



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 17

THE HANSARD

Tuesday, 12th March, 2024

The House met at 2.30 p.m.

[The Deputy Speaker (Hon. Gladys Boss) in the Chair]

PRAYERS

Hon. Deputy Speaker: Hon. Members, let us proceed with the first Order.

PAPERS

Hon. Deputy Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table:

Reports of the Auditor-General and financial statements for the year ended 30th June 2023, and the certificates therein in respect of—

1. Rivatex East Africa Limited.
2. Karugu Agricultural Training Centre.
3. Mt. Elgon Lodge Limited.
4. Co-operative Societies Liquidation Account.
5. Numerical Machining Complex Limited.
6. Kenya Development Corporation.
7. Youth Enterprise Development Fund.
8. Tana Water Works Development Agency.
9. Kenya Maritime Authority Staff Mortgage and Car Loan Scheme.
10. East Africa Trade and Transport Facilitation Project (IDA Credit No. 4148-KE).
11. Northern Corridor Transport Improvement Project (IDA Credit No. 3930-KE and 4571-KE).
12. Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase III (Turbi-Moyale) No. P-ZI-DBO-095 (Loan No. 21001500255546).
13. Kenol-Sagana-Marua Highway Improvement Project (P-KE-DBO-037) Credit Nos. 5050200000901 and 2000200004504.
14. Kenya Institutional Strengthening Project Phase XII (Project No. KEN/SEV/86/INS/64).
15. Thwake Multi-Purpose Development Program Phase I (AfDB Loan Nos. 2100150029993, 2000200003351, AGTF No. 5050200000501 and AfDB Grant No. 2100155025973).

I beg to lay.

Hon. Deputy Speaker: Next is the Chairperson of the Committee on Regional Integration.

Hon. Wanjiku Muhia (Kipipiri, UDA): Hon. Deputy Speaker, I beg to lay the following Paper on the Table:

Report of the Committee on Regional Integration on its participation in the 10th African Grain Trade Summit held in Uganda from 5th to 7th October 2023.

Hon. Deputy Speaker, I beg to lay.

Hon. Deputy Speaker: Thank you. The Chairperson of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table:

1. Addendum to the Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023), tabled in the House on 21st February 2024.
2. Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Houses of Parliament (Bicameral Relations) Bill, (National Assembly Bill No. 44 of 2023).

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is the Nominated Member, Hon. Irene Mayaka. Sorry, Hon. Mayaka. Before you take the Floor, let us have the Vice-Chairperson of the Public Petitions Committee, Hon. Janet Sitienei. I think we can move to the next Order and then we will come back to her when she arrives. We can move to the next Order.

(Hon. Janet Sitienei walked into the Chamber)

We will give her a chance to settle down. Do you want us to finish with Order No. 7 first and then I come back to you? Hon. Sitienei has just joined us, but let us give her a minute to settle down. Let us proceed to the next Order. We will come back to her.

Hon. David Kiplagat.

QUESTIONS AND STATEMENTS

REQUEST FOR STATEMENTS

DISTRIBUTION OF SUBSIDISED FERTILISERS TO FARMERS IN THE NORTH RIFT

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Deputy Speaker. I was worried that I had been forgotten. The matter I am raising is of national importance, especially to farmers in the North Rift. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the distribution of subsidised fertilisers to farmers in the North Rift region.

The Government initiated a subsidised fertiliser programme with the intention of bolstering Kenya's agricultural sector productivity in order to stabilise food prices. Consequently, the Government undertook nationwide registration of farmers for the purposes of delivering subsidised fertilisers by use of an e-voucher system to ensure traceability and full accountability of the subsidised fertilisers. However, the programme is facing several challenges, among them being a lag between the date of receipt of the notification and the redemption of the subsidised fertilisers. As a result, farmers have been queuing for a long time at the National Cereals and Produce Board (NCPB) depots for the subsidised fertiliser. Additionally, farmers in the region have lamented about lack of finances to redeem the voucher, long queues, obtaining information late and corruption in the fertiliser subsidy programme.

Since the planting season has commenced, particularly in the North Rift, it is imperative that the Government moves with speed to streamline the distribution of subsidised fertilisers to farmers to forestall crops failure that will result from late planting.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following:

(Loud consultations)

Hon. Deputy Speaker, protect me. I need to be heard in silence.

Hon. Deputy Speaker: Proceed. We can hear you loud and clear despite the murmurings.

Hon. David Kiplagat (Soy, UDA): Okay.

1. What is the quantity of subsidised fertilisers stocked in NCPB depots across the country *vis-à-vis* the targeted number of farmers and acreage of land?
2. Could the Ministry consider giving farmers in the North Rift vouchers to purchase fertilisers from retailers at subsidised price of Ksh2500 per bag, in the event of shortage of the subsidised fertilisers at NCPB depots?
3. What mechanism has the Ministry put in place to ensure that farmers in the North Rift have received subsidised fertilisers in the next one week before the planting season begins?
4. What modalities has the Ministry put in place to enhance the effectiveness of the e-voucher system in order to minimise the long queues at the depots?

I thank you, Hon. Deputy Speaker. Since it is a matter that concerns farmers in the North Rift, I request that Hon. Kipsanai and...

Hon. Deputy Speaker: You have decided to take up the Speaker's seat. Before we proceed, allow me to recognise students who are seated in the Public Gallery:

1. Kirobon Girls High School from Rongai Constituency, Nakuru County.
2. Winzyeei Secondary School from Mwingi West Constituency, Kitui County.
3. Rarakwa Girls from Kigumo Constituency, Murang'a County.
4. Gitwe Secondary School from Githunguri Constituency, Kiambu Country.
5. Londiani Township Secondary School from Kipkelion East Constituency.

(Applause)

I will give an opportunity to Hon. Joseph Chererot, Member for Kipkelion, to welcome the students on our behalf.

Hon. Joseph Chererot (Kipkelion East, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity to welcome all the students who are with us today in the plenary. This is an opportunity for the students to learn. This House is a role model to the students. During our days, we use to read about it in the books. But in their case, they have an opportunity to come and observe the proceedings of this House. I welcome all of them. I encourage all the students who are with us this afternoon to cheer up and make sure they perform well in their schools.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Nominated Member, Hon. Irene Mayaka, you can now seek your statement.

STATUS REPORT OF THE CAMPAIGN TO END FGM BY 2022

Hon. Irene Mayaka (Nominated, ODM): Hon. Deputy Speaker, I hereby request for a statement on the status report of the campaign to end Female Genital Mutilation by 2022.

Pursuant to Standing Order 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Social Protection on the status of the campaign

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor*

to end female genital mutilation by 2022. In November 2019, the Ministry of Public Service, Gender and Affirmative Action launched a National Policy on Abandonment of Female Genital Mutilation following a firm commitment from the then President on 4th June 2019 to put an end to Female Genital Mutilation (FGM) by 2022. The policy was aligned with the impetus to accelerate the eradication of FGM in the country.

While the strides taken by the Ministry of Public Service, Gender and Affirmative Action in the eradication of FGM cannot be gainsaid, certain areas in the country still practice FGM. There is, therefore, the need for extension of the campaign to end Female Genital Mutilation to ensure total prohibition and eradication of all forms of FGM in the country.

It is against this backdrop that I seek a statement from the Chairperson of the Departmental Committee on Social Protection on the following:

1. Could the Ministry provide a status report on the achievements that resulted from the campaign towards ending FGM by 2022?
2. What initiative did the Ministry put in place to sustain the gains made through the campaign beyond 2022?
3. What programmes has the Ministry initiated towards the sensitization of communities susceptible on the negative effects of FGM and the amount of resources allocated to achieve accelerated eradication of the vice?
4. Could the Ministry consider another phase of the campaign to end FGM in targeted areas of the country for a term of three years?

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Tharaka, Hon. George Murugara.

MYSTERIOUS DEATH OF MISS PERIS KARIMI MUGERA

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. This is a request for a statement regarding the mysterious death of Miss Peris Karimi Mugera of Tharaka Nithi County.

Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the disappearance and mysterious death of Miss Peris Karimi Mugera of ID No. 30960640 from Ndiruni village in Tharaka Nithi County.

Miss Peris Karimi Mugera, a renowned political blogger and businesslady in Chuka Town, was reported missing on 29th February 2024 under unclear circumstances. The frantic search for the deceased by her family and police officers from Chuka Police Station met a tragic end on 8th March 2024, when the deceased's family positively identified her body at the Kerugoya Mortuary in Kirinyaga County. It is reported that her lifeless body had been found dumped along the Mwea-Sagana Road in Kirinyaga County on 1st March 2024. To date, the family is yet to know the circumstances for her disappearance and subsequent murder in cold blood.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following matters:

1. What is the status of investigations into the disappearance and mysterious death of Miss Peris Karimi Mugera, including the identity of the killers and their motive?
2. What steps has the Government taken to ensure that all the perpetrators of the disappearance and death of the said person are brought to book for prosecution?
3. What actions has the Government taken to ensure that Miss Peris Karimi Mugera's family is protected from threats by persons likely to be associated with her death?

4. What measures has the Government put in place to ensure that the safety and right of expression of all Kenyan political bloggers are protected?

I thank you, Hon. Deputy Speaker. I request an answer to this issue as a matter of urgency.

Hon. Deputy Speaker: My assumption is that the relevant chairpersons of those committees cannot answer now. They will answer at a later date. Is that okay? The first request for statement by the Member for Soy, Hon. David Kiplagat, will be marked to the Departmental Committee on Agriculture and Livestock.

The request for statement by the Member for Tharaka, Hon. George Murugara, is marked to the Departmental Committee on Administration and Internal Affairs. The one by Hon Irene Mayaka will be marked to the Departmental Committee on Social Protection. I think that was your request. We can schedule that they respond before we go for recess next week on Tuesday.

Hon. David Kiplagat (Soy, UDA): On a point of order, Hon. Deputy Speaker

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

Hon. David Kiplagat (Soy, UDA): Hon. Deputy Speaker, you and I come from the North-Rift and we know that farmers are now planting. They have been queuing for the subsidised fertilizer that is not there. Can you order that it be sorted within three days? We cannot wait for one week.

Thank you.

Hon. Deputy Speaker: Hon. Mutunga, is three days acceptable?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): I have listened very carefully to the Member when he was requesting for the statement. He is saying that he needs the response in the course of this week. However, we have an engagement with the Ministry. I cannot give my response. It requires the Ministry to do the investigations and the scheduling that he has requested. It cannot take less than a week as we have to give them a one-week notice. I think he is out of order.

Hon. Deputy Speaker: I think that sounds reasonable.

Hon. Julius Sunkuli (Kilgoris, UDA): On a point of order, Hon. Deputy Speaker.

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

Hon. Julius Sunkuli (Kilgoris, UDA): Hon. Deputy Speaker, I had a feeling that you were going to give us an opportunity to comment on this statement, which I see is not the case. I request that when a response to that statement is given, it should not just be limited to the North Rift. We have the same problem in Kilgoris; which is in the South Rift. Fertiliser is being given in small quantities. It expires very quickly. Some people are given more than they deserve and they are selling it to the neighbouring county, Kisii. In fact, yesterday, the NCPB was flooded by people who are not from Kilgoris. We need that response to cover the whole region. I want to request my friend from Soy to always think broadly. There is nothing called the North Rift. We are all members of the Rift-Valley.

(Hon. Adams Korir raised his hand)

Hon. Deputy Speaker: What is your point of order, Hon. Kipsanai? I will come to you Hon. Milemba.

(Hon. Omboko Milemba spoke off the record)

Hon. Deputy Speaker: We can only take one order at a time. I am following the order.

Hon. Adams Korir (Keiyo North, UDA): Thank you, Hon. Deputy Speaker. I want to thank Hon. DK for raising this important matter. As you are aware, farmers in the North Rift are preparing to plant. Now that the rains are approaching, the farmers are in anguish due to

rationing of fertiliser. It is important for the Chairperson to take the request for statement from the Member seriously. We want it to be expedited. Farmers cannot wait any longer. The rains are approaching and farmers have already ploughed their farms. It is important that you direct that we get a response so that farmers can get the fertiliser on time.

Thank you, Hon. Deputy Speaker.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Omboko Milemba. Keep it brief because it is a point of order.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. The Chairperson of the Departmental Committee on Agriculture and Livestock has to rise to the occasion. The matter raised by the Member is serious. The magic that is happening in the country currently is because we got some fertilizers during the first and second planting seasons, and that is why the price of one *gorogoro* is oscillating where it is. This is very serious, and the Chairperson should be able to reply to this. I was in my constituency, and in both Hon. Maungu's constituency and mine, there is no fertiliser, and people were queuing. We need the fertiliser so that we can keep the price of *gorogoro* down.

Hon. Deputy Speaker: Thank you. You have made your point.

Hon. Owen Baya (Kilifi North, UDA): On a point of order.

Hon. Deputy Speaker: Hon. Owen Baya, if it is a point of order, make it brief. Then I will come to you, Hon. Pkosing.

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker, while the matters being raised here are very important to the nation, this is Parliament, and it has procedure. We must speak to the fact that Hon. DK used a route that does not accord him what he wants. He requested for a statement and, in my understanding, and having been in Parliament, when a statement is requested, we do not debate or start raising points of order in the guise of debating the matter. He should have come with a Motion of Adjournment so that he can get what he wants. But to use requests for statements for us to debate a matter is completely out of order in this Parliament. He should use the correct path. The Chairperson has asked for a week, and the matter rests. However, for us to use a backdoor to achieve our interests is not right. This is Parliament, and is a House of procedure which should be followed.

(Loud consultations)

Hon. Deputy Speaker: Hon. Owen Baya, actually, you are more out of order than everybody else.

Hon. Members: Yes.

Hon. Deputy Speaker: If you are on a point of order, you keep it brief. You simply say your point, and that is the challenge. Everybody is making a speech while calling it a point of order, but you are also doing it.

(Loud consultations)

Hon. Members, I think the point has been made. No matter how much we debate, none of the chairpersons will be able to speak.

Let us proceed, Hon. Members.

(Hon. David Pkosing spoke off the record)

Hon. Pkosing, you are out of order. We have closed that chapter. If you remember Hon. Members, I had re-ordered the Order Paper. We had gone to Order 7 and skipped Order 5. I will, therefore, call upon the Vice-Chairperson of the Public Petitions Committee, Hon. Janet Sitienei.

PAPERS

Hon. Janet Sitienei (Turbo, UDA): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Public Petitions Committee on its consideration of:

1. Public Petition No.3 of 2022 by Hon. Said Buya Hiribae regarding de-gazettement of Hola Irrigation Scheme land to allow for the expansion of the County Headquarters of Tana River; and,
2. Public Petition No.4 of 2022 by Mr. Stephen Mutoro regarding funds spent by the national Government contrary to the provisions of Article 223 of the Constitution.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Member, did you have any notice of Motion or only Papers to lay?

