

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****SECOND SITTING**

Thursday, 24th September 2020

The House met at 10.35 a.m.

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

PRAYERS

Hon. Deputy Speaker: I can confirm that we have the required quorum and therefore business will begin.

PAPERS LAID

Hon. Deputy Speaker: Under that particular Order, we have both Chairpersons of the Departmental Committee on Finance and National Planning and that of the Constitutional Implementation Oversight Committee. We will start with the Chairperson of the Committee on Finance and National Planning.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Deputy Speaker. I beg to lay the following two Papers on the Table of the House:

Report of the Departmental Committee on Finance and National Planning on its consideration of the President's Memorandum on the Parliamentary Pensions (Amendment) Bill (National Assembly Bill No. 45 of 2019).

Report of the Departmental Committee on Finance and National Planning on its consideration of the Public Finance Management (Amendment) Bill, (Senate Bill No. 3 of 2019).

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I know you have another one, but we will first wait for the normal approval and then we see whether we will give you an opportunity. Therefore, we go to the Chairperson of the Constitutional Implementation Oversight Committee (CIOC).

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, I received approval of the second one. Therefore, I have tabled both of them.

Hon. Deputy Speaker: Really?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Yes.

Hon. Deputy Speaker: That must have escaped me. Therefore, that is fine. So, we go to the Chairperson CIOC, Hon. Kioni. Is Hon. Kioni in the House?

Hon. Member: It seems not.

Hon. Deputy Speaker: Then we probably will go to the next Order. Where is Hon. Kaluma? Okay. There seems to be an issue with that particular Committee. Now that Hon. Kaluma is not here...

(Hon. Peter Kaluma spoke off record)

In addition, Hon. Kaluma, you must always make a decision on which side of the House you want to sit on.

(Laughter)

This is because when you were coming in you looked like you were headed to the left. However, I think somewhere along the line you discovered there is power in you that makes you deserve sitting on the right. Therefore, proceed, Hon. Kaluma, the Member for Homa Bay and the Vice-Chairperson, CIOC.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Deputy Speaker, I am still confused about where to sit because I feel there is more power this side. However, that side remains warmer.

I beg to lay the following Paper on the Floor of the House:

Report of the Constitutional Implementation Oversight Committee on its consideration of the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019).

Thank you.

Hon. Deputy Speaker: Very well, Hon. Kaluma. About power, most of the Members from Homa Bay and the surrounding areas have discovered the power on the right. That is why always Hon. Gladys Wanga and you are seated there. The only one who seems not to have discovered it properly is the Hon. Leader of the Minority Party from the same region. He enjoys it from where he is sitting.

Next Order.

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: On this particular one, we have two Questions by Private Notice and Ordinary Questions. We will start with the Questions by Private Notice.

Starting off is Hon. Peter Masara, Member for Suna west.

QUESTIONS BY PRIVATE NOTICE

QPN 025/2020

CONFRONTATION BETWEEN POLICE AND RESIDENTS OF GOT KWER VILLAGE

Hon. Peter Masara (Suna West, Independent): Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order 42A (5) I rise to ask the following Question:

- (i) Could the Cabinet Secretary explain the circumstances that led to violent confrontations between the police and residents of Got Kwer Village in Suna West Sub County during a religious pilgrimage by the Legion Maria faithful on 14th September 2020 where several people were killed and many others injured?

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- (ii) What is the status of the investigations into the incident and what measures are in place to ensure that action is taken against police officers who misuse their firearms or use excessive force while controlling crowds?
- (iii) What measures have been put in place to ensure that security is provided during religious gatherings in the country, including during pilgrimages by the Legion Maria faithful?
- (iv) When will the affected families be compensated for the losses incurred including loss of lives of loved ones, and could the Ministry consider meeting the cost of medical bills for those in hospitals?

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Administration and National Security. I hope the Chair is in the House. This being a Question by Private Notice, it should be answered as quickly as is reasonably possible. So, we go to the Member for Gem, Hon. Elisha Odhiambo.

QPN 026/2020

MEASURES TO ENSURE PEACEFUL CO-EXISTENCE OF
COMMUNITIES THAT SHARE LAKE VICTORIA

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 026/2020 which is directed to the Cabinet Secretary for Foreign Affairs:

- (i) What steps have been taken by the Ministry to facilitate the retrieval of the body of the late James Osala Nyadenge, a resident of East Gem Ward, Gem Constituency who was murdered while fishing in Lake Victoria, on the Tanzania territorial waters on 31st August, 2020 and his body thrown into the lake?
- (ii) What diplomatic measures have been put in place to ensure peaceful co-existence between the communities living in all countries that share Lake Victoria waters so as to guarantee their safety and in particular safety of Kenyan fishermen who solely depend on fishing as a source of livelihood?

I thank you.

Hon. Deputy Speaker: Very well. That will be replied before the Departmental Committee on Defence and Foreign Relations.

So, we go to the Ordinary Questions Starting with Hon. Walter Awino, Member for Awendo.

ORDINARY QUESTIONS

Question No.189/2020

MEASURES TO AVERT CLOSURE OF INTER-CONTINENTAL HOTEL

Hon. John Owino (Awendo, ODM): Thank you, Hon. Deputy Speaker. I rise to ask the following Question to the Cabinet Secretary for Tourism and Wildlife:

- (i) What measures has the Ministry put in place to avert the closure and subsequent collapse of the hotels and hospitality industry in the country, particularly the reportedly intended closure of the Inter-Continental Hotel in Nairobi?
- (ii) What measures has the Ministry put in place to ensure that the permanent closure of the Hotel does not impact negatively on Kenya's standing as an international hospitality investment center?

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Sports, Culture and Tourism.

Let us have the Member for Meru County. Hon. Bishop Kawira Mwangaza. You had placed an intervention and removed your card again. Please proceed.

Question No.196/2020

CRITERIA FOR SELECTING YOUTH UNDER *KAZI MTAANI* PROGRAMME

Hon. (Ms.) Kawira Mwangaza (Meru, CWR, Independent): Thank you, Hon. Deputy Speaker. I wish to ask the following Question to the Cabinet Secretary for Labour and Social Protection:

- (i) What measures has the Ministry put in place to ensure that all jobless youth in Meru County benefit under the National Hygiene Initiative dubbed "*Kazi Mtaani*" particularly during the COVID-19 pandemic period?
- (ii) What criteria is used in selecting the youth to be employed under the *Kazi Mtaani* programme in Meru County?
- (iii) What are the terms of employment under the programme, specifically, the amount of monies paid and duration of engagement once a youth is employed?

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well, that one will be replied to before the Departmental Committee on Labour and Social Welfare.

So, we go to the Member for Loima and have Hon. Jeremiah Lomorukai.

DELAYED COMPLETION OF LODWAR-NADAPAL-NALUOYAPONG-LORENGIPPI ROAD

Hon. Jeremiah Lomorukai (Loima, ODM): Thank you, Hon. Deputy Speaker. I wish to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

- (i) Could the Cabinet Secretary explain the inordinate delays in the completion of the Lodwar- Nadapal- Naluoyapong- Lorengippi Road?
- (ii) Could the Cabinet Secretary provide the amount of money that has been paid so far for the said road, indicating all the budgetary allocations and disbursement schedules since inception?
- (iii) When is the project expected to be completed?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well, that one will be replied before the Departmental Committee on Transport, Public Works and Housing.

Next is the Member for Teso North.

Question No. 206/2020

MANDATORY RETIREMENT AGE AND AWARD OF JOB CONTRACTS TO TEACHERS

Hon. Oku Kaunya (Teso North, ANC): Thank you, Hon. Deputy Speaker. I had wished to ask Question No. 206/2020, but I drop it because last week the Cabinet Secretary for Education visited and I raised the same issue and he agreed to provide a report. I, therefore, think it is prudent to drop it for now.

Hon. Deputy Speaker: Now, it is good for Members to note that once you have asked a Question, it becomes the property of the House. You may be satisfied, but there could be some Members who would have asked almost the same Question. This is not a specific Question that touches on your constituency. It is a more general Question that touches on the entire republic. I do not know whether there is any harm in you asking it anyway. I believe that under this Question, you would be getting a written reply which will be good for the House and its records. We will not be wasting anybody's time. My request is that you proceed and ask the Question, even if you are fairly satisfied. But let it be on record, so that it does not become something you agreed outside the precincts.

Hon. Oku Kaunya (Teso North, ANC): Hon. Deputy Speaker, I am well guided. I had already asked the Cabinet Secretary to give some answers when he visited the constituency. So, with your permission, I will proceed.

Hon. Deputy Speaker: Yes, do it. This is because looking at it initially, I was convinced to allow you to withdraw. But we have nothing to lose, not even time. I think this is something we can have on record.

Hon. Oku Kaunya (Teso North, ANC): Agreed, Hon. Deputy Speaker. I will go ahead and read Question No.206/2020 which is directed to the Chairperson of the Teachers Service Commission (TSC).

- (i) Could the Commission provide a list of all the teachers who will have attained the mandatory retirement age this year and those who were awarded job contracts after attaining the mandatory retirement age?
- (ii) What was the rationale in awarding retired teachers job contracts despite there being so many unemployed registered teachers?
- (iii) What measures has the Teachers Service Commission put in place to ensure that the regulations guiding the issuance of these contracts are not abused?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: This is due for a written reply by the TSC. So, we go to the Member for Vihiga County that is Hon. Beatrice Adagala.

Question No.208/2020

REHABILITATION OF SECTIONS OF KISUMU-KAKAMEGA ROAD

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Deputy Speaker. I rise to ask Question No.208/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

- (i) Could the Cabinet Secretary explain why the construction of Kisumu- Kakamega Road, especially around Majengo Town has numerous design gaps including huge open drainages, lack of foot bridges and pedestrian walkways which leads to numerous road accidents and waterborne diseases in the area?
- (ii) Would the Ministry consider compensating the victims of road accidents that result from the said poor road designs?
- (iii) When will the rehabilitation works on the Stand Kisa-Kima-Khumusalaba Road which is in a deplorable state be carried out?

