

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd March, 2016

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: We do not have a quorum. Ring the Bell for 10 minutes in the first instance.

(The Quorum Bell was rung)

You can stop the Bell now. We have a quorum.

PETITION

EXTENSION OF TRANSITION PERIOD AND
TERM OF TRANSITION AUTHORITY

Hon. Speaker: Hon. Members, this is not exactly conveying, but it is a Communication relating to a conveyance of a petition. This petition pertains to the extension of the transition period and the term of the Transition Authority (TA).

Pursuant to the provisions of Standing Order No. 225(2)(b), I hereby convey to the House that my Office has received a petition signed by one Patrick Ouma Onyango on behalf of the residents of Nairobi County regarding the imminent dissolution of the Transition Authority, commonly referred to as the TA.

Hon. Members, the petitioner appreciates that devolution is one of the core pillars of the Constitution of Kenya, 2010. He is also alive to the fact that the Constitution envisages that transition to the devolved system of Government would be phased out gradually in a period not exceeding three years as contemplated under Section 15(1) of the Sixth Schedule of the Constitution.

However, he is concerned that the term of the TA as established under the Transition to Devolved Government Act, 2012, is coming to an end in the month of March, 2016. The Petitioner is thus concerned that this will negatively affect the smooth and successful phasing out of functions. The Petitioner is, therefore, praying that, as a matter of urgency, the National Assembly prioritises the debate on the Report of the Constitutional Implementation Oversight Committee (CIOC) on the term of the TA and resolves to extend the transition period and term

of the TA by a period not exceeding three years to enable it conclude its work. The Petitioner also draws a parallel between the process of extending the term of the TA and that of the former Commission for the Implementation of the Constitution (CIC).

Hon. Members, ordinarily, I would have straightaway referred this petition to the relevant Committee for consideration. However, owing to the exceptional circumstances under which the petition is presented, I wish to highlight a few issues relating to the prayers that are sought in the petition. As you may be aware, on Thursday 18th February, 2016, the CIOC tabled in this House a Report on Consideration of the Extension of the Transition Period and Term of the TA. Debate on the Report commenced last week and is scheduled to resume today as indicated under Order No.12 in today's Supplementary Order Paper. Perhaps, it is worth noting that it is the Committee's recommendation that the term of the TA should not be extended beyond 5th March 2016, as there lacks a legal avenue to do so. Rather, the Authority should be allowed to naturally wind up as contemplated under Section 15(1) of the Sixth Schedule to the Constitution as read together with Section 37 of the Transition to Devolved Government Act, 2012.

Hon. Members, the contents and recommendations of the said Report have not only been extensively debated in this House, but have also been canvassed in the House Business Committee (HBC), which I chair. Without anticipating debate under Order No.12 in today's Supplementary Order Paper, it is apparent that a section of this House may be desirous to extend the term of the TA. Others have divergent views. Be that as it may, let me remind the House that the term of the TA cannot be extended by way of an ordinary resolution of the House or by way of a Motion. It is for that reason that the Motion under Order No.12 is deliberately couched as "noting" as opposed to the usual manner of "adopting." For avoidance of doubt, this is the kind of debate referred to as "debate without resolution" in a number of other parliamentary jurisdictions. The Motion is simply deliberative and intended to provide an opportunity to debate and notify, as opposed to debating and resolving.

Hon. Members, a parallel has been drawn between the terms of Office of the TA and that of the former CIC, whose term came to an end in December 2015. First, the Constitution provides that the term of the CIC would simply have been extended by way of a resolution of the House. That would have been achieved by way of a Motion seeking to extend the term, without having to amend any law.

On the other hand, it is apparent that an extension of the transition period and term of the TA, as spelt out in Section 15(1) of the Sixth Schedule to the Constitution and Section 37 of the Transition to Devolved Government Act, 2012, desirable as it may be, cannot be achieved by way of a resolution of this House on a Motion or even a report on a petition like the one sought by Mr. Onyango. On the contrary, it requires legislative action to probably amend Section 15(1) of the Sixth Schedule to the Constitution, the Transition to Devolved Government Act of 2012 and the Intergovernmental Relations Act of 2012.

Certainly, I note that in their Report to the House, the CIOC had applied its mind to these questions and, indeed, observed that the dissolution of the TA does not occasion an absolute lacuna in so far as the discharge of its mandate is concerned. The Intergovernmental Relations Act of 2012 establishes the Intergovernmental Relations Technical Committee whose functions are spelt out in Section 12 of the Act. Paragraph (b) of Section 12 of the said Act provides that, among other functions, the Intergovernmental Relations Technical Committee shall take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity. Obviously, the entity whose functions

would be assumed by the Intergovernmental Relations Technical Committee upon dissolution of such entity is the TA.

Hon. Members, clearly, the legislation that would extend the transition period and term of TA is one that concerns county governments and will obviously require to be considered by the two Houses of Parliament. By now, I have not received any legislative proposal to amend the said statutes from any Member of either House. I am informed that, the period that the Petitioners are beseeching Parliament to extend is inevitably going to lapse by midnight of 4th March, 2016, being barely half a day from now. Whereas the Speaker is obligated to convey all petitions to the House and refer them to respective Committees, I am afraid that this particular petition is coming rather too late in the day. It, therefore, serves little purpose, if any, for me to refer it to any Committee for consideration.

In the circumstances, the best the Speaker can do, which I hereby proceed to do, is to ask the Clerk of the National Assembly to forward a copy of the Report of the CIOC on the Consideration of the Extension of the Transition Period and Term of the Transition Authority to the Petitioner.

I thank you.

Let us have the Hon. Leader of the Majority Party. Hon. Washiali.

Hon. Washiali: Thank you, Hon. Speaker. On behalf of the Hon. Leader of the Majority Party, I beg to lay the following Papers on the Table of the House today 3rd March, 2016:

The Protected Areas Order 2015 and the Explanatory Memorandum.

The Ministry of Defence Annual Performance Report for the period ended 30th June 2015.

The Annual Report and Financial Statements of the National Police Service Commission for the year 2014/2015.

The Quarterly Report of the Commission for the Implementation of the Constitution for the period October to December 2015.

The Report of the Auditor General on the Financial Statements of the School Equipment Production Unit for the year ended 30th June 2014 and the Certificate therein.

The Reports of the Auditor General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015 and the Certificates therein:-

(i) The Ministry of Mining.

(ii) The Kenya National Examinations Council

Thank you, Hon. Speaker

(Hon. Washiali laid the documents on the Table)

Hon. Speaker: Next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 8TH TO 10TH MARCH, 2016

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. On behalf of the Hon. Leader of the Majority Party and on behalf of the House Business Committee, pursuant to Standing Order No. 44 (2)(a), I rise to give the following Statement regarding the business appearing before the

House the week beginning Tuesday, 8th March, 2016: The HBC met on Tuesday this week at the rise of the House to prioritize the business of the House. The HBC resolved to give priority to Bills with constitutional timelines as well as committee reports and motions awaiting debate. The following Bills have been prioritized, should they not have been concluded by the end of today:-

- (i) The Community Land Bill, No. 45 of 2015.
- (ii) The Land Laws (Amendment) Bill, No. 55 of 2015.
- (iii) The Energy Bill, No. 50 of 2015.
- (iv) The Seeds and Plants Varieties (Amendment) Bill, No. 43 of 2015.

Hon. Speaker, on the Questions before the Committees, the following Cabinet Secretaries (CSs) are scheduled to appear before the Committees on Tuesday, 8th March 2016:-

(i) The Cabinet Secretary for Transport and Infrastructure at 10.00 a.m. before the Departmental Committee on Transport, Public Works and Housing to answer Questions from Hon. (Ms.) Grace Kiptui, Hon. (Ms.) Mary Mbugua, Hon. Mosses Lessonet, Hon. Kimani Ichung'wah and Hon. Irshadali M. Sumra.

(ii) The Cabinet Secretary for Interior and Coordination of National Government at 10.00 a.m. before the Departmental Committee on Administration and National Security to answer Questions from Hon. Mohammed Diriye, Hon. Roba Duba, Hon. (Dr.) Wilbur Otichilo, Hon. (Ms.) Janet Nangabo and Hon. Joseph Manje.

(iii) The Cabinet Secretary for Land, Housing and Urban Development at 10.00 a.m. before the Departmental Committee on Lands to answer Questions from Hon. David Wafula, Hon. Kinoti Gatobu, Hon. Francis Waweru Nderitu, Hon. Geoffrey M. Odanga, Hon. (Dr.) Robert Pukose and Hon. Kipyegon Johana Ng'eno.

Hon. Speaker, the HBC, as you said correctly in the Statement, spent some time on the matter of the Transition Authority (TA), and I want to share with Members of the House that the law is clear on the effluxion of time on the matter of TA.

Finally, the HBC will convene on Tuesday, 8th March 2016 at the rise of the House to consider business for next week.

(Hon. (Ms.) Kanyua laid the Statement on the Table)

Hon. Speaker: Next Order.

BILL

Third Reading

THE LEGAL AID BILL

(Loud consultations)

Hon. Speaker: Hon. Members, resume consultations once I finish this.

Hon. Members, consideration of this Bill was concluded today morning. What remains is for me to put the Question, which I will proceed to do. This is relating to the Legal Aid Bill.

(Question put and agreed to)

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

Hon. Members, before we move to the next Order, I wish to announce to the House that business appearing as Order No.10 is deferred to allow various other proposed amendments by other Members to be considered alongside others by the Committee. So, business appearing as Committee of the whole House relating to Private Security Regulation Bill, No. 4 of 2014 is deferred to next week

(Committee of the whole House on Private Security Regulation Bill deferred)

Next Order.

MOTION

APPROVAL OF THE BUDGET POLICY STATEMENT 2016/2017

Hon. Speaker: Let us have the Chairperson of the Liaison Committee.

Hon. (Dr.) Laboso: Thank you, Hon. Speaker. Shall I do it from the Dispatch Box?

Hon. Speaker: Yes.

Hon. (Dr.) Laboso: Thank you, Hon. Speaker. I beg to move the following Motion:-

THAT, pursuant to the provisions of Section 25(7) of the Public Finance Management Act and Standing Order No.232, this House adopts the Report of the Liaison Committee on the Budget Policy Statement and the Debts Management Strategy for the Financial Year 2016/2017 and the Medium Term, laid on the Table of the House on Thursday, 3rd March, 2016, and approves the Budget ceilings in respect of various votes and programmes in the national Government, the Judiciary and Parliament as contained in the Schedule.

SCHEDULE

BUDGET CEILINGS FOR SPENDING AGENCIES

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
1011	The Presidency		Total	6,973		8,714
		0702000	P.2 Cabinet Affairs	1,265	1,741	2,374
		0703000	P.3 Government Advisory Services	314	-	314
		0704000	P.4 State House Affairs	3,010	459	3,469

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
		0734000	P.6 Deputy President Services	2,384	173	2,557
1021	State Department for Interior		Total	98,002	15,181	113,183
		0601000	P.1 Policing Services	80,485	12,899	93,384
		0602000	P.2 Planning, Policy Coordination and Support Service	12,589	611	13,200
		0603000	P.3 Government Printing Services	727	121	848
		0605000	P.4 Population Management Services	4,201	1,550	5,751
1022	State Department for Coordination of National Government		Total	19,291	1,050	20,341
		0604000	P.1 Correctional services	18,875	1,032	19,907
		0623000	P.2 General Administration, Planning and Support Services	346	18	364
		0624000	P.3 Betting Control, Licensing and Regulation Services	70	-	70
1031	State Department for Planning		Total	18,492	53,633	72,125
		0706000	P.1 Economic Policy and National Planning	1,124	38,141	39,265
		0707000	P.2 National Statistical Information Services	1,818	1,572	3,390
		0708000	P.3 Monitoring and Evaluation Services	43	163	206
		0709000	P.4 General Administration Planning and	746	144	890

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Support Services			
		0710000	P.5 Public Service Transformation	6,600	910	7,510
		0711000	P.6 Gender & Youth Empowerment	8,161	12,703	20,864
1032	State Department for Devolution		Total	2,242	7,994	10,236
		0732000	P.3 General Administration, Planning and Support Services	269	-	269
		0712000	P.7 Devolution Services	1,029	10	1,039
		0713000	P.8 Special Initiatives	574	1,507	2,081
		0733000	P.9 Accelerated ASAL Development	370	6,477	6,847
1041	Ministry of Defence		Total	96,952	42	96,994
		0801000	P.1 Defence	95,219	42	95,261
		0802000	P.2 Civil Aid	450	-	450
		0803000	P.3 General Administration, Planning and Support Services	1,283	-	1,283
1051	Ministry of Foreign Affairs and International Trade		Total	13,232	1,000	14,232
		0715000	P.2 Foreign Relation and Diplomacy	9,310	402	9,712
		0714000	P.1 General Administration Planning and Support Services	3,172	598	3,770
		0716000	P.3 International Trade and Investments	750	-	750

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Promotion			
1061	State Department for Education		Total	59,412	22,074	81,486
		0501000	P.1 Primary Education	17,225	18,986	36,211
		0502000	P.2 Secondary Education	33,681	1,443	35,124
		0503000	P.3 Quality Assurance and Standards	4,978	903	5,881
		0508000	P.8 General Administration, Planning and Support Services	3,528	742	4,270
1062	State Department of Science and Technology		Total	60,260	13,531	73,791
		0504000	P.4 University Education	55,990	7,567	63,557
		0505000	P.5 Technical Vocational Education and Training	2,004	5,363	7,367
		0506000	P.6 Research, Science, Technology and Innovation	872	601	1,473
		0507000	P.7 Youth Training and Development	-	-	-
		0508000	P.8 General Administration, Planning and Support Services	1,394	-	1,394
1071	The National Treasury		Total	46,732	44,712	91,444
		0717000	P.1 General Administration Planning and Support Services	39,816	4,804	44,620
		0718000	P.2 Public Financial Management	5,422	37,994	43,416

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
		0719000	P.3 Economic and Financial Policy Formulation and Management	1,174	1,859	3,033
		0720000	P.4 Market Competition	320	55	375
1081	1081 Ministry of Health		Total	28,940	30,635	59,575
		0401000	P.1 Preventive & Promotive Health Services	1,736	13,845	15,581
		0402000	National Referral and Specialized Services	14,079	10,829	24,908
		0403000	P.3 Health Research and Development	5,025	624	5,649
		0404000	P.4 General Administration, Planning & Support Services	6,100	81	6,181
			Health Policy, Standards and Regulations	2,000	5,256	7,256
1091	State Department for Infrastructure		Total	31,596	102,949	134,545
		0202000	P.2 Road Transport	31,596	102,949	134,545
1092	State Department for Transport		Total	5,793	124,960	130,753
		0201000	P.1 General Administration, Planning and Support Services	397	5	402
		0203000	P.3 Rail Transport	-	109,170	109,170
		0204000	P.4 Marine Transport	502	11,500	12,002
		0205000	P.5 Air Transport	4,378	3,985	8,363
		0206000	P.6 Government	65		

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Clearing Services		-	65
		0216000	P.7 Road Safety	451	300	751
1101	State Department for Environment and Natural Resources		Total	14,616	11,680	26,296
		1010000	P.1 General Administration, Planning and Support Services	586	25	611
		1011000	P.2 Environment and Natural Resources Management and Protection	12,214	7,435	19,649
		1012000	P.3 Meteorological Services	1,157	1,101	2,258
		1005000	P.5 Integrated Regional Development	659	3,119	3,778
1102	Ministry for Water and Regional Authorities		Total	4,162	42,122	46,284
		1001000	P.1 General Administration, Planning and Support Services	616	190	806
		1004000	P.4 Water Resources Management	2,692	29,429	32,121
			P.3 Irrigation and Land Reclamation	854	12,503	13,357
1111	Ministry of Lands, Housing and Urban Development		Total	4,269	25,172	29,441
		0101000	P.1 Land Policy and Planning	2,602	4,772	7,374
		0102000	P.2 Housing Development and Human Settlement	458	8,259	8,717
		0103000	P.3 Government Buildings	328	1,232	1,560
		0104000	P.4 Coastline Infrastructure and	59	41	100

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Pedestrian Access			
		0105000	P.5 Urban and Metropolitan Development	297	10,868	11,165
		0106000	P.6 General Administration Planning and Support Services	525	-	525
1121	Ministry of Information, Communication and Technology		Total	2,930	8,288	11,218
		0207000	P.1 General Administration Planning and Support Services	723	619	1,342
		0208000	P.2 Information And Communication Services	1,060	110	1,170
		0209000	P.3 Mass Media Skills Development	215	135	350
		0210000	P.4 ICT Infrastructure Development	932	7,424	8,356
1131	Ministry of Sports Culture and Arts		Total	4,550	2,896	7,446
		0901000	P.1 Sports	2,037	1,545	3,582
		0902000	P.2 Culture	1,016	608	1,624
		0903000	P.3 The Arts	630	130	760
		0904000	P.4 Library Services	555	590	1,145
		0905000	P.5 General Administration, Planning and Support Services	312	23	335
1141	Ministry of Labour Social Security and Services		Total	9,321	15,583	24,904
		0906000	P.1 Promotion of the Best Labour	489	235	724

