

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 25<sup>th</sup> February 2020**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****PAPERS LAID**

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Fourth Report of the Committee on Appointments on the vetting of persons nominated to the position of the Cabinet Secretary (CS).

**Hon. Speaker:** Hon. Erastus Nzioka.

**Hon. Erastus Nzioka** (Mbooni, Independent): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Ninth Report of the Special Funds Accounts Committee on the audited financial statements for the National Government Constituencies Development Fund (NG-CDF) for the constituencies in Kiambu County.

**NOTICES OF MOTION****APPROVAL OF NOMINEES FOR APPOINTMENT AS CABINET SECRETARIES**

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the finding of the Committee on Appointments in its Fourth Report on the vetting of nominees for approval as CSs, laid on the Table of the House on 25<sup>th</sup> February 2020 and pursuant to provisions of Article 152 (2) of the Constitution and Section 3(a) of the Public Appointments (Parliamentary Approval) Act 2011, this House approves the appointment of the following persons as CSs in respective ministries:

1. Mutahi Kagwe - Ministry of Health
2. Betty Chemutai Maina (CBS) - Ministry of Industrialisation, Trade and Enterprise Development.

**Hon. Speaker:** Hon. Erastus Nzioka.

**ADOPTION OF REPORT ON AUDITED FINANCIAL STATEMENTS**

## FOR CONSTITUENCIES IN KIAMBU COUNTY

**Hon. Erastus Nzioka** (Mbooni, Independent): Hon. Speaker, I beg to give notice of the following Motion:

THAT, the House adopts the Ninth Report of the Special Funds Accounts Committee on the audited financial statements for the NG-CDF for the constituencies in Kiambu County, laid on the Table of the House.

**ORDINARY QUESTIONS***Question No.014/2020*

## CAUSE FOR DELAYED DEPLOYMENT OF JOSEPH WANYONYI

**Hon. Speaker:** Question by the Member for Kimilili, Hon. Didmus Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Speaker, I rise to ask the following Questions directed to the CS for Environment and Forestry:

(i) Could the Cabinet Secretary explain why the deployment of one Joseph Wanyonyi, Personal Number 1980036617, who was moved from the Kenya Forest Service vide a letter reference number EST/1980036617/12, dated 23<sup>rd</sup> July 2014 to the Ministry of Environment and Natural Resources has not been effected?

(ii) Could the Cabinet Secretary state when the deployment of the said officer will be effected while ensuring that the inordinate delay in deployment does not prejudice the officer's pension benefit.

I thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Question to be responded to before the Departmental Committee on Environment and Natural Resources.

Next Question is by the Member for Nakuru Town East, Hon. David Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I beg to have two minutes so that I can open the machine. I am sorry.

**Hon. Speaker:** Next Question by the Member for Kitui Central, Hon. Makali Mulu.

*Question No.016/2020*

## STATUS OF DEVELOPMENT OF MONITORING AND EVALUATION POLICY

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, I rise to ask the following Question directed to the CS for the National Treasury and Planning:

(i) Could the Cabinet Secretary provide the status of development of the monitoring and evaluation policy and legal framework based on the Government's adoption of Results-Based Management as a key driver of its development programmes?

(ii) What specific measures has the Ministry put in place to ensure that there is an existing policy framework to guide feedback on the effectiveness of the implementation of development programmes set out in the Third Medium Term Plan of Kenya Vision 2030 and Big Four programmes?

(iii) What challenges have caused delays in publishing the monitoring and evaluation policy?

Thank you, Hon. Speaker.

**Hon. Speaker:** Well, the Question will be responded to before the Departmental Committee on Finance and National Planning.

Back to question number two by the Member for Nakuru Town East.

*Question No.015/2020*

DELAYED CONSTRUCTION OF NAKURU-KIAMBOGO ROAD

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker for your indulgence. I beg to ask Question No.015/2020 addressed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) Is the Cabinet Secretary aware that the construction of the Nakuru-Kiambogo Road in Nakuru Town East Constituency has stalled?

(ii) Could the Cabinet Secretary provide details of the project with regard to the contractor awarded the contract, amounts allocated to the project and the expected date of completion?

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Transport, Public Works and Housing.

The next segment of this Order is as follows: The following Chairpersons of the following Committees are to give progress reports on the Questions filed with them in the last Session indicating how many were responded to and the comments emanating from the Committee. The Departmental Committees on Administration and National Security; Agriculture and Livestock; Health; Labour and Social Welfare; Trade Industry and Cooperatives; and Transport, Public Works and Housing. I found that there were no Questions filed in the last Session with the Departmental Committee on Justice and Legal Affairs. That is why Hon. Cheptumo can sit pretty.