Hon. Deputy Speaker: Very well. This one should be replied to before the Departmental Committee on Transport, Public Works and Housing.

We go to the next Question which is by the Member for Lurambi, Hon. Titus Khamala.

Question No.215/2020

STATUS OF PREPAREDNESS IN REGARD TO OPENING OF SCHOOLS

Hon. Titus Khamala (Lurambi, ANC): Thank you, Hon. Deputy Speaker. I rise to ask Question No.215/2020 to the Cabinet Secretary for Education.

- (i) What is the status of preparedness in regard to opening of schools and all other learning institutions in the country during the COVID-19 pandemic period?
- (ii) What measures has the Ministry put in place to ensure that schools and all other learning institutions conform to the set COVID-19 protocols?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Well, as I refer this Question to the relevant Departmental Committee on Education and Research, I want to encourage the Chair of this Committee to quickly dispense with it. Actually, under normal circumstances this one should have been a Question by Private Notice. This is because it is fairly urgent and we take notice of the fact that schools are likely to be opening soon. I want to see if the Chair, Departmental Committee on Education and Research is in the House.

Is the Vice-Chair in the House? Leader of the Majority Party, I think this is something we can agree as a House to be answered faster than normal. This is because it is a matter which is live in the country at the moment and is fairly urgent. So, if it can be done quickly the better.

So, we go to the next Question by Hon. Samuel Atandi, the Member for Alego-Usonga.

Question No. 218/2020

REHABILITATION AND OPERATIONALISATION OF GOMBE AIRSTRIP

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No.218 in today's Order Paper. My Question is directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

What plans has the Ministry put in place to rehabilitate and operationalize Gombe Airstrip in Alego-Usonga Constituency so as to serve the over 1,000,000 residents in the

region as well as facilitate tourism, air evacuations and transportation of farm produce in the area?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Let us go to the next Order.

SPECIAL MOTION

APPROVAL OF THE THIRD BASIS FOR SHARING OF NATIONAL REVENUE ALLOCATED TO COUNTIES

Hon. Deputy Speaker: Chairperson, Budget and Appropriations Committee.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Deputy Speaker. I beg your indulgence if I can relax my mask.

Hon. Deputy Speaker: Yes, proceed please. But ensure Hon. Jimmy Angwenyi is not seated closely in front of you.

Hon. Kanini Kega (Kieni, JP): He should relocate.

Hon. Deputy Speaker: He should relocate to the next seat. This is to ensure we have real...

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Deputy Speaker for your indulgence. I beg to move the following Special Motion:

THAT, pursuant to the provisions of Article 217 (1) and (4) of the Constitution on Allocation of the Share of National Revenue among the counties, this House concurs with the Senate and approves the Third Basis for the Annual Allocation of the Share of National Revenue to the county level of government for the Financial Years 2020/2021 to 2024/2025, which shall consist of the Allocation Ratio and the Formula, where -

- (i) Allocation Ratio = the shareable revenue allocated to the counties in the financial year 2019/2020.
- (ii) Formula = $0.18 * \text{Population Index}_i + 0.17 * \text{Health Index}_i + 0.10 * \text{Agriculture Index}_i + 0.05 * \text{Urban Index}_i + 0.14 * \text{Poverty Index}_i + 0.08 * \text{Land Area Index}_i^1 + 0.08 * \text{Roads Index}_i + 0.20 * \text{Basic Share Index}_i^2$

¹ Land Area capped at 7%

² The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Where,

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%) and three years average in-patient days in levels 4 and 5 hospitals (20%)

	$\text{Facility gap factor}_i = \frac{\text{Facility gap funding in county } i}{\sum_{i=1}^{47} \text{facility gap funding in county } i}$ $\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county } i}{\sum_{i=1}^{47} \text{No. of primary health care visits in county } i}$ $\text{In - patient days factor}_i = \frac{\text{No. of in - patient days in county } i}{\sum_{i=1}^{47} \text{No. of in - patient days in county } i}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county } i}{\sum_{i=1}^{47} \text{Rural households in county } i}$
Other county services	$\text{Population index}_i = \frac{\text{Population in county } i}{\sum_{i=1}^{47} \text{Population in county } i}$
Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county } i}{\sum_{i=1}^{47} \text{inverse of population in county } i}$
Land	$\text{Land area index}_i = \frac{\text{Land area in county } i}{\sum_{i=1}^{47} \text{Land area in county } i}$
Roads	$\text{Roads index}_i = \frac{\text{Rural access index in county } i}{\sum_{i=1}^{47} \text{Rural access index in county } i}$
Poverty level	$\text{Poverty index}_i = \frac{\text{No. of poor people in county } i}{\sum_{i=1}^{47} \text{No. of poor people in county } i}$
Urban services	$\text{Urban Index } i = \frac{\text{urban household in county } i}{\sum_{i=1}^{47} \text{Urban Household in County } i}$

I do not want to dwell so much on the formula because I will confuse more people here. I think it is well documented in the Order Paper and Members can have a look at it.

AND FURTHER RESOLVES THAT, the Third Basis for allocating among the counties the share of national revenue that is annually allocated to the county level of government for the financial years 2020/2021 to 2024/2025 shall be applied as follows-

- a) Equitable Share for 2020/21
County Allocation = Allocation Ratio + 0(Formula).
- b) Equitable share for 2021/2022 to 2024/2025 of Kshs.370 billion and above
County Allocation = 0.5 (Allocation Ratio) + (((Equitable Share - 0.5 (Allocation Ratio))* (Formula)).

PROVIDED THAT, for the duration of the operation of the Third Basis for allocating revenue among the counties, no county shall receive in any financial year an amount of shareable revenue that is less than the amount of shareable revenue received by the county in the Financial Year 2019/2020.

Hon. Speaker, I want to kindly seek the indulgence of the House because this is a document that we have worked on for only two days. As you are aware, the Senate had this document for one-and-a-half years. I really thank my Committee most sincerely. It worked overtime, burnt midnight oil to come up with a document that has evaded the Senate for one-and-a-half years and we were able to do it within a day. I just want to take the Members down the memory lane and where we came from. Article 217 of the Constitution of Kenya provides that every five years, the

Senate shall, by resolution, determine the basis for allocating the share of national revenue that is annually allocated to the county level of Government among the counties. In order to facilitate the workings of the Senate, Article 216(1) of the Constitution mandates the Commission on Revenue Allocation (CRA) to make recommendations concerning the basis for equitable sharing of revenue raised by the national Government between the national Government and among county governments. Since the promulgation of the Constitution in 2010, there has been two formulae or, if you like it, basis. The first basis for sharing revenue among counties was approved by the 10th Parliament in November 2012 and was used to share revenue for the Financial Years 2013/2014, 2014/2015, 2015/2016 and 2016/2017. The second basis was approved by the 11th Parliament in June 2016 and was used to share revenue among counties in the Financial Years 2017/2018, 2018/2019 and 2019/2020. It is also important to note that when that second-generation formula was presented to the Budget and Appropriations Committee, it was never debated. So, the 60 days lapsed and it was perceived to have passed. It never came for debate but I am happy that this Committee has been able to deliberate on this third-generation formula.

The first basis for revenue sharing approved by the 10th Parliament in November 2012 was based on five parameters with different weights, namely population at 45 per cent, poverty gap at 20 per cent, land area at 20 per cent, the basic equal share at 25 per cent and fiscal responsibility at 2 per cent. The second basis for sharing revenue approved by the 11th Parliament in 2016 was based on six parameters, namely basic equal share at 26 per cent, population remained at 45 per cent, land area remained at 8 per cent, the poverty gap at 18 per cent, fiscal effort at 2 per cent and a new area of development factor at 1 per cent. The second basis was meant to provide alternative or adequate funding for county governments to enable them to effectively undertake their assigned functions, correct economic disparities, minimise the development gap and incentivise counties to optimise capacity to raise revenue.

It is also important to highlight the reason why CRA gave that basis. That is pursuant to Article 2016 (2) of the Constitution. The CRA submitted its recommendation on the third basis of sharing revenue among counties to the Senate for consideration. The proposed criterion by CRA was tabled in the Senate on 30th April 2019 and was committed to the Standing Committee on Finance and Budget. Hon. Speaker, we are talking about 30th April 2019. So, the Senate decided to sit and sleep on this document until two or three months ago. The CRA's proposal for the third basis of sharing revenue among counties was based on the following objectives:

- (a) to enhance service delivery;
- (b) to promote balanced development;
- (c) to incentivise counties to optimise capacity to raise revenue; and
- (d) to incentivise prudent use of public resources.

In the CRA's proposal, there was a shift towards service-oriented approach of revenue sharing where new parameters such as health index, agriculture services and other services were introduced and thus increased the number of parameters to 10. In comparison, the first and the second basis of sharing revenue were nearly the same with minimal changes entailing introduction of additional parameters, that is, development index and altering the weight in the second basis. The first and the second basis had basic equal share of 25 per cent and 26 per cent respectively while the third basis had proposed 20 per cent, which is a reduction. Poverty is also a common parameter among the three formulae as 20 per cent was in the first basis, 18 per cent in the second basis and proposed 14 per cent in the third basis of the revenue sharing. The share of land area parameter is constant at 8 per cent across the first, second and third basis on sharing revenue while that of fiscal effort is also constant at 2 per cent across all the three basis of revenue sharing. I want

Members to note that the CRA has proposed fiscal effort to encourage counties to prudently use their resources. However, as you will note, what the Senate decided to pass did not include fiscal policy.

Hon. Speaker, the Committee noted that the Senate's resolutions had proposed that the basis will be as follows:

1. To ensure that no county receives less resources and there is no disruption of services in the counties, at the county level, all counties will receive the same resources as they received in the Financial Year 2019/2020.
2. To ensure there is predictability in resource allocation to counties commencing from the Financial Years 2020/2021 to 2024/2025, the formula shall apply on a basis of 50 per cent of Kshs316.5 billion and the remaining amount shall be applied to the formula as given in the annex which I have also provided.