Hon. Janet Sitienei (Turbo, UDA): Both.

NOTICE OF MOTION

ADOPTION OF REPORT ON FUNDS SPENT BY NATIONAL GOVERNMENT CONTRARY TO ARTICLE 223 OF THE CONSTITUTION

Hon. Janet Sitienei (Turbo, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Petitions Committee on its consideration of Public Petition No.4 of 2022 regarding the funds spent by the National Government contrary to the provisions of Article 223 of the Constitution, laid on the Table of the House on Tuesday, 12th March 2024.

Hon. Deputy Speaker: Thank you. Hon. Members, we can now go back to Order 8.

Hon. Opiyo Wandayi (Ugunja, ODM): On a point of order.

Hon. Deputy Speaker: Let me give the Leader of the Minority Party an opportunity.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Deputy Speaker.

I rise under Standing Order No. 47(3). But before I go there, Standing Order No.47(3) is all about the Speaker determining the constitutionality of a Motion or a Bill before it is processed by the House, and I will not read it because it is clear.

I will for a moment talk about the Rulings made by the former Speaker, Hon. Justin Muturi, a legal mind of no mean repute and indeed, of his predecessors, in both the 11th and 12th Parliaments, which I was privileged to serve in. I speak on a specific Ruling that he made on 21st December 2021 on the Constitutionality of the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, on a Tuesday Afternoon. At page 298 of that Ruling, he said, and I am just but paraphrasing him:

“That before I guide the House on the pertinent questions for determination, it is worth noting that Articles 3 and 10 of the Constitution oblige the Chair to respect, uphold and defend the Constitution. As you are aware, all the businesses that comes before the House are approved by the Speaker. And among other considerations, the Speaker applies his mind as to the constitutionality or otherwise, of such business as contemplated under Standing Order 47(3).”

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor*

Hon. Deputy Speaker: Hon. Wandayi, just so that everyone can follow you, you are rising under Standing Order 47(3)?

Hon. Opiyo Wandayi (Ugunja, ODM): Yes.

Hon. Deputy Speaker: If the Speaker is of the opinion that any proposed Motion is one which infringes or the debate that is likely to infringe on any of the Standing Orders?

Hon. Opiyo Wandayi (Ugunja, ODM): Yes.

Hon. Deputy Speaker: And the one on contrary to the Constitution? So, which one are you referring to?

Hon. Opiyo Wandayi (Ugunja, ODM): 47(3).

Hon. Deputy Speaker: Which particular part of the Order Paper are you referring to? I just want to be able to follow you.

(Loud consultations)

Hon. Opiyo Wandayi (Ugunja, ODM): I wish the House could be attentive. Because I cannot really communicate.

Hon. Deputy Speaker: Order, Hon. Members. Let us consult in low tones.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, I am referring to the Statute Law Miscellaneous (Amendment) Bill, (National Assembly Bill No.68 of 2023) which has since gone through the Second Reading, and is destined for the Committee of the whole House. That is why I am paraphrasing Speaker Justin Muturi's Ruling on the 21st December 2021. I was just concluding his remarks.

“Let me also hasten to add that, notwithstanding the approval of any business by the Chair under the Standing Orders, it has now become an established parliamentary practice of this House that a question of the constitutionality or otherwise, of any matter under consideration by the House, may be raised at any stage of its consideration. Indeed, my predecessors and I, have been invited on several occasions to guide the House on issues of the constitutionality of various matters before the House.”

That is the point.

Hon. Deputy Speaker: Okay, you have made your point. You have explained the Standing Order correctly but that particular Statute Law Miscellaneous (Amendment) Bill that you are referring to is not on the Order Paper for today. Is it?

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, I wish you could just listen to me first before you can guide. I will just conclude what I am saying.

Hon. Deputy Speaker: Yes.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, I am well aware that the particular business is not on today's Order Paper, but I have mentioned that it has been duly approved by the Speaker and, indeed, has gone through the Second Reading Stage. That therefore, it is within the remit of Standing Order 47(3) and especially, the Ruling that I have just referred to, by the former Speaker, Hon. Justin Muturi.

I will be very brief. Article 3 has been elaborated well by the former Speaker, Hon. Muturi, in his Ruling.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): On a point order.

Hon. Opiyo Wandayi (Ugunja, ODM): I am on a point of order, Hon. Deputy Speaker. Protect me, please.

Hon. Deputy Speaker: Hon. Chepkong'a, just let him finish and then you can raise yours.

Hon. Opiyo Wandayi (Ugunja, ODM): What is he jittery about? I am on a point of order.

Hon. Deputy Speaker: Hon. Chepkong'a, you are out of order. Allow me to listen to him and then rule on it.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, thank you very much. I am, in particular, referring to the Value Added Tax Act of 2013, which is proposing that this Amendment Bill amends the VAT Act, 2013. Is the Value Added Tax Act of 2013 a Money Bill or not? It is. The Proposer of the Bill is proposing to delete Section 68(2)(A).

Hon. Deputy Speaker, Money Bills are provided for under Article 114 of the Constitution, and I will take you to Article 114(2).

Hon. Deputy Speaker: Hon. Wandayi, like I have just asked you, that particular Bill is not presently before the House. It will be before the House in the coming days. Then you would be able to submit as you are now. You are now doing it in a vacuum. Even if I were to give a ruling, it is impossible to do so, as it is not before the House.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, I am just concluding. My point is this: Article 114(2) of the Constitution requires that if, in the opinion of the Speaker of the National Assembly, a Motion makes a provision for a matter mentioned in the definition of a Money Bill, the Assembly may proceed only in accordance with the recommendations of the relevant committee of the Assembly after considering the views of the Cabinet Secretary responsible for Finance. That is the point.

Has this proposed amendment to the Value Added Tax (VAT) Act, 2013 been taken through the relevant committee? Is there a report from the relevant committee? Has it received the concurrence or opinion of the Cabinet Secretary of the National Treasury and Economic Planning? That is the point.

Hon. Deputy Speaker, the answer to this question is that it has not received it. Therefore, the business is before the House un-procedurally, even if it is not in today's Order Paper.

Hon. Deputy Speaker: Hon. Wandayi, that particular Statutory (Amendment) Bill will be brought to the House at some point in time. You are anticipating debate right now. Let us wait until the matter is properly before the House, and when all the other Members are able to access the documentation from the Table Office. This will enable them to give a counter-argument to your argument, but you are debating yourself now. You have made your point. You have put it well. Let us proceed.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, this matter will proceed on the day it will be on the Order Paper. However, that does not negate the very weighty constitutional issues that I have raised. Whoever is responsible for this Bill must take note.

Thank you.

Hon. Deputy Speaker: Thank you, Hon. Wandayi. They have received the message. Let us wait until the matter is before the House. There is no point in debating it now because it is not even before the House.

Hon. Owen Baya, I hope you will not talk about this matter because it is not even before the House. We are just speculating and anticipating debate. No one else in this House, probably save for the two of you, who knows about it. Let us wait until it is properly before the House.

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker, I want it to be on record that it is proper that we comment on this matter. Hon. Wandayi has properly raised it in the House. I commend him on one thing. No one in this House is interested in passing an unconstitutional law. It will be foolhardy for us to sit here and pass a law that we know is unconstitutional. We swore to protect the Constitution. As much as there is a lot of substance in what Hon. Wandayi has said, this House also has procedures.

As you have ruled, we agree with you that the proper procedure must be followed. This matter is not before the House today. When it will be presented for debate, Hon. Wandayi will have his say. We will also have our say on the matter. But because it is a constitutional issue, the Speaker will make a ruling and guide the House on how we will move forward. We thank

Hon. Wandayi for raising a constitutional matter. However, we ask him to hold his horses until that particular time. We can have a robust debate then and the Speaker can make a ruling that can guide the House.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. This matter is now settled. We can move to the next Order.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD FOR THE DIVISION OF REVENUE BILL

Hon Deputy Speaker: Deputy Leader of the Majority Party.

Hon. Baya Owen (Kilifi North, UDA): Hon. Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 120(1)(c), this House resolves to reduce the publication period of the Division of Revenue Bill, (National Assembly Bill No. 14 of 2024), from seven days to four days.

The Division of Revenue Bill is a very important Bill that unlocks debate and preparations for budgets both in the National Assembly and the county assemblies. Therefore, if we wait for the stipulated number of days, it will inconvenience very many institutions, including the National Treasury and the Budget and Appropriations Committee, in the preparation of the budget. We also want the county governments to start the preparations of their budgets. This Bill will give them the opportunity to do so. Therefore, we request this House to approve the reduction of the publication period of this Bill from seven days to four days. It will be read the First Time this week. Subsequently, we will start the Second Reading and debate it, so that we unlock the monies that are supposed to go to the counties.

The Division of Revenue Bill is a very important piece of legislation in the budget-making process. Therefore, we request this House to approve the reduction of the publication period from seven to four days, so that we can start the budget-making process.

I would like to request Hon. Bowen Kangogo, who is serving a third term, to second this Motion.

I thank you, Hon. Deputy Speaker.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Deputy Speaker. I second the Motion on the reduction of publication period of the Division of Revenue Bill from seven days to four days.

Many of our counties are now struggling to even pay employees because of lack of funds. Reduction of the publication period from seven days to four days will help us to fast-track this Bill and make sure that we are done with it before we present it to the Senate, so that the resources that are needed by our counties can be disbursed.

There is also a second issue. It is very important to reduce the publication period of this Bill to four days, so that we can go through all the legislative processes and finish them on time.

I second the Motion.

(Question proposed)

Hon. Members: Put the Question! Put the Question!

Hon. Deputy Speaker: I can see that the mood of the House is that I put the Question.

(Question put and agreed to)

Next Order.

BILLS

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(Senate Bill No.6 of 2022)

(Moved by Hon. David Gikaria on 5.3.2024)

(Debate concluded on 7.3.2024)

(Question put and negatived)

First Reading

THE DIVISION OF REVENUE BILL
(National Assembly Bill No.14 Of 2024)

*(The Bill was read the First Time and
referred to a relevant Committee)*

Second Reading

THE REGIONAL DEVELOPMENT AUTHORITIES BILL
(National Assembly Bill No.7 of 2023)

(Moved by Hon. Peter Lochakapong on 7.3.2024)

(Resumption of Debate interrupted on 7.3.2024)

Hon. Deputy Speaker: Hon. Members, before we resume debate on the business listed as Order No.11, allow me to recognize students seated in the Speaker's Gallery and the Public Gallery. We have students of Mutumo Mixed Secondary School from Kitui South Constituency, Kitui County; Nyangati Secondary School from Mwea Constituency, Kirinyaga County and Ng'iya Girls Secondary School from Alego Usonga Constituency, Siaya County.

(Applause)

(Hon. (Dr) Rachael Nyamai spoke off the record)

I will give you an opportunity. Please hold on. Let me, first, give the Floor to Hon. Maina Mathenge. I will then come to you. He had how many minutes left? Eight minutes. He is not in the House. So, I give the Floor to Hon. (Dr) Rachael Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Deputy Speaker, for indulging me. I take this opportunity to welcome students from various constituencies in our country. I, specifically, welcome students from Mutumo Mixed

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor*

Secondary School, which is in my constituency. I want to tell them that this is the august House, where legislation and representation is done. I want to encourage them that in future, it is possible to find yourself in this place representing your constituency. As they go home, they should be assured that Members of Parliament have their interests at heart.

Hon. Deputy Speaker: I give a few minutes to the Member for Alego Usonga to also welcome students from his constituency.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Deputy Speaker. Let me welcome students and teachers from Ng'iya Girls High School, who are from my constituency of Alego Usonga. I wish to inform the House that this is the oldest girls' school in the entire Nyanza region. Also, it is the only national school in Alego Usonga Constituency.

This school has had notable alumni in this House. The former Member for Gem, the Late (Dr) Grace Ogot; the International Criminal Court (ICC) Judge Justice Joyce Aluoch and the Late Orio Rogo Manduli, were alumni of this school. There are so many notable Kenyans who went through this school. It is a very special school. I welcome the teachers and the students to observe the proceedings of this House. I am proud of their school because it continuously excels in national examinations. I know that seated in the gallery are girls who will join this House in the future. I want to tell them that this House belongs to them and they should not limit their ambitions and work hard to ensure that they become Members of Parliament.

Thank you, Hon. Deputy Speaker.

(Hon. (Dr) Lilian Gogo consulted with the Hon. Deputy Speaker)

Hon. Deputy Speaker: Hold on. We are on Order No. 11. I would like to call upon the Vice-Chairperson of the Regional Development Committee, Hon. Wamaua, Member for Maragwa Constituency.

Hon. Mary Njoro (Maragwa, UDA): Thank you, Hon. Deputy Speaker, for giving me a chance to support the Bill that has been brought by the Regional Development Committee. It seeks to consolidate the laws relating to regional development and provide the functions and powers of the six Regional Development Authorities (RDAs) that are mostly found in the Arid and Semi-Arid Lands (ASAL) areas.

The RDAs are established by separate Acts of Parliament. This Bill seeks to merge the establishment and operations of the six authorities so that they are under a single Act of Parliament. It also seeks to standardise the functions of the RDAs subject to the unique areas of operations because they are not within the same area or environment. Therefore, it seeks to ensure that there is standardisation.

The Committee seeks to narrow down some areas like membership following the provisions of the *Mwongozo* Code of Governance for State corporations. So, the size of the board shall be limited to nine members, excluding the *ex-officio* member. This is contrary to what is contained in the Bill. So, the Committee will bring an amendment during the Committee of the whole House.

Hon. Deputy Speaker, I hope this House will support this Bill. Article 189(2) of the Constitution outlines the importance of co-operation between the different levels of government so they can carry out their duties effectively. Most of what is done by the RDAs happens to be the functions of the county governments. Therefore, there is need for co-operation so that those two levels of government are not seen to be fighting each other but, rather, in a way, improving and filling the socio-economic status gap of the people.

Collaboration is crucial so as to ensure that we achieve better development outcomes for the people of this country. By combining their strengths and resources, the RDAs and the county governments will join forces to tackle inequalities, boost the economic progress and

improve the overall quality of life for everyone in their areas. We know that some areas do not have RDAs. The reason why an Act of Parliament formed RDAs was to ensure that in the ASAL areas, we add another strength to assist the county governments to fill the gaps. The RDAs remain vital entities in our country's development landscape, thanks to their diverse functions and proven capacity to foster socio-economic growth, while effectively managing the resources. They also play a vital role in driving sustainable growth and resource management nationwide.