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Practice			
		0907000	P.2 Manpower Development, Employment and Productivity Management	633	421	1,054
		0908000	P.3 Social Development and Children Services	2,641	842	3,483
		0909000	P.4 National Social Safety Net	5,067	14,070	19,137
		0910000	P.5 General Administration Planning and Support Services	491	15	506
1151	Ministry of Energy and Petroleum		Total	1,973	89,108	91,081
		0211000	P.1 General Administration Planning and Support Services	289	300	589
		0212000	P.2 Power Generation	741	26,950	27,691
		0213000	P.3 Power Transmission and Distribution	766	59,073	59,839
		0214000	P.4 Alternative Energy Technologies	157	827	984
		0215000	P.5 Exploration and Distribution of Oil and Gas	20	1,958	1,978
1161	State Department for Agriculture		Total	7,199	16,127	23,326
		0107000	P.1 General Administration Planning and Support Services	1,307	1,900	3,207
		0108000	P.2 Crop Development and Management	5,715	14,227	19,942

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
		0109000	P.3 Agribusiness and Information Management	177	-	177
1162	State Department for Livestock		Total	1,968	4,868	6,836
		0112000	P.6 Livestock Resources Management and Development	1,968	4,868	6,836
1163	State Department for Fisheries		Total	1,576	3,119	4,695
		0111000	P.5 Fisheries Development and Management	1,576	3,119	4,695
1171	Ministry of Industrialization and Enterprise Development		Total	2,487	5,261	7,748
		0301000	P.1 General Administration Planning and Support Services	509	-	509
		0302000	P.2 Industrial Development and Investments	1,744	5,101	6,845
		0304000	P.4 Cooperative Development and Management	234	160	394
1181	State Department for Commerce and Tourism		Total	2,683	3,267	5,950
		0306000	P.2 Tourism Development and Promotion	1,246	1,091	2,337
		0307000	P.3 Trade Development and Promotion	809	455	1,264
		0308000	P.4 General Administration, Planning and Support Services	628	1,721	2,349
1182	State Department for East African		Total	1,598	65	1,663
		0305000	P.1 East African	1,598		

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
	Affairs		Affairs and Regional Integration		65	1,663
1191	Ministry of Mining		Total	760	1,215	1,975
		1007000	P.1 General Administration Planning and Support Services	341	100	441
		1008000	P.2 Resources Surveys and Remote Sensing	208	406	614
		1009000	P.3 Mineral Resources Management	211	709	920
1251	Office of the Attorney General and Department of Justice		Total	4,011	494	4,505
		0606000	P.1 Legal Services	1,558	45	1,603
		0607000	P.2 Governance, Legal Training and Constitutional Affairs	1,776	140	1,916
		0609000	P.4 General Administration, Planning and Support Services	677	309	986
1261	The Judiciary		Total	12,860	4,449	17,309
		0610000	P.1 Dispensation of Justice	12,860	4,449	17,309
1271	Ethics and Anti-Corruption Commission		Total	2,691	100	2,791
		0611000	P.1 Ethics and Anti-Corruption	2,691	100	2,791
1281	National Intelligence Service		Total	23,846	-	23,846
		0804000	P.1 National Security Intelligence	23,846	-	23,846
1291	Office of the		Total	1,953		

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
	Director of Public Prosecutions				150	2,103
		0612000	P.1 Public Prosecution Services	1,953	150	2,103
1301	Commission for the Implementation of the Constitution		Total	-	-	-
		0613000	P.1 Implementation of the Constitution	-	-	-
1311	Office of the Registrar of Political Parties		Total	507	-	507
		0614000	P.1 Registration, Regulation and Funding of Political Parties	507	-	507
1321	Witness Protection Agency		Total	360	-	360
		0615000	P.1 Witness Protection	360	-	360
2011	Kenya National Human Rights Commission		Total	454	-	454
		0616000	P.1 Protection and Promotion of Human Rights	454	-	454
2021	National Land Commission		Total	781	300	1,081
		0113000	P.1 General Administration, Planning and Support Services	300	250	550
			P.13 Land Administration and Management	164		164
			P.14 National Land Management Information System	40	50	90
			P. 15 Land Disputes and Conflict Management	277	-	277
2031	Independent		Total	19,321		

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
	Electoral and Boundaries Commission				103	19,424
		0617000	P.1 Management of Electoral Processes	19,321	103	19,424
		0618000	P.2 Delimitation of electoral boundaries	-	-	-
2041	Parliamentary Service Commission		Total	10,258	3,200	13,458
		0721000	P.1 National Legislation, Representation and Oversight	-	-	-
		0722000	P.2 Senate Affairs	6,532	-	6,532
		0723000	P.3 General Administration, Planning and Support Services	3,726	3,200	6,926
2042	The National Assembly		Total	15,948	-	15,948
		0721000	P.1 National Legislation, Representation and Oversight	15,948	-	15,948
2051	Judicial Service Commission		Total	450	-	450
		0619000	P.1 General Administration, Planning and Support Services	450	-	450
2061	The Commission on Revenue Allocation		Total	341	-	341
		0724000	P.1 Inter-Governmental Revenue and Financial Matters	341	-	341
2071	Public Service Commission		Total	1,114	50	1,164
		0725000	P.1 General Administration, Planning and	805	50	855

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Support Services			
		0726000	P.2 Human Resource management and Development	187	-	187
		0727000	P.3 Governance and National Values	122	-	122
2081	Salaries and Remuneration Commission		Total	543	-	543
		0728000	P.1 Salaries and Remuneration Management	543	-	543
2091	Teachers Service Commission		Total	191,194	100	191,294
		0509000	P.1 Teacher Resource Management	185,754	-	185,754
		0510000	P.2 Governance and Standards	199	-	199
		0511000	P.3 General Administration, Planning and Support Services	5,241	100	5,341
2101	National Police Service Commission		Total	430	-	430
		0620000	P.1 National Police Service Human Resource Management	430	-	430
2111	Auditor General		Total	3,850	300	4,150
		0729000	P.1 Audit Services	3,850	300	4,150
2121	Controller of Budget		Total	573	-	573
		0730000	P.1 Control and Management of Public finances	573	-	573
2131	The Commission on		Total	474	-	474

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Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
	Administrative Justice	0731000	P.1 Promotion of Administrative Justice	474	-	474
2141	National Gender and Equality Commission		Total	458	-	458
		0621000	P.1 Promotion of Gender Equality and Freedom from Discrimination	458	-	458
2151	Independent Police Oversight Authority		Total	416	-	416
		0622000	P.1 Policing Oversight Services	416	-	416
Total Ministerial, Department and Agencies Expenditures				840,842	657,519	1,498,361

Hon. Speaker, on behalf of the Liaison Committee and pursuant to Section 25(7) of the Public Finance Management Act, it is now my pleasure to present to this House the Committee's Report on the Budget Policy Statement (BPS) 2016 and the Medium Term Debt Management Strategy (MTDMS), 2016.

I begin by giving thanks to the offices of the Speaker and Clerk of the National Assembly for the support they have extended to the Committee in the execution of its mandate. The Committee also takes this opportunity to thank the Commission on Revenue Allocation (CRA) and the Cabinet Secretary (CS) in charge of the National Treasury for their contribution during the Committee's deliberations clarified on some of the pertinent issues in the BPS 2016. I also take this opportunity to thank members of the Committee for their patience, unwavering sacrifice and commitment to public service, which enabled the Committee to complete this very important task within the stipulated time. Further, the Committee acknowledges the technical input of the staff of the Parliamentary Budget Office (PBO) which was extremely invaluable in the consideration of the BPS 2016.

Hon. Speaker, it is now my duty and privilege, on behalf of the Liaison Committee, to present to the National Assembly the Report of the Committee on the BPS, 2016 and the Medium Term Debt Management Strategy, 2016.

This Committee extensively considered the BPS and the MTDMS. The Committee also sought the views of the National Treasury and Commission on Revenue Allocation among other stakeholders. More importantly, the Committee also received recommendations from various Departmental Committees.

In line with Section 25(8) of the Public Finance Management Act and PFM Regulation 27(4), once the House approves the Report on 2016 BPS, the ceilings approved shall serve as a basis of expenditure ceilings for the coming financial year and the medium term. More importantly, PFM Regulation 27(5) spells out that once the House adopts the Report, the ceilings

for development expenditure and personal emoluments of the National Government shall be binding for the next two years.

As Members are aware, the BPS is underpinned by the Public Finance Management Act, 2012 and the Public Finance Management Regulations, 2015. The Committee was able to establish that the Statement largely adhered to the provisions of the law. However, the Committee observes that there are some provisions of the law that were not adhered to. In particular, the lack of adherence to fiscal responsibility principles as set out in Section 15 of the Public Finance Management Act and section 26(1) of the Public Finance Management Regulation. For example, the BPS failed to factor in compensation of employees from State-owned enterprises as required under PFM Regulation 26(1)(a). Secondly, there was no information provided relating to the level of budgetary expenditures by economic and functional classifications (PFM Regulations 29(1)(a)(ii)).

According to the BPS 2016, the economy is projected to grow at 5.5 per cent in 2014/2015, 5.8 per cent in 2015/2016 and 6.1 per cent in 2016/2017. The Committee is concerned that due to the recent and external economic developments, these growth and revenue projections may be unrealistic and as has been the case, this often leads to revising expenditure and increasing debt. The Government projects inflation to remain within the target in 2016 and the medium term. Nevertheless, it is important to note that the expenditure pressures and the high import bill arising from the general election to be held in 2017 may result in higher inflation.

For the 2016/2017 Financial Year, the Government targets revenue collection of approximately Kshs1.5 trillion from Kshs1.36 trillion in the 2015/2016 Financial Year. The ordinary revenue is projected to be Kshs1.38 trillion compared to Kshs1.25 trillion in the 2015/2016 Financial Year. The Appropriations-in-Aid (A-in-A) are projected to be Kshs116.2 billion compared to Kshs103.2 billion in the 2015/2016 Financial Year.

A review of the approved budgets against actual revenue performance in previous years indicates a systematic over-estimation of revenue. The underperformance of revenue has a negative impact on expenditure performance. Therefore, the revenue targets should be reviewed for a more realistic projection to be given.

Hon. Speaker, the total expenditure and the net lending is projected at Kshs2.05 trillion or 28.3 per cent of the Gross Domestic Product (GDP) compared to Kshs2 trillion in the 2015/2016 Financial Year. The contraction in expenditure as a proportion of GDP is witnessed both in Recurrent as well as in the Development Expenditure. The total Recurrent Expenditure is projected at Kshs1.19 trillion compared to Kshs1.09 trillion in the 2015/2016 Financial Year, while the total development and net lending is projected at Kshs 667.7 billion compared to Kshs718.5 billion in 2015/2016 Financial Year.

The emphasis to contain growth of expenditures by the Government is admirable since this is the very first time in recent years that expenditures are contracting. However, there is no clear indication of whether there is a shift of resources from Recurrent Expenditure to Development Expenditure since both are set to reduce in the 2016/2017 Financial Year. Indeed, this reduction of Development Expenditure of the medium term implies the need for the Government to find alternative sources of finance to meet the ever-increasing development needs.

Fiscal deficit, including grants, is set to reduce from Kshs569.2 billion in the 2015/2016 Financial Year to Kshs495.5 billion in the 2016/2017 Financial Year. This reduction will be sustained gradually over the medium term to Kshs372.7 billion in the 2018/2019 Financial Year.

The deficit in the 2016/2017 Financial Year will be funded by net external financing of Kshs310.7 billion and domestic financing of Kshs184.8 billion.

The gradual decline in fiscal deficit over the medium term will see external financing reduce from 4.3 per cent of GDP in the 2016/2017 Financial Year down to 2.5 per cent of GDP in the 2018/2019 Financial Year.

Likewise, domestic financing will reduce from 2.5 per cent of GDP in 2016/2017 to 1.6 per cent of GDP in 2018/2019.

Hon. Speaker, the BPS 2016 is anchored on a five-pillar transformation programme that began three years ago. However the BPS 2016 was slightly revised and the contents of those five pillars make it hard to track the progress of some of the policies. Sustaining business environment for investment opportunities is the first pillar. This pillar includes investing and creating a secure environment for investors. This means allocating more resources to security to build the infrastructural capacity of the security agencies and basic road and rail network.

Continued investment in infrastructure to unlock constraints to growth is the second pillar of the BPS. The BPS 2016 recognizes that a good road network enhances trade, commerce agricultural productivity as well as boosting regional trade. The strategy, therefore, is to develop an effective, efficient and secure road network through construction of 3,800 kilometres of low volume roads in the rural areas, continued expansion of major roads in urban centres and prioritization of construction of the East African link roads.

The BPS 2016 indicates that the Mombasa-Nairobi Standard Gauge Railway (SGR) is over 60 per cent complete and is set to be completed by mid-2017. The Government is currently in the process of security funding for an extension from Nairobi to Naivasha. The BPS also highlights the plan to upgrade and modernize the urban commuter mass transport system through public/private partnership. In addition, financing of the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Programme from Lamu to the oil exploration locations through public/private partnership will be given priority.

The Government targets to provide affordable and competitive energy through the programme, and aims at generating additional 5,000 megawatts of power by the end of 2017. The Government has since 2013 been able to inject an additional 680 megawatts into the national grid. Some of the key projects targeted for the medium-term include 987 megawatts from the Lamu Coal Power Project, 300 megawatts from Turkana Wind Power Project and 300 megawatts from the Kitui Coal Project. The Committee is concerned about the pace of project execution in this sector. For example, the strategy to increase power production by 5,000 megawatts by 2017 has delayed and only 14 per cent completion has been achieved so far within the first three years.

Sustained sectoral spending for employment creation is the third pillar under the 2016 BPS. Under this pillar, the Government plans to prioritize investment in research and extension services, agro-ecological zoning and re-organization of farmers into viable cluster groups for economies of scale, establish disease-free zone facilities in Bachuma, Kurawa and Miritini, finalize the procurement of Offshore Patrol Vessel (OPV), complete the fertilizer manufacturing plant in September 2016 and increase the acreage at the Galana-Kulalu Ranch Irrigation Project from the pilot of 10,000 acres to 100,000 acres.

Hon. Speaker, the BPS 2016 had indicated a number of strategies it intends to pursue for improvement of agriculture. With the agricultural sector being devolved, these strategies would require strong inter-governmental framework geared towards strong involvement of county governments. However, the strategies developed seem to indicate what the national Government

intends to do, but has no clear guidelines on how information is supposed to be disseminated to the county governments.

The Committee also observed that there is insufficient value addition that is stifling the performance of Kenyan products in international markets, thereby contributing to unfavourable balance of trade. The Committee further observed that there are still challenges in acquisition of trade licences and permits which should be addressed by collaboration with other related institutions.

The Kenya Vision 2030 requires that the Kenyan youth, who form a huge portion of the population, be actively engaged in agriculture. This requires that agriculture should be fashionable, attractive and profitable in order to attract the youth.

On fisheries, the fish quality laboratories that are currently under construction will be completed in 12 months' time, and require technical staff to be recruited and also accreditation of the laboratories to promote fish farming, which will require funding.

Hon. Speaker, on the issue of tourism, the BPS 2016 indicates that the Government's focus will be on improvement of security, tourism promotion, marketing and continued investment in conference tourism facilities in Nairobi, Coast and Western Kenya. The Committee also observed that part of the reason why the tourism industry has deteriorated in the recent past is due to insecurity, travel advisories, poaching, inadequate utilities and infrastructure. However, the funding for improvement of tourism facilities and infrastructure is low.

On sports and arts, the Government plans to construct five stadia through public/private partnerships, review the sports policy and legislation and create awareness on anti-doping issues. Further, it sets to roll out incentive packages to ensure film and music flourishes in Kenya.

Hon. Speaker, sustained investment in social services for the welfare of Kenyans is the fourth pillar of the BPS 2016. The 2016 BPS proposes to scale up expenditure for universal health initiative such as free maternity service and free basic health care services, modernization of equipment in 94 hospitals - two per county - reducing morbidity and mortality rates from malaria, HIV/AIDS, TB and other communicable diseases, and for the recruitment of more health workers.

The Committee further notes that the country is yet to achieve the Abuja Declaration for allocation of at least 15 per cent of the total annual expenditure to health programmes, given that the national Government ceiling for health in 2016/2017 is Kshs59.57 billion. This is merely 3 per cent of the total expenditure. Substantially, more resources need to be allocated to counties to move towards that ambitious target.

The Committee further noted that there is delay in full implementation of the key flagship projects such as the health equipment project where, out of the 98 health facilities expected to receive specialized equipment, only six health facilities have so far received the equipment. Similarly, the slum upgrading projects is behind schedule despite an allocation of Kshs1 billion in the Financial Year 2015/2016.

