

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 25<sup>th</sup> July 2019

The House met at 2.30 p.m.

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

### PRAYERS

### MESSAGE

#### PASSAGE OF THE DIVISION OF REVENUE BILL

**Hon. Speaker:** Hon. Members, pursuant to the provisions of Standing Order No.41, I wish to report to the House that I have received a Message from the Senate regarding the passage of the Division of Revenue Bill (Senate Bill No.13 of 2019). The Message reads in part:

“...the Senate on Tuesday, 23<sup>rd</sup> July 2019 considered and passed the said Bill without amendments”.

The Senate now seeks the concurrence of the National Assembly on the said Bill, in accordance with the provisions of Article 110 (4) of the Constitution.

Standing Order No.143(1) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate referring Bills to the National Assembly. Accordingly, I direct that the Bill be scheduled for First Reading at the next sitting of the House.

Article 95(4)(a) of the Constitution provides that the National Assembly determines the allocation of the national revenue between the levels of Government as provided for in Part 4 of Chapter Twelve.

In this regard, after First Reading, the Division of Revenue Bill (Senate Bill No.13 of 2019) stands referred to the Budget and Appropriations Committee for the Committee to advise the House on how to proceed with the consideration of the Bill.

Next Order.

### PETITION

**Hon. Speaker:** Let us have Hon. (Ms.) Jessica Mbalu.

#### HUMAN-WILDLIFE CONFLICT IN KIBWEZI EAST CONSTITUENCY

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Thank you, Hon. Speaker. Pursuant to Standing Order No.225(2)(a) I, the undersigned, on behalf of the residents of Kibwezi East Constituency, draw the attention of the House to the following:

THAT, the Fourth Schedule of the Constitution assigns the responsibility of protection of the environment and natural resources to the national Government;

THAT, in the recent past, residents of Masongaleni, Thange, Mtito Andei and Ivingoni-Nzambani Wards of Kibwezi East Constituency have experienced increased cases of attacks by elephants resulting in loss of lives and livestock and also destruction of crops and property in these said areas;

THAT, numerous cases of human-wildlife conflict have been reported to the relevant authorities, including complaints for compensation of victims in vain;

THAT, most parts of Kibwezi East Constituency, including schools bordering Tsavo East National Park, Tsavo West National Park and Kyulu Hills National Park remain unfenced hence making it easier for the animals to stray out;

THAT, learning in several schools in Kibwezi Constituency that borders the aforementioned parks has been paralysed, at times for weeks on end, due to invasion of wild animals especially the elephants;

THAT, the Kenya Wildlife Service (KWS) wardens are evidently overwhelmed by the situation resulting in delay in responding to distress calls from residents;

THAT, efforts by the residents of Kibwezi East Constituency to resolve the matter, including demonstrations against inaction by the Kenya Wildlife Service, have been futile;

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

(i) intervenes with a view to ensuring that the Kenya Wildlife Service expeditiously compensates victims and affected families for loss of lives and destruction of property;

(ii) recommends that the Kenya Wildlife Service erects an electric fence at all areas with schools in Masongaleni, Mtito Andei, Thange and Ivingoni-Nzambani wards of Kibwezi East Constituency bordering Tsavo East National Park, Tsavo West National Park and Kyulu Hills National Park to mitigate the conflict;

(iii) engages the KWS to ensure that perimeter fences are erected along the unfenced parts of Tsavo East National Park bordering Kibwezi East Constituency and Kyulu Hills National Park to ward off elephants and other wild animals that stray to human settlements; and,

(iv) intervenes through the relevant Ministry to facilitate the Kenya Wildlife Service to increase the number of posts or camps in the area for efficient surveillance and quick response to distress calls whenever elephants stray to human settlements.

Hon. Speaker, you will note that this is a resubmission. I presented this Petition last year. Given the procedures of the House, I am resubmitting it today.

And, your Petitioners will ever pray. The Petition is presented by me, Jessica Mbalu, representing the people of Kibwezi East Constituency, today, 23<sup>rd</sup> July 2019.

**Hon. Speaker:** It looks like it should have been read on 23<sup>rd</sup>. Are there any comments? Let us have Hon. Mwadime.

**Hon. Andrew Mwadime** (Mwatate, ODM): Asante sana, Mheshimiwa Spika. Kwa kweli, ule wembe Mheshimiwa Jessica Mbalu anapitia ndio huo huo ambao unatunyonga katika sehemu za Taita Taveta. Hata akitaja Mtito Andei, mimi nafahamu kuwa Mtito Andei iko Taita Taveta.

Kwa kweli, nimelalamikia sana hili suala la wanyama. Masuala ya kutatua hili tatizo...

**Hon. Speaker:** Hon. Mbalu, the Member just said that given what you have said, it sounds like Mtito Andei is in Taita Taveta.

Very well. Let us have Hon. Jessica.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Hon. Speaker, this being my Petition, as much as I appreciate my very good neighbour, Hon. Mwadime, Mtito Andei is not in Taita Taveta. Mtito Andei is in Makueni County, Kibwezi East Constituency. I welcome him to support my Petition, but Mtito Andei is not in Taita Taveta.

**Hon. Speaker:** Hon. Mwadime.

**Hon. Andrew Mwadime** (Mwatate, ODM): Mheshimiwa Spika, naunga mkono haya malalamishi. Tusiongee sana kuhusu masuala ya mpaka lakini inadhihirika hata wakati wa uchaguzi kuwa watu wa Mtito Andei hawampigii kura Mheshimiwa Jessica Mbalu, wanampigia kura Mbunge wa Voi anayeitwa Bwana Jones Mlolwa. Tusiendeele kuongea zaidi kuhusu hilo suala maanake kuna makamishna ambao wanahusishwa na hayo.

Kwa kweli, hili suala la wanyama ni swala tata na sugu. Nimelalamikia suala hili kwa muda mrefu. Nilichangia asilimia kuu katika ile sheria ya kulinda wanyamapori ya mwaka 2016. Lakini ninashangaa kuwa masuala ya kulipa wananchi ambao mimea yao imeharibiwa na wanyama au kujeruhiwa hayajatekelezwa mpaka leo. Ningeomba Kamati yetu Tekelezi ifuatilie hili suala. Kule kwangu Taita Taveta, watu wangu wamefukarika kwa sababu ya wanyamapori. Watu wangu wana bidii, wanafanya shughuli za ukulima, wanafuga wanyama, lakini bahati mbaya wakati hao ndovu, simba na wanyamapori wengine wakija kwa maeneo ya binadamu, wanatufanyia uharibifu mkubwa sana.

Mheshimiwa Spika, kuna wakati hata wewe mwenyewe uliagiza kwamba shughuli hii ifanyiike kabla ya siku 60. Nashukuru kuwa KWS ilianza kutengeneza ua ambao ndio suluhu ya kila kitu. Lakini kwa bahati mbaya, lile ua walikuwa wanatengeneza lilikuwa linapitia kwa mashamba ya wananchi badala...

**Hon. Speaker:** This is a Petition. Now you have started complaining. I have no way of dealing with that. I am not vested with the powers to address your complaints. This is an opportunity to make some comments, clarifications and offer a few words of support.

**Hon. Andrew Mwadime** (Mwatate, ODM): Mheshimiwa Spika, asante kwa mwongozo wako. Lakini nilifikiria kwamba nikiongea, nafanya hivyo ili tumalize hili suala kwa kikamilifu.

**Hon. Speaker:** You are wrong. Resume your seat. Let us have Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I support the Petition by Hon. Jessica Mbalu. In fact, this House has a responsibility, under Article 95 of the Constitution, to resolve issues that are of concern to the people of Kenya. This is the National Assembly. I plead with the Committee handling this matter. Human-Wildlife conflict is a fundamental issue that needs to be addressed. People who reside in areas that border or are near national parks suffer a lot. The question is: Between wild animals and human beings, who is more important? Wildlife is important but if I am given a choice between the life of a wild animal and that of a human being, I would go for the life of a human being. You find that as a country, it is like we are putting too much premium on the life of wild animals. They kill our people. Those who are close to the national parks are not even allowed to take their livestock there for grazing.

Just the other day, I was in Mheshimiwa ole Mtito's constituency of Kajiado South in an area called Rombo. I was there with his permission, of course. He is my friend. While I was there, you could see the people are so desperate. They were talking about elephants killing people and there is no action being taken. Further, during the drought season, even when there is

grass, the livestock of the people who live near the national park are not allowed to access those national parks just for grazing purposes. Cows and goats cannot kill wild animals. You wonder why they cannot be allowed to graze so that they do not lose their livestock. This is a matter that the Committee needs to look into beyond what has been petitioned so that we understand how to relate with wildlife. This human-wildlife conflict is becoming a crisis in this country.

I come from a constituency that has a national park. You cannot believe it but KWS was even stopping us. The main road that traverses my constituency has a 2-kilometre section that passes through the park. This road is supposed to be tarmacked. KWS refused to give authority. We had to push for many months for them to give authority for a tarmac road to pass through the park. They said that it would interfere with the wildlife. Between our comfort and life as human beings and the animals, which one is more important? This is a very serious matter that needs to be looked into.

**Hon. Speaker:** Hon. Members, I do not want to say what happens in other places. In this House, when a petition is presented, it does not present an opportunity for debate at this point until a report is tabled. We follow the procedures as laid down. I am aware that there are proposals to make some amendments but even then, it is not with regard to debate at this point. If a report makes certain recommendations, it will then carry what would be termed as a resolution of the House. That is the direction that those who are proposing some changes to the Standing Orders are moving towards.

At this point, I can see there is a lot of interest but I am sorry. Remember at this point, you are only supposed to make comments and seek clarifications for a period of only 30 minutes. But even that is at my pleasure. My pleasure is such that we move to the next Order. Therefore, I refer the Petition to the Departmental Committee on Environment and Natural Resources. Does the Chair also want to seek clarification? Let us have Hon. Kareke Mbiuki.

**Hon. Kareke Mbiuki (Maara, JP):** Thank you, Hon. Speaker. I appreciate the Petition. The issue of human-wildlife conflict is a serious challenge in this country. We have received numerous petitions with regard to the issue of human-wildlife conflict. I acknowledge all the issues that have been raised by the Hon. Members.

The bigger challenge has been the issue of the budget. As at now, there are more than Kshs5 billion pending claims which have been certified. In this financial year, we only managed to secure around Kshs500 million.

On top of that, we are trying to look at this issue in terms of mitigation. As a Committee, we have even reallocated more funds to fencing the parks. I thank the Budget and Appropriations Committee because it allowed us to reallocate funds from other sectors to the KWS so that fencing can be done. I promise that within two weeks, we shall come to this House and give a response.

Finally, when we secure a date with the State Department of Wildlife and KWS, I invite all the Hon. Members who have issues to do with human-wildlife conflict to attend that meeting so that we can engage and resolve this matter once and for all.

**Hon. Speaker:** Very well. It is within your powers to even look at the specific provisions of the particular law which this House passed. You put certain minimum figures for all manner of injuries suffered by human beings arising from interactions with wild animals including snake bites. You may have to look at the law to see whether what you provided for is sustainable in the long run. Nevertheless, that is the law, it must be obeyed by whomever it is that has to implement it for the time being, including appealing through you, Hon. Kareke Mbiuki to the Budget and Appropriations committee, to make more funds available for purposes of

compensation. I have seen the figures that you have mentioned, they are alarming. They are all unpaid. In Government books, they remain as pending bills. This is a case that you need to put more request for financing.

Before we move to the next Order, allow me, Hon. Members, to recognise the presence of students from Alliance Girls High School, Kikuyu Constituency, Kiambu County in the Speakers Gallery and in the Public Gallery, students from Kieganguru Girls High School, Maara Constituency represented by Hon. Kareke Mbiuki, Tharaka Nithi Constituency; Caso Upendo Academy, Ruaraka Constituency, represented by Hon. T. J. Kajwang', Nairobi County; Mautuma Boys High School, Lugari Constituency, represented by Hon. Savula from Kakamega County; Wachoro Boys High School, Mbeere Constituency represented by Hon. King'ang'i, Embu County; Our Lady of Peace School, Lang'ata Constituency, Nairobi County and Tumaini House Girls High School, Nakuru West Constituency, Nakuru County. They are all welcome to observe the proceedings of the House this afternoon.

Next Order.

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following paper on the Table of the House:

Reports, Bills, Resolutions adopted by the East African Legislative Assembly (EALA) at the 6<sup>th</sup> Meeting of the 2<sup>nd</sup> Session of the 4<sup>th</sup> Assembly held in Arusha, United Republic of Tanzania from 16<sup>th</sup> June to 6<sup>th</sup> July 2019;

Report on the Journey to Gender Parity in Political Representation for the period 2012-2018 from the National Gender and Equality Commission;

The Report on Equality and Inclusion in Kenya General Elections from the National Gender and Equality Commission.

Economic Survey 2019 from the Kenya National Bureau of Statistics.

The Report of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2018 and the certificate therein.

- (i) Ministry of Devolution and ASALs.
- (ii) State Department for Special Programmes.
- (iii) Kenya Broadcasting Corporation.
- (iv) Kenya Film Commission.
- (v) Media Council of Kenya.
- (vi) Development Bank of Kenya Limited.
- (v) Agricultural Finance Corporation.
- (vi) Nyayo Tea Zones Development Corporation;
- (vii) Public Service Commission.
- (viii) Petroleum Development Fund.
- (ix) Petroleum Development Levy Fund.
- (x) National Employment Authority, and
- (xi) Communications Authority of Kenya - Universal Service Fund.

Thank you, Hon. Speaker.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Public Accounts Committee on Procurement of External Audit Services for the Office of the Auditor-General for the Financial Year 2014/2015, 2015/2016, 2016/2017 and 2017/2018.

Thank you.

**Hon. Speaker:** Well done, Hon. Opiyo Wandayi. At least for the first time in many years, they have been able to identify a person who can audit the Auditor-General. Congratulations to you and your Committee.

The Chairman, Departmental Committee on Labour and Social Welfare.

**Hon. Ali Wario** (Bura, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Labour and Social Welfare on its consideration of the National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019)

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman, Budget and Appropriations Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

The Report of the Budget and Appropriations Committee on its consideration of the Division of Revenue (No.2) Bill (National Assembly Bill No. 59 of 2019).

Thank you, Hon. Speaker, if you allow me, may I recognise the presence of the eminent ladies from the Alliance Girls High School.

**Hon. Speaker:** Next Order.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON PROCUREMENT OF EXTERNAL AUDIT SERVICES FOR THE OFFICE OF THE AUDITOR-GENERAL

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on Procurement of External Audit Services for the Office of the Auditor-General for the Financial Years 2014/2015, 2015/2016, 2016/2017 and 2017/2018, laid on the Table of the House on Thursday 25<sup>th</sup> July 2019 and pursuant to Article 226(4) of the Constitution and Section 43 of the Public Audit Act (No. 35 of 2015) approves the appointment of Ms. PKF Kenya to audit the accounts of the Office of the Auditor-General for the Financial Years 2014/2015, 2015/2016, 2016/2017 and 2017/2018.