This Bill was brought during the 12th Parliament, but we were unable to conclude its enactment before Parliament recessed *sine die*. As the Regional Development Committee, we found it important to combine, harmonise, standardise and have one Act of Parliament. Due to time, I may be unable to bring out all that is contained in this Bill. However, I want to single out that the RDAs are credited for having conceptualised and implemented some very mega projects like Masinga and Kiambere multi-purpose dams in River Tana, as well as the Turkwel Multi-Purpose Dam on River Turkwel. We also have the Sondu River Multi-Purpose Development Project on Sondu River, under which Sondu-Miriu Hydro-Electric Power was implemented. Also, Mwache Dam Multi-Purpose Development Project is currently being implemented. The RDAs have done a lot, including creating employment and income generating projects for the youths and women groups. Thanks to that support, our people are able to earn something. I request the Members of this House to fully support the Regional Development Authorities Bill so that all RDAs can be anchored in one Act of Parliament, instead of having them under the various Acts of Parliament that are currently governing the six RDAs. This will also enhance collaboration and co-operation of the national Government and the county governments because both intend to improve the socio-economic status of our people.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, before the next speaker, I rise to make a clarification. A few weeks ago, the substantive Speaker ruled that Hon Members will be given an opportunity to speak if they have their cards. If you do not have one, they are available at the Clerk's Office. You can get them to make our work easier. Also, if you have a school visiting from your constituency, write on a piece of paper and place it on my table here to avoid distracting me. This will give everyone an opportunity.

With that, I will give two minutes to the Member for Rangwe, Hon. Lilian Gogo, because I know that she is a former student of Ng'iya Girls High School.

Hon. (Dr) Lillian Gogo (Rangwe, ODM): Thank you, Hon. Deputy Speaker. I appreciate you. That is the beauty and power of a woman. I appreciate the great Ng'iya Girls High School, who are seated in the Public Gallery. I am an alumni of the school, which is the only national school in Alego Usonga Constituency, where I was born and brought up. I celebrate the school for making me who I am before I moved to Kisumu Girls High School. I once sat in those seats and slept in the dormitories you are currently sleeping in. I wore that same uniform and tie that you are wearing today. The sky is the limit. The best is yet to come for you. It is your time to do your best at Ng'iya Girls High School. The country is looking up to you. I may not be in this particular seat forever but, I want to tell one of the girls who is seated in the gallery that when my time is over, I want to see one of them occupy my seat. I thank the school for making me who I am today. I appreciate all the girls and the boys too. The men in the House are complaining.

Hon. Deputy Speaker, the girls are not able to see you from where they are seated but that seat, which is currently occupied by a woman, will be occupied by one of the girls from Ng'iya Girls High School in future. I appreciate my alma mater, and I am waiting to see how the school will perform this year. I will attend the party.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is the Member for Ganze, Hon. Tungule.

Hon. Kenneth Tungule (Ganze, PAA): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

At the outset, let me affirm my support for the Regional Development Authorities Bill. I am a member of the Regional Development Committee that came up with this Bill. The RDAs have been here with us since Independence. They have been the engines of development, especially in our rural areas.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

They have been operating under different laws and, therefore, their functions have been uncoordinated and haphazard. The outcomes of the operations could not be properly accounted for.

Hon. Temporary Speaker, those authorities have the capacity to develop our rural areas if they are given the necessary legal framework. This has been difficult because they have been operating under different Acts of Parliament. This Bill, therefore, seeks to collapse all the different Acts of Parliament and consolidate the operations of the RDAs under one Act of Parliament. One of the benefits of consolidating the RDAs under one law is that their functions will be coordinated and it will be easy to oversee them. This Bill will be beneficial to this country.

The Bill also seeks to rectify the very bloated boards that those RDAs have been operating on. Most of the board members do not hail from the areas that the boards operate from. We have six RDAs in this country, which are all operating under different Acts of Parliament but, during the operations of the boards – for instance, the Coast Development Authority (CDA) – you will note that the board members are from other parts of the country. This Bill will reduce the number of board members from 12 to nine to conform to the *Mwongozo* guidelines. Apart from the *ex-officio* members, the other members will come from the areas where the boards operate. This will be beneficial because many of the board members will be conversant with the issues that affect the people in those areas.

The RDAs have been operating even before devolution. Some of the functions of those authorities have been taken up by the county governments, but they still have a big role to play. Some of the devolved functions are under the purview of the counties but, there is still a lot to be done. A function like water services is now under the counties, but there are some projects that the counties cannot execute alone because they are cross-cutting. Some projects need to bring two or three counties together so that they can be effectively done. This is where the RDAs come in. We have seen attempts by counties to form regional bodies so that they can pull resources together.

Hon. Temporary Speaker, there have been complaints or attempts by the Council of Governors to disband the RDAs. The role that the RDAs are playing is complementing and supplementing what the counties are doing. We already know that the counties have so much in their hands, and they are not effectively carrying out their functions. Bringing an extra hand to help them perform their functions is not bad at all. Much as we appreciate what the counties are doing, there are some roles that the RDAs can play to benefit the counties. We have seen attempts by various counties to form economic blocks. If we pool resources from various quarters, we can be more effective in our undertakings. So, it is high time that the Council of Governors supports what the RDAs are doing on the ground because I am very sure that they are complementing their roles.

With those remarks, I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Next is Hon. Christine Ombaka.

Hon. (Dr) Christine Ombaka (Siaya County, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I just want to welcome Ng'iya Girls High School to this august House because this is the first time that they have been here. I want to tell the girls that this is where we work – represent our constituencies and make laws that are meant to protect you, and encourage you to improve your lives. We have talked about education and empowerment for the girl child. This is where we debate about it. Ng'iya Girls High is a school that has brought out many strong women in this country. In a European sense, it is an Ivy League kind of school, the best of the best. Therefore, girls, aim high, work hard and join us one day when the opportunity comes. I expect you to complete your education and excel in life. The sky is the limit.

Thank you and God bless you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Christine, I thought you would be speaking on the Bill but you have had your way.

Nevertheless, let us have Hon. Phyllis Bartoo speaking next. Do we have her in the House? If you are not speaking on this Motion, I can move to the next Member.

Hon. Phyllis Bartoo (Moiben, UDA): Hon. Temporary Speaker, I am not speaking on this particular one.

The Temporary Speaker (Hon. Omboko Milemba): Thank you. Let us have Hon. Eckomas Mutuse. Are you in the House?

There is the general tendency by Members to key in to speak on matters that may have already lapsed. Therefore, I request you, Members, to refresh the requests kits. Key in afresh so that I know who would want to speak on this debate?

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Hon. Temporary Speaker, I rise under Standing Order 95 to request that the Mover be called upon to reply.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Mutuse. You are completely out of order. You are not even sure of what you want to speak on. Secondly, it is wrong for you rise under Standing Order No.95 at this particular time.

Let us have the Deputy Leader of the Majority Party speak on this debate. Give him the microphone.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, the Regional Development Authorities Bill is very important. I would like to urge Members to contribute to it because it affects us.

We must align the RDAs to the Constitution because some of the mandates they have taken belong to the county government and, hence, becoming counter-productive. This is a constitutional issue because the RDAs want to undertake water, education, roads and health functions and yet, some of those functions belong to the national Government while others belong to the county governments. The county governments should be given space to do their work as provided in the Fourth Schedule of the Constitution. To continue to have the RDAs in the national Government, with functions that cut across the two levels of government, is in contravention of the Constitution. Therefore, they must be aligned. The RDAs need to choose to be mammals or birds.

We currently have nine RDAs doing work that is cross-cutting. We must abide by the Constitution. Where should they lie in the Fourth Schedule of the Constitution? Should they lie in the national Government or the county governments? There has been an argument by the governors – which I support - to some extent because they have been setting regional blocks that require money so that they can perform the functions of the county governments. We have been denying the regional blocks resources because we have been taking the money to the RDAs and yet, they do not have the mandate to do the work of the county governments. I will introduce an amendment to this law and have my say during the Third Reading so that, instead

of having those RDAs that consume money by paying a lot of staff and doing nothing, we hand them over to the regional blocks and fund them to perform the functions of the county governments.

Some of the RDAs receive a lot of money from donors. In the case of the Coast Development Authority (CDA), it has received millions of shillings from the Italian Government. However, we see them sitting and dividing the tenders amongst their colleagues and families. At the end of the day, the coastal people do not benefit from the Authority because there is no structure to govern them. Even the Cabinet Secretary responsible for the RDAs has no say under the statutes governing those RDAs. They operate like parastatals and yet, we know that they are not parastatals. They consume a lot of money from the national Government and give no results.

I would like us to strengthen them so that they can either undertake county government functions or national Government functions. It will give us an opportunity to send more money to the county governments for development, if we allow the RDAs to be what are now the economic blocks that we have. We have *Jumuiya ya Kaunti za Pwani* (JKP) in the Coast and the Lake Region Economic Block (LREB). The economic blocks are doing work that the governors should be doing. So, there is a conflict in law and I hope my friend, the Chairperson who is here, takes cognizance of those facts so that we can reform the RDAs. However, they must choose where to belong. They cannot be a cow and a goat at the same time. They have to choose who they want to be so that we get the benefits for the money that we put in them.

We also need to align them to the *Mwongozo* on governance. I think they have many board members. How do you give membership of the CDA Board to someone who has never been to the Coast region and understands nothing about the region? How does he sit down to decide development issues for a region he understands nothing about? How do you take a person from the Coast region to the LREB to discuss issues of the lake region that he understands nothing about?

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Nyakundi?

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker. One of the things that the Regional Development Authorities Bill is going to sort out is that of ensuring that people coming from those regions become board members of those RDAs. This is one of those things that...

(Hon. Owen Baya spoke off the record)

Hon. Temporary Speaker, I kindly request the Member for Kilifi North Constituency to relax. This Bill is trying to sort out the issue of board members who come from one region but serving in regional development authorities (RDAs) in other regions. Only people who come from a specific region and who understand that region should serve as board members of RDAs in those same regions.

Thank you, Hon. Temporary Speaker.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Member, for giving the information. I support the position that members of a particular RDA board must come from the region. You cannot bring people from other regions to sit in council or a board in a region where they do not understand anything. I concur with Hon. "Papa Jepho" on this matter that members of the boards of RDAs must be from the region where the authorities are located.

As I conclude...

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Ruku? Deputy Leader of the Majority Party, just take your seat. There is very serious interest in your contribution. Hon. Ruku, what is out of order?

Hon. Ruku GK (Mbeere North, DP): Hon. Temporary Speaker, I tend to differ seriously...

Hon. Owen Baya (Kilifi North, UDA): That is debate and not a point of order

Hon. Ruku GK (Mbeere North, DP): It is a point of order, Hon. Temporary Speaker. It is not right...

The Temporary Speaker (Hon. Omboko Milemba): Order.

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Temporary Speaker

(Hon. Owen Baya spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): Take your seat, please. On which point of order are you rising?

Hon. Ruku GK (Mbeere North, DP): I want to raise a point of order.

The Temporary Speaker (Hon. Omboko Milemba): Which point of order have you risen on?

Hon. Ruku GK (Mbeere North, DP): It is not right, Hon. Temporary Speaker...

(Hon. Owen Baya spoke off the record)

It is not right for us to stand here and segment this nation when we have professionals in the Republic of Kenya with knowledge of every corner of this country. They not only have knowledge of every corner of the Republic of Kenya, but also the East and Central Africa regions. There are Kenyans who have gone to school and who can serve on every board regardless of whether it is the Coast Development Authority, the Rift Valley Development Authority or the Tana River Development Authority. We will be driving this country in the wrong direction if we segment our nation into tribal cocoons. It is very shameful for the Deputy Leader of the Majority Party to champion that kind of thinking.

Hon. Temporary Speaker, I submit.

The Temporary Speaker (Hon. Omboko Milemba): Order! You have made your point

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, the best experts...

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Members!

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I am on the Floor.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Ruku has clearly made his point. You may proceed.

Hon. Owen Baya (Kilifi North, UDA): The best professionals and experts on matters of the Coast are people from the Coast region.

(Loud consultations)

There can never be a better expert than a person who comes from the Coast region.

Hon. Temporary Speaker, I will speak boldly. Those authorities have been used for many years to marginalise communities in their own regions. People from other places are nominated as members of boards in certain regions and they use those positions to oppress the

natives and take away the resources from those regions. I will stand by the fact that the best experts on matters about the Coast region are at the Coast. They will take all the board positions in the Coast Development Authority because that is what must be. We must reform those regional bodies to ensure that people from certain regions run their boards just like they run their county governments. People from a particular county should run their county government.

(Hon. Charles Nguna consulted with several Members)

We will stand by that. Hon. CNN, you are entitled to your opinion because you want to come to the Coast and colonise the people there. We will not allow you that space at all. People from the Coast will manage their own resources. If you do not have an RDA in your region, go and create your own. I want to...

The Temporary Speaker (Hon. Omboko Milemba): We have heard you. You may take your seat. Hon. Members, you do not have to shout. Just come in procedurally and you will have a chance to speak on this debate. Hon. Otiende Amollo, do you want to speak to this?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Proceed. That is the orderly way in which we want to run the House. Do not shout. Proceed, Hon. Otiende Amollo.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Speaker. I want to express my general support for the Bill. The idea of all RDAs coming in one Bill is generally a good one. In fact, the case had been made to consolidate many more bodies, some of which do the same thing and replicate each other. We need to rationalise the number of public bodies we have in this country.

Consolidation is a good thing, but we must ensure not to make those places a preserve of political failures. They are appointed to those authorities not to help with development, but as a holding ground while they wait for the next election cycle. Instead of some of them focusing on regional development, they politick day-in, day-out. That is something we need to check on as we reconstitute those boards.

I support the idea of reducing the number of board members. Indeed, we do not need nine board members. We can reduce the number even further. Experience has shown that the leaner the board, the fewer the opportunities for corruption, and the more efficient it is. That is something to consider. As we do that, I hope they will resolve some outstanding issues. For example...

(Loud consultations)

Hon. Temporary Speaker, the consultations are rather loud though valid.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Members seated behind Hon. Otiende. Please, take your seats or consult in low tones.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Speaker. Some regional development bodies have been unable to resolve certain issues. A case in point is the Lake Basin Development Authority, which began developing the Lake Basin Development Mall, which has now taken almost 20 years to complete. We are unable to resolve it because successive boards and managers are not interested in completing it. They are only interested in seeing what other opportunities they can get. I hope we will resolve those outstanding matters if we enact this Bill.