This education strategy in the Budget Policy Statement (BPS) includes the integration of ICT curriculum in all levels of education and the strengthening of quality assurance, national skills survey with the aim of developing a national human resource development plan, aligning education and training curriculum to meet the demands of the labour market and revitalizing youth polytechnics. The BPS proposes a ceiling of Kshs342 billion to the education sector out of

which, Kshs306 billion is for Recurrent Expenditure while Kshs35.5 billion is earmarked for Development Expenditure.

The Government has several targets under the social safety net programmes. These include the training and empowering of persons with disability for self-reliance, providing education support to orphans and vulnerable children (OVCs), increasing the number of counties linked to the single registry for national safety net programme from 10 to 25 counties and setting up a national safety network compliance and grievance structure.

The BPS 2016 proposes to increase the number of beneficiaries in the cash transfer programmes from 717,000 in 2015/2016 to about 1.7 million in 2018/2019. This will, in effect, increase the coverage of households with older persons from 310,000 to 760,000; Households with all OVCs from 360,000 to 810,000 and persons with severe disability from 45,000 to 137,000.

The BPS strategy on environmental conservation and making water accessible is to prioritize implementation of programmes under the growth initiative. The Government will ensure that an environmental impact assessment is undertaken on all projects. To mitigate the impact of climate change, there is planned investment in re-forestation, roll out of water harvesting and storage in all public institutions and in green energy. The Government further targets the construction and rehabilitation of water pans, an investment in mini dams and mid-size dams to store water for household and agricultural use.

The Committee extensively considered the BPS and the medium term debt management strategy. The Committee also sought the views of the National Treasury and the Commission on Revenue Allocation (CRA). More importantly, the Committee also received recommendations from the various Departmental Committees. After careful consideration and, more importantly, noting the huge budget constraints as reflected in the macro-fiscal framework, the Committee recommends the following:-

In the vertical sharing of nationally raised revenue, having considered the submissions of the National Treasury, the CRA, Departmental Committees and other stakeholders, and given the need to enhance fiscal austerity and productivity of public resources and to ensure that the overall fiscal deficit and debt accumulation is within reasonable limits, the Committee recommends that the allocation between the two levels of government be as follows:-

- (1) That the National Government be allocated Kshs1.099.902 billion.
- (2) That the counties be allocated gross amounts of Kshs302.198 billion comprising of:
 - (a) Equitable share allocation amounting to Kshs280.3 billion;
 - (b) Conditional allocation for Level 5 hospitals amounting to Kshs4 billion;
 - (c) Conditional allocation for free maternity healthcare amounting to Kshs4.121 billion;
 - (d) Conditional allocation for compensation of user fees foregone of Kshs0.900 billion; and,
 - (e) Conditional allocation for leasing of medical equipment of Kshs4.5 billion.
- (3) That counties be allocated Kshs4.307 billion out of the Fuel Levy Fund for road maintenance.
- (4) Special-purpose-supporting emergency medical services for Lamu and Tana River counties of Kshs0.2 billion.

(5) That counties be allocated Kshs3.870 billion, being amounts raised through loans and grants by the national Government for specific projects at the county level.

The total allocation to counties is equivalent to 32.2 per cent of the most recent audited revenue approved by the National Assembly. This allocation is, therefore, realistic, given the expected revenue collection, expected economic growth and ongoing fiscal austerity policies being implemented by the Government. The Committee further recommends that the vertical share forms the basis of the Division of Revenue Bill, 2016 that will be introduced in the House.

Further, the Committee is concerned that conditional grants from the national Government are not linked with county budgets. To this end, the Committee recommends the need to put in place an inter-governmental framework to effectively deal with conditional grants and, more so, the donor-funded projects to ensure that they are well-captured in the county budgets.

Further, that a proper framework for disbursement of the Equalisation Fund be expedited and finalised in good time to allow the selected marginalised counties to benefit from that Fund. The Committee further recommends that Kshs6 billion be allocated to that Fund in the 2016/2017 Financial Year.

The next point is on the expenditure ceilings. The Committee recommends that the ceilings for the three arms of Government be set as follows:-

- (1) The National Executive - that is the ministries, departments and agencies (MDAs) – Kshs1,451.646 million (confirm figure);
- (2) Parliament with Kshs29.406 million of which:-
 - (i) PSC Vote 2041 – Kshs13.458 million;
 - (ii) National Assembly Vote 2042 – Kshs15.948 million; and,
- (3) Judiciary Vote 1261 – Kshs17,309 million.

As you are aware, the Government has been implementing the Medium Term Expenditure Framework Budgeting for enhanced predictability in resource allocation and to ensure better planning. However, a number of projects initiated have either stalled, remained incomplete and have no direct link with the Budget Policy Statement (BPS) and the annual estimates. In this regard, the Committee recommends no new project should be introduced after the adoption of the BPS and that the annual estimates, which shall be laid in this House sometime in April, must include a detailed list of projects that are reconcilable with the Development Estimates of 2016/2017.

Secondly, that in line with the Public Finance Management Regulations No.27 (5), the ceilings that are included in the BPS 2016/2017 for development and the wage bill in the medium term are binding.

Third, that in line with Article 221(5) of the Constitution, which requires that the National Assembly takes into account the views of the public when finalising the Budget, this House should earmark Kshs1 billion for resources that can be used for economic stimulus programmes in areas that have not benefited before. The Committee recommends that a criterion be developed on the amount of funds to be allocated before the time of receiving the budget estimates and the procedure of identifying several projects before the finalisation of the estimates.

Four, that the House approves the schedule of ceilings for spending agencies towards recurrent and development spending per programme as provided for in Schedule I of the Constitution.

Five, that this House notes the additional requests for critical expenditures as shown in Schedule II of the Constitution that are unfunded and directs the National Treasury to find the resources within the framework as adopted in the BPS 2016/2017.

On the issue of the medium term debt management strategy, the Committee feels that this House should approve the debt management strategy underpinning the 2016/2017 Budget. The approved shall remain binding for the 2016/2017 Financial Year and any change in strategy must be approved by this House.

Secondly, the National Treasury should provide details on which projects, both ongoing and earmarked projects by sector, are to be implemented using the projected debt resources during the annual estimates.

Third, the Medium Term Debt Management Strategy (MTDS) should be realigned to the broad strategic priorities and policy goals set out in the BPS as required by the Public Finance Management Act to ensure that there is credibility of the debt strategy being pursued by the Government.

Fourth, that the Government pursues debt policies that are aimed at achieving fiscal consolidation and efficiency in revenue allocation intended to achieve a balanced Government budget.

Lastly, on policy recommendations, the first one is that the National Treasury initiates a comprehensive assessment of the existing projects and provides the Legislature with a plan of action of how the said projects are going to be completed within the current and the medium term resource framework.

All the expenditure adjustments in form of supplementary budgets should be done on or before April of any given year. This will assist in addressing the issue of pending bills, occasioned by late approvals of the Supplementary Appropriation Bill.

Secondly, the National Treasury should endeavour to issue guidelines on foreign travel and domestic travel that supports the objective of reducing wastage while, at the same time, maintaining the purpose and objectives of such activities.

With those few remarks, I beg to move. I request the House to approve the Report on the Budget Policy Statement, 2016 and the Medium Term Debt Management Strategy 2016.

Hon. Speaker: Who will second?

Hon. (Dr.) Laboso: Hon. (Eng.) Gumbo was to second. If he is not here, a Committee member should second. I will give a chance to Hon. Were to second, since he was in the Committee.

Hon. Were: Thank you, Hon. Speaker, for giving me this opportunity to second this Motion. As the Mover has indicated, it was a tedious process because it is the first time that our Committee has handled such a task. This was necessitated by the fact that the whole Budget and Appropriations Committee was not approved in the House. It was a learning process. It was not easy the way we thought. The first thing we came across is that, at the moment, the revenue collection is low. The targets that the Government is giving as revenue collection are not real. The ceilings for all the ministries had been cut. It was difficult especially after the Committees had engaged the various ministries and reached agreements on where to increase or reduce the ceilings. When we met the National Treasury, we found out that it was not an easy exercise in the sense that, because of the low revenue collection and the burden of debt, where the committees had agreed to rearrange budgets within the ministries, the National Treasury was reluctant to accept them. Where we tried to change the ceilings within sectors, we found out that

there was a lot of resistance. We were told we could not increase the ceilings. If we increased, the Committee had to come up with a suggestion on how the extra revenue would be collected. If not raising extra revenue, then what mode of borrowing would be taken? Because of that, many projects that are to be done by ministries will not be implemented.

I would like to give examples. On cash transfer, the Mover indicated that the Government intends to increase the beneficiaries from 717,000 in 2015/2016 to 1.7 million in 2018/2019. Looking at the budget proposals for the ceilings provided in 2016/2017, the figures remain the same as those in 2015/2016. That programme might not be sustainable. That is because if at all it is a flagship project and yet the increase is not provided for in the 2016/2017 Financial Year, how will we reach 1.7 million beneficiaries in 2018/2019?

We have the Olympic Games in August which require about Kshs800 million. They have not been provided for in the Budget Policy Statement (BPS). The country bid to host the World Under 17 Youth Athletics Championships held last year held in Cali, Colombia. We won the bid and were handed the flag last year. But there is no provision for the Youth Championships in the BPS. We are grappling with anti-doping problems in this country. We know that Russia has been suspended and we have been given conditions by World Anti-Doping Agency (WADA) that we must comply with. The provision for that kind of activity was not covered. We were told by the Treasury that the problem lies with line ministries; that whenever they are given ceilings, they do not consider priority projects like the Olympics because they know that, at the end of the day, money will be made available. The ceiling for the Ministry of Sports, Arts and Culture in 2015/2016 was about Kshs6.5 billion and in 2016/2017, it dropped to 5.4 billion. That is a drop of Kshs1.1 billion. The Youth Championships require Kshs1.3 billion, Olympics Games Kshs800 million and anti-doping requires Kshs500 million. That amounts to about Kshs3 billion. If they were to capture these figures within their ceilings, then it means that the operations of those ministries will come to a halt. The National Treasury should be realistic when considering sectors because several Committees faced the same problems. Suggestions that came up faced resistance.

Hon. Speaker, there is also a weakness in the Public Finance Management (PFM) Act which gives us only two weeks to look at this document. The regulations and conditions that we cannot vary ceilings beg one question: What is the purpose of having a Committee looking at the BPS and the estimates which will come before 30th April? What business are you doing if at all you are told you cannot exceed a certain limit? There are so many excuses.

All said and done, we did our best. We sat for long hours and came up with a report which we adopted. It has been tabled, moved and I beg to second.

Hon. Speaker: I think it is going to be a good debate because we have many experts in the Budget-making process.

(Question proposed)

Hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, Hon. Speaker, for giving me a chance to support the BPS. I have gone through it and I would like to raise the issue of the Presidency. We cannot say we do not have money and yet, the Office of the Deputy President (DP) is allocated Kshs2.3 billion which translates to Kshs198 million a month and Kshs6.6 million a day. That money is available to the DP. The Office of the President has been allocated Kshs198 million a month and Kshs25

million per day. If you look at all the State Lodges in Nakuru, Kisumu and Nairobi and the staff as compared to the staff that the DP has, then we are doing a circus here because these figures do not add up. We will pass this BPS, but it does not make any sense for us as the National Assembly to do so.

The glaring figure is the story of “copy and paste” The National Intelligence Service (NIS) has been allocated Kshs23, 000, 846, but the Office of the Director of Public Prosecutions (DPP) has only been allocated Kshs1.9 billion. Are we serious that we want to assist those offices to work? While I appreciate that the National Intelligence Service needs to be given funds, we must also appreciate other offices.

Hon. Speaker, if it is the issue of the Finance Act, we can amend it in this National Assembly so that we stop being told that, as Parliament, we have no ability to increase the amount of money required by various ministries. I sit in the Public Accounts Committee (PAC). When the Kenyan athletes went for the last Olympics, someone gave them air tickets. We have pending bills on that account. Here is a client who has given the Kenyan team tickets to travel out, but he has not been paid. We are now being told that although we know that we will go to the Olympics--- You know when a mother is expecting a baby for sure, the baby will be born. Whether you like it or not, you must buy the things which are required. The Government is aware that people will travel. Why should the National Treasury close its eyes and tell Members of Parliament that they cannot allocate funds and yet, we know very well that the country will go to the Olympics? Kenya is known for the Olympics and yet, we do not factor the money. I urge the National Assembly to amend the Act and make this Budget the way it fits this country.

In the Ministry of Labour, Social Security and Services, they have allocated Kshs14 billion for development. I do not know what it is for. For which projects is the Kshs14 billion for? We want to support aged people and the poor, but a big amount of that money has been lumped in development projects which may not even be realized.

If you look at the money for roads, the figure looks very good. A figure of Kshs102 billion has been given to roads. We did this last year. We gave almost similar figures. Nothing has happened. I am not sure whether we should sit here as the National Assembly and pass this when we know very well that whatever we are doing is not going to be attained. We are all aware that the revenue collection from the Kenya Revenue Authority (KRA) has gone down. Everybody is aware. Why can we not make a realistic Budget according to our income? Why should we do a Budget when we know very well that we are not going to get those funds?

As we speak now, we are about to cross to the next financial year. Hardly any development project has taken place. Let us admit that we do not have the money for development projects. Let us not create an attitude that we have the funds. When it comes to giving out funds to the youth, the funds are not available.

I have gone through this. It is high time, as the National Assembly, we gave the Kenya Police Service their funds directly. They know where it hits them most. It is the shoe wearer who knows where it pinches. Giving money to the Office of the President and then it decides what to give to the police must come to an end. We see the houses in which the police stay and we see how they live. If you look at the money for development which they have been given - hopefully, it will go for housing - the item on houses as covered in the PAC Report has audit queries. It is high time funds for the National Police Service, which is a constitutional office, are channeled directly. I do not see why, as we sit here as the National Assembly, we cannot give the National

Police Service their money directly, so that they can account for it. They have the ability. All we need to do is change the Act if we have to. It is not fair.

It is the same thing with the Prisons Department. Prisons is another department where we have got old bills. Somebody who supplied food to prisoners four or five years ago has not been paid. All this is very clear. Everybody knows it. The National Treasury knows that we have pending bills. It is high time as we approve ceilings we asked if they are realistic. If they are not realistic, we must come up with a budget and policy framework which is realistic. We cannot allocate money for roads and we go home telling people that roads will be constructed and go to the next elections and yet, the roads will not have been constructed. Voters will reject you. As Parliament, we serve Kenyans. If we do not do what is correct; if we do not insist that the National Treasury must do what is correct, we are going to be the casualties. The National Treasury will not be the casualty. We are going to be rejected by the voters because we will have failed to provide what we promised them. It is high time the National Treasury stopped saying: "We cannot do this! We cannot touch this." We feel that there is nothing we are doing in this Report.

I propose that we bring a Bill to have an amendment so that we get fully involved in the Budget-making process. We give funds where we know it is critical; where we know they are required; where we know the country will get the highest returns. This Budget Policy Statement which has been presented to us is not realistic because it is not going to be achieved. It is like we are lying to Kenyans. Kenyans want to be told the truth.

Wastage must come to an end. If it has to come to an end, it must start at the top; the Presidency. The amount of money that has been allocated to them, especially the Office of the Deputy President, should be reduced so that some of it can be allocated to the Prisons Department to build houses for prison warders. Take Kshs1 billion and add it to the Prisons Department so that we can do something that benefits Kenyans.

With those few remarks, I support, but I am afraid that as we pass this, it is a BPS which is not realistic and will not be achieved. So, it is high time as Parliament we did what we can. As a nation, we must be honest to each other and say that this is not attainable. If the Budget is Kshs1.3 billion, let it be so. We should live with the resources that we have.

With those few remarks, I support.

Hon. Speaker: Hon. Priscilla Nyokabi.

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. Let me start by congratulating the Deputy Speaker and the Liaison Committee for the work they have done in processing the BPS. Those of us who served in the Budget and Appropriations Committee before and are still hoping to go back to it, are aware of the task at hand. Let me also congratulate the National Treasury for giving us a reduced Budget. It is time we cut our coat according to our cloth. We need to fit the Budget we have as a country to the resources that we have. We cannot borrow for Recurrent Expenditure. We cannot do that. It will be the wrong policy and that is how to bring down our country. We can only borrow for Development Expenditure but, as far as possible, we should cut our coat according to our cloth.

When you look at our Budget, you see a lot of austerity measures that need to be inculcated in the Budget. We still have a country where tea, coffee and meals are big indicators of our meetings. It is time, like in many other developing countries, we held our meetings and had water alone, like we do here in the National Assembly. The only thing that people should have as they meet is water to drink and not tea or coffee. This is a poor country.