Thank you.

**Hon. Speaker:** Next order.

## ORDINARY QUESTIONS

**Hon. Speaker:** First Question is by the Member for Kanduyi

*Question No. 331/2019*

## DELAYED PAYMENTS OF TERMINAL BENEFITS FOR RETIREES

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Speaker, I beg to ask Question No. 331/2019 regarding delayed payments of terminal benefits for retirees to the Cabinet Secretary (CS) for National Treasury and Planning.

(i) Could the Cabinet Secretary provide details of the challenges faced by the Pensions Department in processing retirement benefits for retirees?

(ii) What are the requirements and administrative procedures for access to retirement benefits?

(iii) What measures has the Ministry put in place to simplify the procedures and reduce time taken for the pensioners to receive their dues?

I thank you.

**Hon. Speaker:** Very well, the Question is referred to the Departmental Committee on Labour and Social Welfare to arrange when the Cabinet Secretary will appear to respond.

Next Question is by the Hon. Member for Homa Bay Town, Hon. Kaluma.

*Question No. 332/2019*NON-PAYMENT OF MEMBERS OF THE  
CONSTITUENCY OVERSIGHT COMMITTEE

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Speaker, for the opportunity to ask Question No. 332 of 2019. The Question is directed to the CS for National Treasury and Planning:

(i) Could the Cabinet Secretary confirm that members of the Constituency Oversight Committee under the National Government Constituency Development Fund have not been paid for services rendered to the National Government Constituency Development Fund Board since their appointment?

(ii) What steps is the Ministry taking to ensure that the said payments are effected?

I thank you, Hon. Speaker.

**Hon. Speaker:** It is referred to the Departmental Committee on Finance and National Planning. Next Question is by Hon. (Prof.) Jacqueline Oduol.

*Question No. 339/2019*POLICY ON IDENTIFYING AND  
DOCUMENTING INDIGENOUS SYSTEMS

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Speaker. I rise to ask Question 339 of 2019 directed to the CS for Sports, Culture and Heritage:

(i) What steps is the Ministry taking to identify and document indigenous systems (including knowledge, values and practices), particularly on food security, conflict resolution, good governance, courtship and marriage, child protection, gender equality and climate change?

(ii) Could the Cabinet Secretary detail the policies that have been put in place to enable children, youth and young adults to receive systematic instruction and understanding of their

cultural identity, values, beliefs and practices from older generations while ensuring that retrogressive norms and aspects do not infringe on their human dignity and ability to be productive members of the society?

Thank you, Hon. Speaker. Allow me, as students of Alliance Girls' High School leave, to congratulate and acknowledge them as an alumnus of the school. Thank you.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Sports, Culture and Tourism. I wish everybody was listening to this Question by Prof. Oduol. It has some very interesting aspects about what the Ministry is doing. What have attracted me, Hon. Oduol, are the issues of good governance, courtship and marriage. It would be important to get to know what the Ministry is doing towards the area of courtship and marriage. It is the Ministry of Gender and Heritage.

The next Question is by the Member for Tana River, Hon. Rehema Hassan.

*Question No. 344/2019*

STATUS OF PROPOSED UPGRADE OF  
MALINDI-GARSEN-HOLA-MADOGO ROAD

**Hon. (Ms.) Rehema Hassan** (Tana River CWR, MCCP): Thank you, Hon. Speaker. I rise to ask a question to the CS for Transport, Infrastructure, Housing and Urban Development:

(i) What is the status of the proposed upgrade of the Malindi-Garsen-Hola-Madogo section of the Mombasa-Garissa Road that is funded by the Government with support from the World Bank?

(ii) What plans does the Ministry have to construct the said section of the road and when is it expected to commence?

Thank you, Hon. Speaker.

**Hon. Speaker:** It is referred to the Departmental Committee on Transport, Public Works and Housing to have the response. Next Question is by the Member for Samburu North, Hon. Lentoimaga.

*Question No. 345/2019*

ELECTRICITY SUPPLY TO MARKET CENTRES  
AND SCHOOLS IN SAMBURU NORTH

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker. I rise to ask Question No. 345 of 2019 to the CS for Energy:

(i) When will the Ministry connect the South Horr, Marti, Morijo, Barsaloi, Latakweny, Tuum, Masikita, Arsim and Uaso Rongai market centres in Samburu North Constituency with electricity, noting that the Loyangalani-Suswa power transmission line is now energised and has been launched and passes through the constituency?

(ii) Could the Cabinet Secretary consider connecting and supplying electricity to all schools in Samburu North Constituency in line with the Government policy under the Last Mile Connectivity Programme?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Energy. Next is a statement by the Leader of the Majority Party.



## STATEMENT

BUSINESS FOR THE WEEK COMMENCING 30<sup>TH</sup> JULY TO 1<sup>ST</sup> AUGUST 2019

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following statement on behalf of the House Business Committee (HBC), which met on Tuesday, 23<sup>rd</sup> July 2019 at the rise of the House. Next week, the HBC has given priority for debate to the following Motions:

- (a) The Report of the Departmental Committee on Defence and Foreign Relations on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on Luigi Broglio-Malindi Space Centre.

This is San Marco. I know it as such. If it has changed its name, we should be told. The name is very complicated. Members should know that this Italian name means San Marco, the site in Malindi;

- (b) The Report of the Public Accounts Committee on the Approval of the Appointment of External Auditor to Audit the Accounts of the Auditor-General, and  
(c) Sessional Paper No. 2 of 2018 on the National Ethics and Anti-Corruption Policy.

We also hope to consider, at Second Reading, the following Bills:

- (a) The County Governments (Revenue Raising Process) Bill (National Assembly Bill No. 24 of 2018).  
(b) The National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2018), and  
(c) The Sectional Properties Bill (National Assembly Bill No. 23 of 2019).

There are no Questions slotted for reply this week. It is my hope that the Director of Committee Services will schedule Questions for reply next week so as to clear the huge backlog.

Finally, the HBC will reconvene on Tuesday, 30<sup>th</sup> July 2019, at the rise of the House to consider business for the coming week. I beg to lay this statement on the Table of the House.

**Hon. Speaker:** I see Members who have pressed the intervention button. Hon. Mogaka of West Mugirango has the Floor.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Speaker, for this opportunity. My point is to make a follow up. On 24<sup>th</sup> April 2019, I asked Question No. 183 of 2019 which was directed to the Ministry of Interior. Since then I have never got a response despite my effort to find out from the Committee what is happening. Again, three weeks ago, before we proceeded for recess, I also sought for a statement from the Departmental Committee on Finance and Planning regarding employment of census enumerators, which was also not given despite your directions that it was to be responded to within a week. I am very sure that these issues that we raise in this honourable House are not in vain. They require responses.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Koinange, what is your response to the first issue? The Member complains about a Question he filed in the month of April. It is before your Committee. Hon. Members, that is why it is important to pay attention, particularly the Chairs because after Hon. Koinange, I will expect the Member for Kipkelion East, Hon. Joseph Limo, to also respond to the issue of the statement that Hon. Mogaka complains has not been given. What is your answer?

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Speaker. You know sometimes we have so many Questions which have been answered but Members do not come to listen to

their Questions or petitions being responded to. Unless he contacts me, I do not recall not answering any Questions or that there are any Questions pending.

**Hon. Speaker:** Hon. Mogaka, you may need to walk across and have a discussion with him, because he does not recall any Question that has not been responded to.

Hon. Mogaka, you raised another one on the statement you sought from the Departmental Committee on Finance and National Planning on census on the issue of enumerators. Hon. Limo, the gentleman seated next to your left is distracting you. He does not appear to be a very regular Member. Who is this? He is distracting you and that is why you cannot follow. Hon. Limo, maybe you can respond now.

Let me request Hon. Mogaka to now make his point of intervention so that Hon. Limo can respond, he has even given up. Therefore...

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Speaker. This is a statement that I had sought two weeks ago. I remember you had requested the Hon. Leader of the Majority Party to hold brief and inform Hon. Limo on the status of the employment of enumerators. I had raised an issue that there was a complaint that the people working as teachers and others in the national Government had applied and were being considered for employment as enumerators.

Thank you, Hon. Speaker.

**Hon. Speaker:** So, are you saying that it was given to the Hon. Leader of the Majority Party? Maybe the Hon. Leader of the Majority Party can respond.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, at least I have passed the message to Hon. Limo, but I can confirm to him again. He should not bring it to the House.

In my constituency, it is the youth who are being employed, not teachers or civil servants. So, this is a matter you can solve in your constituency. We should agree and the Chair calls the Kenya National Bureau of Statistics (KNBS) on the fact that there are many young people who have no jobs. So, why give these jobs to people who are already working as civil servants? I passed the message, so let the person who got the message reply.

**Hon. Speaker:** Hon. Limo do you have a response?

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, as expected, the answer will come from the Ministry of Planning which is in charge of census, but we are yet to get a response from them.

We have seen public pronouncement by the Director General (DG) who is in charge of the KNBS himself pronouncing that the youth, especially who are not employed are given priority for jobs of enumerators. This is because enumerators' qualification is not prohibitive for anybody. It does not need a lot of experience because it is a matter of just knowing the area. In fact, enumerators are employed from the local area, therefore, no youth in this country is unable to do that.

So, I can confirm the DG himself pronounced in public that those jobs especially for enumerators should be given to the youth who are unemployed. Otherwise, we are waiting for official communication when they appear before our Committee.

However, since it is a very urgent issue, he has pronounced it. Administratively, we will ensure that they follow up with the officers who are based in the counties and sub-counties to ensure that the youth who are unemployed are given priority over others.

**Hon. Speaker:** Very well. In the event that Hon. Mogaka has specifics of individuals who do not necessarily fall in that category, then he can present the information to the Chair so that he can communicate to those responsible.

I see a number of interventions, is it on this? Member for Muhoroni, you have pressed intervention button? Was it by mistake? Member for Kanduyi.

**Hon. Onyango Oyoo** (Muhoroni, ODM): *(Inaudible)*

*(Laughter)*

**Hon. Speaker:** Hon. Members, I suspect some of you may be pressing the wrong buttons.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Speaker, I wanted to offer some help to the Chairman of the Departmental Committee on Administration and National Security and my colleague, Hon. Vincent.

The CS appeared before the Committee and I recall Hon. Vincent was also present. The CS requested the Committee to allow him time as he was not satisfied with the answer given by his officers. That was last month just before we went for the recess. So, I am sure if that was pursued, we would get an answer.

I thank you.

**Hon. Speaker:** That is good information, but nevertheless Hon. Mogaka should just follow up to ensure that the answer is then given on a definite date.

Member for Emuhaya, what is your intervention?

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker for this opportunity. I had put it much earlier, but I thought on the issue of census, I support 100 per cent the youth being given a chance. I was also very worried. When such a matter is brought to the House, the way it was coming, and we make legislation on it, given that we are a House that protects everybody who is working and those who are not working, it needs a delicate balance. So, let us give those chances to the youth and we can also use our own influence within the constituencies to influence that policy. However, if we legislate on it, we shall be tied with issues of discrimination and so on.

Thank you, Hon. Speaker.

**Hon. Speaker:** Well, there are specific provisions in the Constitution such as those that deal with the requirements of Article 100. We are not legislating on it.

Hon. Shakeel Shabir, what is your intervention?

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Speaker, let me give some advice to the House. The list has already been published of all the youth that have been already hired. So, I do not understand how those lists that have been published will be changed by the DG of the KNBS. I do not think they will change because they have been published.

**Hon. Speaker:** Hon. Members, interventions should only be for purposes of points of order. Let us have the Member for Nyaribari Chache. You have an intervention also?

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Thank you, Hon. Speaker for this opportunity. I also have a similar concern that the census is a very emotive issue. The youth are very concerned. You must have seen on television especially in Kisii where I come from, the youth were up in arms and have said that any working person who is given an opportunity at their expense will be lynched. We do not want to get to that level of lynching people. We would want to mitigate this issue before it gets to that level. We need the intervention of the Chairman of the Committee concerned so that we get assurance from those concerned that qualified youth will be given opportunity and not those working in the offices because that will be unfair.

They deserve to be given a chance so as to earn a living and make a difference in their lives. This is because some of those youth need to grow the economy with a very small seed capital which can be obtained by earning some allowances from this census programme. So, I urge the Hon. Speaker to give direction so that we can get the youth given an opportunity first.

Thank you so much.

**Hon. Speaker:** Well, I will not give any direction because it is not in my domain. Hon. Limo has already expressed himself on that. I hope these are now going to be points of order.

When a Member rises in their place and starts making contribution to some non-existing Motion or business then, you will be out of order and you are likely to see the door. Let us move to the next Order.

## MOTION

### REPORT ON INQUIRY INTO LAND ACQUISITION BY KENYA DEFENCE FORCES FOR FOB IN NAROK COUNTY

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Inquiry into Land Acquisition by the Kenya Defence Forces for the Establishment of Forward Operating Base (FOB) in Narok County, laid on the Table of the House on Tuesday, 2<sup>nd</sup> April 2019.

*(Hon. Katoole Metito on 24.7.2019)*

*(Debate concluded on 24.7.2019)*

**Hon. Speaker:** Order Members! Debate on this Motion was concluded yesterday and what remains is for me to put the Question.

*(Question put and agreed to)*

Hon. Members, if you desire to lobby, you do not do so while seated down. Anyhow, let us move to the next Order.

## BILLS

### *First Readings*

THE PERSONAL DATA PROTECTION BILL

THE COUNTY STATUTORY INSTRUMENTS BILL

THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL

THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

**Hon. Speaker:** Hon. Members, let us pause there. What are you lobbying one another for? Let me make this announcement.

I had been requested by the Leader of the Majority Party and the Chair of the Budget and Appropriations Committee, which I found appropriate and, therefore acceded to, to rearrange business so that the business appearing as Order No.14 will be considered as Order No.16. So, the business appearing as Order No.15 becomes No.14, the one appearing as Order No.16 becomes 15 and what was No.14 becomes No.16. Since I have acceded to that request, I will not put a Question because we are just rearranging business.

Next Order!

## BILL

### *Second Reading*

#### THE DIVISION OF REVENUE BILL

**Hon. Speaker:** The Chair, Budget and Appropriations Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I beg to move that the Division of Revenue Bill (No.2) Bill (National Assembly Bill No.59 of 2019) be read a Second Time.

According to the Report we have just tabled this afternoon, this is a republication of the Division of Revenue Bill that we had done earlier. Members are well aware of the events that followed the passage of the first Division of Revenue Bill, 2019. It was amended by the Senate and we went to mediation talks which collapsed sometimes last month.

