

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th February 2019

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

NOMINATION OF PERSONS FOR APPOINTMENT TO THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

Hon. Speaker: Hon. Members, pursuant to the provisions of Section 15 of the National Government Constituencies Development Fund Act, 2015, I wish to convey to the House that I have received a request from the Cabinet Secretary for the National Treasury, asking the House to approve the appointment of the following nominees to the Board of Directors of the National Government Constituencies Development Fund (NG-CDF):

1. Mr. Robert Nyariki Momanyi Masese;
2. Ms. Irene C. Masit;
3. Mr. Abdulaziz Bulle Yarrow;
4. Ms. Isabel Nyambura Waiyaki;
5. Ms. Maria Lekoloto (representing persons with disability);
6. Mr. Omondi Anyanga; and
7. Mr. George Kasatua Ole Meshuko.

Hon. Members, Section 15(4) of the National Government Constituencies Development Fund Act, 2015, provides that members nominated by the Cabinet Secretary for appointment to the NG-CDF Board shall be approved by the House before appointment.

Section 50(5)(d) of the NG-CDF Act stipulates that, one of the functions of the National Assembly Select Committee on the National Government Constituencies Development Fund is to consider and report to the House, with recommendations, names of persons requiring approval by the National Assembly pursuant to the NG-CDF Act.

In this regard, I hereby refer the names of the nominees, including their curriculum vitae, to the Select Committee on the NG-CDFC to undertake the necessary approval hearings. Thereafter, the House shall consider the nominees in accordance with the Public Appointments (Parliamentary Approval) Act, 2011.

Hon. Members, Section 8(1) of the said Act requires the National Assembly to either approve or reject the nominees within 14 days from the date on which the notification of nomination was given. In view of the foregoing, I wish to guide the Committee and the House as follows:

- (i) The Committee should notify the nominees and the general public of the time and place of the approval hearings in good time. The notification should, therefore, be made immediately; and,
- (ii) The Committee may, thereafter, commence the necessary approval hearings and submit its report to the House on or before Tuesday, 12th March 2019.

I thank you!

PETITIONS

ZERO-RATING OF TEXTBOOKS, JOURNALS AND PERIODICALS

Hon. Speaker: Hon. Members, Pursuant to the provisions of Standing Order 225(2)(b), I wish to convey to the House that I am in receipt of a petition, signed by a Mr. Njoroge Waweru regarding Value Added Tax levied on textbooks, journals and periodicals.

The petitioner is concerned that the Value Added Tax Act of 2013 imposed a blanket Value Added Tax on textbooks, educational materials, journals and periodicals. He believes that this is an impediment to the realisation of the free basic education initiative. The petitioner contends that books in their inherent nature are not based on commercial model. Therefore, any tax charged on the value of books can only amount to distortion of taxation. In his view, this kind of taxation on textbooks is in conflict with the Government's free education policy.

The petitioner, therefore, prays that the National Assembly, through the Departmental Committee on Finance and National Planning legislates to waive the sixteen per cent (16%) Value Added Tax levied on text books, educational materials, journals and periodicals; and makes any other order or direction that it deems fit in the circumstances of the prayers sought.

Pursuant to the provisions of Standing Order 227(1), this petition stands committed to the Departmental Committee on Finance and National Planning for consideration. I urge the Committee to engage the petitioner and report to the House within 60 days.

I thank you.

Hon. Members, it is also important for me to remind the House - I am sure that the Chair of Finance and National Planning Committee may recall that this same petitioner has always petitioned the House with regard to this particular aspect. Maybe you can engage him and get fresh ideas that he may have.

There is a petition by Member for Kisauni.

NON-PAYMENT OF TERMINAL DUES TO FORMER EMPLOYEES OF THE DEFUNCT AFRICAN SAFARI CLUB

Hon. Mbogo Ali (Kisauni, WDM-K): Thank you, Hon. Speaker for giving me this opportunity to present this Public Petition No. 011/ 2019 regarding non-payment of terminal dues of employees of African Safari Club.

I, the undersigned, on behalf of former employees of the defunct African Safari Club of Kisauni Constituency, Mombasa County; draw the attention of the House to the following:

THAT, the African Safari Club (ASC) was registered as a legal entity in 1976 and became a dominant player in the tourism industry in the country and operated a number of hotels, camps and other businesses;

THAT, the African Safari Club offered employment to more than 2,400 employees and in March 2011, African Safari Club issued notices to employees, clients and other stakeholders that it had ceased its operations;

THAT, by the time of the notice above and cessation of operation, the club owned employees salaries and dues amounting to Kshs295,080,614.84. The outstanding claim for the sum stated included outstanding salaries of the employees as at 30th June 2011, retirees' benefits as at 28th March 2018 and employees benefits as at 30th June 2011;

THAT, in February 2014, the petitioners learnt that the African Safari Club was being wound up and sort assistance from the Office of The Attorney General by duly submitting the necessary pleas, documentation and other requirements;

THAT, proceeds from the sales were not utilised to pay terminal dues to former employees;

THAT, numerous attempts to address the matter with the relevant authorities have been futile;

THAT, the matter in respect of which this petition is made is not pending before a court of law.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare:

- (i) Causes for an audit to be undertaken on the assets of African Safari Club to ascertain the value of the asset with a view of recommending that the proceeds from sale of such assets be used to settle terminal dues owed to the former employees;
- (ii) Ensures that the plight of the petitioners is addressed; and
- (iii) Makes any other order(s) deemed fit in the circumstances of the petitioners;

And your petitioners will ever pray.

Hon. Speaker: Member for Kilifi North.

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, thank you very much. I would like to add my voice to this petition because my constituency of Kilifi North is one of the constituencies that were heavily affected by the investments of African Safari Club. My constituency lost two hotels that were owned by the African Safari Club that is, Watamu Beach Hotel and the Sea Horse Hotel. These two hotels employed over 2000 people and when they collapsed, these people had debts. They had not been paid their salaries, allowances and arrears of colossal amount of money.

When African Safari Club exited the scene, they sold their properties but forgot the employees who had served them for very many years. Some of them were employed on permanent basis and had invested their lives working for these people. When they closed, their pensions and everything just went down the drain. Today, you will find people who are almost going mad because they do not know how to make ends meet. This amounts to poor labour practices by foreign investors in this country who do not see the local people working for them as important.

Apart from just looking at the petition that has been raised, the Departmental Committee on Labour and Social Welfare needs to scrutinise how foreign investors are treating locals in terms of salaries. You will realise that a lot of the hotels that are owned by foreigners just employ people without contracts. At the end of the day, they do not pay them. These people suffer because of the poor labour practices.

As the Departmental Committee does its work, I would request that they do not only look at the plight of the people that have been raised by Hon. Ali Mbogo, but extend their net and look at what happened in Kilifi North and help these people get their rightful dues.

Thank you, very much, Hon. Speaker.

Hon. Speaker: Well, under Standing Order No. 226, at this point you are merely expected to make some comments and seek clarifications. Now, it appears like you have added more grounds. If you could have been mentioned as one of the petitioners, you would have done very well. You can also appear before the committee so that you can advance that line of thought.

The second petition is now committed to the Departmental Committee on Labour and Social Welfare to look into it within the normal timelines.

Next Order.

PAPERS LAID

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

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2018 and the certificates therein:

- a) Kibabii University;
- b) Maseno University;
- c) Agro-Chemical and Food Company Limited;
- d) Geothermal Development Company Limited;
- e) National Government Affirmative Action Fund;
- f) State Department for Gender Affairs;
- g) State Department of Shipping and Maritime Affairs; and
- h) State Department for Livestock.

The Reports of the Auditor-General on the Financial Statements in respect of the following constituencies for the year ended 30th June 2017 and the certificates therein:

- a) Seme;
- b) Nyakach;
- c) Nyaribari Masaba;
- d) Nyaribari Chache;
- e) Kisumu Central; and
- f) Muhoroni.

Hon. Speaker: Next Order, Chairperson Departmental Committee on Health.

(Hon. James Murgor stood in his place)

Hon. Speaker: Who is that? He does not look like a Chair of any committee that I know of. Is that Hon. William Murgor?

Hon. James Murgor (Keiyo North, JP): James.

Hon. Speaker: James. Sorry. Not William. I know you are a Member of that Committee, Member for Keiyo North.

Hon. James Murgor (Keiyo North, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House.

The Report of the Departmental Committee on Health on its consideration of the Presidential Memorandum on the Health Laws (Amendment) Bill, National Assembly No.14 of 2018.

I thank you.

Hon. Speaker: Very well, next Order.

(Hon. Maoka Maore spoke off record)

Hon. Speaker: A report? It must be one of those which I approved after 2.00 p.m. I have always encouraged that Reports be brought before 2.00 p.m, so that I also have a chance of looking through them. I need to know which committees are bringing reports to the House.

Proceed because I have already approved it.

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report on Status of Disbursement of Funds to the National Government Constituencies Development Fund as at 22nd February 2019.

Thank you.

Hon. Speaker: Next Order.

NOTICE OF MOTION

ADOPTION OF REPORT ON STATUS OF DISBURSEMENT OF NG-CDF FUNDS

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on National Government Constituencies Development Fund on the status of disbursement of funds to the National Government Constituencies Development Fund as at 22nd February 2019, laid on the Table of the House on 26th February 2019.

Thank you.

Hon. Speaker: Next Order.

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for Bomachoge Borabu Constituency, Hon. (Prof.) Zadoc Abel Ogutu.

Question 037/2019

REGULATIONS ON COMMUTER FARES CHARGED BY PUBLIC SERVICE VEHICLES

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Speaker. I rise to ask Question No. 37 of 2019:

(i) Is the Cabinet Secretary for Transports, Infrastructure, Housing and Urban Development aware that, following the reinforcement of transport regulations popularly known as the *Michuki Rules* in December 2018, Public Service Vehicles (PSVs) operating along the Kisii - Mogonga - Magena – Kenyena route increased commuter fares by 100 per cent?

(ii) Are there plans to develop regulations to ensure that the amount of fare charged by PSVs across the country is prescribed, enforced and regulated so as to protect customers from exploitation by PSV operators?

Hon. Speaker: The Question referred to the Departmental Committee on Transport, Public Works and Housing.

Next Question by the Member for Isiolo County.

Question 038/2019

INVESTIGATIONS INTO THE KILLING OF IBRAHIM MOHAMED HUKA

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Speaker. I rise to ask Question No. 38 of 2019. The Question is to the CS for Interior and Coordination of National Government:

(i) Is the Cabinet Secretary aware that one Ibrahim Mohamed Huka of National Identification Card No. 32754016 was killed on 20th May 2017 during a political rally in Isiolo Town?

(ii) What is the status and findings of Inquest No. 2/2017 and Occurrence Book Report No. 34/20/5/2017 on the matter?

(iii) When will the Cabinet Secretary make public the findings of the investigations or inquiry conducted by the Independent Policing Oversight Authority on the matter?

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security.

Question No. 039 by Nominated Member, Halima Muccheke.

Question 039/2019

STATUS OF TAX COLLECTION IN THE COUNTRY SINCE 2014

Hon. (Ms.) Halima Mucheke (Nominated, JP): Thank you, Hon. Speaker. I rise to ask Question No. 39 of 2019 to the CS for National Treasury and Planning:

(i) Could the Cabinet Secretary give the status of tax collection in the country from 2014 to date, indicating the various categories of taxpayers, that is, individuals, corporates and businesses, stating the amounts collected *vis-à-vis* what was projected?

(ii) What steps are in place to ensure improved tax revenue collection?

Hon. Speaker: The Question is referred to the Departmental Committee on Finance and National Planning.

Next Question by the Member for Matuga Constituency, Hon. Tandaza.

Question 040/2019

NON-APPOINTMENT OF KWALE COUNTY EDUCATION BOARD

Hon. Kassim Tandaza (Matuga, ANC): Thank you, Hon. Speaker. I rise to ask Question No. 40 of 2019 to the CS for Education:

(i) Is the Cabinet Secretary aware that since July 2018 Kwale County Education Board is yet to be reconstituted, which has negatively affected service delivery in the county?

(ii) When will the said board be reconstituted?

Hon. Speaker: It is referred to the Departmental Committee on Education and Research. Next Question by the Member for Kibwezi East Constituency.

Question 041/2019

MEASURES TO MITIGATE EFFECTS OF THANGE OIL SPILL

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Speaker, I rise to ask a Question to the CS for Petroleum and Mining:

(i) What measures has the Ministry taken to mitigate against hazardous effects of the oil spill which occurred in May 2015 at Thange area of Kibwezi East Constituency?

(ii) When will the residents affected by the poisoning as well as those who lost livestock, crops and other properties as a result of the said oil spill be fully compensated?

I thank you, Hon. Speaker.

Hon. Speaker: It is referred to the Departmental Committee on Environment and Natural Resources.

Next Question by the Member for Teso South, Hon. Geoffrey Omuse.

Question 042/2019

STATUS OF CONSTRUCTION OF BUSIA-MALABA ROAD

Hon. Geoffrey Omuse (Teso South, ODM): Thank you, Hon. Speaker. I stand to ask Question No. 42 of 2019 to the CS for Transport, Infrastructure, Housing and Urban Development:

- (i) Could the Cabinet Secretary give the status of the construction of Busia-Malaba Road?
- (ii) When is the construction of the said road expected to be completed?

Hon. Speaker: It is referred to the Departmental Committee on Transport, Public Works and Housing.

Next Question is by the Member for Rarieda. Sorry, Hon. Otiende Amollo, there is an indication that the microphones in the area where you are have taken some leave.

Question 043/2019

STATUS OF JORUM ODHIAMBO ABANG'S WHEREABOUTS

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 43 of 2019:

(i) Could the Cabinet Secretary for Interior and Coordination of National Government explain why the whereabouts of one Jorim Odhiambo Abang' of Force No. 82367, a former Constable and General Service Unit (GSU) officer and a resident of Rarieda Constituency, who was attached to State House Mombasa, remain unknown, nine years after he went missing on 7th August 2010?

- (ii) Could the Cabinet Secretary give the status of investigations into his whereabouts?

Hon. Speaker: It is referred to the Departmental Committee on Administration and National Security.

Next Question by the Member for Teso North, Hon. Kaunya. Move to the next row, next to your neighbour in Teso.

Question No. 044/2019

CHALLENGES IN CONVERTING FOREIGN ACADEMIC QUALIFICATIONS INTO KENYAN EQUIVALENTS

Hon. Oku Kaunya (Teso North, ANC): Thank you Hon. Speaker, I beg to ask the following Question to the Cabinet Secretary for Education:

(i) Is the Cabinet Secretary aware that many Kenyan students who studied and graduated from education institutions in foreign countries, especially Uganda, have been experiencing challenges in having the academic qualifications attained converted into Kenyan equivalents?

(ii) Could the Cabinet Secretary explain the procedures required to equate academic qualifications obtained in foreign countries to those under the Kenyan system?

I thank you, Hon. Speaker.

Hon. Speaker: Very well, this is referred to the Departmental Committee on Education and Research.

Next Question is by the Hon. Member for Endebess, the indomitable (Dr.) Robert Pukose.

Question No. 045/2019

SOLICITATION OF BRIBES BY TRAFFIC POLICE OFFICERS ALONG MATISI-SUAM RAOD

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you Hon. Speaker, I beg to ask the following Question to the Cabinet Secretary for Interior and Coordination of National Government:

(i) Is the Cabinet Secretary aware that Traffic Police officers stationed at Endebess Police Station have been soliciting for bribes from motorists and other road users along the Matisi-Suam Road in Endebess Constituency?

(ii) Could the Cabinet Secretary give an undertaking that the said vice will be put to a stop?

I thank you Hon. Speaker

Hon. Speaker: This is referred to the Departmental Committee on Administration and National Security.

That happens to have been the last Question. Within the same category are statements. I notice that there is a statement by the Hon. Member for Mwingi Central.

STATEMENT

RECRUITMENT OF CADETS TO THE KENYA DEFENCE FORCES

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Hon. Speaker, can you protect me from the Hon. Leader of the Majority Party. He is intimidating me.

Hon. Speaker, I want to make a Statement that relates to the Question which I raised in this House to the CS for Defence, but I was not satisfied with the answer.

Hon. Speaker, pursuant to Standing Order 43, I wish to make a statement regarding Question No.266/2018 which I asked on the Floor of the House on 28th November 2018 to the Cabinet Secretary for the Ministry of Defence regarding recruitment of cadets to the Kenya Defence Forces undertaken in November and December 2018.