We should cut our travel budget and advertising. Every time you open a newspaper, we know those Cabinet Secretaries and the Principal Secretaries. I do not know why they serve us with their faces every day; why they continue to put their passport photographs on newspapers every day when we know who they are. They should get on with the work of running the Government and avoid pull-outs and advertisements. If you want to be covered by the media, you should be covered in the news doing the work that we want you to do. Do not give us a supplement of what you are doing. Do it and we will have it covered in the news and we will read it. In fact, to be honest, very few people read those pull-outs. It is time we used websites and e-Government if there is any information we want to tell the country.

On retreats, it is time we went more to Government premises and avoided retreats in private spaces which are a bit costly. There is no reason to have flowers in our public offices. We should save the money for more important issues. We should save the money for more important issues. Another point is on procurement and value for money. The reason we cannot develop as fast as we want to is because we are procuring at 10 times the price we should be procuring items. We should procure items at market rates. We should go for the cheapest that have value for more. As we go forward, we want to increasingly see us investing in growth and production, education, agriculture, subsidised fertiliser and things that are going to cause growth to our country.

I have a couple of points I want to raise on key Budget items. The Judiciary is one of them. The Justice and Legal Affairs Committee looked at the Budget of the Judiciary, which is now set at Kshs17.309 billion. We strongly feel that the Judiciary should get Kshs1 billion more. Kshs500 million will be for Recurrent Expenditure because of tribunals. We have 12 tribunals that are now going to be part of the Judiciary framework. We also have electoral matters and disputes that judges and the Judiciary need to start preparing on. On Development Expenditure, we are still pursuing the goal of one High Court per county and one Magistrates Court per sub-county. Some of those courts have not been done and it is time they are done.

We thank the National Treasury and the Budget Policy Statement (BPS) for the Kshs19 billion allocation to the Independent Electoral and Boundaries Commission (IEBC). This money is sufficient for IEBC to prepare for the elections. It is enough to procure ICT equipment and electoral materials required and to prepare the country for a free and fair election. As a House, we warn the IEBC that any corruption on its part will be dealt with, with the force of the law. We cannot have another Chickengate Scandal. We hope the IEBC is listening. The Kshs19 billion is for a free and fair election. It is not for play. It is not a gravy train. It is money that should go into preparing for an election.

I saw the proposed amendments by the Member for Kajiado on the National Land Commission (NLC) and on land matters. It is important to look at those particular items. In particular, the NLC still requires more resources for land cases and issues that the country continues to see. The Ministry of Land, Housing and Urban Development also needs more money to invest in affordable housing in the different parts of this country. I am worried about the Budget for water and regional authorities. Water resource management has received Kshs29.4 billion while irrigation has Kshs12.5 billion. I would have done it the other way round. I would have put more resources in irrigation and water projects that are ongoing. Even if the money is Kshs12.5 billion, I urge the Ministry to ensure that it covers the Nyeri water projects and many other ongoing projects. We have the Kaigonji-Aguthi Water Project and Mathira Water Project going on. I hope this will get sufficient funding to complete them.

On the point about ongoing projects, I agree with the Liaison Committee that we, indeed, need a list of projects that have not been completed. We are in a country that has a lot of half projects. We have half markets, half hospitals, half schools and half roads. It is time we completed these “halves”, so that the utility that is meant for these projects can be achieved for the country.

I am particularly worried that the Ministry of Public Service, Youth and Gender Affairs has not received an allocation directly. The National Treasury should move with time and the Presidential agenda. The President has created this Ministry and named a Cabinet Secretary for the matters of Public Service, youth and gender. It is important to create a State Department for Youth and Gender and to provide resources that would go into that work. I noticed in the planning there is Kshs8.1 billion for Recurrent Expenditure and other money up to Kshs12.7 billion in the Ministry of Devolution and Planning availed for youth and gender. This amount of money should be ring-fenced and taken to the Ministry of Public Service, Youth and Gender Affairs to run the programmes of Uwezo Fund, affirmative action, the Women Enterprise Development Fund and the Youth Enterprise Development Fund. Even with all the problems with the National Youth Service (NYS), we need to clean up what is wrong with NYS and proceed with NYS projects as earlier envisaged.

On the Ministry of Labour, Social Security and Services, I appreciate very much the increase in the national safety net especially the increased number of elderly persons who will receive cash. We recently hosted the President in our county, Nyeri where we had many people in the Mau Mau freedom fight. We raised the issue of the Mau Mau fighters being part of the beneficiaries of the cash transfer programme. The directive has already been made by the President. It is in order that some of these 760,000 elderly persons intended for the cash transfer in Nyeri and in other places where the Mau Mau fighters are found be given this money. Those old men who fought for our Independence have survived 52 years without the support of the Government. It is only fair that at this point in time, we remember some of those Mau Mau heroes.

The Budget of education is Kshs191 billion that will go to the Teachers Service Commission (TSC). We need to receive an award in Africa. TSC is the third largest employer in Africa. Its Budget is Kshs191 billion. Indeed, we have many teachers. The question of retired teachers is one that needs to be answered. The retired teachers need to receive their money because they have been waiting for it.

Let me end on conditional allocations to counties. I appreciate very much the amount of money going to health. However, I urge for a policy statement that the money for health should go to health institutions. It should not go to governors. Money meant for a hospital should go to a hospital. Money meant for conditional allocations on free maternity, should go to the hospital. I do not know why this money is going to county governments and governors. The money should go directly to hospitals and be accounted for in the hospitals.

Thank you, Hon. Speaker, for this opportunity.

Hon. Speaker: This particular year, we have gone the route of the Liaison Committee. I was expecting that all the Committee Chairpersons would be here to express themselves on the BPS. I can only see a few of them. Let me hear from Hon. Chrisantus Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support. First and foremost, I congratulate the Liaison Committee under the chairmanship of our Deputy Speaker, Hon. Laboso, for the work well done. When you directed, I was a bit worried. However, they have

worked round the clock. We should give them a big plus for work well done. As much as they have done very good work, when it comes to the level of the Budget Estimates, we expect the Budget and Appropriations Committee to be in place. You have already mentioned that you worked round the clock. So, when it comes to the Estimates, it is even worse. We pray that when that particular time reaches, we will have resolved the issue of the Budget and Appropriations Committee. It should be in place.

The BPS is a very critical Statement. It gives key priority areas on which the Government is supposed to focus. It is a requirement that every Committee must have an input. As I had indicated earlier, it is unfortunate that the Departmental Committee on Defence and Foreign Relations did not have an opportunity to look at the BPS before it was forwarded to the Liaison Committee. It is unfortunate, but I hope we are going to get involved when the time of the Budget Estimates comes.

The best thing about this BPS is on agriculture. This is in line with the Maputo Declaration, which states that, at least, 10 per cent of the entire Budget should be allocated to agriculture. Agriculture is very critical. It is going to contribute to food security in this country. One thing I am happy about is the fertiliser plant, which is going to improve food security in this country. Once we have a factory, which is supposed to be somewhere in Eldoret, we will enable farmers to get the kinds of fertilisers they need based on the nutritive deficiency of particular soils. Fertiliser that is required for the soil in Ukambani is not the same as fertilizer that is required in the North Rift. If money is set aside for the construction of a fertiliser plant, the factory will manufacture fertilisers on need basis for particular regions.

I have a problem with the allocation for Galana/Kulalu Irrigation Project. There is an increment from Kshs10,000 to Kshs100,000. Pilot test has already shown that the project is not viable. I do not see why we should increase the acreage from Kshs10,000 to Kshs100,000. Instead of increasing the allocation for that project, we should use that money to buy subsidised fertilisers for farmers in the North Rift, where I come from and for sugarcane farmers in Mumias. It will add value as opposed to damping more money into the Galana/Kulalu project, which is a white elephant.

Hon. Speaker, I have looked at the allocation for the TSC. The teachers of this country have suffered for so long. We do not have a full disclosure as far as salary increment for teachers is concerned. Teachers have cried for so long.

Hon. Speaker: What is your point of order, Hon. Amina Abdalla?

Hon. (Ms.) Abdalla: Hon. Speaker, Hon. Wamalwa, who comes from the bread basket of Kenya and who has been rumoured to have problems with the Galana/Kulalu Irrigation Project as a potential threat to maize from the North Rift, is saying that the Galana/Kulalu is a white elephant project. Could he have first declared his interest as someone who comes from the food basket of Kenya before making that statement? People will assume that he is saying the truth.

Hon. Speaker: Some people may think that he is saying the truth. Others may think otherwise. He is known to sometimes say the truth and sometimes to say as he chooses. It is his right to say the truth or not to say the truth.

Hon. Wakhungu: Thank you, Hon. Speaker. In the North Rift where I come from, one acre of land should give you a minimum of 20 bags of maize. The Galana/Kulalu is a white elephant project. Hon. Amina Abdalla is not a farmer. She does not know that you cannot have two bags of maize per acre. That is not a project worth investing in.

(Laughter)

I have seen the Report from the Departmental Committee on Agriculture, Livestock and Cooperatives. They have even given recommendation. We are going by the findings of research and the findings of the Departmental Committee on Agriculture, Livestock and Cooperatives. The Committee has not given a plus to that project. It is important to invest that money. That is why I am saying that if we put more money into the fertilizer manufacturing plant, it would be worthier than putting more money into the Galana/Kulalu Irrigation Project.

I have also looked at the Schedule and I have seen that the TSC has been allocated Ksh185 billion. The teachers of this country have really suffered. We need to allocate the TSC enough resources, so that they can increase teachers' salaries. His Excellency the President gave a directive that the TSC, the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post Primary Education Teachers (KUPPET) should enter into a new collective bargaining agreement. Up to now, that has not yet been done. It is important to motivate our teachers if we want to see improvement in performance.

The idea of having safety nets is wonderful. I am happy because Hon. Deputy Speaker mentioned it. The Government moved from Kshs310,000 to Kshs717, 000 and they want to move to Kshs1.7 million. Unfortunately, there is no allocation in the Schedule. We are not sure whether by 2018 we will reach there. The Coalition for Reforms and Democracy (CORD) is a government in waiting. If CORD will be in power in 2018, we will increase those safety nets. The safety nets are good for the elderly. Unfortunately, they are given out irregularly. The money does not get to the recipients on a monthly basis. This is creating another big problem. For instance, the elderly people in my constituency have not got their stipend for four months. They are asking what has happened to their money. They are wondering where the money has gone to and whether this is another scandal. We need to address the issue of cash transfers.

Another issue is on the IEBC, which is critical at this particular time when we are preparing for the general election. A sum of Kshs19 billion has been given to the IEBC. I want to give notice to the IEBC commissioners. Last time, I had an opportunity to visit them. The price of the vehicles that they use in the field is four times the market price. They must practise prudence because this money is enough. They must use it prudently, so that they can prepare accordingly for the elections. We do not want to hear about Biometric Voter Registration (BVR) not functioning like it happened in 2013. We do not want that mistake in 2017 because we will be calling for anarchy. We want them to prepare well. This time round, they have been given enough money. If the elections are not conducted in a credible manner, there can be anarchy. Choices have consequences. So, we are cautioning them. As the body responsible for the management of the electoral process, they must work objectively.

Another issue is the referendum. You know very well that the *Okoa Kenya* initiative is supposed to lead to referendum. I have not seen any allocation for a referendum. I do not know what we are going to do. This has not been provided for. Last time when it came to verification of signatures, they had to borrow Kshs20 million. Why is it that they have not acted proactively to give a provision for referendum?

There is also the issue of the Registrar of Political Parties, who has been allocated Kshs507 million. The Constitution talks of 0.3 per cent of the political fund, but the National Treasury has not been giving this money. This time they must give a provision based on the law.

We must amend the Public Finance Management (PFM) Act. We did not come to this House to be rubber stamps. We cannot even change the ceilings. This is a presidential system of Government whereby this House is a Budget-making House. Because of the limitation of the PFM Act, we cannot change the Budget ceilings. We are just rubberstamping.

Hon. Speaker: Hon. Chrisantus Wamalwa, you should have looked at the Supplementary Order Paper to see the business appearing as Order No.13. Even as you lament, you know that you have the power in your hands. Order No.13 is the Public Finance Management (Amendment) Bill. You have food on your table, but you are still crying that you are hungry. So, one wonders when you will stop crying.

Hon. Members, let me just draw the attention of the House to the fact that we can only deal with this business up to today. It does not concern what Hon. Wamalwa has said, which is important. It is now up to Hon. Wamalwa, Hon. Mwadeghu and Hon. Washiali to ensure that by the time it becomes necessary for me to put the Question, you quorate. If you do not quorate, you will be in violation of Article 121 of the Constitution. If you are less than 50 in the House, we will not be able to transact the business. Because of what is appearing in the Order Paper, I want to give this chance to Hon. Moses ole Sakuda, Member for Kajiado West.

Hon. ole Sakuda: Thank you very much, Hon. Speaker. From the outset, I want to state that after further consultation, I withdraw the amendment that I was about to move.

Hon. Speaker, I agree with Hon. Chris Wamalwa on a number of items. It has been very difficult for us in the Committee on Lands to be brought figures and be told that the ceiling has already been suggested and forwarded and, therefore, it becomes impossible to do anything.

(Some Members withdrew from the Chamber)

Hon. Speaker: I have just made this announcement and suddenly I see Members withdrawing. Are we on the same page or am I not loud enough? Proceed, Hon. Sakuda.

Hon. ole Sakuda: Thank you very much. Two weeks ago, Hon. Soipan tabled in this House the Report of the Committee on Implementation. She cited a number of resolutions of this House that needed to be followed up with the line Ministries and many of them had come from the Departmental Committee on Lands. One of the challenges that we continue to face, as a Committee, is that whenever we do a further follow up on a resolution of this House with the Ministry, they say that they do not have any allocation to follow it up. There is no need for a Committee to work so hard, come up with a resolution, pass it over to the Committee on Implementation and when it is followed up, the Ministry says that they are grounded. They say that funds have not been allocated for resolutions of this House to be implemented.

Earlier this year, a number of constituencies were gazetted as districts. When the Ministry of Land, Housing and Urban Development officials appeared before the Committee, they indicated that no funds had been allocated to come up with new registries. For the last three years, our Committee has always recommended an additional funding for the National Land Commission (NLC). However, as soon as we do the recommendation, nothing happens and this makes our work very difficult.

With those few remarks, I withdraw the amendment I intended to make this afternoon.

Hon. Speaker: So, Hon. Members, we proceed with the Motion and the intended amendment by Hon. ole Sakuda is withdrawn. Let us have Hon. Midiwo.

Hon. Midiwo: Thank you, Hon. Speaker. I will be brief. The tip you gave the House, I hope the Whips have moved to call other Members.

Hon. Speaker: What is agitating the Member for Kiharu? I see his hand is up and then he is shouting. Are you getting some excitement?

Hon. Midiwo: Hon. Speaker, that is how he is. Forgive him. He is a good person.

Hon. Speaker: He is sitting in an unusual place. He normally sits further behind.

(Laughter)

Hon. Midiwo: Hon. Speaker, I was just pleading with Hon. Members to stay on a bit longer, so that we can have quorum to pass this Motion because today is the deadline. For that reason, I am going to be very brief. I will begin with the Public Finance Management (PFM) Act.

I believe now as I believed then, that it is unconstitutional. Given the business you have directed us to on Order No.13, it will be a good time to talk about those issues.

This House has to do something this year. I thought the Executive and Treasury would have done something for Kenyans to lessen their anger. Kenyans are angry and we are seeing it all over. To stop corruption and exposure to money, the Government needs to cut taxes. The general policy should be this Income Tax, which is 30 per cent should go to under 20 per cent. Kenyans are overtaxed. What is making Kenyans so angry is that you are taking their money and leaving it to be stolen. Let Kenyans use their money then tax them on Value Added Tax (VAT) and broaden the tax space. However, you cannot take a small clique of the society, overtax them and then have no control over the thieves.

We must tighten our belts. From the counties to the national Government, there is just too much corruption. Two months ago, if you stood here and talked about corruption, nobody would have believed you. People thought you wanted to bring down the Government. Now, the pot has broken and the kettle is boiling. We must do something to stop the budgeting process from being a conduit to stashing money away for corruption.

Why would the Office of the Deputy President (DP) need over Kshs2 billion? He is in public prison. He is in public eye. We are asking: Where does he get his money from and what does he do with it? Road projects have stalled. Why would this House give the Deputy President Kshs 2billion? What project does he undertake? Something is amiss in the Executive. This House cannot sit and clap for that suggestion. It is despicable. As we say that the Executive should tighten its belt, this House must also tighten its belt. The Executive's interference with this House must stop. I have been talking since last week that Members of this House, who are our colleagues, are more privileged than the rest. The Senate is asking us for Kshs300 million. If you read the Constitution, why would this House give the Senate money taking into consideration their light work?

