

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 5th November, 2019

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

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

PRAYER

The Speaker (Hon. Lusaka): I want to defer the petitions so we can move to the next Order.

PETITION

CORRUPTION AND EMBEZZLEMENT OF FUNDS
IN NAROK COUNTY GOVERNMENT

(Petition deferred)

PAPERS LAID

Sen. Poghio: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, 5th November, 2019.

JOINT REPORT ON CONSIDERATION OF THE PUBLIC
FINANCE MANAGEMENT (NATIONAL GOVERNMENT)
(AMENDMENT) REGULATIONS, 2019

Joint Report of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget on the consideration of the Public Finance Management (National Government) (Amendment) Regulations, 2019 (Legal Notice 155 of 26th September, 2019) laid on the Table of the Senate on Wednesday, 16th October, 2019.

(Sen. Poghio laid the document on the Table)

The Speaker (Hon. Lusaka): Next Order. Majority Leader, proceed.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker Sir, I beg to lay the following Papers on the Table of the Senate, today, 5th November, 2019.

THE 2019 BUDGET REVIEW AND OUTLOOK PAPER
FOR THE FY2020/2021 AND MEDIUM-TERM BUDGET

The 2019 Budget Review and Outlook Paper for the Financial Year 2020/21 and Medium-Term Budget.

REPORTS ON THE FINANCIAL STATEMENTS OF
VARIOUS COUNTY FUNDS/AGENCIES

Report of the Auditor-General on the Financial Statements of Turkana County Emergency Fund for the year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Siaya County Assembly Car Loan and Mortgage Fund for the year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Nandi County Assembly Scheme Fund (Car Loans and Mortgage).

(Sen. Murkomen laid the documents on the Table)

The Speaker (Hon. Lusaka): Let us move on to the Next Order. Sen. (Dr.) Langat, proceed.

REPORT ON THE VISIT TO EAC ORGANS
AND INSTITUTIONS

Sen. (Dr.) Langat: Thank you, Mr. Speaker Sir. I beg to lay the following papers on the Table of the Senate, today, 5th November, 2019.

Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on the visit to the East African Community Organs and institutions from 18th to 30th August, 2019.

(Sen. (Dr.) Lang'at laid the document on the Table)

NOTICE OF MOTION

APPROVAL OF REVISED DEBT CEILING FOR
THE NATIONAL GOVERNMENT

Sen. Poghiso: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, this House adopts the Joint Report of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget on the consideration of the Public Finance Management (National Government) (Amendment) Regulations, 2019, laid on the Table of the Senate on Wednesday, 16th October, 2019, and pursuant to the provisions of Article 211(1)(a) of the Constitution of Kenya, Section 205(4) of the Public Finance Management Act and Section

18 of the Statutory Instruments Act, approves the amendments to the Public Finance Management (National Government) Regulations, 2015 (Principal Regulations) as effected through Legal Notice No.155 of 26th September, 2019.

STATEMENTS

RE-INTRODUCTION OF SPEED GOVERNORS FOR PSVs

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.48 (1), to seek a Statement from the Standing Committee on Roads and Transportation on the issue of re-introduction of new speed governors for public transport vehicles.

In the Statement, the Committee should-

(1) Explain why the National Transport and Safety Authority (NTSA) is forcing Public Service Vehicles (PSVs) to change their speed governors after every two (2) years;

(2) Explain the justification by NTSA of introducing new features on speed governors;

(3) Explain why the Authority has not inspected the existing speed governors before advising PSVs to buy new ones;

(4) Provide a list of suppliers of the approved speed governors in Kenya;

(5) Explain why the suppliers, in cahoots with NTSA extort funds from matatu owners by setting up a standard price of between Kshs30,000 –Kshs40,000 per speed governor;

(6) Explain why the Ministry of Transport, Infrastructure, Housing and Urban Development has not set and gazetted the requirements, standards and features required for a speed governor?

Thank you, Mr. Speaker, Sir.

Sen. Wetangula: Mr. Speaker, Sir, I wish to join the Senator for Nandi in the Statement that he has sought.

Two days ago, I saw an elderly woman from Nyeri on TV shedding tears because of the issue of speed governors. She said that every 18 or 24 months, they are forced to buy new speed governors at a cost of Kshs40,000. This is just about the profit they make from the *matatus* they run. She was asking and I quote her: “What is the lifespan of a speed governor once installed in your car? Does NTSA have a responsibility for routine check to see if the speed governors are working? More importantly, why is the provision of speed governors a controlled business by certain cartels in the country?”

Mr. Speaker, this Statement is very important. If we want to create wealth and employment, we cannot allow cartels to milk dry the very informal sector that we are trying to help to boost the economy in the country. I would want to see that the Chairman of the Committee on Energy, Roads and Transportation brings a comprehensive Statement to see how to help our citizens in the informal sector; namely, the *matatus*.

Mr. Speaker, Sir, there is no evidence proven that the bulk of the accidents on our roads are because of high speed. It is because of recklessness, not caring, improper training and, above all, the police not doing their jobs in managing the road sector.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for giving me a chance to add my voice on this very important Statement. However, I wish the Chairperson of the Committee on Energy, Roads and Transportation is present today because there are several Statements sought by hon. Members concerning this Committee.

The Ministry has come up with several policies which are not---

(Sen. Kang'ata consulted loudly with other Members)

Mr. Speaker, Sir, protect me.

The Speaker (Hon. Lusaka): Senator from Murang'a, you are causing a lot of disturbance.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for your protection.

I am raising a very important issue here. Every day, the Ministry of Transport Infrastructure, Housing and Urban Development comes up with a new policy. It is a sad that road users cannot do their business without being harassed by police officers at the road blocks.

I wish the Committee could summon the Cabinet Secretary (CS) to come and explain to this House these policies that are being implemented by the NTSA. Even with these policies are in place, we have accidents on the roads.

It is the Ministry Interior and Coordination of National Government which is managing transport on our roads. The Ministry of Transport, Infrastructure, Housing and Urban Development is not doing much on our roads. We see NTSA officers harassing road users. Whenever there is an accident on Mombasa Road or on other roads, it become very difficult for other roads users and many Kenyans to make it to their places of work. This is because everybody is helpless. The Ministry insist to *matatu* owners to fit their vehicles with substandard seatbelts to enrich cartels in this sector.

I support this Statement. I wish the Chairman will bring a satisfactory response to this Statement.

(Loud consultation)

The Speaker (Hon. Lusaka): Order, Members. Let us consult in low tones.

Sen. Seneta: Thank you, Mr. Speaker, Sir.

(Sen. (Dr.) Musuruve spoke off record)

The Speaker (Hon. Lusaka): You are off microphone, Sen. (Dr.) Musuruve.

(Loud consultation)

Hon. Senators from Kericho and Bomet counties, I know that you are neighbours. I do not know what is causing this excitement. Let us consult in low tones.

Proceed Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir. I want to laud Sen. Cherargei for seeking this very important Statement. It should not be taken for granted. The NTSA is supposed to work for Kenyans and make our roads safe. There are quite a number of people who lose their lives on our roads. There is a reason as to why the Government requires speed governors to be fitted in *matatus* and other vehicles. We all know speed governors slow down running of an engine.

(Several hon. Senators stood up in their places)

The Speaker (Hon. Lusaka): Order, Members! Can you take your seats please, hon. Members? Senator for Kericho, what is happening today? Let us consult in low tones.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, thank you for protecting me.

When a vehicle is at a very high speed, it can be difficult to control it. As I said, speed governors slow down the running of an engine. High speed is one of the causes of accidents on our roads. However, there are other causes and we need to investigate them and make our roads safe. So, NTSA must serve Kenyans. It should not be a commercial entity to enrich a few cartels in the sector.

There is need to have a standard limit for the speed of vehicles on the roads. This speed should be predictable. The National Transport and Safety Authority (NTSA) should not say 80 kilometres per hour today and tomorrow, 120 kilometres per hour. The NTSA needs to be reliable because it is there to serve Kenyans and Kenyans are watching to see how NTSA will act on this.

There is need for the relevant Committee to work objectively on this Statement and ensure that it is effected to the latter for the purpose of Kenyans.

Thank you for giving me this opportunity.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members! Next Statement is by Sen. Omanga.

Sen. Omanga: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.48(1), I rise---

The Speaker (Hon. Lusaka): What is your point of order, Sen. Seneta?

Sen. Seneta: On a point of order, Mr. Speaker, Sir. I have not heard your direction on this important Statement. Now that the Chairperson of the Committee on Roads and Transportation is here, we would wish to hear his commitment.

(Loud consultations)

Mr. Speaker, Sir, I wish to get the attention of the Chairperson.

The Speaker (Hon. Lusaka): Sen. Wamatangi.

Sen. Seneta: Mr. Speaker, Sir, we want to hear him and get the commitment of the Chairperson of the Committee on Roads and Transportation on this important Statement.

I requested for a Statement from the Committee, for which I have not got a satisfactory answer. We want to get his commitment on this Statement and also the way forward on this issue of the Ministry of Transport, Infrastructure, Housing and Urban Development on many other Statements that have been raised in this House.

The Speaker (Hon. Lusaka): I am not even sure whether the Chairperson got the question. However, according to the new Standing Orders, the Statement is committed to the Committee. So, he will come back with a response.

Sen. Wamatangi: Mr. Speaker, Sir, with your indulgence, I want to undertake and assure, not only Sen. Seneta but all Members of this House that my Committee takes, with absolute seriousness, every Statement sought by Members here on various issues.

Notwithstanding that sometimes we also have to pick up fights with the Ministry of Transport, Infrastructure, Housing and Urban Development. As you know, it is not only with the Committee on Transport and Infrastructure Development, that Cabinet Secretaries (CSs) sometimes have this habit of reporting in a very skewed manner and sometimes very casually.

Last week when my Committee visited Mombasa County, we gave an order---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members!

Sen. Farhiya, what is your point of intervention?

Hon. Senators, let us consult in low tones.

Sen. Farhiya: On a point of order, Mr. Speaker, Sir. I beg to humbly disagree with the Chairperson of the Committee on Roads and Transportation. I also had a Statement on the status of Modogashe-Wajir Road, but up to now, I have not got a response and that was last year in 2018.

The Speaker (Hon. Lusaka): Sen. Halake, what is your intervention?

Sen. Halake: On a point of order, Mr. Speaker, Sir. I would also like to add my voice. My Statement to this Committee was mishandled so thoroughly, and I am dissatisfied with it. Up to now, many months down the road, we are still waiting.

That notwithstanding, many Statements that we ask from many committees are not handled well. They just disappear into thin air. I am wondering the value of bringing Statements to this House, going forward.

The Speaker (Hon. Lusaka): I think the Chairperson has heard.

Sen. Wamatangi: Mr. Speaker, Sir, if you just allow me one minute, please?

The Speaker (Hon. Lusaka): Okay, one minute.

Sen. Wamatangi: Mr. Speaker, Sir, allow me just a minute because the concerns raised by Members are important. One, let me assure the House that we take Statements very seriously like I said.

Second, the Statement that was sought by Sen. Seneta as she has put on record, she got the reply but she was not satisfied. My Committee undertook and went back to the relevant CS to ensure they give a satisfactory answer.

Mr. Speaker, Sir, I want to maybe beg your indulgence on some of these issues. For example, the Statement referred to by Sen. Halake was sought on the status of Isiolo Airport. My Committee undertook a visit to Isiolo Airport and handled the issues that were there in person.

(Loud consultations)

The Speaker (Hon. Lusaka): What is your point of order, Sen. Wambua?
Order, Members!

Sen. Wambua: On a point of order, Mr. Speaker, Sir. I request the Chair to require that the Senator for Kiambu County be heard in silence. He is trying to put across a very important point but we cannot follow because Senators are consulting loudly.

The Speaker (Hon. Lusaka): Okay. I ask you to consult in low tones so that we are able to follow the proceedings.

Sen. Wamatangi, please, conclude.

What is your point of order, Sen. Dullo?

Sen. Dullo: On a point of order, Mr. Speaker, Sir. The Chairperson of the Committee on Roads and Transportation has just informed the House that they have been to Isiolo County to resolve the issue of the airport. I do not think that is the position because I remember complaining about the Committee going on the ground without the Senators from the county. How do we make sure that those issues are resolved? It is important for us to give the correct position on the ground.

Thank you.

The Speaker (Hon. Lusaka): Sen. Shiyonga, what is your intervention? Let us conclude because we have very serious business ahead.

Sen. Shiyonga: On a point of order, Mr. Speaker, Sir. The Chairperson cannot evade this because--- Let us get things right. What Members are saying is what we are thinking and what is happening. It is very good to convince us by telling us the truth.

You remember even when we were asking this, the CS admitted that he would follow up my Statement. There was a Statement on the safety of Mombasa Road which is a highway. People cross this highway and we do not have any safety measures. We are, instead, endangering the lives of people and you are here convincing us that you have followed up. Surely, Chairperson, can you tell us the truth?

The Speaker (Hon. Lusaka): Sen. Wamatangi, you might be better off concluding.

Sen. Wamatangi: Mr. Speaker, Sir, first, I confirm that I think the discussion on the Floor now confirms that probably---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Senators! Senators, honestly, you are disrupting proceedings of this House. Please.

Sen. Wamatangi: Mr. Speaker, Sir, I think the conversation on the Floor now confirms that we have a better dispensation if CSs are coming before this House. If I was a CS, I would have been answering those questions with follow-up action.

I want to state that, indeed, the Committee takes business seriously. The visit that this Committee undertook to Isiolo and other counties was intended to resolve the matters that were raised by Senators albeit, notwithstanding, sometimes CSs do not necessarily give comprehensive answers to the satisfaction of Members. We have no business trying to protect a CS. That is why we put them to test.

I am one of those who have stood very firm. We shall follow up every Statement to the satisfaction of every Member. On one issue---

The Speaker (Hon. Lusaka): What is your point of order, Sen. Seneta?

Sen. Seneta: On a point of order Mr. Speaker, Sir. If the Chairman of the Committee seems to be helpless, this House needs to help him. We need to interact with the Cabinet Secretary of Transport, Infrastructure, Housing and Urban Development. Indeed, the Ministry is in problems. It is implementing nothing. The Ministry has given its work to the Ministry of Interior and Coordination of National Government. It is only the Administration Police (AP) who are helping the Ministry of Transport, Infrastructure, Housing and Urban Development. The Chairman has indicated here that he is helpless. Therefore, why not give directions so that this House can engage the CS? We have seen other committees interacting with the CSs, they have corrected one or two things and we are satisfied.

In my case, Mr. Speaker, Sir, the Chairman brought me a written theory in response to a Statement. I told him that I do not want a theory, but actual things.

The Speaker (Hon. Lusaka): Order, Sen. Seneta. What is your point of order? This is because you seem to be raising a new issue that was already dealt with by the Committee.

Chairman, can you conclude?

Sen. Wamatangi: Mr. Speaker, Sir, allow me to conclude by, first, stating that my Committee is not helpless; and that is on record. Last week, we visited Mombasa on the issue of the ferries, and the Ministry has today issued an order that Kshs2.1 billion has now been allocated to procure new ferries. It is there on record. That is courtesy of the Statement that was brought by Sen. Mutula Kilonzo Jr. Let him say that he is not satisfied with the way we prosecuted his Statement.

Lastly, Mr. Speaker, Sir, Members of the Senate also have to agree that if a committee is going to visit your county and you are not present, allow the committee to do its work. If we say that, as a policy, a committee cannot visit a county because the Senator is busy at that time, then we cannot get business done. However, we execute business in good faith on behalf of all Members. Our Committee is up to the task. We will ensure that the CS can be here at a convenient time. He has appeared before the Committee and if need be, we can ask him to come again to answer all the questions.

The Speaker (Hon. Lusaka): Okay.

What is your intervention, Sen. Cherargei?

Sen. Cherargei: On a point of intervention, Mr. Speaker, Sir. I understand the frustration of the Chair, because I also Chair a Committee. What I was proposing, if it is acceptable by---

(Loud consultations)

Mr. Speaker, Sir, can you protect me from the Senate Majority Leader and my colleagues, who are consulting loudly?

The Speaker (Hon. Lusaka): Order, Members! Order! You now get the feel of what you were also doing before you got to the Chair.

(Laughter)

So, please, let us be orderly.

Sen. Cherargei: Mr. Speaker, Sir, I wish that the House leadership would consult in low tones. I know that there is a serious matter that is coming up. But be it as it may, the intervention was that, as the Chair of a Committee, I understand what the Chairman of the Committee on Roads and Transportation is going through.

Mr. Speaker, Sir, I propose that in the future on serious issues of importance, for example, on the issue of *matatu* speed governors in the country, you would request that the Committee invites the Committee of the Whole of the Senate, the way the Committee on National Security, Defence and Foreign Relations used to do on the issue of *Huduma* Number. That way, the entire Senate can have an opportunity to debate the issue.

Mr. Speaker, Sir, I do not think that our committees are helpless. However, you have to understand that some of these CSs run away from the Chairmen. We have tried to engage them, but sometimes, they put obstacles in the way. I, therefore, request that if we have a serious issue of topical importance, we should do a Committee of the Whole, as the Senate.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Okay; I think the matter has been well spoken to.
Next Statement by Sen. Omanga.

STATE OF AFFAIRS AT THE NAIROBI
CITY COUNTY GOVERNMENT

Sen. Omanga: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.48(1), I rise to seek a Statement from the Standing Committee on Devolved Government and Intergovernmental Relations regarding the allegation of misuse of funds and the ongoing chaos at the Nairobi City County Government. In the Statement, the Committee should -

- (1) Outline any measures it has put in place to verify claims made on the misuse of funds at the Nairobi City County Government, given that it collects up to Kshs10.1 billion in revenue.
- (2) State the measures it is putting in place to investigate claims that taxpayers' money has been used by the county leadership on dubious travels.
- (3) State the plans, if any, being put in place to try and bring back sanity in the county government.

Mr. Speaker, Sir, due to the gravity and urgency of this matter, I request that you give guidance pertaining timelines. In Nairobi City County, we seem to be in limbo and things are not moving because there are chaos in the county government. We can see new things coming up in the media every day. Therefore, I seek your indulgence to give guidance.

Mr. Speaker, Sir, since this issue also pertains misuse of taxpayers' money, if the Chairman of the Standing Committee on Devolved Government and Intergovernmental Relations would involve the County Public Accounts and Investments Committee (CPAIC), because it is a cross-cutting matter. This will bring sanity in Nairobi City County and ensure that Nairobians continue to get services.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): I do not see any interest in this Statement, but the Chair of Committee on Delegated Legislation should take up this matter and bring a report within two weeks.

Proceed, Sen. Mutula Kilonzo Jr.