Hon. Speaker, the Cabinet Secretary appeared before the Committee of Defence and Foreign Relations and gave her response to the Question on 3rd December 2018. However, she stated that the information I requested regarding the specific number of persons recruited from

each constituency was classified information pursuant to Section 49 of the Kenya Defence Forces Act.

Hon. Speaker, Article 153(3) requires Cabinet Secretaries to answer any question which is under their docket when appearing before a Committee of a House of Parliament. And in doing so, Article 10 of the Constitution highlights the national values and principles of governance which include transparency and accountability, among other things.

In view of this, it is important to note that Article 35 provides for access to information from the State by every citizen. Article 2 re-instates supremacy of the Constitution over all other laws, and as such, access to information cannot be denied because of a law that is subordinate to the Constitution.

Therefore, in my view, the CS has no *locus standi* to deny me and Kenyans at large, the information I had requested. I therefore wish to request the Cabinet Secretary to provide the specific information I asked for and give a breakdown of the recruits for each constituency, as I believe this would not unduly compromise national security. If the CS is allowed to get away with this lame excuse, it will create impunity and build cartels in public service recruitments in the future.

Hon. Speaker, I therefore seek your guidance and direction on this matter.

I thank you Hon. Speaker.

Hon. Speaker: You styled part of your Question that, the CS has no *locus standi* in denying you the information. Nevertheless, I know that Hon. Mulyungi you have been pursuing this matter for quite some time now except that the House went on recess. You had raised this matter before and you have not been satisfied by the answer given.

My advice then was that you should have had that matter and the Committee should have revisited it. I think it is not right for CS's or any other State or public officers to just give a blanket response that giving information sought by the people's representatives compromises national security.

If any person, be it the CS or any other public officer is of that view, then they should request the Committee to sit in camera to prove information. Otherwise they may not be allowed as you rightly pointed out to get away with this and especially because it is a matter of recruitment. I think as people's representatives each and every one of you is entitled to such information. In the circumstances therefore, I direct that the CS does appear before the said Committee for Defence and Foreign Relations to answer that aspect of the Question that Hon. Mulyungi has raised. Should the CS feel that the matter would in any way compromise the national security, he may request the Committee to sit in camera but information may not be denied to the people's representatives. So, the CS is directed to appear and provide that information.

So, the Chair of the Departmental Committee on Defence and Foreign Relations who is right in front here, the CS should appear before your Committee. Should she feel that the matter compromises security, just as has been directed...As you would recall, in the Ninth Parliament and as repeated in the 11th Parliament, the CS requested your Committee to retire into camera and gave the information. So, the CS is not exempted from giving that information.

Very well, Hon. Metito you want to say something.

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Speaker. I fully agree with your direction and also the request from my colleague. At that particular time, what the Member wanted to know was the criteria used by the Ministry of Defence in allocating slots per constituency or sub-counties. The criteria were provided at that time. However, the number of

slots per sub-county was not provided and the recruitment was not over. As correctly put by the Member, the Ministry was of the view that since the recruitment was ongoing, this would have compromised the whole exercise. However, now that it is over, I think it is quite in order to ask the Ministry to table the list of how many recruits were recruited per sub-county because this was not done at that time.

Thank you.

Hon. Speaker: I see an intervention by the Member for Tongaren.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Speaker. I think the Chair of that Committee has virtually answered what I wanted to add.

Hon. Speaker: Member for Kwanza, you also have something on this.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Yes, Hon. Speaker.

Hon. Speaker: You know there is no debate. There is nothing to debate.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Speaker, I just want to make a comment.

Hon. Speaker: No! There is no time. Hon. Members, please understand your Standing Orders. It is not everything that is said here that requires everybody to contribute. If I allow everybody to comment for one minute, even when you are supposed to speak for 10 minutes, you want to stand for 30 seconds to comment. I am sure you never prepared for anything like this. In any event, it is a Statement.

Hon. Wanyonyi, do not worry, I know you are very active in this House. You are not one of those that would want to speak for 30 seconds. Just wait for the appropriate time, because I know you will speak this afternoon.

Let us move to the next Order.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Leader of the Majority Party.

POINT OF ORDER

PUTTING OF THE QUESTION ON THE CONSTITUTION OF KENYA (AMENDMENT BILL)

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker. If Members look at the tentative business for tomorrow afternoon; the first item is the Constitution of Kenya (Amendment) Bill (National Assembly Bill No.4 of 2018). This is a Bill that talks about the two-thirds gender rule. The House Business Committee (HBC) passed it and I communicated on Thursday last week in the House.

The Member for Naivasha needs to listen to the serious matter I am discussing. Tomorrow afternoon, at 2.30 p.m. we will put the Question. I have directed our whips, the Leader of the Minority and I to start lobbying. We will send you text messages this evening and tomorrow until 2.30 p.m. We expect our sisters in the House...

(Loud consultations)

Hon. Speaker, they are busy talking to each other and some of them are not even listening, like the three ladies at the far end. You come from constituencies and counties and in every county the minimum MPs are six, so ensure you convince five or six of them so that tomorrow we get the two-thirds majority and pass this constitutional Bill. I am informing the

House and I will also do so tomorrow morning; that I will do my best. Hon. 001 and Hon. Osoro, Eng. Mwingi Central, Hon. Kaluma and Hon. Chris Wamalwa will assist me. There are very good Members, I have the one who will help me lobby. So, *Inshallah* tomorrow at 2.30 p.m., we will put the Question to this matter.

Hon. Speaker: Hon. Members, please just remember, instead of doing what I am seeing very early in the morning - debate on the same thing, please just come to the Chamber. Those debates are not going to help anybody. The people you should be talking to are the ones who are here. So, please, come in your droves tomorrow at 2.30 p.m.

Before, we go to the next Order, allow me to invite Hon. Dennitah Ghati. She now has the Floor.

STATEMENT

EASE OF ACCESS TO BUS RAPID TRANSPORT SYSTEM FOR PERSONS WITH DISABILITIES

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Speaker, for this opportunity. Pursuant to Standing Order 43, I wish to make a Statement regarding ease of access to the up-coming Bus Rapid Transport System (BRT) for persons with disabilities.

Hon. Speaker, for many years, persons with disabilities have been marginalised in the provision of the necessary facilities to enable them to access various services. The transport sector for instance, has not provided access to user-friendly modes of transport. There are no pavements, bus stops, ramps, hydraulic systems and signals for the blind to ensure that persons with disabilities can use various transport options.

This has affected persons with disabilities to conduct their businesses and engage in their work. I, therefore, urge the Government officials to ensure that the incoming BRT system caters for the unique requirements of persons with disabilities in terms of spacious pavements, signals for the blind, hydraulic systems and ramps, among many other features. This would ensure that accessibility by the physically challenged is guaranteed.

Thank you, Hon. Speaker.

Hon. Speaker: Very well, Hon. Dennitah. Members will appreciate that she raised this issue last week, before the Member for Makueni came with something that interrupted the business. So, I order that the House shall rise at 6.30 p.m. to allow Hon. Dennitah to make that Statement because it is a matter that is topical and other Members may contribute.

We move to the next Order.

BILL

Second Reading

THE SPORTS (AMENDMENT) BILL

(Hon. A.B. Duale on 20.2.2019)

(Debate concluded on 21.2.2019 – Afternoon Sitting)

Hon. Speaker: Hon. Members, having confirmed that the House quorates and debate having been concluded last week on this Bill what remains is for the Question to be put, which I hereby do.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

MOTIONS

RESOLUTION TO PUBLISH SPECIFIED INDIVIDUAL MEMBERS' BILLS

AWARE that, Standing Order No.114 (Introduction of Bills) provides for the procedure for introduction of Bills by Members or Committees;

ACKNOWLEDGING that, the said Standing Order also provides that, where a legislative proposal is submitted to the Speaker, and where the Speaker is of the opinion that the legislative proposal is not a draft money Bill in terms of Article 114 of the Constitution, the Speaker shall:

- (i) direct that the proposal be referred to the relevant Departmental Committee for pre-publication scrutiny in case of a legislative proposal not sponsored by a Committee; or
- (ii) direct that the proposal be published into a Bill, in case of a legislative proposal sponsored by a Committee.

COGNISANT of the provisions of Standing Order 114(3)(b) which require the Speaker to refer a legislative proposal with money-bill aspects to the Budget and Appropriations Committee for consideration;

RECOGNISING that, following the recommendation of the Budget and Appropriations Committee, the Speaker ordinarily refers legislative proposals originating from individual Members to the relevant Departmental Committees for pre-publication scrutiny, and that the Departmental Committees should consider the proposals within twenty-one (21) days and recommend whether or not the proposals should be proceeded with;

NOTING that, since the commencement of the Twelfth Parliament, more than eighty (80) legislative proposals have been drafted and submitted to the Speaker upon which, thirty (30) have been cleared with respect to money-bill aspects and their progress has been stifled by the inordinate delay in the relevant Departmental Committees;

NOW THEREFORE, this House orders that the thirty (30) legislative proposals contained in the Schedule, whose money-bill aspects have since been cleared, and were pending before the relevant Departmental Committees by the end of the Second Session be published into Bills in accordance with the provisions of Standing Order 120 (Publication of Bills) and, thereafter be referred to the relevant Departmental Committees in accordance with the provisions of Standing Order 127 (Committal of Bills to Committees and public participation) upon being read a First Time.

(Hon. Aden Duale on 21.2.2019)

(Resumption of Debate interrupted on 21.2.2019)

Hon. Speaker: Hon. Members, I think the staff today may have been in a hurry. The correct position is that it is the Mover to reply.

Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, the Deputy Speaker is confusing the House. I do not know whether he is around. He is lobbying people in the Chamber yet we have allowed him to use the Lounge. He has extended the business of the Lounge to the Chamber.

Hon. Speaker, this was very important. Members have contributed and I think it is important to note that all the 30 Bills which were cleared by the Budget and Appropriations Committee are now lying with the committees, which have taken their sweet time. This resolution supersedes the Committees' work of bringing reports. If we pass this, those Bills will go to the Government Printer. The Speaker will approve them to go to the Government Printer and never again shall we have Motions urging Government. We will have Private Members' Bills, maybe beginning next week on Wednesday mornings.

I beg to reply.

(Question put and agreed to)

Hon. Speaker: Next Order!

REPORT ON BILLS FROM THE EAST AFRICAN LEGISLATIVE ASSEMBLY

THAT, pursuant to the provisions of Standing Order No.212A(4), this House notes the Report of the Committee on Regional Integration on the East African Community Customs Management (Amendment)(No. 2) Bill, 2018 and the Administration of the East African Legislative Assembly (Amendment) Bill, 2018, laid on the Table of the House on Tuesday, 27th November 2018.

(Hon. (Ms.) Naisula Lesuuda on 21.2.2019)

(Debate concluded on 21.2.2019)

Hon. Speaker: Order, Hon. Members! Just be in the House. Debate on this Motion was concluded and I put the Question.

(Question put and agreed to)

Hon. Speaker: Let us have the Leader of the Majority Party.

COMMITTEE OF THE WHOLE HOUSE

THE KENYA ACCREDITATION SERVICE BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I really beg your indulgence that we defer the Committee of the whole House matter for two reasons. One, the Committee has a lot of amendments. Hon. Millie Odhiambo has a number of amendments which are not on the Order Paper and which will be circulated. We have agreed with the Chair and Hon. Millie Odhiambo that we take some time off, maybe today and tomorrow, for them to consult and harmonise. It also gives me time to talk to the ministry to see also whether the amendments affect the structure of the Bill. So, I really want you to defer that until we harmonise the amendments.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, that speaks to rearranging of business. The Leader of the Majority Party, the Chair and Hon. Millie Odhiambo had consulted me and I had acceded to their request that, for the House to move smoothly, we stand down this particular business to allow for the harmonisation of various proposed amendments. The business is not being withdrawn. It is just being stood down. I acceded to the request. So, that business is stood down.

(Consideration in Committee of the whole House deferred)

Let us move to the next Order.

MOTION

REPORT ON AUDITED FINANCIAL STATEMENTS FOR CONSTITUENCIES IN KISUMU COUNTY

Hon. Speaker: I have been informed that the Chairperson of the Committee is not around, but he has requested the able Member for Mbooni, Hon. Kivasu, to lead the debate for adoption of this Report.

Let us have Hon. Kivasu.

Hon. Erastus Nzioka (Mbooni, Independent): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Third Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Kisumu County for the Financial Years 2013/2014, 2014/2015 and 2015/2016 for the seven constituencies in Kisumu County, laid on the Table of the House on Wednesday, 28th November 2018.

Hon. Speaker, the Special Funds Accounts Committee is among the three watchdog committees of this 12th Parliament responsible for examination of reports of the Auditor-General of the following funds, laid before this House to ensure probity, efficiency and effectiveness in application of public funds:

- (a) The Equalisation Fund
- (b) The Political Parties Fund
- (c) The Judiciary Fund
- (d) The National Government Constituencies Development Fund and such other funds established by law as the Speaker may direct.

Hon. Speaker, examination of the reports of the Auditor-General for the NG-CDF for the 290 constituencies in Kenya is one of the mandates of the Committee as outlined in the National Assembly Standing Order No.205A. The Committee received a backlog of these reports which date back to 2013/2014 Financial Year which had not been examined by the 11th Parliament. Based on the fact that each of the 290 constituencies is audited independently, the Committee adopted a strategy of scrutinising financial statements of each constituency for 2013/2014, 2014/2015 and 2015/2016 Financial Years, concurrently.

The Committee also resolved to examine reports of all constituencies in each county, with Kisumu County being the second one after Nairobi County, among other funds. So far, the Committee has examined and tabled 72 reports of this critical Fund, which is amongst the most responsive and unappreciated funds, and which is the most sought after by Kenyans when faced with various challenges at the grassroots level.

This Report, therefore, contains observations, findings and recommendations arising from the examination of 21 reports of the Auditor-General on the NG-CDF for the following seven constituencies in Kisumu County for the 2013/2014, 2014/2015 and 2015/2016 Financial Years, which include Kisumu Central, Kisumu East, Kisumu West, Muhoroni, Nyakach, Nyando and Seme.

The Committee held a total of 28 sittings where reports of each constituency for the three financial years were examined independently. During the examination of these reports, each constituency fund account manager, being the accounting officer as provided under Section 12 (3) of the NG-CDF Act, 2015, was invited to present written responses to audit queries contained in the NG-CDF Constituency Audit Report. The Committee also sought clarification from the NG-CDF Board on various policy matters which were subject to audit queries raised by the Auditor-General. These deliberations were recorded and can be obtained in the HANSARD Reports of the Committee.

In execution of its mandate, the Committee was guided by the Constitution of Kenya, 2010; the Public Finance Management (PFM) Act, 2012; the NG-CDF Act, 2015; the Public Procurement and Asset Disposal Act, 2015 and Regulations; the Parliamentary Powers and Privileges Act, 2017 and the National Assembly Standing Orders, 4th Edition, among other laws and regulations. Article 226(5) of the Constitution of Kenya, 2010 provides that if the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss whether the person remains the holder of the office or not. This forms the basis on which the Committee holds each fund account manager and any other public officer directly and personally liable for any loss of public funds they are entrusted with.

Further, Section 68 (1) of the PFM Act, 2012 provides, *inter alia*, that any accounting officer for a national Government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorised, effective, efficient, economical and transparent. This obligated the fund account managers – both current and former – as accounting officers for the NG-CDF in the constituencies, to appear before the Special Funds Accounts Committee to respond to audit queries contained in the reports of the Auditor-General during their tenure in office. Recommendations on audit queries raised in the reports of the Auditor-General for each constituency are found under the appropriate sections of this Report. Implementation of these recommendations will enhance accountability,

transparency, effectiveness, efficiency, and prudent management of the NG-CDF. This will ultimately improve the lives of the constituents of Kisumu County and the country at large.

The Committee made general recommendations arising from observations and findings that cut across the seven constituencies, some of which are contained in the First Report of the Committee on NG-CDF on Nairobi County, which was adopted by this House. The Committee observed that there was ineffective monitoring and evaluation of projects in the constituencies. This was due to lack of adequate allocation of resources to the Constituency Development Fund Oversight Committee to perform its functions in accordance with Section 53 of the NG-CDF Act, 2015. The Committee also noted that the NG-CDF Board had not made use of ICT in management of projects for ease of monitoring of projects to their completion.

Although the oversight committees are enshrined in the Act, they have not been functional. Therefore, the Committee recommends the following:

- (1) That, the NG-CDF Board allocates 3 per cent of the constituency annual allocation to Constituency Development Fund Oversight Committees to effectively undertake their mandate as provided under the NG-CDF Act, 2015. This amount should be included in the NG-CDF annual allocation to the constituencies with effect from the 2018/2019 Financial Year;
- (2) That, the NG-CDF Board adopts and implements electronic monitoring and evaluation systems and tools to monitor all projects in the constituencies and have them linked to the electronic national Government monitoring and evaluation systems.