We have now republished this Bill with a new figure of Kshs316.5 billion shareable revenue to the county governments. The Committee in its evaluation of Article 203 of the Constitution has detailed how revenue will be shared between the national Government and county governments. Members will realise that from the projected ordinary revenue of Kshs1.877.176 billion, what is categorised as national interest under our Constitution is a figure of Kshs94.168 billion.

A figure of about Kshs585.703 billion will go towards payment of public debt and other national obligations. This includes constitutional commissions, other statutory payments like pensions and other Government obligations which will gobble up a total of Kshs491.269 billion. For emergencies being the Contingency Fund and other emergencies, there is a figure of Kshs6.418 billion.

The balance that will be shared between the two levels of Government is Kshs693.854 billion. Out of this figure Kshs330.411 million will go to county governments being the Kshs316.5 million that is the shareable revenue and a further Kshs13.911 million which will go to grants from the national Government. It is important to note that the Constitution provides for a minimum of 15 per cent of shareable revenue. What is in this Bill constitutes 30.5 per cent of the shareable revenue. Therefore, we are well above the threshold that has been set out in the Constitution. It is my prayer that Members will support this.

This is not all that is going to our county governments. Also, there are a number of conditional grants which were there in the previous Bill. Conditional grants to all levels of hospitals is about Kshs4.3 million and for the construction of county headquarters in Nyandarua; Tharaka Nithi and one other county; Kshs485 million. There is a further Kshs900 million as compensation for user fees foregone in the health sector. Fuel levy is a figure of Kshs8.934 billion. There is a further Kshs2 billion, a conditional grant towards development of youth polytechnics and for leasing of medical equipment, Kshs6.2 billion. Put together, all these figures are monies that are going to our county governments. Therefore, those who have been saying that the National Assembly does not support devolution, I think these figures speak louder than words. The amounts that we are apportioning to our county governments is even an improvement from the Kshs310 billion that we had given before. It is important to point out that as we went to mediation, the figure that we floated during mediation was Kshs316 billion. This is now half a billion shillings more than what had been proposed in the mediation.

Hon. Speaker, I am aware that our colleagues in the Senate have published another Bill, but I am not aware about how far they have gone in its deliberation. As much as all these issues may end up in mediation, I think it is important for our colleagues in the Senate and our country at large, including our Council of Governors and the Commission on Revenue Allocation (CRA), to be alive to the realities of our nation today in terms of revenue generation. The challenge is not just on the national Government to enhance our revenue collections, but also for county governments to enhance their own-source revenue.

If you look at statistics from the Controller of Budget's Office, across the board from County No.1 to County No.47, own-source revenue in the last two to three years has been dwindling. There is no single county where you will find own-source revenue going up. Therefore, it is not just a challenge to the Kenya Revenue Authority (KRA), but also to our county governments and the governors who are managing these counties to ensure that they enhance collection of revenue.

I remember earlier this year, none other than President Uhuru Kenyatta offered to allow the KRA to work with county governments to enable them enhance their own-source revenue. Why are our county governments not keen to exploit that opportunity and use a system of collecting revenue that has been proved to work in the country? They can collect this revenue through the KRA and the money will still end up in their revenue accounts but, for obvious reasons, you know many of them may not be keen to have these monies collected on their behalf by the KRA. Without casting any aspersions on anyone, I just want to encourage them to work with the KRA to collect for them revenue on their behalf. It will also be a source of revenue in terms of agency fees for the KRA and also a challenge that I will be posing to the KRA to explore ways and enter into memorandum of understanding with county governments to collect revenues for them. That will not just enhance the revenues that we collect, but it will be a source of income in terms of agency fees for the KRA.

The other point to note is that we are basing what we share in revenues in line with what is provided for in our Constitution. We have no business to fight with what is in black and white in the Constitution. The Constitution provides that we share revenue on the basis of projections. I do not know what wisdom informed that particular decision when we enacted this Constitution in 2010. This is because the reality of our country today is that in the last so many years, we have not been able to meet these revenue projections and the targets that we set out every year. In this last financial year that just ended, we had a huge shortfall. That is why I find it interesting or contradictory that our CRA continues to speak about additional revenue in this current financial

year of 2019/2020. They speak about figures well about Kshs200 billion as if it is money that has already been collected. It is important for the CRA to appreciate that as much as the KRA will give us their revenue projections, reality is that we never realise that revenue as projected. Therefore, as much as we are projecting to collect Kshs1.877 trillion, what we have seen in the past...

Hon. Speaker, the last financial year you will bear me witness that we had a supplementary budget weeks after we passed the Finance Bill because of realities that we would not have achieved the revenue projections. Remember for the austerity measures that were carried out in the national Government, the same as provided for by Article 219 of the Constitution, you cannot vary what you provide for in this Division of Revenue Bill. I would like to ask our colleagues in the Senate, if there is any amendment that they may want to consider in this Bill, probably amend one of the clauses or add a new clause saying that, maybe, if there is an improvement in revenue collection as the year progresses, any additional revenue generated over and above the projections after the first half of the year, should all go to our county governments. When the austerity measures were undertaken, we never asked them. You remember last year, there was an attempt by the National Treasury to reduce the sharable revenue from Kshs314 billion by Kshs9 billion to Kshs305 billion, but we could not do it because they are protected under Article 219 of the Constitution.

I just want to beg them and ask the CRA, our good Senators and our Council of Governors to bear with the situation as it is. They should be alive to the reality of our revenues as a country and as the economy improves, we will be amiable later during a supplementary budget to allocate more resources should they be there. Since we cannot reduce what we give them, I think it is only good to be realistic with what we have.

Let me move to the recommendations of the Committee. We are recommending that we approve this Bill as follows:

As I said, on the national Government, including additional allocations to counties of Kshs13.91 billion, being financed from revenues raised nationally and also constitutional commissions on repayment of debt, let this figure of 1.561 trillion not be seen as if it is money that is just going to the national Government, Ministries and agencies. The Judiciary, Parliament and constitutional commissions will share it.

On the Equalisation Fund, we are seeking an approval of Kshs5.76 billion and for county allocations, the sharable revenue of Kshs316.5 billion.

We have said as a Committee that should there be any increase to counties over and above what is being proposed in this Bill, it has to be accompanied by a specific reduction in the Judiciary, in Parliament, various Ministries, departments or agencies of Government or clear and quantifiable revenue measures. Therefore, I beg that even as we proceed, should anybody have the thought of amending anything in this Bill, he should either give us clear and quantifiable revenue-raising measures that we will generate the revenues that we want to increase or give us specific areas in the budgets of the Judiciary, Parliament – which includes the Senate – or in the Ministries, departments and agencies of Government which will specifically reduce to be equal to any proposed increments.

I am saying this because the Kshs316.5 billion is what realistically can be accommodated within our fiscal framework without necessarily distorting the fiscal deficit as we agreed and was resolved, passed and adopted by this House during the Budget Policy Statement (BPS). Therefore, the Kshs316.5 billion will leave us within the fiscal deficit that we agreed on in our BPS Report that was adopted by this House and also by the Senate. I know they deliberated on

the BPS and worked within the framework of a fiscal deficit that we have all committed to, not just as country, but as a region. You remember there is a convergence that we are working on in the East African states moving towards a fiscal deficit of about 3 per cent by the year 2022. If we are to achieve this, we can only accommodate this Kshs316.5 billion. As I said, anything beyond that has to be accommodated either by specific cuts or specific and quantifiable revenue-raising measures. It is important to remind the country that at a time when Kenyans are experiencing very difficult economic times, specific revenue-raising measures would constitute increment in either raising taxes for Kenyans or other levies that will be more painful to the people of Kenya.

Hon. Speaker, it is, therefore, my plea this afternoon that we pass the Division of Revenue Bill as it is and ask our colleagues in the COG, our very able Commissioners at CRA and our Senators to remain alive to the realities of our economy today. As I said, in subsequent Supplementary Budgets, should our economy improve and we see the possibility of the revenues increasing over and above what has been projected; we should be willing and ready...

*(Technical hitch)*

There are many Members of Parliament here who are prospective governors and they support devolution from the bottom of their hearts because they will be beneficiaries in the future. I can see the Leader of the Minority Party and the Deputy Chief Whip from Trans Nzoia County nodding, when I speak about future governors.

I am saying this because there is a notion that there is competition and turf wars between us and the Senate. It is only that we are apprised with more facts in terms of what is required in the economy in this country because we consider our financial estimates for the national Government and all other agencies and organs of Government, including the Judiciary. Therefore, we make very informed decisions in this House based on facts and figures, but not based on egos or catfights between the two Houses of Parliament. We have immense or tremendous respect for our colleagues in the Senate. We want them to appreciate that the Members of the National Assembly are apprised with more facts and figures.

Lastly, let me beg them to also respect institutions. The Public Finance Management (PFM) Act created the Parliamentary Budget Office, which advises the National Assembly and the Senate. I just want to beg our colleagues in the Senate to also respect the very good advice that I know they get from the Parliamentary Budget Office. I am sure they do not get a different set of advice from the one we get. Therefore, it is good to respect the advice that we get from a statutory institution since it was created under the PFM Act.

With those remarks, I beg to move and request the Leader of the Majority Party to second.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. First, I want to thank the Budget and Appropriations Committee of the National Assembly for republishing and processing the second Division of Revenue Bill 2019. All of us in this House are cognisant of the importance of making sure that the county governments receive their resources. Both Houses deal with this matter. We pass the Division of Revenue Bill and the County Allocation of Revenue Bill, so that the county governments can prepare their annual budgets and Appropriation Bills in line with Article 224 of the Constitution.

Today, we have an opportunity to speak to the country because there is a lot of falsehood which is being flown around. The Constitution of Kenya 2010 ushered in new public financial management architecture in Kenya for the first time. It anchored the budget-making process in



law and created several institutions to manage that Budget, including the Budget Office that is under the Parliamentary Service Commission. It has also given us key pillars to be dealt with when we make the Budget. I want to make it very clear that one of the key pillars in the budget-making process, which is in law, is the element of equity, which does not mean that you divide equally what is available. The principal factor is equity. It means you divide taking into consideration what you need and what you have. So, there is no way you can say that the principle of equity will only apply when it comes to dividing what you have. Before you reach the principle of equity on what you have, you must ask yourself what we need as a country. That is the element that is missing out in the whole deliberations.

The Constitution of Kenya 2010 also provides that the principle of equity must apply when it comes to the burden of taxation and borrowing by Government. So, there is no way you can ask to be given your share and you leave the element of national debt to another arm of Government. This equity is across the board. The Chair has read it.

Article 203 of the Constitution gives you, in black and white, the first items that you must remove to pay from the Consolidated Fund. The first one is the national debt and the second one is our national interest. If you look at the division of revenue between the two levels of Government, it is No.7. That is why I say that the Constitution has put in place a serious critical public financial management architecture that must be followed.

The introduction of the Division of Revenue Bill in Parliament is the culmination of a process that usually starts at the end of August. We are about to go to the month of August now. We will start the budget process of Financial Year 2020/2021 in August next year, which is in about 10 days' time. It is very sad because we are dealing with the Division of Revenue Bill today, few days to the next year's budget cycle. It is very unfortunate, and this has never happened. I am sure that our colleagues, the Council of Governors, the Senators and the National Assembly will look into this issue.

In October last year, the Executive finalised the Budget Review and Outlook Paper, which I laid on the Table of this House. This was submitted to both Houses: The National Assembly and the Senate. That document, which was tabled in both Houses, has interim numbers. The numbers are not something you go to the market and get. That document from the National Treasury, which was tabled here in October, last year, had interim numbers to work on. We must tell the country how the budget-making process architecture has been documented in the Constitution. That document, which had interim numbers, was the first document which was to guide the budget-making process for the Financial Year 2019/2020. It was to guide the sectoral reviews, Parliament, Judiciary and how the division of revenue would be arrived at. That document, which had interim numbers, was the vertical division. It showed how we would divide the resources of this nation vertically between the two levels of Government. This is what we have said many times. This is what Hon. Mbadi said on television.

In my community, there is a fable to the effect that a hyena started talking to a stone, but realised that the stone was not responding. The hyena told the stone that although it had not responded, it had heard him. Let us say it 100 times: vertical division of revenue between the two levels of Government as stipulated in Article 96 of the Constitution, notwithstanding the opinion given by the Supreme Court, is a function of the National Assembly. It says the National Assembly represents the people of Kenya and the National Assembly determines the allocation of the national revenue between the levels of Government as provided in Part 4 of Chapter 12. Unless that Article is amended, the National Assembly deals with the vertical division. It is improper, immoral and wrong to subject the Division of Revenue Bill to a mediation process.

That is why the framers of the Constitution decided not to subject the Division of Revenue Bill to mediation. We can subject any other Bill to a mediation process but not the Division of Revenue Bill. That is why we are here today. Going forward, let Members read the dissenting opinion of Justice Njoki Ndung'u on the matter when the Senate in the 11<sup>th</sup> Parliament sought an advisory opinion of the Supreme Court.

Another thing I want to make very clear is that there is nothing unconstitutional in giving counties Kshs310 billion. Nobody has broken the law. The Constitution provides for a minimum of 15 per cent of the last audited accounts. So, if we take the actual revenue for 2018/2019 Financial Year, 15 per cent could be less than Kshs310 billion. The Constitution provides for a minimum of 15 per cent of the last audited accounts; we are giving the counties close to 34 per cent when we allocate Kshs316.5 billion. So, when they go to the Supreme Court accusing us of breaking the law, there is no law we have broken. Nobody has violated the Constitution. The Constitution says in black and white that the counties are allocated not less than 15 per cent.

Since President Uhuru Kenyatta came to power, we have been allocating counties more than 30 per cent of the audited revenue. That is double. So, let those who have gone to the Supreme Court tell us the law we have broken. We have surpassed the constitutionally prescribed 15 per cent. There is no constitutional requirement that we have breached. The national Executive cut its budget last year because of the low revenue collection. We lost Kshs2 billion from the National Government Constituencies Development Fund. The National Government Affirmative Action Fund (NGAAF) lost close to Kshs300 million. The Judiciary also took a cut. But because Article 219 of the Constitution makes it mandatory that whatever we allocate the counties cannot be returned, why should we allocate money that the Government does not have to counties? Hon. Junet says that they steal. That is a story I will give him a chance to tell us later. We never cut any money from them. Instead, we lost Kshs2 billion of National Government Constituencies Development Fund, the NGAAF and the Judiciary also lost money and the Ministries took cuts.

Let me reiterate that the Division of Revenue Bill does not happen out of the blues. It cannot be discussed when having *mandazi*. It is documented in the architecture of the budget-making process anchored in the Constitution.