I agree with one thing that Hon. Baya has said, although he has confused me. He started by saying that he supports the Bill. He then said that during the Third Reading, he will persuade the House not to support the Bill so that all those tasks can go to the county governments. So, he is approbating and reprobating. Hon. Owen Baya must decide where he stands, especially

as the Deputy Leader of the Majority Party. You must consult and know which Bill you support and which one you oppose because you confuse us. We do not even know whether you are speaking as the Deputy Leader of the Majority Party or the Member for Kilifi North Constituency. Sometimes, we wonder what to do with you.

The idea of rationalising the tasks and functions of those regional bodies *vis-à-vis* the functions of the county governments is a legitimate one. It is something that we must focus on. However, Hon. Owen Baya has always spoken about the Coast being run by people from the Coast region. All the resources that regional bodies manage are not regional resources, but national resources. Lake Victoria is not a resource for the Nyanza region; it is a resource for Kenya. Even a resource from the Coast region is a resource for Kenya. Let us not tribalise and regionalise national things. We must bear in mind that those regional bodies are funded by taxpayers all over the country. Those regional bodies are supposed to perform functions consistent with the Constitution, which requires diversity and regional balance. We must ensure there is diversity, regional balance and merit. Ultimately, if a man from Tharaka Nithi County like Hon. Murugara, can be the best leader in the Coast Development Authority, why not?

(Hon. Zamzam Mohammed spoke off the record)

If Hon. Owen Baya turns out to be the best managing director that the Lake Victoria Development Basin Authority could ever have, why not give him the opportunity provided he does what is required? We cannot amend laws to make our situation and ethnicisation worse when we should be endeavouring to be a one-nation State.

Hon. Temporary Speaker, I support the Bill. I denounce this Hon. Owen Baya regionalisation agenda. I suggest that we pass the Bill as it is. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, in the Speaker's Gallery...

(Hon. Owen Baya consulted loudly with several Members)

Order, Hon. Baya. Hon. Members, we have students from St. Francis Girls Mang'u High School from Gatundu North Constituency in Kiambu County, who are seated in the Speaker's Gallery. Do we have any Members from the Kiambu region to welcome the girls? Let me allow the senior counsel to welcome the girls

Hon. George Murugara (Tharaka, UDA): Thank you very much. Kindly allow me to welcome St. Francis Girls High School, Mang'u, to the National Assembly. I remember that school very well. We used to visit them when I did my O-Levels at Mang'u High School. Therefore, I remember the school with nostalgia because it was part of our development as we grew up. St. Francis Girls High School, this is the House of the National Assembly. I know that you are studying hard, as usual. Soon or later, you will be coming here to represent the various constituencies you come from. Study and do your exams well. You are going to be great ladies in this country. Welcome to the National Assembly.

(Applause)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Letipila Eli, Member of Parliament of Samburu Constituency. Proceed.

Hon. Letipila Eli (Samburu North, UDA): Thank you. I rise to support the Regional Development Authorities Bill. I am a member of the Committee. From the onset, I would like to say that my opinion on the Bill has been an answer, especially to the marginalised

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor*

constituencies and parts of this country that were victims of Sessional Paper No.10, which legitimately marginalised parts of this country. It made parts of this country less productive and, therefore, un-deserving of State support in terms of development.

Regional Development Authorities have provided strategic interventions through mega projects of national values like mega-dams. They have greatly helped this country in food security through irrigation, among other measures. Regional Authorities have been a great complement to devolution, especially at the national level. They should be viewed as such.

This Bill seeks to consolidate all RDAs under one legislation because individual RDAs have been having their Acts. In essence, each has been having an even board membership. This Bill seeks to drop them from twelve to nine members. It also seeks to align RDAs with the Constitution of Kenya 2010.

I support the sentiments of Hon. Otiende Amollo on the constitution of the membership of those boards. I believe that the Constitution of Kenya gives every Kenyan an equal opportunity to serve in this country, and that meritocracy should be the order of choosing the memberships of those authorities. I also support the idea that the membership of the boards of those authorities should include the locals. Those authorities serve specific areas. The locals have better knowledge of prevailing situations and conditions in those areas. An example is regional authorities that serve areas like Northern Kenya. People from specific places where those authorities serve better understand the problems that are affecting those communities. Therefore, they are better placed to serve and offer services and advice that will add value to the authorities in those areas.

I thank the Committee on Regional Integration for taking views during public participation where those things were part of what came out strongly. We were getting strong sentiments that those authorities are purviews of political appointees who do not add value. For better service delivery, communities said we need local representation in those authorities. This Bill took those views, that the membership should include locals. We also got sentiments that the membership is bloated. That is why we have reduced the board membership.

I believe that RDAs should be retained at the national level to complement the development at the other levels of Government. The notion that RDAs should go to devolved units got strong opposition during public participation. The people giving feedback strongly supported the RDAs to remain at the national level. Many of them view RDAs the same way they view the development by the National Government Constituencies Development Fund (NG-CDF) at the constituency level. They say that they are seeing more impact. They are getting more value for their money from those RDAs. I support that they should remain at the national level. They should not go to devolved units unlike what the Deputy Leader of the Majority Party was saying.

I support Hon. Otiende Amollo that the Deputy Leader of the Majority has confused us all. We did not know whether he was supporting or opposing the Bill. If he had gone through the Bill properly, he would have read and understood what I am saying as a Member of this Committee.

Thank you. That is my submission.

The Temporary Speaker (Hon. Omboko Milemba): Leader, you should take your place. Every Member is having a comment on your earlier statement. Next is the veteran Member of Parliament, Hon. Adan Keynan.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Temporary Deputy Speaker.

On the face of it, this is a very good Bill. It ought to have come a long time ago, pursuant to the enactment of the current Constitution. I congratulate the Chairman, Hon. Peter Lochakapong, and his team, for this well-intended Bill. If I look at the memorandum of objects and reasons of the Bill on the establishment, powers and functions to streamline those many regional bodies, it is a timely one.

(Hon. Owen Baya consulted with other Members)

I hope that Hon. Owen Baya, the Deputy Leader of the Majority Party, will hear our sentiments. This Bill is a precursor to the promulgation of the current Constitution. Hon. Owen Baya is still very busy consulting.

The operations, activities and mandates of those regional bodies have been overlapping. The original idea of having regional bodies was superb and good. Mzee Moi and his cohort had a good idea of devolving funds through those regional bodies. Over time, because of the changing dynamics of Kenya and our constitutional framework, the functions and original mandate of some of those bodies have been declared nugatory. Therefore, we need to streamline and put them into perspective to complement the role of the national Government.

What Hon. Owen Baya is suggesting is not good. I am sure he is a leader trying to create a niche for himself in the Coast region, but that should not negate the national spirit.

Hon. Temporary Speaker, generally, over the years, the things that have really reduced every aspect of our development agenda are regionalism, tribalism, cronyism and corruption. As much as I agree that the people of the Coast region require that dynamic approach, we must also appreciate that the region is part and parcel of the Republic of Kenya and Kenya is a unitary State. Therefore, that approach to our development agenda only negates the national spirit.

(Hon. Paul Biego entered the chambers without bowing)

The Temporary Speaker (Omboko Milemba): Order. Let that Member go back and do the correct thing. This is a House of rules and order.

(Hon. Paul Biego bowed at the Bar)

Proceed.

Hon. Adan Keyna (Eldas, JP): The approach suggested by Hon. Baya only negates the national spirit. It is not in tandem with both the letter and the spirit of the current Constitution. It does not appreciate the diversity of the Republic of Kenya and it does not appreciate the premier nature of the Republic of Kenya. I thought, Hon. Temporary Speaker that, as a very wise man, you would have ruled Hon. Baya out of order to the extent that his creative imagination actually still lingers with the old ideas of regionalism, *majimboism* and other negative ideas that we shed off under the current generous Constitution.

It is also time we dissect mandates and activities in line with the current Constitution; and in line with the relevant statutory establishment and also in line with the *Mwongozo* Rules. Once this is properly contextualised by taking into account the objects and the reasons of this particular Bill, it will create an effective, efficient and transparently run regional authorities. That is what we endeavour to have and what we are looking forward to. I am sure that is the intent and the motivation behind the Chairman of this critical Committee.

We also need to think outside the box. This premier country, whose leadership the Almighty God has bestowed on it, and this critical group, requires two things. We need to think outside the box. Over the years, everything we have done has been laden with tribalism and it has failed to work. Look at where we are.

Hon. Temporary Speaker, let me get your attention on this. I know most of us were born after Independence. Once we got our Independence, the Kenya that the colonialists had in mind and the Kenya that we have today are completely different. That is why the President and the Government are struggling to put us back to where we are supposed to be. We used to

have the Kenya Meat Commission (KMC). In 1968, and I am sure many of you were born after 1968, the GDP of the Republic of Kenya was the same as the one of South Korea. What has changed today? The GDP of South Korea is 50 times bigger than that of Kenya. In 1968, Botswana borrowed from Kenya the idea of setting up a meat commission like the KMC. Where are we today? Today, Botswana provides meat to the entire world whilst KMC is under receivership. What has taken us there? Tribalism, regionalism, corruption, nepotism and everything else that we can attribute to this negative thinking that Hon. Baya was trying to introduce. I thought Hon. Baya, being a very progressive Deputy Leader of the Majority Party, should tell us how we can get out of those perennial challenges in the name of tribalism and regionalism so that Kenya can join the league of developed nations.

When I look at this Bill, it is dealing with the formations of those regional boards. It is an administrative issue. I remind my colleagues here today that, today, you are a Member of Parliament but, tomorrow, you could be an ordinary citizen. Therefore, as we do this, we should legislate for posterity not having a particular issue or a particular person in mind. That is why the collective thought of this particular group, and our Secretary-General of the Northern Kenya Parliamentary Group is a Member of this Committee, is good. Those are the things that we need to address. We need to have the entity that deals with northern Kenya so that Ewaso Nyiro Development Authority can function efficiently and effectively. They have one of the best managing directors but, because of the structural challenges, that organisation cannot work. Those are some of the things that this Bill attempts to cure. I commend the Committee.

In conclusion, Hon. Temporary Speaker, there comes a time, as the late Professor George Saitoti said, when the country is more important than an individual's thinking. We need to collectively put our thoughts together so that the Kenya that we have, through our little contribution, joins the league of developed nations.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Joseph Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Speaker. I want to use the words of Senior Counsel, Hon. (Dr) Otiende Amollo, that I generally support this Bill. To be able to fast-track it all of us, this country has moved...

(Several Hon. Members consulted loudly)

Hon. Temporary Speaker, protect us from those Members of Parliament who come from one county. They are distracting us. Where have we come from?

(Hon. Julius Melly consulted other Hon. Members loudly)

There are Members who are conversing in a language that is not parliamentary and all of them come from the same county.

The Temporary Speaker (Hon. Omboko Milemba): Oder, Hon. Melly. The Chairman of the Departmental Committee on Education, your discussion is too loud.

Hon. Joseph Makilap (Baringo North, UDA): The four come from the same county and are consulting in their mother tongue.

The Temporary Speaker (Hon. Omboko Milemba): Okay, proceed.

Hon. Joseph Makilap (Baringo North, UDA): Hon. Temporary Speaker, I want to bring us to speed on why it is necessary for us to do this Bill. In the 1980s, this country tried to address specific inequalities that were affecting Kenyans in every region through what was called Focus for Rural Development Strategy. After that, we established regional authorities in 1990s to address the challenges that were facing Kenyans in specific regions through development. What then followed after the Focus for Rural Development in the 1980s and the

Regional Development Authorities of 1990s is the promulgation of the Constitution of Kenya in 2010. Those are the steps we have taken so far. The Constitution of Kenya subdivided this country into 47 county governments that we have today. Why? Kenya is a country with diverse people. To develop it in a manner that no government shall discriminate, counties were established so that there is equitable share of resources. What has been missing is this Bill? After we devolved Kenya into 47 county governments, every regional government can address the things that are specific to it, but we did not touch the regional authorities. Their functions belong to county government and others for the national Government.

The Bill sponsored by Hon. Peter Lochakapong is, therefore, necessary to realign the regional authorities with the new order in Kenya: the establishment of county governments and the national Government. That is why we have the Fourth Schedule in the Constitution that lists specific functions for the county governments and those specific for the national Government. This Bill, therefore, tries to reorganise the regional authorities in a manner that shall conform to the Constitution of Kenya.

It is necessary to carry out those reforms because some of those authorities have become obsolete in terms of performance. They are run by regional kingpins who have lost elections, and who breed corruption in those particular institutions. That is why this Bill is necessary. It will sort out very specific things that can be done by county governments using the regional authorities and those that can be done by us at the national Government. Therefore, resources will follow functions.

For example, the Kerio Valley Development Authority's vision was to develop the Kerio Valley region to the level that is enjoyed by others. I have used it as an example because that is where I belong. We have allowed the regional authorities' management and boards to be run by our kinsmen. Going forward, to avoid what the Deputy Leader of the Majority Party was saying, the appointees to boards must meet some specific academic qualifications, professional requirements and technical expertise, so that we do not just appoint every Tom, Dick and Harry to run those institutions.

As we go through this Bill, there is a need to synchronize this by saying that the regional authorities and boards shall not have more than a third of the people in that particular region. Let us appoint qualified, experienced and technically-skilled Kenyans who will not canvas in their mother tongue. My colleagues have said that some of those board members share tenders and corrupt the processes, bringing the authorities down. We need authorities that can change the lives and bring development to Kenya in a manner enshrined in our Constitution.

Even the membership of the boards should be standardised. Some boards comprise 16 members, while others have nine. There is a need to put those regional authorities in order. A board of directors should have no more than seven members to ensure efficiency and productivity. The personnel working in the secretariat should be qualified and knowledgeable. Hiring individuals exclusively from the regions where the authorities are located is not advisable. This is because if you only hire people from the same region, it can lead to the authority collapsing quickly. This would result in a waste of taxpayers' money.

Hon. Temporary Speaker, the six regional authorities we are talking about here receive exchequer from all Kenyans, regardless of how they voted. This is revenue from the county governments and the taxes from Kenyans. Therefore, we must nationalize our institutions so that we can change Kenya. If we want to bring about positive change in Kenya, we must ensure that every institution we establish has the right people in terms of qualifications, management and experience. This will enable us to drive development across the entire country.

For instance, the Turkwel Hydropower Project was designed to produce electricity while utilizing the remaining water for irrigation in Turkana and West Pokot. This is what will change Kenya. We need this country to become food secure. The Kerio Valley, in particular, can produce vast amounts of food and sugar-cane without using fertilizers. So, I accept that

those regional authorities must be reformed in accordance with this Bill. We will bring more amendments to ensure that all stakeholders, including county governments, are brought on board. We are aiming to align specific regional authorities with economic blocks, which has been a challenge for our county governors in the past. There is a need to realign economic blocks together so that we can have economically viable and revenue-generative entities in our country.