I do not want to go to the parameters of this formula but maybe to just highlight, the parameters of this formula are distributed as follows: 18 per cent on population; 17 per cent on health, 10 per cent on agriculture; 5 per cent on urban; 14 per cent on poverty; 8 per cent on land, which is capped at 7 per cent; and 20 per cent the basic share. As you have noted and as I alluded earlier, they removed the fiscal prudence, whether deliberately or inadvertently. These parameters will use the 2015/2016 Kenya Integrated Household Budget Survey (KIHBS) and the 2019 Population Census. That was a huge concern because the population that was used earlier on was that of 2009. In that case, just to give us a simple analogy, it is like when you are the current Member of Parliament and when you are referred to - they refer to the former Member of Parliament. So, we have insisted that the figures that should be used should be the current figures.

As I conclude, the Committee made the following observations:

1. The Senate took too long to consider the recommendation of the CRA on the third basis for the revenue allocation among county governments. Indeed, CRA, as I had said earlier, submitted the recommendation for consideration on 30th April 2019.
2. The issue of the quantum figure estimated at Kshs370 billion does not have the force of law.

The National Assembly will be guided by the available resources, national interest and other factors when deciding on the vertical sharing of the revenue between the two levels of Government. It is the business of this House to have that vertical division of revenue of resources.

Hon. Deputy Speaker: I add the Member two minutes.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Deputy Speaker. Thirdly, as I also conclude, in calculating the indices attached to the parameters, there is need to use the current data as provided by the KIHBS 2015, 2016 and 2019 Population Census and any other data that is provided by the national Government.

Fourthly, the parameters are not exhaustive as they do not include services such as water, fishing and all that. These are the Committee's recommendation. Having considered the above matters, the Committee recommends to this House as follows:

That, the third basis for allocation of the national revenue among county governments be approved.

I beg to move and request the Leader of Minority Party, CPA, Hon. John Mbadi to second. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Actually Hon. Chair, I added you two minutes but you did not utilize them, so probably I will give it to the person seconding. I think you had already prepared to conclude. So, let us have the Minority Leader, in this capacity the Member for Suba South.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. In seconding this Motion, I have a few comments to make. One, the Mover of the Motion has rightly pointed out that Article 217 of the Constitution requires the Senate of the Republic of Kenya to determine or come up with the formula or a basis to determine the allocation of revenue among the 47 counties every five years.

Article 216 requires that before the Senate considers the basis, there is need for CRA to propose or recommend to them the formula. That recommendation went to the Senate on 30th April 2019. From that time to the time we started seeing drama in the Senate, the Senators deemed it fit to deal with this formula whereas they knew very well that the calendar of 2020/2021 would require this formula.

If you look at the formula that the Senate has finally brought to this House, even after all these shenanigans you saw around, they have basically uplifted what the CRA had proposed with only one change, and brought to us. This is contrary to what Kenyans out there believe, that senate has brokered a serious and a major agreement. I am going to demonstrate shortly that what the Senate did was just to uplift, to copy paste the CRA formula and brought it to us. I say this because there were 10 parameters from the CRA formula. There are eight parameters from the final formula that has been introduced in this House. The first parameter was basic share of 20 per cent, the way it was in the CRA formula is the way Senate has brought it.

The second one was the issue of health. Seventeen per cent in the CRA, 17 per cent in the Senate formula. The next one was agriculture, 10 per cent in the CRA and 10 per cent in the Senate formula. The next one is urban, five per cent in the CRA and five per cent in the Senate formula. The next one was poverty index, 14 per cent in the CRA and 14 per cent in the Senate formula. The other one was land area, eight per cent in the CRA and eight per cent in the Senate formula. The next one is population which CRA called other services but was basically using population demographics. That again has been uplifted at 18 per cent in the CRA and 18 per cent in the Senate formula.

Senate has just removed fiscal prudence at two per cent and fiscal effort at two per cent to make four per cent which they have added to the roads which the CRA had at four per cent. They made it eight per cent as the formula and brought it here. There is nothing wrong with Senate agreeing entirely with the work of CRA but why did they have to take all this time? Why did they have to subject Kenyans to this kind of frustration when the only thing they did on that formula was to remove the fiscal effort and fiscal prudence by 2 per cent each and added it to roads? That could have been done in a record one day. Therefore we must tell the Senate they put Kenyans to panic for nothing and doing completely and absolutely zero work.

What is this formula? What the Senate has done is to treat this formula in two stages. This formula is supposed to be applied in five financial years -2020/2021 all the way to 2024/2025. What we have done in 2020/2021 is suspending the formula without saying we are suspending it. What they have done is to bring the figures of the 2019/2020 Financial Year which was Kshs 316 billion. They have brought it to 2020/2021 and called it allocation ratio. They have then said, for this year, the additional funds will be zero times formula, meaning you are not adding anything, you are carrying forward the figures from 2019/2020. The question I want to ask is, why this Senate could not do it in one day? It is very simple, you just agree Homa Bay to get what they got, Tana River receives what they got and that would have been very easy, the country would have moved on. The counties would be having money today. To me, this is a clear demonstration of negligence of duty and incompetence. That is the word.

I am sure there are people who look at the Order Paper and get scared. Hence this House needs to understand a little of this formula then I will sit down because the Mover had explained almost everything. My duty is to fill in the gaps where I feel the Mover has not touched.

The CRA for the first time, and I must say, did a commendable job. What we may disagree with was the waiting but CRA did a commendable job. It unpackaged and broke down the functions. This is what they did for health, CRA decided to give health components, 17 per cent of the entire revenue. Now, how did they do it and what are the statistics or what is the formula to distribute the 17 per cent? They looked at three parameters. That is what I thought the Senate should have engaged its mind to. I thought this House would have been given the opportunity to interrogate it. This is because the CRA decided to use hospital visits from level 2 and level 3 hospitals and allocated 60 per cent of that health component. Sixty per cent is being allocated on the basis of visits to level 2 and level 3 hospitals across the country.

Second component is visits to level 4 and level 5 at 20 per cent. Then someone will argue that if you look at that application of that formula, it will give more money to certain regions and leave others. When you look at Western Kenya region for instance, people visit hospitals often because of malaria, HIV among others. You look at Central Province and Nairobi Area, people visit hospitals more, because of lifestyle diseases like cancer and diabetes. If you go to North Eastern, people do not visit hospitals either because there are no hospitals around or they are very far. So, what CRA did to cure this was to introduce a third factor which is facility gap. That has been allocated 20 per cent. What we should have been discussing, as people's representatives, is whether 20 per cent is adequate to address the issues that we see in Mandera, Garissa, Isiolo, Marsabit, and even Narok. That is what the Senators would be discussing. Not the issue of one man; one shilling; one vote; *sijui* some people live where; and some people are representing animals. That was not supposed to be the discussion. The discussion was supposed to be centered on these parameters.

Hon. Deputy Speaker, if you move to the next parameter that is agriculture, which has been allocated 10 per cent, what was proposed is to use rural households. So, you get a county; remove what is considered as urban centers in those counties, remove the population in those areas, remain with what is considered as rural population, take the total sum of all the other 47 counties, put the figure for that particular county, call it Narok, over the total and apply the amount that has been allocated for agriculture.

The next question that we would be engaged in is, and that is why I am very angry with the Senate because they have not provided me any opportunity to ask, is whether fishing has been considered as agriculture in this formula. I have no opportunity to do that. I am now not able to represent my people of Suba South effectively because there is limited time to look at the details of how they came up with the rural population. That, I find very unfair from the Senate.

Hon. Deputy Speaker, the other issue is urbanization, which has been given five per cent. Again, you use the urban population; the opposite of the rural population. On roads, what was it that was considered? I know many people are thinking that the formula used the road network. It is far from it. If you use road network, Nakuru would take very high amounts out of that because it happens to be the county in this country that has the longest road network. So, what the CRA considered, which we should have been discussing, is what they call road deficit. Anyone who lives more than two kilometers away from a motorable road was considered road deficit. And that percentage gave Mandera Ksh1.3 billion and was giving Nairobi County Ksh5 million. These are the things that we should have been discussing and this is what the Senate should have been discussing.

Hon. Deputy Speaker: I have added the Member some minutes. So, you should not...

(Loud consultations)

I have added the Member time because just like the Chairperson of the Committee had brought it very well, he is also debunking this issue. So, I think it is good so that Members can be up to speed. At least five minutes.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. I am actually moving towards closure. I have just finished the issue of the road network.

I also want to talk about the land area. If you look at that formula, it says eight per cent for the land area but capped at seven per cent. What does that mean? What that means is that a county like Marsabit, for example and I hope I am accurate, if you take its land area percentage to that of the country, it can even be over 20 per cent. So, what this formula is doing is to cap it at seven per cent so that no county is allocated resources beyond seven per cent of the total land area of the country. I hope I am making sense on that. So, largely, these are the things that we should have discussed.

Poverty is very clear and easy. You use the poverty indices of the 2015/2016 Financial Year. I have heard people mention and talk about why we did not retain the formula for 2019/2020. If you retain the same formula — we used to divide the Ksh316.5 billion in the last financial year and apply the recent statistics of population out of the Population Census of 2019 — and you apply the statistics of 2015/2016 regarding poverty index and any other indices, you will have 12 counties losing revenue. That is why, on that score, I agree with the Senate that we should have done exactly what they have done, of agreeing to have allocation of the Ksh316 billion, as it were in the last financial year.

Finally, Hon. Deputy Speaker, because I know your five minutes, what you gave me graciously, are coming to an end let me just explain one aspect.

(Hon. Member spoke off record)

Hon. Deputy Speaker, someone is distracting me. I wanted to explain the formula from 2021/2022 to 2024/2025 Financial Years. What the Senate has done — which is the only thing that I think they have done out of the CRA formula — is that they have decided that going forward, if we allocate from Ksh370 billion in the next financial year, then 50 per cent of Ksh316.5 billion which is Ksh158 billion will be treated as what we call allocation ratio. You use the formula of the last financial year, then the rest you apply the current formula. This is taking you back to where no county loses. You will agree with me that is based on a promissory note; it is not based on figures that have been agreed on.