Can we now get the final response from the Chairman or Chairperson - as the case may be - of the Departmental Committee on Administration and National Security? The Chairman, the Vice-Chairperson or a Member of the Committee deputed to make the update. Last week it was Hon. Wamunyinyi who tried to make some effort which did not bear fruit as there were discrepancies. Hon. Paul Koinange is the Chair of the Committee. The Vice-Chair is Hon. Waluke. I see none of them is present. Hon. Wamunyinyi who was standing in for them is also absent and not desiring to be present. Do I see Hon. Kaluma desirous of making the response? What is the position?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Speaker. As far as I am aware, all Questions which were before the Departmental Committee on Administration and National Security have been attended to. The challenge we face is that the Chair has not been within the country for quite some time. That is the reason as to why we do not have a suitable response for the House. Hon. Speaker, could I beg for some indulgence so that a firm report is made to the House by the Committee in the manner you directed? I do not know whether you can give us up to Tuesday or Thursday next week? I am currently working in great harmony with my brother, Hon. Didmus, on issues of Questions, petitions and Bills. We lack leadership at the top to have our positions reach the Floor.

**Hon. Speaker:** Let us get the response on Tuesday next week.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Speaker.

**Hon. Speaker** You were just supposed to give an update on what happened to the various Questions. I now have the correct record. We just want to know for the benefit of the Members who asked those Questions.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I want to assure you, Hon. Speaker, that the Members who asked Questions are very happy with this Committee. We have gone beyond answering the Questions to dealing with the problems in their respective areas. We were to travel as a Committee with the relevant agencies to places like Kitui and Baragoi. That is why you do not see quite an amount of pressure from the very individuals who asked Questions. We have dealt with them. Ultimately, a report has to come to the House.

I thank you for your indulgence that we formally communicate to the House next week.

**Hon. Speaker:** Next week on Tuesday.

Next is the Departmental Committee on Agriculture and Livestock. Let us have Hon. Wangwe, the Vice-Chair.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I wish to report that in the last Session, we had a set of 16 Questions which were all responded to. We have about three Questions from three Members which crossed over to this Session.

One of the Questions was by the Member of Parliament (MP) for Nambale. Hon. Bunyasi sought to find out from the State Department of Irrigation what was happening to the Sio River Irrigation Scheme. We indulged the Member. He came before the Committee and it was a joint discussion between the MP for Nambale and Dr. Oundo, the MP for Funyula. Because of the nature of the irrigation scheme and how the Ministry was handling it, the Question has crossed over to this Session. The Committee was scheduled to visit the site so that it can establish the exact situation on the ground. Meanwhile, from the time the Question was put, I wish to report that the Ministry, through the State Department of Irrigation and the National Irrigation Authority, had already briefed the Committee on how far they had gone with the contract. With the ruling which you did last week, this Question should now cross over to the Departmental Committee on Environment and Natural Resources. The Member will now be able to substantively handle it from there.

The next Question which crossed over is the one by the county MP for Trans Nzoia, Hon. Nangabo. Hon. Nangabo had a Question for the Agricultural Development Corporation (ADC) on agriculture but specifically in terms of employees. It crossed over because the Committee felt that the Question was supposed to transform into a petition. This is because the nature of the issues which were being canvassed in the Committee was so detailed that it required us to improve on the Questions, when she came before the Committee. It crossed over because of that.

Finally, the other Question that crossed over out of the 16 is the one by the MP for Bura, Hon. Ali Wario, which addresses the issue of the Bura Irrigation Scheme. We invited the Member. He came before the Committee and met us together with the Ministry. The kind of issues which the MP raised on the Floor warranted that the Committee visits Bura Irrigation Scheme. The department concerned, namely, the National Irrigation Authority had not prepared enough for us to visit. It sought for extension of time before we go with them to Bura Irrigation Scheme. Therefore, this having crossed over and following your ruling, Hon. Ali Wario will now indulge the Departmental Committee on Environment and Natural Resources so that he can pick it up from there in terms of further understanding the Question as he raised.

The Question by the Chief Whip regarding Mumias Sugar Company was answered. He is here. He came before the Committee. Almost all the Questions raised by the Members were answered. I can see the Member for Kanduyi. He raised his Question and it was responded to.

The Members for Kwanza and Githunguri raised Questions and they were responded to. The rest of the Questions were fully answered. I thank the Committee Members and the secretariat of the National Assembly together with the Clerk for the chance and time they gave us to make sure that we attended to those Questions accordingly.

**Hon. Speaker:** Those Questions that crossed over the Session will have to be filed afresh because they died with the Session. There cannot be debate on that report. Questions are sessional. They will have to be raised afresh for any debate.

Hon. Oundo, there is nothing that can arise from this because there is nothing which is before the House. That was a report. Hon. Wangwe has indicated clearly the reasons they could not finalise it. So, it now falls upon the Questioner or yourself to now file the Question afresh for it to be attended to by the Departmental Committee on Environment and Natural Resources. Similarly, the other Question died with the end of the Session.