Let me come to the CRA. The CRA is established under Article 215. Let the Chair of the Commission listen to me. We had a problem with Mr. Cheserem. Among other persons, members of the Commission are nominated by political parties unlike any other commission. Under Article 215 of the Constitution, the CRA is the only commission whose members are nominated by political parties. The Jubilee Party has four members while the National Super Alliance (NASA) has three. So, they must listen to Hon. Mbadi and I; they are our nominees. Their function is to recommend how the two levels of Government can share resources, but their recommendation is not binding and must be pegged on the revenue projection. All over a sudden, the CRA has become an appendix of the Council of Governors; they have become an associate of the Chairman of the CoG and have become an extension of the lower House of Parliament.

Ekuru Aukot has confirmed in his question for the referendum that he wants to make the Senate the upper House. So, the question of which House is the upper one has been settled.

*(Laughter)*

Why does Ekuru want us to make the Senate the upper House? Ekuru wants to make the National Assembly the lower House and the Senate the upper House. As we speak today, the

Senate is the lower House. He did not know because he does not have Members of County Assemblies (MCAs), Members of Parliament and no presidential candidate. He should have come to Hon. Junet, Hon. Mbadi and I to draft the questions for him. He drafted questions that cannot go anywhere, that constituencies must be scrapped. I would like to inform MCAs that the moment a constituency is scrapped, even the ward will be scraped and they will not exist. The MCAs are being lied to. The moment they endorse a constituency to be scrapped, they will also scrap wards. For example, if Mbalabala, Ijara, Township or Fafi constituencies are scrapped, the MCAs will go. That is why I am telling them that they have to read the question of the referendum.

The CRA Commissioners are nominees of political parties. Let me remind them that the Jubilee Party nominated four of them while the NASA has three. They must listen to us. With the knowledge that CRA's function is in Article 217 of the Constitution... The Commissioners seem not to know their functions. The CRA shall make recommendations concerning the basis for equitable sharing of revenue raised by the national Government. That is its main function. The people to make a determination are the Budget and Appropriations Committee and the National Assembly. Demonstrations ended with the Handshake. There are no more demonstrations particularly by politicians. The father of demonstrations said there will be no more demonstrations. The former Prime Minister said there will be no more demonstrations. Nurses and teachers can demonstrate, but not the politicians.

Hon. Speaker, if we become crazy and demonstrate; do not join us. It is very sad for a Speaker to demonstrate. Hon. Speaker, in the event we lose our heads and one day we demonstrate, which we are unlikely to, please; do not join us. I was shocked and called the former Prime Minister and the President and told them that I thought they finished demonstrations and asked them why they could not throw tear gas on the 47 characters.

*(Laughter)*

To chase a few people is very easy, as Hon. Mbadi knows. When they are in Uhuru Park with huge population, the police cannot touch them. If you are 47 people with one Speaker, Sonko's *askaris* can even chase you.

I want to conclude that the Division of Revenue Bill cannot be subjected to the mandarins of mediation. We must decide as a House. Now, the National Treasury is convinced and we have come to Kshs316 billion. They have gone back to Kshs335 billion. Where is Kshs335 going to come from? I think you need to talk to the Speaker of the Senate that all the money that is going to the Senate is added into this Bill and they close the Senate for the next one year. I really want to talk to the Supreme Court: The courts do not participate in the budget-making process; the courts cannot give you money. If the courts have the powers to give money, they could have given themselves a lot of money. They come to us; I tabled their budget. It is Hon. Ichung'wah who gives. So, the courts cannot give you billions. Do not disturb the Chief Justice (CJ). He has told you twice: "Go back and solve this thing politically". Senators and governors, let us meet. Let us discuss. Let us agree. Let us save counties.

I beg to second.

**Hon. Speaker:** Hon. Members, before I propose the Question, allow me to recognise the presence, in the Speaker's Gallery, of students from Kedowa Girls High School, Kipkelion East Constituency, Kericho County and those from St. Catherine Girls Secondary School, Bomet East Constituency, Bomet County.

They are welcome to observe proceedings in the National Assembly.

*(Applause)*

*(Question proposed)*

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker.

When I see the circus around this Bill, I look back to 2013. I remember, immediately we passed the first Division of Revenue Bill under this bicameral system, I had my concerns about whether this Bill should go to the Senate for concurrence. I raised those concerns. Luckily, you agreed with me that this is a critical Bill that should not be subjected to mediation without an exit route in the event that the two Houses do not agree. In fact, if it was the intention of the drafters of the Constitution and the people of Kenya to subject this Bill to the bicameral system of legislation, then the people of Kenya would have included, in the Constitution, a method of coming out of disagreements between the two Houses. The County Allocation of Revenue Bill which to me has a lesser weight in terms of disagreement has a formula that is already agreed on before. The Bill which has little controversy has a safety net, there is a way out. To get out of disagreements between the two Houses, we require two-thirds majority for this House to overrule the Senate. Therefore, it pains me that we are in this situation because of a decision and interpretation that was made by the SC.

However, I wanted to say that we have a responsibility as a House. We are the National Assembly of the Republic of Kenya. If there is stalemate, if there is confusion in the management of finances of the country, we are called upon to be sober and look for a way of coming out of it. I want to be very categorical because a lot of propaganda has been peddled out there that the National Assembly is not interested in giving more money to counties. Far from it. I want to say that counties need even much more than the Kshs335 billion that the Senate is talking about, that the CRA is talking about. Indeed, all the spending units, any spending unit in this country, whether it is a national Government Ministry, department or state agency requires more budgetary allocation. Whether it is a county government or a county institution, we require more budgetary allocation. However, the problem arises because resources are limited yet the demands on it are unlimited. That is why there is need to come together and prioritise and allocate resources in line with the priority that the country will come up with.

That is why, probably, we could not have given the counties the monies that the CRA recommended, the money that probably the Senate wanted, the money that probably the counties want. It is because we reduced the budgets of all Ministries in this country. There is not even one Ministry which we did not reduce their request for allocation of resources. I want to speak to the Senate with utmost respect. They, sometimes, think we talk to them without respect. I do not think protecting the interests of counties is synonymous with more budgetary allocation to counties. It is not synonymous. There are so many things that go into protection of the interests of counties. We allocated Kshs314 billion in the 2018/2019 Financial Year. The first question I would want to ask the Senate is: How much out of that money actually went to the counties and was used in the delivery and provision of services? You do not need to ask for money and put it in the budget if it is not going to the counties to provide services. Out of the Kshs314 billion, by the end of the financial year and I have the statistics here, only Kshs229 billion had been utilised, meaning that Kshs85 billion out of Kshs314 billion had not been utilised by counties. The amount of Kshs34 billion was still at the Consolidated Fund (CF) of the National Treasury. The

National Treasury had not released that amount. An amount of Kshs51 billion was sitting as cash balances in the counties, either in the revenue account, recurrent account or development account. Hon. Speaker, to have Kshs51 billion in the county accounts, unused by the end of the financial year has the effect of slowing down economic growth of a country. I know a lot of answers have been given.

A lot of explanation which I call “excuses” has been used. It has been said that probably the Integrated Financial Management and Information System (IFMIS) does not work sometimes and the National Treasury takes time to release money. That could be true, but why can the Senate not deal with that as a problem before asking for more money? What is the essence of allocating Kshs400 billion, Kshs500 billion if only Kshs200 billion will be released to the counties? It does not make sense. To me, if the Senate wants to protect counties, the first point of call is to ensure that the money that we have allocated and put in the Budget goes to the counties so that they use it to provide services.

A county like Nakuru, by the end of the financial year had in its account Kshs3.9 billion unutilised, an amount that should be used to provide services to the people of Nakuru. Then, you are telling me the reason the people of Nakuru are not able to get services is because they were not given enough money. Enough money how and Kshs3.9 billion is still sitting in their account for whatever reason, whether the money was transferred late or not? What was the reason for transferring it late?

A county like Siaya has Kshs1.69 billion. A county like Homa Bay where Mbadi comes from had Kshs1.168 billion. A county like Kiambu where the Chairman of the Budget and Appropriations Committee (BAC) comes from had Kshs1.68 billion. Finally, a county like Kakamega where the Chairman of the Council of Governors (CoG) comes from had Kshs978 million. The question I am raising is: Why is it that money that has been budgeted for cannot reach the counties? If it reaches them, it stays in their accounts unspent. This reasoning that is being given that probably the problem is IFMIS, the problem is the National Treasury not releasing funds is not entirely true. I think there is a problem of capacity in the counties. How do you compare that to Tharaka Nithi County which has only Kshs28 million? How come the IFMIS was working and not working for Nakuru County? There is Kshs66 million in the account of Mombasa County. How come the IFMIS was working for Mombasa County? The Treasury was able to release money in good time for them to utilise yet the same was not released to Nairobi County? Yesterday, I had a heated argument with three Senators who are my friends and they come from my party. We were wondering why the chairman is not fighting for more money to go to the counties. I told them they are the ones who want to kill the counties. The moment the public knows that a lot of money is going to the counties and they are not seeing services, they will call for scrapping of the counties. That is how counties will be killed. In fact, we hear people talk about the health function being brought back to the national Government. The reason is because citizens who are supposed to get health services are not receiving them.

Hon. Speaker, you will agree with me that in the year 2013, the National Government Constituencies Development Fund (NG-CDF) was unpopular in this country. In fact, almost everyone was under siege. Everybody was calling for scrapping of the NG-CDF. Today, a debate was conducted in one of the vernacular radio stations, I listen a lot to vernacular radio stations. If there is any money that is very popular in this country, today, it is NG-CDF. No one wants it to go away. In fact, the Ekuru Aukot's *Punguza Mizigo* Bill has problems because of the NG-CDF more than anything else. The reason is that counties have made NG-CDF popular. The public is

comparing the performance of counties with the NG-CDF. So, the sure way of killing counties is by focusing on the budget allocation and not at how that money is utilised.

I know my time is running out. I want to get to my next point. There is talk that there is a lot of money that remains at the national Government level. That the National Assembly is only concerned about the plight of the national Government and it is not thinking about the counties. That we have a 3 trillion Budget and out of it, only Kshs300 billion is going to the counties. That argument is informed by ignorance, lack of understanding of the budget process and lack of knowledge about finances in this country. We are just projecting what we will collect as a country. That is a projection that will not be realised because history has it that we have never realised projected revenue. We are projecting to collect Ksh1.877 trillion from the Treasury. That is the projection that the Commission on Revenue Allocation and everyone else has been basing their arguments on. That is the amount we should be talking about.

There are certain expenditures that are inflexible; they are expenditures that must always be met. If you remove from Kshs1.877 trillion the public debt which we will pay at Kshs586 billion; then you remove constitutional commissions where the Teachers Service Commission (TSC) takes the largest chunk of Kshs252 billion and the total of constitutional commissions of Ksh261 billion; pensions and salaries to constitutional commission office holders of Kshs109; and Parliament and other independent institutions like the Office of the Controller of Budget, the Auditor-General and the Judiciary Kshs73 billion, if you add that to the emergencies and equalisation fund, it amounts to Kshs1.41 trillion. You will remain with Kshs836 billion. Out of that amount, take a way Kshs330 billion that is to be given to counties, you will have only Kshs506 billion.

The entire recurrent budget from the presidency of Kshs8.9 billion, the Interior Ministry has Kshs127 billion, that includes the police officers and the police vehicles; correctional services like the prisons that has Kshs26 billion; Defence with Kshs104.5 billion plus others like Education, National Treasury, planning, health, roads and transport which will consume Kshs718.8 billion, it means there is deficit on the recurrent expenditure of Kshs212 billion. What is the harsh reality? The harsh reality, which is a lie that we have been living as a country for long, is that we are borrowing money to cover recurrent expenditure in this country. Therefore, whoever has been peddling propaganda and rumors that there is enough money in this country to cover all the recurrent expenditure, to pay our debts and to allocate to counties is lying. We do not have money in this country to cover all the recurrent expenditure, to pay our debts and to cover money for all the commissions unless, as a country, we come out boldly to drastically reduce the recurrent expenditure, maybe by a half and reduce the debt repayment although I do not know how we will do it because debt repayment is an obligation that is permanent and you cannot change it.

I think we need to be a little bit sober. I will finish in the next two minutes. This is where I wonder why the Senate thinks that the National Assembly is not responsible. Is the Senate coming to this matter with clean hands? We had agreed on some figures in our last Mediation Committee. The National Assembly moved to Kshs316 billion and we have not changed that. We have generated another Bill with Kshs316.5 billion. The Senate had agreed to come down to Kshs327 billion. How come it has generated another Bill with Kshs335 billion? That tells us that the Senate is a House that is not committed to mediation but grandstanding. That is unfortunate. I expect that the people of Kenya will listen to us on this. We should come to an agreement objectively. If this country is going to borrow money whether internally or externally...

**Hon. Speaker:** One minute for Hon. Mbadia to conclude.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker for that one minute. The people who will pay the money are the people of Kenya. The Constitution is clear. It says that we should share both the benefits and the burdens with the future generations equitably. So, let us not create a burden to the future generations.

As I wind up, we have been previously attacked as a House that we are the ones who are subjecting this country to unnecessary borrowing. Now, we have even reduced the amount of money that we will borrow this financial year. The very people who are accusing us for sleeping on the Job are the same people who are asking us why we are not giving more money to the counties. I do not have a problem with giving more money to the counties, if anything, I had come out clear and I want to repeat it that, I will not contest again as a Member of Parliament for Suba South Constituency. However, I have to reason as a Kenyan.

I support the Bill, Thank you.

**Hon. Speaker:** The Member for Baringo County. Hon. Members, please, we are debating the Division of Revenue (No. 2) Bill. If you have put your card to contribute to this Bill... Have you put your cards for general application? The Member for Baringo County placed her card so that she could contribute. Let me hear the Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker for giving me this opportunity to add my voice to this debate. From the outset, I support this Division of Revenue (No. 2) Bill as published. My colleagues have said a lot in terms of what can be said about this Bill. I just want to fill a few gaps. I want to state some facts that cannot change. If you look at this Bill, Clause 5 says that, in cases of shortfalls in revenue collection, the national Government will take care of that shortfall. That means that whatever amount that will be allocated by this House, if we have a shortfall...

*(Technical hitch)*

Why is that clause important? This clause is very important because if you take the example of last year, the projection was that the country was to collect about Kshs1.6 trillion. At the end of the day, that figure was revised downwards to Kshs1.44 trillion. Meaning that whatever budget we had done which was aimed at the Kshs1.6 trillion, had to be revised downwards. As you revise downwards, the national Government meets that shortfall.

The second point which is very important is about Article 219 of our Constitution. It says that whatever amount we allocate for the county governments must be released to them. So even as we debate this Bill, whether it is Kshs335 billion or Kshs316 billion, we must realise that whatever amount we are going to pass as a House, we have no choice but to allow that money to go down to the counties.