The President has promised, I know there is also Building Bridges Initiative (BBI) where we are thinking of at least 35 per cent. So, it may be actualized. But before it is actualized, you should not legislate something that is like a promissory note. That is the concern that the Budget and Appropriations Committee had. That we have not decided on Division of Revenue for 2021/2022, yet you are already making a decision with that in mind. It is like the Executive and people have been complaining out there that Parliament is an appendage of the Executive. Now, you are saying that since the Executive has pronounced itself, it should be treated as given, that this Parliament will give Ksh370 billion. Far from it, Parliament can decide to do the opposite.

With those many remarks, I second.

(Question proposed)

Hon. Deputy Speaker: Now we open debate, Hon. Members. Can we start with the Leader of the Majority Party? Let us have the Leader of the Majority Party starting us off.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Deputy Speaker for this opportunity.

From the outset, I congratulate the Budget and Appropriations Committee for a job well done. It has taken the Senate close to two years to do the same. It only took the Budget and Appropriations Committee one weekend to resolve this matter and bring it before the House. They have explained everything, so I will just cover a few things.

All this comes from Article 216 of the Constitution that mandates the CRA to make recommendations to the Senate. There was a reason why it was decided that there should be an independent commission that looks at all the issues and guides the Senate. For those of us who went through the constitution-making process, it was assumed that revenue allocation in the past used to be politically motivated and only regions that supported the powers that be would get monies. The CRA was a creation of the mistrust of the populace towards their Government to allocate money. That was obviously before the Jubilee administration came into power. That is a story for another day.

The long and short of it is that the CRA scientifically went round and came up with a basis. Certified Public Accountant (CPA) Mbadi has explained that basis in detail. I do not want to get into it. That basis took cognisance of the fact that funds are sent to the counties for two main purposes. One is to provide funding for the delivery of the 14 functions that were devolved to the counties. That refers to the Recurrent Expenditure. Another reason was to develop the countries.

There are two components in terms of the formula - the Recurrent Expenditure which is expected to take no more than 70 per cent and Development Expenditure which is supposed to take 30 per cent. In actually working out which parameters would contribute to the 70 per cent and which ones to the 30 per cent, all the parameters that we are talking about were divided into those two groups. This means that for Recurrent Expenditure in terms of health, agriculture, urban households and the basic share, it was assumed that if you add all those parameters, they would amount to 70 per cent. Whatever money is sent based on those parameters would be able to provide for health, agriculture, all the other 12 devolved services and also cater for the urban household based on how many people you have within the urban centres. It will also take care of issues of urban poverty plus a basic share of everyone getting the same.

In terms of development, the CRA stated that development is based on the amount of land you are developing. The land parameter goes under development. You are developing to remove poverty. You have land, poverty and the road network. The road network is what interconnects people and helps in the delivery of services. They also added that in terms of development, what is the capacity of each of those counties to raise revenue? A revenue-raising parameter was added and given 2 per cent. When all these money is given to the counties, what is the extent of their fiscal responsibility in terms of the efficiency with which they use the money that has been allocated to them? Two per cent was allocated to that.

The Senate, in their wisdom, decided that fiscal responsibility does not matter. Revenue-raising in the counties does not matter. They have removed those two very key parameters. Obviously, we were told that a number of Senators may want to vie for governorship, hence, they do not want to be held responsible for use of the funds and not raising internal revenues. Therefore, they have decided that those two parameters do not matter. It is something that we must put on

record. That is one of the biggest failures of the Senate. They are supposed to protect devolution. You cannot protect devolution by removing a factor or parameter that secures the efficient use of funds given to the counties. Where is the oversight? They are not promoting or incentivising counties that use their resources efficiently that they will be given more. Those who misuse resources will be penalised. Similarly, it does not matter if counties do not raise revenue. They do not have to raise anything. They will get funds like everyone else.

I can now see why the Senate took so long. Perhaps, they did not even understand those issues. All they thought about is looking at the Schedule and seeing who is losing or gaining rather than looking at the thinking behind the parameters. There are parameters that are development-oriented and those that are recurrent-oriented. They ignored all that and all we heard was about who is losing and who is gaining.

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

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

At the end of it all, unfortunately, what has been brought here is a revenue-sharing basis that is compromised on those two parameters to achieve some political expediency. They are saying that they do not care about revenue-raising measures or efficiency in the use of expenditure and are instead using that 4 per cent and lumping it in with the road network. It may be within the development component but what do roads have to do with efficiency in the use of revenue? Those are some of the things that we hope will be relooked at. The formula can still be reviewed at any one time even before the five years. We hope that they get back to thinking seriously about how we can do this.

The other thing that I am sad about is that for equity purposes, it is good to say that no county should lose. However, one thing that we must be aware of is that since 2012, all these formulae were based on a controversial population in 2009. The census that was done in 2019 has brought some corrections. When you start talking of who will lose and who will gain, even if the second formula was to continue being applied with the current data, there were some counties whose revenues were going to be corrected, not in terms of losing but they would now be getting what they were entitled to get initially had the population not been exaggerated. That correction has been done but the Senate has ignored all that and said that everything should continue so that we carry forward even the misdeeds of the past. The Senate is saying that until the revenue goes to Kshs370 billion, we should continue receiving what we have been receiving. It is unfair to counties that are efficient. It is unfair to counties that...Are my 10 minutes up? It is unfair to some of those counties but unfortunately, unless we can raise two-thirds of the House membership, we cannot change a comma. It is not in our interest. We believe that there is still time for negotiation to get this formula to what it should be.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Leader of the Majority Party, I would like to remind you that you had 10 minutes and they are up. He is very gracious. He does not want to be added more minutes, so that other Members can have an opportunity to contribute. He is known to be very gracious. We shall have Hon. Makali Mulu.

Hon. Members, I want to remind you of the resolution of the House on 8th September. Every other Member will have five minutes to contribute. So, organise your thoughts around the five minutes. Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I wish I would get one or two extra minutes. However, let me try to squeeze what I have prepared into those five minutes. To do that, I will avoid repeating what others have said.

From the word go, I must state that the Senate has not done a good job in this country. It is either they did not understand the formula or they ignored or refused to understand it. I agree with my colleagues, Hon. Mbadi and Hon. Kanini Kega, in some of the details. However, there are some very fundamental questions which we must ask. As the representatives of the people, we should have been given more time to critically analyze and look at this formula.

In addition to what Hon. Mbadi has said, those of us who come from Arid and Semi-Arid Lands (ASAL) should ask how comes water as a component is not part of this formula. Agriculture and land are parts of this formula. Where is water?

At the same time, rural electrification is captured very well in the Equalisation Fund which has never taken off in this country. Where is electrification in this formula? These are the difficult questions the Senate should have asked. Instead of asking that, they are celebrating and saying that they got more money for their counties. I agree with Hon. Mbadi that is a promissory note. It is a conditional allocation depending on whether the economy improves or it does not. If the economy does not improve or perform well, you can compute what will be there.

Let us look at the fiscal prudence which was divided into two by the CRA on more effort to collect more revenue and once you collect it, how can you account for it? The Senators are telling us that they do not care whether the governors collect more money and account for it. We are talking about corruption everywhere in this country. We must resist. The Senate did not do a good job.

The other point is data credibility and availability. This formula talks about indices which are combination of parameters for you to get the index. You might apply the population figure for 2019 on the figure of 18 per cent population. However, if you do not apply the same figure on the issue of roads, urbanization and access to healthcare, then you are misleading the country. For this formula to serve the country well, then it will be very important for the 2019 Population Census figures to be used across the board. In that case then, we will get the right numbers.

The other thing is public participation. The CRA took a lot of time to come up with this formula. There were lots of consultations. Hon. Members, I am sure you know the kind of commissioners we have at the CRA because we approved them in this House. Those are very educated people who did a lot of research to get to where we are. However, after all what they did, some parameters have disappeared from the formula. To what extent was the Senate able to conduct public participation to this formula before they made a decision?

As I conclude, we have suspended the formula in the Financial Year 2020/2021. It will not be used. When you read what Hon. Kanini was reading in terms of county allocation, it is allocation ratio plus zero formula. The formula will not be applied anywhere this year. We will not apply the third-generation and second-generation formulae. So, we should ask ourselves what we are applying. These are the critical issues that the Senators should have considered. Unfortunately, they did not do that.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Makali, I will use my discretion to give you two minutes to conclude that thought.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Speaker, thank you very much. I was saying that the Senate should not have taken more than a year to look at this formula and then this honourable House is given two hours to discuss it and make a decision. Our hands are tied because the Senate wants to show Kenyans that we, as a House, do not care. If I was given an opportunity, I would have said that we should be given more time to discuss this formula. If we do that, it means that we will not pass the County Allocation of Revenue Bill which will be brought next week. Kenyans will say that the National Assembly is the one which is (*inaudible*). As we move forward we, as a House, must insist that we must be given adequate time to look at some of these things. This is what some of us do. We like figures and we can take time to critically look at them. When we look at these figures, we do not want to be rushed.

Last but not least, there are critical factors like water, electrification and other important services in this country which should have been considered, but they were not considered. I really want to emphasize something on agriculture. When you talk about agriculture and a figure of rural households, this is a big joke. Agriculture cannot be equated to rural households. There are many other things which happen in the rural areas. If you go to Nyanza and Coast, there is fishing. This is what we call the blue economy. Let us be genuine in this formula. In terms of representation, where are our colleagues who come from the Coast, Lake Victoria, Lake Turkana and such big water masses in this formula?

I submit my contribution. As I support the Motion, these are my observations.

Thank you.

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

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this Special Motion. At the outset, I want to thank the Budget and Appropriations Committee for work well done, despite the fact that they had very limited time. I have listened to Hon. Mbadi debunking some of those areas which are covered in this formula. It is a very new experience for some of us because we understand how the formula was arrived at and the parameters in as far as all those issues are concerned.

We are where we are because when Kenyans came up with the Constitution 2010, they gave Senate a very clear mandate—to protect the counties. However, when the Senate came up with the Standing Orders, they decided not to protect the counties. The Senate committees are a duplication of the National Assembly's committees. That is where we went wrong. The Senate should have constituted these committees based on its constitutional mandate, so that they can take time and look at some of these issues.