STATUS OF SPORTS ACTIVITIES FUNDED BY
THE SPORTS FUND

Sen. Mutula Kilonzo Jr.: Thank you, Mr. Speaker Sir. I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Labor and Social Welfare regarding the status of sports activities funded by the Sports Fund. In the Statement, the Committee should -

- (a) Explain whether the Sports Fund under the Ministry of Sports and Social Services has been allocated a total of Kshs.8.1 billion for the Financial Year 2019/2020;
- (b) Explain the reason(s) the national teams, including and not limited to the Harambee Starlets, are unable to get funding for their international sports fixtures;
- (c) State why Harambee Stars and Harambee Starlets' several requests for funding have not been honoured by the Sports Fund, and the reasons for the said denials;
- (d) Explain why the Kenya Rugby Union (KRU) was auctioned for a debt of Kshs10 million on 31st October, 2019, and yet a sum of Kshs94 Million was approved by the Board for the Union;
- (e) State why the Under 20 Championship has received an approval for expenditure of more than Kshs1.3 million, yet the games are more than nine months away;
- (f) Explain why the Sports Fund approved the release of nearly Kshs2 billion to fund purchase of equipment at The Kenyatta National Hospital, Mobile Clinics and other suppliers at the expense of the main objectives of the Fund; and,
- (g) Table a statement of account as at 1st October, 2019, to show the manner in which the sum of Kshs4.3 million has been expended.

Thank you, Mr. Speaker, Sir.

Sen. Cheruiyot: Mr. Speaker, Sir, this is a very important issue that is being raised by Sen. Mutula Kilonzo Jr. This morning, the leadership of Football Kenya Federation (FKF) was before one of the Committees of the National Assembly. I happened to be watching, and I realized the tribulations that many of our athletes are going through, especially Harambee Stars and Harambee Starlets. Many of these young people, just out of passion for this country and the desire to represent and carry our flag in great honor, they continue to participate in sports activities despite the fact that the Ministry of Sports and Social Services does not honour their promises to them. It will be important to know the justification of the Ministry funding some very elite sports that have got very little following in this country.

When we had the Kenya Golf Open, this kitty gave them Kshs200 million. When we had the National Safari Rally, they were given Kshs450 million, yet Harambee Stars - a team that when they play this country unites behind them and the 40 million plus citizens of this country cheer them on - cannot even get money to pay for hotel accommodation.

This issue is extremely urgent, and I want to request that you exercise your jurisdiction and order that the Committee on Labour and Social Welfare brings a response to this House within seven days and not the traditional 14 days.

Thank you, Mr. Speaker, Sir.

Sen. Sakaja: Mr. Speaker, Sir, first, I thank Sen. Mutula Kilonzo Jr. for bringing this Statement. I know that it would have come earlier had we not been on our scheduled recess.

This country established a Sports and Arts Development Fund that has more than Kshs8 billion. During its establishment, we were excited that the young people of this country, who are skilled in either sports or art, a talent that is given by God, would finally be able to earn a living from their God given talent; whether it is singing, acting, football or rugby.

The questions that have been asked are very serious. If you commit this Statement to my Committee, I would request that we also work with the Committee on Delegated Legislation because we must go down into details of the regulations around this Fund. We need to establish who the signatories of this Fund are and how payments are made out of this Fund. With Kshs8.1 billion, how is it that we can have Kenyans representing us stranded at an airport and hotels because bills have not been paid, yet amounts have been approved or released?

Mr. Speaker, Sir, the other day, the Kenya Rugby Union, a sport I really love, was auctioned because of debts of Kshs10 million, yet more than Kshs70 million or Kshs80 million of theirs was approved in July, but never remitted to them. We will look at these issues.

We want to understand the procedure, the role the Commissioner of Sports plays, who is involved in determining what goes where and also how it is that sports, arts and development, if I heard Sen. Mutula Kilonzo Jr. right--- I think billions have been paid to The Kenyatta National Hospital. I think Kshs800 million was paid for mobile clinics. What part of sports or arts is found in mobile clinics? We are not sure.

Therefore, we will take this inquiry seriously. I would love to do, as the Senator---

The Speaker (Hon. Lusaka): What is your point of information, Sen. Cheruiyot?

Sen. Cheruiyot: On a point of information, Mr. Speaker, Sir. I would like to inform the Chair for the Committee on Labour and Social Welfare that while that is a valid concern, the truth of the matter is that the Ministry was able to craft this during the regulation phase on how to administer this Fund. This is where they permitted that up to 60 per cent of this Fund can be used to fund universal healthcare. It is on that vote that actually those payments that Sen. Mutula Kilonzo Jr. was referring to were paid.

Thank you, Mr. Speaker, Sir.

Sen. Sakaja: I thank Sen. Cheruiyot for that information. If you look at Part 2 of the Fourth Schedule of the Constitution of the Republic of Kenya, on the functions of county Governments, No.4 talks about cultural activities, public entertainment and public amenities, including sports, cultural activities and facilities. How is it that regulations concerning a sports fund were passed by another House and did not come to the Senate? Those are part of the questions that we must get answers to because these sports are happening in the counties.

As you have heard, there are many issues, and that is why, Sen. Cheruiyot, I might not be able to bring a response in seven days. But trust me, we will do a thorough job on this, and in 14 days or so, have some action taken on this.

The Speaker (Hon. Lusaka): There is a point of intervention from Sen. Mutula Kilonzo Jr.

Sen. Mutula Kilonzo Jr.: Mr. Speaker, Sir, although I agree with Sen. Sakaja that he needs 14 days, unfortunately, the Harambee Starlets - that team that we are so proud of - are stuck. Therefore, I would possibly need an undertaking from the Chair that as we await the 14 days for the thorough investigation and interrogation of the matter in detail, at the very least, the Harambee Starlets must be funded to face their international events this week and next week.

Thank you.

Sen. Sakaja: Mr. Speaker, Sir, I want to give an undertaking that I will do all I can to make sure that the Harambee Starlets are funded for their immediate engagements, so that we do not lose the big picture. As we address the substantive issues, we will make sure that the Harambee Starlets and Harambee Stars are not stuck. I will be engaging just this afternoon with the Cabinet Secretary in charge of sports as well as the Principal Secretary, to make sure that the team is represented.

The Speaker (Hon. Lusaka): Thank you for the undertaking.

COMMUNICATION FROM THE CHAIR

INVITATION TO THE SENATE-KEPSA ROUNDTABLE CONFERENCE 2019

Hon. Senators, I have a Communication. As you are aware, the Kenya Private Sector Alliance (KEPSA) is the apex body of the private sector in Kenya. KEPSA brings together the business community under a single umbrella body to engage and influence public policy for an enabling business environment.

Over the last few years, the Senate and KEPSA have held a roundtable conference on an annual basis with a view to enhancing greater private sector engagement and participation in Kenya's governance structure and economic management. You will recall that last year, the two organisations hosted the Senate-KEPSA Roundtable 2018 that was held from 22nd to 24th November, 2018 under the theme "Reimagining Kenya's political economy." Deliberations at this event placed emphasis on increased partnership between the Senate and the private sector in the Four Agenda; healthcare, housing, manufacturing and agriculture.

Hon. Senators, as a follow-up to the Conference held in 2018, the Senate-KEPSA Roundtable Conference 2019 is scheduled to be held from 7th to 9th November, 2019. The theme for the event is "Boosting business competitiveness for the growth and job creation; the roles of the Senate and the private sector." Discussions will focus on interventions that impact on the counties business environment and competitiveness, trade, investment and value chain development.

Additionally, the event will also assess implementation of the Big Four Agenda, take stock of the resolutions around that during the 2018 Conference and device strategies that unlock the potential of the Big Four Agenda and for devolution.

Hon. Senators, I wish to extend the invitation to all hon. Senators to this important forum with the private sector. The venue will be the Great Rift Valley Lodge, Naivasha, Nakuru County. Further details on the event will be given through the Office of the Clerk.

I thank you.
Next Order.

SPECIAL MOTION

APPROVAL OF REVISED DEBT CEILING FOR THE NATIONAL GOVERNMENT

Sen. Poghio: Mr. Speaker, Sir, I beg to move the following Motion: -

THAT, this House adopts the Report of the Joint Sitting of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget on their consideration of the Public Finance Management (National Government)(Amendment) Regulations, 2019, laid on the Table of the Senate on Wednesday, October 16, 2019, and pursuant to the provisions of Article 211(1)(a) of the Constitution of Kenya, Section 205(4) of the Public Finance Management Act and Section 18 of the Statutory Instruments Act, approves the amendments to the Public Finance Management (National Government) Regulations, 2015 (Principal Regulations) as effected through Legal Notice No.155 of 26th September, 2019.

In exercise of powers conferred by Section 205 of the Public Finance Management (PFM) Act 2012, the Cabinet Secretary (CS) responsible for National Treasury published the Public Finance Management (National Government Amendment) Regulations, 2019 on 26th September, 2019, vide Legal Notice No. 155 of 2019.

Mr. Speaker, Sir, the Regulations were submitted to the Senate on Wednesday 16th October, 2019 and tabled before the House---

(Loud Consultations)

The Speaker (Hon. Lusaka): Sen. Poghio, raise your voice and let us consult in low tones. They cannot hear you.

Sen. Poghio: Mr. Speaker, Sir, the control of the consultation volume can help Members. It is the House that should be quiet, not me lowering my voice.

(Loud Consultations)

I was just about to say this and I am going to repeat, the Regulations were submitted to the Senate on Wednesday, 16th October, 2019 and tabled before the House on the same day. Section 205 of the PFM Act, contemplates that the regulations made under this section shall be approved by both Houses of Parliament.

Mr. Speaker, Sir, by a Communication made on Wednesday, 16th October, 2019, the Speaker of the Senate referred the regulations to a joint Committee of the Sessional Committee on Delegated Legislation and the Standing Committee on Finance and Budget for consideration. The Speaker directed that the joint committee files the report within the next 15 sitting days.

The regulations seek to amend Regulation 26(1)(c) of the Public Finance Management (National Government) Regulations, 2015 (Legal Notice No.34 of 2015), to provide for a numerical limit to the total public debt of Kshs9 trillion in place of the current debt limit set at 50 per cent of GDP in net present value terms.

Pursuant to section 16 of the Statutory Instruments Act, 2013, the Committee invited the Regulation Making Authority to a consultative meeting on 23rd October, 2019, to consider the said statutory instrument. The CS, National Treasury submitted both oral and written submissions

The Joint Committee held its first meeting on Thursday, 17th October, 2019 to consider the Regulations. In considering the regulations, the Joint Committee, invited stakeholders including the Council of Governors (CoG), Commission on Revenue Allocation (CRA) and the Institute of Certified Accountants (ICPAK) to a stakeholders meeting held on Thursday, 23rd October, 2019.

Pursuant to Article 118(1) (b) of the Constitution and Senate Standing Orders, the Committee invited submissions from members of the public on the said regulations vide an advertisement on the *Daily Nation* Newspaper and the *Standard* on Saturday, 19th October, 2019.

Having scrutinized the Public Finance Management (National Government) (Amendment) Regulations, 2019 against the Constitution of Kenya, the Interpretations and General Provisions Act (Cap 2), Laws of Kenya, the Public Finance Management Act, 2012 and the Statutory Instruments Act, 2013, the Committee approved the regulations for reasons advanced in the Report.

The Members of the Joint Committee, who submitted an alternative view, submitted a minority report subject to the provisions of Standing Order---

(Sen. Moi walked into the Chamber)

(Applause)

The Speaker (Hon. Lusaka): Is that the Chairman of KANU?

Sen. Poghiso: Mr. Speaker, Sir, you can see that everyone is happy with my Chairman. I am about to conclude.

The Speaker (Hon. Lusaka): Proceed, Sen. Poghiso.

Sen. Poghiso: Mr. Speaker, Sir, The Members of the Joint Committee, who submitted an alternative view, submitted a minority report subject to the provisions of Standing Order No. 213(5). The Report has been submitted to the House in accordance with Section 205(4) of the Public Finance Management Act, 2012 which requires that the Regulations made under this Section of the Act be presented to Parliament for approval before they take effect.

Mr. Speaker, Sir, with those remarks, I beg to move and ask the Senate Majority Leader to second.

Thank you, very much, Mr. Speaker, Sir.

The Senate Majority leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir, for this opportunity to second this very important Motion. To start with, Senate is having a very unique opportunity to deal with a subject matter that we have grappled with in the last almost seven years through public debate about debt in this country.

This is a very challenging subject matter for me because on one hand while we have as many concerns about debt as possible, we also have a great responsibility as the House of the Senate. To start with - and I have said on the Floor of the House - as a member of the Task Force on Devolved Government, one of the struggles we had in the PFM Act was to provide an institution that will deal with matters debt particularly the question of the sharing of debts between the functions of county governments and the National Government.

It is important to explain this position because as we all know, the counties by law cannot borrow unless it is guaranteed by the national Government. This House has had the opportunity to work on various legislations to facilitate a process that enables county governments to borrow with the guarantee of the national Government.

In the taskforce on Devolved Government then as a member, one of the things we proposed and we borrowed from Australia was the formation of Loans and Grants Council. In our thinking at that time, it was supposed to be an equivalent of an independent commission whose responsibility was to check and keep a register of the loans and grants. It was also supposed to ensure that the loans and grants that come to our country are distributed equitably among the 47 counties and distributed fairly between the two levels of Government.

Mr. Speaker, Sir, I say this with tremendous respect because I have had a discussion with my colleagues in this House---

(Sen. Cheruiyot consulted loudly)

I want them to listen, particularly Sen. Cheruiyot.

The Speaker (Hon. Lusaka): Order, Members!

The Senate Majority leader (Sen. Murkomen): Mr. Speaker, Sir, I have had discussions with my colleagues in this House about loans and grants. Many of the people who have misgivings and a problem with the approval of these Regulations, their main problem is the management of debt. It is not the ceiling of the debt or the amount that is borrowed but the accountability of debt in the country. It is about how much is being borrowed into this country, who keeps the register, how is that money being distributed between the national and county Governments and also among the 47 counties.

If you listen to the colleagues in this House everybody is concerned about this debt that is being borrowed and is being paid by this country. I read in the newspapers that every Kenyan owes a debt of Kshs130,000 or something of that sort. The question on everybody's lips is: Is this debt is sustainable?

Is it a debt that can be said to have been borrowed with intergenerational equity in place? When my children and grandchildren come to a level where they can pay debt, can they say out-rightly, that they are paying a debt that was borrowed by their father and grandfather but it was used to construct a road, a viable railway or a dam that can still be seen?

The question that the people of Elgeyo-Marakwet want an answer to is whether Kimwarer and Aror dams were built to the standard that still provides water for irrigation in Kerio Valley and electricity to the Republic.

We cannot say that borrowing is just for the sake of it. In Mutula Kilonzo Jnr.'s county, Thwake Dam is being built at a cost of Kshs39 billion. This is money borrowed from the Chinese Government. The question we should be asking is: Is this distribution everywhere?

In Kitui County, for example, there is the Kibwezi-Kitui Road which is almost getting to Garissa. That road and the railway projects consist part of the loans that we are repaying. As a country, we are now thinking of developing a dual carriage from Mombasa to Busia so that it benefits future generations.

As a Senate, we are not saying that borrowing is wrong or a bad thing. However, two things are important: One, is the debt manageable? Secondly, is it being utilized to construct infrastructure or long-term projects that will benefit generations?

American President Roosevelt was one of the presidents whose actions were celebrated. After the 1930s depression, he borrowed money to construct what they call--- Sen. Kihika will help me here because she spent most of her time there studying and doing other things---

(Sen. Olekina spoke off the record)

The Senate Majority Leader (Sen. Murkomen): Yes, the interstate roads! You can see Sen. Olekina is helping me effortlessly because of his foreign experience!

Hon. Senators: Citizenship!

The Senate Majority Leader (Sen. Murkomen): Not citizenship, I am sure he is not a foreign citizen.

Mr. Speaker, Sir, as a result of what President Roosevelt did, the American commerce increased. Business became possible and they raised enough money to sustain the money borrowed to do the infrastructure. As a House, that is not what we are complaining about. Our concern is: Can we have a fair distribution of debt? Can we have a public register of debt that is accountable? Can we have borrowing that is used and expended on projects that can be used for many years, which can be paid by future generations who will enjoy the benefits?

Mr. Speaker, Sir, I would like my colleagues to listen to me. When these regulations came to this House, I told myself: "*Voila!* This is the opportunity for us to sort out the issues that we have been raising about debt for the last seven years." However, when I read the regulations, I saw the report of the Committee and consulted those that understand matters finance, the question of raising the debt ceiling was not going to sort out the issues we were raising.

This House cannot pretend to use regulations to sort out serious issues that relate to the debt register, accountability of debt, equitable distribution of debt between us and future generations and between the national and county governments, and within communities in this country. Those problems will not be answered by the ceiling. The ceiling only sorts the ability of the Government to borrow to sort out the problems that they have at the moment.

Mr. Speaker, Sir, I went ahead to find out from the record of this report the presentation of the Cabinet Secretary (CS). The CS is telling us that we are asking for

Kshs9 trillion, but we are also working towards restructuring our debt. They have said that we have about Kshs3 trillion of that money borrowed locally at an interest rate that is up to 10 per cent. Multi-lateral agencies, including the World Bank (WB) and the African Development Bank (ADB), have offered to give us loans of a lesser interest rate, of up to one per cent. Opening up this debt ceiling gives the national Treasury an opportunity to borrow cheaper loans, repay the locally borrowed loan which has the highest interest and then we can bring down the repayment amount that is being paid out of the country.

Mr. Speaker, Sir, I am a lawyer and not a finance expert. The best finance experts in the country have advised that the best way to sort this problem is to increase the debt ceiling, open an opportunity for that borrowing, restructure the debt and bring it down. We must be accountable to one another in this House. My informal position initially was that this was the opportunity to sort the problem. However, knocking down the debt ceiling and the opportunity to deal with it will not give us the opportunity to solve the problem. We will be actually postponing the problem. Indeed, the report of this House is saying that we are already exceeding the debt ceiling that was set before even though this is debatable because of the issues that are inside there.

Mr. Speaker, Sir, so what is my way forward? This is my suggestion. One, we agree with the national Treasury to open up that debt ceiling to Kshs9 trillion. Two---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members! You will have an opportunity to express yourselves.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I can see our friends saying “maybe we should or should not”. However, this is my recommendation.

We should be able to open up that debt ceiling to give an opportunity to the national Treasury to restructure the debt. As a House, led by the Senate Budget and Finance Committee, we should propose an amendment to the Finance Act this way. One is to bring in an independent institution in the name of the Loans and Grants Council of Kenya. Two, that we demand the outright publication of the national debt ceiling.

I would like to ask Senators here, with tremendous respect, I can see what---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members! Let us consult in low tones.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I can see the consultations have gone higher!

I am happy with the Senate for one thing; though we have our concerns with the Executive; most of us here have concerns about how this House has been treated, including allowing the national Government to borrow huge sums of money, give them to counties in form of loans and grants and then deny this House the resources to oversight this money. This is ridiculous.

As a House, we have been pushing that the oversight resources are not for personal gain. They are to ensure that the borrowed resources will benefit future generations. Therefore, I am asking my colleagues, that we continue in the path that we

have shown as the Senate that we can rise above our other concerns we have with the Executive and the National Assembly and objectively work with the national Treasury to give them room to borrow a loan that comes down up to an interest rate of one per cent. That is really my request to my colleagues.