The third point which is important is, this country has moved from incremental budgeting to what we call zero-based budgeting. Zero-based budgeting means that you budget on the basis of your needs, not on the basis of your needs the previous year. It is important that even as the two Speakers appoint Members to the Mediation Committee, they get people who have an appreciation of budgeting and financial management. When you get people who have no appreciation of that, they do not add value to the process. What you get are people who come and start saying they want to come and face the National Assembly with red eyes. The issue is not red eyes. The issue are facts as they are. In the explanatory Note No. 9, I would urge Kenyans and the Senators to take time and read what is written there. These are facts. This is what Hon. Mbadi was talking about. As a country, we have no choice but pay public debt anytime we are

budgeting. We have no choice; we must pay for the Kenya Defence Forces. We have no choice; we must pay for security. So, even as we budget, we do not have a lot of room to play around. That is why you see in this table, the only amount from the national Government which was available for sharing between the National Government and the County Government was only Kshs693 billion out of an expected total collection of Kshs1.877 trillion. Out of what is available for sharing, the Kshs693 billion, the National Assembly allocated Kshs330 billion to the county governments when you include the conditional grants. Meaning, for the national Government, the only amount remaining is Kshs363 billion. So, when somebody says that this House is being unfair to the counties, this is what I call *sarakasi*. We must appreciate figures because they do not lie. I therefore want to urge the Senators.... When I look at the whole process, I think this is dishonesty of the highest order. We go through a mediation process, we agree on Kshs316 billion, then others agree on Kshs327 billion and when they publish their Bill, they do it with a figure of Kshs335 billion, when we had agreed on Kshs327 billion. This is being dishonest.

The other thing is, the whole idea of the Senate originating the Division of Revenue Bill is unconstitutional. If they had that power, why did they not change the figure for Parliament or Judiciary so that they meet the amount they are adding? It just says clearly that this is the only House with the mandate to share money vertically between the national Government and the county governments.

The other point I want to raise is the issue of this money we have added the Senate. There is Kshs3.6 billion which was not in the original Bill. The original Bill had an allocation of Kshs310 billion. Kenyans must know that the Kshs6.5 billion is not funded. So, somebody must sit down somewhere and think of where this money will come from. It is very clear. I do not expect this country to borrow money to pay salaries. It therefore means that at the end of the day the national Government, because of the Clause 5 that I had earlier mentioned, will have to get this money from the national Government allocation. That is why we are saying, even as the Senators think about increasing money to the county governments, they must be realistic to what is happening to the country.

The issue of the Commission on Revenue Allocation is very clear in Article 216 of the Constitution. It says they are expected to make recommendations. These recommendations must be informed by research. That is why you find that when you go to CRA, there are serious academicians. We have serious scholars there. We have Prof. Kimuyu, the Chair herself and other scholars. The essence of having these scholars is to research on financial matters so that as we project our revenue collection, it is informed by real statistics. What has happened? Despite the empirical evidence that we are not meeting our target on revenue generation, they gave a recommendation to add the figure to Kshs335. I have just mentioned that the projection for last year was Kshs1.6 trillion and we ended up at Kshs1.4 trillion. That is why they are told it has to be a recommendation because their figure cannot be the Bible truth. Being an economist, we base most of our arguments on assumptions. There are a lot of assumptions which have been put in place before this figure is arrived at. Even if the assumption does not hold, things are likely to change. That is why I laugh when I hear people say the CRA has said this or that, as if it is the Bible truth. It is not. It is a recommendation informed by a very core research but things can change.

As I conclude, I want to offer advice to the national Government that since we are giving the county governments a lot of conditional grants, my recommendation would be, in situations where we have this kind of deadlock... I hope my Chair could listen to this because you will be the one presenting this matter. In case we have a deadlock, I recommend that the conditional



grant which the national Government has already given to the county governments be converted to equitable share and then we have a solution to the problem. Otherwise, they are talking about Kshs335 billion while in reality they are getting Kshs374.81 billion. That will be my recommendation. We may need to think about bringing on board more of the conditional grants being converted to equitable share so that we do not have this problem.

As I conclude, I just want to say that this idea of the two House going to court is not proper. As leaders of this country we need to be serious. At the end of the day, I like what the Chief Justice said. Budget-making cannot be judicial issue and it will never be unless we change the Constitution. So, on that note, we must come back to our House called Parliament, where we have two chambers, talk in Parliament and agree on this figure. People going to the Judiciary are just wasting their time. The Judiciary will not say allocate this amount to counties, it is only this House in concurrence with the Senate which will say this amount is going to the counties.

With those remarks, I want to say I support and urge our colleagues in the Senate to support this Bill with Kshs316.5 billion.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Samburu North.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker for giving me this opportunity. I rise to support Division of Revenue Bill just as my colleagues have. They have been on the right direction. I want to appeal to the Senate, that most of the projects down at the counties have already stalled. Projects that were waiting for money to be released so that they can be completed have stalled. There is also a serious issue of medicine which is not available in hospitals, particularly in the county where I come from, just because there is no money to purchase it.

On the issue of salaries, I am sure if this Bill does not go through because of the wrangles, salaries may not be paid to the county staff yet they have been working tirelessly, providing services and doing all sorts of work they are supposed to do. They also have needs, bills and children to pay school fees for. Continuous wrangling and rejecting money that is allocated by the Government will worsen the situation. So, I want to appeal to the Senate that the Division of Revenue Bill is a prerogative of this House. We need to pass this Bill, and they have to accept the same. The counties in Northern Kenya are ravaged by drought. We need water and food for our people. Most of the communities have moved away from home in search of pasture and water. The ones who are at home need relief food because of the drought. So, without this Bill going through, we will continue suffering because of the ravaging drought in our counties. The county governments are also in charge of Early Childhood Development (ECD) centres and pre-school. Children need to be taught. If the ECD teachers are not paid, then the children will go without teaching. The counties are also required to provide food to ECD children using the money that we are yet to pass here.

Thank you very much, Hon. Speaker. I support this Bill. I want it to be fast-tracked so that money can be released to the counties for the services that are required.

**Hon. Speaker:** I am having a problem with which Members desire to contribute.

Member for Suna East.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker. In the interest of time, I will be very brief. The stalemate we are having on this Bill, according to me, is normal. It is part of the implementation of the Constitution. We tried to implement it in 2013 when we said that the Senate has no role in this Bill and nobody listened. Then they went to the Supreme Court and

got an opinion which is just advisory and not binding. They decided to bring this lock jam by saying this Bill must go to the Senate. Now we are in this stalemate.

I have just seen this afternoon that you presented a Division of Revenue Bill from the Senate. The last time I checked the Constitution, I thought money Bills can only originate from the National Assembly. That is a matter that we have to interrogate or bring to your attention so that you can make a ruling on the constitutionality of that Bill. This House cannot engage in unconstitutional exercise. As much as you have referred it to the Budget and Appropriations Committee, it is also in your ruling that a Member can stand in his place at any time and raise a constitutional issue any time during debate. So, I stand here to seek your guidance on the constitutionality of the Bill that came from the Senate; whether a money Bill can originate from the Senate. It will be unprecedented. We shall be going against the Constitution. I leave that to you to decide in your own wisdom.

After we got the new Constitution, I think we created a fourth arm of government called 'Constitutional Commissions', which think that whatever they do or say is final, just like the way the Salaries and Remuneration Commission (SRC) is handling this House. If you look at the functions of the CRA, the Constitution is very clear. Article 216 says that the principal function of the commission is to make recommendations. English is very simple. When you recommend something, it does not mean that it is a final deal. You can reject it, amend it or accept it. I want to go further than that and look at Article 203 on equitable share and other financial laws. It stipulates the criteria that shall be used in determining the equitable share provided for under Article 202 and in all national legislations concerning county governments enacted in terms of this chapter. Number one, you must consider the national interest. I do not see county interest here. It is national interest. Secondly, when you go to paragraph (d), it says the need to ensure that county governments are able to perform the functions allocated to them.

The question I want to put to CRA is this: When have they quantified the functions that have been devolved to the counties under the Fourth Schedule? Even the Senate has never come up with a Bill that tells us the quantification of the functions of county governments. Why can they not tell us how much is required to bury a dog, for example? That is one of the functions of the county governments. Why can they not quantify so that money can follow the functions? If you tell us the functions that have been devolved to the counties cost Kshs500 billion and the justifications are here, then we are obliged to devolve more funds to the counties. We devolve money every year without knowing the costing of those functions. We do not know whether a dog is buried at Kshs10, a crematorium is Kshs100, environmental issues and solid waste management is Kshs100. We must know the costings of these functions. The first important matter CRA should deal with is to give us the costings of the functions of the county governments. It is now eight years since the Constitution was put in place and they cannot tell us how much the functions of county governments cost. I do not know what the CRA based the amount they have recommended on.

Secondly, when this matter began, the Senate said that we should devolve Kshs335 billion to the counties and the National Assembly said that we should devolve Kshs310 billion. Later, the Senate said that we should devolve Kshs327 billion. Today, they have brought a Bill to the National Assembly of Kshs335 billion. If that is not dishonesty, what do you call it? Somebody told you yesterday to devolve Kshs327 billion and today he brings a Bill of Kshs335 billion. These are the most dishonest people that you can deal with. I saw them demonstrating last week. Demonstrations were closed after the Handshake, the way Hon. Duale said. The only

demonstrations that are allowed in this country are when there is a dispute on the presidential election. The other demonstrations are not allowed. They are illegal.

In the interest of time so that other Members can get a chance to speak on this important matter, this country cannot be governed by supremacy battles. I saw Ekuru Aukot saying that he wants to make the Senate the upper House. He has not enhanced the functions of the Senate in his Bill. He needs to enhance the functions of that House so that it can become the upper House. He is saying it should be the upper House while the functions remain the same.

In conclusion, there is no money that can be added to the counties. The counties have received more than Kshs1 trillion since devolution started and there is nothing to show for it. There are some counties that have performed, I agree. Maybe, we can increase money for those ones. Increment of funds should be based on performance. We should come up with criteria that ensures increment of funds to counties is based on performance. Counties that have performed very well should receive more money. Counties where people are just pocketing almost all the development money should not be given more resources. I looked at the money they are asking for; Kshs327 billion. The highest amount which will go to Nairobi will be Kshs300 million and the lowest is Kshs 47 million which will go to Lamu. Are you telling me counties are in court because of Kshs 47 million? They have brought this stalemate because of Kshs47 million and they are telling Kenyans it is the National Assembly that has refused to give them money and that we do not support devolution.

How can we be against devolution when we have been giving money every financial year to counties? So, in conclusion, let us agree that Kshs316 billion be allocated as we have said. We have been magnanimous enough and moved the figure from Kshs310 to Kshs316 billion.

This is my opinion: Now that the matter is in court, when we pass this Bill with Kshs316 billion and as a House we believe that the Senate has no role in this Bill, after the Third Reading, I request and beseech that you take this Bill to the President for assent, so that the court will decide later whether we are right or wrong. If the court says we are wrong, then we can deal with the matter later on. For now, since we have a case and we have to do our legislative work... We have legislated and said the Senate has no role in this Bill. So, take it to the President for assent so that the counties can get their money as fast as possible.

With those few remarks, I support.

**Hon. Speaker:** Let us have the Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Speaker for this opportunity. I thank the Chief Justice. He pronounced himself clearly that although there is a case in court, he thinks that the court is not the proper place to settle this perceived dispute.

Hon. Speaker, the two Houses have leaders. I do not understand why the Hon. Speakers of the two Houses are being dragged into this wrangle. Both the minority and the majority side have leaders who must dialogue. This is because, in Article 218 of our Constitution, the Division of Revenue Bill arrives in this House two months before the end of the financial year. That means there is enough time for dialogue, either on the Floor of this House or through consultation by the leadership.

The Division of Revenue Bill comes to the National Assembly as a negotiated document. This is because the origin of this document is the National Treasury; they are the ones who know what amount of money is available. It is not this House or the Senate that decides what amount of money is likely to be collected by the end of the financial year. So, it is a projection and we cannot base any facts and figures to try and nail down issues.

I sit on the Committee of Defence and Foreign Affairs. This time round the Ministry of Defence asked for Kshs183 billion and we only approved Kshs121 billion. This means that there is a deficit in their budget of about Kshs53 billion. The Ministry Foreign Affairs asked for Kshs36 billion, the amount given by the National Treasury was Kshs18 billion. These are facts and you cannot give what you do not have.

Hon. Speaker, just to borrow from what Hon. Junet said, our Constitution is very clear on Article 203(1) (a). It states thus:

“(1) The following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter—

(a) the national interest;”

So, the national interest is the major area of concern that all of us must take into consideration. Article 217 (2) states thus:

“In determining the basis of revenue sharing under clause (1), the Senate shall—

(a) take the criteria in Article 203 (1) into account;”

Article 203(1) is about national interest. So, there is no way the Senate is going to decide on a hope or whims of individuals or grandstanding how much counties should be given.

Further, Article 203 (1) (a) to (e) states thus:

“(1) The following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter—

(a) the national interest;

(b) any provision that must be made in respect of the public debt and other national obligations;

(c) the needs of the national government, determined by objective criteria;

(d) the need to ensure that county governments are able to perform the functions allocated to them;

(e) the fiscal capacity and efficiency of county governments;”

Hon. Speaker, the current burdens of our 47 counties is on recurrent expenditure such as salaries. The conceivers of the 2010 Constitution had in mind that they really wanted devolution to bring development and not more employment. So, for this reason and in the interest of time, I beg to support.

I urge my colleagues in the Senate to stop grandstanding and allow counties to get money and move on with the job that the people of Kenya have assigned to both Parliament and the Executive at the national Government and devolved units.

I thank you, Hon. Speaker.

**Hon. Speaker:** Sorry, when you see the Whips very active, you know there is a reason. Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker. I rise to support this Bill and I am going to be very brief. Revenue projection is normally given by the Kenya Revenue Authority (KRA). In the last financial year, the projection was Kshs1.6 trillion, but the actual one was Kshs1.4 trillion. So, in terms of the actual percentage, it came to 90 per cent.

So, common sense dictates that normally we achieve 90 per cent. Based on the amount of Kshs335 billion that had been recommended by CRA, we must tabulate 90 per cent of that which

comes to around Kshs300 billion because we must base it on the figures. It cannot be just figures from nowhere. Article 95 of the Constitution is very clear when it comes to determination and vertical sharing of revenue as the work of the National Assembly. Article 96 is also clear about the issues and the role of the Senate. It has reached a level where if the two Houses cannot exist, a mutually exclusive decision must be made. Either to scrap the Senate or decide which House should be the upper one.

We have been working together as brothers. If we look at the words of one of the great scholars – Hon. Kioni knows what I was going to say. Martin Luther King Jr said, we must learn to exist together as brothers or perish together as fools. This is a request between the Senate and the National Assembly. We are not competing for anything but for the interest of the counties. We support that once we pass this Bill it should be taken to His Excellency the President to assent to immediately so that counties do not suffer. This is very important. My colleagues have talked about Article 203 where the national interest must be given priority. We should not debate too much because we want to move quickly and if possible we go to the Committee of the whole House and move forward.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Member for Kipipiri.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I stand to support this Bill and more importantly to underscore the risks that we are being subjected to because of the supremacy battles between the Senate and the National Assembly which led to the collapse of the mediation. This can bring this country to a standstill. We are already seeing the effects of this in the counties and you can imagine what will happen if somebody was to tamper with the Appropriation Bill and bring it to a halt. You will not be here because there will be no money to pay you. The Senate does not seem to understand this.