This formula was presented by CRA to the Senate, according to Article 216 of our Constitution, on 30th April 2019. We are now in September 2020. This is when the issue is coming to the National Assembly. They had all the time to analyze these parameters and get people to explain to them the issues pertaining this formula. From that, they would argue out their cases and resolve this issue instead of taking us through the drama. When you watch the Senate proceedings, you see men crying and saying that they were taken by police officers from one corner to the other. It becomes a trauma which we should not subject our country to. We should discuss issues. What are these issues? The aftermath is what is continuing in the Senate. They are discussing what happened and they have even called the Directorate of Criminal Investigations (DCI) to look at some of the issues or claims that were made by some of the Senators. Surely, we are taking the drama too far. We should have looked at what our mandate is, the formula and then allocate the resources. The only thing that I want to disagree with some of the Members is when they call this

a promissory note. The formula has been brought to this House as a Special Motion. We are going to pass it as a House.

As a House of records, we will be held accountable because once the House passes this formula the way it has been presented by the Senate, it means that it will be binding. Therefore, the counties will get their money in the next financial years as this House has passed. Therefore, the Budget and Appropriations Committee should not term it as a promissory note from the Executive. This House is going to pronounce itself on this Motion and once we do that, it means we have passed it as a resolution or Motion of this House. Having passed it as a Motion, we will be held accountable and we must, in the next financial year, allocate to the counties what we will pass today.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ochanda, the Member for Bondo, you have the Floor.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker.

We are in a *fait accompli* situation where we have very little to do to reverse the direction of things. Of course, it is important that we do not be counted as the House that is trying to delay some of these things. But there are many issues that come around when we look at the issue of revenue sharing.

One thing that is very clear is that the Commission of Revenue Allocation (CRA) and, of course, the Senate, have mixed the mutable factors with immutable ones, and have come up with a formula. This is where there is a big problem. For some time, when we are stuck with immutable factors like land, things are fairly clear. But when we bring in services as parameters, then we have a problem. It is a very big problem because these are factors that keep changing. For the last number of years, we have been implementing devolution and in those years, there have been those functions that are again listed here as factors for consideration. What does that mean? If we have been giving money for roads and for health facilities over the years, how come all over a sudden we want to use all those services as parameters; meaning that if a county did very well and used its resources to improve on its health facilities, it is now going to be punished for doing well because those who did not work well are now going to be getting much more money because they do not have facilities. That is where the problem is.

There is also the problem that if you did very well and had roads, now roads are a factor such that, if you are far away from the roads or the number of kilometres people are away from the roads, you are now supposed to benefit. This is where the problem is. We are using immutable factors together with mutable factors to arrive at a formula.

The biggest problem now is that, as we are talking about services, many of us are now going to be asking where the other factors are and it has started. We are asking: Where is water? If you are putting agriculture as a factor, does it mean livestock or does it mean fisheries? What is the scope of agriculture? To what extent are the other factors that are listed here in the name of health? On health, the more you have better facilities and the more you have better access, the lesser money you are supposed to be given. There are big problems here that need to be looked into much more adequately. Moving forward, because this is a formula we are going to be using for three years, it is important that CRA starts re-considering certain amendments to it. Some of the factors need to be checked afresh such that Kenyans get to be happy with what is going on. When we get formula that are becoming very complex - and we are talking about mathematical sigma here - very many people, including my good friend T.J, will ask what all these are. The mathematical sigmas are misunderstood by many and, at the end of the day, nobody will

understand what we are doing. Yet, we are talking about money that we allocate ourselves and we need to see services out of the funds.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now hear Hon. Yussuf Haji.

Hon Yussuf Adan (Mandera West, EFP): Thank you, Hon. Temporary Deputy Speaker. I stand to support, but with some comments here and there. To start with, when we talk about the health services, do we mean the level 2, 3 or level 5 hospitals that are there? Are we to give more money to those who have the hospitals or does it mean that the hospitals are not there hence we give money to develop them? For those who have them, what will they do if they are not given adequate money to maintain and run the hospitals? For those who do not have the hospitals at all, they need a lot of money. Looking at this formula, we see a lot of summations and sigmas. These things should have been simplified.

When we talk about agriculture, it refers to rural households only. Agriculture is wide and it is the backbone of this country. We have crop agriculture, fisheries, the blue economy, camels and other livestock. It does not make a lot of sense when you only consider rural households.

On the land index, what I think has brought a lot of debate in the counties, up to today, I do not understand the way it has finally been done. This is because the one shilling, one kilometre, one vote and one person story has been going on continuously. Ultimately, we are trying to depend on money that we do not have and money we do not know if we are going to get. We are saying that after the Kshs316 billion, some money will come later. We do not know whether our economy is going to be very bad or it may become very good. That it is not Kshs70 billion we will be expecting but another Kshs316 billion. The Building Bridges Initiative (BBI) might come and we might get 35 per cent allocated to counties. It is ambiguous to base the formula on money we do not have in our hands.

While the Senate had one-and-half years to look at this formula before it came here, I do not understand why we cannot be given, at least, two weeks, to debate it. Unfortunately, I hear that because we will not be able to raise two-thirds, just like for the gender issue, ultimately, we shall pass it. But we have to keep records that, although we are not able to raise that threshold, we must have our input seriously recommended. This is a House of records so that in future, when we refer to the *Hansard*, we will know the issues, and know where it is going to be looked at.

Look at a parameter like water, which is not there. About 80 per cent of this country is arid and semi-arid land. The most limiting factor in terms of livelihood and in terms of development of everything is water. What the ASAL people would have seriously requested for a high percentage to be given to water. Leave alone giving it a high percentage, it is not there in the formula. So, the whole thing is very unfortunate. It has taken one-and-half years to reach this stage. The counties are starving and they need money. Unfortunately, we cannot take a lot more time to continue starving them. However, we need to look at these formulas very critically in the future. We need to look at what is good for this country. It is not just for some few people who want to become governors in the coming general election in 2022, so that they can have a lot of money around them. That is not important. What is important is what is good for our people.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to comment on this very important matter. First, I want to thank and congratulate the Chairperson, Budget and Appropriations Committee, for having looked through this very quickly and brought it to us. I want to thank the Senate for coming up with something

that we can peruse and find the way forward. More importantly, I want to thank the Executive for coming up to assist the country when things were beginning to stall.

Devolution is in the Constitution and it is very important for this country. We are looking for ways, including the BBI, on how to make devolution better in this country, although it has been having a lot of challenges in the past. For the counties to take three months now without funds, it means that, eventually, people will be paid salaries for not having worked as such. It also means the delay of development and other very crucial matters, including agriculture, because we are going towards the rainy season. The delay was as a result of the impasse which was there. So, we must improve, as Parliament, so that, in future, there are no delays of such nature as well as wastage of time and finances.

If you look at the formula and what is important for the country, you will find that agriculture is very key in this country. We have sugar-cane growing which is happening in western and coastal counties. We also have the blue economy, for instance, fishing, which is lost, whether it is happening at the counties or at the national level. We need to see an effort in terms of investment. There is 70 per cent recurrent and 30 per cent development expenditures in the counties, which should be the other way round. It means that we are employing so many people who should be put into good use and yet, we are doing very little development in the counties as evident from the 30 per cent development expenditure. That explains the reason why even a simple fund like the National Government Constituencies Development Fund (NG-CDF), which is such a small percentage, seems to be doing better as a devolved fund in the constituencies than the devolved funds at the counties. This is something to be looked at again in future to make sure that the development is increased as time moves on, and make it specific and clear. This is because the devolved units are specific, for example, health. However, for agriculture, there must be the presence of water because the two of them go together. This is what can really cause development at the grassroots. For the pastoralists, if they have water and pasture, the animals will do much better if they employ better techniques in animal husbandry and even have the technical know-how of processing the animal products, which will then get sold locally or internationally.

If issues of food basket of the country and coming up with irrigation schemes are not being debated at the Senate, the county assemblies or by ourselves through the allocation of funds to specific projects, then it becomes very absurd. It means we will never produce enough food for our population. This being an agricultural country, we need to have proper irrigation schemes to be able to produce enough food for ourselves, and also sell to other countries to earn foreign exchange. Therefore, when you look at the whole budgetary allocation and the role of the Commission for Revenue Allocation (CRA) which has been very good, we really need to amalgamate it and make sure that it is properly synchronised so that some developments can be felt.

We have talked about devolution. However, to be very honest, although it is a very good concept, Kenyans are not happy with what is happening in the counties. Raising revenue is a very important matter nationally and in the counties. Unfortunately, the management of the revenues raised in the counties, up to now, is very unclear. There must be a way of making sure that all the monies raised in the counties are accounted for, so that most of it is not lost to the revenue collectors themselves and other county government officials. There must be a kitty, although it has been allocated 2 per cent, which we are able to tap at some point. During the three months of the impasse where they were almost closing hospitals, they should have had enough monies to run those facilities at the grassroots.

Thank you for giving me this opportunity. I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gichimu, the Floor is yours.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I will start by thanking the Budget and Appropriations Committee for delivering this to this House within the shortest time possible. As the Houses of Parliament, we should also be giving the constitutional commissions which have been mandated with the responsibilities of certain functions, like the CRA, their due respect in delivering their mandate. This is a Commission which has experts who are drawn from all spheres for the purposes of considering matters of revenue allocation. So, the Senate should not have assumed that they know better than the CRA.

One of my worries about this kind of formula is that for the next four to five years that we are passing this formula to operate, we will still be using the 2009 population census. Even if this country is able to stabilise economically and raise Kshs370 billion and above for allocation to the counties, we will still be using the 2009 population census results which were controversial. In that case, some counties which are highly populated will miss out on the rightful share of revenue out of this formula.

Another issue that I want to raise is that, by passing this formula, – and that is a critical question that also came up with Hon. Pukose – are we obligating ourselves, as a House, that we must pass a budget worth Kshs370 billion plus for the counties in the next financial year? I have a different opinion because a budget cannot be made in anticipation. It can only be made when that time comes. Therefore, it means that this formula might not be workable going forward, apart from this year whereby nothing is neither being added nor subtracted from the previous budget of the Financial Year 2019/2020.