On assessment, the Committee observed that fixed and movable assets in the custody of constituencies, including motor vehicles, should be held under the name of the constituency in line with the provisions of Section 36 of the NG-CDF Act, 2015. Section 36(4)(a) of the Act provides that all fixed and movable assets bear the name and number of the constituency as delineated by the Independent Electoral and Boundaries Commission (IEBC). Further, Section 36(4)(b) provides that the equipment bought for public institutions shall remain in the exclusive use of those institutions. The Committee, therefore, recommends that the NG-CDF Board ensures that fixed and movable assets in the custody of constituencies, including motor vehicles, be held under the name of the constituency in line with the provisions of Section 36(4) of the NG-CDF Act, 2015.

The Committee observed that some constituencies had graders for road projects and that the NG-CDF Board had advised Constituency Development Committees to dispose of those graders. The Committee noted that Section 36 (6) of the NG-CDF Act, 2015 provides as follows:

“Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the constituency from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following year’s constituency fund for that constituency.”

The Committee recommends that the NG-CDF Board disposes of the graders in accordance with the Public Procurement and Asset Disposal Act, 2015 and the proceeds be retained in the NG-CDF Fund in line with the provisions of Section 36 (6) of the NG-CDF Act, 2015.

On implementation of projects and reallocation of funds without approval of the NG-CDF Board, the Committee observed that some fund account managers implemented projects and reallocated funds without seeking prior approval of the NG-CDF Board. This was in contravention of Sections 6(2) and 31 of the NG-CDF Act, 2015 which provides that once funds

are allocated for a particular project, they shall remain allocated for that project and may only be reallocated for any other purpose during the financial year with the approval of the NG-CDF Board.

Hon. Speaker, the Committee further observed that some projects initiated which currently fall within the devolved functions, prior to enactment of the NG-CDF Act, 2015, remain incomplete to date. The Committee also noted that most NG-CDF Committees had not engaged the services of the Clerk of Works as provided for in the NG-CDF Board guidelines.

In addition, fiscal verifications of projects by the Auditor-General revealed that the structural integrity of some buildings was questionable as stated in various audit queries. We also observed that many of the constituencies still rely on the Public Works Officer without employment of the Clerk of Works.

Therefore, the Committee recommends that:

(1) The NG-CDF Board takes administrative action against fund account managers who reallocated funds contrary to the NG-CDF Act, 2015;

(2) The fund account managers ensure compliance with Section 6(2) and Section 31 of the NG-CDF Act, 2015;

(3) The NG-CDF Board publishes a list of all incomplete and stalled projects initiated by the former CDF Board prior to the enactment of the NG-CDF Act, 2015;

(4) The NG-CDF Board in consultation with the National Treasury and other relevant authorities expedite completion of all incomplete and stalled projects;

(5) The fund account managers ensure that relevant Government departments are involved during project implementation in line with the provisions of Section 36(1) of the NG-CDF Act, 2015;

(6) The NG-CDF Board in consultation with the County Public Works office and the National Construction Authority (NCA) assesses the structural integrity of projects in question and issue occupational certificate;

(7) NG-CDF Committees engage the services of the Clerk of Works in management of projects as provided for in the NG-CDF Board guidelines.

There is also the issue of the disbursement of funds for the implementation of the projects as indicated in the Second Report of the Committee. Late disbursement of funds to the NG-CDF Board by the National Treasury adversely affects implementation of the approved projects. We realised that money is released but many times, we do not get the Authority to Incur Expenditure (AIE). We cannot spend without getting it.

The Committee observed that funds were disbursed in the second and third quarter of the financial years which made it difficult to complete procurement processes and ultimately led to non-implementation of the projects. This was cutting across the seven constituencies. The Committee therefore recommends that the National Treasury expedites the process of quarterly disbursement of funds to the NG-CDF Board for timely release to constituencies.

There is failure to submit documents during audit period. It was observed that the fund account managers did not avail the required documents that were subject of examination by the Auditor-General for verification at the time of audit. The documents which were not availed for audit include cash books, bank statements, payment vouchers, project completion certificates and procurement records.

The Committee therefore recommends that:

(1) The fund account managers ensure compliance with the provisions of Section 62 of the Public Audit Act No. 34 of 2015 and Public Finance Management (PFM) Act No. 18 of 2022.

Hon. Speaker: Sorry Hon. Kivasu, did you say PFM Act, 2022?

Hon. Erastus Nzioka (Mbooni, Independent): Sorry, Hon. Speaker. It is PFM Act, 2012.

(Laughter)

(2) The NG-CDF Board issues administrative circulars directing fund account managers to comply with provisions of the Constitution of Kenya, 2010, the Public Audit Act, No. 34 of 2015; the PFM Act, 2012; and the Public Procurement and Asset Disposal Act No. 33 of 2015. The fund account managers should maintain the original project management committee's files at the NG-CDF office while the duplicate should be maintained by the project management committees.

On the bursary allocations and disbursements, the Committee observed high instances of delays in disbursement of bursaries to beneficiary institutions, non-presentation of issued bursary cheques to institutions and cancellation of issued bursary cheques. Some of the reasons cited were errors in spelling of names of beneficiaries, loss of issued cheques by beneficiaries and failure to present the cheques within reasonable time.

The Committee recommends that:

(1) The NG-CDF Board reviews guidelines on issuance of bursaries to enhance efficiency;

(2) The NG-CDF Board fast tracks adoption of electronic funds transfer in disbursement of bursaries;

(3) The fund account managers ensure that beneficiary institutions issue acknowledgement documents upon receipt of the bursaries to ensure that we do not have bursaries that do not reach the beneficiaries.

On the accuracy of the financial statements, the Committee observed that the fund account managers experience challenges in adapting to International Public Sector Accounting Standards (IPSAS) reporting framework in preparation of financial statements. The standards were introduced in the Financial Year 2013/2014 in the public sector. Failure to comply with them in the subsequent years occasioned disqualification of financial statements. The Committee also established that the IPSAS Board reviews the IPSAS periodically to take into account emerging issues and conform to the best accounting practices.

The Committee found that most fund account managers experience challenges in application of those standards while preparing financial statements as evidenced in the audit queries. The Committee therefore recommends that the fund account managers comply with the IPSAS framework in preparation of financial statements. Two, the NG-CDF Board in consultation with the IPSAS Board conducts continuous capacity building on financial reporting standards for constituency staff.

On unsurrendered imprest, the Committee observed that recovery of outstanding imprest was slow and the amounts remained outstanding in some instances since Financial Year 2015/2016. This is contrary to existing financial regulations that require surrender of imprest within seven days after return to work stations. The Committee therefore recommends that the NG-CDF Board recovers all outstanding imprest from defaulting officers with an interest at the

prevailing Central Bank of Kenya (CBK) rate as provided under Article 226(5) of the Constitution 2010.

There is also the issue of engagement of fund account managers by the NG-CDF Board. The Committee observed that some fund account managers are deployed to more than one constituency with others doubling as regional coordinators for more than five constituencies. This creates inefficiencies in execution of their functions.

The Committee also noted that the National Government Constituencies Development Board had not taken appropriate measures to ensure that fund account managers resolve issues raised by the Auditor-General in constituencies that they had previously served prior to effecting their transfers. Some audit queries dated back to 2013/2014 Financial Year and had been carried in the subsequent years audit reports. The Committee, therefore, recommends that:

- (a) The National Government Constituencies Development Board reviews its policy on renewal of contracts for fund account managers to provide for clearance of outstanding audit queries raised in reports of the Auditor-General of constituencies they are engaged in prior to effecting any transfer and deployment.
- (b) National Government Constituencies Development Board fills existing vacancies for fund account managers and regional co-ordinators.
- (c) The National Government Constituencies Development Board adheres to its deployment policy on the maximum of years that a fund account manager should be engaged in a constituency. Some have overstayed in the constituencies they have been deployed to.

Hon. Speaker, as I conclude, allow me to thank your office and that of the Clerk of the National Assembly for the support extended to the Committee during the consideration of the reports. May I also extend the Committee's appreciation to the Office of Auditor-General and the National Treasury for the technical support and the liaison services offered during the entire period. The Committee also acknowledges the Office of the CEO of the National Government Constituencies Development Board for the coordination of the fund account managers and other officers who appeared to respond to various audit queries raised in these reports.

Hon. Speaker, allow me to thank my fellow Hon. Members of the Committee whose immense contribution and dedication to duty has enabled the Committee finalise with the second batch of 21 reports of NG-CDF. To date the Committee has been able to consider a total of 72 reports of the NG-CDF for Financial Years 2013/2014, 2014/2015, and 2015/2016.

Finally, I thank the sitting Hon. Members of this honourable House representing the seven constituencies in Kisumu County who made time to attend and participate in Committee deliberations during consideration of the reports of their constituencies. I urge my fellow colleagues to also find time and avail themselves during consideration of NG-CDF reports for their constituencies.

Hon. Speaker, I beg to move and request Hon. Geoffrey Omuse to second the Report.

Hon. Speaker: Hon. Omuse, Member for Teso South.

Hon. Geoffrey Omuse (Teso South, ODM): Thank you, Hon. Speaker. As I stand to second this Report of this very important Committee, I wish to reiterate that as a Committee, we

have moved with speed to examine the reports within our mandate as provided for in the National Assembly Standing Order No. 205A and focus to clear in good time all pending reports under our watch.

As mentioned by the Mover, Kisumu County has seven constituencies and each of the constituencies has had its accounts for the three years 2013/2014, 2014/2015 and 2015/2016 examined to ascertain probity, efficiency and effectiveness in administration of public funds.

The NG-CDF is the only fund in the country that has direct touch with Wanjiku. Therefore, its importance at the grassroots level cannot be overlooked. I therefore urge this honourable House to defend and support the Fund to ensure major growth especially in education and other functions under it.

Many disadvantaged Kenyans have had to be educated by the NG-CDF. In fact, I will be moving in this House an amendment to the NG-CDF Act so that the percentage that is allocated for bursaries be increased from 35 per cent to 40 per cent so that many Kenyans can enjoy the Fund and attain their education dreams.

During the examination of Kisumu County, the Committee made recommendations just as put by the Mover. We hereby ask the honourable House through the Committee on Implementation to ensure the same are adhered to.

Finally, I wish to sincerely appreciate the support we got from the Speaker's office, the NG-CDF Board, the Office of Auditor-General, Members of Parliament from Kisumu County and Hon. Members of the Committee, led by the Hon. Chair.

I beg to second. Thank you.

(Hon. Members stood in their places)

Hon. Speaker: Order, Members! Hon. Members, I noticed some elderly Members who would collapse, if they were to freeze.

(Laughter)

(Question proposed)

Hon. Members, there are many cards that are slotted in, but I do not see the owners. Let me start with the Member for Taveta.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Asante sana, Mhe. Spika kwa kunipatia nafasi hii ili nizingumzie taarifa hii kutoka Kamati ya kusimamia Pesa za Hazina Maalum hapa nchini.

Kama kuna jambo ambalo Bunge la 12 limeweza kufanya ni kuwa na kamati hii ambayo inaangalia matumizi ya fedha zilizomo kwenye Hazina Maalum humu nchini.

Kazi ya Hazina ya Pesa ya Maeneo Bunge ilianza miaka kadhaa iliyopita. Wakati wa Bunge la Tisa tulipata kima cha Ksh6 milioni. Tangu wakati huo hadi sasa tumerekebisha sheria mpaka sasa inaambatana na Katiba ambayo ilianza kutumika mwaka wa 2010, mwezi wa nane.

Pesa za hazina hii zinatumika kimaendeleo. Tulipoanza kuzitumia, maeneo mengi hayakuwa na shule, maabara na zahanati za kusaidia wananchi. Pesa hizi zimewaezesha wengi kuona maendeleo mashinani. Zimewaezesha wananchi kusomesha watoto wao.

Nampongeza mwenyekiti kwa kazi nzuri ambayo amefanya kwenye Taarifa hii. Tangu hazina hiyo ianzishwe, kamati iliyowekwa na Bunge la 12 ni muhimu. Lakini juu ya hapo, ningetaka kutoa taarifa kwamba kuna umuhimu wa Serikali kuu kutengeneza jinsi hazina hiyo itaweza kuangalia maeneo yote ya Bunge hapa nchini.

Kama unavyofahamu, maeneo ni 290 na sio rahisi kwa kila mtu kwenda kila mahali wakati wowote. Pesa za ugatuzi zingelifuata namna pesa hizi za hazina za maeneo Bunge zinavyotumika, bila shaka tungeona faida yake. Pesa za ugatuzi zimekuwa zikifujwa na huu ulikuwa mfano wa kugatua pesa kutoka Serikali kuu kushuka nchini lakini sasa hivi tunaona kuwa ni malalamishi kila pahali tunapopita. Sina mengi ya kusema isipokuwa tuzidi kuangalia jinsi tutakavyoboresha matumizi ya pesa hizi na kuweza kusimamia na kuhakikisha kuwa pesa hizo zinatumika vile ambavyo ilivyotengwa kwa mujibu wa sheria ya pesa za hazina za mashinani.

Naunga mkono taarifa hii.

Hon. Speaker: Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, thank you for giving me this opportunity to contribute on the Report relating to the National Government Constituencies Development Fund (NG-CDF) account audit for Kisumu County. As the Committee has observed, the issues bedevilling the NG-CDF cut across the entire country and are more or less similar.

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

[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]

It is high time we made specific regulations and rules to ensure that we continuously get the best out of NG-CDF all over the country. As all of us know, NG-CDF has had tremendous impact on the rural constituencies, probably even much more than what the county governments have so far achieved. I believe if the allocation had been good enough, much more would have been achieved compared to what has been achieved now.

The overarching issue here is management challenge. The late disbursement of funds is completely disorganising the operations and plans of the constituencies. As we speak, whatever has been disbursed is not enough to fund the overwhelming applications for bursaries. As I speak, I have applications of about 10,000 students requiring bursary for this academic year. The funds are not enough and they are not disbursed on time. Consequently, our students and our schools are starting to strain because they have no sufficient funds to run, considering that they depend largely on school fees. We, therefore, urge the Committee, together with the relevant people at the ministry, to expedite the disbursement of funds to make sure that they come in a timeous manner to enable the NG-CDF Committees to discharge their functions. Coming at the last quarter of the financial year as the Committee has noted, it means not many of the projects can be accomplished within that financial year. In many constituencies, many committees are

still handling the projects of 2017/2018. They have not even started the projects of 2018/2019 because the funds have delayed.

On the issue of monitoring, evaluation and oversight, the Act provides for an oversight committee. But there seems to have been no mechanisms. First of all, the oversight committee has never been gazetted and so, it has no teeth to bite. It has no powers or authority to do anything. Secondly, there has been no financial allocation to the oversight committee. Consequently, they simply have to depend on the generosity of the fund account managers or the committees to get them small funds to enable them oversee the works of the committee. It is important that amendments are brought to the NG-CDF Act to amend that provision to give the oversight committee adequate mandate and latitude to oversee the works of the NG-CDF Committee.

Another important issue that keeps on cropping up quite often is the procurement processes as required under Public Procurement and Asset Disposal Act, as well as the Public Finance Management Act. The purpose of the NG-CDF funds is to develop local contracting skills. Many of the contractors in those rural areas probably have no capacity to acquire all the documents that are required under the Public Procurement and Asset Disposal Act and related regulations. They might not have the requisite management skills to comply with the PFM Act. Consequently, as we have requested before, there needs to be an element of accommodation or relaxation of the rules and requirements to enable as many of them as possible to participate in tendering and procurement. What you find out is that many of the works, if you strictly follow the regulations, will end up with mainstream contractors; meaning the local contractors have nothing to do.

As I conclude, there is the issue of infrastructure in schools. With 100 per cent transition from primary to secondary and from secondary to tertiary schools, our institutions are overstretched in terms of classrooms, tutorial rooms, accommodation in hostels, dining spaces, laboratories, and the rest. On NG-CDF amount, considering the statutory ceilings necessary, it is not enough to provide infrastructure to alleviate the suffering in schools. Probably, as we discuss, we could also engage the Ministry of Education to channel the funds on infrastructure through NG-CDF Boards since they already have adequate experience and capacity. They would handle and expeditiously execute those projects to ensure that we finish in good time. The so-called shift from tablets to science laboratories could as easily be handled by the NG-CDF Board because of the already existing capacity. We are able to do these things at far much cheaper cost compared to mainstream Government or county governments.

