank you. I have a lot of respect for hon. Washington Jakoyo Midiwo who is my mentor in this Parliament, especially with regard to the Standing Orders.

(Loud consultations)

Hon. Speaker, you said people should be orderly. Actually, I am the only one who has been punished for being disorderly in the House of late. Today some Members are being disorderly and nothing is happening to them. I am hearing a lot of shouts and yet I want to make my point.

I have a lot of respect for hon. Jakoyo Midiwo and his understanding. However, there is something that should be clarified. First of all, when you read it in the Report that it is money for public hearing I want it to be very clear that, that money is not for the Committee members to conduct their work as members of the Budget and Appropriations Committee. The money that is allocated to Parliamentary Service Commission (PSC) is the money that the Committee uses to travel for public hearings and any expenditure incidental therein.

This House is no longer a budget-approval House. This is a budget-making House. I started saying this in the last Parliament. The moment we changed the Constitution and enacted the Constitution of Kenya, 2010, we made the National Assembly, not even Parliament, a budget-making institution. I just wanted to take my friend to understand the provisions---

*(Hon. Lessonet stood in the gangway
while consulting with hon. Midiwo)*

Hon. Speaker: Hon. Lessonet, where are you now? You cannot stand between the Speaker and the Member contributing.

Hon. Ng'ongo: This Committee is a creation of this House. We are required to do what is in the best interest of this House. I want to take my friend to Article 221(4)(5) of the Constitution which provides that:

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

(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.”

That committee is the Budget and Appropriations Committee. Therefore, we are required by law to seek representations from the public and we have no option with those recommendations. It is not “may” but “shall be taken into account when the committee makes its recommendations to the National Assembly”. We are not yet at the stage of budget estimates. However, there is a Budget Policy Statement (BPS) before us. If we do not make a provision to take into consideration the representations from the public, we will not have money in the estimates to do the same.

It is wrong to misrepresent facts and say that members of that Committee have allocated themselves Kshs60 million. Nothing can be further from the truth. The

Committee cannot move around the country, come back here and we do not do anything for the public that we visited. If we go back to them the following year, what will they tell us? They will not even come for our meetings. Let me put it this way: In the last financial year, there was an amount of about Kshs5 billion that was provided for. Out of that Kshs5 billion, we decided as a Committee to allocate Kshs2 billion to the Constituencies Development Fund (CDF). We added CDF Kshs2 billion through a decision of the Committee. We decided to give the remaining Kshs3 billion to specific projects which the 14 counties that we visited proposed.

(Applause)

I want to say that, and hon. Mwaura is here, the albino society made a presentation to us to help them. How could we get money to help them? We went to the allocation for public hearings and we gave them some money. Take the case of Umma Dam in Kitui. We gave it money from the public hearings allocation. Now it is being said that the members of the Committee have divided that money amongst themselves. Sometimes jealousy can take us too far.

(Loud consultations)

Hon. Speaker: Order, Members! You must allow him to finish his point.

An hon. Member: Yes.

Hon. Ng'ongo: If we want more money in the CDF, let us say so. Tell the Committee. We can make a recommendation and this House will approve it anyway. So, to have jealousy and turn against members of the Committee to make us appear like thieves is not good. I even read in the media that we have allocated ourselves Kshs60 million for roads. Where?

(Loud consultations)

There is no Kshs60 million for roads in my constituency. So, why are you making these allegations? You may even make my constituents think that there is some money that I have allocated for a road and yet there is no road they are seeing being done. So, let us be honest with each other.

As I finish, take the case of Homa Bay County. The Committee visited Mbita Constituency, not even my constituency. One of the recommendations was to renovate Tom Mboya Mausoleum. We gave it money. It is not in my constituency. Tom Mboya Mausoleum was a priority of the Suba people. Now you want to take it away from them because you feel jealous that your constituency has not got money.

(Loud consultations)

It is wrong. I will repeat that it is wrong.

Hon. Speaker: Order, Members. I can see 18 of you want to raise interventions. Sorry, none of you will do that for the following reason. I will not allow any of you to

debate this matter. For your information, even hon. John Mbadi was on a point of order. So, it is not possible for all the 18 of you to claim that you want him to sit down so that you can also raise your points of order, which are just points of argument.

I am sure all of you know the provisions of Article 122 of the Constitution. Hon. Peter Kaluma appears to be surprised. That Article says that the Speaker has no vote. So, I cannot sit and claim to want to have a vote today. I will not vote and I cannot vote. However, the truth must be told. If the House feels strongly about any proposals in a Report, the Members are at liberty to reject or even amend it. However, it is also fair at this point for me to say that we must be faithful to the Constitution.

Article 221 is on budget estimates and annual Appropriations Bill. Hon. John Mbadi strenuously tried to avoid the fact that it starts with Article 221(1) which provides that:

“At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.”

So, do we have financial estimates? Are these financial estimates? For those of you who may wish to understand what the BPS is, it is fair to familiarise yourselves with the Public Finance Management (PFM) Act so as to know what it is. Even then, the BPS is not the financial estimates of expenditure. Subsection (2) provides that:

“The estimates mentioned in clause (1) shall—

- (a) include estimates of expenditure from the Equalisation Fund; and
- (b) be in the form, and according to the procedure, prescribed by an Act of Parliament.”

This is the same Act of Parliament I was referring you to. It is when considering those estimates that the committee of the House, which is the Budget and Appropriations Committee, is required, in clauses (4) and (5), to seek public representations. It says that:

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

(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.”

Those recommendations cannot possibly be made in a Report that is discussing the BPS. Hon. Mbadi, however far we want to stretch our imaginations, we must also be faithful to the process.

(Applause)

So, the explanation you have given is still outside the Constitution. Wait for the estimates to come, go round the country to take views then make recommendations.

Hon. Members: Yes.

Hon. Speaker: That is what Article 221 expects and requires.

Please, you are not going to educate anybody on any other thing. Please, be faithful to the Constitution. Therefore, the Chairperson of the Budget and Appropriations Committee will move his Motion. It is for you, hon. Members, paying keen attention to what the Mover is going to say, to make decisions at the point when the Question will be put in the normal way that you make decisions. It is for that reason that I cannot understand why the House is so empty when we have something momentous as this.

(Hon. Mulu stood up in his place)

Hon. Speaker: There is no point of order, hon. Makali. Just remain seated. You cannot inform me, you are incapable.

(Laughter)

So, just stay put. I want the Chairperson of the Budget and Appropriations Committee to move his Report. He will explain the things that he has to explain in the Report. You Members will have an opportunity to debate. Already, you have gone beyond the time. Therefore, nothing says that you must finish this debate today. I want as many of you to read the Report, appreciate what is contained in it, give your input and if need be, even if you want a vote to be taken on each item as recommended, so be it. But it is up to you, as a House, to make that decision. For now, hon. Mutava Musyimi must be allowed to move debate for the adoption of his Committee's Report and you make what you may of it, hon. Members

MOTION

APPROVAL OF THE BUDGET POLICY STATEMENT, 2015

Hon. Musyimi: Thank you, hon. Speaker. Following your consent and in accordance with the provisions of the Standing Order No.48, I beg to move the Motion under Order No.9 in amended form as follows:-

THAT, pursuant to the provisions of Section 25(7) of the Public Finance Management Act and Standing Order No.232, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement 2015, laid on the Table of the House on Wednesday, 4th March, 2015, subject to –

(a) deletion of Part VIII on page 29 of the Report (Financing Measures) and substituting thereof with the new Part VIII (Recommendations and Financing Measures).

After careful review of all the requests for additional resources as recommended by various Departmental Committees and having taken into account the submission on projected resources for the 2015/2016 Financial Year, the Committee recommends as follows:-

1. THAT, additional resources be provided to the following specific areas:-
 - (a) Parliamentary Service Commission (PSC) - Kshs3.1 billion,
 - (b) Social Affirmative Action Fund - Kshs2.1 billion,

- (c) Constituencies Development Fund (CDF) - Kshs2 billion,
 - (d) Uwezo Fund - Kshs1.45 billion,
 - (e) Monitoring and Evaluation for Senators - Kshs1 billion,
 - (f) The Ethics and Anti-Corruption Commission for county operations - Kshs750 million,
 - (g) Auditor General for county operations – Kshs750 million,
 - (h) Public hearings - Kshs3 billion,
 - (i) For completion of *Jua Kali* sheds started under the Economic Stimulus Programme (ESP) - Kshs225 million;
- 2. THAT, the ceiling for the Judiciary be maintained at Kshs17.962 billion;
 - 3. THAT, the ceiling for Parliamentary Service Commission be set at Kshs26 billion;
 - 4. THAT, the county equitable share be maintained at Kshs258 billion;
 - 5. THAT, all other additional expenditure increments contained in First Schedule be deferred until additional resources are available;
 - 6. THAT, the National Treasury takes these recommendations into consideration in the finalisation of the estimates for 2015/2016 Financial Year.