Another issue is that the inability of the Senate to pass this formula in a record 10 times shows that this is a House which has very little to do. That is because if it was this House, we would not have that luxury of time to meet every other week to discuss a single issue. So, it means that the Senate ought to, probably, in future, consider concentrating more on county matters and also reduce the work in their committees especially of overseeing national Government institutions where we are also likely to be having different reports from committees of the National Assembly and the Senate.

For the interest of this country and way forward, irrespective of the many questions that are arising out of this process, I support the Motion for this country to move forward. Again, I thank the Budget and Appropriations Committee for the good work which they did fast enough.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us hear from the Chairperson of the Departmental Committee on Finance and National Planning.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank the Chairman of the Budget and Appropriations Committee for moving this very important Motion. My leader has very eloquently seconded this Motion in a way that Members got to understand what is really behind the formula.

Hon. Temporary Deputy Speaker, I must say that I am very pleased that some of these parameters such as health have been introduced in the revenue sharing formula. If you look at the health indicator there, the health facility gap is 20 per cent. Primary healthcare visits to Level 2 and Level 3 facilities is 60 per cent and visits to Level 4 and Level 5 hospitals is another 20 per cent. So, the frequency of visits to facilities is coming to 80 per cent, while the facilities gap remains at 20 per cent.

Starting with Level 4 and Level 5 hospitals, only 11 counties in this country have Level 5 facilities. Already, if you do not have a Level 5 facility, there is already a disadvantage there. It is because you will be having nothing to visit. There has been laxity even within our counties for Level 2 and Level 3 facilities. People do not want to go to the dispensaries or health centres. Everybody runs to the main hospitals or referral hospitals within those counties. If you go to Level 2 and Level 3 facilities, you will find that there is no medication. People go to higher facilities. So, when the Leader of the Minority Party said that the debate should be whether the facilities gap is adequate, I would propose that this facilities gap is moved to take a higher portion, not just 20 per cent. It should take up to 30 per cent or 40 per cent so that we take care of those who do not have facilities in the first place. This will ensure that we are not giving money for facilities visits when the facilities are sometimes not there or are not equipped.

Then we came to the issue of data. I think Hon. Makali Mulu raised the issue of the data that we intend to use for this purpose. If you look there, you will find that the formula is talking about number of primary healthcare visits over the total number of primary healthcare visits in the country. On this number of primary healthcare visits, how sure are we that we are using the correct data or data that can be verified properly? How sure are we that people are not just adding things on top of what they have just so that they can get more money? I think the issue of data, not just in primary healthcare visits but data in the other aspects as well, should be well taken care of and well looked into.

When you come to agriculture, it has already been spoken to. The formula is talking about rural households in a county divided by the total number of rural households in the whole country. How is that taking care of agriculture? When you go to Homa Bay, for example, as it has been said before, the mainstay there is fishing. How are we taking care of that in this formula? When you talk about people who are growing *miraa* in Meru or people who are keeping livestock in North Eastern, how is that taken care of in this formula? Why have the Senators not explained to us how agriculture as a factor carries up to 10 per cent in this formula? How are we taken care of as people within the blue economy areas? *Uuiiii!*

(Laughter)

Then, on water, when you are thinking about a formula like this, water cannot be a factor that misses. Water must be a primary factor and we want to look at how we can review it so that accessibility to water by our people is included in a formula such as this. It is because there is no agriculture if you have no water. You cannot operate if there is no water. There is no health if you have no water. Without water, there is no life.

By removing fiscal discipline and revenue, that is the biggest mistake that the Senate has made. Corruption is what is going to kill devolution in this country. If we remove the elements that are dealing with issues of corruption, then we are headed to a place where we will never be able to salvage devolution.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Well. It is good you have concluded. There was some voice that came from you that was not understandable. But, as the Chair of the Departmental Committee on Finance and National Planning, that is okay.

Let us now hear Hon. Mbui Robert.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

First, I want to thank God for touching the hearts of those Senators so that the circus that they have treated this country for a very long time has finally come to an end. In fact, the Bible talks about the story of Saul who went and got a flash of light and then he suddenly became Paul. I think that is what happened to them.

There are some very basic areas of disagreements that the Senators had when they were discussing this formula. Apparently, as my leader has ably put it, they really did not look at the criteria properly. They were interested in the personalisation of these issues. That is why one of the things they were talking about continuously was that some counties were gaining and others losing. At the end of it all, the proposal that we have here is a situation where no county loses. But if the law allows that a formula that moves with the changing times must be created every five years, we cannot be personalising and talking about “my county is gaining” or “my county is losing”. That is not really the basis under the Constitution. There was, of course, the issue of marginalised communities. That has always been an issue. I think the Constitution 2010 tried to address that matter with the Equalization Fund which, unfortunately, as we are aware, has not been actualized.

I will not talk about the formula because my leader has ably unpacked it and explained to us critically what is contained there. But allow me to also talk about some of the missing services. Members have talked about water and electricity. There is one aspect of a devolved function of education which is education in lower levels of the Early Childhood Development (ECD) and also polytechnics. It is important because those are some of the services that needed to be addressed. How come this whole formula does not consider those aspects which are devolved to the counties? When they are sharing monies, why would they forget the education of those young children? Why would they forget the education of those children that have finished Form IV and are going to polytechnics? They are getting skills for the future. I think it is important that these things be looked into very seriously.

On the matter of fiscal discipline which the Senate has unfortunately removed, Article 203(e) talks about the criterion that is used in determining equitable share. It says that fiscal capacity and efficiency of county governments should be one of the criteria that are used. That is the fiscal capacity and efficiency of county governments. If we remove the fiscal discipline element, we are basically going against the Constitution. It is one of those parameters that must be considered when this County Allocation of Revenue Bill is being addressed.

I want to talk about the amount of money, the Kshs370 billion, which is in our Order Paper and we have addressed. We have passed a Division of Revenue Bill in this House. It talks about Kshs316.5 billion. I do not know where the Kshs370 billion is coming from. Is it an advance so that we are going to give Kshs370 billion next year; when we pass the Division of Revenue Bill? I believe that this House will have to debate and agree. It will also depend very much on the amount of money that will be available for sharing. So, I think the fact that we are discussing monies which we do not have is totally unfortunate. You know we have this situation of Covid-19. You do not know exactly what it will do to this nation by that time. So, it is very important to consider that.

Hon. Temporary Deputy Speaker, finally, I want to talk about the problems we are having in the understanding of our Constitution. Article 95 has given us the responsibility of determining the allocation of revenue between the two levels of Government. Then, Article 96(3) gives the Senate the responsibility of determining the allocation of national revenue among counties as provided under Article 217. That is why you will find that this House, as we are debating this Motion, will not try to make amendments. It is because we believe that, that is a responsibility that has been given to the Senate. Why is it that every year when we pass the Division of Revenue Bill,

Senate must force a change so that we end up doing mediation? I think it is important that the two Houses respect each other. We have seen the mistakes that they have made, but we are respecting them and we will pass it the way it is. In future, let them also respect this House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Bashir, the Member for Mandera North. Hon. Duale, I know you are a ranking Member, but you will get a chance. Hon. Bashir, you have the Floor.

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. First and foremost, I want to support the Motion and congratulate the Committee for a job well done. The time was short but they burned the midnight oil to come up with the Report. This matter has been with the Senate since last year and I want to congratulate them for coming up with a win-win formula. I want to congratulate them despite the drama that unfolded before they agreed on this matter.

Hon. Temporary Deputy Speaker, several parameters have been given by the CRA. A number of those parameters are weighty. I would like to speak to agriculture. In my opinion, agriculture should not just be about crops. It should include camel and cattle pastoralism as practiced in my area. It is very unfortunate that water has not been included here and yet, 80 per cent of our country is semi-arid and arid land. Water is very important but it has not been addressed in this formula. These are the basic necessities that our people need.

People are saying that there should be equal distribution of money but, since Independence, the North Eastern area has been neglected by successive regimes. You cannot compare Nairobi and Kiambu counties to counties like Wajir and Mandera. It is not their fault. It has only been seven years since devolution. People are saying that devolution has just been unveiled and there is a lot of corruption. I want to agree with those sentiments, but you cannot compare seven years of devolution to 50 years of national Government neglect. Seven years of devolution cannot cure 50 years of national Government neglect. I am fully aware of those issues. There are counties that have been supported by successive Governments since Independence. From 1963, they have been on an upward trend but those in ASAL, like the North Eastern, have been on a downward trend.

We are talking about population. It is a key factor and it is quite in order that it is given more weight. Are we allocating money to individuals or using them for development and provision of services? We have counties that have been developed since Independence. What other development do they need? They do not even have land for road construction and yet, we still want to give them more money and deny those that have been neglected since Independence. This House is to blame for the stalemate because we determine allocation between the national Government and the counties. Why did we not allocate more resources to counties? We keep blaming the Senate. Counties do not operate in isolation. Our people reside in those counties. We do not have a county called the “national Government” that we purport to represent in this House. Our people and our constituencies are in the counties. If more resources are allocated to the counties, we will ensure there is accountability. We will ensure that resources are prudently used and equitably shared amongst the constituencies. My plea to the counties and governors...

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

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion. I would like to congratulate the Budget and Appropriations Committee for taking up this matter very fast. When the Senate was dilly-dallying with this thing, the problem shifted to MPs because the counties were not functioning. We had to use the meagre National Government Constituencies Development Fund (NG-CDF) to help everywhere. We want them to know that was not right when we talk about public money. Now, the primary fiduciary

responsibility of the Senate is to look at how the money generated is used. If they remove the tool to do what is called fiscal prudence and effort, then you will ask yourself what they are going to use to motivate or punish counties if they are going the way they are doing.

Two, the disease burden is not measured by frequent visits to primary health facilities. Right now, we are encouraging people that even if they want to check their blood pressure or sugar levels, they should visit those facilities. If you have such people closer to you, you will have more visits. So, some counties will have several visits not because people are sick per se, but because they want to stay healthy. Therefore, that is a wrong indicator. In fact, if we were to debate this, what would be in line is disease mortality and disease mobility, and the burden on household finances in responding to diseases. So, at one point, we will have to review how these indicators are being used. Otherwise, they are not going to help us.