With those few remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wachira Kabinga, Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion and commend the Committee for the good job they have done. As the speaker before me alluded to, NG-CDF is becoming very popular and very effective on the

ground. It is one Fund that is doing the job as intended. I am not sure what could have happened to sectors like education in our constituencies if we did not have NG-CDF.

As we commend the Committee for the job well done, I want to go back to the question I have always asked in this House; about the distribution of NG-CDF. We have some constituencies that are far large and populous than others. I come from a county where my constituency has eight wards. The neighbouring constituencies have three, four or five wards. When we do development through NG-CDF, people in the county wonder why I am not moving as fast as my colleagues. For that reason, I would want to urge the Special Funds Accounts Committee to include in its report its observation and recommendations on the distribution of NG-CDF in our constituencies.

I did hear mention of graders that were supposed to be disposed of. I am one of the lucky Members of Parliament who found a grader that is yet to be disposed of. Within the short time I have served, I have been able to utilise the grader very effectively by opening up roads that lead to our schools. Some of the schools that were inaccessible in my constituency are now accessible. I, therefore, urge that instead of disposing of the graders, given the fact that the county governments are not able to work on some of the rural roads that lead to schools in a faster manner as we would expect, the Committee should accept that we retain the graders for at least five to 10 years so that we can fully open up the access roads. For that reason, I would urge that they look at the possibility of allowing us to use part of the funds for administration to maintain some of the graders to do the good work that we are doing.

Another area I would urge the Special Funds Accounts Committee and the NG-CDF Committee to look at is the area of innovativeness; innovative projects and programmes that can support the Big Four Agenda. There are some innovations in our constituencies that are very effective and less costly. They could support the Big Four Agenda. But because they are not included in the four areas of NG-CDF – that is, education, security, environment and sports – we are not able to support those ideas, and especially those projects that are related to youth and women. They are projects that could be very effective and would support the Big Four Agenda. I would ask that the respective committees look at the possibility of amending the Act so that we can be allowed to implement innovative activities in a modest manner in as far as finances are concerned.

There was mention of old projects. Yes, we are not sure of how to deal with some of the projects that we found on the ground. They were not approved by the board and yet they were done, some complete, some incomplete. We do not know how to deal with them. I hope now we will be given direction.

On the fund account managers, it is true that there are some who have stayed in some constituencies for too long and others who probably require some retraining to catch up with modern ways of doing things so that we, as Members of Parliament, may find it easier when we oversee the management of our constituencies.

On the issue of AIE, we receive funds but AIE takes like a month. I do not understand how money can be released and then an AIE takes a month to reach the ground. To that effect, I

would also urge that we move quickly and release the rest of the funds, especially to cater for bursary, so that we can pay school fees for some of our young men and women who are currently threatened with being sent home because of lack of fees. We have a policy requiring every child to be in school. We know that some of those kids come from families that cannot afford to pay for their school fees. Therefore, bursary becomes their only rescue. When bursary is delayed, we find it difficult to even go to our home areas. That is because the first questions we get are about bursary and we are not able to explain why we have the delay.

As I conclude, may I re-emphasize the issue of equitable distribution of the NG-CDF as spelt in by the Constitution. I really feel it when I have to explain why I am not able to provide bursary like other constituencies in my county or other counties. That is because of the kind of constituency I manage. We have areas that were left behind historically. I am struggling with the Ministry of Education. I was there yesterday with a full report of an area called South Ngariama, with seven schools that are still at a risk. They are mud-walled schools and the classrooms can collapse any time. When I am with the PS, struggling to get resources to beef up whatever NG-CDF can give, with a 200,000 population in Mwea, I cannot get the resources that I ask from the PS. What I get is not enough, I really feel it. This is all about inequitable distribution of resources. This is an area that we must look at very seriously. I do know that there may be some few constituencies that fall under that class but, yes, they are there. We are suffering and we are tired of being referred to as thieves of funds because we are not able to do what others are doing. Therefore, as we look forward to amendments to the NG-CDF Act, we must look at the issue of distribution of resources with a view to making it equitable as clearly spelt out in the Constitution.

Hon. Temporary Deputy Speaker, I support and hope that the Committee will look at areas like innovation that they may not have checked. They may look at the issue of graders that we feel we utilise very well and see what can be done to retain them.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kabinga, your constituency is large and we hear your cry for your people. But if you were to speak to the Member for North Horr, Hon. Chachu, he will tell you that his constituency is bigger than what was formerly known as Western and Nyanza provinces put together. The Member for Kanduyi will also tell you that his constituency is larger than one county known as Vihiga, where I come from. So, we hear you. I think these are inequities that we must deal with. Fairness demands that we should have a criterion to address this issue so that our people can feel equal to others. That was a very good contribution.

We shall have contribution from Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. As I support it, I want to inform Hon. Kabinga, the Member for Mwea that, indeed, what he has said is true in terms of inequitable distribution of NG-CDF. But initially, I want him to note that in the last Parliament, the NG-CDF was not distributed equally. The formula was changed afterwards and this was very unfair. I want to

request the Member to petition the NG-CDF Committee for that formula to be reviewed. If you did not know, that is very possible. Indeed, that is why when it comes to division of revenue, once it has been done vertically between the two levels of government, when it comes down, equity is always a basis. For example, Hon. Wamunyinyi's constituency of Kanduyi triples so many constituencies. It is very unfair to be given an equal amount of money. When it comes to bursaries, the Leader of the Majority Party said that whenever he gets money from the NG-CDF, he pays fees for all the university students from his constituency.

We need to revisit that matter because it was very unfair to have changed the formula of sharing where you give equally to all constituencies. I know that Subukia Constituency is heavily populated and it is very unfair since he is getting an equal amount of money with a constituency which is an eighth of its size for that matter. I truly support that because where I come from in Kiminini Constituency, we have so many wards. The amount of NG-CDF money that we are being given is the same as one with three wards. It is high time we revisited the matter.

I thank the Special Funds Accounts Committee. They have done very well and it is being chaired by an Independent Member. The observations that have been highlighted here cut across the entire country when it comes to implementation. The fund managers are the Authority to Incur Expenditure (AIE) holders. Many times when you want to succeed in any constituency... There is a positive correlation between the performance of a constituency and the kind of fund manager you have. There are some fund managers who are obstacles to development. Since they are the AIE holders, they add a lot of value when it comes to speed on how they manage the process of procurement and payments. It is important for the NG-CDF Board to continuously train the fund managers. In the last Parliament, we had put a clause that the fund managers should report to the chairs of the NG-CDF committees of their respective constituencies. That never worked. Some of those fund managers do not work daily. They work selectively, maybe twice in a week. It is high time the NG-CDF Board put measures in place in so far as performance management is concerned.

It looks awkward for the NG-CDF Board to release the money but when it comes to releasing by the AIE holder, it takes more than three weeks because ordinarily, when it comes to the constituency projects, they are selected from the bottom. Once they are compiled, they are forwarded to the NG-CDF Board which will approve. Money is given based on the proposals that you submitted. So, the question is: Why do they delay the AIE and without it, work cannot move on? This is the place and section that we need to revisit.

When it comes to issues of bursaries, we have poor families whose children go to school because of NG-CDF. This fund is not enough and will not be enough for the poor children in the rural areas. Hon. Speaker, the question is: We are going to the month of March, as the Government talks of the 100 per cent transition, but NG-CDF has not released money. Some of the poor children as we speak are still at home. They only released the Ksh10 million where they prioritised administration. It is common sense that January is when children report to schools. It is important if there is a provision of 35 per cent going to bursaries. It is common sense that NG-CDF must release that money so that when the children are going to school in Form One or the university, the money must be available. There is a problem when you bring the money in the month of May and the children have been chased away from school. Some children have missed their Form One places because there is no money to pay fees for them. This delay is with the NG-CDF Board because it never released the money on time so that it can be given to the beneficiaries.

We know that NG-CDF has done so much. In this country, every village you go, you will see a small project of NG-CDF. As you compare this with the county governments, the devolution we are talking about and those big projects, when it comes to the counties, they are not felt in some villages. How I wish that we get a framework on how to increase the percentage of this NG-CDF so that it can reach the common citizen in the village. That is very critical.

The NG-CDF Act has undergone a lot of transformation. I am told in the Seventh Parliament MPs used to write cheques, but things have changed. As we speak right now, an MP is not involved in the NG-CDF matters, but only oversees it. So, as we move to the new Constitution of 2010, whereby MPs only provide oversight role, it is high time that we strengthened the NG-CDF by training the fund managers so that whatever they put in place must be in line with the local community.

Another issue is that of training the CDFC members on matters procurement. There is a procurement law which is in place, but we also have a Project Management Committee (PMC) that is responsible for matters of tendering. I have seen people running to me requesting for the NG-CDF tenders. MPs do not give tenders. The law is very clear; the NG-CDF Committee is there and then it cascades down to PMC.

When you want a tender, look for the principal of a particular school, there is a PMC there and they are the ones responsible for doing the tendering process. The MP does not give out tenders. When auditors go to the ground and find out that the tender process was not followed, they blame the MP who is not responsible for procurement matters. It is important that people understand the difference. It is shameful for the Auditor General to audit and after that, blame the MP and yet he only oversees. He does not manage or give out tenders.

Otherwise, this is good money. It is a good law that we need to think outside the box so that we see how the NG-CDF is going to help us. That is because this money cannot be felt everywhere in the counties. I thank you for the opportunity and thank the Committee for the good work they have done and look forward for the NG-CDF to grow and become bigger.

I thank you and support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Chris Wamalwa, I hope when you transit to the higher seat that you aspire to and we pray that you do, you will continue to support this fund as vehemently as you have done today. But also to just add, you made very good contribution. I have seen reports coming here from the Auditor-General blaming MPs on the way they have handled the NG-CDF and yet MPs are never asked anything when they come to those constituencies. I do not think there is any Member here who has sat down with those auditors when they visit those constituencies. I am sure Hon. Millie Odhiambo will advise you any day that when you have not been heard, then you cannot be condemned. The Auditor-General should hear this and those reports that come here castigating Members are doing a disservice to the membership of this House.

Let us have the Hon. Member for North Horr. Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to support this very impressive Report. At the outset, I commend the Committee for this very timely Report. This is the first one we are discussing in this House since this Committee was formed and I think this is the right way to go. When we discuss the audit reports of our respective constituencies in such a timely manner, they make us more accountable and transparent to the public. They ensure that this House is as accountable as the Judiciary and the Executive.

It is a very prudent management practice and such a timely audit will enable us manage tangible results and ensure that in our constituencies, the projects that we are implementing are those that add value from the money audit reports.

It is very important for the NG-CDF Board to ensure that they invest in the most efficient Monitoring and Evaluation (M&E) software. Monitoring and Evaluation for any projects that are done anywhere in the world is critical, if we are to manage for results and ensure that we are efficient and effective in whatever projects implemented. As of now, I have not seen the board investing in M&E software or tools to enable us manage our projects very well and have this database easily available even at the national level. So, I want to urge that this House demands the NG-CDF Board to invest in M&E software for use in NG-CDF offices across the country.

We also need to empower the NG-CDF Oversight Committees. This is the only organ within the NG-CDF that ensures quality M&E. The amount of funds available to facilitate them to undertake this work is very minimal. Unless effective monitoring is done by this oversight committee as the organ thus recognised by the Act, I am afraid we may not achieve the kind of tangible results we all desire. As MPs, we are part of the oversight committee for monitoring, but we are not always available.

However, these committees should be facilitated and enabled to visit projects in vast constituencies like mine. Hon. Temporary Deputy Speaker, I appreciate you mentioned that I have the largest constituency in this country. Actually, I think it is the largest county on its own. However, it is more than what you said. It is larger than the entire Western, Nyanza, Central and Seven Nairobis put together. That is 38,000 square kilometers, with a diameter of 800 kilometers from one corner to another. It is actually a nation on its own.

You can see the difficulties and challenges of monitoring projects in that kind of constituency with very minimum amount of money. It really takes us days when we go round monitoring in the entire constituency and visiting different projects in different corners. Yet, I get the same amount of money with Kibra, here in Nairobi, where you can walk within 30 minutes from one corner to the other. Even, Saku in my own county is much smaller than my constituency. This is the realities of NG-CDF.

While I strongly believe, that the parameters we use in allocating the NG-CDF resources is not equitable at all, I want to consider going to the Supreme Court to take a very hard look at the constitutionality of the NG-CDF Act. If equitable distribution of resources is one issue recognised in our constitution, I want to know if the NG-CDF Act is constitutional because it does not take the parameter of equitable allocation of resources into account. It only looks at equality and that is why they take the amount of money available to us and divide by 290 constituencies. Therefore, we all get equal amount of money, whether you are the tiniest constituency in the heart of Nairobi like Kibra, or the largest constituency in Kenya like North Horr.

Having said that, it is not only about looking at the equitable factor as a factor in resource allocation. What about poverty? Are we all equal in this country? There are constituencies here, where each and every corner is tarmacked. There are hospitals and dispensaries everywhere. Every house or home has piped water. Also, in terms of poverty, maybe, everybody has enough to eat every day. Are we equal as a nation? We are not. That is why even in our Constitution, we have the Equalisation Fund. So that, the parts of the country without equal level of development or are not at par with the rest of the nation, are enabled within 20 years through affirmative action. This is resource allocation deliberately through the Constitution to enable them to be at par with the rest of the nation.

The fact that this is recognised in our Constitution, we know as a nation we are all not equal and equitable in terms of development. The NG-CDF Act has failed to honour and recognise this reality in our Constitution. Having said that, I want to appreciate that we have done so much good work with NG-CDF. As a ranking Member of this House, who has been blessed enough to serve the third term, we built schools and hospitals before health was devolved. We put water structures all over our constituencies. For most constituencies in the marginalised areas, they will never be the same because of NG-CDF.

The good work that NG-CDF has done in the entire country cannot be unnoticed by anybody. Having said that, I think it is very important that the issues we have raised especially in terms of the parameters we use to allocate NG-CDF resources are revisited. I still remember in the 11th Parliament when Hon. Lessonet, the then NG-CDF Committee Chair, passed a very unfavourable and biased amendment in this House. This was late in the evening at around 6.00 p.m. when very few Members were here. I was among the few around and I shouted the much I could, but not even Hon. Duale, Member Garissa Township, helped me. Yet, we are pastoralists coming from the same region. Maybe I had forgotten that it is because he is the MP of an urban constituency in northern Kenya.

As Members said earlier, I think it is very important to amend the NG-CDF Act so that other parameters are included if we are to appreciate that all constituencies are not at par in terms of development. With those few remarks, I strongly support this Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Odhiambo Akoth, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Report by the Committee and thank them for a very good job. I also want to add my voice to what other Members have said in relation to what Hon. Kabinga, Member for Mwea has said.

The NG-CDF has actually changed the lives of millions of Kenyans. Until the NG-CDF was introduced in the country, the issue of inequity in Kenya was very pronounced and glaring. Right now, because of NG-CDF, we can see the face of Kenya beginning to change. We are seeing the eradication of mud-walled classes and children studying under trees. Unfortunately, there is a challenge, if you actually look at the way NG-CDF is disbursed. It does not take into account the realities on the ground.

I know Hon. Chachu Ganya in terms of geography has half of Kenya at his disposal. I do not have half of Kenya, but in my own constituency, I represent seven habitable islands. So, whereas he has a challenge on land, I have a challenge in water. Not only do I have the islands, but also valleys like Lambwe. So, the topography in my constituency is very complex. I remember in the last Parliament, I invited the Budget and Appropriations Committee. I wanted them to go to the furthest island, Remba Island, which is very close to Uganda and Tanzania. They were in the boat for 20 minutes and they told me: “*Mheshimiwa*, we get the general idea. They could not reach and so they came back.

Unfortunately, for me, I cannot get the general idea because I represent. I have to be there at least once or twice a year. If you look at the way the NG-CDF is structured, the primary role of the MP is oversight. I want to thank Hon. Chris Wamalwa for emphasising the fact that many people think, that our role is management. There is a NG-CDF manager who is appointed from Nairobi by the Board; who we do not know, who is not related to us, who is not answerable to us as Members of Parliament and who, most times, we do not get along with. That is the reality.

Hon. Shakeel is saying he or she is not answerable to anybody. Our primary role then becomes oversight. If I want to oversee all those seven islands and there is no fund for me to oversee, what do I do? I have to go to my pocket and oversee. Every time I have to do oversight, I hire a boat. Normally, you cannot use one boat. You have to hire two. For every hire, it is Kshs30,000. So, it means every time I have to go to those islands, I use Kshs60,000. Sometimes, depending on how far it is, you use Kshs40,000. If I go around the entire Mfangano Island, it is Sh40,000. For two boats, it is Kshs80,000. Who gives me money for that? I get from my pocket.