Mr. Speaker, Sir, even as we borrow these loans and raise these resources, we must resource the Senate to carry out its oversight responsibility. We will continue insisting. It is not about Sen. Murkomen or an individual Senator; it is about the office of the Senator and the Senate being able to oversight. You cannot pour large sums of money in the Universal Health Care (UHC), including medical equipment, which Senators have no resource to investigate in their counties.

Mr. Speaker, Sir, we must also resource the Judiciary. I saw the Chief Justice yesterday in a lot of pain complaining. I know some people have reduced his complaints to the question of the car he was talking about, the sitting, *et cetera*. That is far from it. Although those are things that are also important, but what is more important is that for justice to be achieved and the thieves of our money to be arrested and put behind bars after trial, we must resource the Judiciary. We must not take the Judiciary or the complaints of the Chief Justice for granted.

I tweeted yesterday that the Chief Justice must also take things seriously. When the Senate and the Council of Governors (CoG) went to the Supreme Court to ask for accountability on how these resources would be distributed, the Judiciary showed us their back yet if they had worked with us on this process of accountability, we would be able to deal with these problems.

Finally, Mr. Speaker, Sir, the Judiciary has the ability to bite, hold us to account, ensure that the Constitution is being supported, and money is not being expended without the Judiciary Fund that was put in place. Let the judges and the Judiciary bite, take their stand and bring this country to order. If it is Parliament or the Executive that is misbehaving, let them bring them to order, because that is what it means to have accountability among the separate institutions under the separation of powers doctrine.

Mr. Speaker, Sir, I want to plead with my colleagues, with humility and utmost honour to pass these regulations so that we can save our country from the highest interest rates we are paying at the moment. Doing so will help us to reduce it to a level that can be managed by this nation.

Mr. Speaker, Sir, with those many remarks, I beg to second.

(Question proposed)

The Speaker (Hon. Lusaka): Proceed, Sen. Mutula Kilonzo Jnr.; you were a Co-Chairperson.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. I was co-chairing this Committee when Sen. Mahamud was unwell. Together with the other Members, I disagree with the Majority Leader's opinion that we should pass these regulations in the manner that they have been presented to us.

Mr. Speaker, Sir, you have the opinion of the Minority in the report. That opinion speaks to what some of us who have sat in the Committee of Finance and Budget since 2013 have found to be the best way to deal with public debt.

Mr. Speaker, Sir, perhaps, I want to bring to the attention of the Senators the history of public debt, and on how this matter has come to the Senate. Although the Constitution and the Public Finance Management (PFM) Act requires that this decision is made by Parliament, the first amendment done in 2014 by the National Assembly – in which Sen. Sakaja and Sen. Nyamunga were Members – Mr. Henry Rotich, the Minister for Finance at the time, informed the National Assembly that they needed to move the debt ceiling from Kshs1.2 trillion to Kshs2 trillion. He tabled Sessional Paper No.14, which wanted to move the debt to Kshs2.5 trillion as a ceiling. However, Mr. Speaker, Sir, and my fellow Senators, this matter never came to this Floor. This matter never came to the Committee on Finance and Budget.

Mr. Speaker, Sir, I must make myself very clear that this is not about the President, the Deputy President, the handshake or the National Super Alliance (NASA). This is about the national Treasury of the Republic of Kenya.

(Applause)

In 2015, after they sought that amendment which was approved by the National Assembly without the recourse of the Senate, they made yet another amendment. I am telling you this so that you understand why this has come to us. They then moved an amendment to the PFM Act to remove the numerical ceiling of Kshs2.5 trillion to 50 per cent of Gross Domestic Product (GDP) on what they call “Net Present Value Terms.” That is where the theatre of the absurd started, because they borrowed, borrowed, borrowed, and they still want to borrow more.

Mr. Speaker, Sir, how did these amendments come to the Floor of the Senate? History is going to judge us. I want you to look at the schedule of some of the contracts that are supposed to be part and parcel of the debt ceiling. The Attorney-General of Kenya – the stylish gentleman and the legal scholar – told the National Assembly and the Executive that this cannot pass without the Senate.

Dear Senators, this matter is here because Mr. Kihara Kariuki followed the law. That is because in 2014, the law was not followed. The National Assembly, in amendment of these regulations, have passed it without a comma. The majority opinion of the Senators is suggesting that we pass these regulations without a comma, full-stop, and without saying anything. We should just say ‘yes.’ Therefore, what was the purpose of these regulations coming here? No purpose!

In an English parable, they say, “When you find yourself in a hole, you stop digging.” Part of the schedule provided to us--- I want to correct Sen. Murkomen; we sat in the public hearing on your behalf, and we asked the question, “Where is the evidence of debt restructuring?” There is nothing!

An. Hon. Senator: Absolutely!

(Applause)

Sen. Mutula Kilonzo Jnr.: Where is the evidence that you want to restructure commercial loans that are now at 35 per cent? We have had more than 14 Cabinet Ministers for Finance since Independence. There must be a reason as to why we need to borrow another Kshs3 trillion on top of Kshs6.1 trillion.

Members of the Senate, what is your GDP today? Your GDP is at Kshs9.8 trillion, and we now we want to extend the ceiling to Kshs9 trillion.

An. Hon. Senator: That is 100 per cent!

Sen. Mutula Kilonzo Jnr.: What sort of a country does that?

Mr. Speaker, Sir, the question that we have addressed here, of how much is the budget gap; my dear colleagues, the budget gap for this financial year is Kshs635 billion. The budget gap for the next financial year, according to the Parliamentary Budget Office (PBO), is Kshs584.6 billion; and for the following year, it is Kshs586.8 billion, making a total of Kshs1.2 trillion. I want you to read the report of the PBO that they also presented to the National Assembly, suggesting that the debt ceiling should be at a maximum of Kshs7.5 trillion.

Mr. Speaker, Sir, what are we saying in terms of the Minority? This is not a Bill; this is not a Motion; this is a gazette notice. This is a gazette notice that can be withdrawn tomorrow and republished. Why are you making it look like the country is in dire straits, as if , if we fail to pass this today, tomorrow it will collapse? It is a lie!

(Applause)

The country is looking up to you. In fact, in a recent article, although we do not quote newspapers, “Mbadi says that Parliament to blame for debt burden.” That we have given the national Treasury so much leeway to borrow without imposing conditions.

This is the time to impose conditions so that by the time you borrow another extra shilling from the Chinese, we interrogate, as Parliament and particularly the Senate. This issue reminds me of when Sen. Orengo was lecturing Sen. Murkomen and former Sen. Sang during the Election Laws (Amendment) Bill.

At that material time, we were saying: “Do not remove the jurisdiction of the Senate with regards to boundaries of wards and constituencies.” We refused to follow that process, and it will haunt us very soon when the delimitation of boundaries comes. This is---

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker Sir, I have been waiting for this opportunity, because Sen. Mutula Kilonzo Jnr. has been peddling these lies continuously.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Majority Leader. Can you withdraw that word “lie”?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker Sir, I withdraw the word “lies” and replace it with “misinformation.”

In that debate, I argued that the Constitution as it is does not give the Senate the powers to deal with matters of boundaries of wards and constituencies. To demonstrate that, that was my true position, I came up with a constitutional amendment in this House that enables Parliament to participate in the delimitation of boundaries of wards and

constituencies. This House, including Sen. Mutula Kilonzo Jnr., unanimously said that they do not want Parliament to be involved in matters of wards and boundaries.

Mr. Speaker Sir, is he in order to misinform this House?

Sen. Mutula Kilonzo Jnr.: The majority voted for an amendment to give the National Assembly an opportunity to deal with delimitation of wards and constituencies, which we objected to and I filed an amendment. I was talking about the majority, and at that time, Sen. Murkomen was not the Senate Majority Leader. However, let me finish.

My colleagues Senators, what is the problem with telling the national Treasury to amend this gazette notice to bring a different ceiling as proposed by the Parliamentary Budget Office, who are our advisors, and in that ceiling, we should put caveats for them to borrow here or there? This is because the principle is – and Sen. Wambua mentioned this somewhere in a different forum – that if you are unable to pay less, how will you be able to pay more? What is the justification? We have asked for the justification of the Kshs9 trillion, and it was not given.

We must look at the document that the National Treasury submitted. Sometimes, I think that there are people in this country who think that legislators are zombies; that we do not think and do not need information. The document submitted by the national Treasury looks like a PowerPoint presentation that you would submit in my daughter's kindergarten class.

There is no justification as to why this country should increase its debt ceiling by 50 per cent from Kshs6 trillion to Kshs9 trillion. There is no calculation as to why that should happen. However, I have said that Sen. Murkomen and the Mover are supposed to satisfy this nation that now that we are in debt and a crisis, we are able to pay in the new ceiling.

Our largest external debt is to the Chinese on the Standard Gauge Railway (SGR). We were warned about this SGR, but we refused to listen. It is three times the cost, and if you doubt it, look for the article written by David Ndi. Look at what would have been a better option of rehabilitating the old railway lines or doing a different railway line. It would have cost us less.

Mr. Speaker Sir, will we be able to pay these debts in the manner suggested? The answer is no. However, this is the advice on our counties. The Parliamentary Budget Office has said in this report that if the Senators approve this ceiling, we must be prepared to vote less for the counties the following year than this year. If you have a different view, tell me. They have also suggested that---

The Senate Majority Leader (Sen. Murkomen): On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of information, Sen. Murkomen? Sen. Mutula Kilonzo Jnr., do you want to be informed?

Sen. Mutula Kilonzo Jnr.: It is okay.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, Sen. Mutula Kilonzo Jnr. said: "If you have an alternative view." I do. I forgot to say in my seconding notes that these very regulations we are passing were passed by 47 governors sitting in the Intergovernmental Budget and Economic Council (IBEC) that approved these regulations. They are the people on the ground and went through it knowing how much money they are getting through this process for their counties.

Sen. Mutula Kilonzo Jnr.: That information was absolutely not useful. Since when did the Council of Governors (CoG) become an authority for anything? I know how the CoG ended up into the lure of this trap. They have been informed that out of the Kshs7 trillion, there is a figure of about Kshs970 billion that will cater for guarantees to counties and parastatals. It is a lie. If it was true, the National Treasury would have submitted it for us to look at it for purposes of the audit.

What is the great difficulty in following Article 211 of the Constitution? Under Article 211, we are supposed to:-

- (i) get the extent of total indebtedness by way of principal and accumulated interest;
- (ii) the use made or to be made by proceeds of the loan;
- (iii) the provision made for servicing or repayment of the loan; and,
- (iv) the progress made in the repayment of the loan.

That is what we are supposed to ask. I am just objecting---

The Senate Minority Leader (Sen. Orengo): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Senate Minority Leader?

The Senate Minority Leader (Sen. Orengo): Mr. Speaker Sir, it is important to cite a provision of the law in its entirety - not part of it - and even think about your own responsibility. Sen. Mutula Kilonzo Jnr. is talking about the responsibility of the Senate.

I am rising on a point of order because he is misleading the House. The information that I have is that this information is not given by the Cabinet Secretary on its own Motion. It says: "within seven days after either House of Parliament so requests." This information is given on request.

Part of the problem that we have is that in the life of both Houses of Parliament, there has never been a request. Therefore, in the issue of management of debt, it is important to take our own responsibilities instead of throwing responsibilities elsewhere. Sen. Mutula Kilonzo jnr. should not mislead the Senate, and yet, he sits in that Committee.

(Laughter)

Sen. Mutula Kilonzo Jnr.: The problem with these points of objection is that they assume that they will derail what I am going to say. It is not that I have not read. I am glad that Senior Counsel has read that clause, because it was a shallow trap for anybody who thinks that I have not read it. I am simply saying that the time to then include that condition is now, because it does not exist in the Public Finance Management (PFM) Act.

(Applause)

Tumejisomea Katiba. We know what we are talking about. I am not standing here out of idleness; I have read this document. From 2014, we have questioned severally how we are managing our debts in the Committee on Finance and Budget. I was talking about counties before I was interrupted.

Our Gross Domestic Product (GDP) and revenue have reduced. Our revenue is at Kshs1.9 trillion against a borrowing of Kshs9 trillion. The National Treasury must find

oversight in this Senate, otherwise, there is no difference between this Senate and the National Assembly. We must distinguish ourselves. I am standing here to say that, as a Senator, my soul cannot agree to this sort of framework, when for the first time since I was elected, the question of debt has now come to the Senate. We must say that this is wrong and it was done wrongly. Sen. Murkomen is aware that the former Cabinet Secretary was charged in court for violating the ceiling and for not coming to us.

What are the solutions? The solutions are simple. This is a gazette notice. The Public Finance Management Act is one of the laws. I am strongly against what the national Treasury does. Why is it that the beneficiaries of Uwezo Fund have not received the funds? Do they know the reason as to why? It is because the Uwezo Fund regulations were published and put in the Kenya Gazette. When they came to us, we made recommendations but the national Treasury refused to do anything. Why is it that Taita Taveta County, represented by Sen. Mwaruma, is quarrelling about its budget? It is because we proposed an amendment where county assemblies can amend budgets up to 10 per cent. The national Treasury refused to publish a corrigendum. That is the same question that Sen. Kibiru and Sen. Wamatangi have been asking in the County Public Accounts and Investments Committee (CPAIC).

Unless we flex our muscles, we are allowing the national Treasury to put us in a hole. We are allowing the national Treasury to continue borrowing without any condition offered by Parliament.

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

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

Mr. Deputy Speaker, Sir, the National Assembly has not offered any conditions, the Senate has not offered any conditions and the National Treasury has not answered our questions. On this one, we have to say “no” to the impunity by the national Treasury.

(Applause)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Members.

Sen. Mutula Kilonzo Jnr.: By saying no to the national Treasury, Mr. Deputy Speaker, Sir, we will compel the national Treasury to negotiate---

(Loud Consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Members. Let us listen to Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, we will allow an opportunity and a window for the national Treasury to sit with Parliament before publication in the Kenya Gazette. That Parliament includes the Senate. I am talking about the Senate of the Republic of Kenya where I am seated and where I have sat for so long, waiting for this to come.

What the national Treasury is suggesting to do reminds me of a parable that I was reading with my daughter about Jesus being tempted to turn rocks into loaves of bread.

The national Treasury is asking us to turn rocks to loaves of bread. They are also asking us to jump just like in the case of Jesus. They want us to jump because the angels will catch us. They are telling us that the Chinese loans are going to cushion us but that is a lie. The words of JF Kennedy---

Sen. Poghiso: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Senator for West Pokot County? Order, Sen. Mutula Kilonzo Jnr., you will have your time.

Sen. Poghiso: Mr. Deputy Speaker, Sir, this should probably have been a point of information but it can go for both. It is unparliamentary for Sen. Mutula Kilonzo Jnr. to keep on using the word lie.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Mutula Kilonzo Jnr. Did you talk about lies?

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, for the good of my former party Chairman, the word is false.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Mutula Kilonzo Jnr. I asked you a question. Did you use the word lie?

Sen. Mutula Kilonzo Jnr.: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is unparliamentary and should not be used.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, allow me to finish with the words of John Fitzgerald Kennedy.

The Deputy Speaker (Sen. (Prof.) Kindiki): Have you withdrawn the word lie?

Sen. Mutula Kilonzo Jnr.: Yes, Mr. Deputy Speaker, Sir. I have replaced it with the word false.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is it false or untrue?

Sen. Mutula Kilonzo Jnr.: Both, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Okay.

(Laughter)

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, allow me one extra minute.

The Deputy Speaker (Sen. (Prof.) Kindiki): No worries. I will give you two minutes.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, JF Kennedy had this to say, and I want to say this about the Senate of the Republic of Kenya.

‘When at some future date, the high court of history sits in judgment on each one of us, recording whether in our brief span of service we fulfilled our responsibilities to Kenya, our success or failure, in whatever office we may hold, will be measured by the answers to these four questions. Were we truly men and women of courage? Were we truly men and women of judgment? Were we truly men and women of integrity? Were we truly men and women of dedication?’

The responsibility that you have been given of protecting Kenyans includes the right to tell the Executive that, ‘you cannot continue this way, you cannot continue borrowing. You have to stop borrowing and that you have to borrow responsibly.’ It will not matter if it will only take one voice, that voice has to bring sense to this Republic that we love. This is the country of Eliud Kipchoge, the country of 1:59 and the country that

is respected all over the world. We must change its course and that time is now. We are now the third largest borrower of Chinese loans in Africa.

However, we are not closing the door. We are just providing the formula of how we are going to get out of this. The formula is; do a better way, do a smaller ceiling, provide the debts, do not sign new contracts unless those contracts are truly necessary. I have a contract that is affected but allowing it to pass is being pennywise and pound-foolish.

I reject. Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): I am sure that you meant to oppose. Thank you, Sen. Mutula Kilonzo Jnr. Order, Members. Allow me to recognize our visitors.

(Interruption of Debate on Special Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM LITTLE SISTERS
OF FRANCIS OF ASISI, NAKURU COUNTY

The Deputy Speaker (Sen. (Prof.) Kindiki): I would like to acknowledge the visiting students and teachers from the Little Sisters of Francis of Asisi in Nakuru County. *Karibuni sana.*

(Applause)

Can we hear from the Senator for Murang'a County? He is not there. We will hear from the Senator for Kericho County.

(Resumption of Debate on Special Motion)

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. I rise to oppose this Motion. This is a sad day for Kenya. The National Assembly opened floodgates of local interest rates and the Senate wants to auction Kenyans to international loans sharks. Such situations will make many Kenyans to ask God the reason as to why they were born in Kenya when they get to Heaven. It is extremely difficult to see what is happening in our country. It is also difficult to see that we, the leaders who are supposed to save them, agree with the people who are causing their suffering.

We must not give up. Those of us who believe that we must always do right at all times despite enormous pressure and temptations must hold our fort this afternoon. I urge my colleagues to follow through the seven points that I want to lay before this House on the reason as to why no Senator should support these regulations in their present form.

First, we have the level of debt. A number of information has been put forth before this House on what our level of debt is as a country. According to the figures that were presented before our Committee as at 30th June, 2019, we were at Kshs5.8 trillion. We requested that we be issued with a debt register. We calculated and tallied the list of loans that had been presented before our Committee. Sen. Farhiya was seated next to me. She is the one who did the tallying with me on her calculator. We found out that those

loans were totaling more than Kshs7.5 trillion. Therefore, it is not true in the first instance that we are at Kshs5.8 trillion.

Mr. Deputy Speaker, Sir, the second piece of evidence is that Central Bank publishes its weekly review of how the economy is performing and one of the indicators they put forth is the level of debt in this country. This is their report for this week. One of the things they pointed out is that as at 30th August, this year, our debt was already at Kshs6.1 trillion.

(Loud consultations)

Sen. Wetangula: On a point of order, Mr. Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Wetangula?