(b) Insertion of the following new Part IX immediately after new Part VIII –

The Committee, having reviewed the Senate's Resolution on Budget Policy Statement, 2015, further recommends that, in the finalisation of the Estimates for 2015/2016 Financial Year, the National Treasury also takes into account the Senate's Resolution on the Budget Policy Statement, 2015, as contained in the Third Schedule herein attached;

(c) Insertion of the Third Schedule in the Report immediately after the Second Schedule (Proposed new Third Schedule is circulated separately).

I beg to move.

Hon. Speaker, the Budget and Appropriations Committee, and here I just want to speak very briefly about our mandate, was established under the Standing Order No. 207 and is mandated to *inter alia* do the following:-

- (i) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the national Budget;
- (ii) Discuss and review the Estimates and make recommendations to the House.
- (iii) Examine the Budget Policy Statement presented to this House.

Allow me to say a word or two about the process that we have followed. We have met six times in the last three weeks. In fact, seven times one of them being informal. During those meetings, we have met the National Treasury as many times. We have also received views from Committees and have had extensive discussions with the Chairpersons of the Committees of this House as is required. We have also had the opportunity to meet His Excellency the President to remind ourselves of his agenda and his priorities as we discuss the BPS.

I, therefore, take this opportunity to acknowledge with enormous gratitude the sessions we have had with the Executive arm of the Government especially the President himself and not least the Cabinet Secretary for the National Treasury and his entire team.

I also take this opportunity on behalf of the Committee and myself to thank all the stakeholders for their submissions written and otherwise. I thank the Members of this honourable House and especially their work through the Committees, not least the Committee Chairpersons who acquainted themselves honourably in the task that they have been given with respect to the BPS. I thank you, hon. Speaker, and your Office, for guiding this process as, indeed, you do all the other processes, I thank the Clerk of the National Assembly and the Parliamentary Budget Office under the very able leadership of Mrs. Phillis Makau and her very able team.

I wish to speak to nine specific issues. One is with respect to compliance of the BPS. In reviewing the compliance of the 2015 BPS against The Public Finance Management Act, my Committee established that broadly, the document adhered to the legal requirements. However, a few omissions were noted such as failure to expressly indicate in the document - and this is important - how the views of the public and other interested groups were incorporated in the finalization of the document or if, indeed, any people were consulted in line with the principle of public participation as contained in the PFM Act.

Further, the Budget Policy Statement does not clearly indicate the status of the output and the key targets that were supposed to be achieved in the 2014/2015 financial year probably due to lack of a clear framework on monitoring and evaluation.

Thirdly, as we talk about compliance and time constraints, the National Treasury needs to give us this document earlier. We have said this before. We are working under pressure cooker conditions to get this document ready. I thank you for indulging us in giving us a bit more time so that we can prosecute this matter today. It is important that in future, this document comes to the Floor of the House earlier. It might even be necessary for us to amend the Public Finance Management Act to give more room for the deliberations that are obviously crucial. I do not think two or three weeks is sufficient.

Hon. Speaker, with respect to synergy between the National Government and the county governments, it is important to remind ourselves that for our country to enhance economic transformation for a shared prosperity, the linkage between the strategic priorities as contained in the Budget Policy Statement and the County Fiscal Strategy Paper is absolutely crucial. The Public Finance Management Act requires that counties align their County Fiscal Strategy Papers with the national development objectives contained in the Budget Policy Statement. My Committee notes that even though this is anchored in law, the mechanism of ensuring that all counties align their development strategies to those at the national level is unfortunately lacking. It is therefore crucial that this matter be taken to heart and be given serious attention by the National Treasury.

With respect to macro-economic stability, similar to the 2014 Budget Policy Statement, the current Budget Policy Statement aims at continuing strengthening the revenue effort, containing the growth of total expenditure while shifting composition of the expenditure from recurrent to capital expenditure as well as eliminating unproductive expenditures; maintaining a low rate of inflation of around 5 per cent via prudent monetary policy, strengthening the international reserves positions to over 4.5 months of import cover, and delivering low and stable interest rates and exchange rates.

Hon. Speaker, my Committee notes that despite proposals in the 2014/2015 Budget Policy Statement to contain total expenditure while shifting the composition of

expenditure from recurrent to capital expenditure, no such measure have been implemented to date. Indeed, the total expenditure reduction strategy appears to be a moving target. That is unfortunate. The danger of ballooning public expenditure is that it is likely to increase the Government's appetite for borrowing, which will not only increase the level of public debt to unsustainable levels but also reduce credit access by the private sector, making it very difficult for the private enterprise to thrive. As we all know, it is the private sector that drives any economy.

With respect to governance and oversight institutions, my Committee noted that it is crucial that we give support to the National Treasury itself. A strong National Treasury, as an institution, is crucial for our country because it is an Executive Ministry. It is absolutely crucial that our National Treasury is strong, as an institution. Apart from its Executive capacities given to it by the Constitution, it also has an oversight role. The other oversight institutions are the Controller of Budget, the Office of the Auditor-General, the Public Procurement and Oversight Authority and the Ethics and Anti-Corruption Commission (EACC).

These offices are important, especially at a time when there is a lot of talk about corruption. It is absolutely crucial that these institutions get the necessary budgetary support that they require. These are matters we have raised with the National Treasury. Indeed, we have gone further and proposed that the Senate gets Kshs1 billion. This will be the first time the Senate will be getting money so that it can exercise monitoring and evaluation work. In the Budget Policy Statement, we are also proposing that---

(Hon. Midiwo consulted hon. Gumbo)

Hon. Speaker, I thought that this is something that hon. Midiwo might be pleased to know.

We propose, in the Budget Policy Statement, that the Office of the Auditor-General and the EACC get an extra Kshs750 million each. This is one of the resolutions we arrived at when we were in Mombasa two weeks ago. It is important that these institutions are strong because it appears that we are rather low on values, as a society. It is very important that the oversight institutions are strong and able to bite, and not just bark.

Hon. Speaker, with respect to expenditure management, my Committee notes that the 2014 Budget Policy Statement highlighted the need for public expenditure reforms so as to improve efficiency and effectiveness in utilisation and execution of the Budget. The measures proposed to be undertaken in the 2014/2015 Budget Policy Statement have been maintained in 2015/2016 Budget Policy Statement. They include:- rationalising of public expenditure to remove overlaps and waste; rolling out or leasing of assets in all Ministries, Departments and Agencies (MDAs); expenditure tracking and value for money audits; full operationalisation of the Integrated Financial Management Information System (IFMIS) in all Ministries, Departments and Agencies and county governments and submission of procurement law and Public Finance Management Regulations in Parliament by August, 2014.

My Committee's concerns with regard to these proposals lies in the fact that though proposed in the 2014/2015 Budget Proposal Statement, little effort has been made

to achieve them. For instance, no measures have been proposed to rationalise public expenditure in order to remove overlaps and wastage. The National Government has been undertaking leasing without a clear policy, though it targets to develop one in this financial year. The link between the pillars and commensurate resource allocation does not provide a clear picture on whether the strategic interventions provided are supported by the resources allocated.

In addition, the linkage between the pillars and the programmes appears to be weak. Furthermore, IFMIS is yet to be fully operationalised in all Ministries, Departments and Agencies, and especially in the county governments. That ought to be a matter of great concern to us, knowing what is going on in nearly all the county governments across the country. There is no indication on when this target will be achieved. We have been waiting for the Public Finance Management Regulations since last year. It is our hope that they will come sooner than later.

Hon. Speaker, with respect to asset management, the 2014/2015 Budget Policy Statement emphasised on the need for efficient management of Government assets as part of expenditure reforms. The 2015/2016 Budget Policy Statement seems to have omitted this programme. There is no status report on whether the proposed undertakings in the 2014/2015 Budget Policy Statement were actually achieved. It is absolutely crucial that the National Treasury provides more information on the fate of the Asset Management Programme and the status of what was achieved as per the 2014/2015 Budget Policy Statement.