We are told that if you give Pumwani Maternity Hospital only Kshs1 billion, no woman will die in this city while giving birth. It is across the country. Why are we not investing our money well? The Constituency Women Representatives (CWRs) Affirmative Action Fund does not envisage CWRs being like the Member of Parliament for Gem or Matuga. Why on earth would a Government, which is prudent, give money to somebody without a defined job? To go and do what with it? Those things are not going to pass the Floor of this House this year. This is corruption of the highest order.

I am so grateful to God to have ended the assumed power of Anne Waiguru because she is the source of these problems. She was giving these things as favours to these people. I am told even those vehicles have not been paid for since she left.

I said here two weeks ago that I heard a lawyer reason on radio. He said something which I thought a poor country like Kenya can adopt. If you want the girl-child to catch up and break glass ceilings, create special schools, bursaries and let people compete equally.

This morning I was watching the American Presidential Campaigns. Hillary Clinton does not even talk about being a woman. She says what she will do for the world and what she wants for America. That, to me, is the dream of many women legislators here. But to just give public funds anyhow when Kenyans who are being taxed have no roads is not right. It used to be that if you pay taxes, you should have a road, hospital and free education. Now, you pay taxes and you pay a watchman, make your own road and do all kinds of things. This House cannot sit back and keep blaming the Executive. We must look at the coming Budget with a toothcomb and cut expenditures and allocate elsewhere.

Look at what IEBC is going through. A Committee of this House decided not to fund the IEBC and now the Commission says it only has money for 15 months. Kenyans are scampering around because there are no IDs. This House must wake up and smell the coffee. We must begin with ourselves. It is said that charity begins at home. I plead with the Chair of the Liaison Committee to go further and ring-fence the money going to the counties. Before devolution, this country was spending less than Kshs4 billion on medicines. After devolution, last year, the counties combined used just under Kshs30 billion and people are dying in the counties. So, we need to ring-fence money for medicine. Let it go directly to buy medicines. For the time being, let every county buy medicine from the Kenya Medical Supplies Authority (KEMSA) because this is a Government agency whose prices we can control and whose intention was not to fleece Kenyans.

The governors are fleecing the sick and the dying using procurement in health because that is the only thing they have left. This House cannot pass another Budget by giving the county governments the decision to decide where to invest because the money does not belong to these thieves. These people pilferage this country. We cannot allow them, as a country, to keep doing what they are doing. The time to stop them is now, so that when the National Treasury releases money, it releases money to a specific medical project. Then we will begin by being neat and clinical and we will stop getting so much flak from our people.

Hon. Speaker, I beg for one more minute. This House must not again fund the National Youth Service (NYS).

Hon. Speaker: Add him one minute because we took his time.

Hon. Midiwo: Hon. Speaker, NYS Kazi kwa Vijana (KKV) Project is very good because many Kenyans are jobless. But those functions belong to counties and city management boards. They do not belong to the national Government. No wonder somebody was saying very casually that you cannot keep that money in a bank because you need it every day. Who keeps Kshs80 million or Kshs200 million in their house unless somebody is going crazy? I am shocked that when Bruce Odhiambo of the Youth Enterprise Development Fund appeared before Parliament two days ago, he admitted to having broken the law. In other countries, if you admit that you have broken the law, the way he did, you would find police officers waiting for you. Why is Bruce Odhiambo not in prison? Why was he not arrested 48 hours ago?

This House must not again fund those two institutions unless we come up with a proper youth employment policy. The CDF is working. There is a structure. Why can we not channel this money through the CDF?

(Applause)

Why are we picking people from the streets and making them managers? These people are from the streets.

I support, Hon. Speaker.

(Laughter)

Hon. Speaker: It was just this morning at a meeting convened by the Public Investments Committee (PIC) and the Public Accounts Committee (PAC) that a suggestion came from none other than the Director of Public Prosecutions (DPP) that, perhaps, as a country, we should consider when our watchdog Committees are taking certain evidence having police investigators hovering around, so that when certain admissions are made, you do not have to recommend that investigations continue. The fellows should then be ferried to go and be dealt with. That proposal just came this morning.

Hon. Amina Abdalla.

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. I want to join my colleagues in congratulating the Chair of the Liaison Committee. The Deputy Speaker did a tremendous job of having to deal with Committee Chairs who also have to present their views and to strike a balance.

I have listened to many Members lamenting and complaining. In fact, Hon. Jakoyo Midiwo has ordered that we should not approve a BPS with money to the Senate, which I agree with totally. I further agree with him on the Affirmative Action Fund. I have now changed my mind because we have amended the CDF Act and now it is in line with the Constitution. However, people come to Parliament to make laws and not to get money to fuel vehicles to do the job they have been employed to do. Why should people be given other cars when all of us were given grants to buy vehicles? Much as Hon. Jakoyo is always on the opposite side with me, today he has really spoken the truth.

However, there is an element that we really need to take responsibility for. In the Budget-making process, Parliament is, but a conveyor belt, not because anybody made us so. We passed a regulation brought by a Committee of this House which we thought should protect the independence and role of Parliament in the Budget-making process. The Committee on Delegated Legislation agreed that we cannot move more than 1 per cent of a Vote to another Vote. So, even if I want to agree with Hon. Jakoyo, my hands are tied by a regulation that was passed by this House. There are some things that we do assuming that we are helping the Government of the day, but what we are doing is destroying institutions. These regulations must be amended. We are not doing the Government of the day a service by not allowing us to change these votes.

Let me give you an example. Cabinet Secretaries (CSs) are overexcited about new projects. They do not want to hear anything about a pending project. It means people have already taken their loot in the pending project. So, they need new projects. They are never

willing to inject money to finish projects or pay pending bills. Those are the things that we need to look at as Committees and you ordered us to do monitoring and evaluation. When we do monitoring and evaluation, we go to see some of these stalled projects and we say that when we come to the budgeting process, we will amend the Budget to ensure that such projects are funded. But in this new framework, we cannot change anything. So, what we will continue with are the new projects that the Executive is excited about.

Whereas we can criticise what others have done, the National Treasury brought proposed regulations and it was our business to say no to the limitation that is unconstitutional. Now that we know it is a problem, I urge the Minority Party Whip, who is in the House, and I will talk to the Whip on our side, to act, so that we can rectify these mistakes. Those of us on the Majority Party side, you are not doing the Government a favour. You are just letting loopholes for pilferage of public funds to continue.

The other issue I would want to note is that the BPS making process is not following the PFM Act. We need to see the money assigned to specific projects.

Without that assignment, we cannot be sure whether those projects meet the policy directions that are in place. Now that my brother, Hon. Lelelit is not here, I need to bring to the attention of the House that we have been with this Constitution for six years. We have not come up with regulations for disbursement of the Equalisation Fund. Our term is coming to an end before we clean up the system.

Since I represent the urban pastoralist and an urban marginalised group, I would like to ask the PPG to follow up this matter to its conclusion. I would have said something about the money that has been given to the Senate, but Hon. Jakoyo has done a good job in explaining it.

Hon. Speaker, the bigger picture of the issue of division of revenue is that it reduces the flexibility of what Government can do for its people in that we are giving over 30 per cent to the counties in amounts that are so huge, yet we are not allocating those resources to specific projects. This is resulting in our counties over employing. In fact, the kind of salaries that some county governments pay their employees compared to salaries paid to people holding similar positions in the national Government are three times more. I strongly support the idea of ensuring that money going to county governments for devolved activities should be earmarked for specific activities especially in the health sector.

On issues under my Committee, for the last two financial years, we have been requesting for money intended for construction of dams under the NYS to be taken to the Ministry of Environment, Water and Natural Resources. The NYS is only present in 69 constituencies. Water Services Board and Regional Development Authorities are everywhere. The component that is within the NYS Budget needs to be transferred to the right Ministry, which is not only in charge of quality assurance, but also have function as their target in the Medium-Term Framework (MTF) and Vision 2030. I know the Member for Narok and incoming governor of Narok, Hon. ole Ntutu, will tell you that his people are victims of human-wildlife conflict and they are crying for compensation. The current claims stand at Kshs4 billion, but nothing has been factored into this Budget for that purposes. Instead, money has been provided for many new projects. There is nothing we can do given that our hands are tied.

As I said earlier, one of the things that are very frustrating about the conveyance belt that we are calling the Budget-making process is that the BPS by the CS, National Treasury, talks about nice sounding things like income generation and spurring economic developments by promoting industries, but they do not provide funds for those activities. As a Committee, we

have spotted some opportunities. If the Government invests in certain areas, they reap more in terms of employment and raise more revenues. An example is the Ministry of Mining. When the Ministry was formed, Kenya was earning a paltry Kshs25 million per year from mining revenues. The Government now earns Kshs1.8 billion a year from the mining in Kwale and other parts of the country. We need to give attention to that field. The Cabinet Secretary for Mining has been coming here and begging us to give them Kshs6 billion so that they can do a geo-physical survey of our natural resources yet, they cannot absorb the money. They need only Kshs2 billion a year. We were unable to give them Kshs2 billion to carry out a survey to establish the resources that we have, so that we can generate revenue from the sector. Why should one say that we put money where we are going to generate resources? This is a lot of English with no output.

A Committee of this House went to China to look at the issue of bamboo production. In the Financial Year 2013/2014, the Ministry of Environment, Water and Natural Resource asked for Ksh5 billion to develop bamboo. We laughed at them because we did not know what they were talking about. When we went to China, we realised what they were talking about. There is a county in China with only 7,000 acres of bamboo, but it is earning UD\$18 billion a year. Kenya's natural bamboo covers 135,000 acres. We are not investing in that natural resource to be able to reap revenue out of it. We are busy importing toothpicks made of bamboo from china when our bamboo rots in the fields.

Hon. Speaker: Hon. Members, I am happy the Chairs of Committees are here. Looking at the Report on the recommendations particularly with regard to the BPS and the Medium-Term Debt Strategy Paper, one of the paragraphs after the expenditure ceilings says at the tail end, that:-

“However, a number of projects initiated have either stalled or remain incomplete and have no direct link with the BPS or the Annual Estimates. In this regard, the Committee recommends that no new projects should be introduced after the adoption of the BPS (which is this Paper) and that the Annual Estimates that shall be laid in the House sometime in April must include a detailed list of projects that are reconcilable with Development Estimates for 2016/2017”.

As a House, we also have a responsibility to ensure that when the Annual Estimates are tabled here, they reflect these recommendations, assuming that you will adopt the recommendations. We have a responsibility. If they do not, then they are in violation of the House resolution. So, you still have some teeth even if they appear a little un-grown, Hon. Amina.

Next is Hon. Silverse Anami.

Hon. Anami: Thank you, Hon. Speaker. I have looked at this document and considered the Motion with a lot of interest. The greatest concern here is the way we close our eyes to stalled projects. We have very many stalled projects everywhere. Almost every Ministry and department is hosting stalled projects. If these stalled projects were completed, they would help to change the poverty situation in the country. It would save us a lot of resources. If we continue to initiate projects and abandon them, we will continue to experience a lot of wastage. We will require more and more resources to start other projects, which will eventually stall as well.

In this BPS, we need to firm up the need for a comprehensive detailing and mapping out of stalled projects, so that we can prioritise and have them completed, so that we can benefit from them. One of the areas of concern is empowerment of the youth and our children in

schools. The Constitution of Kenya talks of free and compulsory education. In this BPS, I do not see any strategic approach towards achieving the objective of giving free and compulsory education. No resources have been allocated for educational infrastructure. How can we realise this free and compulsory education if we are not allocating sufficient funds for recruitment and promotion of teachers? When there is lack of teachers in schools, the option is for parents to employ teachers, who are usually not qualified. They will be idlers who are ready for temporary employment. They are not committed and that is a waiting period for them. Our children do not get quality education. At the end of the day, there is increased crime. So, we spend more money in employing policemen and in managing crime. Why can we not decide now that we are going to be loyal to this constitutional provision for free and compulsory education, so that we do not have children being sent away from school?

This is a good document. It is an opportunity for us to give guidance and oversee what is happening in our countryside. If we want to have an enlightened society, we should seize the opportunity to provide sufficient funds, once and for all, for employment of teachers and then our children can stay in school. When children stay in school, the relationship between the children and teachers is enhanced and they will obviously do better. That way, we will produce better citizens who care about the welfare of each other and the future of our country.

This Budget Policy Statement does not pay attention to revenue collection. Revenue collection is going down. Now we have county governments. How do county governments perform their role of revenue collection? There is a lot of wastage. Every programme in revenue collection has been politicised to the extent that people are exempted from paying tax, so that a few members of the county assembly (MCAs) or officials in the county governments can enrich themselves. The Budget Policy Statement must be comprehensive. We must address the issue of revenue collection. The Kenya Revenue Authority (KRA) needs to explain why their collection of revenue has gone down. We need to seize the opportunity of this Budget Policy Statement to demand sufficient collection of revenue from KRA. We have concerns about people who are not paying taxes.

Colleagues have already talked about pending bills. I agree with them on that one. There is also the issue about our natural resources. Our country is lucky to have a diversity of communities with a lot of attributes associated with them. We need to invest a lot of money in the culture and sports sectors. Every time, you will hear that we do not have sufficient funds in these areas. These are areas where we could get a lot of opportunities for entrepreneurship. We have great and talented musicians. Why do we get such products from other countries when we have an opportunity to produce even more?

The balance between recurrent and development funding is skewed to the extent that we have more money projected for Recurrent Expenditure and less projected for Development Expenditure. We need to change this imbalance, so that we have more money provided for development activities than for recurrent activities. The issue of getting money without earning it is not good. That is what promotes corruption. The poverty amongst our elderly people is wanting to the extent that the Budget Policy Statement has set aside funds for the elderly people. But this is not uniform. Only a few elderly people are provided with the stipend. A majority of them are not getting it. We need to come up with a policy where all deserving elderly people are given the stipend. The stipend is skewed. There is no equity at all.

We have committed ourselves in some programmes. We have an obligation, as a country, to participate in these programmes and partner with other governments, for example, in

Olympics. We should be proactive in foreseeing the resources that we need in such areas. We cannot have a Statement which says that we will cross that bridge when we get there. We already know that we are going to have the Olympics and we should plan for it.

With those few remarks, I support the Budget Policy Statement.

Hon. Gethenji: Thank you, Hon. Speaker. I rise to support the Budget Policy Statement (BPS) and to congratulate my colleagues, particularly the Chairperson of the Liaison Committee, all the Chairs and Members of the various Committees for the work they have put into this Report.

Lamentation has been made that Parliament seems to be engaging in an exercise in futility. This has been an accusation for the last three or four years when this Parliament has been charged with the responsibility of making the Budget. There needs to be some sort of education for Members of Parliament on the flexibility of the sector ceilings and the movement of funds between votes, so that we can be aware of the limitations of Parliament as the Estimates come from the Treasury and as the Budget Policy Statement also comes from the Treasury and the various line Ministries. It is the feeling of many Members, including many Chairpersons of Committees, that when they are presented with the BPS, there is very little room for them to make amendments or adjustments, either upwards or downwards, with regard to programmes that they may feel have been justifiably presented to them for additional funding, that during their oversight role they have identified deficiencies.

I will give you an example. The Departmental Committee on Defence and Foreign Relations finds challenges in the development part of the Budget, particularly the Ministry of Foreign Affairs and even the Ministry of Defence. For Recurrent Expenditure that the Ministry of Foreign Affairs has approved in their Budget, the National Treasury is having serious challenges in meeting the Exchequer requirements for approved Budgets. We are challenged in the next Budget cycle, when the Development Vote, which has been passed in the previous year has not been funded and now reappears in the next financial year. This area needs to be addressed carefully because it is leading to despondency amongst Members, who feel that we are not doing anything of significance. We have been made to appreciate that when we make a decision on additional funding or removal of funding for particular programmes in the Estimates or even in the policy itself, this is going to be adopted by the National Treasury and implemented down to the line Ministry.

I need to stress the issue of the Exchequer and development programmes for foreign affairs because the Cabinet Secretary for the National Treasury is listening and this is an issue that we have taken up directly with the Treasury.

The Exchequer requirements for funded budgets for the last financial year must be met because it is negatively affecting the national image of Kenya in the countries that we are represented. It also affects the good work that the Ministry of Foreign Affairs and the Executive is doing in popularising Kenya as an investment, business and tourist destination. Our chanceries and embassies are struggling in the countries in which ambassadors are representing us.

Hon. Speaker, I wish to speak to the matter of defence and defence modernisation. Naturally, I am sensitive to national security considerations, but everybody is aware that this country faces significant threats because of the neighbourhood in which we sit. The challenges we have had in the neighbourhood with Somalia, *Al Shabaab*, Operation Linda Nchi and subsequent deployment in AMISOM leaves us in a position where we feel that we must have the requisite military posture to defend our national interests and our growing economy. In the

Departmental Committee on Defence and Foreign Relations, we had made a provision for support of modernisation of the Ministry of Defence. We would wish and have made a recommendation that additional funding be made to the Ministry of Defence through the Estimates and additional programmes to enable it engage and embark aggressively in a strong modernisation programme that will allow us to meet the contemporary threats we are facing from the estimated warfare from the *Al Shabaab* and challenges we have faced in Somalia and our country.