We know a mistake was made in the last Session of Parliament which gave the impression to the Senate that they have a role to play in coming up with the Division of Revenue Bill when their role is clearly the horizontal allocation of revenue across the 47 counties in line with a formula that was passed by this House. That is all they are expected to do. They should confirm allocation, bring it here for us to pass and give them money.

We are not yet there and I believe this is something that needs to be revisited so that we can become very clear going forward whether we should have one or two Bills. My view is that we should have only one Bill. Any other Bill from the Senate for us is purely for information purposes. We should continue with our Bill and save this county from possible negative implications.

I believe the money we are sharing is from the people of Kenya. It is from the *Wananchi* we tell to pay taxes so that we can offer them services. When the Senate wants to give more money to the counties, what they should be telling Kenyans is that they are also proposing to increase their taxes by this much, so that money can go to the governors. Instead, the Senate should sit down with the Council of Governors and look for ways of enhancing the economic performance of counties so that they can generate more local revenue to supplement their issues.

For example, the County of Lamu will only receive an additional increment of Kshs50 million. This county can generate that money internally if the conditions are right and the governors stop misusing money as they do. We do not need to waste a lot of time. Let us go per the law. From the beginning, we knew why we went to the Bomas of Kenya and why certain functions were given to the National Assembly and others to the Senate. The fact that they were given through an advisory the function that does not belong to them, we should not live with that

mistake. Let us correct this from today by passing this Bill, it is assented to and we move forward.

*Asante*, Hon. Speaker.

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I will be very brief for the benefit of time and in order to enable us move to the next level. First of all, I must state without doubt that Kenyans and Members of Parliament support devolution 100 per cent but we support reasonable and sober devolution that ordinarily was first devolved for the benefit of the people of Kenya.

I think the issue we have here is purely a matter of either deliberate misinterpretation or mere grandstanding. Article 114 of the Constitution is specifically clear on who generates money Bills.

**Hon. Abdullswamad Nassir** (Mvita, ODM): On a point of Order, Hon. Speaker.

**Hon. Speaker:** What is your point of Order, Hon. Nassir?

**Hon. Abdullswamad Nassir** (Mvita, ODM): On a point of Order, Hon. Speaker. Will I be in order under Standing Order No. 95 considering the mood of this House and the need for Kenyans to request that the Mover be called upon to reply? It is very clear that counties need money and we have debated this. The Mover should now reply.

Thank you.

**Hon. Speaker:** The Member for Funyula one more minute and then we will test that mood.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. As I conclude because many of my colleagues have already ventilated on this issue, I want to ask you a question because I may not be suitable to give you advice. I think we need to specifically go back to Article 114 which generally mandates this House to generate and enact money Bills. I request that we have courage to resist pressure from the Senate and allow this Bill we are going to pass today to become law and not be subjected to mediation. First of all, Article 218 of the Constitution does not in any way confer this Bill as if it is an ordinary one which can go to mediation. To honour the dignity of this House please present this Bill to the President to enact so that the true position and level of this House is noticed by the people of Kenya.

With those few remarks, I support.

**Hon. Speaker:** Hon. Nassir, Member for Mvita rose in his place and claimed that given the mood in the House the Mover be called upon to reply. The only way the Speaker is able to test that mood is by putting the Question.

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

**Hon. Speaker:** Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. In replying I want to thank Members for the support they have expressed and indeed by calling upon me to reply. To respond to what the Member for Funyula was speaking about in terms of whether this is a Bill that should go to mediation or to the other House, I think in as much as we respect the opinion that was expressed by the Supreme Court in 2013, Article 95 of our Constitution is very clear and specific that the National Assembly determines the allocation of national revenue between the levels of Government as provided in Chapter 12 Part 4 of the Constitution.

Therefore, I want to agree with what the Member for Funyula was saying. Lastly, Article 203(1)(d) of the Constitution speaks as to what the Commission for Revenue Allocation should be doing. I think this is where CRA is failing this country in terms of being able to determine the cost of functions. Article 203(1) (d) says that in determining what amount should be allocated to which level of Government, we should look at the need to ensure that county governments are able to perform the functions allocated to them. That is where CRA has a role to cost the functions of the county governments so as to determine the figures on that basis.

Hon. Speaker, I want to thank you as the Chair of the Parliamentary Service Commission (PSC) because I can confirm to the country that, indeed, other than Parliament there is no other agency, Ministry or organ of Government that has costed its functions. It is only Parliament that can tell you how much it costs to run this House or even indeed to keep a single Member of Parliament or a Senator in the House every year. That is what CRA should be doing to tell us how much it costs to deliver water to each household per county and how much it costs to deliver healthcare to each household or to each individual in a particular county so that they advise, as we have been told by Hon. Junet, to make recommendations on how much should go to the counties based on functions that are costed.

With that, I beg to reply and ask Hon. Members to support. Thank you.

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

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

THE DIVISION OF REVENUE (NO. 2) BILL  
(NATIONAL ASSEMBLY BILL NO.59 OF 2019)

**Hon. Chairman:** Order, Hon. Members! We will be through very quickly. We are now in the Committee of the whole House on the Division of Revenue Bill.

*(Clauses 3, 4 and 5 agreed to)*

*(Schedule agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

That marks the end of that particular Bill. So, I call the Mover of the Bill to move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

### REPORT AND THIRD READING

THE DIVISION OF REVENUE (NO. 2) BILL  
(NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

**Hon. Deputy Speaker:** Order, Hon. Members! Now let us have the Chair to report to the House.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) and approved the same without amendments.

**Hon. Deputy Speaker:** Can we have the Mover of the Bill?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Kioni to second the motion for agreement with the Report of the Committee of the whole House subject to re-committal of Clause 1.

**Hon. Jeremiah Kioni** (Ndaragwa, JP) seconded.

*(Question proposed)*

**Hon. Deputy Speaker:** Order, Hon. Members! Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Deputy Speaker. We have forgotten to give the commencement date. That is why we want to recommit so that we finish with it. The Bill must have a commencement date.

**Hon. Deputy Speaker:** Okay. Who is moving re-committal?



**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, I beg to give notice that the motion for agreement with the report of the Committee of the Whole House be amended by inserting the following words:

“subject to re-committal of Clause 1.”

I request Hon. Kioni to second.

**Hon. Jeremiah Kioni** (Ndaragwa, JP) seconded.

**Hon. Deputy Speaker:** Just a few minutes, Hon. Members. Let me tidy up a few things here. There are some few housekeeping matters that are being sorted out here.

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

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuyu) took the Chair]*

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuyu): Order Members.

*(Question put and agreed to)*

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu) left the Chair]*

### IN THE COMMITTEE

*[Hon. Chairman (Hon. Moses Cheboi) took the Chair]*

THE DIVISION OF REVENUE (NO.2) BILL  
(NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

*(Re-committal of Clause 1)*

#### *Clause 1*

**Hon. Chairman:** Order, Members! Take your seats. This is a quick one. There is the re-committal of Clause 1 which we will transact. Let us have the Mover to move the particular amendment to Clause 1. Proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move:

THAT, Clause 1 be amended by inserting the words, “Shall come into force upon publication in the Gazette.”

*(Question of the amendment proposed)*

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

**Hon. Chairman:** We call upon the Mover again to move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I beg to move that the Committee reports to the House its consideration of the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya in the Chair)]*

### REPORT AND THIRD READING

#### THE DIVISION OF REVENUE (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Division of Revenue (No. 2) Bill (National Assembly Bill No.59 of 2019) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House agrees with the Committee in the said Report. I also request the Leader of the Majority Party, Hon. Duale, to second the motion for agreement with the Report of the Committee of the whole House.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Leader of the Majority Party. Order Members.

**Hon. Aden Duale** (Garissa Township, JP) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) be now read the Third Time. I also request Hon. Kioni to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP) seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I confirm that we have the appropriate quorum to put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time  
with leave of the House and passed)*

### MOTION

#### RATIFICATION OF AGREEMENT FOR ESTABLISHMENT OF REGIONAL MARITIME INFORMATION EXCHANGE

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement for the Setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region and the Regional Agreement on the Co-ordination of Operations at Sea in the Western Indian Ocean, laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012 approves the ratification of the Agreement for the Setting Up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region and the Regional Agreement on the Co-ordination of Operations at Sea in the Western Indian Ocean.

*(Hon. Ali Rasso on 24.7.2019)*

*(Resumption of Debate interrupted on 24.7.2019)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. Members who are walking out, please do so quietly. The Question on this Motion was proposed and we are now going into debate. I can see that a number of Members are interested to contribute to this Motion. Let us start with Hon. Gichimu Githinji, Member for Ndaragwa. What happened? Did you pull out your card? The Member for Ndaragwa is coming up as the one on top. Member for Gichugu, do you want to contribute?

**Hon. Gichimu Githinji** (Gichugu, JP): I am not ready.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I can see that Hon. Kioni has also gone down in the list. Are you ready?

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Yes. Hon. Temporary Deputy Speaker, I want to thank you for giving me this opportunity to contribute to this Motion. I was here when the Mover did quite some elaborate work.

*(An Hon. Member consulted loudly while leaving the Chamber)*

One of the problems we are having in the country is that we take a number of things for granted. That is not the way we behave when going out of Parliament. You do not make any noise; you just exit quietly. There is nothing honourable about exiting. You do not consult by pointing at the Speaker. That is not what used to be done. Just like with the Senate, we have many people who need to understand their role. The Senate is giving us difficulties because of confusion among their Members.

The Motion was ably moved yesterday by a Member of the Departmental Committee on Defence and Foreign Relations in line with the requirements of the Constitution. It is not in vain that the requirement that all treaties and conventions that are signed out there are brought to the National Assembly for ratification was put in the Constitution. This is not the case in other countries. Many countries hold a position that once the Executive has ratified, it becomes binding on the country. But in our case, we require it to be brought to Parliament, so that we can amend it, take note of it and be informed, and as a country and as people's representatives, become fully in the know on the commitments the Executive would have got into, so that as Kenyans, we agree to it and move on.

I notice we are the last country to ratify or sign this Agreement. We are doing it almost a year later. We are now debating it quite late in the day in the sense that the signing and ratification was done more than one year ago by all the other countries. It is important we look for ways of speeding the documents that need to be ratified, so that we are not seen by our neighbours and partners as delaying the process. It is important for us to make sure that our maritime is properly managed and have proper security and inform our partners of any happening within the ocean, so that we can all benefit from it.

With those general remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Nyaribari Chance, Hon. Tong'i.

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker. Maritime is a key concern for any country particularly a country like Kenya because of its strategic needs and nature.

We are lucky to have waters within our borders. We must get a way of managing them in a way that will help Kenyans to grow the economy, get employment opportunities and other opportunities that come from the water. To do that, we must put some structures in place that will inform the usage of the waters within our borders. Economies like India, the sixth biggest economy in the world, Canada, USA and many others have used water resources much better than we have done. One of the things they have put in place before usage is security and related systems. As a country, we should also do that. That is why there is need to ratify this Agreement and our neighbouring countries will also support us and ensure that we do the same thing.

Many things are covered under this Maritime Agreement. Most of them are meant to make the resources that God has given us more of a blessing than a curse. That is why we need some Agreement. We have seen cases of fish harvesting before it is mature. When that is done, the future is affected. We may harvest today and make money, but in the long-term, we will hurt the economy because fish need to be left to grow and recreate. For fish to grow in numbers, we must have security system in place which, of course, must be respected by all users of the waters that we have access to. We all know water is a huge transit point for most resources and even goods we use in the country, in neighbouring countries and all over the world. The biggest means of transport used on earth is water. It must be managed in such a way that it is beneficial to the

users. It should be used in a way that ensures that there is no terrorism and banditry, so that when you are moving your goods from one point to another, you are not scared and not looking over your shoulders to see who is about to attack you. That increases the cost of running water transport business. If waters are not safe, we will have to invest a lot of money in security to make sure that whenever we are moving some goods from one place to the next one, they are accompanied by security officers, which is a cost that will be passed on to the consumer.

When that happens, the goods will become very expensive hence the poor person in the village, with no idea and no capacity to protect himself from this kind of scenarios, will have to pay the price for that negligence. I thank our Government under the leadership of President Uhuru Muigai Kenyatta and his Deputy, William Samoei Ruto for having made this a priority for Kenya. Once it is operationalised, we are going to gain. It is a win-win situation for everybody. It is a win our country is ready for and is long overdue. We must all support it for the good of the country.

As I finish, I remember what my Chairman, Hon. Katoo, said when we had this discussion. He helped us understand the importance of maritime ratification. He also made us appreciate its import to the economy and the general wellbeing of the country. I also have in mind issues we have with Somalia. I hope with this kind of arrangement and ratification, the issues we have with Somalia will come to an end by natural attrition. This is an issue that we do not need. The kind of friendship and the price Kenyans have paid to ensure Somalia is a safe country is not worth it. No amount of concern should allow the two countries not to agree on issues which are mutually beneficial. I hope with this in place, as a country, we will have a more organised way of interacting and relating to our neighbours. In the process, we will all get the best from the waters as it is supposed to be. God gave us these resources to be used by all of us for the good of society, the country and to make the world a better place to live in.

Mother Theresa once said that we sometimes keep on whining and asking why the country has failed or why the economy is not doing as well as it should, but do not ask ourselves what we have done to make our world a better place to live in. If all of us can clean the front of our houses, the entire world will be a very clean environment to live in. I believe in those words. As a country, we have done our bit to ratify this Treaty with some of the neighbouring countries that have already done it. I am sure others are in the course of doing it so that all of us can clean the front of our houses and the entire world will be a clean environment to live in. That way, we will mitigate the issues we are seeing today between the UK and Iran. It is a standoff which is not necessary. With this kind of arrangement, some of those issues will be mitigated and we will ensure that they do not happen in our waters. It is a scene that we do not need and it is costly. It brings tension where there is no need for any.

With those very many words, I support the ratification. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear the Member for Seme, Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

Let me start by decrying what we decried yesterday, that when it comes to discussing treaties, we take it very lightly. These are extremely important matters. This is an extremely important function of the House. This is how we interact with the international world. There are a lot of resources that are involved. You do not only see it in the House here. Sometimes when you go to international meetings where these things are negotiated, people take it lightly, particularly from developing countries especially in Africa. While you see the other people sit

long into the night, come with hordes of experts because they know what it means, when it comes to our part, we do not discuss them seriously. When we come here, we commit the country to the international legal system, in this case the maritime system, while we really did not go into it. I hope the committees will do their work. It appears it is the committees that do the serious work that is required.