With respect to public sector reforms, this is a matter that we have all been waiting for, especially after the President, wisely, formed a Committee chaired by hon. Abdikadir Mohamed and Mr. Isaac Owuondo. I believe that Report has been received because we sense that something is happening. There was supposed to be a rationalisation of the parastatal sector and establishment of Government Investment Corporation, which will be a holding company for commercial parastatals.

We do not seem to be making a lot of progress. I hope I am wrong and we hope that before too long we can begin to see movement on the horizon. We cannot wait.

Hon. Speaker, with respect to agriculture and food security, the national Government plans to prioritize investments in agriculture by undertaking agricultural reforms and transformations geared towards spurring an inclusive economic growth. In the 2015 Budget Policy Statement (BPS), it is proposed that by the end of mid this year, a comprehensive transformation strategy of securing markets/ forward contracts will be in place and an Agribusiness Fund will be set up. My Committee notes that since agriculture is devolved, without proper linkage between the county and the national Government, there is likelihood of duplication of roles across the two levels of Government. Further, the status report on the progress made on the Galana/Kulalu Irrigation Project should be provided.

With respect to asset management, the 2014 BPS emphasized on the need for efficient management of Government assets as part of expenditure reforms. The 2015 BPS seems to have omitted this programme and there is no status report on whether the proposed undertakings in the 2014 BPS were achieved.

Hon. Speaker, with respect to transport, logistics, energy and water I will not say much except that we are glad to see huge movement in infrastructure investments, rail

and road networks, navigable waterways, modern and efficient ports and harbours, expansion of handling capacity in order to reduce cost in doing business in our harbours, enhanced competitiveness and a real commitment, especially by the President who is leading from the front, to get this country transformed to become a hub in every single way in this region. That is commendable but we would like to see some of the Vision 2030 flagship projects begin to move. We are glad to learn that the Lamu Port and Southern Sudan-Ethiopia Transport (LAPSET) is getting attention and other Vision 2030 flagship projects.

As I close, with respect to health, I would just like to say that in the Ministry of Health we need to remind ourselves that health is a devolved function and therefore when the national Government commits itself to certain undertakings, it is absolutely crucial that there is communication between the national and the county government. Harmonisation of the strategies being undertaken at both levels is crucial. Going back to the point that I made earlier, it is crucial to link the BPS and the County Fiscal Strategy Papers (CFSP) if we want to see this country grow.

Hon. Speaker, I want to thank Members of my Committee. I do not think I need to go back to the numbers that I mentioned but I was struck by the depth of error communicated by some hon. Members with respect to the numbers that are before us today. I do not wish to say more but suffice to say, for example, that the Parliamentary Service Commission (PSC) is getting only Kshs26 billion and not Kshs28 billion. May I just add that some of these spending agencies have not even had the opportunity to present their case before the National Treasury, the PSC being one of them. As we have said and proposed, the Treasury will have the opportunity to take these recommendations into account while finalising the Estimates for the 2015/2016 Budget.

Hon. Speaker, I beg to move and wish to request hon. Daniel Nanok, Member of Parliament for Turkana West, to kindly second. I thank you, hon. Speaker.

Hon. Speaker: Hon. Member for Turkana West? Is it hon. Nanok? Yes. Does the microphone seem to be afraid of you or you are the one afraid of it?

Hon. Nanok: I cannot be afraid of a gadget.

Hon. Speaker: From my screen you are on.

Hon. Nanok: I think it is working, hon. Speaker. Am I audible? I am on; it is just that the machine has not come on.

Hon. Speaker: You are on. You can be heard.

Hon. Nanok: Thank you, hon. Speaker, for giving the opportunity.

In seconding my able Chairman, the BPS sets out the broad strategic priorities and policy goals that should guide the two levels of government – the national and the county government - in their budgetary making processes. This is an annual exercise that runs into the medium term framework.

On the same note, the BPS is a monitoring and evaluation instrument for policy makers and the Government to evaluate the efficiency and efficacy of the existing policies with a view to taking that as an opportunity to modify macro-economic indicators, adjust expenditure accordingly and look at the revenue raising measures that they may have pursued in the previous fiscal years with a view to accelerate service delivery to Kenyan citizens.

Broadly said, as the Chairman pointed out, the BPS 2015 is just a continuation of the BPS 2014. As the Chairman observed, many of the issues that were being addressed by the BPS 2014 have been rolled over into this current BPS. This creates continuity of budgeting and programming by the Government and also gives us an opportunity, as Parliament, to look at the achievement levels that we have on our Budget and budget processes.

Hon. Speaker, it is in the interest of this House that the Budget and Appropriations Committee, when it got seized of this BPS, went and engaged all Departmental Committees which presented their reports to the Budget and Appropriations Committee. Those considerations by the various Departmental Committees were considered by the Budget and Appropriations Committee in the writing up of this BPS and the recommendations given here. And so, in looking at that, I would like to turn to the sectoral reports that were handed in, in this Report. Looking at those sectoral reports and expenditure ceilings, basically all the Departmental Committees proposed for additional resources to go to the various Ministries, Departments and Agencies (MDAs). This was because those various Departmental Committees engaged with the MDAs. They heard their cases about requirement for additional resources and in their wisdom, as the Committees that are charged with the responsibility of overseeing those MDAs they felt that some of those MDAs required additional resources.

The BPS is a general statement of how this country expects to raise funds and also apply those funds for their various economic development programmes.

Take an example of the social sector ceiling. The Government intends to cater for additional beneficiaries, for instance, of the National Safety Programme but when you look at the kind of ceiling that they were given, it looks like it was not going to be met.

Hon. Speaker, if you look at education, there are very important programmes that are going on in the Ministry of Education. For instance, the capitation grants for the free primary education and the free secondary education. Again, this was flagged out by the Departmental Committee on Education, Research and Technology as a budgetary item that seemed not to have been provided for effectively. All these recommendations were coming from the Committees. This is what public participation is all about. Members of Parliament, as representatives of the people, are the ones who are doing public participation in this case but the law provides for public participation. Article 25(2) of the Public Finance Management (PFM) Act is the legal basis upon which the Budget and Appropriations Committee was proposing for the consideration of the public hearings.

In concluding on that aspect of sectoral ceilings, it is important that Departmental Committees further interrogate the budget priorities of various Ministries, Departments and Agencies (MDAs) so as to eliminate the level of acrimony that seems to be rising within the Government because MDAs is the Government. It is the Executive and they are the ones who are preparing these budgets. When the Ministries appear before these Committees and seem to want to adjust ceilings through the Committees and propose those adjustments to the Budget and Appropriations Committee, our role as the Budget and Appropriations Committee would be to make the recommendations to this House. It is upon the House to look at them and adopt accordingly. It is important that the National Treasury effectively consults with the two other arms of Government, that is, the Judiciary and Parliament so that their ceilings are not arbitrarily fixed as it seems to have

been the case with the Parliamentary Service Commission (PSC) in this Budget Policy Statement (BPs).

On Ministerial ceilings again, it is important that Departmental Committees further look at the priorities and the way the MDAs are going about with their priority projects because that is where we lose it out and therefore look like we are giving programmes that do not catch the public eye.

In conclusion, for the first time since this Eleventh Parliament came into being, we have seen the role of the Senate and its involvement in this process and their considerations have been inbuilt in this current BPS. I believe this is going to go a long way in healing the rifts that have been there between the National Assembly and the Senate in the Budget making process.

With those many comments, I wish to second. Thank you.

(Several hon. Members stood up in their places)

Hon. Speaker: Take your seats; that way you will know what is happening. You will be following.

(Question proposed)

Hon. Members, in debating this, it is fair for us to remain faithful to the provisions, first of all, of our own Standing Order No.232, appreciating that that Committee has moved in line with what is in the Standing Order No.232 and of course, the power of the Committee to make suggestions relating to ceilings and others. So, there is nothing wrong. It is your own Standing Orders that give the Budget and Appropriations Committee the power to suggest ceilings for the national Government, Parliament and the Judiciary, where the national Government, of course, incorporates all other national Commissions as national State organs.

I have a request from the Leader of the Majority Party. You know, as usual, the Leader of the Majority Party and the Leader of the Minority Party take precedence over all of you even those who had indicated that you wanted to speak. When they indicate that they want to speak, they take precedence. So I am assuming that, for these purposes, hon. Midiwo is holding fort for hon. Nyenze who, as usual, is away.

(Laughter)

Hon. A.B. Duale: Thank you, hon. Speaker. Hon. Ng'ongo is laughing. He thought the Chairpersons are also part of the leadership. It should be part of the amendments we shall bring to the Standing Orders so that hon. Ng'ongo can also enjoy those benefits.