I would like to mention something that was raised by the sometimes cantankerous, loud and wayward logicless thinking of my good brother, Hon. Chris Wamalwa. He suggested that the Departmental Committee on Defence and Foreign Relations did not adopt the Report presented to the Liaison Committee. That is the farthest thing from the truth. In fact, Hon. Wamalwa appended his signature to the adopted Report. For him to come to the Floor of the House to level such wild and baseless accusations is irresponsible, dishonest and it is in keeping with his character and nature in conducting business in this House.

As we move forward to the Finance Bill and the Budget-making process, I wish we could have a very rigorous interrogation of the Budget and Estimates brought to this House in keeping with the previous years' Budgets passed and a proper catalogue of programmes undertaken under the last Budget and the ones being presented for the current financial year. This is so that we compare and contrast to see the programmes that have been funded, the ones that are underway and what has not been started. This is an area with overlap, leakage and duplication of programmes.

With those remarks, I beg to support.

Hon. Speaker: Hon. Members, it is fair that we congratulate our Liaison Committee because of that recommendation. I would like to reiterate what the Chairman of the Departmental Committee on Defence and Foreign Relations has said. When Estimates will be tabled here, I would like to urge each one of you to engage somebody to help you, for those who are not savvy in certain fields, to see whether the Estimates will be funding the projects as recommended in this Budget Policy Statement (BPS). That is when your role will be realised. The law says that by passing this BPS, we are telling the National Treasury that whatever you will bring to the House by way of Estimates must be in tandem with the BPS. If it will not be, the House will then amend it to be in tune with this BPS. Hon. Mwadeghu.

Hon. Mwadeghu: Mhe. Spika, nashukuru kwa nafasi hii umenipatia nitoe mchango wangu kulingana na Ripoti hii ambayo tumepatiwa ili kueleza mwelekeo wa makadirio ambayo yatakuja mwaka wa 2016. Mwelekeo huu umepeanwa na Kamati ya Ratiba ambayo imeongozwa na Naibu Spika, Mhe. Laboso. La kushangaza ni kuwa wenyeviti wa Kamati hizi hivi wangukuwa mstari wa mbele kuhakikisha kuwa wanachangia kikamilifu kutetea Ripoti hii ili nasi tuwaunge mkono. Wakati mwingine mambo kama haya yanafadhaisha kwani ingekuwa bora zaidi wao wawe kipau mbele.

Naomba niwapongeze kwa kazi hii njema ambayo wameifanya. Wakati mwingine jambo linaweza kutokea na ukaliona labda si la faida, lakini labda ile shida iliyotokea na Kamati ya Bajeti na Makadirio ambayo ilitufanya twende kwenye hii Kamati ya Ratiba, naona matunda yake. Huenda ikawa Mungu alituongoza mambo kama haya yatokee ili tupate matunda haya. Nina imani tutafikia kiwango tunachotarajia kufika.

Mhe. Spika, nina machache ambayo ningependa niangazie nikianza na Jopo la Ardhi. Jopo hili la Ardhi limepewa majukumu ya kuhakikisha kuwa kesi zote ambazo bado

hazijakamilishwa zimekamilishwa na vipande vya ardhi ambavyo vina utata vimeratibiwa. Zaidi ya hivyo, tunafaa kuhakikisha kuwa majukumu ya Jopo hili yametimizwa kabla muda wao haujaisha. Nashukuru Kamati ya Ardhi kwa kuondoa yale mapendekezo ambayo walikuwa nayo ya kubadilisha fedha ambazo zilikuwa zimepatiwa kitengo hiki kwa sababu imebainika wazi kuwa mara nyingi, kitengo hiki kinanyimwa fedha ndio maana kinashindwa kutekeleza wajibu wake.

Vile Mhe. Amina amesema alivyokuwa akichangia, naomba nimuunge mkono kwa dhati alivyosema kuwa katika nchi hii ya Kenya, madini yameanza kuleta faida na kuchangia katika kuzalisha fedha ambazo zinahitajika nchini. Lakini ni vizuri tuangalie fedha ambazo Wizara zinazohusika na madini zinapewa. Wakati mwingine waliomba shilingi bilioni nne na wakapewa chini ya bilioni moja. Wakati huu, tunaomba angalau wapewe bilioni mbili lakini pia hilo linaleta shida. Wakati umefika nchi hii ijue rasilimali yake ambayo iko chini ya ardhi. Ukiuliza Mkenya kiasi cha madini ambacho kipo chini ya ardhi, hawezi kusema kwa sababu vifaa ambavyo vinahitajika kutupatia utaratibu wa kujua kiasi cha mali chini ya ardhi havijanunuliwa. Nchi hii inaelekea wapi? Iwapo tunajua tuna rasilimali na madini, kwa nini tungojee watu watoke nje, waje na vifaa vyao na kupima na kujua kiasi cha madini chini ya ardhi na waanze kuyachimbua wakati nchi imenyamaza? Wakati umefika tuhakikishe kuwa vitengo ambavyo vinaweza kuzalisha fedha nchi hii vimepewa pesa ya kutosha. Madini yapatiwe vifaa ambavyo vinafaa kupewa watu ambao wanavihitaji na upimaji uwe ni wa kutosha. Kila mtu ambaye anataka kuingia katika sekta hii ya madini apewe nafasi ili kutoa mchango wake wa kuzalisha mali.

Ningependa kuongea kuhusu suala la maji. Kama tunavyojua, wakati wa ugatuzi, sekta ya maji imegatuliwa lakini tuna Wizara ya Maji. Vile tujuavyo, katika Bunge la Kumi, tulichukua mkopo kutoka China wa kutengeneza bomba la pili kutoka Mzima kuenda Mombasa. Nini imefanyika na hizo fedha?

Wenzangu ambao tulikuwa nao katika Bunge la Kumi tukipitisha huo mkopo, na sote tulikuwa hapa wakati huo, Waziri alikuwa Mhe. Charity Ngilu. Alikuwa hapa akatueleza wazi wazi kuwa fedha hizo za kwanza zingetumiwa kurekebisha bomba na katika awamu ya pili ya kuleta bomba la pili kutoka Mzima kwenda Mombasa watu wa Taita ambao wako hapo katikati wawe na maji ya kutosha. Watu wa Voi, Mbololo, Kishushe na Mwakitau wawe na maji ya kutosha. Nini kimetokea? Fedha hizo zijui nazo pia zimeingia katika lile kapu ambalo tunalijua siku hizi la kuingia lakini kutoka ni shida.

Mhe. Spika, naomba wakati utaratibu utakuwa umeanza wa kuhakikisha kuwa makadirio ya fedha za mwaka 2016/2017, tuambiwe fedha hizo ziko wapi na tuambiwe zimefanya nini na kwa nini hazijatumiwa.

Jambo lingine ambalo ningependa kuangazia ambalo limezungumziwa na wenzangu ni kuhusu fedha za wazee. Wazee wamelalamika. Tunasema tunaongeza hizi fedha lakini nikiangalia hapa, hazijaongezwa. Zimebanwa. Tunasema kuwa zitakuja kuongezwa mwaka mwingine. Ni nini kimetokea na hawa wazee wetu bado nao wamejitoa mhanga kuhakikisha kuwa taifa linakuwa? Wamejibidiisha vile wawezavyo kushikilia taifa lakini tukifika wakati wa kuhakikisha wamepata kitu angalau kabla maisha yao hayajafika kikomo, tunawanyima fedha.

Ni ombi langu kuwa wakati makadirio yatakuwa yamefikishwa hapa, fedha ambazo zinahitajika ziwekwa ndani sawa sawa. Fedha za walimu zimewekwa kama fedheha. Kila mtu amepiga kelele kuhusu walimu. Wakati umefika katika nchi hii tuangalie haya makadirio kuwa yamewekwa sawa sawa na walimu wamepewa haki yao.

Nimekubaliana na wewe. Umesema kuwa katika orodha yetu ya leo, Orodha No.13, tunatakiwa tuangalie sheria hii ambayo inatupatia viwango na vipimo ambavyo hatuwezi kupitisha.

Hon. Nuh: On a point of order, Hon. Speaker.

Hon. Speaker: There is an intervention from Hon. Junet. What is your intervention?

Hon. Nuh: Hon. Speaker, I was asking whether the Mover can be called upon to reply.

(Loud consultations)

This is because there is a lot repetition yet this is one of the best BPS that is denying people money for projects.

Hon. Speaker: Let the Minority Chief Whip finish and then we will maybe hear one or two more.

Hon. Mwaughu: Mhe. Spika, ombi la Mhe. Junet ni la muhimu. Ni vyema tumalize mjadala huu kwa sababu muda wake ni leo. Kama mnaomba niweke tamati ili wenzangu wapate nafasi, ni radhi niweke tamati.

Kwa haya mengi, naunga mkono.

Hon. (Eng.) Mahamud: Thank you, Hon. Speaker for giving me this opportunity to contribute to this Motion on the Report of the Liaison Committee on the BPS and the Debt Management Strategy for the year 2016/17 in the Medium-Term.

Hon. Korir: On a point of order, Hon. Speaker.

Hon. Speaker: There is intervention from Wesley Korir. You have pressed the intervention button.

Hon. Korir: Hon. Speaker, I wanted to contribute.

Hon. Speaker: Then you pressed the wrong button. That one is for intervention. Proceed.

Hon. (Eng.) Mahamud: Hon. Speaker, let me congratulate the Liaison Committee for a job well done. They got into this business at a very short notice, but being Chairs of various Committees, they are well versed with the process. They did a good job and I congratulate them.

The BPS is just the word “policy”. What we have been given so far is only guidelines and how the Government expects to fund the Budget for the Financial Year 2016/2017. It actually shows the programmes in various State Departments and agencies, but you will see that the targeted revenue for this year is Kshs1.5 trillion as opposed to Kshs1.36 trillion last year. It is a very marginal increase as you can see.

It has been mentioned in the Report of the Committee that the revenue projections have not been met. In fact, so far, in the Mid-Term, by December there was a drop from the targeted figure by 11.52 per cent. That means that at the end of June, we will be off target by about 22 per cent. Our National Treasury is sometimes too ambitious in its Budget proposals. When you make proposals and programmes are identified for funding and the money is not realised in the end, it leaves a lot of gaps in terms of project implementation.

From the summaries of the various Ministries, you will realise that there is no increment in absolute terms from the Budget for 2015/2016 and 2016/2017 Financial Years. There is very little increment. It means you cannot fund new projects. Of course, there is a lot of clamour for starting new projects. Many areas have had no projects funded for a long time although we have devolution and devolved governments are trying to do their best. But in terms of major projects,

which are along the pillars that have been put here by our National Treasury, especially infrastructure and energy, there are many gaps which need to be funded.

We have elections every five years and successive Governments come with policies and manifestos of what they want to do, but not forgetting that programmes which are funded through Government funding take time to materialise and the Government lives in perpetuity. You cannot abandon programmes that were started by previous Governments and pretend that you are going to start afresh. That is why we are getting a lot of difficulties. Many projects that have been highlighted by this administration have not been realised especially in terms of infrastructure. We are still doing projects that were identified during the Government of President Kibaki although continuing with them is helpful for this country.

It is said that our debt levels are very high. The Government has to borrow to finance its programmes that cannot be funded by its own funds. But we must be careful, so that we do not spend all our money on debt servicing at the expense of funding ongoing programmes. Sometimes, you see the Budget on paper, but the actual cash to Ministries is not disbursed in time. That is why you see projects are delayed. You will see a project that is costing 'X' amount of money funded in a trickling manner over the years and projects are not completed.

Hon. Speaker, on the current process of Budget-making, it is said that Parliament will take part. On paper, we are supposed to have a lot of say in that, but in reality, there is no difference in the way we make the Budget today and the way we used to when I was a young officer in the Government up to the time when I became an Accounting Officer. Ultimately, the National Treasury and Ministries make the Budget. We have just become a conveyer belt. As Parliament, we need to come up with a way of how we can have an impact on this process. The Executive has the mandate to look at what needs to be done in terms of programme making, but as the people's representatives, we must be able to say what the priorities are.

Although water provision is devolved function, major infrastructure projects have not been undertaken. A lot of gaps need to be filled. On infrastructure, urban transport is a nightmare. If you look at Nairobi today, you have to think twice before you decide to move from one point to another. A lot of work is being done. In the Departmental Committee on Transport, Public Works and Housing, we have said that we must deal with the urban rail transport, which will ease urban transport in this country.

I come from a region where when you talk of infrastructure, it is as if we live in the Stone Age period. Our roads are impassable. Our hope was in the programmes that the Government announced a few years ago. It was made clear that we would have a road going to Mandera. The single most important programme for us is the road. Indeed, we have no business being part of the Government if that road is not done. We urge the Government to do that road for us. I must congratulate the Government for the work they are doing in the railway sector.

Hon. Speaker: Hon. Junet, you are on intervention again. Do you want the Mover to reply?

Hon. (Eng.) Mahamud: Hon. Wamalwa, you have talked. That is very unfair of you, I have summarised. I support this Bill, but I am waiting for the estimates to come. This is only the blanket funding, when the actual estimates come, let us look at them with open eyes and make sure that the projects that are currently going on are finalised. We, as Parliamentarians, say what projects should be done in our area. I will not stop saying that projects in the North Eastern Region must be done, especially the road between Garissa and Mandera.

With those few remarks, I support.

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

Hon. Speaker: Let us have the Deputy Speaker.

Hon. (Dr.) Laboso: Hon. Members, I will just take a minute, so do not leave. I thank the Members for the contributions they have made to this Budget Policy Statement (BPS). I also thank the Liaison Committee. You know that all of them are Chairs of Committees and they have had a very difficult time trying to set up meetings for their own Committees. Hon. Members, most of you have agreed that we must find a way of getting rid of this issue of being a conveyor belt. We must try to do something to make sure that we make some changes when this BPS actually comes to Parliament.

I will highlight some of the most critical things that were mentioned by Members. When you look at page 29, you will find all the things that were really critical to the different Departmental Committees, but which are not prioritised. We have asked the National Treasury to make sure that they really look into these things. These are like equipping technical training institutes, the Kenya Medical Training College (KMTC) that trains personnel who operate medical equipment, and recruitment of teachers. At least, they have put something small for recruitment of teachers. However, we are asking for more. We need more teachers. We also asked them to start paying the retired teachers their pension, which they have started. There is also the National Employment Authority, which was in the Bill sponsored by Hon. Sakaja. This is a very important authority because we know there are high unemployment levels in the country right now. That is another area that we have told the National Treasury to look for funding so that we can have that authority up and running.

Hon. Members, I say thank you to all of you who have put an effort in getting this BPS out of Parliament so that we can move to the next stage.

With those remarks, I beg to reply.

(Question put and agreed to)

Hon. Speaker: That is the resolution of the House. As you know, in keeping with that same Act which you have been referring to, it should be transmitted to the National Treasury to incorporate your own resolutions in making the Budget estimates. Next Order!

BILLS

THE COMMUNITY LAND BILL

(Hon. A.B. Duale on 1.3.2016)

(Resumption of Debate interrupted on 3.3.2016 – Morning Sitting)

Hon. Speaker: Hon. Members, as we adjourned the House yesterday, a total of 46 members had contributed. I have indication that there still is a lot of interest in this Bill. The Member who was on the Floor is Hon. Mary Wambui, who has a balance of nine minutes.

Hon. (Ms.) Munene: Thank you, Hon. Speaker, for giving me this opportunity. I support this Community Land Bill. There are so many colonial villages where people still live. There are people who live in Majengo, Kiawara and Wetemere in Nyeri. They cannot do anything because they have not been given titles so that they can build their houses. We ask the Government to register their land as community land so that they are given title deeds. That way, somebody can build a small house for his or her family to live in. The way they are living now, their houses can catch fire anytime and identification cards and certificates of the children can be destroyed. They have no place to call home. In the past, there were many community lands but now there is no land anymore because there are so many grabbers. Even where land is remaining like near cattle dips, you can see members of county assemblies grabbing it and selling it yet it is community land. We want a law which will govern the community land so that our people do not suffer. People were born in Majengo and that is where they call home. They get married there and get children and yet they cannot call that place home. We want them to be helped. When this country experienced clashes, many people left their land and now they cannot go back and claim it. We want a law which is going to govern everybody in this country. Everyone has a reason to stay on their land. The victims of land clashes must go back to their land because they are entitled to it. We should not leave the law hanging for somebody to claim land that belongs to someone else. We want our Government to protect community land so that we can build more hospitals and schools for our children. Currently, we cannot build anything for the community because the land is grabbed. We are also telling the governors not to touch community land.

Hon. Speaker, we saw a place where a person built a house and the governor asked him to pay rates. They have not changed. That is not good. We want the law to cover those people so that they cannot lose their community land. These are cultural things. You are given some land by your parents. When a woman gets married, sometimes she can go back to her home. She is not supposed to be thrown out because she does not have land. This provision is contained in the Constitution of Kenya, 2010. Everybody is entitled to inherit everything. Boys cannot throw out their sisters so that they can have somewhere to stay.