Sen. Wetangula: Mr. Speaker, Sir, if you look at this side, everybody is studiously silent and listening. I want to encourage the Chair and beseech you to tell our colleagues that even if you are just waiting to vote, please, listen to those who are debating, we want to listen to all these issues being---

Sen. (Dr.) Kabaka: Voting machines!

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Sen. (Dr.) Kabaka, you are out of order! You cannot call a colleague a voting machine; that is not something we will entertain. However, having said so, I see a lot of movement and excitement on the Majority side.

Hon. Senators, please, observe the rules of the debate. Chief Whip sit down. If you have not whipped this is not the place to do so. This is a place for debate. You should have whipped before or you can de-whip later, if need be. Senate Majority Leader and all the Senators, let us give our House the dignity it deserves.

Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. I was making a very important point and, perhaps that is why I was being interrupted so that it gets drowned.

In the budget review outlook paper that the Cabinet Secretary (CS) placed before our Committee and the Houses of Parliament the level of debt they want to achieve on each financial year from 2019/2020 to 2020/2021. On their target, it points out that at the end of the Financial Year 2019/2020, they project that our debt level will be at Kshs6.4 trillion. However, the document I had tabled previously shows that by August of 2019, the debt is already at Kshs6 trillion. It will only take a fool to believe that they intend to follow the documents they are presenting before this House. Tell us that the Kshs9 trillion will not be used all the way up to 2024 is a lie.

Mr. Deputy Speaker, Sir, I want to assure the Senators who are here in this House, who want to support this Regulation that if you grant National Treasury the chance they are looking for, by December of this year, I will not be shocked if they will be at Kshs9 trillion. That is how difficult these things are.

Thirdly, is the issue of underperformance of revenue; it is a very critical and important point of this debate. We have been told that budget deficit is a problem and it is caused by the difference between our expenditure and what we are collecting. However, as it is today, for every Kshs100 that Kenyans are being taxed, half of that amount is going to service debt. If that does not throw you into a chill mode as a Senator and ask you to first summon the Acting Cabinet Secretary and the whole of Treasury before this

House, so that they expose and talk to us about the future of this country, I do not know what will.

How will we survive if we get to a point where for every revenue that we will be collecting, close to Kshs60 or Kshs70 out of Kshs100 we will be servicing our debt? Therefore, I want to persuade my colleagues who may have been lobbied or whatever means that may have been used to convince them otherwise---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cheruiyot!

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, “whipped” is the word that I wanted to use.

The Deputy Speaker (Sen. (Prof.) Kindiki): Precisely.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, excuse my language. It is because these things make your blood boil when you look at the figures.

The Deputy Speaker (Sen. (Prof.) Kindiki): If is whipping, they can be whipped by any means possible, but not something else.

Sen. Cheruiyot: I want to whip them back to agree. We need to have a proper conversation---

(Sen. Murkomen spoke off record)

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, protect me from the Senate Majority Leader. He is heckling me because---

The Deputy Speaker (Sen. (Prof.) Kindiki): It is a contradiction, Sen. Cheruiyot.

Sen. Cheruiyot: Which one?

The Deputy Speaker (Sen. (Prof.) Kindiki): You have talked about the Senate Majority Leader and heckling. Those two cannot go together.

Sen. Cheruiyot: Mr. Speaker, Sir, I am also shocked that this afternoon they are going together.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cheruiyot!

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Senate Majority Leader?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, when Sen. Cheruiyot came to this House, you remember I am the one who brought him here for introduction to this Chamber. Therefore, I would least expect him to use unparliamentary language and say that I am “heckling”. If it was Sen. Gideon Moi, I would understand!

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Were you introduced here by Sen. Gideon Moi?

Sen. Cheruiyot, you have been accused of not being respectful to your elders.

Sen. Omanga: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Omanga?

Sen. Omanga: Mr. Deputy Speaker, Sir, I think the Senate Majority Leader is trying to intimidate Sen. Cheruiyot the way he has been intimidating us from this side because of this Bill.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Where is the intimidation, Sen. Omanga? He stated what he considered a fact that he introduced Sen. Cheruiyot when he was being sworn in. I do not see any intimidation there.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, if in the course of putting across my points, I may have uttered words that suggest that I do not respect the Senate Majority Leader, then I withdraw.

Mr. Deputy Speaker, Sir, one of the things that he did for me in 2015 when he introduced me to this House is that he took me to the Finance and Budget Committee. Little wonder that those of us who have been in this Committee, Sen. Wetangula and Sen. Mutula Kilonzo Jnr. have been saying this thing for many years. That is why today when we are given the opportunity to set the country on the right path, we cannot waste this opportunity. For the last five years, we have been saying that we are living beyond our means as a country.

The Senate Minority Leader (Sen. Orengo): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is your point of order, Senate Minority Leader?

(Loud consultations)

Order Senators! Let us listen to Sen. Orengo.

The Senate Minority Leader (Sen. Orengo): Sen. Murkomen and I were neighbours at KICC and, subsequently, we have been neighbours. When the Senator for Kericho was elected, I heard Sen. Murkomen telling him, “just watch me and follow me.”

(Laughter)

Sen. Cheruiyot: Mr. Deputy Speaker, Sir. Indeed, I confirm that I have been following the Senate Majority Leader studiously as a student, until last Friday when he changed his mind.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): So, you have been rebellious since Friday.

Sen. Cheruiyot: Yes!

The Deputy Speaker (Sen. (Prof.) Kindiki): Maybe for a good cause!

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Okay, but let us not prolong this.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, if you heard Sen. Orengo right, I just told him, “follow me”; whether it was Friday this way and Monday this other way, nothing changed.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. My fourth point is on the issue of equitable share. One of the things that we did is that we sent away the representative of the Commission on Revenue Allocation (CRA) because in one way or the other, they tried to mislead the Committee that this borrowing does not have a direct bearing on the equitable share that is sent to each and every county that we represent in this House.

Mr. Deputy Speaker, Sir, if you keenly follow the calculation, in terms of sharable revenue that is brought before this House, the truth of the matter is that even in this current financial year, while at the previous years, it was anywhere close to between 20 and 22 per cent, this year it is at 17 per cent. That tells you that it is already decreasing even as things are. So, if you push this ceiling to Kshs9 trillion, chances are that we might even barely make it to 15 per cent. That is important for our colleagues to note.

On the issue of county borrowing, because we are being enticed and being told that one of the avenues or the room that is being opened in terms of this borrowing is so that our counties can borrow. However, the truth of the matter is that for the last six years since the advent of devolution in this country, the national Government has guaranteed zero shilling in terms of debts to our county governments. So, if they have not done it in the last six years, why do you want to believe that at this particular time they will do it?

I will be more prone to support regulations that specify that of this amount that we want to borrow, “X” amount is purely set for counties. If that is put on pen and paper, then I can support such regulations. The reason I want to do that is that all the 47 counties in this country are taxpaying. Sen. Wetangula tried to ask the Acting Cabinet Secretary this question: “Of the Kshs9 trillion that you are borrowing, how much will go to Bungoma County in terms of projects?” He was shown a project of Kshs100 million. It is a shame!

How do you expect that I, in my rightful mind, as a representative of the people of Kericho County, to vote to increase such a debt ceiling when I cannot see even a single shilling in terms of projects going to my county? We are all Kenyans. Therefore, this business of the whole country borrowing, guaranteeing the 47 million of us, but projects going only to specific counties, some of us can never support this.

(Applause)

Mr. Deputy Speaker, Sir, in terms of the East African Community (EAC) Monetary Unit Protocol, these are treaties that we have signed as a country. It is unfortunate that despite the fact that we are signed on to keeping our borrowing at 50 per cent of net present value, already even as it stands today, we have passed that ceiling. The reason why the EAC has never successfully integrated is because of our behaviour as Kenyans. Each time we go to Arusha, we set up beautiful meetings where EAC Heads of States sign protocols, but we come back to Kenya and believe that somehow we can only follow those rules in so far as it favours us, as a country. However, at a particular time, when we feel that we want to do things otherwise, we disregard them. Tanzania, Rwanda

and all these other countries will never respect us if, we, as a country, do not respect the rules that we are setting.

Mr. Deputy Speaker, Sir, based on the evidence that is being placed before us today, I agree with the Ugandans, Tanzanians and the Rwandese who have been saying that the biggest stumbling block to the integration of the EAC is Kenya. I finally have come to agree with them based on the evidence that is being tabled here.

Sen. Pareno: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cheruiyot, would you like to be informed?

Sen. Cheruiyot: That is okay.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Pareno.

Sen. Pareno: Mr. Deputy Speaker, Sir, I would like to give some information to Sen. Cheruiyot as far as Kenya's standing in the EAC region is concerned. Kenya has been regarded as the big brother that does very well. As I speak now, the Committee on National Cohesion, Equal Opportunities and Regional Integration was actually lauded for having been the one that has now made almost 90 per cent of its payments when there are countries that have not made even a single cent. That is the information I wanted to give to my brother.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, you know very well that in matters to do with law, you either comply fully or you do not comply. You cannot appear before a judge and argue that: "Because I have followed all the other nine laws, permit me to break this particular law."

If Kenya is serious and if, indeed, we are the big brother as Sen. Pareno has said, then it is incumbent upon us to respect each and every EAC Treaty that we have entered into and signed as a country. This is one serious one. If we violate it, we shall be sending a very bad signal.

Finally, Mr. Deputy Speaker, Sir, on this very important issue about debt restructuring, because it is one of the high points that the Acting Cabinet Secretary keeps on hinting in the media, I have also seen the same being repeated on the Floor of this House that we are using this particular debt to retire commercial loans so that we can use concessional loans.

We, as a Committee, requested the Acting Cabinet Secretary to present us with evidence of any institution that is willing to do so. This is because, as we know, this is the problem with Kenyans. Sometimes when a Kenyan priest finds himself in a mosque, he still wants to pretend as if he is an authority in matters to do with a particular religion. People who do not understand economics want to lecture us on things that they know little about. There is no multi-lateral lending institution that would do the kind of thing that the Acting Cabinet Secretary is proposing and telling us as a country to do. They are in business just like any other institution. To be misled, the way we are being misled is not proper. Therefore, I put it to my colleagues that multi-lateral lenders----

(Sen. Kang'ata consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kang'ata! I gave you a chance to contribute and you were not here. Now you are here and causing havoc.

(Laughter)

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, the point that I was making is that multilateral lenders do not undertake debt restructuring. Rather, what they do is that they fund specific projects like the Standard Gauge Railway (SGR), a particular road or factory. That is the kind of business that they are in. However, they are not in the business of buying off bad debts from people who cannot manage their economies like Kenya.

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Deputy Speaker, Sir. Sen. Cheruiyot is talking about people who know nothing about what they are talking about. Is he in order to mislead the House that the responsibility of the International Monetary Fund (IMF) and the World Bank (WB) is not to restructure debt?

Mr. Deputy Speaker, Sir, you taught me, and you know very well that, that is one of the main responsibilities of those two multilateral agencies. Even in the past, I have participated in debt restructuring in this country.

Sen. Wetangula: On a point of order, Mr. Deputy Speaker, Sir. It cannot be true that you taught Sen. Murkomen that the principal engagement of the IMF and the World Bank is to restructure debt. That is not what they were set up to do. If you did that, it is most unfortunate.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): You should have waited until I respond. Why are you pre-empting my response? Can I hear from Sen. Cheruiyot first?

Sen. Cheruiyot: No, Mr. Deputy Speaker, Sir. I would wish to hear from the teacher who misled Sen. Murkomen.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Now, I think Sen. Murkomen never said that I taught him that the World Bank and IMF restructure debts. He said I taught him and then he continued saying he could not remember that lecture.

(Laughter)

Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir, for disowning your student.

The point that I was making in concluding is that, the thing that multilateral lenders would do is to fund specific projects. This is something which, we, as a Committee, pondered about and said we would be so happy about.

Mr. Deputy Speaker, Sir, just allow me a minute to wrap up my thoughts.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have one minute to conclude.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, we would be so happy if the Acting Cabinet Secretary had presented before us specific projects with specific funding requests up to the point of the mid-term budget framework that they had presented to us that ends

up in 2022. We would be so okay about that particular one. However, the one that he is telling us that for long term and longevity about it up to Kshs9 trillion, I reject.

In concluding, I want to remind my colleagues, the words of the third President of the United States, President Thomas Jefferson who said-

“In matters of style, swim with the current; in matters of principle, stand like a rock”

In matters of politics, I will stand with my party, but in matters of economy, I will stand with the people of Kenya.

I reject these regulations.

(Sen. Cheruiyot approached and shook hands with several Senators)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well.

Sen. Cheruiyot, when you finish contributing, you resume your seat. You do not go into a frenzy of greeting people. You look like an athlete who is taking a victory lap to congratulate yourself.

(Laughter)

Proceed, Sen. Wetangula.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I am one of the Members who signed the dissent and the minority opinion. Therefore, I do not support the Motion as presented to the House.

(Applause)

Mr. Deputy Speaker, Sir, I encourage us to debate this Motion without unnecessary emotion, and with patriotism in mind. I want to bring the attention of the House to Article 201(c) of the Constitution, which says:-

“The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations.”

Mr. Deputy Speaker, Sir, whatever we do today, we must take care of our future generations. When we held a public hearing, a lady from the Institute of Certified Public Accountants of Kenya (ICPAK) who I think was called Ms. Njeri made a very simple point---

(Sen. Moi and Sen. Kihika consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Moi and Sen. Kihika!

Sen. Wetangula: Mr. Deputy Speaker, Sir, she made a very simple point that the simplest criteria in borrowing lies in the ability to repay. When you borrow money, you must have the capacity and ability to repay.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators! I expect a lot of concentration because this matter is extremely important for the country.

Sen. Wetangula: Mr. Deputy Speaker, Sir, the whole country is watching on what this Senate is going to do.

The Deputy Speaker (Sen. (Prof.) Kindiki): Absolutely!

Sen. Wetangula: Mr. Deputy Speaker, Sir, these regulations that have been brought to this House, as Sen. Mutula Kilonzo Jnr. put it, are not a Bill that will have to wait for six months to be brought back again, if rejected. Those who were with us in the Committee know that I asked the CS for the National Treasury five times, “Mr. CS, what is your irreducible minimum, if you do not get the Kshs9 trillion?” He did not answer; he just kept telling us that the country is in serious problems. That meant that if we gave the Kshs9 trillion, probably, by December, we will have borrowed the whole of it.

Mr. Deputy Speaker, Sir, we must be patriotic. There is no country that does not borrow, both externally and externally. Every Government borrows, but the responsibility with which you approach the borrowing is critical. We, as Senators, are enjoined by the Constitution as defenders and protectors of counties and their governments. Our Parliamentary Budget Office which is manned by very brilliant and well trained young professionals, appeared before the Committee and told us that the consequences of what we are about to do is diminished revenue to the counties.

Mr. Deputy Speaker, Sir, under the Constitution, the first charge to our revenue is public debt. It does not matter how much we collect; if we owe so much, we must pay debt before we sit down to share between the counties and the national Government. Therefore, in trying to do what we are doing, we are actually truncating the allocation of resources to our own counties.

Mr. Deputy Speaker, Sir, I listened to the Senate Majority Leader engaging in some dead rigmarole on the Floor; he was totally unconvincing.

(Laughter)

He was saying things that, at a private session with the CS – because the CS appeared before us – he did not say them. We asked the CS, “Can you show us your schedule of debt restructuring;” and he had absolutely none.

Hon. Senators: Zero!

Sen. Wetangula: He had absolutely none!

Mr. Deputy Speaker, Sir, allow me to salute this young lady, nominated Sen. Farhiya. She is brilliant. She voted “yes,” but for different reasons. She is a brilliant girl because she knows the figures, the facts and the economy. She has been a pillar of our Committee. I salute her on this Floor. The fact that she signed “yes” is neither here nor there. She is nominated.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Wetangula! Nomination has no connection with voting in Committees.

Sen. Wetangula: Mr. Deputy Speaker, Sir, she understands. She is not protesting.

Article 2(6) of the Constitution, Kenya has signed to the East African Protocol. Article 2(6) of the Constitution says that:-

“Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.”

The East African Protocol says that our debt to Gross Domestic Product (GDP) ratio should never exceed 50 per cent. However, we are now about to take our debt to GDP ratio to 100 per cent. That is because I asked the CS what our GDP is and even if he did not answer. We know it because it is in the public domain. Our GDP is Kshs9.8 trillion. We want to open the debt ceiling to Kshs9 trillion, which means that our GDP and debt weight will be equal. Which country does that? I do not know of any.

Mr. Deputy Speaker, Sir, I urge Senators here that voting against this Motion is not going against the President, the Government or the national Treasury. We are saying, as a responsible House of Parliament, that we should defeat this Motion and follow what the budget officers advised. They advised that we should bring in a new set of regulations capping our debt ceiling to Kshs7.5 trillion, and then let us see how you behave with it.

Nothing stops the CS, in another two or three months, from coming to Parliament again to justify what you have given him. He could come here and say, “I have used this money responsibly; now give me an extra opening on the ceiling.” That is not asking for too much. We have already shown, as a Government, that we have an extremely avaricious and uncontrollable appetite for borrowing. We have borrowed everywhere.

Mr. Deputy Speaker, Sir, I thank the current CS because this is the first time that our Committee – where I have sat with Sen. Mutula Kilonzo Jnr. for the last seven years – we have seen a debt register of the Republic of Kenya. We have never seen it before. This debt register tells you even the mind games and the economic games that a country like China plays on Kenya. If you look at the debt register, the commercial debt from China is Kshs660 billion. The bilateral debt, or what we call concessional debt from China, is only Kshs1 billion. Do you see how China is playing on us? They are luring us into borrowing huge sums of money at commercial levels. However, when it comes to concessional funding, China – with its largest economy today on the globe – has given us only Kshs1 billion.

Mr. Deputy Speaker, Sir, if you see what countries like the Federal Republic of Germany has given us in terms of concessional loans – Kshs29 billion – and we have no commercial loans from Germany. Therefore, between China and Germany, who is our friend? We want to open up, go and borrow more from China; extend the railway line to somewhere; and extend I do not know what to somewhere. This is killing our country. We must face the facts. We are not opposing anybody; I want this country to move forward.

Mr. Deputy Speaker, Sir, Sen. Nyamunga spoke passionately, but the anticlimax came when she said ‘yes.’ She asked the Acting Cabinet Secretary: “Can you explain how projects in this country are costed?” This is a very pertinent question.

Sen. Orengo and I sat in the former President Kibaki Cabinet. The road from Jomo Kenyatta International Airport to Westlands was approved by President Kibaki’s Cabinet at a cost of Kshs23 billion. Sen. Mugo was this us. Even if there was super inflation in Kenya, which there is not, I saw the other day---

The Senate Minority Leader (Sen. Orengo): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Orengo?

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, is the distinguished Senator for Bungoma correct in giving a very positive portrayal of that Grand Coalition Government when the road to China was opened under it? Probably, this Government would never have gone to China had we not taken the country to China.