I know the work that we do in this Parliament is in the public service, but there is a difference between working in the public service and being extremely mean even to yourself. One of the unspoken things that people do not say is that when Members of Parliament come out and they are so poor and miserable, the same public will look at you and say: "Look at them. They stayed in Parliament for five years and they are still miserable." Why are you miserable? It is because your money is not your own. You spend time with your money not only supporting the public, but doing things that other civil servants are facilitated to do. If you look at our oversight role, which is our primary role, look at the oversight committee. We have an oversight committee.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the levels of consultations are too high. I think the contributions Hon. Odhiambo is making are very important and you might want to listen to her.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I would want to say that if you actually look at the oversight committee that has been put in the Bill, that committee has the least amount of money. In fact, I do not even want to say it has money because there is no money allocated to it. How do you expect that Committee to move? Again, it is the Members of Parliament who pay the committees to do the oversight role. I know that the media love it when they bash Members of Parliament, but having bashed Members of Parliament, it is also important that we are facilitated to do our work. I think Members of Parliament should not be apologetic about doing the mandate for which they were hired by the public to do. So, sometimes, we actually sacrifice even the work that we have been employed by the public to do in order to look good. I have no time to look good to anyone if I want to do work for the people of Suba North. Because of that, if the Committee is not going to bring an appropriate amendment, I will bring an amendment that will enhance our oversight roles and put money into that oversight role. It is only in the National Assembly where you are expected to work miracles in doing your work.

When I worked for the Government of Kenya at the Attorney-General's Office, I remember one time when they were not able to get me a vehicle and I went and saw the Solicitor-General. He gave me a Volvo to go to Thika. What about my role as a Member of Parliament? Even when I was going to Thika, I was being given money for staying there overnight and lunch. When I am a Member of Parliament, I am told: "But you come from Suba North. Go and eat." It is as if those Suba North people wait for you as you arrive and they tell you: "Here is the food. Eat." Actually, you do the opposite. You feed people because of the levels of poverty that is there.

I will have no apology bringing an amendment to facilitate my work. It is very difficult especially when you are trying to do your work straight because then you are expected to find

innovative ways so that you do your work. I do not want to do innovative ways to do my work. I want the Government, in a very straight-forward manner, to facilitate me to do my work. We are not begging or requesting. Every civil servant is facilitated to do their work. So, why should Members of Parliament... We are used to being bashed, but I think Members of Parliament should not take on that attitude that we want to look good. Even at our own expense? Excuse me, Hon. Temporary Deputy Speaker. I have never seen a Parliament like this one where because we have such a need to look good to the public, we even starve ourselves of work that we should be doing for the public and not for ourselves. We must rethink.

I am in the Budget and Appropriations Committee and right now that Committee is sitting to look at the issues that have been presented to it. Last year, it came forth and this year it has come forth. The Senate is asking for the same. They want to do their oversight role and the Parliamentary Service Commission (PSC) is considering giving them funds. What about us? What are we? Are we monkeys or hyenas? How do we do our work? I do not think we need to be apologetic about doing our work.

I thank the Committee again. They have raised the challenges that we face in our oversight work, especially where you have fund account managers who go beyond the budget and use project money for administrative purposes. I have seen the Committee has suggested that punitive action be taken against those fund account managers. I do not care whether punitive action is taken against them or not. My business is to represent the people of Suba North. I was not sent to Parliament to punish people. If a fund Account manager has used more than is allocated for administrative work, the board must give back that money to my constituency. What they do with their manager is their business. I did not hire the manager. It is their problem. It is their business. If they want to pamper them, that is their problem. If they want to punish them, that is their problem. However, for me as Suba North, if you go beyond the money that is allocated for Suba North and use it for administration when it is for projects, you misuse or steal that money, the board must give it back to the Suba North people. We are a marginalised community. We have suffered years of marginalisation and what is due to us, if somebody misuses it, is up to the board. They must indemnify the people of Suba North.

I can see that I have been given a warning and I had a lot more to say. I will leave it at that. With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very good contributions, Hon. Odhiambo. We shall now have Hon. Sunkuyia, Member for Kajiado West.

Hon. George Sunkuyia (Kajiado West, JP): Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to support the work of the Committee. This is a job well done. We know the NG-CDF is doing a lot of good work to the people and it is reaching the poor *mwananchi* on the ground.

I start by congratulating the Chair. You need to continue visiting other regions. This is a special committee. This money is doing a good job but it is not enough. NG-CDF is involved in the construction of classrooms, giving out of bursaries, construction of police posts and many other things, including construction of the Deputy County Commissioners' offices. We actually used to do disbursement. We would allocate students, say, between Kshs5,000 and Kshs20,000, but still that is not enough. A number of students are crying. For example, in my constituency, I have around 126 public primary schools, 32 public secondary schools and a number of other demands that this NG-CDF money is required to be used for. So, it is prudent for this honourable House to revisit the issue of allocation of money to the NG-CDF so that it can in turn allocate more money to constituencies. It is because this is the only money that reaches the poor.

There are a number of students and villagers who do not feel that this money has reached them. If you go to other corners, you will find projects that the NG-CDF had initiated. Today, I witnessed the police demolishing a school that the Government built in a place called Dupoto Darfur in Nairobi. The police who are paid by the Government did so through a court order. I wondered why the Government would use its officers to demolish and destroy the property of its citizens - the people they represent. The same Government evicted its citizens and used live bullets. It is very sad. I am at a loss for words. The Government demolished the school that was built through the NG-CDF funds. It was very embarrassing.

We had to call a higher office because the Officer Commanding Police Division (OCPD) of Embakasi could not take our calls. If the Cabinet Secretary, Interior and Coordination of National Government or his regional boss called him, he would not listen because his pocket had spoken. They cannot listen. Our lazy officers can use such an opportunity to destroy property and evict Kenyans. Even if there is a court order, they can negotiate with those people on the ground. Small cartels are oppressing the poor.

It is important that we allocate more money to the NG-CDF kitty so that it can reach many other people. I support the Report of the Committee.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Let us have Hon. Wanyonyi Kevin, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I had to wait to contribute and support this Report by the Special Funds Accounts Committee.

First and foremost, I beg to request that from the outset, the Chairman of the NG-CDF Committee should have been in the House. I do not know where he is. He should have been here to listen to the comments being made by the Members. I am afraid that...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kevin Wanyonyi, I agree entirely with your sentiment on this. We needed the attendance and attention of the Chair of the NG-CDF Committee to listen to the comments and contributions of Members. Proceed.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I agree and I am happy that you concur with this. The NG-CDF Committee Chairman should have been here. The Mover has moved the Report. Looking around, I do not even see the Vice-Chairman of the Committee. Members' comments should not be in vain because they affect each one of us. I thought the guy had gone out. He should be asked to apologise to the House because Members are commenting in vain. The Mover is taking notes but those are for the Special Funds Accounts Committee and not the Chairman of the NG-CDF Committee.

The NG-CDF has changed lives out there in the rural areas. My concern is that it is now the second month of the year. We are almost getting to the end of the financial year and I am afraid that we have not received the money. I do not know about the rest of the Members, but I have only received Kshs10 million in my account. That amount came just the other day. There is no A-I-E holder yet the financial year is almost ending. The delay in remitting the NG-CDF funds is incredible. The Government should prioritise the disbursement of those funds. This is February. We are now dealing with the Budget proposals yet we have not received the money.

Secondly, in the last Parliament, some Members organised a coup. The previous allocation of funds was done according to the geographical size of a constituency. It was based on the poverty index and the population. Somehow, Members organised themselves and passed the Bill having changed that regulation. It is now on equal basis which is very unfair. My constituency is very big. It has eight wards. There are some constituencies with only two or three wards. Sharing the money equally is very unfair. My neighbouring constituency where

Mheshimiwa Wamunyinyi comes from is very big. You cannot compare it with another constituency which only has two or three wards. We should look at it. I ask Members to change that formula because it is not workable.

The issue of delays has caused a lot of uncertainty out there in the constituencies. Even members of the public do not understand why some of the projects that were started have not been completed. For example, the healthcare and water projects which are now housed in the county government are not complete. The oversight committees of the NG-CDF should have a list of all that is still outstanding to determine whether we can allocate additional funds to those incomplete projects.

The oversight committee is an issue that Members have talked about very passionately. It is true that you can disburse money but without an oversight committee out there to see how it is being used and how the projects are being implemented, it is an exercise in futility. Therefore, I ask the Committee to amend the NG-CDF Act to change the 2 per cent of the funds from the Budget which is disbursed in every constituency to 3 per cent as proposed by the Committee.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, you are asking the Committee to amend the Act, but this House does that.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): The Committee can bring an amendment.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You also have the power and authority to bring it.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I now take it upon myself to bring that amendment. I hope Members will assist me by approving a 3 per cent allocation of the national Budget to the constituencies, which will be good enough. We will then have an effective Committee to oversee the use of those funds.

I support the Committee's Report. It has unearthed quite a number of issues that we should look at and amend in the next proposal. With those few remarks, I support the Motion. I want to congratulate the Committee for coming up with a very nice Report, which is good for our country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kevin Wanyonyi, we shall be waiting anxiously for you to bring to the House those proposals to increase the share of the NG-CDF. That is good speed. We shall have contribution from Hon. Iringo Kubai, Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the Report of the Special Funds Accounts Committee. I support it.

First and foremost, let me thank the 12th Parliament for coming up with this committee because it was not there in the last Parliament. It double-checks what the Auditor-General does and the auditors from the NG-CDF Board who go round in our constituencies to check on what is being done. This is a very healthy practice for this Fund. There is a team from the NG-CDF Board which goes to the ground to check the facts and audit what is there and the Auditor-General also audits. We have a third arm here from this Parliament which looks at the audited reports from various auditors to pin together the findings and, more so, compare them to the other constituencies and come up with a report. For example, we are looking at the Report on the Audited Financial Statements for Constituencies in Kisumu County today. We looked at the Report on the Audited Financial Statements for Constituencies in Nairobi County last time. We

believe that other counties will follow. Therefore, I tell the Committee to keep up and keep on doing that because it is a good move.

The NG-CDF is the only fund which is felt in the grassroots in this country. It is known by every child in every school, every *makanga* in any stage and any church member in the community because there are so many activities which it runs on the ground. We cannot rule it out. It has eclipsed many other Funds which are run by Government. People do not do their other functions which can bring development to the people. That is why I support fully and strongly that we amend the law, so that we can increase this percentage of our NG-CDF to 3 per cent or 3.5 per cent of the Budget. This Fund was reduced when it was argued that it is based on the gross Budget figure before you deduct money for the devolved functions. If this Fund can be 2.5 per cent of the gross of the Budget, that will be in order. There was a challenge in court and we have already lost over Kshs10 billion from this kitty. We need to amend it to a higher percentage. This House is up to the task. My brother, Hon. Wanyonyi, has said that he will come up with amendments which I would support.

Like it has been echoed here, we, as overseers of this Fund and the committees which are in our constituencies, have challenges. If you have the fund account manager whom you cannot work with or move together, it becomes very difficult to know what is happening or where the projects are. As the NG-CDF Board puts the administrative figures in various constituencies, we request them to add a figure for the oversight committee which the Members of Parliament can use to visit those projects and oversee the same. More so, they should get some experts who can be paid to unearth what is hidden there, what can go the wrong way or what can cause audit queries. The Special Funds Accounts Committee has pointed that out. That is a good idea and observation.

This kitty is doing a lot of good to the community. We have so many projects which are going on. We need to change the Act so that it can be flexible. For example, there are those constituencies which have graders. Maybe, the Act will change and their graders will be sold. Let us not look at our constituencies like an egg because all eggs are oval. Our constituencies are very different. If a constituency has a grader which is helping in constructing roads in that constituency without waiting for the Kenya Rural Roads Authority (KeRRA) to do it, I do not see anything wrong with that. Every constituency should be looked at individually with its problems and needs. That is why I support the idea of the Fund being distributed using other parameters but not saying that there are 290 constituencies, divide by the figure and there we get the amount. It changed in the last Parliament. My colleague from North Horr, Hon. Chachu Ganya, complained. I was here with him. He almost cried. I also felt it because Igembe Central lost Kshs17million when the law was passed here. It was very unfortunate. We even challenged Hon. Lessonet and asked him whether he was coming up with that catastrophic change because he wanted to vie for gubernatorial position in 2017.

It is said that all porcupines have different legs, in Meru language. So, different constituencies have different needs. I had an experience with a colleague who had money and had nobody to give bursary because all his constituents are rich. The children go to very expensive schools and their parents can afford to pay the school fees. I will not tell you who that Member is.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kubai, is there such a constituency in this Republic of Kenya today?

Hon. Kubai Iringo (Igembe Central, JP): Hon. Temporary Deputy Speaker, there are some constituencies where some Members have difficulties in knowing who to give the money

because many people take their children to big schools. When you have Kshs20 million and you have 20,000 applicants, you end up giving Kshs2,000 per child. Hon. Temporary Deputy Speaker, this is a disparity we should not allow. There are constituencies where we have a school from Standard One to Standard Eight without a single permanent classroom and yet, they need them.

(Hon. John Mbadi spoke off record)

Do not ask me why. There has been a Government since 1963 while I came to Parliament in 2013. Therefore, there was mismanagement of funds. What has the Ministry of Education been doing?

The Leader of the Minority Party is asking me why. What is the Government doing now as we talk to put up classrooms when we have 100 per cent transition? It is not putting up even a single classroom. All the eyes of Government, the DCs and education officers are looking up to NG-CDF to do everything, even putting up a toilet and gates. All the money that is supposed to be given to schools is squandered as they hide under the guise of NG-CDF. We should defend this kitty seriously because everybody wants to use or misuse it or misappropriate what is supposed to be allocated to the other sectors. That is why I say here without fear of contradiction that there are schools in this country without a permanent class. We have seen pupils reading under trees. That is a fact that is everywhere. We need the kitty to be distributed as per population and poverty ratios of a particular area. The kitty should be increased because it does more than other funds.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kubai, your time has run out and there is a lot of interest in this Motion. I see on my screen about 18 Members who wish to contribute to it.

You have raised a valid and fundamental point. The Government is out there saying that it wishes to have 100 per cent transition from primary schools to secondary schools without factoring in even a single cent. Everybody out there in Government is looking at Members of Parliament to effect that without resources. It is my duty to say that you are miracle workers, truly by using the NG-CDF the way you do.

Hon. Leader of the Minority Party, you have priority. I do not know whether you are ready to contribute to the Motion.

Hon. John Mbadi (Suba South, ODM): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Report of the Committee.

As I made my contribution regarding the earlier reports by the Committee, it needs to be congratulated for the work they are doing in bringing reports on the audited accounts of NG-CDF utilisation in various constituencies.

There is something I told the Office of the Auditor-General and yesterday I told Edward Ouko, our Auditor-General that he cannot convince me that he lacks capacity to carry out effective audits in counties because I see how his office audits NG-CDF. It does so seriously and we need to praise them for that. When it comes to the NG-CDF, the Office of the Auditor-

General audits money, including imprests, and even Kshs600,000 that we give to a primary school to construct a classroom. To me, that is through effective audit of public funds. But when it comes to audit of county governments, they claim to lack capacity and do not do a good job. The answer to this is simple, they come and do their work when it comes to NG-CDF, but when it comes to county governments, they go for rent-seeking and once they are given money, that is all.

We need to borrow from the way the NG-CDF is spent. I saw reports about some constituencies and I could see the way the issue has been sensationalised. If there is any Government funding in this country that is properly utilised, it is the NG-CDF. I know there are a few cases where there is embezzlement here and there but it is not as rampant as other Government budgeted amounts. Kenya has reached a stage – when we were interrogating the Budget Policy Statement – where we do not question certain actions which border on corruption. But, instead, we praise them. Just the other day, a police officer went to pay a medical bill for that unfortunate gentleman who could not pay Kshs56,000. As much I sympathise and appreciate that that gentleman needed support, but, can we not ask, as a country before we praise the police officer, where he has got the capacity and ability to just flush out Kshs56,000 and run to settle a medical bill. Even after realising that it had been paid, he still hunts for the man to give him the money as if he had nothing to do with the Kshs56,000. I am saying that before someone shows or demonstrates his generosity, you need to explain where you are getting the money from, especially if you are a public officer. That should even apply to the NG-CDF Committee members. If one is in my NG-CDF Committee and all over a sudden you are able to drive a car or you are a manager of our funds and all over a sudden you have unexplained wealth, we should hold you to account.