Even in Nairobi County, in a place like Kibra, people need to be given title deeds for their community land. The Government can go and count the number of people who are there. Names of the homes which will be counted will be written as the owners of the community land. Even now, there are some families which cannot sell land because it is written that it is family land or property where nobody can sell or claim ownership.

It is good for our Government to remember those people who were born in Majengo or colonial villages so that they can be given land. We want to help our people in this country. There are so many people who suffered in this country. Some people went to fight in the forest and their lands were grabbed by their brothers who did not go to the forest. They do not have anywhere to stay. We want this country to remember those people who have done a lot of work for us to be where we are. It is good for them to be remembered. The Government can buy land for the landless people. We should allocate money to buy them land. It is good to remember those people who suffered. Their parents died in the forest and they do not have land. These are the people who stay in town. We better think about them.

Thank you, Hon. Speaker. May God bless this country.

Hon. Speaker: Hon. Kenneth Okoth.

Hon. Okoth: I contributed on the Community Land Bill yesterday.

Hon. Speaker: Hon. Sammy Mwaita.

Hon. Mwaita: Thank you, Hon. Speaker, for giving me the opportunity to contribute to this very important Bill.

I know that a number of Members have contributed to this Bill because it touches on land. This is supposed to have replaced the former trust land that was held in trust by the former local authorities like county councils, urban councils, municipalities and city councils. They used to own land on behalf of the community. They do not own land but they hold it on behalf of the community. So, this Bill is supposed to create and define the role of the communities. Community land is private land to the community for use by the communities, especially in areas where the land has not been registered. The residents living within the area where the community land is will jointly own the land, use it jointly for their own interest and those of their families and posterity.

This Bill is timely. It will safeguard ownership, particularly in pastoral areas. Most of Kenyans have not been registered where they have private titles. When this law is enacted, it will define how land can be acquired in those areas. The counties should be able to safeguard the interest of the communities. They should not just decide to give land to investors. I listened keenly yesterday and the previous day as Members contributed to this Bill. Some Members said that certain counties have advertised land for investors to come and take thousands of acres. They are not supposed to set aside land to give investors. If they are going to set aside land, they must involve the communities. Fortunately, in our Constitution, there is public participation. Before a county sets aside land, it must involve the communities. The communities must give their views. Clan and community elders must be involved so that they can say that the land was for a certain clan and family. Once they agree, that process moves forward.

For the last few years, counties have been saying that they want to give land to certain investors. Investors need big tracts of land like 1,000 or 2,000 acres. We heard what happened in Machakos County. This should not be the case. We should quickly enact this law so that when counties want to set aside land, they should follow the procedure that will be established, especially the regulations arising from this Bill. This Bill is timely as it sets aside areas for grazing and other public utilities. The conflicts that arise out of water points and grazing land will be handled within the community, taking into account their cultural practices, rights and what they do. Once that is done, land grabbing will be a thing of the past.

The role of the National Land Commission (NLC) will come in when need arises to acquire some land to be used in the public interest, in which case they will have to adhere to the provisions of the Land Act that we enacted in 2012. Land for such use should be acquired using the normal acquisition process. Since the land belongs to the community, it will never be available for use unless the community agrees.

With those remarks, I beg to support.

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

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

Hon. Temporary Deputy Speaker, counties had better move quickly to set up county land committees under the NLC so that each county can operationalise this law on land use. Certain communities might want to do subdivision so that they can give individual land titles. That can happen. It will only be done when the county national land committees have been set up. Before

then, this should not be allowed. As I said earlier, counties should not be allowed to utilise community land, thinking that it is available for public use.

As I said earlier, community land is private to the communities living there. Prior to the enactment of the Constitution of Kenya 2010, there was the Group Representatives Act, which used to govern the use and subdivision of group ranches. There were many group ranches in this country, particularly in ASAL areas. That will all be collapsed under this Bill and communities will live happily thereafter. Let me urge the Members of this House to quickly enact this Bill into law so that it can be operationalised as soon as possible. This is one of those laws which should have been enacted alongside the other land laws after the operationalisation of the Constitution.

The Bill is timely. I support it. It will take care of fragile ecosystems, water bodies and even forests because there are other forests which are national forests. There are forests which used to be trust land forests. For example, in Baringo County, where I come from, most of the forests are not national Government forest. They are under the Kenya Forest Service. They are under the county. So, when this law is enacted, it will define how community forests will be managed for the benefit of the community. If there are resources, trees, plantations and even traditional medicine from those forests, instead of being exploited by unscrupulous businessmen they should do so with the consent of the community.

For example, in my county we have sandalwood which is a very important natural tree found in Baringo and most of the semi-arid areas. When it is exported especially to China it is used to extract high value perfumes. Unfortunately, it has been exploited by businessmen. They cheat youth to cut these trees wantonly and then export them. When this law comes into operation such an important resource like sandalwood from Baringo will be used prudently for the benefit of the people of Baringo. So, I support this Bill and it should be enacted like yesterday so that the various land rights of the communities will be protected.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members we are still on the Community Land Bill. Let us have the Hon. Member for Wundanyi.

Hon. Mwachugu: Asante Mheshimiwa Naibu Spika wa Muda kwa muda huu ambao umenitunukia niweze kutoa mchango wangu kuhusu Mswada huu wa Ardhi ya Wenyeji. Kama tunavyojua wenyeji ni watu ambao wamekuwa mahali tangu miaka iliyopita na ardhi ambayo wanaikalia kulingana na vitengo vya sheria ni yao.

Shida iliyopo ni kuwa mpaka sasa tangu tupate Uhuru, ardhi hiyo imechukuliwa kiholela. Mtu yeyote ako huru kwenda kuikalia vile anayvotaka. Mapendekezo ya sheria hii inasema kuwa sheria hii ikipitishwa, ile ardhi ya wenyeji, wale watu wameenda wakakaa pahali hapo, wakijikusanya wawe kama kitengo kimoja, wanaweza kupatiwa hiyo ardhi iwe yao.

Wakati umefika watu waheshimiane na pia wakati umefika watu wasiwe wanafurukushana kwa ardhi kiholela. Hii ni kwa sababu kuna watu wamekaa kwa hiyo ardhi miaka nenda miaka rudi. Leo hii ukimwambia unamwondoa, ataenda wapi? Pale alipokaa kunabainika pale ni kwake. Hata hivyo, kuna sehemu nyingi hapa nchini ambazo ardhi za wenyewe zinatunika kiholela. Naomba nitoe mfano. Hivi sasa kuna upimaji wa mashamba unaendelea huko Taita Taveta sehemu za Njukini. Kuna ardhi inagawanya. Mpaka leo hatujaambiwa ni ardhi ya nani. Tunaambiwa ni ardhi imetolewa kwa familia, eka 2,000. Imetolewa na nani?

Katika vikao vyetu, katika Kamati ya Ardhi tumeomba tupatiwe orodha ya watu wote ambao wanatarajiwa kuhifadhiwa kwa hiyo ardhi. Ni akina nani? Ni wenyeji? Wametoka wapi?

Ama la sivyo ardhi kama hizi zinaweza kutumika vibaya hasa wakati huu wa kisiasa. Watu watoke sehemu zingine waje wapewe vipande vya ardhi na wale wamekaa sehemu hizo kwa miaka nenda miaka rudi wakanyimwa ardhi.

Nikisema hivi haimaanishi watu hawatakubaliwa waende kukaa kwa ardhi. La! Tunasema watu waangaliwe vile watakavyo kaa katika ardhi zao. Watu waangaliwe vile wale wamekaa katika ardhi watafaidishwa na hivyo vipande vya ardhi.

Tumeona dhuluma zimetendewa watu katika vipande vya ardhi ambavyo vilikuwa vyao. Tukiangalia kama sehemu ya Kaloleni Voi, ni jambo la aibu kuona vile mambo yako. Sheria hii ingekuwa imepitishwa hapo awali watu wa Kaloleni Voi hawangepatwa na dhiki ambayo inawapata hivi sasa. Walitoa ardhi wakiamini wameitoa kwa kiwanda cha Bata kijenge mtambo wa viatu. Baadaye Bata haikujenga lakini ilikuwa imepata stakabadhi za kumiliki ardhi hiyo. Iliamua iuze ardhi hiyo kwa mtu mwingine. Hivi sasa watu wa Kaloleni wanapata shida, na jambo hili linaleta dhiki.

Sheria hii ingekuwa imepitishwa tangu hapo awali ingekuwa mambo kama haya yanaepukwa na watu hawangezozana. Hii mizozo ambayo tunaiona hivi sasa ingekuwa haipo. Unakuta ardhi kama za Mwatate na Mwasima Mbuwa, mzungu yuko na ekari 30,000. Wenyeji wamekubali huyu bwana yuko na ekari 30,000. Kwa sababu hii sheria haikuwepo inaonekana waziwazi ametamba akaingia katika ardhi ya wananchi. Akiambiwa ipimwe, inaleta zogo kwa sababu hawataki ipimwe. Ukweli wa mambo ni kuwa kama itabainika waziwazi na Ripoti ya Bunge ambayo imekuja hapa ikasema ardhi hiyo ipimwe kwa sababu imeingia katika ardhi ya wananchi--- Wenyeji wakisema ardhi ipimwe na Kamati ya Bunge imesema ardhi ipimwe, unakuta watu wanazungushana kizungumkuti hawataki ipimwe.

Sheria hii ikipitishwa haya malumbano yote yataisha kwa sababu watu watajua haki zao za ardhi ziko wapi. Watu wataweza kuhifadhi ardhi yao na watu wataweza kujua wanalindwa na sheria kuhusu ardhi.

Sheria hii ikipitishwa itakuwa rahisi wale watu ambao wako katika sehemu fulani kujua rasilimali yao inaweza kupata malipo ya fidia kiasi fulani. La tusipofanya hivyo, kutakuwa na shida.

Mwenzangu amezungumzia misitu. Hii misitu ambayo ni ya wananchi, hivi sasa ilikuwa inatumika kiholela. Lakini sasa ikiwa ardhi hiyo ambayo ni ya wenyeji itarudishwa kwa wenyeji inamaanisha wenyeji watakuwa na mamlaka ya kuweza kusema: “Hii ni misitu yetu. Tutaipangia hivi na vile na tutaweza kuivuna kulingana na msimu huu na faida itakayopatikana itakuwa ni yetu”

Hivi sasa unakuta kwa sababu moja au nyingine wananchi ambao wanakaa sehemu hizo na maadamu hawana stakabadhi, ardhi hiyo imekuwa inashughulikiwa na serikali za kaunti. Tukiangalia ule ukora unaoendelea katika serikali za kaunti nyingi si ajabu utakuta wananchi ambao ni wenye kumiliki hiyo ardhi wananyanyaswa na wananyimwa haki zao. Mara nyingi unakuta wajane ambao wamekaa katika ardhi ambao wamepewa vipande hivyo kulingana na sheria za wenyeji, baadaye wanafurukishwa.

Hii ndiyo maana sheria hii ya Ardhi za Wenyeji ikipitishwa itakuwa imeokoa wenyeji kwa kiwango kikubwa kuliko vile hali ilivyo hivi sasa. Suala litakuwa: Serikali za kaunti zitakuwa na umuhimu gani kuhusu ardhi hii? Serikali za kaunti zitakuwa hazina mamlaka kwa vyovyote kuhusu ardhi ya wenyeji. Ardhi hii ikishapewa wenywe ni wao waamue kama wanataka kuitenga ama kutoa sehemu fulani ya ardhi hiyo waipatie kwa sababu fulani, labda ni kujenga shule, kiwanda au hospitali.

Hivi ilivyo, wale ambao wanaongoza kaunti wanaweza kuamka asubuhi wakasema: “Hapo tumeamua sehemu hiyo ya ardhi inachukuliwa na inafanyiwa hivi na vile” na wenyewe hawana habari wala fahamu. Hawajaulizwa ama kuombwa. Mara nyingi unakuta sheria hii tukiangalia vipengele kadha wa kadha, na tumevichunguza, moja ya matatizo ya sheria hii nikuhusu dhuluma ambazo zimetendwa hapo awali. Kwa kizungu zinaitwa *historical land injustices*. Tunaomba Mswada huu upitishwe na marekebisho, maanake kuna marekebisho ambayo tunahitaji kuyaleta, ili wale watu ambao wamedhulumiwa kwa ardhi zao wapate haki. Ile dhuluma nazungumzia ni dhuluma kama ile imefanyiwa watu wa Taita Taveta; ardhi yao ikachukuliwa ikafanyiwa mbuga za wanyama, tena wakapokonywa ile sehemu nyingine iliyobaki. Kwa mfano, sehemu kutoka Mackinnon Road hadi Voi chini yote imeenda kwa KWS; mwaka wa 2009 ndio walipatiwa stakabadhi. Waliomba ruhusa kwa nani? Katika sehemu za Kishushe mpaka mto Tsavo, wamekuja wakachukua hiyo ardhi na si yao. Ndio maana tunaomba Mswada huu upitishwe, tukiufanyie marekebisho ili tuhakikishe kwamba ardhi za wenyeji zinalindwa kikamilifu na hazitumiwi kiholela bila mpangilio. Wale ambao wamekuwa huko ndani wapatiwe nafasi yao ya kuishi na kupata stakabadhi za kumiliki sehemu hizo.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Isaac Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this debate. From the word go, I want to pick it up from where my coalition whip has just left. The challenge of the Community Land Bill is that of clashing of cultures. On one hand you have a community that owns a piece of land from ancestry, but on the other hand you have a capitalist system coming in, where land is highly valued in terms of monetary gain. You will find a lot of these things happening, especially in the Kajiado area where community land is being subdivided and people are buying modern-day elements of conspicuous consumption. These things are unsustainable. If you subdivide trust land, then people end up getting into real estate or buying big cars like Prados and then that car requires maintenance.

There is a serious juxtaposition of a conflict of value systems. For example, how do you ensure that in an individual contractual society, you have people who are entrusted to be the trustees of community land in terms of even its own usability and management? There is a great challenge. This is actually at play when you look at the Government-sponsored Bill and the Orengo-sponsored Bill. That kind of ideological difference is there. So, as we deliberate on this Bill, we have to ask ourselves whether we are putting proper safeguards between communities who hold prime land and the other actors. How do we ensure that the communities are not exploited? How do we ensure that they get value for money? How do we ensure that some people do not just connive, because they have been entrusted to be leaders of communities, to sell the community land? A very good example, in fact without even going further, is the Ng’ati issue in Naivasha where some people, who were illegally elected into office as directors, decided to connive with a Government agency, KenGen, and many regimes have not been able to solve the issue. To what extent, therefore, can the community leaders or community landowners go to petition our formal structures to ensure that they get back their land rights?

This Bill, in my opinion, does not seem to address the issue. There is always a tendency in this House that when we are passing a Bill, we tend to protect the State more than the citizen and yet the State is a creature of the citizenry. We need to ensure that when we look at various clauses, we have proper safeguards so that communities can continue to own land communally. That is becoming a foreign concept and many properties are going to be lost. In fact, when you look further, leave alone community land, when you have a place where people have come

together and bought land collectively and then they have subdivide that land, the space left for social amenities like schools, hospitals and roads are encroached. So, how do you also ensure transfer from the beneficial community to those who may want to develop such social amenities without corruption? Most of the land that we speak of, even in terms of expanding Nairobi, growing our cities and moving forward our agricultural system is largely within communities. We need to ensure that this Bill also speaks to the issue of civic education so that we can educate our communities in terms of how they can manage their land collectively.

I am also drawn to the issue of people managing forests, like in the case of many communities in Lamu. I am also drawn to the fact that people do not have title deeds. Does it mean that somebody who acquires a piece of paper is, therefore, able to remove communities that had their ancestry there? Can we as a Parliament create, as a form of social justice, a way in which validity of such documents can be questioned based on history? Is there a way we can create a procedure, either in the mother law or through regulations, to ensure that communities are not deprived of their possessions? This will ensure that we do not have absentee landlords.

The other issue that also comes out is renewal of leases of community land. We need to address whether community land needs to be under leasehold or freehold. This is because one of the ways in which communities are being deprived of their land is through renewal of their leases. We need to ensure that this law speaks to that so that we do not also end up with communities who have invested in some property but end up losing.

The other thing we also need to look at is land ownership by our primary schools. It is only recently that schools are acquiring titles. That is to mean a lot of this land, if it were to be grabbed or subdivided by the Boards of Management or the head teachers of those schools or any other powerful actor within that locality, the communities may not have some form of recourse. That speaks to our history; it speaks to the fact before land was being given verbally. A clear example is Kenyatta University (KU). The land in Kamae was given to people by the first President. Now, Swazuri has said the land belongs to KU. How do you get justice for such an issue? On one hand there is an actor who was the President, and on the other hand there is a Government institution. How do you cure such anomaly that is not a function of the community? It is not the community itself that has generated itself to be in such a precarious situation.