Sen. Wetangula: Mr. Deputy Speaker, Sir, the only reason Sen. Orengo stood on a point of order is because he heard me mention his name. He did not get the point.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Be kind, Sen. Wetangula.

Sen. Wetangula: Mr. Deputy Speaker, Sir, even asked him to let me finish the point. If it is unkind, I withdraw it. What I said was that Sen. Orengo, Sen. Mugo and I sitting in Cabinet, approved a road from the Jomo Kenyatta International Airport to Westlands for Kshs23 billion.

The other day, I saw the President launching the same road, from City Cabanas to Westlands at Kshs63 billion. If you live in this country you saw it. It was in public domain. It is not the mistake of the President. Who is costing our projects? Even during that time when the Minister was Hon. Franklin Bett, it was an elevated road from the Jomo Kenyatta International Airport to Westlands, ending up at James Gichuru Junction. Let me go to another point.

Sen. Wamatangi: On a point of information, Mr. Deputy Speaker, Sir.

Sen. Wetangula: I am sufficiently informed; it is me to allow.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Wetangula, you are on a warpath today. Anyway, it is your discretion. Unless it is very critical, we should not be discourteous to each other. I am sure that Sen. Wamatangi does not want to---

Sen. Wamatangi: Mr. Deputy Speaker, Sir, since the distinguished Senator for Bungoma did not want this information, let me put it as a point of order.

The Deputy Speaker (Sen. (Prof.) Kindiki): He has eventually accepted.

Sen. Wamatangi: Mr. Deputy Speaker, Sir, let me ask if he is in order then to misinform the House that the road project was launched at a cost of Kshs63 billion when, indeed, it was launched at a cost of Kshs59 billion. He will need to have his figures correct.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Wetangula, it is Kshs59 million and not Kshs63 Billion.

Sen. Wetangula: Mr. Deputy Speaker, Sir, that is very good information. A sum of Kshs59 billion is very far from Kshs23 billion. I picked the figure of Kshs63 billion from the media. The media must have picked it from Government documents.

Mr. Deputy Speaker, Sir, I want to end so that other colleagues can contribute. This country is in problems. You do not solve your problems by adding more problems. We have borrowed and we want to borrow even more. We even asked the Acting Cabinet Secretary: "If you are not going to dash to the Kshs9 trillion that you are asking for, why not withdraw these regulations and bring new ones tomorrow? We will be the champions of passing them in the House." He was not ready and said it is either Kshs9 trillion or nothing. That means that it is already set.

Thirdly, the point that the Senator for Kericho brought, this is a list we were shown by the Cabinet Secretary of some of the mega projects that they will undertake

with the opening of the debt ceiling. It is like some of our counties are not in this country. Running all the way from West Pokot, Trans Nzoia, Bungoma, Kakamega, Vihiga, Busia and Siaya, there is not a single project. We are opening up the debt ceiling by Kshs3 trillion and they are going to other projects. Where is equity in the country? Everybody pays taxes and expects development.

More importantly, the untruth that by opening the debt ceiling we are going to allow counties to borrow must be debunked. If the counties have already accumulated unpaid bills of Kshs110 billion, how are they going to manage any further borrowing if we allow them to borrow? If we go to our counties, whether it is Sen. (Prof.) Onger's Kisii County or Sen. Wamatangi's Kiambu County, young boys who take small loans of Kshs500,000 to do public jobs can never be paid. They are all being auctioned everywhere. They are all victims of shyalocks. We cannot tell the country that by opening up this debt ceiling, we will allow counties to borrow when counties cannot pay with the money they already have. That does not fly.

Mr. Deputy Speaker, Sir, I want to urge this House that today in this House as Senators of the Republic of Kenya, let us go on record as not being rejectionist philosophers, but as a House of reason that tells the National Treasury and the Government that: "Yes, we can open your ceiling, but not to the level you want to take this country to a Gross Domestic Product (GDP) equal to a debt ceiling." This is because if your GDP is Kshs9.8 trillion and you have borrowed Kshs9 trillion, how will the country run? We are told that 52 per cent of our revenues are paying public salaries. How are we going to pay those salaries? We have launched public projects everywhere.

When I saw the President launching the road at City Cabanas, I *tweeted* on the eve of Mashujaa Day and said: "Mr. President, I salute you on Mashujaa Day, but encourage you that, please, as your legacy, finish all the stalled and incomplete projects in the country, instead of launching new projects." You cannot continue launching new projects when you have no money. I want to encourage---

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Members.

Sen. Wetangula: I want to finish by encouraging everybody here, whether it is Sen. Murkomen who was crying the other day here about Aror and Kimwarer dams, that even in this list of those priority projects those dams are not there.

(Laughter)

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, is it in order for Sen. Wetangula to reduce petitions and the defence we make here on behalf of our counties to crying? If I was crying for Aror and Kimwarer dams, which I did and confess that in the list he is holding at least Aror Dam is there--- So, my only petition is on the Kimwarer Dam.

Mr. Deputy Speaker, Sir, most importantly, is Sen. Wetangula in order to tell the House that the President should complete projects and on the other hand say that we should deny him from borrowing. How will he complete the projects without the money being borrowed?

Sen. Wetangula: Mr. Deputy Speaker, Sir, we never told the Cabinet Secretary that we cannot allow him to open the ceiling. We only told him that we cannot open it to Kshs9 trillion, because it will be taking us to the equality of GDP and debt. In fact, the Committee of the National Assembly had approved Kshs7.5 trillion, but when they went to the Floor, as you said, every means necessary was applied.

The Deputy Speaker (Sen. (Prof.) Kindiki): They were whipped.

(Laughter)

Just say they were whipped.

Sen. Wetangula: They quickly transformed from Saul to Paul; lightning struck them and they changed their minds.

I want to encourage the Senator for Baringo whom I am very impressed has sat in the Chamber the whole afternoon.

(Laughter)

I have no doubt that he has been sitting here---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Wetangula! Do you not expect Sen. Moi to sit through the afternoon?

Sen. Wetangula: Mr. Deputy Speaker, Sir, he normally does, but he does not have that extreme patience.

(Laughter)

I want to encourage that he will vote with the people of Kenya against an extra burden of debt.

Mr. Deputy Speaker, Sir, I beg to oppose.

Sen. Moi: Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute on this very serious matter. I do agree with my colleagues that we find ourselves in a very unenviable position and a very grave position as a country.

We have heard that in 2013 the public debt was around Kshs2 trillion or Kshs1.2 trillion. By July we had reached threefold to nearly Kshs6 trillion. This, of course, is totally unsustainable. At the rate that we are going, it will be impossible to conduct any meaningful economic activity.

Having said that, we have to face the facts. The fact is that we find ourselves in a position that we do not have funds to complete the existing projects and we do not have funds to continue doing any meaningful development projects. Whether we like it or not, the fact remains that at this position there is no wriggle room. The Cabinet Secretary said to the colleagues that he has nothing to give out, he cannot pay and he cannot complete projects. If he does not get this gap in the ceiling, I can assure you that the next thing which will happen will be an economic meltdown.

Mr. Deputy Speaker, Sir, one of the reasons which we have to be aware of and wise to is that if you do not have any wriggle room, what do you do? The commercial loans that we have are extremely expensive. It is prudent that we retire the expensive

commercial loans and get cheaper sustainable loans. We cannot say we throw it out and continue paying expensive loans; that is not being prudent. We must borrow, retire the commercial loans, take cheap loans and complete the existing projects that we have. That we have to do.

Sen. Murkomen talked about what happens next and he said that a new debt management organisation should be set up. That is okay, but the most important thing after this is for us as a country generate enough revenue in order to pay back the loans that we have. The only way to do so is for the Government to change its economic policies. We must completely change our policies. We must use the factors of production that is land, labour, capital and entrepreneurship and encourage them.

We must unlock all that we have invested in, for example, the SGR. It is pointless for SGR to carry passengers and you think that you are doing a good thing. That is consumption. We want SGR to carry goods and services to create wealth. That is why we built it. Those are the policies which we are saying need to be changed.

We need them to use innovations and technology to help us in our agricultural sector. Agriculture contributes 25 per cent of the GDP yet it is the least funded of all the factors of production. Therefore, while we are accepting that we have a problem and that we need to do 'X.' However, we have to see what will be sustainable going into the future. We must change the economic policies concerning land and encourage entrepreneurship. We must give people access to cheap capital. Those are the things we must do.

Mr. Deputy Speaker, Sir, we cannot run away or dodge the fact that we have got an elephant in the room. We have to pay for it. Whether the decision which was taken is right or wrong, it has found itself on our table.

I am urging and pleading with my colleagues, let us do the right thing. I know when they said you look at the list, not everybody is there. However, the people who are there are Kenyans too. Let them benefit too. Next year I know in the next policy they are saying that we will have our cake and eat it. Mine is just to ask and plead with my colleagues, let us be prudent and let us do the right thing and support these regulations.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Deputy Speaker, Sir. I rise to make my contribution on this very important Motion. I am very happy that it has come at a time when this House has come out as the House of reason.

Today as I rise to contribute to this Motion, I am worried about the future generation. I am worried about the burden which we, in the current generation, are continuing to heap on the future generation. We are told choices have consequences.

Mr. Deputy Speaker, when you think about the cost of borrowing in this country think about this Motion today and the actions of our voting today, either 'yes' or 'no', tomorrow the cost of borrowing in this country will skyrocket. Our economy will continue to stagnate. We have got to look at the whole issue of the economy in a much broader spectrum. We need to ask ourselves: If we allow Treasury to raise the ceiling of borrowing debt in this country, how will we oversight them to ensure that we do not continue getting deeper down in the hole?

My biggest worry is that currently, the Government is trying to carry out every single project in this country. Private sector is not being given an opportunity to be able

to help the economy grow. Monopoly is something which is being encouraged with the heavy borrowing that we are doing.

I was reading this Report which has been tabled here. The interest rates that the Government is currently paying from commercial banks worries me.

Mr. Deputy Speaker, Sir, this is the point where I agree with Sen. Moi that we must retire these commercial loans. When you borrow in foreign currency and the interest rates are as high as 7.5 per cent from Citigroup Global Market Europe, all the way down to Khan Corporation at about six per cent, it worries me.

We have to figure out how we will control our debt and manage it. We have put ourselves in this situation where we want to support the Big Four Agenda, yet, where we are allowing the Government to get into what the private sector does such as construction of houses. We then have to figure out and ask ourselves whether we can continue borrowing or whether we have to change the entire policy.

It is high time that this House sends a very strong message to the National Treasury and the Executive that the Big Four Agenda may not succeed. If we will allow the National Treasury to continue borrowing, then by all means we have to be willing to say no to certain projects such the housing being done in this country. I have seen in the list of the projects that are supposed to be paid by the borrowing, housing is number one. Why not leave that to the private sector?

Mr. Deputy Speaker, Sir, the problem we are putting ourselves in is that we are not scrutinising every single document which is being provided to us by the National Treasury. There is no problem in borrowing. We are in a country where we want to live beyond our means so we have to continue borrowing. My point is that if we will support this, which I am inclined to support, I think we have to come up with proper regulations on what the Government can undertake and what it cannot. There is no way I will support this if we will allow the Government to continue saying they want to support the Big Four Agenda, build houses, have Universal Health Care (UHC) and everything yet when you go to the manufacturing sector, monopoly still thrives.

If you go to Mombasa next to the Port, there are companies that want to build their own industries, but are not being allowed because of monopoly. As we vote for this we have to be prepared and tell Kenyans that the cost of borrowing even locally will be higher. The interest rates locally will be higher. There is no way we will allow the Government to borrow more and then expect the interest rates to go down. We have to be realistic and tell Kenyans that even this interest cap we are talking about will have to go away because next year the largest part of the Kenyan budget will be to repay the loans.

Mr. Deputy Speaker, Sir, it is sad, but it is a reality that we are part of that generation which will burden the future generations. Although I support I do so with a very heavy heart because there is nothing I can do. I have to support this because one of the things I have learnt in this Parliament is that although it is shameful ---

(Several Senators spoke off the record)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Sen. Omanga. Order!

Sen. Olekina: Mr. Deputy Speaker, Sir, it is a reality that we are living in an economy that is slowing down and people are suffering. I have never in my life got to a point where when you try to buy someone a drink, you expect them to buy you another

drink and they tell you: “Boss, I have not been paid for the last one or two weeks.” This economy is slowing down.

We have to bite the bullet, but allow the National Treasury to raise the debt ceiling. We have to encourage them to leave the private sector to help build this economy.

Mr. Deputy Speaker, Sir, I rest my case.

The Deputy Speaker (Sen. (Prof.) Kindiki): Do you rest your case or support?

Sen. Olekina: Mr. Deputy Speaker, Sir, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have to end by either supporting or opposing. You cannot just rest your case, whether your heart is heavy or light; it does not matter. You either support or oppose.

(Several Senators spoke off record)

Order, Sen. Cheruiyot! You are the one almost doing what you were accusing the Senate Majority Leader of doing.

Proceed, Sen. Omanga.

Sen. Omanga: Asante Bw. Naibu Spika. Nitakuchangia Hoja hii kwa kutumia lugha ya Kiswahili ili wale wananchi ambao wananisikiliza waelewe jambo ambalo tunalizungumzia juu yake.

Napinga Hoja hii vile nilivyoipinga kwenye Kamati. Sijabadili msimamo bado nasimama na “Wanjiku, Nyaboke na Akinyi”. Katika ripoti ya Kamati mimi ni mmoja waliyolipinga jambo hili la mkopo zaidi kwa wananchi.

(Applause)

Bw. Naibu Spika, kaimu Waziri wa Fedha alipokuja kwetu akiuliza waongezewe kiwango cha kuchukua deni hakuleta ratiba ya kuonyesha pesa hiyo itafanya nini. Ukiona Bajeti kama vile Mhe. Cheruiyot alivyosema ile *deficit* iliyokuwa kwa ile pesa ilikuwa Kshs1.2 trillions. Ukiweka inafaa pesa wanayohitaji---

The Deputy Speaker (Sen. (Prof.) Kindiki): *Deficit* ya ngapi.

Sen. Omanga: Nakisia kuwa Kshs7.5 trillions. Sasa wanahitaji Kshs9 trillions. Kwa nini hawatupi ratiba pesa hii yoyote ni nini inafaa kufanyia? Tunajua Kenya hii uporaji wa pesa unatoka kwenye bajeti. Ni kwa sababu hiyo unaona katika bajeti nyingi, kwa mfano, National Youth Service (NYS) tulipoteza mabilioni ya pesa. Watu hao wa NYS hadi sasa hawajashikwa na kuchukuliwa hatua yoyote.

Tuna ona Serikali ikikimbizana na wachache tunaoambiwa ni wa Kshs20 milioni kama vile Gov. Sonko. Anakimbizwa kwa sababu eti Kshs20 milioni iliwekwa kwenye akaunti yake lakini tuna mabilioni ambayo yalipotea wakifanya bajeti kwenye NYS. Hadi sasa wale ambao waliokuwa kwenye vyeo na kuidhinisha hiyo pesa, hawajashikwa.

Bw. Naibu Spika, niko upande wa wengi katika Bunge hili. Tumekuwa tukipigiwa simu na kulazimishwa na Kiongozi wa Walio Wengi Sen. Murkomen kwamba lazima tuunge mkono Hoja hii.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Omanga! You are out of order! If you want to discuss the Senate Majority Leader, you must bring a substantive Motion.

Sen. Omanga: Nimeelewa, Bw. Naibu Spika. Nasema kuwa tumekuwa tukiongelesha---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! This is not a place to do party politics. Do your party politics in the rallies.

Sen. Omanga: Bw. Naibu Spika, nimesikia. Waswahili husema kuwa kizuri chajiuza na kibaya chajitembeza. Kama Hoja hii ingekuwa nzuri, basi watu hawangetoa maoni yao wenyewe na wapige kura inavyostahili bila kushurutishwa na Kiongozi wa Wengi katika Seneti? Inaonekana kwamba kuna watu mahali wanaotaka Seneti ipige kura vile wanavyotaka, si vile itakavyomfaidi *Wanjiku*.

Bw. Naibu Spika, tukikubali kuongezwa kwa kiwango cha Serikali kukopa, ina maana kuwa tunaua ugatuzi Kenya hii. Tunaua ugatuzi vipi?

The Senate Minority Leader (Sen. Orenge): Jambo la nidhamu, Bw. Naibu Spika,

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Orenge?

The Senate Minority Leader (Sen. Orenge): Bw. Naibu Spika, umeelewa vile Sen. Omanga, aliyekuwa akiongea amesema ya kwamba wanashurutishwa. Pengine hakutumia neno hilo lakini yale aliyoyasema, inamaanisha kwamba wanashurutishwa kupiga kura na kuzungumza. Hili ni jambo ambalo lazima lirekebishwe kwa sababu Katiba inasema kwamba kuna uhuru wa kuzungumza na kupiga kura ndani ya Seneti. Kwa hivyo, inaweza ikaeleweka huko nje kwamba kuna watu wengine hapa ambao wanashurutishwa. Sijasikia mtu yeyote ambaye amesema kwamba yaliyotoka katika mdomo wake ni mambo ya kushurutishwa.

Ni lazima Sen. Omanga aeleze iwapo yale maneno anayoyasema ameshurutishwa na Kiongozi wa Wengi katika Seneti ama ni maoni yake.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Omanga, please, wait. Sen. Orenge, I heard Sen. Omanga explaining what has transpired between her and her colleagues on their side of the House with their Leader of Majority. I told her that if she has any information suggesting that the Senate Majority Leader is breaking the Standing Orders or the Constitution, she should bring a substantive Motion.

I will not allow her to use the time provided to debate this very important issue to perpetuate political party politics. What happens among political parties out there is not our business. However, if anything has been done that is contrary to Standing Orders or the Constitution, the procedure is to bring a substantive Motion to discuss the Senate Majority Leader.

Sen. Omanga, I hope that, that is not the direction that you are going. Otherwise, you can go and do party politics out there. That is where you are whipped and de-whipped. Parties are allowed by law to whip and de-whip their members outside, but not here.

Conclude your remarks, Sen. Omanga.

Sen. Omanga: Bw. Naibu Spika, nina huzuni sana kwamba mwezi uliyopita tumekuwa kwenye vuta nikuvute na Bunge la Kitaifa kwa sababu ya mgao wa pesa unaoenda kwenye kaunti. Tukikubalia Serikali uwezekano wa kuchukua madeni zaidi, mwaka unaokuja, tutapata pesa chache katika kaunti. Mwaka mwingine na mtondoo na mtongoo pesa chache muno zitapelekwa mashinani.

Bw. Naibu Spika, iwapo tutapitisha Hoja hii itamaanisha kwamba sisi hatutakuwa tunapigania ugatuzi na pesa nyingi ziende kwa kaunti zetu.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Madzayo?

(Laughter)

Sen. Omanga you are not doing very well. Let us hear what Sen. Madzayo has to say.