Three, in my constituency in Ndhiwa, we have the largest centre that has not been upgraded to an urban centre, but its population fits. I am sure we are going to lose out on this 5 per cent that has been put on the formulae. That means that, it is not only urban centres that have poor people; poor people are also in rural areas. We missed “*kazi mtaani*” and we are going to miss in this. So, this is not a good indicator. I appeal that, at one point, we discuss this as a House. Let the Senate do their core mandate, but the division of revenue or originating of money Bills should have been left to this House. Then we could have solved this case. With that, I support and congratulate the Budget and Appropriations Committee and my Leader, the Leader of the Minority Party, for debunking this formula smartly.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Limo, you have the Floor.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Motion. A lot of issues have been raised by other Members that I do not want to repeat. One thing that I must state is that this formula is political and it is not realistic. But most Members that have talked are supporting it because we need to unlock resources to counties. But the good thing is that no law is cast on stone. This law can be revisited. We have to say this to the Senate. If you look at the formulae well, the promise indicated is that from this financial year to the following financial year, the allocation should be Kshs370 billion. That is unconstitutional because the House that originates the Division of Revenue Bill that will allocate the Kshs370 billion is this House. When you allocate using County Allocation Revenue Act (CARA), it will not work. You cannot work backwards. You have to follow the Constitution to the letter. Saying that there will be Kshs370 for county governments is actually taking powers of this House through the backdoor.

The Senate is assuming that it can determine division of revenue. The Executive promises are promissory notes which should not come to bear in legislation. The Senate should just come up with a clear formula. Which formula are we going to use for the amount between Kshs316 billion and Kshs370 billion? There is a gap. What this House can do in its own wisdom is to pass this proposal, but with a rider that the Senate must revisit it. The funds for Financial Year 2019/2020 will be used in the Financial Year 2020/2021. That means this formula will not affect the current allocations. All county governments will, more or less, get the same allocations which they got last year. Given that we have time between now and next July when this formula comes into force, the Senate must relook at this formula and bring it to this House so that we can comply with the Constitution. Otherwise, it is unconstitutional if we pass it the way it is.

If this House approves this formula, do not be convinced that you can go back next year during consideration of the Division of Revenue Bill and say: “We have no money! Therefore, we

are allocating Kshs330 billion.” You must allocate what you have passed. So, you cannot pass this with the Kshs370 billion that is being quoted in the formula, without having a conversation. Let us not rush because of time. Let us not fear telling the people the truth.

Finally, the Senate has abdicated its responsibilities. The problem is not allocation of money to the counties. The bigger problem in the village called Chepcholiet or Mugumoini or Chepswar where people are yearning for services. They have not been given water. People have been constructing roads using *jembes* and manual labour. And here we are talking about allocating funds and we are clapping that we have taken money to the counties. The Senate should have come up with a protection that any additional resources going to counties must be ring-fenced for development projects. Otherwise, county governments will misuse this money. The county assemblies have been swallowed by the county executives. They cannot talk on behalf of the people.

Hon. Temporary Deputy Speaker, I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now hear Hon. John Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you very much, Hon. Temporary Deputy Speaker. I rise to contribute to this fascinating discussion. This issue has afforded us a great opportunity to discuss important public policy questions and the relationship between county governments and the national Government as devolution matures.

I will start from where the President left. First and foremost, I thank him for offering Kshs53.5 billion that will bring the total allocation to county governments to Kshs370 billion. I am fully aware of the fiscal implications of this, but let us take his word. A year or two ago, he said he had no extra shilling to add to the package that goes to the county governments. Now he has agreed to add Kshs53.5 billion. We must thank him for that. Where will that money come from? It will come from the portion of resources meant for the national government. In the next presentation, we expect to see this figure embedded in the Division of Revenue Bill. After all, we have money. Look at what has happened with Covid-19 financing. About Kshs40 billion has been stolen. There is money in the system. The President is committing to switch that money from the national Government to the county governments fund. I thank him. We hold him at his word.

Moreover, I do not think the President will go back on his word. Two, let us remember that, last year, we were told that in the allocation to the counties, a total of Kshs30 billion was not released from the Treasury. A sum of Kshs30 billion was not released last year. Therefore, the counties have had to do with that shortfall. That shortfall also ought to be corrected. There are many corrections that need to be made.

Next, on the formula, we must be faithful to data, especially official data that comes from the Kenya Bureau of Statistics or from any other centres— the Huduma numbers - for which they spent so much money and the census numbers that have just come out, for example... In addition, in applying that formula just for updating population the base - which is now the one from which we are starting - would have changed. That must be done. If we do not do that, we begin to lie to ourselves, to the people and if you lie there, why not lie anywhere else? We shall have no confidence in these numbers. The data must be applied faithfully, but there are policy options you can use. We were told that if they had used the correct population numbers of 2019, 12 counties would lose. We ask ourselves how you can cushion them as a special mechanism. It would be fine. But you cannot hide it. You cannot gloss over it. I think that is going to be something that will come and haunt us one of these days.

Hon. Temporary Deputy Speaker, we have the Equalization Fund. I think this debate took longer than it needed to take because the Government has not come out honestly on the issue of the disbursement of the Equalization Fund. Moreover, it is a mechanism that we can use to calibrate the support for counties where there are perceived shortfalls. If, for example, using population data we saw that there was going to be a big fall and the fall has a reason because there was a big gain that was not a justifiable gain and so it is a compensation, we would have looked for ways which you can cushion the adjustment to normality. To data, that is real data.

Hon. Temporary Deputy Speaker, there are a number of factors in the formula that we have been told - and I also want to thank both the Leader of Majority and Hon. Mbadi for attempting to clarify and tell us what is behind these numbers. I think that going forward, we need to get a robust debate - not on the actual outcomes first of all - but on how these numbers are being put in. This is because what you put in - like they say garbage in, garbage out - is what you might get outside. However, I am hoping that the next generation formula or as this goes forward, let us ask ourselves how we normalize the differences in mortality rates - say child mortality. How can we get this region to rise up to the national averages and not just deal with input factors? Let us deal with impacts as well.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Duale, you have the Floor.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, thank you for giving me this opportunity. The budget-making process is time-bound. If you read this Report, you will find that the CRA submitted its recommendation to the Senate on the 30th April, 2019. Therefore, the Senate took too long. However, the Senate has no problem. Those of us who come from the pastoral areas, when it comes to resources - even as little as pasture - people fight. We are fighting Uganda even for the fish in Migingo Island. Therefore, when a matter is about resources, the Senate has not committed any crime. People in my constituency fight either over land, water or pasture! Therefore, we can forgive the Senate.

The other matter which is in this Report - and I want the Chair of the Budget and Appropriations Committee to listen to me - is that the amount that has been increased that made it Kshs370 billion is constitutionally illegal. If you read Article 135 of the Constitution, it is very explicit and says if the President makes a decision, he must put it in writing with his seal. Unless the Chair will give us a letter from the President with a seal, then that figure is a political figure. Therefore, we must just be dealing with the one that we passed here of Kshs316 billion - I think Kshs316.5 billion in the Division of Revenue Act. Hon. Chair, ensure that in your recommendation, you put that as illegal.

Secondly, experience of a number of years has indicated that it is important for the Senate to deal with the matter - the Public Finance Management (Amendment) Bill. They should deal with it and bring it back to the House. If that amendment was given to the Senate, we would have solved this problem. In the case of a stalemate, the counties can access 50 per cent of their resources. So, the Senate should have gone ahead and completed that Bill as they were dealing with the formula. They ought to have gone ahead with that Bill so that we finish with it and then the President assents to it. That way, going forward, the counties will not be in a lockdown situation.

Hon. Temporary Deputy Speaker, as we consider the third basis of allocating money among counties, we must take cognizant of the financial misappropriation that is taking place in the counties. Kenyans must have a conversation. Yes, we must fight for more resources, but we must ask how we are using the money that we already have. If you have Kshs10 and you misappropriate

it, why should I give you another Kshs10? If I open for you a kiosk and down the line you close it...

I want to give figures. Reports from the Controller of Budget have indicated various challenges among them the fact that counties are spending huge sums of money on personal emoluments. The reports are very clear. The figure is with the Controller of Budget. There is a lot of under-performance in own-source revenue collection.

Who said that counties should only depend on money from the division of revenue? They must collect money. They have got functions. If you look at between 2019 and 2020, you will realise that only 48.5 per cent of the annual target was received from own-source revenue. There is low spending on development budget across all counties. In fact, the Controller of Budget is saying they have only spent 25 percent of the annual budget of 2019 /2020 on development. Devolution was not meant for salaries and buying cars. It was meant to improve the health sector and infrastructure.

Hon. Temporary Deputy Speaker, please, add me just two minutes! This is serious. Members should know that this is a talk show. There is nothing we can do to amend it. We must...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Duale, there are quite a number of Members who would want to speak to this. Use a half a minute to conclude that.

Hon. Aden Duale (Garissa Township, JP): Allow me. It is important. As we speak, the Deputy Governor of West Pokot has been drawing salary while working abroad. The Senate should focus on such issues. The elephant in the room is this: Kenya is defined by two things: land and population. People say they want to define Kenya by population. How would you live without land? So, there is no way you can delink land and population. In fact, the definition of a country is land and population. So, we must balance the two. This House needs to have a spatial distribution of the billions of money remaining at the national Government. Why can we not ask ourselves that question? Everybody participates in the paying of the national debt; whether you are in Garissa or in Kiambu. So, the Budget and Appropriations Committee, in future, should tell us the allocation of projects under development expenditure per county from the national Government kitty.

We cannot just be discussing what goes to the counties. Why can we not discuss what remains here? So, we must be told how it has been distributed. I have a table here from the previous Chair of the Budget and Appropriations Committee. You will be shocked that while Nairobi got many projects, Samburu got only one. For example, Nairobi got 186 road projects. Samburu County got two projects and in fact, Taita got 12 projects. So, as we go this way, let us be very honest. It is the same way we have a formula for the Kshs316 billion that is going to the counties. Let us have a formula for what remains with the national Government.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us go to the far end and have Hon. Dennitah.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to hear the voices of women on this crucial matter - the third basis allocation to counties. I think I am the second Hon. Lady to speak to this crucial matter, which is very important.