The other issue that also needs to be clearly addressed by this Bill is that of land acreage. What is the minimum land acreage that a community can hold? Sometimes you cannot hold development and say that because a community owns a piece of land for pasture within a developing environment, it should continue to be like that because the change of land use also comes into place. Those are issues we need to address to ensure that there is maximum use of land. We know that land matters are emotive. A majority of us buy plots measuring about an eighth of an acre. Nobody can silence you in this town, but there are people who are just holding land for speculation purposes. That also leads to another issue. What about the issue of community land for personal gain in terms of collateral when seeking for capital for investment so that when members of the community want to use that land for their own benefit, they are informed about the caveat? Maybe they cannot take loans because somebody has already used the title to do so. There are so many grey areas in this Bill. Even the very act of defining 'community land' is tricky. How is a community defined? Are we talking about ethnicity? Are we talking about a small society of people who have come together to buy a piece of land? How do you protect people from being defrauded of their share certificates and their land being sold to

other people? I believe that this Parliament will rise to the occasion and protect the common *mwananchi* from exploitation.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Lagdera, Hon. Mohamed Shidiye.

Hon. Shidiye: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. At the outset, I would like to support the Community Land Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I know that you are waiting for your microphone to show red.

Hon. Shidiye: Am I audible?

Hon. Members: We can hear you.

Hon. Shidiye: Thank you.

At the outset, I would like to support this Bill. The biggest injustice in this country revolves around land. In this country, some people own huge chunks of land, some people own small pieces of land, while others are completely landless. The historical injustice in this country revolves around land. Before we talk about Kenya or communities, we must talk about land. We should start with land and then talk about communities. If we did not have land, we would not have communities. In this country, we have big communities and small communities, including pastoral communities, farmers, fishermen, agriculturalists and many other communities. Ideally, land is supposed to be owned by government. By “government”, I mean the people of Kenya. We have not added value to our land. In high yield areas, especially agricultural yield, we have subdivided the land into so small portions that it is no longer economically viable. The land is owned by the communities and individuals. They have title deeds but because of inheritance and the use of that land for generations, its agricultural potential has been dwindling.

Historical injustices in this country were started by the colonialists. If you go to Laikipia today, you will realize that Europeans still own huge tracts of land that is idle, to the detriment of the black population. This Bill must deal with the issue of absentee landlords – people who have large tracts of land that are idle. The time has come for the Government to revoke titles for such land parcels and revert back their ownership to the communities. This piece of paper called “title deed” has caused mayhem and havoc to some families in this country. You find people going to places like Kibwezi, grab pieces of land measuring 50,000 acres and acquire a title deed. There are cases in Lamu where people own about 4000 acres of land. The owner does not even know where Lamu is. He does not invest there, but he owns that piece of paper for speculation purposes. He will eventually subdivide the land into plots and ranches and make money. He does not stay in Lamu. He does not belong there. Such injustices are dangerous. That is why we have clashes in Kenya. That is why you find people fighting. They fight for their rights – land that has been grabbed by foreigners and other people who do not stay in those areas.

The time has come for us to turn such challenges into opportunities. I am sure that this Bill and the land boards will address these issues. If somebody wants to own land in a certain place, he must come with a proposal. Proposals must be practical because people pretend to have good plans aimed at improving the standards of living of the community but it eventually turns out that they just want to have the title deed and use it as collateral to secure a bank loan for other developments.

Secondly, it is important that we reduce the size of land occupied by wild animals. Our population is growing. In this country, wild animals have more rights than human beings. Animals are in many gazetted game parks. You cannot venture into those game parks in the name of tourism and earn foreign exchange. We have forgotten our people. If you go to any region today, you will find that the land occupied by wild animals, which is gazetted as national parks and game reserves, is about one-third of this country. The time has come for us to de-gazette some of those game parks and game reserves.

Hon. Temporary Deputy Speaker, I have gone to Ethiopia and other countries, where land is owned at the pleasure of government. If land is not used for the intended purpose, the Government and the people of Kenya should have the right to revoke its title deed. That title deed is not so sacred or more important than the community. Clashes happen in this country because of land. People fight because of land. We have cattle rustling and boundary problems because of land. Those things can be resolved if communities are engaged and involved in giving out land. If communities are not involved, it means that the people who acquired land did so corruptly. At the end of the day, it is the community that loses.

We have had cases of school land, hospital land and children's playgrounds being grabbed by private developers. Such issues arise everyday in every county. It is not in the community's interest that land set aside for public utility is grabbed. Some commercial developers want to take over school land and sell it to the highest bidder. It is very unfortunate that we have allowed land grabbing to go on for so long. When you look at the way land is being used for speculation in this country, you will be shocked.

With regard to the Standard Gauge Railway (SGR) that is being developed from Mombasa all the way to South Sudan, people have been grabbing land and strategically placing themselves in the area where that railway line will pass. They have been grabbing those lands hoping that they will be compensated. They do not own the land, the land is owned by communities. Those communities are feeling the pinch. Somebody grabs land and obtains a title deed just because he knows that the railway line is going to pass through that area in the next one or two years. They have been making a killing yet they do not stay in that land. These historic injustices must be addressed through this Community Land Bill.

The other issue which I want to talk about is on expired land leases.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members we must bring this debate to an end at some point. This is the fourth sitting that we are debating this Motion. I direct that before we give the Mover a chance to reply, we hear contributions from three Members as follows, the Hon. Members for Njoro, Samburu and Mandera, in that order. You do not need to repeat yourselves. Take the shortest time possible and make your point. After that we will call the Mover to reply. Let us have the Hon. Member for Njoro.

Hon. J.K. Ng'ang'a: Thank you, Hon. Temporary Deputy Speaker. I support the Bill. It was brought to this House when it was too late to salvage anything. Going back in history, a lot of lives have been lost because of land disputes. A lot of blood has been shed. A lot of property has been destroyed just because of land disputes. There is a lot of animosity among many Kenyan communities living together and neighbouring each other. It is not too late to salvage the situation. But if those who were in the previous Parliament had foresight and loved this nation, maybe all that destruction would not have occurred.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us observe some decorum in the House, Hon. Kang'ata and Hon. Mwaura.

Hon. J.K. Ng'ang'a: Hon. Temporary Deputy Speaker, as we consider community land and the welfare of indigenous tribes, we should also remember that there are those areas which we should preserve for the future generations. We should preserve them generously. The national Government should come out clearly and state these specific areas. A lot of forests in our country have been destroyed. Currently, we are crying because of starvation. As a county, we are not supposed to import food to feed this nation. Instead, we are supposed to be exporters. But we destroyed all our forests and that is why many parts of Kenya have become semi-arid.

Last time we debated and agreed that the Government should conserve the few remaining forests. Any person who encroaches on these forests should face the law. We should also look at other areas. There are fertile land areas in our country and we should preserve them for food production. Why should we cry and ask for foreign aid in form of food yet we have cultivatable land in our country? Why can we not manage and protect it? A very good example I can give is of land that is somewhere along Thika Road. There is a very big plantation there, although people have been claiming the ownership. We should try to conserve such areas which can be saved for farming.

We have plenty of water from Mt. Kenya and Ngong Hills going down to the Indian Ocean. Why should people in Ukambani and the coastal region cry because of starvation? Why should they rely on food aid? It pains me a lot when we talk of things which we, as Members of Parliament, or the leaders of that particular area ought to have handled so that we can save our people from the kind of suffering they have been subjected to since time immemorial.

I remember where I come from which is why I speak with a lot of bitterness. When I was growing up, I used to see the beautiful Mau Escarpments. I remember vividly that I used to admire them in those old days when I was a young lad. But all of a sudden, I do not know what happened. In the mid-90s all of it was invaded and all that beautiful nature was destroyed. As I speak, it is barren. All the water coming from that area erodes that fertile land to the lower zones in Lake Nakuru.

As we protect community land, we should define areas where community land is supposed to be. We should also define where the Government needs to provide input and enforce the law. For instance, we have our national parks. They bring us a lot of foreign exchange through tourism. Those areas should also be protected. But you will hear somebody, because of cheap politics, talking about his or her people. We should not be so selfish. We should come out and speak as patriotic Kenyans. Do not be so narrow-minded. Time will judge us harshly. We will be judged as having been in Parliament and passed this or that law. All kinds of corruption are currently dominating the headlines.

Hon. Temporary Deputy Speaker, wherever you go to your home area, people ask you why we have scandals. Where are we heading to? Where are those patriotic Kenyans who can salvage this nation instead of dwelling on petty issues? We should come out clearly and define this area so that we do not reach a point whereby an investor opens a factory, for example, in Nakuru or Makueni County and since he is not an indigenous person of that area, his factory is vandalised. I have an example in my area where farmers have been invading investors' farms because they are not from that particular community. For example, an investor might plant

potatoes but farmers graze their livestock in his farm without any apology. We should protect privately-owned property.

Thank you and I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): the Member for Samburu, Hon. (Ms.) Maison Leshoomo.

Hon. (Ms.) Leshoomo: Asante sana, Mhe. Naibu Spika wa Muda kwa kunipa nafasi nichangie Mswada huu. Ningependa kumshukuru aliyeleta Mswada huu. Watu wanateseka sana kwa sababu ya mambo ya ardhi. Kila ardhi ina mwenyewe lakini hakuna sheria ya kulinda. Vita vyote vinasababishwa na ardhi na mipaka. Wananchi wanajua mipaka yao lakini kwa sababu ya ukosefu wa sheria ya kulinda ardhi, tuna vita vingi.

Nikizungumzia kuhusu Kaunti ya Samburu, tuna “ardhi dhamana” na ni vigumu kujua wanaomiliki ardhi hiyo ilhali watu wanaishi hapo. Vile vile, tuna misitu na wananchi wanaishi hapo kutoka wakati Uhuru ulipopatikana na hawajui wataenda wapi. Hawawezi kulima, kulisha ng’ombe au kujenga kwenye ardhi hiyo dhamana. Naunga mkono sheria hii ili isaidie watu wote wajue kuishi kama wananchi wa Kenya.

Sheria hii pia iangalie mipaka ya wananchi. Vita vyote husababishwa na mipaka. Sheria hii pia iangalie wale ambao wanaishi msituni na hawana ardhi. Mara kwa mara, watu hawa wamepewa barua za kuwaambia waondoke kwenye misitu hiyo. Mimi pia nimelelewa kwenye misitu hiyo na wazazi wangu hawana ardhi. Sheria hii iangalie wale watu ambao hawana ardhi ya kuwazika wapendwa wao.

Unyakuzi wa ardhi unafanyika kila mahali nchini. Wakati mwingine unasikia ardhi iliyotengewa shule au hospitali imenyakuliwa.

Naunga mkono Mswada huu.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, very well and time well spent. The last one before I give the Mover the chance to reply is the Member of Parliament for Mandera North Constituency, Hon. Adan Nooru.

Hon. Nooru: Thank you, Hon. Temporary Deputy Speaker. I will be very brief on this matter.

I thank the minds behind this Bill. The way they have thought of it is maybe to safeguard and protect community land. The real issue is: Will this Bill safeguard those community interests in community land? I am afraid that unless proper regulations are put in place to enforce and implement this Bill, we might be heading to a problem.

In the first place, who are these communities? Are we talking about tribes or settlements? This community issue should be defined properly if it is not defined properly in the Bill. These communities must be known to everybody. My fear is that anybody can purport to be a community because there are many people who are hanging around and can group and grab people’s land and purport to be a community that has come from that area. That is the area we need to look into. The essence of bringing this Bill to this House is to safeguard the so called trust lands which are vast areas which used to be managed by the county councils or presently by county governments.

The other issue that has been talked about is where the boundaries of these community lands are. We used to have tribal boundaries then there came administrative boundaries and constituency boundaries. The bone of contention and clashes in most nomadic areas today, if you look at it, are the boundary issues. The colonial or tribal boundary is a factor. There came the administrative boundaries after Independence and people could not agree on the legitimate

boundary of those communities. People could not differentiate between the administrative boundaries of districts and community boundaries.

If we are not careful, demarcating community land by itself or looking at the issue of boundaries can be very chaotic. It can be more of a problem than a solution. So, we need to be very careful about these community lands.

The last point is the management of those lands. Time has come for the Government to look at the issue of wildlife-human conflict, as Hon. Shidiye said. It has to be addressed because it is a fact that is there today, more so in areas of Ukambani and Taita-Taveta. It is really very bad when two-thirds of the landmass in an entire county is said to be a game park or game reserve. We need to also look at the area of subdivisions because, sometimes, the areas are subdivided and people get titles without the knowledge of those communities. The process of getting those registrations must be put in place. It should be marked very clearly so that communities living in those areas are aware that the land has been earmarked, demarcated or subdivided for a certain purpose, like for a community or public entity or for individual use. The community will give consent for the people to invest and develop those lands.

With those few remarks, I want to say that the regulations that will govern this Bill must be drafted in a manner that they are very clear and understandable to the common man. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): We must put this to an end. I appreciate the contribution from the Members who had an interest in the Community Land Bill (National Assembly Bill No. 45 of 2015). For that matter, I call upon the Mover to reply. Let us have the Member for Mumias East, Hon. Benjamin Washiali.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. You will agree with me that this Bill has attracted a lot of interest from members. We have a record of about 55 members who have spoken on this Bill. We have two members who have requested to take one minute each to give their views. If you allow me, we can give Hon. Kang'ata and Hon. Birdi one minute each so that they are also heard. They can also make their point on this very important Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That is noted. It is your time you are donating. Hon. Kang'ata, you are a beneficiary of one minute from the philanthropic member for Mumias East.

Hon. Kang'ata: I have to support this Bill just on the basis that the Constitution clearly states that it must be effected. Otherwise, I think it is not a good Bill at all.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Are you supporting or not?

Hon. Kang'ata: I support because I have no alternative but, in my opinion, the philosophy of a community land is fake. Why? One, you cannot take it to the bank. Two, we are becoming modernised. When we become modernised, it means that property can only be invested in a legal entity, for instance, a cooperative, partnership, company or an individual. You cannot transact business in form of a community. 'Community' is an amorphous term. This is a very bad philosophy. The people who framed the Constitution did a very bad thing to create something called 'community land'. You cannot take it to the bank. By passing this Bill, we are going to condemn our people to poverty because it means that there will be no investment in such areas. I urge Parliament to pass it because we have no alternative, but it is a bad Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your one minute is over. Let me have Hon. Birdi. You have one minute. Hon. Kang'ata, after contributing, please observe decorum.

Hon. (Ms.) Sunjeev: Thank you very much, Hon. Temporary Deputy Speaker. I thank the Mover for giving me this one minute. I want to bring it to the attention of the member who has said that this Bill is not very palatable and that it will not work out that there is a section of this Bill which addresses this issue. There are procedures for recognition of community land. Communities can apply and it will be passed if two-thirds of the community support. That is how it will work. I also support the section where it talks about penalties, especially for unlawful occupation. The penalty goes up to Kshs0.5 million. I support this good Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Washiali, you can finish your remaining minutes.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank all members who have contributed to this Bill. I also inform them that we have noted the assignments.

Hon. Temporary Deputy Speaker, the worst was from Hon. Kang'ata. I did not know what he was about to say. Otherwise, he would not have benefitted from the minute that I offered him.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): This is a House of records.

Hon. Washiali: Because of the sensitivity of this Bill, we intend to hold a *Kamukunji* as proposed by some Members. Issues of land are usually very sensitive. We want to exhaust all the issues so that we can have consensus during the Committee of the whole House. Hon. Members raised a number of issues as they contributed to this Bill. For example, Hon. Oner mentioned that the process of demarcation must be transparent. That means he may be having one or two issues he would want clarified. Hon. Joyce Lay insisted that there should be an element of transparency, which is very important. That means quite a number of Members feel strongly that the aspect of community land is not transparent.

We also noted comments from Hon. Ali Rasso, Member for Saku, who wanted to know who owns conservancies. That is a very important question, given that conservancies are all over. It is also very important because conservancies have private and community land. Therefore, it is very important to have an answer for that question. We have received quite a number of comments. We have heard one from Hon. Lomenen, who is a pastoralist. He wanted to know how pastoral land can be paid for before exploitation. Generally, we have to thank all the Members who have contributed to this Bill. We promise, on behalf of the Leader of the Majority Party, who moved this Bill; that we will look into all the possibilities to make sure that every Member of this House is satisfied.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you have a lot of interest in the Community Land Bill. We have had four sittings because of the importance of this Bill. It is one of the constitutional Bills that this 11th Parliament is trying to pass. I must appreciate the interest and the contribution from Hon. Members.

ADJOURNMENT

Hon. Members, it is time to interrupt our business. Therefore, the House stands adjourned until Tuesday, 8th March 2016, at 2.30 p.m.

The House rose at 6.30 p.m.