Sen. Madzayo: Asante, Bw. Naibu Spika. Singependelea kabisa kuingilia kati dada yangu katika heshima---

(Loud consultations and laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Kuingilia?

Sen. Madzayo: Nimesema yeye ni dadangu---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Members!

Sen. (Dr.) Kabaka: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Kabaka? Sen. Madzayo is on a point of order; so he has to rest his point first.

Sen. Madzayo: Asante. Sen. Kabaka ni wakili, lakini kwa sababu ni mara yake ya kwanza kuwa hapa, ni sawa kumkosoa kidogo.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Madzayo!

Sen. Madzayo: Bw. Naibu Spika, dada yetu, Sen. Omanga, amesema “mtondo na mtondogoo.” Hiyo ni lugha ambayo hatuwezi kuifafanua kisawasawa. Sijui kama ni sawa angelisema “kesho, kesho kutwa, kisha afike mtondogoo.

Asante, Bw. Naibu Spika.

Sen. Wetangula: Kwa jambo la nidhamu, Bw. Naibu Spika.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Wetangula?

Sen. Wetangula: Je, ni nidhamu kwa Seneta wa Kilifi kuzungumza na kutumia maneno na sentensi ambayo inaweza kutoa taharuki kwenye fikra za watu, kwa kusema kwamba hataki kuingia katikati ya mama Millicent Omanga?

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Order, Members!

Sen. Omanga, can you conclude?

Sen. Omanga: Siwezi kubali Seneta aiingie katikati yangu!

Bw. Naibu Spika, kuititisha Hoja hii ni kuuza nchi yetu. Tukikubali Serikali nafasi ya kukopa zaidi, inamaana kwamba tunaua ugatuzi. Iwapo kweli tunapigania ugatuzi na kusisitiza kuwa tunataka pesa nyingi ziende kwenye kaunti, halafu sasa tukisema kwamba Serikali iendeleo kukopa na kaunti ziendeleo kupata mgao wa pesa wa chini zaidi ya ile tumekuwa tukipigania juzi, tunamaanisha kuwa sisi si wakweli.

Bw. Naibu Spika, ukimtazama Mwenyekiti alipokuwa akiwasilisha Hoja hii, alikuwa anaongea polepole sana. Hii ni kwa sababu tulikuwa na yeye kwenye Kamati, na ilikuwa kana kwamba hata yeye mwenyewe haamini anachokisema. Hii ni kwa sababu hata sauti yake haikua ile ya kawaida.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! You are imputing improper motives.

Sen. Omanga, just say your points in support or in opposition. Stop hurting other people and colleagues; it is not advisable.

Sen. Omanga: Nimekuelewa, Bw. Naibu Spika.

The Deputy Speaker (Sen. (Prof.) Kindiki): You cannot say that the Mover does not believe in his Motion. That is a very serious allegation to make.

Sen. Omanga: Nimesikia, Bw. Naibu Spika. Ni kwa sababu tulipokuwa kwenye Kamati hiyo pamoja na Waziri, idara yake ya wataalamu wa maswala ya kifedha, sote tuliukataa msimamo wake. Lakini tulipotoka kule na kuenda kuandika ripoti kesho yake, wengine walibadili mawazo yao. Sikuelewa walibadili mawazo yao vipi kutoka wakati tulipokuwa nao tukielezwa, na keshoye wakati wa kuandika ripoti.

Haiwezekani kuwa Serikali inakopa ili kulipa madeni mengine. Hii ni kumaanisha kuwa tunachimba shimo ambalo halina mwisho. Kusema ukweli, hii itakuwa na madhara hata kwa watoto wetu na watoto wa watoto wetu watakaokuja baadaye.

Bw. Naibu Spika, napinga Hoja hii.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Kabaka, kindly approach the Chair.

(Sen. (Dr.) Kabaka approached the Chair)

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to contribute to this Motion that has been brought to the House. From the outset, the country's economy is not doing very well. I want to go into history and discourage Kenyans and the Government from this treacherous, slippery trend of borrowing in an insatiable way.

As my colleagues have said, as at June 2019, our public debt was standing at Kshs5.81 trillion. Many people have alluded to the fact that the World Bank had said that developing countries should not borrow more than 40 per cent against their GDP. I happened to have attended the Committee meeting where the Acting Cabinet Secretary in charge of National Treasury appeared, and he could not answer two questions. One was on irreducible minimum of Kshs7.5 trillion.

Two, he gave us a skewed project allocation across the country. As I speak, in Nandi County there is no project that is being funded through this heavy, uncontrollable and gluttonous borrowing by the national Government. For example, the Kebedam Dam that was supposed to be funded was not in the list. Most of those projects were being borrowed to favour skewed regions. The big question is: Are we borrowing on behalf of 47.6 million Kenyans or for the few people that want to misuse that money?

Mr. Deputy Speaker, Sir, secondly, even as the economy is not doing very well, the World Bank said that the borrowing level of this country is very dangerous. The Chinese loans are very dangerous because they are conditional. For the commercial loans that they give us, we must have an agreement that we must use Chinese contractors. We are borrowing from China and must give contracts to Chinese contractors. That means that the money will go back to China. What are we doing about these conditional loans that are being given to the Kenyans?

Mr. Deputy Speaker, Sir, even on other aspect of borrowing to pay debts, it is not very good. One, the revenue collection will go down and the reduction of revenue will also hurt the essential services that are supposed to be given. God forbid, if we continue borrowing and raise our borrowing to Kshs9 trillion against Kshs9.8 trillion, in future we might cede control of strategic national assets to foreign creditors. Some of the strategic assets that we have in this country include Mombasa Port and Jomo Kenyatta International Airport (JKIA). If we continue borrowing, the revenue we raise will be used to pay debts. Also, the social programmes that we have in this country will not be sustainable.

The third point is on the issue of devolution. The Parliamentary Budget Office told the Committee that it is not safe for the country to continue borrowing. The census are out and I have seen that Tharaka-Nithi County is not doing very well. Maybe you should encourage men to go home early and start baby-making sessions, so that the numbers can go up. We are looking into the future where money will be allocated based on population and not trees or landmass.

Mr. Deputy Speaker, Sir, on the issue of interest on loans, it is sad that the country has the highest number of unemployed young people. In this country, old people are being given jobs as opposed to young people. We are telling young people to take loans, yet we want to remove interest caps on those loans. That means the young people cannot borrow and do entrepreneurial activities.

Mr. Deputy Speaker, Sir, if we have to cure this issue, even as the Government wants to increase this borrowing to Kshs9 trillion, *vitu ni* different *kwa* ground. Where I come from, a litre of milk is being sold at Kshs20. Likewise, tea and maize prices are doing badly. The economy is not doing very well. Kenyans do not have money and yet, we allow the Government to continue borrowing. We are not against the National Treasury or anybody, but this is right time in the history of the Senate to stand with Kenyans and say no to uncontrolled gluttonous borrowing by the Government.

The Acting Cabinet Secretary, Hon. Ukur Yattani should have even told us that he is borrowing to resettle the Mau evictees. No one is talking about the Mau evictees. We cannot allow the Government to borrow more. I will vote against this this Motion because I have heard the voice of the people of Nandi that we shall not continue to borrow, yet the economy is not doing very well.

Mr. Deputy Speaker, Sir, as we look at the own-source revenue by the counties and the revenue collection that we have, the increased investment in human capital to promote entrepreneurship, and the Government has been trying through Technical Vocational Training Centers--- We have been talking about value addition, manufacturing and the agriculture sector, yet these things have not been done.

Mr. Deputy Speaker, Sir, I want to urge my colleagues, the Senators, that we are standing at the pedestal of the history of this country. I want to call upon my colleagues to reject resoundingly this insatiable appetite of borrowing by the Government. We are not against anybody. This is the conscience and the people of Nandi have told me to vote against this massive, uncontrolled and unprecedented borrowing by the Government. We must stop this.

As I conclude, there are many projects across the country. However, why is it that these projects are in specific regions? In the entire North Rift, there are no serious projects that are being undertaken. Sen. Kang'ata and Sen. Kihika have been whipping

Members, which is okay. However, on this matter, let us stop political party politics here. Let us vote with Kenyans. Kenyans will not forgive us if we continue to borrow simply because we want to please our political parties. Let us vote based on conscience and to protect Kenyans because *vitu ni* different *kwa* ground.

I thank you, Mr. Deputy Speaker, Sir.

Sen. (Dr.) Kabaka: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to add my voice with regard to this important debate. Before I start, I wish to go on record that Machakos County will vote 'No.'

A lot has been said and I do not want to repeat or to be accused of what we call tautology; trying to repeat what other good minded Senators have said. One thing is very clear that borrowing is not bad, but does this country have both the fiscal and monetary discipline to handle this enormous ceiling they are requiring us to approve, the Kshs9 trillion? My answer is no, simply because of the history of corruption in this country. For those who sit with us in the Committee on Finance and Budget, we normally say that money is stolen at the time of doing the budget. This is the fear of those Senators who are voting 'No.' We may be few, but the truth will be told.

Mr. Deputy Speaker, Sir, I do not know why this Government is allergic to legal controls or checks and balances. If I may borrow some semblance of what happened in body corporates or companies, we do know that under the Companies Law and other related laws, directors do borrow whenever they want to undertake some projects. However, there are always some austerity measures that they must follow because this is business. That is why typically or similarly, the Government which is also managed in the same way as a body corporate, should be guided by prudential guidelines, or what we call in banking semblance, Basel I and II. There is no way we will have borrowing that is a match to legal controls. They must be controlled by the laws of the land.

Mr. Deputy Speaker Sir, I have also looked at the schedule of the projects which the Acting Cabinet Secretary for the National Treasury and Planning has given. I found that there are no new projects for Machakos County. Most of the projects which I know have stalled for absolutely no reason. I think it is because of lack of adequate provisions of funds to do the projects. I do not know what I would tell the people of Machakos if I would blindly support this Motion; if at all we are not going to see a cost benefit analysis of it. I need to interrogate further. That is why I am saying that even if this debate has gone for almost one and a half hours, it should not end today. Parties should not vote today. This debate should continue even tomorrow or for the whole of this week, so that Kenyans will know the problem with the National Treasury.

Mr. Deputy Speaker, Sir, as I sit down, I wish to say that majority of the Members from the side where I am seated are voting no because like most people have said here, we are not being de-whipped to follow this Motion blindly. We are following it on based on rationality, financial prudence and economic policies which will help this country.

Mr. Deputy Speaker Sir, I oppose this Motion.

Sen. Were: Thank you, Mr. Deputy Speaker Sir, for the opportunity to contribute to this Motion. From the onset, I want to say that I oppose the Regulations that seek to amend the Public Finance Management (PFM) Act.

First, I would like to say that I am a very happy person today for this reason; that my party, Amani National Congress (ANC) has been vindicated. For a long time, my party leader hon. Musalia Mudavadi has been talking about increasing debt and its effect

to this country. The chicken have now come home to roost, and that is where my happiness lies. That aside, it is sad where we are taking this country, if we open up the debt ceiling by more than 50 per cent.

The Committee on Finance and Budget has told us that they asked for a debt restructuring report from the National Treasury to indicate what they have done to restructure the debt that is there is now. However, they were not given that information. Who are we then to allow them to increase debt which they cannot manage?

Mr. Deputy Speaker Sir, I would like to speak like an ordinary Kenyan; maybe Kenyans will understand. In this country, we have people called shylocks. Shylocks offer loans with the highest interest rates, especially to desperate people and take advantage of them. If you have taken a loan or two from a shylock, you do not borrow loans from more shylocks because that will sink you. That is where we are right now as a country. This kind of borrowing is going to distress our people.

A friend of mine called Edward Omung'ala has written about how we need to brace ourselves for the days to come. In essence, this bracing of ourselves is saying that we are in a deep hole. We cannot continue to dig that hole while we are in there because if we do so, we will bury ourselves. Therefore, I oppose vehemently the idea brought about by this Motion that we revise our debt ceiling to increase it by 50 per cent.

This country is suffering from something called corruption. We have institutionalised corruption to an extent that opening up this ceiling is going to make it possible for more corruption to occur. We have not been given projects that cover the whole country that are going to be financed by this extra money that we are going to borrow. How are we supposed to approve something whose benefit we cannot see? As representatives of the people at the county level, if we are not seeing benefit to our counties, why should we give them money?

Mr. Deputy Speaker, Sir, we should note that devolution of counties is for the people and not for governors. Governors may accept something, but that is for their own personal selfish interests and not necessarily for the interest of counties. We, as Senate, represent counties and not just governors. Governors are holding the counties in trust for the people, just like we do. Therefore, we should not accept to increase debt just because governors have said they want to do so.

We also know that increasing debt will affect funding of the counties. Already we suffer from something that has been going on since devolution started. We devolved functions, but did not devolve funds in some of the most crucial areas like the health sector. Are we going to increase debt that will limit further funding to counties? We cannot allow that to happen. If we do that as Senate, we will be going against our mandate which is to protect devolution, counties and their governments.

Mr. Deputy Speaker, Sir, when you take too much money from shylocks, they come and auction you. I can foresee a situation whereby we will be auctioned, especially by external creditors. Auctioning the country is a sad state, the same way if you would be auctioned as an individual.

We have companies like Kenya Airways which run the risk of being the first to go because I have seen that it is being managed by foreigners. It will be the first thing that will be taken by these foreigners who have given us money. The Kenya Ports Authority (KPA) has always been under threat from people we owe money.

Mr. Deputy Speaker, Sir, for the protection of this country and its dignity, I oppose this Motion.

Sen. Mugo: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to also contribute to the ongoing Motion.

From the onset, let me say that I support. I will give my reasons for supporting. I agree with the cry in the House and in the country that things are difficult at the moment. I also want to agree that quite a lot of the projects which have been build in the country have been overpriced because of the corruption that we all know has existed in the country. However, at the same time, the Government has taken action on corruption which we all support. Most of the people involved have been taken to court or are in the process of being taken to court. We do hope that they will be held accountable by the courts and pay back to the State.

Mr. Deputy Speaker, Sir, most of the development projects that have been undertaken in Kenya are mainly projects on infrastructure. We all know that no country can develop without sound infrastructure. It is a fact that any country can never be able to develop enough infrastructure without borrowing.

What has been borrowed has been mostly used to build infrastructure. It has not been used to pay salaries and neither has it been used on recurrent expenditure. If we want to grow to the next stage and move from being called under developed or developing world, then we have to put a lot of focus on infrastructure and that is what this Government has done.

After the Second World War, President Franklin Delano Roosevelt built most of the infrastructure in the United States of America (USA). The masses complained because there was a lot of poverty at that time. Those who have watched the film on President Roosevelt know that people walked on the railway because they could not afford to pay for transport. He built Hoover Dam. There were a lot of complications and complains yet it is the one that opened up the central states of the United States of America. The infrastructure projects that he did are the ones that propelled America to where it is today.

This Government's vision has been building of infrastructure with the intention of propelling our country to higher heights. However, some people, as always, decided to take money that was meant for development, but we cannot say that development was bad just because some people stole.

We should support the request being made by the National Treasury because we cannot let our country come to a standstill. The Acting Cabinet Secretary has said that we need this to move forward or to use it to pay the expensive loans and borrow cheaper loans and that does make sense. What is the alternative? Those who are objecting should give us the alternative.

It is true that people are suffering, we do not have enough jobs, but the infrastructure that is being built today is what will open up for the jobs tomorrow. I believe that our future generations will be happy with the development that is being done and they will pay the loans that we will not have finished paying because they will have the means.

We cannot ask to stop where we are and go backwards because we are afraid of taking more loans. All countries, including those in Europe and even the USA take loans. USA has actually taken loans from China. What is wrong with a developing country

taking loans from China? If we are to take the loan from Europe, we will be taking it second hand because Europe also takes loans from China. We do have a right to shop at the right place. Why does USA, a big country, take loans from countries such as China? If China called American loans today, they will be in a big problem. Let us not be intimidated.

Let us not stop developing our country and getting it to the middle income bracket or even better because of fear of taking loans. No country can develop with taxes. There is always a hue and cry when the Government increases taxes. I do empathise and sympathise with the situation today, but I believe that what is being done today will give Kenya a better future than choosing to remain a developing country. We should aspire to be a developed country. The countries that are developed today went through the same route and that includes Germany which was completely demolished during the Second World War yet it is now the leading country in Europe. We are the leading country if not one of the leading countries in Africa.

With those remarks, I support this Motion and ask my colleagues to give Kenya a chance to develop. Let us explain to our people the reason as to why we are where we are and we should support our Government.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Mugo.

Sen. Linturi: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Motion.

I want to remind the Members of this House that some time back, in the year 2017, Kenyans woke up very early to elect us, as their representatives. The power of the people is only demonstrated or exercised once every five years when they have an opportunity to elect leaders and we are supposed to be accountable to them and that is why they rescinded their authority or their power to us. When this happens, it is my considered opinion that we are supposed to exercise the authority of the people for their good and for the good of this country.

The Motion before us is a very important Motion for this country. I want to use very elementary language to demonstrate the reason as to why it is important to borrow money. We borrow money to increase our working capital for us to do business. We borrow money or restructure debts for us to create capital by expanding the period by which we are supposed to retire those debts for us to meet the immediate business needs so as to have a healthy environment to do business.

This Motion is coming at a time when everyone in this country is crying. Everybody can feel the economic pain that we are going through. Lack of money is evident. Those of us who have had the benefit of walking into a bank to borrow some money know that bankers ask few questions when you want to get some finance, but the most critical one is your ability to finance the repayment of that particular debt. They also ask for the things that you are going to do with the money that you are asking for.

Mr. Deputy Speaker, Sir, in my view, if we are borrowing money to do projects for the good of the country and with returns, putting in money that will stimulate the economy to the extent that we will be able to raise more revenue to support the repayment of the debt, that kind of debt would be prudent in such circumstances.

I have heard many Members say that when the National Treasury appeared before the Committee, they did not satisfy the Committee in terms of what the money was supposed to do and how it would be repaid. In the absence of such information, it would

be completely wrong for us, as the people's watchdog--- It would be an act of irresponsibility on our part---

(Interruption of debate on Special Motion)

The Deputy Speaker (Sen. (Prof.) Kindiki): What is your point of order Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I apologize to Sen. Linturi, but because of interest of time, permit me to move a Procedural Motion for extension of time like you have already permitted me.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed!

PROCEDURAL MOTION

EXTENSION OF SITTING

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move:

THAT, pursuant to Standing Order No.31 (3) (a), the Senate resolves to extend its sittings until conclusion of debate on the Motion in Order No.8 on today's Order Paper.

I request Sen. Kihika to second the Procedural Motion.

Sen. Kihika: Mr. Deputy Speaker, Sir, I second.

(Question proposed)

(Question put and agreed to)

(Resumption of debate on Special Motion)

Proceed Sen. Linturi.

Sen. Linturi: Thank you, Mr. Speaker, Sir. I hope with that extension you will give me more time.