(Laughter)

I beg to support the report of the Budget and Appropriations Committee on the BPS of 2015 which is prepared in accordance with section 25 of the BFM Act, 2012. The

BPS was tabled on the Floor of the House on 17th February, 2015 and subsequently submitted to the Budget and Appropriations Committee.

I wish, from the outset, to commend the Committee chaired by hon. Musyimi, Member of Parliament for Mbeere South, for doing a commendable job. The Committee has, within a very short period, held numerous consultations with other Departmental Committees and the National Treasury to review the BPS and has prepared a table and a report on the 2015 BPS.

Hon. Speaker, the theme of this BPS, 2015 was “Enhancing economic transformation for a shared prosperity”. It deals with a number of thematic issues among them creating conducive business environment in our country; investing in agricultural transformation and food security; investing in first class transport infrastructure and logistics; investing in quality and accessible healthcare services, quality education as well as empowering the social safety net to reduce the burden on the households and finally, support devolution for better delivery and enhanced economic development.

Hon. Speaker, the Committee has proposed additional expenditure of Ksh47.8 billion. It has also proposed a reduction of domestic borrowing by about KshS8 billion. In the original document that was tabled before the House, the Committee had proposed a reduction of funds earmarked for transfer to counties by about KshS12.4 billion; this has now been rectified in the amendment that the Chairman has moved.

The Committee has also reflected on the proposal and made appropriate amendments as follows. They have given the Parliamentary Service Commission (PSC) an extra Ksh3.1 billion. I am sure that the extra cash for the PSC is for development projects going on in Parliament.

[The Speaker left the Chair]

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

Hon. Deputy Speaker, I will urge the Commissioners that those projects be fast tracked, and that the Department of Public Works, who are the major stumbling block to development in our country, and more so in Government projects, should pave way for others, so that by the next financial year all parliamentary projects will be near completion.

I want to thank the Committee for allocating an extra Ksh2 billion to the Constituencies Development Funds (CDF). I want doubting Thomases to read Article 6(3) of the Constitution. It reads:

“A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as is appropriate to do so having regard to the nature of the service.”

So, taking of service to the lowest level in constituencies by national Government is provided for in the Constitution. There is the Ksh.3billion additional allocation for public hearing. Parliament must provide resources for public participation as provided for in the Constitution for the people of Kenya to be listened to. That is fundamental.

(Applause)

If you allow me, I am coming to it. If you allow me I will tell hon. Pukose that after the leadership retreat, rules have become very strict. We cannot go to Homa Bay, Garissa, Isiolo, Kiambu Makuani, and Bondo to talk to people and then come back and-- Parliament cannot act in vain. It is not a public relations exercise. If, for example, in northern Kenya, tarmac ends in my constituency, if they go to Wajir and the people there say that they have never seen tarmac, and this House feels that they can be given 20 kilometres--- I want to come to the issue.

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

Hon. A.B. Duale: If hon. Jakoyo allows me, that is public participation; if the Ksh3billion we are being told about is going to particular Members of a committee of this House, then that is unconstitutional. This can be verified through the Appropriations Bill and the estimates.

Hon. Deputy Speaker: What is your point of order, hon. Midiwo?

Hon. Midiwo: Just a short one. I did not mean to interrupt you, but the substantive Speaker has already made a ruling on this issue. It is wrong to debate it away from the logic of the ruling of the Speaker. I wish to inform my colleague, who was not here, that the Speaker said that the action by the Budget and Appropriations Committee is taken care of by Article 221. Your action can only be after two months and can only be about the estimates. Those are the estimates you can move around. A ruling has been made, unless we are going back on the Speaker's ruling.

Hon. Deputy Speaker: Let us not go on with this, if it is a matter that has already been ruled on by the Speaker. You should desist from referring to that, the Leader of the Majority Party; we can allow---

Hon. A.B. Duale: Hon. Deputy Speaker, I might not have been in the Chamber, but there is a radio and television in my office. I listened to what the Speaker said. He said that the question whether the Ksh3billion will be for public participation or for the Budget and Appropriations Committee Members will be known when the estimates and the Appropriation Bill appear before the House. That is what I read in the ruling. I am a B- (minus) student; so, I can do better.

However, I want to continue.

Hon. Deputy Speaker: I have just been guided that really there was no ruling. The Speaker only said that, that will be up to the Committee when the estimates come in; they are allowed to make the suggestions that they have made.

Hon. A.B. Duale: So, hon. Deputy Speaker, what we are dealing with is a Budget Policy Statement. Figures and the votes will be known in the Appropriation Bill and estimates. I am sure in the element of public participation even for---Let me even speak for the devil. Let me become very selfish. If through the public participation, the Committee finds that hon. Mutava Musyimi's people require Ksh300billion, so be it. Last night, I watched clips of Kindaruma Dam, which is located in his constituency, yet children are in a black out. However, let me go out of this controversial thing.

Hon. Deputy Speaker, additional allocation, for affirmative action, of Ksh2.1billion has been made for our gracious 47 county women. That is great.

Hon. Deputy Speaker: Proceed to conclude, Leader of the Majority Party. Your time is up.

Hon. A.B. Duale: My 15 minutes? There is another allocation of Ksh2billion to CDF. Every year, we must increase CDF, so that it touches the heart of everybody. There is additional Ksh750 million for East African Community (EAC). You have seen today the conflict between the Chief Executive Officer (CEO) and the Chairman. I looked at the Act that provides that the Chairman is in charge of policy. If the commissioners want to sack somebody, they will direct the CEO to write the letter and sign it. So, as we give Ksh750million to the EAC, and ksh750 for the Auditor-General to open county offices, this year we must see that county governments use our resources more efficiently.

With those many remarks, I had more points but---The Senators have been allocated Ksh1billion, and this is good. They need money to go round their counties and let us not be very selfish. Let everybody have his peace.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Your time is up. Can we now have the Deputy Leader of the Minority Party?

Hon. Midiwo: Thank you, hon. Deputy Speaker. Hon. Duale does not cease to amaze me. The issue is very clear. If you listen to the guidance by the Speaker, then to the interventions by hon. Mbadi and hon. Duale, hon. Duale has just said the truth of what is in the minds of the Committee. Hon. Mbadi wanted to be within reason. The Speaker even said that he was struggling to make it sensible. Let me thank the Committee.

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. Midiwo: You will get your chance, hon. Mbadi.

Hon. Deputy Speaker: Hon. Mbadi, please, allow us to proceed.

Hon. Midiwo: Hon. Deputy Speaker, you know they are caught with their pants down.

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

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Hon. Jakoyo can you also help us to have order in the Chamber? It is an English expression we know, but can you please, withdraw now?

Hon. Ng'ongo: He has to withdraw that statement.

Hon. Midiwo: I withdraw and say that they do not have pants; they have trousers.

(Laughter)

Hon. Deputy Speaker: Order, hon. Jakoyo! You will not take your turn; hon. Jakoyo, if you continue in this fashion---

Hon. Midiwo: I apologise, hon. Deputy Speaker.

I thank the Budget and Appropriations Committee for attempting to move us forward. They have done a good job, given what has happened in the last couple of years. I am particularly interested--- The Chairman of the Committee will agree with me that in the enabling of the Office of the Auditor-General---

Let me thank the ladies and gentlemen for doing the right thing. This is because of the enormity of corruption in the counties. The only cure is giving the Office of the Auditor-General money and enhancing it in every county. Proper monitoring shall help us achieve our dream of devolution, otherwise it will be dead on arrival.

I am speaking as the Member for Gem in Siaya County, which I think is the most corrupt in the whole nation. This is because of the things they are doing there. We shall be moving an amendment to give the Office of the Auditor-General a bit more money, so that they have money and enough staffing. I disagree with the attempt by the Office of the President to second people from the Public Service to work for the Auditor-General. We shall not agree to that. We shall even take that to court as the issue of the Kshs3 billion. We also need to enable the Controller of Budget to work in the counties. We need this issue of accountability to be inculcated, and want it to work for our people in the counties.

It beats logic why the Budget and Appropriations Committee wants to extend the term of Mr. Nyachae, the Chairperson of the Commission for the Implementation of the Constitution (CIC).

Hon. Ng'ongo: That is the Senate. We rejected it.

Hon. Midiwo: You must reject it. I stand guided. They must go home.