Although my friend, Hon. Iringo, thought that I was complaining about what he said, I wanted to support his comments. There are two things I want to say. We need to interrogate the policy by the Ministry of Education of 100 per cent transition as a Parliament. We cannot play politics with the future of our children. We played politics with the tablets, but we are now back to constructing computer labs. We cannot afford to play politics with the future of our children; insisting that we are able to have 100 per cent transition when we do not even have classrooms and teachers. If we want 100 per cent transition - and it is a good thing and where we should go - let us plan for it properly. It requires planning in terms of resource allocation to schools to develop infrastructure and employ more teachers so that when we get our children to school, we have the infrastructure so that they can learn effectively.

A fundamental thing that this House must do and where I slightly disagree with Hon. Iringo - but understand him - is when he talks about some constituencies that are bigger than others in population and geographical areas and yet, they receive equal allocation of NG-CDF with other constituencies. But why did we go for equal allocation? We did that because discretion has failed in this country. Let us accept that. Let us go and get the distribution of the infrastructure fund we allocate to the Ministry of Education. It goes to some specific areas while others get nothing. The same applies to the money for the Kenya Roads Board. Yesterday, the

Chair appeared before the Budget and Appropriations Committee telling us to give them Kshs8 billion to return because they spent some money from the Kenya Roads Board after the rains fell to reconstruct roads. I asked where the roads were constructed. My constituency, apart from the normal Kshs21 million which goes to every constituency, has not received any extra coin yet I am told that money has been disbursed to constituencies. That is lack of equity and we cannot support it. This House must try as much as possible to distribute the budget lines in this House. If we allow technocrats and the Executive to use their discretion, a school in some place will get Kshs50 million from the infrastructure fund and for others to get Kshs1million, they will be lucky. These are things that this House must deal with especially now that we have started the Budget cycle. We must deal with these issues appropriately.

Finally, allow me also to condemn some of my colleagues without mentioning names. With allocation of Kshs109 million to NG-CDF, we should not be reading in newspapers that children are learning under trees. My concern is that the regions which have been crying of marginalisation over the years are again the victims. What is happening? Take the case of Samburu, a poor county, where county officials are given money to develop such a county, but they use that money to buy property. They stole Kshs2 billion. If it is a matter of theft, surely, can you not even steal reasonably? This idea of just stealing and denying your people basic services is bad.

Hon. Members, my plea is that let us use NG-CDF to improve learning facilities. If anything, we just have two sectors: education and security. However, you will still see children learning under trees. In my constituency, unless it is a new primary which was started at most three years ago, you cannot have a semi-permanent classroom. In this era of NG-CDF – and we have had it for some time – we need to organise ourselves so that we can demonstrate to the whole world that it is working. I can see Hon. Kioni is complaining. I do not know what he is protesting about, but that is the fact. The fact is that NG-CDF money is meant for education and security. I rarely use it for security because the priority of my people is education.

With those few remarks, I thank the Committee. I am not able to see the Chairman here, but I know there are Members like Hon. Shakeel Shabbir who have done a good job. Complete this work, please.

Thank you. I support the Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Leader of the Minority Party, one of these days, we shall invite you to give us a talk on “reasonable stealing”, so that we may know how one may steal reasonably.

We shall have contribution from Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report. The Committee did a thorough job and they have come up with a very nice Report. Even though as a nominated Member of this House I do not have NG-CDF kitty, I have witnessed areas in which NG-CDF has helped the citizens of this country. Allow me to mention Bahati Constituency where, recently, I witnessed that within the past five years, there have been six new secondary schools that have been constructed courtesy of NG-CDF. The purchase of the land and construction of the whole secondary school has assisted the people of

Bahati. I also witnessed 18 police posts and 5,600 youth who are trained in a single constituency in a duration of five years in carpentry, masonry, and electricals and so on. Those are the skills we lack, and that is why we are importing furniture from China.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, you seem to have done what is called in the African way of speaking “borrowed mouth” from honourable Member for Bahati, who is sitting right next to you.

Proceed. We are doing well.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I did not borrow from him; I was a guest when Bahati Constituency NG-CDF was launching its strategic plan. I was the chief guest and I witnessed what happened. I do not have NG-CDF as a nominated Member. I can only support if I give examples of where I have witnessed. In fact, in the same constituency of Bahati, OCPD offices were constructed – a two-storey building fully fledged with offices even for Directorate of Criminal Investigations (DCI) and a small cell. We need to enhance NG-CDF.

I join the Leader of the Minority Party by saying that we should condemn our fellow Members whose constituencies still have classrooms that are made of mud and even children study under trees and sit on stones. It is shameful in this era when NG-CDF is Kshs109 million.

The CS for National Treasury should also be aware of what is happening in this country. We know when schools are being opened and we know most students depend on NG-CDF bursaries for fees. Some of them are already candidates in Class Eight or Form Four and they need to prepare very well for their upcoming exams. When the National Treasury delays this money yet they know it is meant for school fees, it beats logic. I advise this House that we should have some punishment for National Treasury, that whenever they delay disbursement of NG-CDF for one month, we slash their budget by 5 per cent so that they become proactive rather than us reminding them and yet, it is this House that allocates the funds.

For the Government to work, we need to have a strong Opposition. I will request Hon. Mbadi, the Leader of the Minority Party, to cross over to this side because he is more of Government now than me so that I go to that side. For the Government to work and for us to keep the Government on toes, we have to have a very strong Opposition but, as it stands now, Hon. Mbadi is more in Government than me. Nowadays, I feel outside the Government.

Hon. John Mbadi (Suba South, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): What is out of order, Hon. Leader of the Minority Party?

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, you just heard the honourable Member who likes to call himself Nominee 001 make serious allegations and mislead this House that I am more of government. I do not know whether he has a “governmentometer” which he has used to measure how much government I am. This House has never had Opposition since 2013. What we have is minority and majority sides. I want to remind him that we are supposed to oversee this Executive as a House; not one side overseeing it. If you want to play the role of Executive and you have not been playing it, in fact, you should pay back to the people of Kenya the salary that you have earned until today, when you have realised that

you have not been overseeing the Executive because that is your work. If you listened to my contribution here, and you will listen to my contribution when we will be debating the Budget Policy Statement...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Leader of the Minority Party...

Hon. John Mbadi (Suba South, ODM): I wanted to lecture him a bit. He seems not to understand quite a lot. I just want to let him know that this House needs to oversee the Executive as a whole. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Leader of the Minority Party, you have made a good point. Sometimes when you make a good point, it is a good thing to leave it short. Hon. Sankok, I am sure you are educated that we do not have an Opposition or Government side; we only have majority and minority sides. All of us have a duty to oversee the Government together. Proceed.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, it is as if he was reading the riot act to me, but I take it positively. Let me withdraw the fact. It is the truth. I withdraw the truth.

The NG-CDF is working miracles. As you rightly put it, Hon. Temporary Deputy Speaker, Members of this House are performing miracles. Allow me to refer to Bahati Constituency where a classroom is being constructed by the NG-CDF at a cost of Kshs800,000. At the same school, the county government is constructing a classroom at a cost of Kshs1.5 million.

(Hon. (Ms.) Odhiambo-Mabona interjected off record)

Some Members, including Hon. Millie, who is excited, are talking of Kshs5 million. I am talking of a fact that I have witnessed and I can stand anywhere and give evidence on this. A classroom in Bahati is being constructed by the NG-CDF at a cost of Kshs800,000, but the county government, at the same school, using the same materials and the same size – in fact sometimes poor quality - a classroom is being constructed at a cost of Kshs1.5 million. I want to advise the Auditor-General to use the same seriousness that he is using in auditing the NG-CDF to audit county government finances. At times, I am at a loss. It is as if the Auditor-General goes by the wave of the Kenyan citizens who are always on the necks of the Members of Parliament, branding them *Mpigs* and as people who want a lot of money for themselves. They have never mentioned anything to do with Cabinet Secretaries and Principal Secretaries, who are facilitated with vehicles and *per diem* to perform their duties. They also do not concentrate on county governments. I want the Auditor-General to audit all of us with the same strength.

Hon. Temporary Deputy Speaker, I support this Report 100 per cent.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wamunyinyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the chance to contribute on this Report. I have looked at the Report and it captures the spirit. Such a Report is helpful if used to make improvement where necessary. If you look at the recommendations which have been put forward, they include disciplinary action against firms which are not doing their work as expected, strengthening

management particularly in relation to sports and other projects. I have also seen a recommendation on development of guidelines on compliance with international standards and the Public Audit Act. If these recommendations are followed and implemented, you obviously expect there will be improvement in terms of management of the NG-CDF affairs in our constituencies.

You will recall that the establishment of the NG-CDF was in response to the bias in development in our country, namely, the unequal distribution of resources by the Government. So, the NG-CDF was introduced by the Members of Parliament to ensure that every corner of the country, whether they are politically right or wrong, benefit from the national cake. There was resistance, but we managed to push through the Bill, which eventually became the NG-CDF Act. So, it was intended to address bias and inequity. That was actually the beginning of devolution because we got funds to constituencies. Then the money got to the wards through the construction of and development of projects from the different line ministries like water, agriculture and roads. This happened until devolution came about and took over most of the activities and development projects that were being undertaken by the NG-CDF.

The formula originally developed was serving us very well until the last Parliament when a coup was brought about by the then Chairman of the CDF Committee, Hon. Lessonet. Where he got the current formula from, nobody knows, because you cannot claim that all constituencies are equal.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wamunyinyi, you are an old hand at this. The House cannot execute a coup against itself.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): It is misunderstood, Hon. Temporary Deputy Speaker. He brought amendments which brought back the bias.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wamunyinyi, just hold on. Hon. Sankok has a point of order.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, the Member is out of order by insinuating that one Member of this House, who is not even here to defend himself, passed a Bill yet the Bill was passed by the whole House. Whether you were there or not, did not contribute or you opposed, it is not a single Member who passed that Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wamunyinyi, you know that the House cannot effect a coup against itself. The House resolves and that is the way we move. Proceed.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Speaker. The nominated Member is trying to claim that I am out of order. It is not for him to determine that I am out of order or not. It is only the Chair who can determine that. You will continue to learn and you will understand as we move on.

As I was saying, the changes that were made to the Act introduced bias. We no longer get equitable allocation and distribution of resources to the NG-CDF. You will appreciate a lot has been said about the good work, the gains, and the success stories that we have realised from the NG-CDF projects in our country. I can tell you we have done as much in the past, but when the amount of money given is reduced for areas that deserve more, it is unfortunate. We need to relook at the formula of distribution so that it is made equitable. Areas that require more should get more for reasons which will have been determined. I have been thinking, because for some of us we find it really stressful, if we cannot relook at the formula, if we cannot make these

changes, some constituencies are going to continuously experience difficulties in developing their areas, particularly schools.

In my constituency, I only do schools. I even stopped funding security projects. We are only funding education. With 80 secondary schools and 166 primary schools, it is very difficult. Some of them are new. They were started in the last five years. It is very difficult to support all these projects. My brother, Hon. John Waluke, will attest to it. He has had to visit my constituency and found it very difficult, but we have been trying.

So, we must relook at the formula. If it means bringing amendments, we should do so. If the Committee does not do so, individual Members can do it. One of us has already indicated that he will do it. My brother, Hon. Wanyonyi, also said he will bring amendments. I was also going to do it. If we cannot do that, we should start considering repealing the Act, so that someone else takes responsibility. That responsibility will either be taken up by the national Government, through the Ministry of Education, or the funds will go to county governments because they are devolved funds. The NG-CDF is part of devolution. If we cannot correct the NG-CDF sharing formula and make it equitable so that all the areas can benefit equitably, we should consider the measure of repealing the NG-CDF Act. I am saying this with a heavy heart. I have had a lot of difficulties in my constituency. It seems like the Committee enjoys frustrating Members because even the Chair and the Vice-Chair do not sit in the House to follow the proceedings on their own Report on matters related to development in the constituencies. Therefore, I appeal to my colleagues that we look at it with sober minds. It is something that affects many of us. I am not the only one who is affected. Many constituencies are affected by this inequitable distribution of funds.

Hon. Temporary Deputy Speaker, you come from my neighbourhood and you have seen the challenges that you face and the ones that I face. They are more or less the same, but mine are of a bigger magnitude because of the size of my constituency. Now that I do not have much time, I support the Report and trust that the recommendations will be implemented and we will take time to review the Act and change the sharing formula so that we can solve the issues that have been raised.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very good contribution. We shall have Hon. Chepkoech Joyce, Member for Bomet.

Hon. (Ms.) Joyce Korir (Bomet CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Report that has been laid before the House, which touch more on constituencies in Kisumu County. Being a County Member, I am a witness of a number of functions that the NG-CDF has had in the grassroots. I congratulate the Members for the way they have handled the NG-CDF all the way from the grassroots. Despite the many challenges they are facing, be it the issue of committees being underfunded, having to go into their pockets to enable committees to move around, the Members are doing a commendable job. On behalf of the Members of this House, I support the Report and congratulate the Members of the Committee. I stand by them on the issue of the amendments that need to be done on the Bill so that they can get sufficient resources that can assist them in terms of oversight.

I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Obara, Member for Kabondo Kasipul.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to speak. I rise to support the Report. I also appreciate the Committee for a job-well-done.

As my colleagues have said this afternoon, the impact of this Fund is one of the most visible in almost all the constituencies in Kenya. The development that you see when you walk around has been funded by the NG-CDF. You keep on wondering what the other funds are doing. When it comes to education, I look at all primary schools in my constituency and regrettably, I see nothing in terms of Early Childhood Development and Education (ECDE), which has since been devolved. No classrooms have been funded by county governments. In the long run, we may have to reconsider our position and revert the entire education function to the national Government.

On the challenges that have been raised in the Report on the Kisumu County constituencies, I believe they are similar across the board, including my constituency. The issue of oversight, as has been mentioned, is critical. We need to look at it. The funds that have been put aside for the Committee are not enough for the Committee to carry out its oversight activities with a view to establishing whether the NG-CDF is being used properly. When you put money in anything, there is need to monitor its utilisation to ensure that you get value for money. In addition to what my colleagues have said, Members of Parliament need to be facilitated. We should oversee these projects. We spend a lot of money to ensure that we are not embarrassed with incomplete projects. I believe I am speaking for many of our Members. When the results come out and they talk about your constituency, it is never about the fund manager, but you as the Member for Parliament. Many of us would not want to see our names associated with mismanaged funds. I wonder why this is not happening with our county governments. Why is there no monitoring and proper audit? Again, speaking for ourselves, we need to be facilitated to ensure that the funds that are disbursed for the good of the people are put into proper use.

Another area that touches the lives of many people across our communities is that of bursary funds. I believe that the 35 per cent allocation of the national budget should be increased to 40 per cent because the number of needy students has been increasingly going up, particularly now that there is fairness in the sharing of these funds. Everybody wants to get a share of the money. The money goes directly to schools in the form of cheques that are accompanied by lists of the beneficiaries. Can you even tell who is given the money from the other funds? You will never be able to tell, and nobody asks. Where the Government is putting money, there must be a process to evaluate and monitor the same to ensure that the money is used for the intended purpose for the good of the constituents.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): We may now hear from the Member for Bahati himself. Hon. Ngunjiri Kimani, confirm what Hon. Sankok saw.

Hon. Onesmas Ngunjiri (Bahati, JP): Asante sana, Mheshimiwa Naibu Spika wa Muda. Ninamuunga mkono Mbunge ambaye alikuwa mgeni wangu wa heshima. Si mara ya kwanza Mhe. Sankok amekwenda kwenye eneo Bunge langu na kufanya kazi nzuri. Alikuwa mgeni wangu wa heshima nilipokuwa nikizindua kitabu kuhusu muhula wangu wa pili. Kama alivyosema, ni kweli kwamba hazina ya NG-CDF inaweza kufanya kazi vizuri sana iwapo itakua na mikakati ambayo inatakiwa. Ninamshukuru kwa kuitikia mwito wa kuwa mgeni wangu wa heshima. Alikuwa wakati mlemavu mmoja ambaye alikuwa mwalimu alikuwa amekatazwa kushikilia kuwa mkubwa wa shule kwa sababu yeye ni kiwete na akamtetea. Kwa hivyo, namshukuru. Yeye ni rafiki yangu wa karibu katika kazi ambayo ninafanya.

Kuna mambo nyeti yanapaswa kuangaliwa tukizungumzia mambo ya NG-CDF. Tunapaswa kuangalia shinda nyingi zinatoka wapi. Serikali kuu lazima ielewe kitu kimoja: Waziri anasema ni lazima kila mtoto aende shule. Ni kweli na ni haki kwa kila mtoto kuenda

shule, lakini wakisema hivyo wajiulize huyu mtoto ataenda darasa gani, ataketi kwa kiti gani na ni walimu wagani watamsomesha. Haya ndiyo mambo nyeti wanahitaji kuangalia. Lakini sikusema tu ni lazima watoto wote wawe darasani.