I was saying that, with the power given to us by the people of Kenya, it would be an act of irresponsibility on our part as elected leaders to vote blindly on a Motion that seeks to expand the debt limit without first interrogating and getting convinced that the money we are seeking to borrow will go to the right place.

We also need to establish where we are in terms of cash flow projections, whether this country has enough money to pay for the debt. That has to be established. I am apprehensive and not convinced because when you look at how we raise our revenue, how we collect our taxes and where our taxes come from, I am left wondering why our coffee, tea, milk or agriculture sectors is not doing well. It is supposed to be the largest employer in the country.

Those contractors or people who do business with Government have permanently delayed payments. For that matter, because of delayed payments, the Kenya Revenue Authority (KRA) is not able to collect Pay-As-You Earn (PAYE) and Value Added Tax

(VAT) in good time. I cannot be convinced that we are adequately prepared and whether we have enough money to pay for the debt when it is required.

Without forgetting what the role of this House is; where we must be the protectors of our counties and their governments, I may want to remind everyone that when you look at the provisions of Article 203, before the equitable share is agreed on, the first charge on our locally raised revenue is public debt.

I may want to remind everyone that when you look at the provisions of Article 203, before the equitable share is agreed on, the first charge on our locally raised revenues is public debt. Therefore, with the kind of pull and push that we had, just the other day with the Division of Revenue Act, it tells you that if we were to blindly give this clearance, I am sure that next year we will get our counties into deeper problems.

It will not be possible for us to get the Kshs316.5 billion that we were able to raise next year. What this means is that, with that increase, you will probably realize that the repayments will have to increase. We are, hence, not sure whether the money, if so taken, will be used in the right way to stimulate the economy and, hence, ensure enough revenue is raised.

Mr. Deputy Speaker, Sir, yesterday, we went to Garbatulla, Isiolo and Meru hospitals. The kind of waste and plunder of public resources through choreographed Government contracts that we met there is amazing. We visited a number of hospitals which have been given the Management Equipment Services (MES). Yesterday, I learnt another term, that MES is also called the “Messy Equipment Scheme.” We went and saw some of the reports that were brought to the Committee by the Ministry itself at that time, where a number of certain equipment were delivered to certain hospitals. However, on counter checking on the ground, what we found was completely opposite. We asked the personnel on the ground when these equipment were delivered, and how much money was spent. What shocked us was that some equipment was delivered in 2015 and, up to date, they have never been used, yet the Ministry continues to pay for them.

(Applause)

Therefore, if we have a Government that is not able to check the kind of plunder, and the kind of resources they are wasting every month, I do not think that I can trust some of the projects that are being funded by donors. I have no confidence with the same people increasing the debt ceiling limit to Kshs9 trillion, because I am very afraid that this money may not go to the intended use.

Mr. Deputy Speaker, Sir, finally, we have a duty, as the elected representatives of the people, to once in a while consult, talk to the people and get them to understand what kind of issues are before the Senate or any other Parliament for debate. I have held six meetings in the County of Meru, and I have appeared on a television program.

Whenever I am asked the question on whether the people of Meru are giving me the authority to go and vote to increase the debt ceiling from Kshs6 trillion to Kshs9 trillion, the answer has always been ‘no.’ That is the report I got from my people. These are my employers, bosses and the people who, in their wisdom, decided that I must sit in this Senate to represent their interests. The worst vote that came was when I appeared on *Weru TV*. A question was raised when I was there: “What is your view; do you support

Sen. Linturi's position or the Government's position on increase of public debt?" Only 6 per cent of the voters from Meru agreed that we should go and increase the debt ceiling, while 94 per cent said 'no.' Who am I, therefore, to stand before this Senate and go against the wish of the people of Meru?

Mr. Deputy Speaker, Sir, a time has come when we must stand up to be counted. The time has come when we must say---

(Sen. Cheruiyot stood up on his feet and applauded)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Cheruiyot; you are behaving like a cheering squad in a marathon race.

(Laughter)

Sen. Linturi: Mr. Deputy Speaker, Sir, time has come to resist---

The Deputy Speaker (Sen. (Prof.) Kindiki): Resume your seat and celebrate or cheer with dignity.

Sen. Linturi: Mr. Deputy Speaker, Sir, time has come for us to stand up to be counted. We must resist by all means possible the count of undue influence and threats that we receive every day.

Mr. Deputy Speaker, Sir, Sen. Orengo will tell you---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Orengo?

Sen. Linturi: Yes, Mr. Deputy Speaker, Sir. He is a living testimony. If in their time they did not rise to say 'no' to the bad rule of the Kenya African National Union (KANU) and President Moi, Kenya would not be a multi-party State. If we cannot stand up today to say 'no' to this reckless borrowing, we will get this country into deeper debt. We will be auctioned. Every Kenyan here, whenever you get home, you will be dealing with miserable people because of the kind of situation that we have participated in putting them in.

With that, I oppose this Motion. In the event that I will not be in the House tomorrow, I will vote by proxy and my vote must be checked. It must be "No," if I will not be here.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! You are not supposed to disclose what you will do tomorrow. Voting is your right, whichever way.

Senate Minority Leader, proceed.

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Deputy Speaker, Sir, for giving this opportunity. I have listened very keenly to what has been said this afternoon. Everything that has been said about what is happening about Kenya's economy is correct.

It is also true that when the Cabinet Secretary approached both Houses of Parliament on this issue of the debt ceiling, he pleaded guilty in the sense that he did not mince words by saying that we are approaching not only a debt crisis or that we had a debt crisis, but we are having a financial crisis.

Mr. Deputy Speaker, Sir, this is something that has been with us not today. The issue of the levels of debt in this country is not a new matter. This is a matter that even during the very first Government under KANU and subsequently, the issue of debt has

always been a question that has troubled the minds of the people of Kenya and its leaders. If anybody goes to the records in the HANSARD, what I have said about debt and borrowing has been consistent with many of the things that I have been saying today.

What I fear about what people have been saying today, and the only person that I commend for trying to approach a solution---. It is not good as leaders, for us to say that we cannot allow the levels of debt to go up without offering a comprehensive solution. What is it that we are coming up with as a Senate? The tools are not with the national Government, but with Parliament.

Mr. Deputy Speaker, Sir, if you look at the Constitution, the levels of borrowing are things that are legislated by Parliament. It is not lost to me that the ceiling on debt applies only to external debt. For the internal debt, there is no ceiling as it were. That is why you will see in this Report all the intended debt or the sources of these loans are all intended external debts.

To that extent, you will find that as we speak today, nearly 90 per cent of local borrowing in the Republic of Kenya is being done by the Government of Kenya.

If you look at what the Government pays in terms of interest and penalties on this internal debt, the situation is even worse. In fact, the ceiling is about external debt but a bigger problem is that internal debt has got consequences that you cannot imagine. It means that money is scarce to business. When money is scarce to business you find that people cannot undertake business in the private sector.

Mr. Deputy Speaker, Sir, I want us, as legislators not just to talk about the problem. I would be happy if we are talking about the solution. Kenya is approaching the situation that was there in Greece. The Greek were experiencing a debt problem. That is what caused the financial crisis in Greece. The solution that they offered initially was to increase tax. Increasing tax is an option.

I remember when the National Assembly was debating on the increase of Value Added Tax (VAT) even in this Senate, nobody came up with a Motion to try and say---

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it Sen. Linturi? Are you on a point of Order?

Sen. Linturi: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Orengo.

The Senate majority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, the Greek debt crisis at the end was resolved by looking for other sources of funds from Europe. The Greek Government said: We are overburdened by debt, how can we resolve this? They increased the taxes like VAT and brought in austerity measures.

One of the things that we as leaders are not prepared to live with is austerity measures. That means, we do not have projects, they must stall the way they are. We must reduce our salaries like the Government of Libya tried; they reduced salaries including of the President. I think the President was not even earning a salary; he was earning allowances.

Those austerity measures have also got consequences but I do not know whether this Parliament or the people of Kenya are prepared to live with these austerity measures. Those can even be more drastic like they tried in Greece.

In Greece, they ended up looking for structured borrowing and the source of that money was the European Union. The great depression in America was partly caused by debt. The biggest growth of the US economy was after the great depression because they

did not push the country into austerity. They went to build roads. The biggest infrastructures in the USA were built after the Great Depression.

I am urging this Parliament that, yes, we are in the dog house; how do we get out of it? That is what I have been waiting to hear throughout the debate this afternoon. I have not heard a single proposal of how we can get out of this debt crisis. Not even a suggestion that we should increase taxes.

Right now, the Kenya Revenue Authority (KRA) is criminalizing their tax recovery process because they cannot meet their targets. They are running to criminal courts because people are not paying taxes. Once you take the taxpayer to a criminal court, then people would rather not pay tax or go into business because at the end of the day, it makes business a very dangerous enterprise.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, my apologies for interrupting the Senate Leader of Minority but I do not think he is in order to suggest that he has not heard any proposed solutions from those who are opposed to the increase of this ceiling, yet the report that is before this House, attached to it, is a report from those of us who dissented at Kshs9 trillion.

We have specified what we think is our proposal, starting with the figure of Kshs7.5trillion and how it can be achieved and broken down yearly. I think that is a fair point.

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, I will look at that. That is like somebody whose wife has just delivered and he says the time has not come for another child. That is really staggering. You are ultimately going to get that loan, anyway, but you are just staggering it. You are just like *dukawallas* who, instead of paying Africans the whole salary they used to give them Kshs10 a week.

That will not resolve the problem because if you go to international money markets, they look at your capacity to borrow. By the way, at international money markets, they will not give you money unless they are sure that it is anchored in law.

Therefore, I still insist that I have not seen anything, both from the Report from the minority of the Committee and also from the debate we have had today as the solution to the problems that we have. This crisis is not just being talked about by the Cabinet Secretary; I think the President started talking about this a long time ago.

Sen. Poghiso: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Would you like to be informed?

The Senate Minority Leader (Sen. Orengo): Yes, Mr. Deputy Speaker, Sir.

Sen. Poghiso: Mr. Deputy Speaker, Sir, Sen. Cheruiyot being a Member of the Committee, understands that when you are dealing with regulations, you cannot amend the report. It is either you pass it or you do not pass it. Therefore, these amendments that are being suggested are not an option as a solution.

I just want to inform him that it is very clear that you have to continue offering solutions. The proposal to amend is not a solution.

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, in saying all this, I want to confess that the Government has not behaved well in this regard; how they have borrowed and how they have used the money. Sometimes you go into projects like I want the SGR to go everywhere including Kisumu, but the way it has been implemented is a total disaster.

There are many other projects which one can mention without end. I think the solution this time round is to look at the law because the Constitution has provided a framework where Parliament is the one to set the limits. That is why we have this Gazette Notice because it cannot happen without the approval of Parliament. This is the legislative framework.

However, we need a law in place that measures up to what the Constitution desires. This is because Article 211(1) of the Constitution says:

“Parliament may, by legislation-

- (a) Prescribe the terms on which the national government may borrow;
- (b) Impose reporting requirements”

This is not just the limit, but the terms on which the national Government may borrow and impose reporting requirements. We do not have that law in place.

My learned friend, Sen. Faki, is going to probably address Sub-Article (2) which is equally important. There has never been a request by the Senate or the National Assembly on issues of borrowing. Now, if you look at the Public Finance Management Act, that Act needs to be amended because on the question of management of the public debt, it has been left entirely to the Cabinet Secretary and the National Debt Office. That needs to be changed so that Parliament has a direct role not to act as a mortician, but on a regular and persistent basis to control and regulate how debt is managed by the national office.

I have looked at that law and it is my hope that probably in ensuring that we can manage debt, we should effectively come up with amendments to the Public Finance Management Act and the regulations which have been made thereunder. If we go back to what has happened in the last seven or 15 years on this issue of debt, some people are standing here and speaking as if they are with the people while others are not.

These commitments were made when some people were just watching; when it was the right moment. The early warning signals were there. They did not even take that cue to come out with the appropriate legislation. However, now that the thing is being brought, is when they say “no, no, Wanjiku”. ‘Wanjiku’ required leaders with some element of vision. You do not wait until the problem is at your door step then you think of solutions.

Instead of running to save a sinking boat, you wait for it to sink and then say: “I swam a hundred miles to get the bodies of those who were there.” You then pat yourself on the back that you are a hero. No; you are not a hero! You should have jumped into the lake when those people were still alive.

(Applause)

Mr. Deputy Speaker, Sir, we want the economy to crash. President Obama was not scared when he inherited an economy that was collapsing and in debt. Even when he was being accused of socialising the American economy, and that he was acting as a socialist, giving corporate welfare to General Motors (GM), he stood up and said: “This is what must be done in these circumstances.”

President Trump inherited an economy that had been repaired by President Obama. I am now surprised that there could be Members of the Jubilee Party who want this economy to crash. Even we, as the Opposition, would not want to inherit an economy

that has crashed. In certain circumstances, where the spirit of patriotism is required, we must come together instead of allowing the economy to crash.

(Applause)

Mr. Deputy Speaker, Sir, I know that some people are saying: "This is it; we have got the Government in a corner." In fact, I have been saying that we had these street demonstrations at the wrong time; this is probably the time. People are demonstrating in Lebanon and in Chile on similar issues. This could probably be the wrong time, but our worldview is different. Some people want to have a cadaver, but we want to save the baby, like King Solomon. I am surprised.

My friend, Sen. Cheruiyot, I respect you. I listen when you talk, and I never make any noise. You are always so full of solutions. I must say that all the Senators on the opposite side, and, of course, Sen. Murkomen, knows that when I hit him, I do so for a good reason. However, he is always full of solutions.

If you look at the law regarding devolution, part of the solution on how we should create these entities and how they should behave exists, thanks to Sen. Murkomen. Sometimes even Sen. Sakaja comes up with things which make sense, but just opposing-- I have lived in this Parliament with people who opposed, such as the late hon. Anyona. If it was about opposing, nobody could be as good as hon. Anyona or hon. Seroney. People have done these things before, but how has this country treated them? Heroes! Is that good enough?

Mr. Deputy Speaker, Sir, there was General Patton in the United States of America (USA) who used to say that you are not paid to save your country by dying for your country; you make the other person die for his country. However, here you want to kill your country. We must save Kenya. We cannot have Kenya crashing. Kenya is the hub and a strong economy, even with our problems. We are the strongest economy in the region and we must be proud of that.

(Applause)

Kenya is the hub. If we did not make the wrong decisions, what is happening now in Addis Ababa, Ethiopia, now should be happening in Kenya. We should have built an airport of international standards, ten years ago. However, the naysayers who were saying, "Ooh, we are borrowing a lot of money---" Look at what is happening in Dubai. They are not even happy with the airport they have now. They have built a completely new airport which is three times the size.

Go to Beijing, China; they have built the biggest airport in the world. Go to Japan, where the level of borrowing is about 90 per cent of their GDP, while Canada is over 60 per cent of the GDP. However, here, we are still talking about a borrowing rate which is lower than 60 per cent. What is wrong is corruption, waste and a Government which wakes up one day and there is already destruction.

Mr. Deputy Speaker, Sir, I sometimes look at how we behave; where people find glory in arresting people, taking them to the courts and saying: "We are dealing with corruption." Dealing with corruption is closing the loopholes and making sure that no money is stolen. You cannot be saying you are solving the problem by dragging people to courts. That is not a solution.

Therefore, I beg this Senate to rise up to the occasion. It may sometimes appear unpopular, and if you want populist politics, they are there. There are so many populist politicians in Europe to the left and to the right, but populism for the sake of it has never helped. You can stand in a rally and be the watchman for the people. The late hon. Shikuku used to say that he was the peoples' watchman, but he lost an election despite the name he had.

(Applause)

Therefore, if you think that you are going to win an election because of this debt thing, my friend, you are still too far. I must say with respect. The country knows that the President is meeting with Sen. Murkomen and his team to discuss the debt crisis and offer solutions. He should call the Majority leadership in the National Assembly and discuss too. He should also not be afraid to call the Opposition.

Nancy Pelosi is in the White House every other day to talk to President Trump, in order to address national problems. I urge President Uhuru Kenyatta to create more time to meet with the leadership. Even the way this Gazette Notice has been brought; there are lawyers in this House who would have suggested to craft it in a better way, like Sen. Mutula Kilonzo Jnr., said.

However, this is left to the bureaucrats who are told to make sure that the Committee and the Senate passes it. That is the bit that I am not happy with. The Senate and the National Assembly are being taken for granted; that we should just pass things because we have been told to do so. I can make the distinction between bad behaviour and recognizing that the country is in a big crisis.

Hon. Sossion is suffering for no good cause. You can never find a better trade unionist than Hon. Sossion. He is way above the mark. He is not a tribalist! But when he stood firm and said that teachers must be paid and he was told that there was no money, the President meant it, and we are living in the reality that there is no money. Even the way the Chief Justice was talking yesterday is very uncharacteristic of him.

Sen. Cheruiyot should have addressed another press conference saying why our money is being cut by the National Treasury. The National Treasury is indirectly applying austerity measures without saying so. However, austerity measures will not solve the debt crisis that we are in. Either we do not give them the money and let the economy go under and then think of other solutions, like a revolution on the streets.

Make sure I will never hear you say that people in the Mau Forest should not be compensated. I have taken a position that people in the Mau Forest must be compensated if they have to be taken out of the land. You cannot evict people who live in your country and say that they should just go. That solution must be offered. But then, where will the money come from? We need to provide that solution.

Every Government entity now is taking austerity measures. When I was in court the other day and appeared before a magistrate, they said that they had run short of paper. It is as bad as that, yet we are saying that we should paralyze Government and teach it a lesson.

At the end of the day, some people make more money when the country is in a lot of problems. When there is a war, there are war mongers. When the economy is not doing well, the black economy and the underworld do much better. Let us do things in a regular way. However, I plead with the Government of President Uhuru Kenyatta not to make

decisions without giving the leadership some public participation. Even if we are not recognised, as Senators, we should be recognised as part of the public, so that people get to understand why we have to increase the levels of debt. This is because if many people knew why we want to increase that ceiling, they would probably support that position, but if I go to the market in Siaya County and ask them if we should have more debt, they will say, 'no', but if there are no drugs in hospitals, the same people will say that they want drugs in the hospitals.

Let me not belabour the point. I think this is one time that we can come together--

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, the Senate Minority Leader has spoken so well and is about to conclude. There are two words I would wish that he concludes his speech with so that he wraps it and gives it the very spirit of what he was saying. The two words are: *Tuko Pamoja*.

The Deputy Speaker (Sen. Prof. Kindiki): Order, Sen. Cheruiyot! You are completely out of order!

Conclude Sen. Orengo, I would advise that you conclude along the lines of your debate.

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, you gave very good advice that when we come to this Chamber, there are other laws that operate. Out there, we may call each other names but when we are here, we treat each other with absolute respect.

That is why I think he is still not following the man who introduced him to this House.

(Laughter)

Those are still very good lessons to learn. Without a doubt, if I can just digress, I have a lot of respect for Sen. Cheruiyot. I think any time he stands, he prepares well. I listened to him in the morning; I think he was saying that tongue-in-cheek. I will never say, *tuko pamoja*.