Let me delve into the issue of the Kshs3 billion. Article 221 of the Constitution is very clear. I do not want to read it again because the Speaker read it. The Leader of the Majority Party has said something which can take all of us to jail. When you say that the Committee needs money to go around, the Article is very clear on the role of the Budget and Appropriations Committee. The Budget process begins in November. Even what we are dealing with now began last year. There can be no more giving. What is before us and what is lawful is not that once the Budget and Appropriations Committee has set the ceiling, it should tinker around with what is in the Estimates. The Estimates are established as per the ceiling.

Let me tell you the mischief. If the purpose of the Kshs3 billion is to move around and conduct public hearings, why has the money not been given to the Parliamentary Service Commission or the Office of the Clerk that manages Committees? Give it to the Office of the Clerk that manages Committees.

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

Hon. Midiwo: Hon. Deputy Speaker, the people who are interrupting me are Members of the Budget and Appropriations Committee whom we are accusing of doing something illegal.

Hon. Deputy Speaker: Order! What is your point of order, hon. Mbadi? Can we hear just one Member?

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker. Is it in order for hon. Jakoyo to continue misleading the House even when I attempted to help him? The money we are talking about as being for public hearing is not for going round to collect views of the public. That would have come to the Parliamentary Service Commission as expenditure to Members of Parliament. This money is for development. If we go to Gem for a public hearing and they tell us that there is a road in Gem from point to "X" to "Y" that needs money, then we allocate the money for public hearing. Let him confine his

argument to that bit and not putting it like Members of the Budget and Appropriations Committee want to use that money for moving around.

Hon. Midiwo: He cannot tell me what to say, hon. Deputy Speaker. He should sit down.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Is it rightfully named “public hearings”? Is the title of that item really correct by calling it a public hearing? May be that is what is causing confusion.

Members reduce your level of consultations. This has become emotive, but we want to get it right.

Hon. Midiwo: Hon. Speaker, let me have my time. Everybody will have their time. Let us get this thing right. Hon. Kaluma, please.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, reduce your consultations.

Hon. Midiwo: Hon. Deputy Speaker, for avoidance of doubt, Article 221 of the Constitution says that at least two months before the end of each financial year, the Cabinet Secretary responsible for the National Treasury shall submit to the National Assembly estimates of revenue and expenditure of the national Government for the next financial year to be tabled in the National Assembly.

Hon. Ng’ongo: Hon. Deputy Speaker---

Hon. Midiwo: That is why the Orange Democratic Movement (ODM) is doing badly because the Chairman just shouts. Can you imagine this is my Chairman in the party? He cannot even let me explain.

(Laughter)

Article 221(5) says:

“(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.”

Hon. Deputy Speaker: Order, Members! Now that we are not in an ODM meeting can we, please, confine ourselves to the business before us?

Hon. Midiwo: Hon. Deputy Speaker, part (5) says that in discussing and reviewing the Estimates, the Committee shall seek representations from the public. You already have something on the table. This is my suggestion and we are going to be making amendments.

Hon. Members, let me plead with you to think about your people. We shall add this Kshs3 billion to the Kshs2 billion to go to the CDF to be divided according to the CDF formula. That is the only thing that will make sense.

(Applause)

Hon. Mbadi confided in me that he wants to make his road using the Kshs60 million. Who will make your roads? Who will make my roads in Gem? This Committee will be so criminal as to talk about issues of allocating money and participating in the Budget process. It just says “in discussing and reviewing”. It does not say that you take money and give to yourself. That is not what the law says. Now that you have given us Kshs3 billion, we shall be in a minute moving an amendment to make sure that, that money is added to the Kshs2 billion. If it has to do with public hearings, we will make amendments to give it to the Office of the Speaker or the Clerk to manage that money.

(Applause)

We know when something is wrong. When it smells like a rat it cannot be a goat, it is a rat. This is chicken or *mbuta*. They attempted to do it last year but the Office of the Clerk stopped them. We cannot sit here, take away the role of the Executive and give it to selfish Members of Parliament. We will not. Article 221 says that the Estimates are submitted by the Cabinet Secretary not by the Budget and Appropriations Committee.

(Loud consultations)

Hon. Deputy Speaker: Your time is up, hon. Midiwo!

Hon. Midiwo: Hon. Deputy Speaker, I have time. I have very many things to say.

(Loud consultations)

Hon. Deputy Speaker: Order, Order, hon. Members! The House is like a market place now!

Hon. Midiwo: Hon. Deputy Speaker, this Committee proposes to give additional Kshs1.75 billion to Level 5 Hospitals. I want to congratulate them but this House has a duty to respond to rampant and wanton corruption taking place in our counties. At our hospital in Siaya, nothing is working. Rats are even eating corpses. We have given this money with a blanket. What we need and what we are going to do is putting in the Budget, when the Appropriation Bill comes here, a condition. We will not let these greedy Members of the Budget and Appropriations Committee have their way, even if it means going to court.

Hon. Deputy Speaker: Order! Order, hon. Jakoyo!

Hon. Midiwo: Hon. Deputy Speaker, we will not let them have their way. These people are trying to wrong the people of Kenya.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members!

Hon. Jakoyo, you are out of order! Apologise. Withdraw your statement of calling your colleagues “greedy Members” and conclude your contributions.

Hon. Midiwo: Hon. Deputy Speaker, I withdraw and apologise for the statement about Members of the Budget and Appropriations Committee being greedy and say that they are hungry for money and graft-thirsty.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members!

Yes, hon. Samuel Gichigi!

Hon. Gichigi: Thank you, hon. Deputy Speaker. I rise to support this Report.

My understanding of the Budget Policy Statement is informing Parliament of the Executive's strategic direction. Parliament is supposed to give its input to it. Therefore, as hon. Members make noise, they need to know that they ought to make contribution to the Budget Policy Statement, in terms of areas that need to be taken care of in the constituencies or counties.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Can we listen to the hon. Member who is on the Floor?

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

Instead of hon. Members just making noise on a single issue, it is important that all of us contribute towards the policy that the Government is going to use in coming up with Budget Estimates. That is what we ought to be doing right now. As you consider the Report of the Budget and Appropriations Committee, you need to establish whether they have simply carried along what the Executive has suggested or they have also considered what we, the representatives of the people, would wish to be done. Sometimes, what the Executive wants need not to necessarily coincide with what the rank and file of the citizenry want. That is what we should be laying our emphasis on.

Hon. Deputy Speaker, I have seen the various strategic interventions and policies that the Executive has proposed. I am happy with their emphasis on national security, food security and social security. The Government has been saying that it wants to broaden the social safety net but it has not proposed any serious increment, in terms of the number of beneficiaries. That is something which the National Treasury, the relevant Ministry and the Executive in general, ought to deal with.

When it comes to issues of water, I know that reticulation of water is devolved but the policy is not. When it comes to issues of the big dams, it is important that the national Government improves in this area. The Government should give a little more money---

(Loud consultations)

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

Hon. Gichigi: Hon. Deputy Speaker, I have seen that the Committee has put emphasis on the oversight organs, including Parliament, the Auditor General and the EACC. I want to commend Parliament and the Auditor General. However, when it comes to the EACC, the proposed additional sum of Kshs759 million should not be given to the

current lot of Commissioners. In fact, the current Commissioners of the EACC should go home. I urge the Justice and Legal Affairs Committee to hold onto this money until the corrupt Commissioners, who have been bribed with houses go home. We saw what happened today. The Secretariat has taken the culprits of the Anglo Leasing Scandal to court but the Commissioners are not happy; they wanted to negotiate with the suspects. As we speak, they want to kick out of office the Commission's Chief Executive Officer (CEO) and other members of the Secretariat to ensure that they negotiate with corrupt fellows in this country. It is important for us to appreciate that the EACC is not---

(Several hon. Members stood up in their places)

Hon. Deputy Speaker: Order! Order, hon. Members! The next Member I find standing will be out of this Chamber for the rest of this sitting!

Hon. Mbadi, get out until the end of today's session!

Hon. Gichigi: Hon. Deputy Speaker, what I am saying is that it is now clear---

Hon. Deputy Speaker: Hon. Mbadi, we are waiting for you to obey the order that I have just given.

Hon. Gichigi: Hon. Deputy Speaker, he is eating into my time.

(Hon. Ng'ongo withdrew from the Chamber)

Hon. Deputy Speaker: Hon. Members, please, follow our Standing Orders. We have talked about this from the beginning. Do not stand on the corridors.

Hon. Gichigi: Hon. Deputy Speaker, the Commissioners of the EACC have been fighting with the Commission Secretariat for files. The only reason as to why they are trying to suspend some members of the Secretariat is because they have refused to back-off cases touching on the Anglo-Leasing Scandal and the Nairobi County Government. That is why the EACC Commissioners want to dismantle the Secretariat. Therefore, because of this particular development, the proposed additional sum of money should not be released to the current EACC Commissioners.