Moreover, auditing the regional authorities is crucial. Today, while dealing with a financial matter, we discovered that some entities receive significant revenue but are not under the purview of the Controller of Budget. This situation is a recipe for corruption as it allows individuals to misuse resources that Kenyans work hard to earn.

This Bill is a game-changer in developing areas that have always been vulnerable to droughts, floods, banditry and in areas where fishing and sugar-cane farming are practised. By the end, we can elevate the rest of the country to a level where we can proudly say that Kenya is prosperous.

Therefore, I support this Bill with the necessary amendments. Let us have a unified country. Let us also reduce the non-profitable suckers that are consuming taxpayer's money. We need to reduce wastage by becoming economical. If we do this, we will change our country.

With that, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Zamzam Chimba.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana, Mheshimiwa Spika wa Muda. Nami naunga mkono Mswada huu ulioletwa Bungeni kuhusu maendelo ya idara za mikoa.

Mengi yamesemwa, lakini licha ya kuwa tunataka maendeleo katika mikoa yetu... Pia nimeskia wenzangu hapa wakitaja mambo ya ukabila na mengineo... Katiba yetu ilileta ugatuzi ili watu waweze kufaidi kutokana na rasilimali zao. Katika Bunge hili, tunashuhudia unafiki mkubwa kwa sababu jamii ndogo ndogo hazijafaidika kisawasawa kutokana na rasilimali zao.

Kwa hivyo, licha ya kuwa tunataka kuteua watu waliostawi na kuimarika kuongoza idara hizo, ili kusawazisha rasilimali na uchumi katika mikoa yetu... Lakini hata juzi baada ya kupiga kura, watu walioanguka kura wameteuliwa katika idara hizo. Hivi sasa, idara hizo hazina maana kwa kuwa tumeingiza siasa. Kila siku, ni siasa tu zinazopigwa katika idara hizo. Hata ukienda kutafuta usaidizi, unaambiwa kuwa wewe ni wa chama fulani. Walioanguka kura wajifunze kurudi kiwanjani tena. Sio tu walimbikizwe katika idara tofauti na hata hatujui wanachokifanya huko.

Licha ya kuwa tunataka walio na uzoefu katika kuongoza idara hizo, ni lazima tuheshimu ugatuzi. Watu wanaotoka sehemu zile wanaelewa vizuri jiografia, tamaduni, mila na matatizo yanayowakumba wanachi wa sehemu hizo. Kwa hivyo, tunapaswa kuteua watu kutoka sehemu hizo, lakini wawe wamebobeza katika nyanja zao, yaani, ni *professionals*.

Nimeskia Mbunge mmoja akisema tuwache mambo ya ukabila, lakini tunashuhudia ukabila mwingi mno wakati wa kutafuta kura na katika nyanja zote nchini. Isiwe eti katika maendeleo, watu wanapouliza haki zao, wanalemezwa na ukabila. Sisi Wapwani tumefinyiliwa sana. Ukiangalia pale Pwani, watu wanaopewa kazi sio watoto wetu. Ndugu yangu, Mhe. Owen Baya, amezungumza kwa uchungu mwingi kwa sababu ya mambo tunayoyapitia kama Wapwani. Hatutetei ukabila, lakini tunasema kuwa mtu hucheza kwao, na hupata kile cha kwao. Tumefinywa sana kama Wapwani, na rasilimali zetu zinaenda sehemu zingine.

Tumekaribisha kila mtu kwetu, hatukatai. Pia ni haki kwa watu kutoka sehemu zingine za Kenya kufanya kazi katika idara zilizoko Pwani. Lakini wasitufinyilie. Tusione watu wanaofaidi ni wale ya kutoka sehemu zingine, ilhali Wapwani tunabaki nyuma. Wengi wamemtafsiri vibaya ndugu yangu Mhe. Owen Baya, lakini ni kutokana na uchungu tuonaosikia kama Wapwani. Tunataka mtu akiteuliwa kuongoza idara kama ya *Kenya Ports Authority*, aangalie watoto wa Kipwani. Katiba yetu inasisitiza 70 per cent.

Kwa mfano, sisi kama Wabunge wa Pwani, tuli *apply* chakula cha kupatia walioathirika na njaa kutoka kwa Wizara ya *East African Community, Arid and Semi-Arid Lands (ASALs), and Regional Development*. Inatamautisha kuwa hata wale viongozi wa dini wameenda kutafuta msaada huo kwa kuwa ni haki yao, na wanawajua wanyonge katika jamii. Walivyokwenda katika Idara fulani kuuliza, wakaambiwa chakula kitapewa mtu fulani, ambaye ni mwanachama wa chama fulani ili akisambaze kaunti nzima. Rasilimali zetu zisifanyiwe siasa. Ndio maana ndugu yangu, Mhe. Owen Baya, amekuwa mkali kwa sababu mambo mengi yanafanywa kufinya watu wengine. Kama sisi sote tunafuata sheria ya Kenya katika mambo ya Idara ya Mikoa, basi tuhakikishe kuwa kila Mkenya anapata haki yake kulingana na Katiba. Haiwezekani chakula, kwa mfano, kimetoka kule katika Idara ya *East African Community, Arid and Semi-Arid Lands (ASALs), and Regional Development*, kikija Mombasa, Masheikh wanaambiwa hawawezi kukichukua, na kuwa kitachukuliwa na Mbunge fulani ambaye atakisambaza kaunti nzima. Chakula hicho sio cha kufanyia siasa. Leo napinga hapa vikali, nikisema Wabunge wenzangu tuangalie. Ukishachaguliwa katika kiti, usianze kufinya wananchi. Uko na vitu vingi unavyoweza kawafanyia wananchi, lakini mambo ambayo yanahusiana na taifa nzima na kila Mkenya, lazima uangalie kuwa yule mwenye idara amepewa mamlaka ya kuangalia kila mmoja bila kuangalia chama, kabila na rangi. Ndio maana sisi, kama Wapwani, tunasema tumefinyika sana. Watoto wetu wamesoma idara nyingi, lakini hatuwaoni kule sehemu zingine wala nyumbani. Ikiwa kama mgao wa idara tofauti unatokea katika mambo ya kikazi, sisi pia tuko na watoto wetu waliosoma. Kama watapelekwa kwa majani chai tuwaone wako kule, tutashukuru. Wale wakija kwetu, tutawapokea. Lakini sio kule kwao wanachukua kila kitu, na kwetu pia wanabakura kila kitu. Huo ndio uchungu ambao ndugu yangu, Mhe. Owen Baya, anasema. Tunasema wengi wape; usipowapa watajichukulia. Wakati utafika tutaanza kubisha kila mlango tuangalie takwimu zinaonyesha vipi. Ikiwa Mpwani katika idara fulani ambayo iko nyumbani ameachwa nyuma, basi itabidi nasi pia lazima tuingilie kati tuangalie tunarekebisha vipi.

Licha ya hayo yote, huu Mswada ni mzuri sana; utaleta maendeleo mazuri, licha ya kuwa tunajua kaunti zinafanya kazi yao. Na hawa ambao ni wenye idara kutoka kila mikoa wana kazi zao, tunawapa nguvu. Isipokuwa wengine hujazana kwenye maofisi hujui wanafanya kazi gani, na tunasema uchumi uko vibaya. Hii mishahara za kudondoa kila mahali kupatia watu wengi ambao hatuoni kazi yao upunguzwe. Tupate mtu ambaye anaweza kufanya kazi kwa ustadi, anaeleweka vizuri, na ako na ueledi wa kufanya kazi, wafanye hata kama ni watu sita ama saba badala ya watu 11 kama ilivyokuwa zamani. Sisi tutashukuru sana. Kama Mama Mombasa, naunga Mswada huu mkono, ila urekebishwe uweze kugusa kila jamii ya taifa hili. Ugatuzi pia uheshimike na mamlaka haya. Watu waangalie kuwa wenye mji, mtaa na nchi wanapata vipi haki yao. Naunga mkono.

Ahsante sana, Mhe. Spika wa Muda.

Mhe. Spika wa Muda (Mhe. Omboko Milemba): Ahsante sana. Kwa mara ya kwanza, nimepata jambo ambalo limewaunganisha wewe na Mhe. Owen Baya.

Next to speak on this Bill is Hon. Rindikiri Mugambi.

Hon. Mugambi Rindikiri (Buuri, UDA): I thank you, Hon. Temporary Speaker, for giving me this opportunity. This is a critical Bill in this House. Regional Development Authorities (RDAs) have a history. The times are changing. The way we used to see regional development is no longer valid because so many things have changed. The time has come to review the operations of the RDAs. Some of them were formed because of what was seen as the marginalisation of certain areas of this country. Some regions were not endowed economically. There was need to uplift the standard of the economies of those regions, hence the creation of RDAs.

In terms of marginalisation, some sections of this country were never covered by the RDAs. Others were merged. For example, Lake Basin Development Authority (LBDA) covers

a wide area of western Kenya and Nyanza. At one point, the RDAs lost focus on what they were intended to do. The time has come to review what is called marginalisation criteria in this country. There is a regional authority called Ewaso Nyiro North Development Authority (ENNDA), based in Isiolo. My constituency borders Laikipia and Isiolo. We share the same geographical and climatic conditions and yet, that regional development authority has not paid any attention to the neighbouring constituency which I belong to - Buuri Constituency. Climate change has come. Some areas were seen to be very dry. Some parts of central and eastern Kenya now need to be managed and given the benefit of RDAs.

There is a need to bring focus to the mandate of RDAs. Many of them are focused on water, irrigation and limited activities that are related to education and security. We need to review the mandate of some of the RDAs because of the new Constitution. Counties have assumed some of the responsibilities that the RDAs were performing. The national Government is still focusing on ensuring even distribution of resources in this country. That is why I am a student of the Bottom-up Economic Transformation Agenda (BETA). Those RDAs must be aligned to the BETA plan. This is the Bill that is showing signs that we need to realign their operations. We need to instill professionalism in the running of the affairs of the authorities in this country. I agree with all the Members who have said that professionalism is required from all those authorities and organisations in this country. It does not matter where you come from. If a Meru can save the Coast region, that is what the Deputy Leader of the Majority Party needs to embrace. It is not saying that somebody from the Coast has been marginalised. How long are they going to cry marginalisation? For 60 years, they have been crying about marginalisation. We cannot cause depression in one region forever. No! We must learn to speak the truth. A lot of money has been pumped into the Coast and North Eastern regions. It is common sense! We cannot be crying about marginalisation 60 years down the line. That is a wrong concept. Every Kenyan has a right and an opportunity to do what he is supposed to do.

Hon. Owen Baya (Kilifi North, UDA): On a point of order.

Hon. Mugambi Rindikiri (Buuri, UDA): There is no point of order when you speak the truth, and when the truth is known.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Owen Baya? Let us listen to Hon. Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, Hon. Rindikiri, despite his grey hair, lacks facts in what he is saying. It is factual that the Coast region has been under-served for the 60 years he is talking about. It is factual that the poorest regions in this country are at the Coast. The Coast Development Authority (CDA) was set up by the late Karisa Maitha in this Parliament to mitigate against under-serving the populace at the Coast. It was set up to mitigate under-development. Hon. Rindikiri fails to look at facts. Facts are in the Standing Orders. It is factual that under-development has been there for the last 60 years. Stick to the facts. Coast has been under-served. Do not paint a picture that does not exist. They are facts. This Parliament believes in facts.

The Temporary Speaker (Hon. Omboko Milemba): Order!

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. As I said, you cannot deny the truth when you do not have facts. Let us not play politics because we are dealing with a grave matter.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Baya should have produced the facts, but proceed.

Hon. Mugambi Rindikiri (Buuri, UDA): Let him provide facts because a kid cannot continue crying forever. We must be serious and live with what we are preaching. Hon. Baya is part of the BETA programme of this country, and he cannot play a game of negativity. That is wrong. The Senior Counsel, my brother, Hon. Amollo, has advised him. If you cannot take

anybody else's advice, please take his. He has grey hair like mine, and that is where he draws wisdom.

(Laughter)

A lot of money is spent on those organisations. When we appropriate money for the Regional Development Authorities, we must consider having a national outlook. The time has come to state that those Regional Development Authorities are funded by the Exchequer, and appropriated through the National Assembly. We can even transfer their functions to the counties and increase the funding of the counties so that they can perform the same functions. This country needs to go back again and review it because some counties are not adequately covered by those authorities. The Tana and Athi Rivers Development Authority covers very limited areas of Meru County. My constituency, Buuri, is not under any of those authorities and yet, I share the same geographical conditions with Laikipia and Isiolo. This means that, as we push those authorities, we must ensure that all the areas with similar climatical and weather conditions are lumped up together. Therefore, I will ask the drafters and the proposers of this Bill to re-organise and look at the coverage areas. If we do not do that, we will be discriminating against the traditionally known counties.

I join other Members in saying that the time has come for us to move forward and not backwards. I support this Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Jackson Kosgei.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. From the onset, I want to support the Regional Development Authority Bill. It has been said that purpose dictates priority. The Regional Development Authorities were created and tasked with a unique mandate in the progression and development of our country, and in trying to fulfill the agenda of developing Kenya uniformly.

About 40 years ago, in the regimes that followed, there was a concern that some regions had not been developed. It looked like the development agenda of 1965 would not help them. As a colleague mentioned, those regional bodies and authorities were created to mitigate this. They were mandated to initiate and implement integrated multi-purpose programmes and projects for sustainable utilisation of resources that are found in regional areas of our country. It has served to a certain extent. With the advent of the implementation of our Constitution through the two-tier system of Government, which has now improved the intention developed at that time, there is a need to reform those bodies to meet the same demands.

There is a saying by elders from where I come from that you cannot shelter under a tree when there is sunshine, and when you get the overall shade, you cut it down. The only thing we can do to those authorities is to reform them. We want to understand the concerns of the Deputy Leader of the Majority Party when he mentioned the people from the Coast. We appreciate the participation of people from the Coast since 1963. It has produced some of the best politicians in this country; who have served this nation with distinction. They have produced technocrats and bureaucrats who have served this country because, at one point, we had the Head of Public Service coming from the Coast. Marginalisation of the Coast, northern areas and other places is what Sessional Paper No. 10 could not serve. As we correct it, let us do it without putting the country into silos. We must maintain the nationalisation of our projects.

In conclusion, I join my colleagues in saying that our reformation must address the harmonisation of those particular authorities with the concept that is rising in the economic blocs of our counties because they are spread along the same regions. We need to align it with our Constitution. We must do so with appreciation that those authorities were supposed to foster an integrated and sustainable economic development by empowering the communities

that hosted it. The authorities must be what they used to be without balkanising the country. We must encourage the nationalisation of our focus in terms of developing our nation.