(Laughter)

With those few remarks, I beg to support.

The Deputy Speaker (Sen. Prof. Kindiki): Very well. Sen. (Prof.) Onger, kindly proceed.

Sen. (Prof.) Onger: Thank you, Mr. Deputy Speaker, Sir, for allowing me to weigh in on a very important Motion before this House. I have listened very carefully to the proposals that have been put before this House from both sides of the divide.

It has taken a crisis to bring this report before Senate. Before that period of time, Senate never figured anywhere in the final resolution of this report, particularly on money matters. Let me say it without any contradiction that the public debt, after the Grand Coalition stood at Kshs 1.8 trillion. Today, according to the Central Bank Survey, it is at Kshs 6.2 trillion. Therefore, public debt as a ratio to GDP is over 50 per cent.

Mr. Deputy Speaker, Sir, one of the fundamental issues we should be asking is that the majority side has had an opportunity as a Government to interrogate and to be able to give us an internal critique on how the Government finances must move and go.

They normally do that through the expression or proposals such as budget proposals to the National Assembly and we only have a chance to debate it when it comes to Division of Revenue and also on the County Allocation Revenue Act (CARA).

What has happened is that we have seen a “do not care” attitude where money has been borrowed and has been spent recklessly on projects that actually border on phantom lines. Most of the major projects have excluded the counties that we come from. I do not see any project for instance, in both Kisii and Nyamira counties that you can say, this is a flagship project that we can carry home. If I was to speak politics, that would be the reality of the matter from this side. I will be agitating for a position. It has come to a time when this must fall.

Let me remind my dear Senator colleagues that through experience, a country goes through a social crisis. We have had very many social crises in this country. Sometimes, the social crises ends up in a revolution. I am not advocating for one. Countries go through political crises, and we have had such crisis during the multi-party era.

In 1992, it took Kenyans to come together to solve the crisis of Section 2A of the Constitution. We had a crisis in 2007. Again, it took Kenyans to come together to find a solution to this problem. We had another crisis in 2017. It took a handshake to resolve this matter. Otherwise, this country would have burnt and would have been be on its death bed.

However, because of the interest of a nation, the Republic of Kenya, one has to decide how to handle such crises that come before this House. One such crisis is the economic crisis. That is the third element that I wanted to bring out. When there was a meltdown in the United States of America (USA), it took both the Houses and the Executive to come together and revolve the meltdown issues.

We obviously have a crisis in this country. The rate of unemployment has gone beyond levels we have never anticipated. The per capita income is in a sordid state when you look at it. When you look at the small scale industries in the informal sector--- I had the opportunity to ginger up the informal sector when I was the Minister for Technical Training and Applied Technology and the respectable name today of the *Jua Kali* sector. I vividly recall when the Bretton Woods institutions like the International Monetary Fund (IMF) and the World Bank (WB) took a clamp down on any further borrowing by the Kenyan Government.

We were unable to borrow from these institutions and any other institution internationally, because the Bretton Woods institutions had already put a clamp on Kenya. Therefore, we almost became a banana state. What kept the economy moving is the informal sector, the so-called *Jua Kali* sector. It happened at the time that I was the Minister for Technical Training and Applied Technology. This is what gave birth to vocational and technical training institutes.

If you do an economic survey, 40 per cent of the jobs were being created by small scale industries in the informal sector. Therefore, the unemployment crisis did not come out at that time. Of course, the bank rates went up because the people who were managing the banks were capitalists. The small scale investor, therefore, had no access to credit. What do we have today? It is the banks that are borrowing from the Government. They have crowed out the small scale enterprises and they are not in business.

Consequently, the job opportunities that would have been buttressed by these informal sectors; the *Jua Kali* sector, will not be possible. That is why there is rise in unemployment to a point where it is almost becoming a social crisis that will only end in things that are unfathomed at this stage. Therefore, we must recognise, as a nation, that if we continue like this, we will be moving towards a social crisis and we must also recognise that this nation is moving towards a total shutdown.

I do not want to go to the merits and demerits and I do not want to talk of who is right and who is wrong. I could have easily taken political capital out of this crisis but good sense of citizenry tells me that doing so will be a cowardly approach. What happens when you are faced with a gigantic element of issues that involve the survival of your own nation?

What happens if we, as Senate, vote 'no' to this Motion? It will be *status quo* and what is the *status quo*? Unemployment will continue soaring, debt crisis will continue rising and those that we have borrowed money from will come for their money. When they do so, the revenue streams and taxation measures will also be curbed down because people will not have money to pay. The economy will collapse and we will become a failed state or a banana state and it will take another 100 years to reengineer this country to normalcy.

I have heard people say that devolution will suffer yet devolution has already suffered and will only continue suffering if no remedial actions are taken. Devolution has suffered because we took almost three or four weeks arguing about the Division of Revenue Act (DORA) and we only got a nominal increase from Kshs310 billion to Kshs316 billion.

As Senators, we can heroically stand here and please our constituents by saying 'no' to this Motion, but we have to remember that we are only driving this nation to the bottomless pit. Mistakes have been made and we must accept when the Government comes with bended knees and says: 'We made mistakes and we want to make amends'. This is what they have done. The explanation by the National Treasury must be acceptable. We cannot brush it away because of our politics.

I have seen another trend here which is not comfortable, and it makes me worry; that when it comes to issues of national nature, we reduce them to party issues. These are not party issues; we are talking about the nation of Kenya and its survival. We are talking about the characteristics of this nation, just like we talk vehemently about the borders of this nation.

When there is migration from outside, we feel threatened and we talk with one voice in unison. Similarly, we now feel economically threatened as a nation, and the only way we can redeem ourselves is to accept the proposal before this House. Initially, if I were to go on a party line, I would have taken a very strong stand in opposing this Motion.

However, considering the interest of this nation and what it stands to lose and considering what we have invested in this nation; in the people, infrastructure, education and agriculture, and I do not see any chance of revival of all these important sectors unless we recollect and find out how we can heal this debacle that has beset before us today in this House of the Senate.

Mr. Deputy Speaker, Sir, the only suggestion I was going to make is that even when we say 'yes' to this Motion, the National Treasury should come before this House -

now that they know that as Senate we matter on issues of public debt; they should not always depend on the National Assembly to pass the money Bills and be satisfied, because they are running into a crisis - once we have given this okay, and tell us how the schedules of borrowing will benefit this whole country, rather than one segment of the country. That is the cry of those who are opposing it. Their worry is where their country has been factored in, with this additional borrowing.

In addition to that, it makes sense that when you have expensive commercial loans, the only sensible way of doing business is to restructure those loans. Even those of us who have bank loans, when we run into difficulties of repayments, we go back for restructuring.

I heard somebody saying earlier on that the International Monetary Fund (IMF) and the World Bank (WB) are not involved in restructuring. Of course, they are involved in restructuring. In fact, the first thing that the WB and the IMF do, when they go to a country to assess its economic viability, they would say: "Would you like to have your loans restructured in a manner which is sustainable?" That is why we have sustainability conferences of the United Nations (UN).

Sustainable development is all about restructuring of our economies so that they are sustainably fit for human use and consumption. We cannot run away from restructuring because it is part of the story of the world economy.

Mr. Deputy Speaker, Sir, I want to plead, because I was going to vote 'no', however, in the interest of this nation, knowing that it has the capacity and the capability in the new dispensation that we have seen today, of reawakening its economy to a much higher level than what we are seeing today, we then give them yet another chance.

We shall have another occasion to debate on this public debt; this is not the first and the last. We will come back again to give a score card on how this money has been utilized. We will then be able to assess, through the programs and projects that have been carried out through this borrowed money, how they have benefited the people and the society. If they would not have benefited them, we should then take a decisive action on which way to go.

Mr. Deputy Speaker, Sir, for now, I want to plead with those protagonists who are saying 'no' to come with me, in the interest of this nation, and say 'yes.' I say 'yes' to this Motion, and I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you.

Proceed, Sen. Farhiya.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir. From the outset, I want to state that I support the amendment of these Regulations with the following reasons: We are in a catch 22 situation where I am damned if I do, and damned if I do not. So, we are already in a hole.

This House has two options; to allow the country to sink into a hole now or pass these Regulations, extend the ceiling and let us have some money to restructure the expensive debt and stop internal borrowing.

The issue of internal borrowing has been touched by many Senators while contributing, but I want to shed more light from the impact that it has. You have noticed that when the interest rates were capped, the banks stopped lending to small-scale entrepreneurs. However, that did not stop the banks from reporting very high profits, quarter in, quarter out. Do you know why? It is because they were busy lending to the

Government, while the small entrepreneur, who would have created jobs and profits, from where the Government would have gotten its taxes from and grown the economy, were denied cash flow because the Government was borrowing from the economy.

Mr. Deputy Speaker, Sir, if the new Cabinet Secretary finds himself in a catch 22 situation, where he found a problem--- In my native language, we say that the warlords kill the people whom they found in the village. They never look for those who left. We have a Cabinet Secretary who found a mess, but now that he is there, what can he do about it? If he is suggesting that we clear the expensive loan and get concessional loans that are cheaper for this country, I support him. Let us allow people to think beyond the box and ensure that we get money to fix the problem that they have.

Let me give an example. If you borrowed money and cleared an old debt, leaving you with a concessional loan, literally, your loan has not increased. You have just taken one loan, and at the end of the day, your costs are lower.

Mr. Deputy Speaker, Sir, I sit in the Committee on Finance and Budget and I am sure that most of my colleagues are wondering, given my stand on issues, why I am supporting this amendment to the Regulations. It is because, for our economy to grow, we need businesses to flow to the local entrepreneur. Unless the Government stops borrowing from the local market---

If we do not pass this amendment to the Regulations, the Government will continue borrowing from the local market, which means that the small investors will be denied cash.

We are already in a hole and we need to get out of it. What is the best way to do so? The core problem of this country is in a dragon and animal called corruption. Let me give an example of the impact of corruption. We are being told that we have Kshs6 trillion debt. This is not confirmed, but there is also discussion that every year this country loses a third of its budget through corruption. The current Budget for the Financial Year 2019/2020 is over Kshs3 trillion. If we can save Kshs1 trillion every year that is lost through corruption, we can actually offset our principal debt in the next six years.

Mr. Deputy Speaker, Sir, why are people not looking at that opportunity? That is what I do not understand. We have an opportunity. Sen. Orengo has said nobody is providing a solution but I am providing a solution that will clear our debt. Kenyans are hardworking people. If we save Kshs1 trillion in a year, we will clear the current debt within the next six years. Hopefully, because of the gains that we will have realised from the development of the infrastructure that we will use our loans on, we can start reaping the benefits of that loan.

The animal in the room is this debt which will not only make our economy unsustainable, lead to increase in poverty, decrease employment; but in the end all services will shut down if we do not tame this animal called corruption.

Mr. Deputy Speaker, Sir, the National Treasury told us that we have to be accountable to the common *mwananchi* and they need absolute figures. This is because when we say “a percentage of the GDP” it is only the experts who can understand. If you tell the layman that it is Kshs9 trillion and you surpass that, then they know you have reached. Sometimes these parameters keep on changing.

Last time we had a meeting with the National Treasury, one of the questions I asked is why the revenue was not growing in tandem with the GDP since they had said

the GDP is growing. The GDP is supposed to grow in tandem with the revenue but it is not. What is happening? Either somebody is messing around with the economic parameters or the money is not reaching the ground. So, there is a mishap that needed to be cured. If this is curing that, so be it.

Mr. Deputy Speaker, Sir, I do not recommend an absolute figure. I recommend - I am giving part of the solution – that we use the GDP because it determines your ability to pay. At the same time, we need to have an absolute figure that is informed by the GDP that exists. That cures both issues. You have an absolute figure but it must be informed by the growth of the economy because your ability to pay is determined by that.

I also wanted to mention about the EAC Treaty, but since it has been dealt with, I will not engage in it.

Mr. Deputy Speaker, Sir, part of the reason why we go into debt and our economy is not doing well, is that we do not tap the resources that we have properly. For example, we have a lot of opportunity for clean energy in this country, including sand. Like where I come from, God has given sand in abundance and that is a safe energy that is so cheap but we have failed to tap.

Part of the reason why the manufacturing industry is not growing in this country is because electricity is expensive and, therefore, the overhead cost for manufacturers is higher. As a result of that, we are not expanding our ability to manufacture.

For three quarters of the year, we have sand in Wajir County. Can you imagine where we would be if we tapped all that sand and included it in the grid of this country? Our electricity would be so cheap, not only because of free energy but also because of our ability later to use less fuel. You are also compensated some money for using green energy in terms of world pollution and all that. We would have also tapped that.

The other issue is that the National Assembly passed a Budget with Kshs635 billion deficit. By passing that, they have actually authorised the CS for National Treasury to borrow. If you have a hole---. I asked the National Treasury this question, but unfortunately we do not have the opportunity to check the numbers in this House. This would have come out at the time of the Budget debate.

For this reason, this House should discuss the budget so that some of these issues are unpacked and Kenyans see that there was already a hole by the time the budget for the Financial Year 2019/2020 was being passed.

At that time, the net present value to the Gross Domestic Product (GDP) was 50.7 per cent, instead of 50 per cent. That was almost 1 per cent above. Someone should have asked those questions at that time.

Mr. Deputy Speaker, Sir, if we do not want to pass these Regulations, there is the risk of projects that have already started not being completed. That means that we will sink this country deeper into problems. If you do not complete a project, then the rate of return of that project is lower. This means you lose anyway. For that reason, I support these regulations.

The other reason I support these regulations is because Kenya has been independent for the last 56 years. We are supposed to be becoming a middle income country. For 56 years, every time it rains, Wajir and Mandera counties are cut off from the rest of the country. Those are the only two counties that are not linked to the headquarters of this country. They have a perennial problem where food shortage and businesses are cut off. As you are aware, everything depends on the road network. Since

part of the projects being proposed in this Budget include the road from Modogashe to Wajir, I support these Regulations.

Mr. Deputy Speaker, Sir, we have a unique opportunity to crush this economy or restructure our debt and support these Regulations so that we give this country a lease of life. I support Sen. Orengo, in that, we will be very unpatriotic if we allow one of the most vibrant economies in this region to crash as we watch.

I support.

Sen. Pareno: Thank you, Mr. Deputy Speaker, Sir, for allowing me to make my contribution. I sat as the Member of the Committee on Delegated Legislation to consider this matter. If I heard the Acting Cabinet Secretary for the National Treasury and Planning and his team well, the message from Hon. Ukur Yatani to the Committee was so clear.

He found financial problems within the National Treasury. If I got him right, he actually was pleading with the Committee to understand the situation of finances and the economy in this country. His message was that the economy of this country was on its knees. The message that I got from him was that we are closing shop and rejection of this ceiling would be almost an economic shutdown in this country.

To me, this is a tricky situation that we need to carefully consider, as Senators. That is because the situation, as presented to us by the CS and his team, is that we are doomed if we do not, and we are doomed if we do. Therefore, I looked at it this way; which is the lesser evil, or which is the less doom for us? Is it not to raise the ceiling, and then we might have some economic crisis in this country or is it to raise the ceiling and give a lease of life for them to be able to reinvent and look at the systems?

Mr. Deputy Speaker, Sir, the great concern for me, then, was that we could allow them to borrow more, and then we get the money misused, as usual. In fact, the concern now is for us to crosscheck that whatever money that is borrowed is going to be used in a prudent manner, and that we check on the corruption that is in this country.

It is a shame that we are in this situation; that we are borrowing day in, day out, not because this country is lacking in resources. We are not borrowing because this country is so bad that we cannot have a sound economic system. However, we are crying day in, day out and we are borrowing day in, day out, just because of the corruption that we have in this country.

Mr. Deputy Speaker, Sir, if I heard the CS well, they, in fact, presented to the Committee and said that: "We are working on cleaning the systems; we are working to ensure that we use the money prudently to ensure that we have a sound economic system." Therefore, when I considered the options, I personally decided to support and to choose the lesser evil. Both are evils, because we are in trouble; but the lesser evil is for us to allow this ceiling to go to what the Treasury thinks is going to help us, as a country.

They also presented to the Committee a list of projects which have been referred to severally by hon. Members, as they were contributing. These include ongoing projects and fresh projects that will stall, if these ceilings are not raised. These projects are partner-funded, but the partners will not give more because we have already bypassed the ceiling that is allowed.

Mr. Deputy Speaker, Sir, for these reasons, I felt that we needed to consider saving this country. We should not say that because we are in trouble, let us get into

further trouble by allowing the CS, hon. Ukur Yatani, and his team, to take us through their promise; that they are going to ensure that things are right within the Treasury.

What has eaten into this country is nothing but corruption. If only we can deal with corruption, then all the rest of the things will follow suit. Therefore, I support that we raise this ceiling, not because of wanting to let them eat more into the economy, but giving them a chance to prove that we can do things right this time.

Mr. Deputy Speaker, Sir, it is also worth noting that the Institute of Certified Public Accountants of Kenya (ICPAK) was represented, and they actually said that to them, having analysed all that has been presented, they did not object to this ceiling being raised. Therefore, we are many that think that this country needs to be rescued. If this is what will cost us, or if this is what is called for, for us to be able to have a sound system, then so be it.

I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, mover.

Vice-Chairperson, Sen. Farhiya it is time to reply.

Order, Senate Majority Leader.

(Sen. Farhiya walked to the Dispatch Box)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! You are not on record.

(Sen. Poghio walked into the Chamber)

Sen. Farhiya: Mr. Deputy Speaker, Sir, I notice that my Chairman is here. So, I will let him reply.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well.

Proceed, Sen. Poghio.

Sen. Poghio: Mr. Deputy Speaker, Sir, I beg to reply. This has been a good moment for Members of this Senate to speak up and ventilate on the issue of national debt. The Motion seeks to amend Regulation 26(1) (c) of the Public Finance Management (National Government) Regulations, 2015 *vide* a Legal Notice.

Mr. Deputy Speaker, Sir, we have agreed as a Committee that Members of the Senate support and pass the Regulation. We have requested Members to vote in support. However, Members have had a chance to contribute in order for some of them to show their dissatisfaction on the issue of debt.

I wish to note that when settled with this matter, the Senate should take its rightful place and make sure that future debt is in accordance with certain laws and conditionalities. I hope we will move in that direction together, to make sure that this country does not continue to grow its appetite for debt, but that debt can be used to develop the country.

Mr. Deputy Speaker, Sir, with those few remarks, I thank every Member who has contributed. I hope that Members will agree with the Committee.

I beg to move and pursuant to Standing Order 61(3), ask the Chair to defer the putting of the question to a later date.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Have you applied for deferral?

Sen. Poghiso: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): I direct that Division be conducted tomorrow, at 2.30p.m. This is a matter that requires voting by county delegations.

(Putting of the question on the Motion deferred)

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Having concluded debate on Order No.8, as earlier resolved, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 6th November, 2019, at 2.30 p.m.

The Senate rose at 7.10 p.m.