Hon. Deputy Speaker, this is a good Report. However, regarding proposals of members of the public that the Committee presents to this House for approval, it is important for us to know whether the Committee has been setting aside such moneys for such projects in the past, and what projects they have come up with. In future, if they collect views from people in the counties and decide on projects that need to be funded, it is important they involve the other Members of this House. They should tell this House what projects they have decided that should be funded in, say, Garissa County rather than come up with issues that do not seem to be very clear. Under the Constitution, funding what is called 'strategic response to the public hearings' is a must, unless the Committee wants this House to be irrelevant when it comes to responding to such public issues.

However, I think we probably should move an amendment that the money to the Ethics and Anti-Corruption Commission (EACC) be held until the commissioners are replaced.

Thank you. I support.

Hon. Deputy Speaker: Let us have hon. Gladys Wanga.

Hon. (Ms.) Nyasuna: Thank you very much, hon. Deputy Speaker for giving me this opportunity to contribute. I would like to say that I support this Report. I want to thank members of the Budget and Appropriations Committee, led by their Chairman. This is, probably, one of the most hardworking committees of this Parliament.

(Applause)

They do a lot of work. When you look at the Budget Policy Statement (BPS) and even the Estimates, there is truly a lot of commitment required to ensure that this House has reports in good time, and has the quality of reports that we receive. I do not belong to the Budget and Appropriations Committee but it is good to look at the other side and be thankful for the work that our colleagues are doing.

On the matter of public hearings, we were privileged in the last financial year to have public hearings in Homa Bay, and it was a good thing that something came out of those public hearings. The Tom Mboya Mausoleum will be renovated because of those public hearings. In this financial year, the Budget and Appropriations Committee has already held public hearings in very good time in Migori. We had an opportunity in Homa Bay to send our people to Migori to go and participate in those public hearings. It is our responsibility to ensure that we follow up.

The public hearings cannot be in all counties but when they are in a neighbouring county, you can go and make submissions right there.

(Applause)

I hope that the public hearings that we made in Migori this year will result in something. What is the bottom line? Are there services going to our people? Whether it is through public hearing or through the Budget, has this service reached the people? What I would have had a problem with is if people took money and put it in their pockets. I would have had a problem with that. However, if services are going to our people in whichever parts of this country, truly I will have no problem at all with that. In the same way that I support the Constituencies Development Fund (CDF)--- As a woman representative, I do not receive CDF money, but I support it.

Hon. Deputy Speaker: What is your point of order, hon. Kaluma? Allow hon. Kaluma's point of order. Members, it is not just about what you like when you are happy, and when somebody is saying what you would like them to say. You still have to get the other point when somebody else wants to have an alternative view.

Hon. Kaluma: On a point of order, hon. Deputy Speaker. The BPS is about what policy direction should guide us when allocating money for services for our people.

Hon. Deputy Speaker: What is the point of order? It is not a point of argument.

Hon. Kaluma: Is the hon. Member in order to mislead the House by saying that we allocate money based on hearings? What of those areas where the hearings have not been undertaken by the Budget and Appropriations Committee? Are we saying that they will never get any money until the Budget and Appropriations Committee reaches them?

Hon. Deputy Speaker: It is now a point of argument, hon. Kaluma.

Hon. Gladys, please proceed.

Hon. (Ms.) Nyasuna: I was making my preliminary remarks.

I think it is very important that when the public speaks, Parliament responds by doing something. That is the point I was trying to make right here. I was going to the point where I was saying that I do not receive, or I do not have a constituency that handles CDF money but I support it. Why? Because I see what CDF does on the ground for the people. That is the bottom line. Are our people benefitting from this?

Going into the BPS, I see that there is the point of unlocking agricultural productivity among smallholder farmers. The most discouraging thing to our people who go into agriculture is lack of markets. I see that there is a point that we have to increase access to markets. When I saw the Report of the Budget and Appropriations Committee saying that we have not received a report on the results of what happened last year, what happened to the money that we gave it? I can see why. When I look at the key performance indicators, they do not sometimes tally with what is being said. For example, when you say that you want to promote agricultural market access, then you say that your key outputs are agro-processing technologies promoted, agribusiness development centers and market prices published in daily newspapers, which among those indicators is going to show us that our farmers are getting new markets opened for them to access farm produce? So, the Ministries producing these key outputs must look at what outputs they are producing.

I want to look at the issue of markets and particularly the issue of brokers. In Homa Bay County people plant water melons, pineapples and other crops. After harvesting, however, the farmers are unable to sell. Brokers come and buy the produce at cheap prices. They then sell them at higher prices in markets that they know. This is an area that needs to be looked at as we move forward.

Hon. Deputy Speaker, I am glad that the issue of cold storage is going to be looked into. In Homa Bay, for example, fishing is a major economic mainstay. When fishermen have fished in the morning and by 3.00 p.m. they have not sold their fish, then they have to sell it at a throw away price. It is simply because they do not have storage facilities.

I note that it is intended that all secondary schools in the financial year 2015/2016 will have greenhouses programmes and everything will be brought together. That is a good thing. Students who work hard in these programmes must also benefit. So, when you work hard in the greenhouse and you harvest enough produce for sale, the proceeds from the sale of such produce should not benefit the school administration only; rather the children should also be given pocket money from the proceeds of such sales.

The Budget Policy Statement (BPS) largely focuses on youth development at the National Youth Service (NYS). In my view, we should not put all our eggs in one basket because we will spend a lot of money on NYS and focus youth development on the NYS only. What about the many other youths who are out of the NYS? We must look at how to program for the others.

Water is a major issue as has been mentioned. The idea of constructing 3,000 dams should be implemented. We should also ensure that there is water harvesting in all public institutions and homes so that we can access water. Women of Kenya and Homa Bay, where I come from, spend a lot of time searching for water.

With regard to free maternity, I see that more money has been allocated to this course. However, our county governments must pull up their socks as far as health care is

concerned. This is because many of our facilities lack maternity equipment. Many mothers have to buy some of the materials needed. What is saddening for me is that the issue of the free sanitary towels programme has not featured anywhere in this programme. It has just fallen off the radar. If there is an area that I would like the Budget and Appropriations Committee to amend then it is this particular area. Bring back the free sanitary towels programme. It might be little money, but it makes a big difference in the lives of those girls who receive the sanitary towels.

Today in the Departmental Committee on Labour and Social Welfare, we received elders led by one Chibule wa Tsuma, who I think was a former Member of Parliament. They were saying that in our social protection programmes in the constituencies' social committees, they want the elders association to produce someone to sit in that committee on behalf of the elders. They said that they would like elders to also take care of their own interests. I am glad to see that the social protection programmes have been boosted. That is a good thing.

I would also like to thank the Budget and Appropriations Committee for increasing money for the CDF and also for ensuring that the Affirmative Action Fund continues. It is a good thing and it has been done in good faith. We also want to promise that this Fund will not be in vain. We shall definitely see results.

As I conclude, I want to agree with hon. Gichigi, who talked about the additional money being given to the Ethics and Anti-Corruption Commission. We must see results for what we are giving money for.

Hon. Deputy Speaker: I think your time is up Gladys. Next, hon. David Pkosing.

Hon. Losiakou: Thank you, Deputy Speaker. Let me begin by thanking the Committee. I particularly thank the Chairperson, a man I really respect and he has done a lot. I agree with Members that this is a policy direction which is very clear. It is not an Appropriation Bill which will be coming in April, so that we can amend it after looking at its content.

My first contribution is on - I am asking the chairperson to listen carefully - the Equalisation Fund on page 28 of the Report. The Committee is in agreement that the Fund has not been operationalised for the last two years. Second, since the inception of the Constitution, this money has not been disbursed. I suggest that the Committee reads Article 204(3) (a) of the Constitution that says:

“The national Government may use the Equalisation Fund—

(a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament.”

I am appealing to the Committee, instead of waiting forever, to put the expenditure of this Fund in the Appropriation Bill of this year, so that we can move forward rather than being helpless. Although paragraph four of the same Article says that the recommendations from the Commission on Revenue Allocation (CRA) shall be considered, the Committee can write their policy proposals to CRA for consideration.