With regard to maritime issues, a lot is in the sea. Most of the goods in the world are moved through the sea. We are in that part of trade. It matters to us how these things are transported, the laws that guide them, the securities associated with them and even the quality of the goods that are transported. That has to link with the maritime laws and the treaties that are involved.

In maritime issues, there are many resources like in mining, oil and gas. I believe that is the reason we are having a dispute with Somalia. We know or suspect that there are a lot of resources there. Again, these are the laws that will guide this. So, for our relations in this, information sharing is extremely important.

Climate changes have a lot to do with the sea. That is the impact of storms and how they affect the transport of people, goods and how it affects us on land. Many climate changes arise from the water bodies and impact very gravely on land. Tsunamis and storms come from there. So, these are things that we should be keenly aware of.

If you look at large-scale fishing, you will find that our fishermen will be disadvantaged if we are not clearly informed of the processes that are in the sea. I just wanted to once again say that these are things that we should look at very carefully and take seriously.

With that, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): It is your chance Hon. Metito Judah.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker. I also want to support this Motion and thank the Mover who is a Member of my Committee, Hon. Dido Rasso, who moved it very well. He understood it very well.

This is a very difficult subject. The maritime field is very technical and very few people understand it. The Mover made us to understand the general view and issues surrounding the maritime field. This Agreement is between seven countries and Kenya is one of them. We have Mauritius, Djibouti, the Union of Comoros, Madagascar, Seychelles and France. Surprisingly, France is coming in because it is being said that the other islands I have talked about which are within the Indian Ocean are called French Overseas Territory. That is how France is coming in. These seven States form what is being referred to as, in the Agreement, the Western Indian Ocean Region. The Agreement is about bringing together the coordination of maritime operations among the seven States. It was signed by Kenya in November last year, during the time we had the Blue Economy Conference here in Nairobi. Later on, the Cabinet ratified and authorised it to be transmitted to the National Assembly as required by law for consideration.

Later on, the seven States concluded it in a meeting which was called “the Indian Ocean Commission”. All the seven countries form what is called “the Indian Ocean Commission”. The main issue is that many maritime threats exist along the coastal line of the coastal States called “the Western Indian Ocean Coastal States”. For instance, illegally unreported and unregulated fishing, piracy, armed robbery in the sea and, of course, unauthorised exploitation of maritime resources. There are very many maritime resources within these States’ territorial areas. There is also what we call “the Exclusive Economic Zones” along the coastal line. Because of all these threats of illegal activities, there was need to have a coordinated response. Of course, you

understand that the Indian Ocean coastal line is very vast and long. So, it is not possible for one State to undertake security operations very effectively. There was need to pull together resources, synergies, experiences and capacity and do a coordinated response to the threats that I have mentioned.

Of course, there are also limited resources in terms of budget and financial resources that are required to support the naval operations. The operations along the sea are done by ships and are very expensive. We were made to understand that fueling one ship per day to monitor the illegal operations or activities in the sea costs Kshs10 million. This is a very expensive exercise both in terms of time, resources and expertise. Therefore, there is need to have a coordinated response to it and a coordinated use of financial resources to do this. That is the reason the States came together to form the Indian Ocean Commission as well as the Western Indian Ocean Coastal States.

As I have said, coming together will provide a regional framework for undertaking joint coordinated operations by the State parties. It will also provide a framework that is necessary to coordinate search and rescue operations because the illegal operations at times even lead to abduction of human beings. It has happened many times in the coastal region, especially in Lamu. So, there is need to fast-track coordination of search and rescue operations. This cannot be done unless a mechanism is put in place where these member States can share real time or near real time information along the coastal region.

Two institutions were formed. One is the Regional Coordination Operation Centre that is based in Seychelles and the other one is the Regional Maritime Information Vision Centre based in Madagascar. Those are the two bodies that are under this Agreement. The host of the Regional Coordination Operation Centre in Seychelles is going to provide the budget for the running of the day to day operations. So, it is not easy. Some countries are going an extra mile to bear the cost of manning the Indian Coastal Region. This centre in Seychelles will coordinate joint operation between the party States. These State parties have also committed to conduct joint training and exercises. As I said, there will be a lot of training. This is a new area and there is a lot that can be exploited in terms of training and exercises. Therefore, they are going to conduct joint trainings and exercises among the seven States. This will enhance the capacity of each of the State parties. To undertake maritime operations, capacity building is necessary because this is a dynamic field. It keeps on changing, especially on the tactics and strategies that are required to avert threats. Therefore continuous training is key. On our side, the Kenya Navy and the Kenya Coast Guard will benefit in terms of capacity building. So, it is a plus.

It is also an opportunity to suppress threats in the Western Indian Ocean before they happen. Therefore, by extension, as my Vice-Chairperson said earlier on, it will contribute to national security of the Republic of Kenya and the overall economy of this country. The Regional Maritime Information Vision Centre based in Madagascar is expected to receive information that is going to be shared in real time or near real time basis. More importantly, as I conclude, countries will have a say. They can decide what to share and what not to share. If they think something will be important for their national security as a State, then, they will keep it secret.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Did you forget that you are contributing as an ordinary contributor? I will give you one minute to conclude. Okay, I thought you were contributing as the Chairperson of the Committee.

Hon. Ibrahim, Sahal, it is your chance.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I do not know a lot about maritime, but I did a bit of research. There are threats in the Western Indian Ocean Region such as Illegal unregulated fishing, piracy and armed robbery in the sea, and regulated exploitation of maritime resources within the States' territorial sea and exclusive economic zones. To reduce or suppress these challenges, we need a coordinated approach. The Agreement provides a framework for the conduct of a joint coordinated operation between the Western Indian Ocean States. It also provides a framework for coordinated search and rescue of persons operating in the sea. Consequently, it will suppress the maritime threats in the Western Indian Ocean and enhance maritime security which will have a ripple effect of increased maritime traffic to the Port of Mombasa thus improving the economy. I urge this House to ratify this Agreement.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear Hon Nakara Lodepe, the Member for Turkana Central.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Speaker. I support this Motion. I belong to the Departmental Committee on Defence and Foreign Relations. Before we came up with this idea of bringing this document to this honourable House, we considered all sides to see the advantages and disadvantages of this business in our country. We felt that the regional maritime body will help us curb the issue of pirates in our seas and get support from our friends to curb terrorism that takes place along the sea. We also felt that we shall get protection as a country because we will have a bloc. Whenever we have a problem, this bloc will come to our rescue. So, we felt we should go for it. When we have problems in our seas, we will have friends who will stand with us, for example, on the issue of Somalia, we have seen what is going on. If we go to that extent, then, our partners in this global Agreement will help us.

Another issue is the protection of fish. Many countries in the world have been using the sea as a dumping site for many things that have destroyed the maritime life. So, if we have the Regional Maritime Information Exchange and Sharing Mechanism we will curb that issue. We will not have dumping of waste in our sea. That will make the sea safe for marine life.

With those few remarks, I support.

**Hon. Vincent Tuwei** (Mosop, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Member for Mosop, what is out of order?

**Hon. Vincent Tuwei** (Mosop, JP): Hon. Temporary Deputy Speaker, I am rising on Standing Order No.95. Having listened to what my colleagues have contributed on this matter, I request that you call upon the Mover to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well, the Member for Mosop. You are a bit late because there is no further interest on this matter. So, in other words, you are squarely in order. There is no need to prosecute your Motion. I will go straight to call upon the Mover to reply.

Hon. Rasso, you have the Floor.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Speaker. I want to thank the contributors to this Motion. The Indian Ocean Region is of major interest for the war navies. Currently, there are about 10 major navies that operate within the Indian Ocean. As the Republic of Kenya, it is a strategic necessity to take interest and participate in maritime activities that take place within our national and regional waters. The two instruments that have been brought before



this House, namely, the Maritime Information Centre and the Cooperation of Operation at Sea, are for the purpose of security, safety and sharing of information and intelligence, which is very important for the security of our nation. The threats and challenges that are within our Exclusive Economic Zone and within our territorial waters are things like drug trafficking, illegal fishing, piracy, hijacking of vessels, movement of contraband goods and vessels going down that require search and rescue. So, there are many activities that go on out there. For that reason, these two instruments will allow us to get information from partner States and for both the Coast Guard and the Navy to react to any eventuality.

Hon. Temporary Deputy Speaker, with those remarks, I beg to move. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Rasso, you are actually replying. Just confirm that for the record.

**Hon. Ali Rasso** (Saku, JP): Well guided, Hon. Temporary Deputy Speaker. I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well. We shall defer the putting of the Question, having come to the end of debate on this Motion, until we have it next on the Order Paper.

Next order!

*(Putting of the Question deferred)*

CONSIDERATION OF SENATE AMENDMENTS TO THE  
PUBLIC-PRIVATE PARTNERSHIPS (AMENDMENT) BILL

THAT, the Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.52 of 2017) be now considered.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I order that we defer this Motion. The Leader of the Majority Party has requested that we defer it. So let us move to the next one.

*(Motion deferred)*

ADOPTION OF SESSIONAL PAPER NO.2 OF 2018 ON THE  
NATIONAL ETHICS AND ANTI-CORRUPTION POLICY

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Chairperson, Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo, you have the Floor.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019, and further adopts the Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy.

Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy from the office of the Attorney-General and Department of Justice was laid on the Table of the House on

22<sup>nd</sup> November 2018 and thereafter committed to the Departmental Committee on Justice and Legal Affairs to report back to the House. We concluded and tabled our Report on the Floor of the House. The policy was developed in response to a directive by the President during the second State of the Nation Address in Parliament in 2015 in which he denounced corruption and directed that the office of the Attorney-General develops a legislative and policy framework for fighting corruption to ensure success.

As I address this House, we know the situation the country is currently in with regard to the issue of corruption. The Government continues to demonstrate goodwill to fight corruption. We have institutions that are mandated to deal with the issue of corruption. Over the years, we have never had a policy that guides the country in developing appropriate pieces of legislation that can help and strengthen the institutions to fight corruption. So when the Head of State directed that a policy be developed by the Attorney-General, it was done and the policy was brought to the House. The Report before the House is so elaborate on legislative interventions we need to put in place so that we are able to fight corruption in a more effective manner. We have a number of institutions that fight corruption and other agencies which play a critical role, but there is no uniformity. So you find that in terms of operations, there is conflict among the institutions.

The National Ethics and Anti-Corruption Policy, therefore, intends to provide a comprehensive framework for the design and development of an effective legal and institutional framework for fighting corruption and promoting ethics and integrity in our country. It is not just about fighting corruption, but about enhancing integrity in our people. If we enhance integrity in the lives of our young people and leaders, it has the impact of reducing the chances of Kenyans participating in corruption. So, it ensures that we have mechanisms that can enhance and build strong integrity and value systems for our children as they grow.

The Committee considered the policy in about four sittings. The Attorney-General and the CEO of the Ethics and Anti-Corruption Commission (EACC) appeared before our Committee. We discussed the policy, the experience and the practicability of those issues because they are the ones who developed the policy and brought it before this House. The Report we have is well coordinated in terms of discussion. The public was also involved in giving their input and we got a lot of support from the various stakeholders.

When considering the Sessional Paper and making recommendations, the Committee was guided by existing procedure and modalities of operations of the National Assembly as derived from the Constitution of our Republic, Acts of Parliament, National Assembly Standing Orders, conventions, practices and rulings of the Speaker. Because of time, I may not wish to go through the entire Report. I just want to go to specific areas which I feel are critical in enabling this House understand the essence of this policy.

In developing the policy, the Committee was informed by the need for a systematic ethics, integrity and anti-corruption policy that responds to the complexities of corruption.

Hon. Temporary Deputy Speaker, corruption is a very complex vice which comes in very many forms. Depending on the form in which it comes, it requires to be handled in a different manner. So, we should look at the complexity of this vice of corruption. Ethics becomes critical in all this. So, this is a dynamic nature of corruption which is complicated by globalisation, technological advancement and prevailing trends in transnational crime. The whole issue about corruption is becoming complex. People design various forms of engaging in corruption activities. We must also move with the changes and deal with this situation as we move forward. This policy seeks to enhance the existing legal framework for preventing and fighting corruption.

It seeks to streamline and harmonise the existing laws, regulations, policies and institutional arrangements to enhance efficiency in the fight against corruption.

Hon. Temporary Deputy Speaker, we have the EACC as a body that is mandated to assist the country in fighting corruption, but we also have other agencies such as the Witness Protection Agency and the National Steering Committee on Anti-Corruption, which are under the Attorney-General. We have the new team on asset recovery. All these are institutions and agencies which are regulated by various statutes and regulations. There is need to harmonise all these, so that we do not have duplication of roles. At the end of the day, they may not help us in fighting corruption. The policy before the House will help us to harmonise the existing laws and regulations. As it is, the DCI plays the role of investigation. The EACC receives reports on corruption and investigates such cases. The DPP waits to evaluate evidence gathered by the EACC or the DCI. These agencies have to liaise with the Asset Recovery Agency. All these are things that we need to harmonise, so that we can move together. The implementation of the National Ethics and Anti-Corruption Policy is expected to provide an effective, coordinated and enforceable anti-corruption policy in keeping with the country's national goals as well as Kenyans' obligation under the various anticorruption instruments to which it is a State party.

Hon. Temporary Deputy Speaker, we are not just dealing with the situation in Kenya. Kenya is a signatory to very many bodies fighting corruption. In those countries, the bodies have clear policy directions. What has been lacking in Kenya over the years is a policy to guide us in developing the relevant laws and even in terms of developing the appropriate legislations. The specific objectives of the policy, if you allow me to quickly read because it is important for the House to appreciate all this, is to enhance coordination and synergy of all stakeholders in the fight against corruption and to generate efficient and sustainable political support for the fight against corruption.

Hon. Temporary Deputy Speaker, you can have all the laws and institutions in place, but political will is critical. Also important is commitment by those institutions to ensure that before they take somebody to court, they have done comprehensive investigation and gathered sufficient evidence that can sustain a case in court. These institutions must take into account all the factors that are necessary. There are three stages in this process. There is the issue of investigation, the process of prosecution and finally, the conviction. Even as we deal with the policy on anti-corruption, unless and until we see convictions arising from the anticorruption cases, the general public confidence in the fight against corruption by the Government and by the institutions will still not be supported. Therefore, this policy will set the parameters, so that the DPP, for example, sitting in his office, does not just approve a case for prosecution just because the DCI or the EACC has recommended prosecution. He should go beyond that because at the end of the day, he is the one to go to court and prosecute that case.

The policy is also intended to strengthen the legal and institutional framework for anti-corruption, ethics and integrity to enhance public participation and engagement in the war against corruption and to intensify efforts towards the fight against corruption in the devolved system of government. Devolution was intended to benefit our people in the counties. However, going by the current statistics, you will realise that corruption has been devolved to the counties in a big way. We have seen governors being arraigned in court and investigations going on. This is one of the issues this policy seeks to enable us to focus on so that we can deal with this problem in the counties by establishing an effective monitoring and evaluation framework for the anti-corruption initiative.