With that, I support this Bill. I also want to congratulate the Chairman, Hon. Lochakapong, for leading his Committee and bringing this Bill. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Thank you. Hon. Japheth Nyakundi.

Hon. Japheth Nyakundi (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this important Bill. Regional Development Authorities (RDAs) are fundamental entities that were started to act as devolved functions back then. With the enactment of the 2010 Constitution, most have been rendered redundant because most of their functions have either been taken by the national Government or the county governments.

As a House, we must look for the best way to ensure that those RDAs work optimally. A good example is the Lake Basin Development Authority, which gets from the exchequer about Ksh200 to Ksh300 million in a financial year. This money goes into paying recurrent expenditures and personal emoluments. The employees do not have any work to do. They are just seated in the offices the whole year doing nothing.

We need to look for a way that those RDAs are either amalgamated or this honourable House decides that we put enough money and resources into those RDAs to enable them work efficiently. We cannot have employees in offices who are not doing any work. They are qualified and need to be on the ground working for Kenyans, and not just sitting in the offices.

I support this Bill. There has to be a way of ensuring that county governments and the National Government co-operate with the Regional Development Authorities (RDAs). Most RDAs have done boreholes or markets that need maintenance, but there is no one to do it. Once the boreholes are done, they should be taken back to the county governments so that they can maintain them as the days go by.

I also support the standardisation of the board members. Having nine board members is very important. Some RDAs have 12 members, while others have seven instead of the nine we have proposed. We need to ensure that those RDAs are put under one Act. Ewaso Nyiro South, Ewaso Nyiro North, and the Lake Basin Authority, have their Acts. We need to amalgamate them and put all those RDAs under one Act.

I want to thank Hon. Lochakapong for doing an excellent job in bringing this Bill so we can amend it. I partially wish to support Hon. Owen Baya. We have competent people in this country who can be deployed everywhere. The people from those regions are also supposed to be on the board of those RDAs because they understand the topography of those areas better than those who have come in from other areas.

I fully support this Bill, and thank you, Hon. Temporary Speaker, for giving me this opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Suzanne.

Hon. Suzanne Kiamba (Makueni, WDM): Thank you, Hon. Temporary Speaker. I want to add my voice to this very important Bill on the issue of RDAs.

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Suzanne. I am a strict follower of the law, and I am following the list very well. Hon. Suzanne is the one to speak to this now, and I will continue to do so. Just key in the card, and I will do exactly that.

Proceed, Hon. Member.

Hon. Suzanne Kiamba (Makueni, WDM): RDAs were crucial in transforming Kenya in the 1980s and the 1990s, before the pre-devolution period.

With the changing context where counties and the national Government have clear outlined roles in facilitating development in this area, I find it difficult to explain the specific roles of some RDAs. Some are poorly resourced, and their only budget is for salaries. I am often left wondering: Are we employing people for them just to get salaries? Do those authorities not have clear mandates of what they should do? Key authorities like Tana and Athi River Development Authority (TARDA) have a big mandate, especially because they operate in most marginal areas. However, most of them do not have budgets except for recurrent expenditure. Is there any need to have authorities that have outgrown their usefulness? Some of those authorities need to be closed down if we cannot fund them.

When we have governance and management structures, it should not be for salaries only, but also aimed at meeting a purpose that would drive this country to a higher level. However, when we have authorities that have been reduced to bodies that are meant to give salaries and for people to have sitting allowances, as a country, we are missing the point. Nevertheless, I have heard an argument that those RDAs, sometimes, lack expertise because people want them to have people from their own areas. While we appreciate that the board members in those RDAs are from local areas, we would be very retrogressive if, as Kenyans, we would start looking at ourselves in a localised and village-like way. No wonder our politics are also going in that direction. Nowadays, you listen to arguments, which, in most cases, would result in tribal and village arguments, which is demeaning for a National Assembly that is supposed to drive the country to the next level.

Those bodies need to have representatives from the local area to give some context. However, we need the expertise to drive those bodies to a higher level and enable us to achieve the set objectives.

While I thank the Member of Parliament for bringing this Bill, it still needs quite a number of amendments. I do not see the meaning of such bodies taking away the work of the county governments. Why should we give county governments less money because we are trying to divide the money to give to authorities? We are bringing co-wife business to developing Kenya. That because you have two wives, you have to give each wife Ksh20,000 without looking at the purpose of the marriage. If those were bodies aimed at transforming Kenya, we should look at their capacity to transform Kenya.

Hon. Elisha Odhiambo (Gem, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Elisha, what is your point of order?

Hon. Elisha Odhiambo (Gem, ODM): Hon. Temporary Speaker, I am amazed that the Member can make an inference on a very serious debate touching on development by comparing it to spouses and distributing resources. The Member must use relevant comparative examples because we are talking about development, not families.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well. You have been heard.

Hon. Suzanne Kiamba (Makueni, WDM): Hon. Temporary Speaker, with all due respect to the Hon. Member, that is his own opinion which he is entitled to. Everyone is entitled to their imagination and experience to explain a situation when one has a mandate to deliver. Structures are only helpful if they enable you to deliver a mandate most efficiently and effectively. As a country, we cannot be dividing money, as you would culturally do, between two wives. We must put our money into structures that deliver what we want. In this particular concern, where the work of any authority falls in the county, it becomes obsolete. We cannot have counties that have the capacity to deliver and so, we continue funding other agencies that are not adding value.

As legislators, I think we are sometimes polite when it comes to economic development. We need to look at the issues critically and support where change can come to this country.

I support this Bill, but with amendments. We cannot make our RDAs be of regions and villagers. I have nothing against villagers, but we need the required expertise in the authorities. This will take our country to another level.

Almost half of the regional development authorities are obsolete. For example, Tana and Athi River Development Authority and other authorities duplicate their services. In addition to this, the county governments also have the water supply function. This is not fair to this country. Structures that deliver the constitutional mandate should be in place.

Hon. Temporary Speaker, I support the Bill, but with amendments. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Peter Lochakapong, this is your Bill. So, you cannot speak to it. Hon. Melly is not in the House. Hon. Jayne Kihara should speak on this.

Hon. Owen Baya (Kilifi North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Before Hon. Jayne Kihara speaks to this Bill, what is your point of order, Deputy Leader of the Majority Party?

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I listened to Hon. Suzanne. I like her....

The Temporary Speaker (Hon. Omboko Milemba): Order, Deputy Leader of the Majority Party. Hon. Suzanne has already finished speaking.

(Hon. Owen Baya spoke off the record)

Order, Deputy Leader of the Majority Party. When the substantive Speaker was here, you rose and spoke about the procedures of this House. You must respect them.

Hon. Kihara, proceed.

Hon. Jayne Kihara (Naivasha, UDA): Hon. Temporary Speaker, thank you very much for giving me the opportunity to contribute.

(A Member spoke off the record)

When your time comes, you will speak. I sat here waiting for this chance. I will be very brief. I support this important Bill. If Members know how important it is, they can support it. We shall collaborate with the regional development authorities in projects, the same way we do with ministries but, I agree that they need to be re-aligned with the Constitution. They also need to be streamlined with the other existing legislations. This will ensure that they are well-structured and easy to oversee. Those authorities are important, but there has to be a way of overseeing them.

During my first term in Parliament, there was a dam project that was supposed to be done in Longonot. Money was paid but water was not produced. The contractors did not even come to the site but, in the papers, a dam project was done there. As opposed to regionalism, my concern is on public participation. If there is a project in my constituency, there should be public participation. If they involved the community in public participation in the Longonot Dam Project, they would have told them that they would not get water because there is no stream around that area. The aim of the project was to consume money. Public participation is important.

Most monies that those regional development authorities have come from the donors. How are they policed? How do we know which donor has sent money and to which project? Most of the functions also cut across the counties. I cannot say that a specific amount of money or projects should go to counties because they do not know what happens or how they choose them. This should be done at the national level. They should also be policed. There should be regulations on how they will be policed. Our region is under Ewaso Nyiro South River Basin

Development Authority, whose offices are situated in Narok Town. We have not seen any project by that Authority, even in the larger Naivasha Constituency which I represent.

I support the reduction of board members because that will reduce expenditure. As opposed to saying that the membership of boards must be regional, we need experts. If there is a dam that requires engineers, let us engage them. The Constitution stipulates that a Kenyan must be allowed to work anywhere in this country. Nobody should be denied a chance. We need a lot of reforms. I will not call for the disbandment of the authorities. They need a lot of reforms, so that they can serve Kenyans. This will give us a chance to know what is happening in the regions, what money has been committed to projects and the source. The regional development authorities are amorphous. We know that there is an authority somewhere, a chief executive officer and a board. What do they do?

I support this Bill but, a lot needs to be done so that, the authorities become vibrant. For example, we know the mandate of the Ministry of Education. Can we also know the mandate of those authorities in Kenya?

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Ochanda.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Speaker. The Bill attempts to sanitise regional development authorities. They have important roles but, in this time and space, their time is gone. All the things that they have been listed to do are also done by other authorities. The Constitution of Kenya, 2010, knows only two authorities: the county governments and national Government. There is nowhere else where another authority is recognised in the Constitution. This House must place the regional development authorities where they belong. They do not belong between county governments and national Government. That is not right.

The best we can do is not to sanitise the regional development authorities, but place them under the Regional Economic Blocs. They can be secretariats there. Instead of having Lake Basin Development Authority covering regions from Mount Elgon to Bomet, the authority can be a secretariat in charge of the Lake Region Economic Bloc (LREB). It will deal with specific issues of that region. That will be much more useful than having an illegal authority which has duplicating roles. For example, what should a regional development authority do in bee keeping? In Rift Valley, Kerio Valley Development Authority keeps bees. Lake Basin Development Authority also keeps bees. Why do they keep bees? Why should a regional development authority do that? The Lake Basin Development Authority keeps fish. Where is this mentioned in the Constitution? Where is bee keeping mentioned in the Constitution?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Ochanda, let us hear the point of order from Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): You know he is my neighbour, presumptively and, therefore, I am wondering what is his problem with fish. There are RDAs in Lake Victoria which have fish. I do not know what is out of order about keeping fish and bees. In any case, bees make honey which is sweet. Do you not like sweet things, Hon. Ochanda?

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Ochanda, you may proceed but make a comment on that.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Speaker. My neighbour is right. This is exactly what I was indicating that fish is found all the way from Busia to Migori. If you want an authority to handle all the economic issues across our counties, then RDAs are the best. We need to restructure rather than have them as independent entities,

which are not properly recognised anywhere. Then, recommend them to be in county regional economic blocs, where they can perform roles that cut across counties.

Right now, counties have very big problems in undertaking their roles. There is a big problem in how Busia and Siaya, who are neighbours, are supposed to relate. Such things are there in law, but they have difficulties implementing them. Where counties have difficulties in implementing services, activities or resources across the regions, then RDAs will come in. If we go this route, they will have something to do. But if we merge, give them roles and place the same resources required by other authorities then, we are not doing the right thing. We really need to re-look into this and think again.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Ibrahim Saney.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Temporary Speaker. Quite often than not, we always take pride in talking under the tutelage of our very pragmatic and progressive Constitution of Kenya, 2010.

In a big way, I feel that this Bill contradicts the spirit and principles of the same Constitution. I rightly agree with my predecessor in contributing to what is regional. We only have two regional entities; that is, the national tier and county tier. We have 47 county governments and those are the bodies that should steer our country towards economic and other developmental frontiers.

Having perused through this Bill, in as much as it was once noble when we had our old Constitution and regional bodies were the best to trigger development, it is true this has been overtaken by our Constitution of Kenya, 2010. What we see in this Bill is an overlap of mandate and roles. The role those regional entities are trying to play is what our county governments are supposed to do. I feel it is only fair to give governors what is due to them. We cannot always start a conflict with them. Whether they perform their duties or not is another thing altogether, but what is due to them should be theirs. Money should flow and this role should be cascaded to our devolved units.

If you look at one of the roles of a regional authority, you will see a very big overlap of mandate. Conservation and preservation of natural resource issues, database management and many others are also the roles of the national Government in some way. Very soon we shall have conflict of laws. We are trying to legislate so much, to an extent that we will be in a spot where our laws shall be in conflict.

Another issue is their boards. We want a leaner government to, at least, save money and resources so that our economy can recover. In this Bill, I saw a Board of Directors of nearly 13 members. This is too big for decision-making and it will be a good area for conflicts in managing the same organisations. I believe they would have done better and created leaner boards.

Another issue is the nomenclature. What is a river authority? Where does it start and end? For example, Tana and Athi rivers flow to the Coast, and then the Coast Development Authority picks up from there. Then you ask yourself how they come up with names for those zones. I belong to Ewaso Nyiro North Development Authority (ENNDA), which does not impact my constituency at all. It would rather have been categorised or named otherwise because it has no relevance. Mount Kenya is the source of all rivers which flow into the Indian Ocean and traverses the entire nation. I have not seen Mount Kenya development authority, whereas Nairobi is our capital city. So, developmentally, there is ambiguity. What is a development authority and what does it encompass? What is its limit? Where does it start and end?

Without much ado, I will be frank and say that I entirely oppose this Bill. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I wish to indicate that I support this Bill with amendments, because it seeks to consolidate RDAs into one Bill.

I wish the sponsor and drafters had given it some legislative elegance because I see a lot of repetition. You find the same roles given to various authorities are almost cut and paste. There is really no reason in a digitised and progressive world, why we should go that way while doing this Bill. Therefore, I will be proposing amendments that will make it leaner and thinner.

Going into more substantive issues, I am very happy with the principles enshrined in this Bill. Some of them include sustainable use of resources. As a person who is committed to environmental conservation, the issue of sustainable use of resources is very important.

For instance, if you look at the way some of us are using our resources, there is a challenge. It is unfortunate that a Bill on natural resources came up but it failed. That is one of the areas we need to look into. For example, a lot of road construction is going on in our counties and there are small hills which generate the materials that are needed to make the roads. Very soon, there will be no hills in those areas. This is actually part of what is causing climate change. It is significant and important to me that we deal with issues about the sustainable use of resources.

Also, on the issue of promotion of equity in the management of natural resources to ensure equitable access for present and future generations, as a person who is committed to protecting the rights of children, I am very keen on the use of, ‘access for present and future generations’, when we are dealing with resources. When this is provided as a value, it is important. The only challenge is that when we are implementing, we forget this. I had hoped for a bolder approach that also streamlines the roles, as I had indicated. That also ensures we do not have duplication with the national Government, counties and those authorities.