Kazi ya Wabunge ni mambo mawili: Kuangalia usalama na elimu. Mambo haya yasiwe yakusukumia Wabunge ili waonekane hawafanyi kazi. Kwanza, tukirudi kwa hospitali, ni lazima tuchunge mambo ya Serikali kuu. Serikali kuu imesema kuwa *maternity*, *nursery*, *primary* na elimu ya *secondary* itakuwa ya bure na ukiingia *university* unapewa pesa. Sasa kazi ya mzazi itakuwa ni nini? *Board* ya shule haiwezi kusema kuwa hata choo ikianguka na NG-CDF haina pesa, haiwezi kuwaambia wazazi wachange pesa kwa sababu wameambiwa elimu ni ya bure. Kwani mtoto ni wa Serikali? Mzazi pia ana jukumu la kuangalia mambo nyeti katika shule ili asaidie. Lakini tumeweka ugonjwa wa kusema kila kitu ni bure. Kwa kweli, hakuna kitu cha bure. Wanasema *maternity* ni bure lakini juzi tumeona mtu akimtoa mtoto wake kwa Hospitali ya Kenyatta kwa siri kwa kukosa kulipa ada ya hospitali. Kama *maternity* ni ya bure, kwa nini huyo mtu alienda kumtoa mtoto wake kwa hospitali kama amejificha? Si ukweli eti kila kitu ni cha bure. Mtoto hawezi kuwa darasani bila kuchanga pesa yoyote.

Kwa hivyo, ningetaka kuomba Serikali yetu ichunguze na Waziri akisema jambo fulani litakuwa la bure, inatupasa kuangalia jambo hilo ili wasije wakawawekelea Wabunge mzigo ambao hawawezi. Katika maeneo mengine, watoto wanasimama darasani kwa sababu hawana viti. Hawana mahali pa kuketi na hata mawe hayapatikani bure. Yananunuliwa na hiyo pesa ya kununua hakuna. Haya ni mambo nyeti ambayo yanapaswa kuangaliwa.

Kuma mambo ambayo tunahitaji kuangalia na kuiambia Serikali kuu ili wakisema kitu, wawahusishe Wabunge. Wabunge wako na mzigo mkubwa sana. Ni muhimu kwa kila mtoto kuenda shule lakini ukiangalia mikakati ambayo imewekwa, hairuhusu kila mtoto kuwa shuleni. Hakuna madarasa, mijengo na barabara za kuingia shuleni. Kwa hivyo, kuna mambo nyeti mengi.

Pia, naunga mkono mazungumzo haya ya NG-CDF kwa sababu inasaidia sana. Nakubaliana na ndugu yangu, Mhe. Sankok. Katika eneo Bunge langu, ninajenga madarasa kama vile alivyosema, nikitumia Kshs800,000. Haya madarasa yako na *tiles*, *key*, *ceiling* na kila kitu. Nitaongeza iwe Kshs1 milioni ili nikipatiana darasa liwe na kila kitu. Hii ni kwa sababu unapata hakuna viti na wazazi hawawezi kuitishwa pesa za viti. Kwa hivyo, inabidi tuongeze pesa kutoka kwa NG-CDF.

Wakati huu, tunazungumzia Bajeti ambayo inakuja. Bajeti tuliyopitisha tumebakisha miezi minne ili tupitisha nyingine na hizo pesa mpaka sasa hazijatoka. Unapata watoto wanasukumwa huko kwa sababu pesa hazijatoka. Tukipitisha Bajeti inayokuja, itakuwa ya mwaka mwingine na itapitana na ya mwaka jana kama pesa hazitatoka. Hili ni jambo nyeti. Serikali inapaswa kuangalia mambo gani yanapaswa kupewa kipao mbele ili Mbunge aweze kusaidia.

Kwa mfano, ukiangalia katika maeneo bunge, Wabunge wamefanya kila kitu. Wamejenga madarasa, *laboratories* na kila kitu kinaendelea. Ukienda kwa magavana, wanatumia Kshs1.5 milion kujenga darasa moja na hata hilo darasa likitingizwa na upepo, litaanguka. Sitaki kuwatetea MCAs, lakini nataka kusema kuwa wangepewa pesa kama Wabunge kwa sababu sisi tuko hapo kwa sababu ya *public participation*, lakini pesa iko na *fund manager* na *accountant*. Hata kama tunataka kuwasaidia MCAs, kuna *constituency na ward administrators* ambao hatujui wanafanya nini. Wanapaswa kupatiwa hizo pesa ili MCAs wawe *patron* kama Wabunge ili tuone kazi ambayo hizo pesa zinafanya.

Lakini pesa inatumiwa huko juu, inakuliwa na kuibiwa na MCAs wanabebeshwa mzigo kwa sababu hawana kitu cha kuonyesha kazi ambayo wamefanya. Nimesikia kutoka kwa Wabunge wengi kuwa mwelekeo na maoni yao ni kurekebisha mambo yanayosumbua. Wabunge wanafaa kuongea ukweli. Unajua hii mambo ya *handshake* tulifikiria watawatetea wananchi kwa sababu wako *minority*. *I am happy, I can see what the party and the Opposition are doing. They are still playing their role* kusaidia kupigania haki.

Ningetaka kusema kuwa nchi hii kama haina *minority* ni *majority* pekee, pesa za umma zitaibiwa na kila kitu kitakwisha. Ninafurahi kwa kazi ambayo wanafanya kutetea mambo mabaya ambayo Serikali inaweza kufanya. Nimeona ndani ya Bunge hili tuko pamoja. Wakati mwingine, tulikuwa tunapigana kisiasi lakini jukumu letu sisi wote ni kutetea mwananchi na kusikizana kwa mambo yaliyo mbele yetu. Hakuna Mbunge wa *minority* au *majority*. Kazi yetu na shida zetu zote ni sawa.

Nashukuru wale Wabunge ambao wameunga mkono jambo hili ili turekebisha mambo ambayo tunaona yatatusumbua ili tufikishe maendeleo mashinani. Lakini Serikali kuu haipaswi kusema kila kitu ni cha bure kwa sababu italeti shida. Hata mama akijaribu kusema jambo fulani, mzee anasema kila kitu ni cha bure na kwa hivyo, waendeleo. Tukiendelea hivyo bila mpango, tutakuwa na shida ya kuzaliwa kwa watoto wengi.

Kwa hayo machache, nashukuru.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mhe. Wa Bahati, kila jambo ni bure. Tutapata mchango kutoka kwa Mhe. Ahmed Shabbir, wa Kisumu East.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. Firstly, I want to recognise that this is history. Since the 10th Parliament, this is the first report which the Special Funds Accounts Committee has brought and presented to this House. Previously, the reports were taken to the Public Accounts Committee (PAC) and they were never seen and sometimes they were seen quickly and the full effect was not felt.

I want to recognise this Committee, which I am part of. However, I know my colleagues and I sat for long hours preparing this Report. Never, in the history of this Parliament, has such a Report been brought to the House. At this moment in time in Kisumu County, the results of the financial years 2013/2014, 2014/2015 and 2015/2016 have been laid on the Table and looked at in great detail. It is the same thing with Nairobi and other counties. I am sure with the encouragement that the House has given to this Committee, we are going to make sure that this goes further and we work with extra zeal to make sure that the NG-CDF reports for the various constituencies are given the attention that is required.

Previously, the Auditor-General would come up and make some statements. Some of those statements were very vague and suddenly the Press would come up with huge headlines. Now we are looking at those things. We have gone to the extent of having a look at the actual facts. We have been able to see if the Auditor-General's remarks are fair and are based on facts.

One of the things that I can say to you quite frankly, like anywhere else, even the auditors who came were looking for rent seeking. It is very clear that rent-seeking was even taking place when they were coming to constituencies. At one time, we were looking at one constituency and we were told that the fund manager did not bother even turning up because he was told by the Auditor-General's officers not to worry about the...

(Loud consultations)

Hon. Temporary Deputy Speaker, could you help me?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the consultations are quite high. Hon. Shabbir can hardly hear his own contribution. Please, let us allow him to contribute.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. At one time, we were being frustrated by the Auditor-General's officers who would tell the fund managers: "Do not worry about it. As long as you deal with us, you will be okay." That is a fact. I can put it on record. Some of my colleagues were there and we put this thing to order. I hope the Auditor-General's staff are now able to deal with this thing.

The other thing which is very important is the fact that the NG-CDF is probably one of the major things of development in this country that has been valued worldwide. I have been to very many countries and people tell me that the NG-CDF and the M-Pesa are wonders. People ask: "How does the NG-CDF and M-Pesa work? We are way up there with M-Pesa and the NG-CDF and I think the NG-CDF is a programme that we have developed and we will continue to develop to make it much better.

However, there are issues of impartiality and equalisation. I think in the 11th Parliament, we made a few mistakes and one of the mistakes was to allow a very difficult decision where everybody got the same allocation of the NG-CDF irrespective of whether you are 10,000 people in the constituency or you are 200,000. I think that mistake was not what the NG-CDF designed to do. The NG-CDF was meant to equalise and help the constituencies that had been marginalised over time to bring them up to the same level. There are constituencies which get the same funding as mine. There is a constituency which is the size of one of my wards, whose schools are made of concrete. They do not know what to do with the funds. So, they allocate bursaries adequately. I have 55 primary schools and 14 secondary schools and we have to give bursaries from the same amount. That is one of the things that we may need the NG-CDF Committee to look at and see how we can put it back on track.

Even the Ministry of Education and the Office of the President are now requesting us to build classrooms yet the Ministry of Education may be having 100 times more funds than we have. We are indebted by requests and also what is happening. We were all elected on the same thing. We have MCAs and Members of Parliament, but it appears that county governments do not even carry out the little that they have been asked to do like the construction of ECD centres and we are carrying the burden for others. I think the amount of money that has been spent on the laptops programme... One of my colleagues has just told me now: "Do not worry. We are going to put that money into computer labs." It is not what we needed. We needed this programme to be put under the NG-CDF. Right now, the NG-CDF is owed Kshs4.6 billion in arrears. If you divide it by 290 constituencies, it is something in the region of Kshs60 million to Kshs80 million per constituency. We are wondering why the National Treasury is not able to give us this money. It is what we call teaming and leading. So, we are using money for the 2016/2017 Financial Year for 2014 projects.

We demand the money and we have been asking the NG-CDF Committee and the Departmental Committee on Finance and National Planning to do something. We have also taken it to different committees like the Budget and Appropriations Committee, but I do not understand why the National Treasury will not give us that money, which is due. It is part of the constitutional requirement that they must give us the funds. When we talk about it, we are harassed. When we talk to the Budget and Appropriations Committee about it, they are also concerned, but when it comes to this issue, we are then hounded together and given warnings from wherever, that we are not going to give you this. Remember we were cheated. I use that

word very carefully. We were cheated in this House that we would receive Kshs20 million for each constituency. We were told to give the names of the schools and they would go to education and roads in the constituencies, but we were misled by the NG-CDF Chair at that time. I am sorry about it, but we were frankly misled.

Thank you very much for the time, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Next is Hon. Mwirigi Paul, Member for Igembe South.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. First and foremost, I would like to congratulate the Committee for the work well done. This is bringing the future of what we are doing and what ought to be done with the NG-CDF. For many years, even when I was a Member of Parliament, I observed a lot of development projects, which were being done by the NG-CDF particularly in the education sector. I understand that through the NG-CDF, we are supposed to do projects in the education and security sectors. At the same time, the funds are not enough.

In our constituencies, there are many secondary schools which lack laboratories for the students to do their practicals. They lack administration blocks. Primary schools lack facilities which are essential for pupils. I concur with the other Members who said that they will propose some amendments so that we can allocate more funds for development in our constituencies.

I am concerned about the bursary funds. The National Treasury knows that students normally report back to school every January. Those students depend on the NG-CDF since most of them come from poor backgrounds. At the same time, we expect the disbursement of funds at the beginning of the year, something which is not adhered to by the Ministry. We experience a lot of problems when promising students that we are waiting for funds to be disbursed. We ought to do something so that funds are released in good time.

Many of the development projects which we observe in our constituencies are by the NG-CDF. The funds should be facilitated early enough so that our students and constituents can benefit. The NG-CDF initiative was a good one. The Government enhanced it. To better that initiative, we have to sacrifice so that funds can be increased for greater development.

Lastly, I urge the Special Funds Accounts Committee to continue with this great job so that we can exhaust what was not done in the last Parliament.

With that, I support the Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Let us have Hon. Okuome Adipo, Member for Karachuonyo.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this Report, which I support.

When talking about the NG-CDF, we are practically talking of everything in our rural constituencies. In fact, almost everybody talks of the NG-CDF. When asking your constituents to vote for you to *Bunge*, they would want to know how you will deal with the NG-CDF money. This is the money that we are talking about. Although they are large in terms of amount, in terms of impact on the ground, people tend to look at the NG-CDF as the beginning and the end. Sometimes you wonder when somebody tells you that he wants employment and asks you to employ him in the NG-CDF. The truth is that the NG-CDF can only absorb one to three people.

The projects they talk about include almost anything. If an old lady or a widow has no house, they ask you to get something from the NG-CDF to help them. The education of this country is very dependent on the NG-CDF in terms of fees. The amount we get is extremely

small compared to the demand, which is very high. I support what my colleagues said earlier that the 2.5 per cent NG-CDF ceiling should be increased to 3 per cent. If it were possible, the percentage should be higher than that 3 per cent.

This year, the Government decided that all the pupils who did their Class Eight exams should proceed with their education to Form One yet there were no preparations to provide for the extra classrooms that would be required. Last December, I happened to be in a secondary school for a different function and the principal of the school plus the chairman of the board of management asked me to accompany them to a classroom so that I could greet the Form One students. We could not get inside the classroom. The desks filled the whole room including the space you would think the teacher would stand when giving lessons. There was nowhere anybody could stand in that room because it was packed.

I expect the process of absorbing Class Eight students to Form One to be continuous such that the current Form Ones will be in Form Two in their large numbers, followed up by those coming behind them and filling all the classes. The import of this is that we require additional classrooms all over to absorb this extra load. If the provision of 2.5 per cent of the national revenue remains, which means that we are currently supposed to get Kshs109 million annually, I do not see how the students will sit in those classrooms from Form One to Form Four. I am sounding a warning in good time. We will get the additional funds by increasing the percentage to 3. It must be done immediately. If we do not do so, we will suffer.

I heard what my colleagues said. I support the idea of pegging a larger portion of the Fund to the poverty index as well as population. There could be a problem with population. There is the example of the 2009 Census where the population in some areas was artificially inflated. I assume that such tragedies will not occur again. If they do not occur, such that this year's population census correctly reflects the true position of the Kenyan population, we cannot run away from the consideration of population because ideally, we serve the population. Population plus the poverty index will give the equity that we need.

There was also a complaint that some areas are much richer than others. Some areas are poorer. I grade my constituency in the category of poverty. If a constituency is poor, it means that you need to provide a good amount of bursary to the students who would otherwise stop going to school. Being a Member of Parliament in Nairobi County is a good opportunity because it has the richest people in the country. Even if you do not give bursary to children in most areas in Nairobi County, they will still go to school. Therefore, I feel that comparing Nairobi County with a place like Karachuonyo Constituency, where it is very hard to get somebody who gets Kshs10,000 a month, is unfair.

Hon. Temporary Deputy Speaker, let me say something about the oversight committee. It needs to be funded and empowered because it can put sense into people, so that they can use the money fairly. I am aware that the NG-CDF is the only Fund that has stages of auditing. The normal one is the Government audit. The other auditing, which happens in the NG-CDF that people do not talk about, but it is true, is the public opinion auditing which is the worst for a Member of Parliament or any politician. If you are not using the NG-CDF well, you do not need to wait for Mr. Ouko to tell you something is wrong in your constituency. Your constituents will bombard you with a lot of issues and questions. If you are sensitive to people's utterances, that will be the beginning of your action to correct the issues. Public opinion is very damaging to a politician. We need to be empowered in the oversight work, so that we do not subject ourselves to be corrected through public opinion because that is very dangerous for our political future.

I would have liked to say more, but I can see that the warning light is there for me. I support the Report. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I will give this opportunity to Hon. Koyi Waluke, who has been here from the time we started but his card was not reflecting in the system.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): How do you know he was here?