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya) left the Chair]*

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

Hon. Temporary Deputy Speaker, upon reviewing Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy, we observe that there exist several laws that govern the fight against corruption. However, challenges still persist in their implementation. Kenya is a country with sufficient laws to fight corruption. Unfortunately, we still have this view with us. Why? That is the problem we want to deal with. How do we deal with the challenge that still persists in the implementation of anti-corruption laws? The existing challenges in the anti-corruption sector has been occasioned by, among other factors, lack of a policy for the development of a legal framework for fighting corruption, which we are now developing. The current fight against corruption has been hampered by lack of coordination among the relevant agencies.

(1) The Committee, therefore, recommends that the House approves the Cabinet's Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy. It is important for the House and the country to realise that this was a decision by the Cabinet. In our discussions, as a Committee, we received the Memorandum from the Cabinet, meaning there is commitment and political will to fight this vice. Therefore, we propose that the House approves the Cabinet's Sessional Paper.

(2) We recommend that upon adoption of the National Ethics and Anti-Corruption Policy, all matters related to anti-corruption should be guided by the provisions of this policy framework.

(3) There is need to strengthen the capacity of all agencies involved in the fight against corruption to facilitate expeditious investigations, prosecutions, adjudication of corruption, economic crime cases and incidences of violation of ethics in the conduct of public affairs.

The challenge we have, and I am saying this as the Chair of the Departmental Committee on Justice and Legal Affairs, is that these institutions do not have enough resources looking at our recent budgetary allocations to the Office of the Attorney-General, which hosts most of the institutions. If you also look at the money allocated to the Director of Public Prosecutions (DPP), the EACC and the Witness Protection Agency, you will find that they are very little. The institutions are unable to function as required. When it comes to salaries for their staff, they are also not well paid. So, there is need, as a matter of policy and urgency that enough resources are given to these institutions.

(4) That the communication strategy in the anti-corruption campaign must be accompanied by other necessary additions including increasing public participation, building trust institutions and enhancing access to information. This is another critical recommendation we are making.

(5) All agencies involved in the fight against corruption should come up with a proper mechanism to improve coordination of anti-corruption efforts. Again, the issue of synergy between these institutions is critical. As we debate the Sessional Paper Policy on Anti-

Corruption, it is important for us to know that the people vested with the responsibility of creating the necessary environment for the war against corruption to succeed are in this House.

We have the capacity to pass the laws and allocate resources. As we move to the next allocation in the coming Supplementary Budget, I will seek for further funding based on our recommendation here, so that we should not have the EACC or the DPP before us saying they do not have enough money to hire prosecutors, investigators or buy equipment. This is a critical area and I am happy this House has the constitutional capacity to strengthen these institutions. I want to urge this House to adopt the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): He can be added more time.

**Hon. William Cheptumo** (Baringo North, JP): With those remarks, I would like to urge this House to adopt the Report of the Departmental Committee on Justice and Legal Affairs on Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019.

I want to thank the Members of this Committee because we spent time and came up with a very comprehensive Report. Therefore, I move and request Hon. Mutai, who is a Member of the Committee and a legal mind, to second. One of my senior colleagues in the profession, Hon. Kioni, is also here and I am sure you will give him a chance. So, I request Hon. Mutai to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Bureti, Hon. Mutai Japheth, it is your chance to Second the Motion.

**Hon. Japheth Mutai** (Bureti, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support Sessional Paper No.2 of 2018.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You rise to second.

**Hon. Japheth Mutai** (Bureti, JP): I am sorry, Hon. Temporary Deputy Speaker. I rise to second Sessional Paper No.2 of 2018. In brief, this is a policy whose time has come. Currently, we have several agencies dealing with corruption and it is about time we came up with a paper that will harmonise their work. The present legislation is sufficient and we are not looking into detailed legislation, but we are looking at how these multi-agencies will work together to ensure that the fight against corruption is achieved.

Corruption is a disease which is becoming sophisticated every day. As corruption becomes endemic and sophisticated, we need all the agencies to become sophisticated in order to deal with the menace. This Sessional Paper is critical in the sense that all these agencies without synergy and working together will not achieve anything. There will be infighting, different interpretation and approach. In order to ensure that optimal results are achieved, there needs to be some coordination.

We have seen the public thinking that the Office of the DCI and the EACC are running at cross-roads. With the coming of this Policy, all that work shall be harmonised. On adoption, the public will be involved in the fight against corruption. Corruption begins with us and the fight against it should also begin with us. This policy will build trust from the public and allow them to participate in issues corruption. A lot of work by the Departmental Committee on Justice and Legal Affairs has gone into this Policy. I want to thank our able Chair for leading from the front.

Hon. Temporary Deputy Speaker, I Second.

Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The first one to get the Floor is the Member for Ndaragwa, Hon. Jeremiah Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. I want to start by congratulating the Departmental Committee on Justice and Legal Affairs under the Chairmanship of the Member for Baringo North for the commendable piece of work they have done. I must say that this Committee has continued to perform very well in this House. We celebrate the legislative agenda they have continued to introduce here.

Also, as I contribute, it is important to mention that one of the areas that the Executive has failed to live up to when we talk about implementation of our Constitution, 2010 is aligning policy to it. If we have Sessional Papers like Sessional Paper No.2 of 2018, they will help us achieve the objectives of our Constitution and make it possible for the country to continue being better.

I recall when we were making this Constitution this is one of the areas that was debated because the provisions of the Anti-Corruption and Ethics Act were quite a number in the Constitution. In the wisdom of many, it was only necessary to leave a principle there and provide for the rest in statutes and sessional papers like we have. It is now clear to many of us, including those outside Kenya, that corruption is an issue that requires more attention than perhaps we thought during the enactment of our Constitution, 2010. Countries are struggling with dealing with corruption, but fortunately for us, we have the laws.

As my colleagues have said, we have enough legislative agenda or legislation around issues of corruption. It is the question of moving it forward, the issue of getting it coordinated and getting the public to be part and parcel of fighting corruption. Of course, for the public to continue being part and parcel or to give the Executive and the EACC the support they require, they also need to see that we are making some positive progress. You recall that after the elections of 2002, Kenyans went round arresting those who they thought were corrupt only for them to be let down by the Executive moving on into the management of the NARC Government.

So, even as we talk about Sessional Paper No.2 of 2018, I see that one of the objectives is to get the public involved in fighting corruption. It is important that the Executive makes sure that it does not fail Kenyans. The public should get the feeling that, yes, there is goodwill, commitment and dedication to fighting corruption.

If you look at Article 79 of the Constitution, you will find that we specifically provided for the enactment of corruption laws. Even including that Article in the Constitution, debate followed as to why you would want to talk about negative vices in the Constitution. I think those who supported this have been vindicated. Now you can see the kind of corruption that is in this country. If we had not secured this Commission in the Constitution, perhaps by now the politicians would have quickly passed laws that would have done a blow to that office. This is again out of what had happened before. During the 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> Parliaments, any provision on corruption that seemed to have...

*(The red light went on)*

Is this for me, Hon. Temporary Deputy Speaker?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Yes, it is in order. You have a minute. Can you give him one minute out of my discretion? As you get a minute, pursuant to House resolutions on Wednesday, 13<sup>th</sup> February 2019, we resolved that any Mover of a

Sessional Paper will have 10 minutes and any other Member speaking to the Sessional Paper will only have five minutes. So, as you contribute, please, plan. Now that Hon. Kioni is shocked - maybe he was not in the House that day - I give him one minute.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): I am shocked because I think as a Chair, I can also get some little bit of latitude when we are making some of these contributions. Anyway, I was just saying that I support this Motion. It is useful and we need to make sure that corruption is fought at the devolved level. Without a coordinated approach, this is a war that we can easily lose. Those who are involved in corruption have a way of fighting back. We need better laws to help these commissions move forward.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I can see you have a lot to say on this given your knowledge of the subject matter. The next on my request list is the Member representing the people of Turkana Central, Hon. Nakara Lodepe.

**Hon. Lodepe Nakara** (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the Report of the Departmental Committee on Justice and Legal Affairs on Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy.

This Policy addresses pertinent issues that make the fight against corruption very difficult. Any organisation requires a policy. The policy is a strategy done at the highest level of the institution. So, we want to appreciate the work done by this Committee by coming up with a policy that addresses the issues that make the fight against corruption in this country difficult. There have been issues in this institution that have made the fight against corruption in this country difficult. The cases are being challenged because of lack of evidence. The cases that have been taken to court have never got the right information. So, having a policy will address the issues that make the fight against corruption difficult.

Secondly, the purpose of the Policy is to allow the flow of information in any institution. I thank the Committee for giving guidelines on how information will flow in this institution. That is the importance of the Policy. Without a policy to guide who will be responsible for what, who will be communicating to the public and the role of the Director and the Board, it will be difficult. Unless we have such kind of a policy to guide the flow of information, we cannot have a good institution. The Policy sets a general plan for action used to guide desired outcomes. In every institution, there is a desired outcome and we expect this institution to come up with outcomes that will make us allocate it more resources. We have given a lot of money to these institutions, so that we can get good outcomes and payback. I support the Committee for coming up with this Report.

Finally, the Policy provides a roadmap for operations. When there is confusion, the institution cannot run well. So, this Policy has given a roadmap to guide on how the operations will be done in the anti-corruption institution.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I could tell the frustrations of Hon. Kioni with his five minutes. However, we are always guided by procedures. There being no any other Member interested to speak to this Report, I all upon the...

*(Hon. William Chepkut raised his hand)*

Do you want to contribute? How come you have logged in? You are catching my eye. You forgot your card? You can use the Dispatch Box.

**Hon. William Chepkut** (Ainabkoi, Independent): Hon. Temporary Deputy Speaker, it is true that we must have a coordinated arm of Government especially in the anti-corruption fight. The other day, the Cabinet Secretary, Henry Rotich, was charged with corruption. So, I want to put it very clear that it is good in this Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy from the office of the Attorney-General and the Departmental Committee on Justice and Legal Affairs to have a coordinated arm of Government. This will ensure that we have an objective in anti-corruption issues. Otherwise, I support, but we do not want people to be charged until proven guilty. We want a clear policy on the fight against corruption. We want a coordinated agency in dealing with corruption. Otherwise, I support the Sessional Paper.

Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): That is Hon. Chepkut William Chirchir. It is official that there is no other Member who is interested to speak to the Report. I, therefore, call upon the Mover to reply. The Mover for this matter is Hon. Mutai on behalf of the Chair.

**Hon. Japheth Mutai** (Bureti, JP): Hon. Temporary Deputy Speaker, first and foremost, let me take this opportunity to thank all the Members who have contributed to this critical debate.

Secondly, there is enough evidence that this Policy is long overdue. For this country to succeed in the fight against corruption, we need this Policy up and running. Everything revolves around coordination and public goodwill in the fight against corruption. This Policy intends to address the issue of enough evidence. On that note, I am happy with the reception of the Members of Parliament to this. I urge the Members to drive this Policy together, so that we can sort out the corruption menace in this country, which, as I said earlier, is a disease.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, guided by the principles of the House and our Standing Orders, I am not in a position to put the Question on Sessional Paper No.2 of 2018 on the National Ethics and Anti-Corruption Policy. I order that the Question on Motion No.18 be put during the next sitting at the most appropriate time.

*(Putting of the Question deferred)*

Next Order!

## BILLS

### *Second Readings*

#### THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party to move for Second Reading.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I wish to request that we step down this Order until the next available day because we are not in a position to start the Second Reading.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. With the communication from Hon. Cecily Mbarire, and knowledge that the Leader of the Majority Party



is in a meeting, I order that Order No.19 on the County Governments (Revenue Raising Process) Bill (National Assembly Bill No.24 of 2018) be deferred.

*(Bill deferred)*

Next Order!

#### THE SECTIONAL PROPERTIES BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Again, let us have Hon. Cecily Mbarire in the capacity of the Leader of the Majority Party.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I wish to request that we defer this particular Order because of the same reason that I gave for Order No.19.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, for the same reasons that have been raised, and in the knowledge of the Speaker's Panel, I order that the Sectional Properties Bill (National Assembly Bill No.23 of 2019), appearing as Order No.20, be deferred.

*(Bill deferred)*

Next Order!

#### THE NATIONAL DROUGHT MANAGEMENT AUTHORITY (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Again, let us have the Leader of the Majority Party.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I still wish to request that this Order be deferred until the next available date for the reason that we are still not prepared to get into the Second Reading of the said Bill.

*(Hon. Jonah Mwangi crossed the Floor without bowing to the Chair)*

**Hon. Japheth Mutai** (Bureti, JP): On a point of order, Hon. Temporary Deputy Speaker.

**Hon. William Cheptumo** (Baringo North, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is a point of order. Both of you are out of order! You do not shout. This is Parliament. You know how to express yourselves. You should not just shout that you are on a point of order. I have very good ears, but you know how to express yourselves. This is a digital Parliament. I can now see the Member for Bureti.

**Hon. Japheth Mutai** (Bureti, JP): Hon. Temporary Deputy Speaker, is Hon. Jonah in order to walk to the "opposition" side on the left side of the House and cross over the Mace to the other side?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Say it again. What did he do?

**Hon. Japheth Mutai** (Bureti, JP): This is not a market place, but a House of rules and regulations.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Just raise your point of order. You are in line. What did the Member do?

**Hon. Japheth Mutai** (Bureti, JP): Is Hon. Jonah in order to walk to the left side of the Chamber, pick up a bottle of water and cross over the Mace to the right side of the Chamber?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Now that you have mentioned the powerful Mace, I order Hon. Jonah to do the necessary. We know the power of the Mace. Just go to the Bar, bow and come back. We appreciate that you needed water, but you cannot break the rules.

*(Hon. Jonah Mwangi went to the Bar and bowed to the Chair)*

Very well. Thank you, Hon. Member. Now you can have your water. Hon. Jonah, what is it that you want to say? Just give him the microphone.

**Hon. Jonah Mwangi** (Lari, JP): I am sorry, Hon. Temporary Deputy Speaker. You know sometimes men are colour-blind and also do not notice right and left. It was not intentional.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Cecily Mbarire, you were on Order No.21.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Yes, Hon. Temporary Deputy Speaker. I wish to request that Order No.21 be deferred until the next allotted day.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, given the same reasons by Hon. Cecily Mbarire who is in leadership, I order that Order No.21, which is the National Drought Management Authority (Amendment) Bill (National Assembly Bill No.26 of 2019) by the Leader of the Majority Party be deferred.

*(Bill deferred)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other business on the Order Paper for today, Thursday, 25<sup>th</sup> July 2019, and the time being 6.37 p.m., this House stands adjourned until Tuesday, 30<sup>th</sup> July 2019, at 2.30 p.m.

The House rose at 6.37 p.m.