Many Members have spoken to this, but one of the things I have learned having been in this Parliament for a long time is that when we have multiple bodies doing the same thing, one or all of them become cash cows. That is why even when Parliament tries to streamline, we get a lot of resistance because we will be killing somebody’s way of earning money. I wish we were bolder as a House and, sometimes, just take the bull by the horn, kill some of those authorities and give the counties greater mandate.

However, because I know we are not bold as a House, I will propose amendments that will allow the ones who want to steal to steal. I am not the Ethics and Anti-Corruption Commission (EACC). When the EACC wakes up and decides they want to do their job, they will follow-up and ensure that those people do their work and then they will streamline.

One other thing that I hope to see is a deliberate attempt to establish a formula for sharing resources within the regions. When you find that one of the authorities is working within a region and yet, it has different regions to serve, how do you ensure that within that region there is equity? I support the inclusion of gender, the youth and the marginalised community in the management units of the bodies.

I somehow agree with Hon. Baya and the Member who raised a point of order that we must remember marginalised communities. Coming from a marginalised community, I must speak to it. I know many people do not consider the Luo community as marginalised because of their resilience. They are strong. They work hard and fight hard and, therefore, they do not appear as a marginalised community. However, over the years, they have been marginalised by economic policies due to their nature of their politics as the Opposition. It is interesting that many of the people who keep telling them to join the Government are the very same people who tell them not join the Government because we need a strong Opposition. Kenyans must make up their minds on what they want. They should choose people who will do good work so that there is no need for an Opposition. If they choose people who cannot do a good job, they should not start screaming that they want a good Opposition.

Having said that, there are actually regions that have benefited from resources because of marginalisation. As a country, we must look at how different regions have benefited and whether all the regions are at the same stead. You may find that an area that was marginalised 20 years ago is no longer marginalised. My area is definitely still marginalised. I also speak for the Suba – a smaller community within my constituency – who may suffer further marginalisation. On that note, I want to urge the Government not to be making promises that it cannot realise very fast when it is dealing with marginalised communities like ours. For instance, the Government recently made a promise to tarmac the Rusinga Island Ring Road and those of us who are marginalised are waiting with a lot of interest to ensure it is done.

Going back to the regional authorities, I agree with Hon. Murugara who talked last. We need a bold approach to fold up those bodies and give the money to counties with enhanced oversight roles, so that we do not devolve corruption. I want to reiterate that, that would have been a better approach. Again, I do not know whether it is the *Mwongozo* that talks about the number of members as eight. The individuals that are being proposed to be in those bodies are too many. Perhaps, we need to streamline that, especially for the local communities. I do not understand why we have eight as the number of those who are coming in. Even so, within that number of eight, we need to re-emphasise the issue of inclusion.

One of the things that I have noticed is that this Bill speaks a lot about the issue of natural resources. I said that it was, indeed, unfortunate that the Bill that was talking about natural resources, especially on its sharing, died during the Second Reading. This Bill talks about natural resources without defining what a natural resource is. I do not know what exactly is being talked about in this Bill. We must ensure that we define what a natural resource is. I hope we will bring amendments.

But since we are not bold enough to send those bodies home, we should ensure that they undertake programs and projects on climate change adaptation since they are doing programs that deal with that area. Those are the things that we ought to talk about as a country, but we do not seem to realise that. For instance, in the last few days in this country, the weather has been extremely hot - which is not typical. That has not been here alone. I was in South Africa two months ago, and there was a heat wave. We are actually suffering the effects of climate change and we only want to act on things that have money; where there could be a gain to the Government or to us. That is why many of us were supporting the Bill on climate change adaptation. There are low-hanging fruits that we can deal with at individual level, leadership level and at community level to ensure that we deal with those issues.

I want to complete because I can see that my time is up. Can you just give me one minute to conclude?

The Temporary Speaker (Hon. Omboko Milemba): No! The interest is overwhelming.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): It is okay. With those few remarks, I support the Bill with amendments.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Julius Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Bill. As the earlier speaker, Hon. Millie has just said, I will also propose some amendments to the Bill. This Bill is quite good.

First of all, I would like to tell Members that there is a history behind development authorities. Development authorities worldwide were fashioned to address certain geographical and climatic issues affecting certain regions within a particular nation. They were very successful in many parts of the world. Those of us who went to school earlier on when there was a different syllabus, we had the Tennessee Development Authority, Yellow River Conservancy Commission (YRCC) in China and many others across the world. The Rwandese also have a very small development authority. The authorities are designed by governments to

make sure that certain bodies are formed to address certain problems that are peculiar to a particular region.

I want to thank the Chair and the Committee for bringing all the development authorities under one law. Previously, we had different laws for different authorities. Right now, we will have them under one piece of legislation. It will be very easy for us to bring them to order. When you look at the Lake Basin Development Authority (LBDA), where my county Nandi falls, it covers Kisumu, Busia and all those other areas. The LBDA tries to address issues that are within the lake region. However, some of those development authorities have failed to address their core mandate over the years. In some instances, some of them went ahead and began to construct buildings in towns and yet, that is not their core mandate. Kerio Valley Development Authority (KVDA) has a huge building in Eldoret and the LBDA has a building in Kisumu. They were supposed to address agricultural issues like cotton in the lake basin, sorghum along the Kerio Valley, cattle and camel along the Ewaso Nyiro and issues of range development where livestock can be kept in some of the areas.

It came to the notice of this Committee that most of the regional bodies were actually designed to address certain specific issues that were peculiar to their areas of operation. However, because of mismanagement by previous boards, institutions and chief executive officers (CEOs), many Members believe that those regional bodies are not necessary. That is not true. It is up to this House to sit down and develop a clear mandate for those authorities the way the Committee has done with the specific roles that they will play. Part of the mandate of the Kerio Valley Development Authority, the Lake Basin Development Authority and all those others was to make sure that farmers in their region get sufficient water. For example, the Lake Basin was supposed to drill boreholes for households, schools and institutions so as to ensure that waterborne diseases are eradicated.

They were also supposed to offer educational services on proper cotton farming so that this country can be self-reliant in textile industry. This would create jobs. In the Kerio Valley, the Authority could promote sorghum and millet farming, build schools and make sure that there are dams to provide water for irrigation. That could stop the menace of cattle rustling, which is still going on. If those authorities were very effective, the issue of cattle rustling would be a thing of the past.

Now you realised that they have invested huge resources in buildings in town which, in the first place, they were supposed to have used the resources to water the dams they have constructed. They should have encouraged the people who are engaged in cattle rustling, for example, to transition into sorghum farming, millet farming, maize farming and fruit farming. If you look at the Kerio Valley itself, it is rich in fruits. If we can go ahead and develop those ones, it could discourage the young men from raiding their neighbors. Those authorities are not doing that. That is why we are proposing that it should be illegal for those bodies to engage in activities that are not part of their mandate.

Consider, for example, the Coast Development Authority. We have huge potential for livestock farming across the various counties in the Coast region. We have the Tana River, Taita Taveta, and many other regions in that area, including along the Ewaso Nyiro area. If those people are encouraged to engage in livestock farming, our country could once again become one of the top exporters of beef. One of the earlier speakers mentioned that Botswana is now one of the leading exporters of meat and yet, they once benchmarked with Kenya. Therefore, we need each development authority to clearly define the issues they are supposed to address.

On the issue of leadership, I disagree with the previous speakers who suggested that those authorities should be managed by locals in their respective regions. We are one country, one nation and one people. What we need is expertise to run those authorities, not necessarily

individuals from the specific regions. It is possible to have a highly skilled expert and manager from the coastal region effectively managing the Lake Victoria Basin, for example.

Hon. Temporary Speaker, it is unfortunate that the Deputy Leader of the Majority Party is trying to dismember the country by encouraging people from one region to lead those bodies. I want to guide the Deputy Leader of the Majority Party that this is one country, one people...

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Melly. Speak through the Chair.

Hon. Julius Melly (Tinderet, UDA): Thank you. Well guided, Hon. Temporary Speaker.

Hon. Temporary Speaker, the reason I am speaking to this is because those authorities failed and became employment bureaus for people from their respective regions to the extent that they were seen just as a source of salary rather than fulfilling their intended purpose.

Lastly, the issue that is very good and which I think this House should adopt is to make sure that those regional bodies are well resourced. One of the problems that we have with the regional bodies across the country is that they are given a mandate, functions and roles, but they are not given the necessary resources. They have no money. Most of the time those authorities are unable to perform their functions because this House, which appropriates resources to them, sometimes allocates paltry resources and expects them to do what they cannot do. They are given numerous functions, good strategic plans and ambitious targets, but without adequate resources, what can they do?

Lastly, Hon. Temporary Speaker, we also need to address the issue of development plans. It is good for the Committee to note that the country has five-year development plans. I do not know why the Committee thought it wise that regional bodies should have development plans or strategic plans for 10 years. We need each and every body to make sure that their strategic plans are in tandem with the national plans. You cannot have a regional development plan for 10 years and yet, the national development plan is for five years. Those are some of the proposals we want to bring across.

I support with amendments. Thank you.

(The Temporary Speaker (Hon. Omboko Milemba) left the Chair)

(The Temporary Speaker (Hon. Peter Kaluma) took the Chair)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Peter Lochakapong', the Member of Parliament for Sigor. He is not there.

Hon. Oyula.

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to also contribute to this important Bill. The regional authorities were established with a purpose. The main purpose was to develop the areas that they covered, but the authorities were affected by corrupt practices that brought them down.

Initially, the authorities did a lot of work. Their work could be identified wherever you went, but corruption came in. With that, the authorities only remained with paying salaries as there was almost no work. There is no activity that can be identified with those authorities apart from running to the National Treasury for additional funds to pay pending bills, some of which never existed.

This Bill, which is now trying to harmonize the responsibilities of the authorities, needs to be supported. The authorities should be allowed to come together and identify the responsibilities they need to undertake. Each authority, together with the county governments within the regions, should sit down and identify the relevant projects that will

benefit the communities in those areas. Without that, the authorities will not come up with anything tangible for the people of the region.

The regional authorities should be encouraged to work closely with the county governments. The regional authorities should take some of the jobs that can help the county governments to work together for the development of the regions.

I support this Bill and ask that the committee concerned to look at the various areas that need harmonization. It should also look at the areas that need specific identification for the regional authorities so that they are aware that within their respective areas, certain specific activities are required. Those should be followed closely, and the people of the region should benefit from those identified projects.

For instance, cotton production under the Lake Basin Development Authority is an area that the authority should have prioritized and promoted. That effort could have led to the establishment of numerous ginneries in the Lake Basin area. If that was done, I am sure the people of the Lake Basin area would not be without cash crops within the region.

As I support this, there are a few amendments that are required to benefit this Bill so that the regional authorities are able to identify the specific jobs they need to do. Those jobs should not conflict with those of the county governments.

With those few remarks, I thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Oyula.

Let us have Hon. Farah Yakub, Member for Fafi. He will be followed by Hon. (Dr) Lilian Gogo, Member for Rangwe, on the instructions of the previous Hon. Temporary Speaker.

Hon. Farah Yakub (Fafi, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance. I stand to add my voice as I support the Motion. The Bill underlines the importance of Regional Development Authorities (RDAs). It is meant to harmonise the scattered Acts that govern RDAs to be one and align their functions with the Constitution. It provides for appointment of directors in numbers that are in line with the *Mwongozo Code*. It also gives the jurisdiction of each and every RDA regarding the areas they cover. Initially, there was an overlapping area of jurisdiction within the RDAs. The Bill also states the functions of RDAs and what entails the co-operation between the RDAs and the county governments.

I have heard most Members supporting the Bill, but showing dissatisfaction with the fact that RDAs have outlived their time and usefulness. As one of the Members from the marginalised areas – that is Fafi Constituency in Garissa County - I stand to confirm their usefulness. The biggest and only dam in the county since Independence was done by Coast Development Authority (CDA). It cost a meagre Ksh240 million. It was done three years ago while we had the county governments. The same can be said of Bura Constituency, which also has the same type of dam that was constructed at a cost of Ksh240 million. Today as we speak, after the El-Nino rains, that dam is filled to a capacity of 300,000 cubic metres. The projection is that, four years from now, the catchment within that dam will have no scarcity of water.

The people of Mariakani got a milk processing plant. The *mama mbuzi* in Mariakani are today reaping the importance of that factory courtesy of the CDA. Bura Constituency, which hosts small-scale fruit farmers, especially mango farmers, now boasts of a fruit processing plant. All this is courtesy of the CDA.

Hon. Temporary Speaker, one of the major vegetation covers in Northern Kenya is the Acacia plant. That plant is seen as a useless plant, but one of the families of the Acacia plant produces gum, which is called Arabica. It is a very useful pharmaceutical ingredient. Ewaso Nyiro North Development Authority came up with a plan and constructed the only Gum Arabica producing factory in Wajir County. If put in full operationalisation capacity, it will create a US \$15 billion-dollar economy. It is such an economy that has developed Sudan. Ewaso Nyiro South Authority boasts of the only functioning leather processing plant in the

country, which is located in Narok. The usefulness of regional authorities can only be felt by those it has touched their lives.

As a member of the Committee, I accede to the fact that those authorities have been under-funded. I heard Hon. Susan say that the RDAs were given a budget merely for recurrent expenditure. Despite the recurrent expenditure under-funding, they happen to source for other funds and they have done a marvellous job. It is interesting that we have some Semi-Autonomous Government Agencies (SAGAs) which are over-funded and yet, their effects cannot be seen on the ground. Lake Basin Development Authority, today, can boast of the biggest mall in Kisumu, the Lake Basin Mall.

The usefulness of RDAs can be ascertained by each and every Member of Parliament. I want to support the Bill because I know it will ensure that RDAs function and more resources are allocated to them so that we can feel their effects.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The gallant Member for Rangwe Constituency, Hon. (Dr) Lilian Gogo.

Hon. (Dr) Lilian Gogo (Rangwe, ODM): Thank you so much, Hon. Temporary Speaker. I rise to support this particular Bill. However, before I go ahead to do so, I want to go on record that the great people of Rangwe Constituency, whom I represent in this Assembly by dint of having been elected, will never ever allow me to jump the queue of whatever matter. Rangwe Constituency has some of the finest brains in this country. They are people who are noble and respect the rule of law. I was the first person to come to this Assembly for this afternoon Sitting. I was called out to go and speak to students from Ng'iya Girls High School who are visiting the Assembly today but, when I came back, I found this matter going on. With the new rules, I had to be relegated to speak at the tail-end. It is not fair to the great people of Rangwe whom I represent. I have been seated here for five good hours without even going to ease myself. It is not fair. Having said that, may I make my contribution.

I rise to support this Bill. It is a good Bill and it has come at a good time. The idea of merging the Regional Development Authorities (RDAs) in the various regions and bringing them under one law to align them with the current Constitution is a good one. There has also been a proposal to standardise their operations. We want to have the RDAs controlled under one law as opposed to what has been happening, that is, existence of many laws that control them. This is a good idea too.