The Temporary Deputy Speaker (Hon. Christopher Omulele): I have been here with him. You have just come in, Hon. Angwenyi.

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker, for considering me. I want to support this Report. Many of my colleagues have talked about it. They have discussed it and I also want to discuss it.

The NG-CDF has changed this country. When you pass through every constituency, you will see a building, for example, a school or a police post that has been put up by the NG-CDF. We, as law makers, need to change the Act and the laws, so that we can have more money to go to the NG-CDF. If we want this country to move forward rapidly in development, we need to consider that. We use the little money that we get to the last penny to make sure that our schools are developed. A lot of money goes to the counties, but sometimes you cannot point out what it has done. We have witnessed this in our counties. I am shocked because the Ethics and Anti-Corruption Commission (EACC) officers go to the counties and sit there for months, but they come back without any report. It is only the other day when they arrested the Governor for Samburu. All the money is wasted in counties. Governors make themselves rich and bank money outside the country. I am sure the NG-CDF can control the money and develop this country.

If the Office of the Auditor-General can manage to audit 290 constituencies and fail to audit 47 counties, it is wanting. It seems like 290 constituencies are fewer than 47 counties. There is something wrong with the Office of the Auditor-General. The National Treasury should release the money on time to make sure that the money reaches the constituencies. Students fail to go to school sometimes because of lack of fees. The National Treasury fails to give out the money to the NG-CDF. This is a very big failure because the National Treasury has a way of either misusing or stealing the money. We do not know. If we go to the details, we are missing almost Ksh100 millions in each constituency that the National Treasury is sitting on and yet we passed the Budget. They are asking for the Supplementary Budget now and the money was not disbursed to the NG-CDF Board.

There are other Members who want to contribute to this Motion. As I said before, we should change the law to give more money to the NG-CDF. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Good contribution, Hon. Waluke. Hon. Members, you will recall the direction of the Hon. Speaker earlier in the day that we shall have what is popularly known as the Happy Hour at 6.30 p.m. I am sure that is the hour Hon. Angwenyi has come to enjoy in the House. The happy hour is here upon us. We shall be moving to the Zero Hour according to our Standing Orders. We shall be considering business by Hon. Dennitah Ghati in regard to people with disabilities access to public transport and the challenges they face.

We shall proceed in this manner. Hon. Dennitah Ghati will have five minutes and every other Member contributing will have three minutes. There will be no priority in the order of speaking. So, we shall follow the list strictly, starting with whoever is on top of the list until we finish the 30 minutes that are allocated.

Hon. Denittah Ghati.

STATEMENT

EASE OF ACCESS TO BUS RAPID TRANSPORT SYSTEM FOR PERSONS WITH DISABILITIES

Hon. (Ms.) Denittah Ghati (Nominated, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this great opportunity to present this Statement on behalf of persons with disabilities that I represent in this country.

Hon. Temporary Deputy Speaker, pursuant to Standing Order No.43, I wish to make a Statement regarding ease of access to the upcoming Rapid Bus Transport (RBT) system for persons with disabilities.

For many years, persons with disabilities have been marginalised in the provision of necessary facilities to enable them to access various services. The transport sector, for instance, has not provided access to user friendly modes of transport. There are no pavements, no bus stops, no ramps, no hydraulic systems and signals for the blind to ensure that persons with disabilities can use various transport options. This has affected the ability of persons with disabilities in this country to conduct businesses and engage in their work.

I, therefore, urge Government officials to ensure that the incoming BRT system caters for the unique requirements of persons with disabilities in terms of spacious pavements, signals for the blind, hydraulic systems and ramps among other features in order to ensure ease of accessibility by the physically challenged.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): We shall have Hon. Tong'i Nyagaka, to start us off on this one.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to the Statement. I first want to support the position of the Member that we need to be more considerate, as a country and as a society, towards our people with disabilities. We appreciate the challenges family members go through when they have a person with disability. It is very difficult to take care of such children. They are very expensive. It is only fair that the Government steps and helps such families to mitigate some of the challenges they face. I have seen some cases where children are supposed to go to school, but the schools are a lot more expensive than ordinary ones considering the kind of gears you need to buy for such children when they join these schools. We have a duty as a Government and as a society to ensure that children are given an advantage just to catch up with the children that we have in our society.

I agree with Hon. Dennitah Ghati and we are lucky that she has had opportunity of living in both worlds. She was like all of us, but by bad luck, she is where she is now. She is able to appreciate both realities and knows the challenges. I am glad she has not forgotten the people going through that kind of experience. When she brings this kind of a Statement, it is a testament that she means well and knows how difficult it is. We want to take advantage of what is going in the country because the Government is in the process of procuring some buses. Where the buses are coming from, they are way ahead of us in terms of providing for people with disabilities. We need the buses not to be just like the normal *matatus* in Nairobi. We want them to be fitted with special features which will enable people living with disabilities to get on board and alight from them comfortably without having to be inconvenienced. Being disabled alone is an

inconvenience enough and we do not want to load a lot more to families or individuals who already are discriminated by the society and families they come from.

Sometimes when we do not have well informed parents, children with disabilities go through hell. Some of them have proven their case and done extremely well to make contribution to the society and some of them serve at a very high level. If we appreciate where they are coming from, then we need to support many of them because that means that more will have a chance to excel if we create an enabling environment and infrastructure to enable them to achieve their full potential.

The Salvation Army, one of the religious communities in Kenya, has done extremely well. I have a case in mind where they have started an institution in Kisumu called Joyland, which takes care of very many needy cases. I have had opportunity to go to that school. If the Government went out of its way and supported that school to expand and even create an enabling environment where children will freely move, get a special diet and scrap school fees - because they are required to pay some school fees even when the Government is paying a bit of it - it will make a difference. I know it will encourage many parents.

Again, when that happens, as a country, we need to create special jobs for such people to do when they graduate from such institutions so that we give them priority in employment. For lack of a better word, in terms of affirmative action, they need to be given a chance in that sense, so that it encourages other parents who have such kind of children to take them to school.

I support the Statement.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Rindikiri Murwithania, Member for Buuri.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Statement. One of the items I wanted to contribute to on the NG-CDF was on disability. In our schools, in terms of infrastructure, we have no provision specifically set aside for PWDs. The learning atmosphere in schools is not very conducive to the majority of the PWDs.

In the transport sector, it is true that we need to look at persons living with disabilities, who are disadvantaged. I agree that there has been a lot of failure in planning when it comes to transport infrastructure. The challenge is for the ministry concerned that one of the things they need to put a lot of emphasis on in road designs are facilities that are going to be used by PWDs. It needs to be made compulsory at the design stage. Persons with disabilities have brought it up during public participation, but for some reason, the people in charge of designs in the transport sector have ignored it or have not found value for it. That is the most unfortunate thing.

I support this. As we go forward, we need to have need-based allocation of the NG-CDF funds, so that we can have special allocation to develop infrastructure for the PWDs generally in the education sector.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oduol Odhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to speak on this important Motion. I congratulate Hon. Dennitah Ghati. I have just returned from a conference in Dubai in the United Arab Emirates on behalf of my Committee on National Cohesion and Equal Opportunity. As I listened to Hon. Dennitah Ghati particularly on what she has laid on the Table today, I would want to congratulate her because in the UAE, the policy was forced in terms of guidance to awaken, not only lead policy makers, but everybody on the need to ensure that there is cohesion, facilitation

and seriousness. There was language shift. They told us they refer to PWDs as people of determination. They said “people of determination” is a new term because the challenge is in the mind-set. There is a way in which as you think of the different levels, you need to be thinking of environmental inclusion. I believe that is what we are going to be talking about, for example, ramps in buildings. They indicated that we need to go to the next level of assisted inclusion where as a matter of fact, they have a card. Any person with disability can access any facility. As a matter of fact, we had a lot of benefits because we were with Hon. Rose Museo and we were able to access quite a number of places.

I congratulate Hon. Dennitah Ghati. I suggest that we demonstrate determination in the manner in which we follow this and we know that there are three levels. The three levels would be environmental inclusion, which is where we are at the bottom. The second level, assisted inclusion, and the third level is full inclusion.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I wanted to speak on the NG-CDF, but I am sure I will have an opportunity. I wish to congratulate Hon. Dennitah Ghati for bringing this to our attention especially as we start moving towards the BRT transport system, commuter trains in Nairobi and basically fast-tracking our infrastructural and transport system needs that perhaps we might be overexcited by the new system and forget some of the communities that we live with. This has come timely. I cannot over-emphasise that.

The issue is not just because we are having BRT or new trains coming in, but mainstreaming the integration of PWD issues within everything - within our planning, our development, new buildings and new systems coming up. I believe, as a country, we have done well so far on this. When you walk around all the buildings that are coming up, since we came up with that law on issues to do with PWDs, everyone has a ramp. Those who do not, at least, have a mechanism included in them. We did not have these things before even by the time we were in the 9th and 10th Parliaments, but they have now been incorporated hence perhaps it is not more of that we have not taken action, it is probably a reminder that for every new move, we need to constantly remind ourselves that what we thought was necessary then is still necessary until at every stage, the issues of people with special needs are taken care of.

Even within this Parliament, I remember when Hon. Gichuki Mugambi came after an accident walking down this ramp was a challenge because you cannot quite do it. So, perhaps, it is just a reminder that a lot more needs to be done within here. Many thanks to Hon. Dennitah for highlighting that to us. I just wanted to add my voice to this and I hope that many more will do it and that the CS and those who are in charge within the counties will take this because if you look at a typical *matatu*, obviously, there is no provision for incorporating people with special needs.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kimunya, three minutes is a short time, but those are our rules. Hon. Tum, Member for Nandi.

Hon. (Dr.) Tecla Tum (Nandi CWR, JP): Hon. Temporary Deputy Speaker, I want to add my voice on ease of transport for PWDs. We want to improve access to transport. We know very well there are new buses which are coming in, but the issue of PWDs was not considered. There is need to have wheelchairs, friendly buses and personal navigation aids for visually impaired, so that they can have easy access. There is also need for parking areas for PWDs who have their own personal vehicles. Notice boards should also be placed so that buses come at the right time, so that they do not waste their time. We need to follow what is happening in developed countries. We need to remove all the mobility constraints. The PWDs in Kenya have

been excluded in schools. They have been socially excluded even in the transport system. They need to be included even in the planning so that they can air their needs. We need to consider their needs very well. They have children like any other person. They have to go to markets and places of work. If we do not do this, we are moving them further to poverty. So, as a country, we need to consider them and they should be placed in a sitting table with the Departmental Committee on Transport, Public Works and Housing so that they can plan together. We need to do many things for them like in our schools. We need to have people sitting in the transport sector. We need to acquire more vehicles for them. I am told there are 63 vehicles coming in and we can have 30 for PWDs.

I thank Hon. Dennitah Ghati. She is a real social worker and has been advocating for the needs of the less fortunate especially PWDs. I know Hon. Sankok is here.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, you will have an opportunity, but we shall have Hon. Passaris now.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I want to thank my sister, Hon. Dennitah Ghati, for bringing this Statement to the House. We have been hearing about the BRT System coming into our city. It is important to understand that Kenya ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPWD) thus forming part of the laws in Kenya based on Articles 25 and 26. The BRT planners should use focus groups of users and form advisory committees to review and assess plans to access the BRT systems during the entire planning and implementation process. Such users include persons with disabilities. The transit planners should include individuals with different types of physical and sensory impairment. End users including PWDs should also participate in the implementation process. They should be represented on different disabilities, for example, passengers with hidden disabilities such as arthritis need to be heard. Lack of representation maybe one cause for lack of proper emphasis on the design of bus entrances.

Also, we need to ensure that disabled persons from the neighbourhoods served by the feeder routes are on the advisory committee as well as persons along areas, trunk lines, corridors and intersections. If we do the BRT and we only concentrate on main roads, we will not be doing service to persons with disabilities. We need to ensure that we understand those we are serving. We have to ensure that pavements are wide enough so that when they are dropped, they can access their homes with ease. More than that, we also have to ensure that maintenance is high when the BRTs are in place. If we fail to maintain them, then we will not be serving the persons with disabilities because the hydraulics will fail which will cause the BRT to fail hence inconveniencing the PWDs. This is a good agenda. We have the UN headquarters in our country. It is important that we also involve them and get the best practices so that we can improve the BRT system for persons with disabilities in our country.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Emanikor.

Hon. (Ms.) Joyce Emanikor (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to echo the sentiments of my sister, Hon. Ghati, on the plight of people living with disabilities. They experience mobility constraints. Just like education, transport is an equaliser and a catalyst that facilitates access to other sectors. We need to appreciate the fact that disability is part of our lives and it needs serious consideration in terms of planning from the policy makers, researchers and the people who implement different programmes. Otherwise,

people living with disabilities will face double restriction, inhibition and limitation in terms of their daily lives, activities and participation in their social lives.

Ease in transport addresses the issue of accessibility in terms of access to employment, appointments, education, health services and it also reduces social exclusion. A small percentage of people with disabilities just like the rest of us own private vehicles, hence, there is a lot of need to modify public transport. Good transport system impacts life choices. It enables independent living which is a necessity for all of us. It enhances economic advancement and we are not asking for much in terms of interventions. We are not asking for heaven to come down. It is something little. I know it may have an issue of cost here and there, but we are talking of operator improvements, ramps deployments, and special provisions like parking for people living with disabilities and pathways that will give them more opportunities. So, we need to invite experts to deliver on infrastructure that is accessible to all users.

Thank you, Hon. Temporary Deputy Speaker. My time is out. With those few remarks, I support.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I wish to start by appreciating my sister, Hon. Dennitah Ghati, for bringing this Motion to the House. Members should be alive to the fact that each of us is a candidate for disability. Hon. Dennitah is a living example because she entered the 11th Parliament as person without disability and later on she became disabled and that is why she is very passionate on issues to do with disability.

We should also be alive to the fact that we have made some strides as a country. We are number one in Africa when it comes to disability rights. In terms of accessibility, it should not only be to the environment or the transport system, but also to information and other services. In Kenya, sign language is the third official language. It is displayed on our television screens so that persons with hearing impairment can access information. This should be done in this House. Access to the SGR by the PWDs is almost at 100 per cent. So, we believe and trust that BRT will also be accessible to persons living with disabilities.

What is disability? It is when you put a barrier before a human being. If I have a wheel chair and there is no ramp, I will need your assistance, but if there was a ramp, I will not need your assistance. Therefore, I will not be disabled. If I have a hearing impairment and my teacher does not understand sign language, my disability will be exaggerated by the fact that barriers have been placed. These are the barriers that we are pleading to be removed so that we can enjoy just like any other person in this country.

As I said earlier, we have made some strides as a country courtesy of the Jubilee administration led by Hon. Uhuru Muigai Kenyatta, who has made sure that we have access to Government procurement opportunity. There is also a unit in the training of architects and civil engineers that is specific to accessibility. Most of the ministries have mainstreamed disability issues and one of the performance indicators of governments is disability mainstreaming. We appreciate the strides that have been made, but we are asking for more to be done. We are not yet there.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gideon Koske, Member for Chepalungu.

Hon. Gideon Koske (Chepalungu, CCM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to the issues that pertain to PWDs. It pains me to see a disabled person queuing to board or alight from public transport. It pains me more to look

at pregnant mothers suffering. They should be given ease of boarding and alighting from vehicles. It is not their joy or wish to be in the state they are. When they have a condition of any nature that prevents their ease of transport, it becomes a big challenge. I support the Member for bringing this Motion to the Floor of the House. It touches the livelihood of every Kenyan. If you are not affected, then by extension, you should have the heart of extending the love and care of being a brother's keeper to provide what they require. The number of people living with disability is not huge. It is a number that can be managed. They can be taken to schools. In Bomet County, there is not a single school for PWDs. We request the national Government to take care of the PWDs. It is high time our education system became accessible to every Kenyan.

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

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kivinda.

Hon. Joshua Kivinda (Kaiti, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute on this important Motion. The PWDs are important people in the society. Two weeks ago, I was in my constituency and had a meeting with PWDs and some of the challenges they were sharing are about transport. I was not happy to hear concerns about transport. Some of them have a very big challenge alighting from *matatus*. This is something that we should take action on.

In my constituency, there is no school with infrastructure for persons with special needs. So, as a Government, we need to take action and give persons with special needs attention because they are a minority in our country. When you go to developed countries, you find that all *matatus* and trams have special seats for PWDs. In our country, these people queue together with other people. They are not given any special attention.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kimilu, I will have to cut you short.

Hon. Members, the time being 7.00 p.m., this House stands adjourned until Wednesday, 27th February 2019, at 9.30 a.m.

The House rose at 7.00 p.m.