Third, on page 22 of the Report, the Committee is requesting additional funding to Free Primary Education (FPE) and the Free Day Secondary Education (FDSE) this year. That is very good as it will operationalise that policy of the Government. The Committee, however, should see to it that there is value for taxpayer's money in free education. It is disturbing that even with this funding, parents are still paying school fees and it is

constantly on the rise and close to Kshs100, 000. I am suggesting that the Committee considers the proposals on free education recommended by the Kilemi Mwiria Report.

Four, when I look at insecurity, it is something that has given us problems in this country, particularly where some of us come from – the pastoralist areas. We have been complaining and adjourning the business of the House to discuss the issue of insecurity. I remember last year we proposed amendments to the Police Service Act. We introduced Kenya Police Reservists (KPRs), and said that KPRs should be mainstreamed in the Act. On page 25 of the Report, the Committee recommends the leasing of vehicles for police and administrators be moved from the National Treasury to Ministry of Interior and Co-ordination of national Government. That is fine, although we need clarification on who the vehicles will be hired for. Are they for the Officers Commanding Police Divisions (OCPDs) or the people on the ground? My view, in terms of policy, is to recognise that KPRs, according to the law passed in this House are mainstreamed into the police service.

For those of us who come from Pokot and Turkana counties, we know that the Kenya Police Reserves (KPR) have been very crucial and important in providing security for us. It enables us not to blame ourselves. As others look for cameras in towns, let us have the KPR. I am pleading with the Committee through the Chairmant to consider that in this financial year as they develop a Bill to address the issue. It is very critical.

Page 24 of the Report talks about the land sector. The Committee has put a lot of consideration, this time, on the National Land Commission. It is very clear that there has been a problem, a quarrel or a fight between the Ministry of Lands Housing and Urban Development and the National Land Commission. The committee has allocated more money to the National Land Commission. Let it be very clear that people are not getting title deeds and even when they get them, we do not know whether the titles should come from the Ministry of Lands, Housing and Urban Development or from the National Land Commission. People who want to buy land and houses are confused. I urge the Committee to talk with the Parliamentary Departmental Committee on Lands so that the mandates of the National Land Commission is properly recognized, the way the Chairman has done.

Finally, I am glad that the issue of public hearings is coming in April when the Budget and Appropriations Bill comes to the House. However, let us get some reasoning. I would like the Chairman to hear where the bone of contention is. One, is the money for public hearings or is it for development projects? If you say it is for public hearing, for some of us who have done civic education that money is like for travelling here and there. But, according to the explanation we are getting it looks like the money has been allocated for development. If it is for development another question arises. If the Committee is saying that it cannot hear views from Homa Bay because they need money, what if it does not go to Pokot? Where will the Pokot get money for development? You cannot travel in every constituency because we have 290 constituencies. Even if we buy them an aeroplane today for the Committee, they cannot travel within the times that are provided. I urge the Chairman, whom I respect and who does not have ulterior motive because he is Christian to consider the issue. I advise the Committee that if the Pokot say they want water, it should recommend to the Ministry in charge of water to provide water and also recommend to Parliament to appropriate money for the water project in April.

Who are you allocating this money? Who will keep this money? It is terrible. If nothing happens we will move an amendment. We will agree with our brothers from the other side, we amend the law to take this money to the constituencies. If you take it to the constituencies, it will amount to Kshs10 million per constituency. If you take the money to Pokot, for example, it is a lot of money which can be used for a big project. Unless the Chairman of the Committee tells me that he is going to my constituency which means he cannot visit another one we will amend the law.

Some of us from marginalized communities are reading that this is entrenching marginalisation in this country through Parliament. Because if you do not go to my place, what happens? You want me to beg the Committee to go to my constituency for public participation? That will not happen. So, we need a proper policy. It is good the Committee has declared how we are going to use our money but we have an opportunity in April to scrutinize that and move the money to where it is required. We thank the Chairman and hope that he has heard. He is a religious man and has no ill motives. Please put the money in the constituencies.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Abdikadir Omar, who is on a point of interjection? Hon. Mary Emaase, where do you want to interject?

Hon. (Ms.) Otucho: Hon. Deputy Speaker, I want to inform the hon. Member who has just spoken as a Member of the Budget and Appropriations Committee. I want to inform him because he is misleading the House.

Hon. Deputy Speaker: Order hon. PKosing. That is the Vice- Chair of the Budget and Appropriations Committee.

Hon. (Ms.) Otucho: On the issue of public hearings, every year we visit different counties. When we visit the same counties, we do not go to the same constituency. I was surprised when hon. Midiwo misled this House by selectively reading out Article 221 of the Constitution. He only read out the provisions on discussion and review of the Budget Estimates. Article 221(5) says that after reviewing and discussing the Estimates, we must take into consideration the views of the people and incorporate them in the Budget Policy Statement and the Appropriations Bill. How then can we do that without first incorporating such views in the Budget Policy Statement? This is the policy direction; it is the foundation upon which the National Treasury will base the draft Budget Estimates.

Public hearings take place in every county. Every time we go to a county, we visit a different constituency. Even the Gotu Bridge in Isiolo is as a result of the decision of the Budget and Appropriations Committee. We can table in this House, a list of projects that we have done so far.

Hon. Deputy Speaker: Order, hon. Otucho! I am going to cut you short! I have given you the opportunity to make your point. Hon. Members, I do not want you to take us back to that heated discussion.

I now give the Floor to the Member from Balam-bala.

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

Hon. Deputy Speaker: Hon. Losiakou, I do not think anything adverse was said about you. She just made an explanation of the Constitution.

Proceed, hon. Aden!

Hon. Aden: Thank you, hon. Deputy Speaker. Let me take this opportunity to, first of all, state that there is need---

Hon. Deputy Speaker: Hon. Members, this point has been sufficiently prosecuted. Let us not belabour the point. You will have ample opportunity to make all the points you want to make when the Budget Estimates are finally brought to the House. This is just the Budget Policy Statement.

Hon. Aden: Thank you, hon. Deputy Speaker. As you have rightfully said, what is before us is the Committee's Report on the Budget Policy Statement. Quite a number of hon. Members, including my good friend, hon. Midiwo, need to take time to understand the Budget making process. It is a journey that starts with our consideration of the Budget Policy Statement through to our passage of the Appropriations Bill.

This particular Budget Policy Statement addresses a number of very important issues. It sheds light on the five key pillars that are being targeted in the coming financial year, in order to ensure that our economy grows. The Budget Policy Statement, which is basically an indication of where the Government intends to take this economy in the next financial year, has five key pillars, as were presented to this House earlier on.

On the issue of doing business, there is no doubt that Kenya needs to adopt the good policies enjoyed by countries such as Rwanda in ensuring that Kenya becomes an attractive country to do business in. Agriculture, transportation and food security are areas being targeted with a number of very important interventions. Water and energy remain key problems in this country. Water is a problem in almost every part of the country, especially in the region I come from. Energy is the fuel that is needed to drive our economy. Access to quality social services and enhancement of devolution are the other two pillars being addressed by the Budget Policy Statement. Through this Budget Policy Statement, the Executive seeks to enhance the social protection safety nets. It provides for several interventions, including caring more for our elderly people and persons living with disabilities, among others.

Hon. Deputy Speaker, this BPS indicates that in 2014/2015 we expect a growth of 6.1 per cent and 7 per cent in 2015/016. The caution I want to express here, and which we have put very clearly to the National Treasury as Members of the Budget and Appropriations Committee, is that the fundamental drivers of this are the Standard Gauge Railway (SGR), agriculture, investment in agriculture and manufacturing and regional integration issues. We need to be very focused on those because failure to do so will certainly cause us not to achieve the indicated growth rates. The total Budget is Kshs1.88 trillion, which is the expenditure against Kshs1.34 trillion expected revenue. Again, the caution we throw in here is that the key drivers of this revenue are Income Tax, Value Added Tax (VAT) and Excise Duty. We want to urge that we must protect these particular sources of revenue, so that we have undisrupted streams of revenue coming in.

Hon. Deputy Speaker, devolution has also been supported very much. I want to say that the challenge is now on the Controller of Budget (COB) and the Office of the Auditor-General to ensure that we supervise and ensure that we hold accountable the county governments for the manner in which they abuse these particular resources. It is very disturbing to see that corruption is the main outcry in almost every county, from Garissa all the way westwards to Kisumu. The Controller of Budget gives us quarterly reports but these reports are not detailed enough. In my recent enquiry into the details of

some of the items from my own county that are reflected in the expenditure in the first quarter of the year certainly do not reveal much information and I think that is not acceptable. Our Constitution under Article 201(1)(a) is very clear on the key principles of public finance. It says there shall be openness and accountability, including public participation in financial matters.