I appreciate the Mover and the Committee that has brought this particular Bill. Many colleagues have spoken to it. I do not want to repeat myself. There has not been any big conflict that has occurred between the RDAs and the county governments to warrant us to say that we do not need to have the RDAs; and that, their work and mandate be given to the county governments. If a need arises to have their roles taken up by the county governments, at whatever time, then it may be found appropriate. That would be okay. However, as for now, I stand here to support the existence of the various RDAs.

Hon. Temporary Speaker, there is one Member who articulated so well the history of RDAs and the purposes for which they were formed. But it seems the RDAs have forgotten the very reason they were mandated to exist by the law. I want to specifically talk about my constituency, Rangwe, which is in Homa Bay County. We have a project that has “swallowed” money for a period of over 16 years. It ought to have been efficiently run by the Lake Basin Development Authority. I am talking about Kimira-Oluch Smallholder Irrigation Development Project. That project has “swallowed” more than Ksh7 billion without changing the lives of the people of Rangwe, especially in Kochia Ward and a bit of Kagan Ward.

Apparently, Regional Development Authorities cannot stick to their core mandate, not even the basic function of hiring extension officers and offering extensions services to improve agricultural activities in the regions that they are mandated to operate. If they are unable to

perform such a simple task, then I will support anyone who comes up with a Bill or a Motion to have them disbanded.

The Kimira-Oluch Smallholder Irrigation Development Project is an irrigation scheme in my constituency. If the money that was used to construct the Lake Basin Mall could be allocated to Rangwe Constituency, we could supply the whole of Homa Bay County and greater Nyanza with food, and it would also economically empower the people of Rangwe. Regional Development Authorities should stick to their mandate as we seek to have them operate under one law and board. As it is, the issue is not incompetence or sourcing people to locally manage the RDAs, as Hon. Baya was saying. Even at the Coast, I believe there are competent people who can run those organisations very well. However, they will mismanage the organisations because they are locals and, thereafter, Hon. Baya will come here and say that those are his people and they will be protected on those grounds. This is the language of Kenyans.

The core reason for discussing this matter is to continue giving services to Kenyans in a manner that develops Kenya to another level. Whoever is appointed to run those bodies must have the spirit of developing Kenya to another level. They must be committed to create jobs for the youth and ensure that women feed their children. The RDAs should be well-resourced as was earlier said. We give people work and then reduce their budgetary allocations when we need to cut on spending. We have just considered the Budget Policy Statement (BPS), which projects what we will require to manage the country. If you consider the substantive budgetary allocations, the first vote to have its budget reduced will be the RDAs. We must give them teeth to bite, that is, finances and tools of work.

As I conclude, since I can see that my time is almost over, I want to appreciate the Lake Basin Development Authority for drilling, at least, five boreholes in Rangwe Constituency. Credit should be given where it is due. However, they need to do more, work better and smarter. We will get there under this new law.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. (Dr) Lilian Gogo. Hon. Members, we will now go back to the Statements on Legislative Proposals to amend the Constitution under Standing Order 114(7A).

(Debate on the Bill adjourned)

Remember it is: The Statements on Legislative Proposals to amend the Constitution. Directions had been given that we will revert to this particular business at exactly 6.00 p.m. Those who wanted to contribute to the earlier Order can wait for the next time it will be scheduled. This is like an Adjournment Motion. Once it is ruled that it should commence at a specific time, we have to do so. Your Speaker does not have any power to review or rule.

Should I assume that everybody who is requesting to speak seeks to speak to the Statements on Legislative Proposals to amend the Constitution? Hon. (Dr) Makali, is that what you want to contribute to?

COMMENTS ON LEGISLATIVE PROPOSALS TO AMEND ARTICLES 88 AND 89 OF THE CONSTITUTION

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Speaker, I wanted to contribute to the Regional Development Authorities Bill. You can give that chance to somebody else.

The Temporary Speaker (Hon. Peter Kaluma): The matter that was being debated before, which most of you have a lot of interest in, will continue after this one. In terms of the Standing Orders, when a matter like this is stayed from 6.00 p.m., we go back to 6.00 p.m. In fact, I regret it because I noted so many of you wanted to speak to this matter, including Hon.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor*

Martin Owino of Ndhiwa Constituency and other Hon. Members. Could I find out from the requests that I have here those of you who want to speak to the Statements on Legislative Proposals to amend the Constitution? These are the statements by Hon. Bashir Sheikh and Hon. Alice Ng'ang'a on proposals to amend the Constitution. One of the proposals is that, in absence of the commissioners, the Secretary of the Commission can help with the conduct of elections. The other proposal seeks to save the so-called protected constituencies.

Could those not contributing to this particular Motion, or those who had not contributed get out of the list and wait for the matter that they are keen to contribute on the next time it is listed? Hon. Geoffrey Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I rise to support the legislative proposals to amend the Constitution of the Republic of Kenya to protect 27 constituencies, which were protected during the first delineation of electoral units. This was in spite of not meeting the population quota requirement of which the constituencies risk being merged with others when the Independent Electoral and Boundaries Commission (IEBC) conducts the second review.

One of the constituencies in this category is my constituency of Mbeere North. If we are sticklers of the law without discrimination, the Constitution clearly says that Kenyans will not be discriminated based on race, religion, culture, customs, or any other thing. There shall be no discrimination against Kenyans, whatsoever. That is a right enshrined in our Constitution.

The census of the Republic of Kenya was last done in the year 2019. The population has indeed changed from that time. We are now over 50 million Kenyans. We were about 45 to 47 million Kenyans in 2019. The population of the Republic of Kenya has changed and so has that of the 27 constituencies. I support this legislative proposal to ensure or give a leeway where those constituencies can get the required population of 164,000 within a period of eight to twelve years. That is what Hon. Alice Ng'ang'a's legislative proposal says.

The Report by the National Dialogue Committee (NADCO) gives those constituencies 20 years. This means the legislative proposal by Hon. Alice Ng'ang'a and the NADCO Report read from the same script. This exercise is due this month. This exercise should have taken place. We still do not have a properly constituted Independent Electoral and Boundaries Commission (IEBC) to ensure that the delimitation of constituencies or electoral units takes place. Therefore, more or less, we are in a constitutional crisis. This House should have 290 Members of Parliament elected from each constituency. Our Constitution says that there shall be 290 constituencies. As it is, we have 289 elected Members of Parliament because we lost one of our own from Banissa Constituency in Mandera County. We have not managed to hold an election there because the IEBC is not properly constituted. This proposal to amend the Constitution comes in to ensure that we give a leeway to constitute the IEBC most appropriately where both sides of this House, whether it is the Majority or the Minority, agree. The NADCO Report proposes an amendment Bill to come before this House to ensure a proper amendment of the IEBC Act to align with the views of both the Minority and Majority sides.

This amendment proposal comes at the most appropriate time to ensure that no Kenyans - whether in Mbeere North, Mathioya or any of the 27 constituencies - are discriminated. The customs and traditions of most constituencies in the Republic of Kenya are socialised and organised in a particular way. They have lived like that for many years. Most constituencies will be fragmented if we do not amend or pass this legislative proposal to amend the Constitution. This may cause disunity in a number of regions in the Republic of Kenya. The boundaries of those constituencies were done depending on the customs, traditions, history of the people, etc. We are creating fertile grounds for anarchy and chaos in the country by saying that we merge some sections of the 27 constituencies. We did not envisage or want that because the people want to serve and ensure that we have the welfare of the people taken care of and a just government of the people.

I seriously and firmly support this legislative proposal. I ask all Members of this august House to ensure that this legislative proposal passes to avert such a crisis.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Otiende Amollo was a member of the Committee of Experts. We want him to speak on this and give us better directions.

(Hon. (Dr) James Nyikal spoke off the record)

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. (Dr) Nyikal seems to have a point of order.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Nyikal, you may raise your point of order after the most learned Hon. Otiende Amollo speaks. He may just address the issue that you want to raise.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Speaker.

The proposal by Hon. Alice Ng'ang'a is an important one. It looks timely but it might be dangerous. It might be so because it pre-empts a more fundamental issue that we, as the two Houses of Parliament, are called upon to deal with, that is, the NADCO Report, which this House and the Senate adopted. The Speaker committed it to the joint Departmental Committees on Justice and Legal Affairs, co-chaired by Hon. George Murugara. The Joint Committee had its first sitting already. Without pre-empting anything, since I am not the Chairperson, I am aware that we are resuming meetings tomorrow and had agreed to meet weekly.

A very fundamental proposal has been made in the NADCO Report: To change the period contemplated by the Constitution from between eight and twelve years and to extend it to 15 years. The urgency of such a consideration ceases depending on how that discussion is held. It is then postponed and it gives enough time for everyone to think through this matter. To adopt such a proposal right now undermines those proposals in the NADCO Report. This will finally end up in some level of confusion. To that extent, this proposal is premature.

Secondly, a similar proposal is in the face of the Constitution. We found it necessary to protect the constituencies initially from the first review, that is, in Schedule 6(27) of the current Constitution. The idea of interfering with any of those constituencies was foregone when the first review was undertaken. I believe it was in the year 2012. Therefore, there was no interference. Such provisions are usually contained in transitional parts of the Constitution; not in the substantive part of a Constitution because, then, you are entrenching something for posterity. You might need to deal with it differently. To that extent, in so far as the idea to amend Article 89 Constitution on its very face is concerned, it becomes dangerous. In its stead, we should even consider an extension of Schedule 6(27) in the event that it is what we wanted to deal with.

Thirdly and more importantly, Article 89 of the Constitution gives various parameters and the jurisdiction for this is not for the House; it is for the Commission. This House cannot arrogate itself a task expressly reserved for an independent commission. In the event that we get there, the idea of preserving all constituencies; not just the ones in danger of being affected but all existing constituencies, will be presented to the Commission. I have often told many of my colleagues that, except that the timing is wrong, the idea of delimitation and the Commission considering the boundaries is not one we should fear because the Commission can consider it. The Commission can look at all the constituencies and say it has reviewed and agreed that it is not adding any constituency or that it is not going to affect any boundary. By doing that, the Commission will have done its constitutional duty. Indeed, that is still a possibility that exists. It does not require pre-empting.

For that reason, it is my considered view that this is a matter that should not be considered at this point. If it is to be considered, it should not be in the body of the Constitution

but in the Schedules. This is a matter that is premature in light of the Report of the National Dialogue Committee (NADCO) and it is a matter that is pre-emptive in terms of the jurisdiction of the Commission.

Therefore, Hon. Temporary Speaker, I do not support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Otiende Amollo...

Hon. Ruku GK (Mbeere North, DP): Hon. Temporary Speaker, I have an interjection.

The Temporary Speaker (Hon. Peter Kaluma): You cannot raise an interjection after Hon. Otiende Amollo has concluded. Hon. Otiende Amollo, just for the benefit of the House, as a former member of the committee of experts which birthed this Constitution, what under this Constitution is meant by a commission?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Asked another way, something like the conduct of elections is the role of the Commission. Is the Secretary to the Commission, who should also be the CEO of a commission, be a member of the Commission?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Speaker. To the extent that you prompted me, I had forgotten to talk about the other proposal by my friend, Hon. Bashir Sheikh, which is also on the Floor. It proposes that when the Independent Electoral and Boundaries Commission (IEBC) is not constituted, the Secretary of the Commission can perform the functions of the Commission that are limited to conducting by-elections under Article 101(4)(b) of the Constitution.

Hon. Temporary Speaker, that proposal would be flatly unconstitutional. We do not even have to give the answer in this House. The organ that is mandated to interpret the Constitution has severally interpreted and stated that a commission, to the extent of the role of a commission, is the commissioners and it is only them who can undertake that role. If we were to be in a situation where we can forego or do without commissioners, we would have fundamentally affected the structure of the Constitution in a way that runs contrary to the finding of the High Court, which has pronounced itself on this.

There is one thing that we must focus on, and I keep coming back to the NADCO Report because the urgency of this is obvious. Rather than debate all these proposals, let us fast-track the NADCO Report and appoint commissioners so that we have substantive commissioners whom we can deal with. It is for a good reason that this House endorses those commissioners and removes them if they misbehave. That is why they are commissioners. So, Hon. Temporary Speaker, the answer was provided by the High Court previously.

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): What is out of order, Hon. Ruku?

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. As much as I agree with Hon. Senior Counsel to some extent, NADCO Report should not at any given time supersede the mandate of the Members of this House. We are mandated by law to ensure that we legislate. Therefore, Hon. Ng'ang'a, is within her mandate of amending the Constitution. I think, Hon. Temporary Speaker....

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ruku, are you on a point of further debate or what are you doing?

Hon. Ruku GK (Mbeere North, DP): I just want to make an intervention, to read....

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ruku, on what point are you standing? I am struggling to understand you. You have debated. Hon. Amollo is done but here you are contradicting his understanding of the Constitution he participated in making under a procedure I do not understand. What are you doing?

Hon. Ruku GK (Mbeere North, DP): What I am doing is informing Hon. Amollo that the amendment of Article 89....

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ruku, Hon. Amollo has not requested or permitted you to inform him. You are out of order. Please, sit so that we may proceed.

(Laughter)

QUORUM

Hon. (Dr) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Yes, Hon. (Dr) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, I rise to bring to your attention that we do not have quorum in the House and yet, what we are discussing is so important to this country. We cannot have only four or five people discussing it. The information, like you have said, that is coming from Hon. Otiende is what will educate many of us in the House. We cannot make it look like we are having a cup of tea in the cafeteria while we are discussing such an important Motion. I, therefore, bring it to your attention that we do not have quorum in the House.

The Temporary Speaker (Hon. Peter Kaluma): Let the Clerks-at-the-Table do what needs to follow upon Hon. Nyikal raising that point of point.

Hon. (Dr) James Nyikal (Seme, ODM): This Motion is so important that the House should be fully packed.

The Temporary Speaker (Hon. Peter Kaluma): Which is very unfortunate. I thought Hon. (Dr) Nyikal would require the Hon. Members who are not within the House to come in instead of raising that unavoidable point of order.

Hon. (Dr) James Nyikal (Seme, ODM): That is how we can bring them into the House.

The Temporary Speaker (Hon. Peter Kaluma): I order that the Quorum Bell be rung as required by Standing Order 33, until we have quorum.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Stop the Quorum Bell. Order, Hon. Members. The time being 6.34 p.m., this House stands adjourned until Wednesday, 13th March 2024, at 9:30 a.m.

The House rose at 6.34 p.m.

Published by
Clerk of the National Assembly
Parliament Buildings
Nairobi