Allow me again to thank the Budget and Appropriations Committee. The speed at which the Committee has brought the Report makes me wonder why it took the Senate almost one-and-half years to bring such a Report to this House. The Senate has held almost 12 sessions to discuss this matter. It is not fair that we have kept our counties waiting.

Hon. Duale has basically spoken almost everything I wanted to speak on. The fact that the Senate took almost 11 sittings to discuss this matter should be a clear indication that we, as the

National Assembly, must take back the role in Article 216 of the Constitution which gives the power to the Senate. You see we have done this very quickly through the Committee. In the last Parliament, I sat in the Budget and Appropriations Committee and that is the speed with which we handled matters.

Allow me to say that the parameters put in place include health, agriculture and poverty. The fact is that women in this country suffer inappropriately, when it comes to issues of health. I say so because you saw what happened at Pumwani Maternity Hospital last week. Health has received 17 per cent of the national budget which is good. But how does this budget translate into reality?

At Pumwani Maternity Hospital, you saw a woman who went to deliver, but sadly enough, she had to deliver outside the gate. It is not fair in this time and era to have a woman deliver the way that woman did. It is a shame! Yet, we are talking about 17 per cent of the budget going to health. This 17 per cent must translate to maternal health which in this country is a big challenge. What is maternal health when a woman cannot deliver in a delivery room?

We talk and talk but we do not implement. I am a strong believer that if a woman carries a pregnancy to birth, that is 9 months, there must be a baby. In fact, a health baby and that is why we are talking about allocating money to health and specifically maternal health. Poverty has taken a feminine face in this country. We are in a situation where we see women and persons with disabilities as the majority of the poor in this country.

We have a tendency in this country of clamping our budgets together. We cannot have persons with disabilities budgets falling under the Ministry of Labour. Everything to do with disability is under the Ministry of Labour. We must be deliberate to ensure that even within these various ministries, we have allocations that are clearly around persons with disabilities, women and the youth.

We have the Equalization Fund which is very important. It was put together by the CRA. In this country, we have seen this Fund target the Arid and Semi-Arid Lands (ASALS). There is need to relook at it.

Hon. Speaker, we need to re-look at the Equalization Fund. I come from the County of Migori and Kuria East Constituency. Kuria East is equally marginalised. We cannot say that counties are the basis for allocating the Equalization Fund. As we speak, we know Migori County has issues. As Hon. Aden Duale has said, we must be very categorical and we must look at the level of plunder in our counties. It is not just receiving money. A lot of plunder and misuse of funds is going on in the counties. Migori County now, like any other county, receives about Kshs1 billion. This formula is good. We will support it because it is going to address the issues that we are talking about and we must, as women, build our voices in terms of revenue discussions in this country. We must be completely supported in this...

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): On a point of order, Hon. Temporary Deputy Speaker.

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

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. Although my sister has finished, I am really disappointed when people talk about the Equalization Fund. The reality has dawned on them. This Equalization Fund has been released once since...

(Loud consultations)

Hon. Temporary Deputy Speaker, I ask you to give me the chance. I want to put it straight to record.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You will get a chance. Next is Hon. Mwashako.

Hon. Danson Mwashako (Wundanyi, WDM-K): Ahsante sana, Mhe. Naibu Spika wa Muda kwa kunipa nafasi hii. Sitasema mambo mengi leo kwa sababu mengi yamesemwa. Nina mambo kama matatu hivi ambayo ningetaka kusema. Kwanza, naunga mkono mjadala huu kwamba sheria ya tatu ambayo imepitishwa na Seneti tuiunge mkono kama Bunge la Taifa.

Haya yaliyojadiliwa ndani ya Seneti kwa muda mrefu yalititiza sana shughuli katika kaunti nyingi hapa Kenya. Nilitamani sana nguvu ile wenzetu wa Seneti...

Hon. Moses Injendi (Malava, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mwashako, just a moment. What is out of order, Hon. Injendi?

Hon. Moses Injendi (Malava, JP): Thank you, Hon. Temporary Deputy Speaker. I rise under Standing Order No. 95. I have been here from commencement of this debate and most of the speakers are concurring. I urge you to call upon the Mover to reply.

Thank you, Hon. Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Members! That fine, Hon. Injendi. I have heard you. Hon. Members, when a Member rises on that point of order, it is the Speaker to determine the mood of the House. If the House resolves that the Mover be called upon to reply, so be it. If the House resolves otherwise, then we will continue with the debate. So, I will put the Question.

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

Hon. Mwashako, please proceed.

Hon. Danson Mwashako (Wundanyi, WDM-K): Ahsante, Mhe. Naibu Spika wa Muda. Vile nilivyotangulia kusema, ningetamani sana nione ile nguvu wenzetu wa Seneti waliitumia kwa kujadili Kshs316 bilioni na vile zitagawanywa katika kaunti zetu. Wangetumia nguvu hizo kupigana na ufisadi ambao unaendelea katika magatuzi yetu. Walitumia nguvu nyingi sana lakini wenzangu wengi wameongea kwamba wakati mwingi, kuna ufujaji wa pesa sana katika magatuzi yetu. Wenzetu wa Seneti hawajatumia nguvu ile kuangalia na kutilia maanani kwamba pesa zinazoenda kwa magatuzi zimetumika vyema.

Kwa haraka tu, ningependa kusema hivi. CRA ambayo imeleta *formula* hii ambayo ilipelekwa kwa Seneti na leo hii Seneti wakajadili ikaja kwetu imeongea juu ya mambo ya kilimo.

Hizi takwimu za mambo ya kilimo zinasukuma nje sana serikali gatuzi ambazo hazijaboea kwa mambo ya kilimo. Kama vile wenzangu wamesema, kuna serikali gatuzi ambazo zinategemea uvuvi wa samaki. Kuna serikali gatuzi pia kama Taita Taveta kule nitokako, ambako hatuwezi kilimo kwa sababu ya shida tulizonazo dhidi ya wananchi na wanyama wa pori. Wakati wanaweka takwimu ya juu kwa mambo ya kilimo, sisi ambao hatuwezi kufanya kilimo kwa sababu ya shida hizi za wanyama wa pori, inatudhulumu. Pili, sisi ambao tunakaa mahali ambapo maji haijatajwa katika takwimu hii tunaumia. Sababu ya kutokuwa na maji ndio inafanya wengine wetu ama wale

tunatoka kwa kimombo ASAL tunashindwa kufanya kilimo ama maendeleo mengine. Kwa hivyo, Seneti na CRA ingetilia mkazo mambo ya maji kuliko kilimo.

La mwisho ni mambo ya afya. Wengine wetu tunajua kwamba kuna zahanati za afya ambazo zimebobeza sana katika serikali gatuzi nyingi. Kuna serikali gatuzi ambazo ningetaka kusema, kama mahali Mhe. Shaban anatoka, wananchi wengi hawaendi hospitalini kwa sababu hazina vifaa, madawa na miundo msingi mhimu ya kusaidia watu wetu. Inabidi wavuke waende nchi jirani. Wakisema idadi ya watu wanaotembelea zahanati, watu wengi ambao wanatoka nchini kwenda nchi jirani hawachukuliwi maanani. Tunapoteza idadi ya watu ambao wanatembelea zahanati kule nyanjani. Watu wengi hawaendi hospitali zetu. Kwa hivyo, fomula hii iliyotumika inadhalilisha maeneo ambayo yamebaki nyuma miaka nenda, miaka rudi.

Kama tunaunga mkono, ni vizuri ziende katika kumbukumbu za Bunge kuwa CRA ikishirikiana na Bunge la Seneti, ni muhimi wachangamkie takwimu walizozitumia. Nyingi kati yazo si takwimu ambazo zina uhakika. Mfano ni wakati CRA ilileta fomula ya mambo ya kutengwa. Walitumia takwimu ambazo nilipinga na nikaketi na Commissioners wa CRA na wakaona takwimu hizo walizotumia si nzuri ama hazikua sawa. Waliweka maeneo mengine kuwa yalikua yamebobeza. Ilibidi watembeee kudhibitisha kuwa hawakutumia takwimu sawa.

Naunga mkono, lakini nitasema ni vizuri tuchunguze kwa undani takwimu zinazotumiwa kwa sababu tukiendelea hivi, nchi yetu itabaki kuwa kwingine kutaendelea na kwingine kunabaki nyuma.

Najua saa zimeisha lakini kuna pesa nyingi ambazo zinabaki katika Serikali kuu. Ni vyema kama Bunge la Kitaifa tunapojadili Bajeti ama Bajeti-nyongeza itakapoletwa, iletwe hesabu ya kweli kuonyesha pesa zinazobaki katika serikali za kitaifa zinatumika vipi. Kuna miradi mingi katika maeneo fulani na maeneo mengine yanabaki kuwa maskini.

Naunga mkono. Ahsante sana, Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kioni, you have the Floor.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak to this crucial debate. At the outset, let me say I come from Ndaragwa where we had a visit of the NG-CDF team led by Wamunyinyi and, in his words, he said that he is surprised that Ndaragwa is within Mt. Kenya where people have continued to think that there is development. Yet, it is an area that requires development. So, even as we continue to make these contributions... We have been elected to this Parliament to represent our areas. It is not a crime to say how your area requires development or how behind you are. It is something that we must allow to be part of our debate on a regular basis. I know the Members of Parliament from North Eastern are very eloquent and I admire them.

The way they have kept guarding...

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Jeremiah Kioni. It is 1:00 p.m. That is not to say that you have utilised all your minutes. When this business comes up again, this afternoon, you shall have the remainder of the four minutes.

Hon. Members, this item had two hours and thirty minutes. So, we still have a remainder of thirty minutes this afternoon, for it to be concluded.

Hon. Members, the time being 1:00 p.m., this House stands adjourned until this afternoon at 2:30 p.m.

The House rose at 1.00 p.m.