The process of public hearing that has unfortunately clouded this otherwise very good Report and the Kshs3 billion that we are talking about are key critical interventions. I heard somebody say that this is more marginalisation for the people of northern Kenya. That is absolutely not true at all. This is false information. For the first time, the people of northern Kenya have had an opportunity to be visited by the Budget making organ of Parliament and with that came the critical interventions. People of Isiolo will no longer continue to die at Gotu Bridge, for example. We will have it fixed. People of Balambala Constituency will continue to be in darkness in this day and age. Thanks to the public hearings because they will get finances allocated to them to light up that particular sub-county. The people who are trying to put mischief in that Kshs3 billion, are indeed mischievous and trying to push for other issues.

Hon. Deputy Speaker, I want to say that Article 201(b)(iii) is very clear that expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas. If there are areas that we visit in this country and we find that indeed those areas are marginalised or have not received certain critical development funds in the past, it is within the provisions of the Constitution that we do so and provide them the resources. As I wish to---

Hon. Tong'i: On a point of order.

Hon. Deputy Speaker: Where is that point of order coming from? Is that hon. Richard Tongi? Yes. What is your point of order? Hon. Abdikadir Aden, allow the point of order.

Hon. Tong'i: Thank you, hon. Deputy Speaker. Is it in order for the hon. Member to tell us that the Kshs3 billion allocated is going to a good course when we know for sure that it is skewed to favour the Budget and Appropriation Committee members alone? How do you choose which constituency to visit yet we have 290 constituencies in this country? I am on a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: You see? That is a point of argument, hon. Tong'i. Allow hon. Aden to finish.

Hon. Aden: Thank you, hon. Deputy Speaker. I finish by saying that I do not come from Isiolo County. The Gotu Bridge which has been killing over 15 people every year - which is a record in place - is going to have a bridge thanks to that Kshs3 billion which is being talked about. I do not come from Mbita---

Hon. Deputy Speaker: Hon. Member, the point being made by hon. Tong'i, if I heard was: Is there a Member in the Committee from that constituency where that bridge is?

Hon. Aden: Not at all. I wish to say that, indeed, these are not issues generated by hon. Members. These are issues generated by the hearings from the public. Members of the public stand up and they come and say: "This is the one key thing that if solved will change our lives." That is the one thing which is being addressed under this. I just wanted to end and say that it is within the law to do so.

Thank you.

Hon. Deputy Speaker: Your time is up hon. Aden. Hon. (Ms.) Muhia.

Hon. (Ms.) Muhia: Thank you, hon. Deputy Speaker. I am very happy that time has been on my side because this is the first Budget Policy Statement (BPS) which the women representatives are going to contribute to and they have some positive results. I am very happy for the Budget and Appropriations Committee to have considered the Women Representatives through the affirmative action. In this regard, I wish to point out the issue of the Kshs3 billion. This House has to style up and stand up beyond cheap politics. Every time people think of mischievous reasoning. Even very senior Members who should be examples to us first time Members, every time they think that some money is going to benefit a particular Member. The Members who are claiming that the Kshs3 billion will benefit Committee Members are not seeing the common *mwananchi* who will benefit from that money. That is why the Women Representatives have lagged behind for the last close to three years without any money because the same hon. Members have been thinking that, that money will benefit the Women Representatives individually.

I wish to point out that the issue having been explained by one Member from the Budget and Appropriations Committee, it is clear that this money does not belong to the Members of the Budget and Appropriations Committee. It belongs to the issues that shall be raised by the common *mwananchi*. Members of the Committee are not the ones to initiate programmes. The *mwananchi* from Nyandarua County will say they are suffering because of lack of water and they need a mega dam and then the Budget and Appropriations Committee shall allocate funds. Members who are arguing should get in touch with the few Members from Budget and Appropriations Committee and they will understand it clearly.

In the interest of time, I wish to point out that on the issue of education I did not see the Higher Education Loans Board (HELB). I was thinking that children did very well this year and I was expecting that HELB could have been in this BPS. I am wondering what the Ministry had in mind and possibly the Committee may deliberate on that later. I am very interested in the figure of Kshs235 billion. I do not know if this is a typographical error in gender based debts. It is Kshs235billion. I am not so sure if that figure may be correct or it is meant to be Kshs235million. If it is Kshs235 billion, then it is very well particularly because of the affirmative action group.

I am very happy to see persons with disability being considered for the first time in this BPS. The Policy indicates there is Kshs297.5 million to register persons with disability. In Parliament, we have a small group which spearheads persons with disability policies. At times we get opportunities to address those issues in the counties but we find a challenge because we cannot identify them as those persons have never been registered. So this money is going to help register those people and at a glance we shall know that there are 200 people with disabilities in Homa Bay County or 1,000 in Nyandarua County. That way they will get opportunities.

Hon. Deputy Speaker, I am interested in cash transfers. This money was allocated even last year. Together with other Members, through the Liaison Committee, we went round looking for persons who are disadvantaged or vulnerable and it has been a tall order for the Members. Most of the time Members have been giving their Constituencies

Development Fund (CDF) or their own money. This money has never had the administration fee component. The Ministry should capture that and possibly that money should be included in this BPS.

As I conclude, I wish to thank this Committee because they have done a very good job considering the time constraint. We were on a long recess, but they have worked round the clock. I am sure that almost everyone is happy. Let us stop the sideshows of trying to put every penny to the Constituencies Development Fund (CDF) even the money that is very obvious to the *mwanaanchi*.

Thank you, hon. Deputy Speaker.

Hon. Wakhungu: Thank you, hon. Deputy Speaker. First and foremost, I want to thank the Budget and Appropriations Committee, under the leadership of hon. Musyimi, for working so hard within that short timeframe to come up with this Paper. The timelines given in the Budget cycle are so brief. We realise even Departmental Committees were only given very few weeks. Some of them were doing the work in a rush. Later on, we should propose amendments so that enough time is given to the Committee starting from the Departmental Committees and even the time that they are going to present this matter to the Budget and Appropriations Committee.

It is unfortunate that even as this Budget Policy Statement (BPS) comes, we do not have any feedback on the previous achievements. We do not know what happened previously. Again, we had indicated several times that as this BPS comes, we need to have some verifiable indicators so that we can establish what was done. It is very critical and because many other hon. Members have mentioned something about these key critical issues, I do not want to repeat but more importantly the extra Ksh1 billion and the Ksh750 million in the Office of the Auditor-General enhancement is a wonderful idea.

Hon. Deputy Speaker, with devolution now we have 47 counties. As we devolve, a lot of corruption has also been devolved. So, by strengthening the Office of the Auditor-General, we are going to help. We have seen many reports when Parliament requests for them. For instance, we are aware of what is happening in Narok and when the Senate Committee demanded a quick audit, the Auditor-General said they do not have funds and they have shortage of manpower. So, this money is going to add value as far as strengthening the capacity of the Auditor-General in terms of recruitment of more staff is concerned. They will send more officers to the county level where there is so much corruption that has been devolved. This will help in a big way because previously we were told that almost a third of the amount equivalent to the Gross Domestic Product (GDP) goes into wastages in the form of corruption.

I want to mention something about the Commission for the Implementation of the Constitution (CIC). I know this issue did not come from the Budget and Appropriations Committee. This issue came from the Senate as far as the extension of the tenure of the Commission for the Implementation of the Constitution is concerned. When we were in Mombasa during the House leadership retreat, looking at the constitutional statutes that are remaining, they are only about four. When we talked to the Chairman of the CIOC, hon. Baiya, he indicated there is no point of us having this CIC. So, I highly recommend that the extension of a Mr. Nyachae-led Committee should not be allowed. It should end and die the natural death because it has reached where it is. It should give Parliament a proper audit to know, for the time that they have been there, how many Bills have been

passed and how many are remaining in terms of the constitutional timeframes. Whatever is remaining, I have no doubt that the CIOC will deliver and so we really do not need the extension of the Nyachae-led Commission.

Hon. Deputy Speaker, secondly, we are talking about leasing. The Government seems to lease a lot. We have the issue of leasing police vehicles and medical equipment. There is so much money that is going into this and yet we do not have a hiring policy. So, we are calling upon the relevant organisations---

ADJOURNMENT

Hon. Deputy Speaker: Order, hon. Wamalwa! You will have a balance of six minutes when this debate next comes on the Order Paper. The time being 6.30 p.m., it is time to adjourn the business of the House. The House stands adjourned until tomorrow Wednesday, 11th March, 2015 at 9.30 a.m.

The House rose at 6.30 p.m.