Hon. Members, before we go to the next Chairman, allow me to recognise the presence, in the Public Gallery, of students and pupils from Lower Kabete Primary School, Westlands Constituency, Nairobi County and those from Loreto High School, Limuru Constituency, Kiambu County. They are welcome to observe the proceedings of the House this afternoon.

Next is the Chairperson of the Departmental Committee on Health. Most likely, this will be a Chairperson but not a Chairman. I see somebody who appears like a Chairperson but not a Chairman.

*(Laughter)*

Hon. Sabina Chege, please give us your progress report.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. The Bible tells us that God created man in his image. So, we are all chairmen. If you call me a chairman or chairperson, I am fine.

In the last Session, my Committee had 11 Questions from Hon. Members. Six of them were answered. Three of them are pending, including one from Hon. Didmus who insisted that the Cabinet Secretary had to answer his Question. The other Question was by Hon. Ruweida. It came in late before we went on recess. There was another one by nominated Member, Hon. Gideon Keter. Those three Questions are pending. One Question by Hon. Kabinga Wachira, Member for Mwea, about Kenya Medical Research Institute (KEMRI) was deferred because he did not turn up at the time we invited him.

The other Question was by Hon. Mugambi Murwithania Rindikiri on a case in Nanyuki Teaching and Referral Hospital. We met with the Ministry. However, they asked for more time because Nanyuki Teaching and Referral Hospital is under the County Government of Laikipia. So many consultations were happening. We have not finished processing this Question. Those are the Questions that we handled as the Departmental Committee on Health. We are ready to start with the three that are pending.

Thank you, Hon. Speaker.

**Hon. Speaker:** You need to note that if the Session ended, the Questions died. So, if the Members desire to still pursue the matters that they were pursuing, it is upon them now to raise them afresh. The Chairman of the Departmental Committee on Labour and Social Welfare, Hon. Ali Wario, is represented ably by Hon. David Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. This Committee was very committed and busy. It was one of the busiest and very committed to its parliamentary work more than the Building Bridges Initiative (BBI) weekend rallies.

**Hon. Speaker:** How many Questions were filed before this very busy Committee?

**Hon. David ole Sankok** (Nominated, JP): We had a total of 24 Questions. Out of them, 19 were answered. Eighteen Questions were answered orally and one with a written response. The Questions by the Member for Sigowet/Soin, Hon. Samuel Atandi, Hon. (Prof.) Oduol, Hon. David Gikaria, Hon. Dawood, Hon. Musau, Hon. Wanyama, Hon. Dennitah Ghati, Hon. Joshua Kandie, Hon. Esther Passaris, Hon. Patrick Mariru, Hon. Mwambu, Hon. Rehema Jaldesa, Hon. James Gichuhi Mwangi and Hon. Memusi Kanchori were answered satisfactorily.

There is a written response for the Question by Hon. Kanchori. It is available for the Member to peruse because he did not appear when it was being answered. So, we requested the Ministry to give a written response. The pending Questions are by Hon. Nasri Ibrahim, Hon. Wilson Sossion, Hon. Alfa Ondieki, Hon. Rigathi Gachagua and Hon. Peter Kihara. As you have said, they have died. So, we encourage Members to ask them again and then they will be responded to. You can see that we had very many Questions but we tackled most of them. I thank the Ministry because they are always available. They came whenever they were invited to the Committee. The Members were also very committed to the course. We had more than enough quorum most of the time.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Sankok said that the Committee was very busy and had very many Questions. Somewhere within this country, there is a saying that it is only those who have not travelled who think that their mothers are the ones who cook best. Let us hear from other committees, so that we can make the comparison. The Chairman of the Departmental Committee on Trade, Industry and Cooperatives.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker, for giving me this opportunity to contribute. The Committee got 12 Questions in the Third Session. Unfortunately, we concluded three only. The reason is well known in this august House because we brought our tribulations. We had a huge issue with the CS during that time. However, I believe that things will be different because we have a different CS who will prosecute those issues.

We concluded the Question by Hon. Odanga, Member for Matayos. We attempted to deal with the Question by Hon. John Nyaga, the Member for Manyatta, regarding the Kenya Planters Co-operative Union (KPCU). Because this is a very pertinent Question, we beseech the Member for Manyatta to make sure that he re-submits it. As a Committee, we are ready to prosecute it. We concluded the Question by the Member for Kiambu, Hon. Jude Njomo, regarding the importation of vehicles. However, the same issue has arisen. We will prosecute that question on Thursday this week.

The fourth Question was by the Member for Belgut, Hon. Nelson Koech, about tea which we prosecuted. The fifth one was by the Member for Nakuru Town East, Hon. David Gikaria. It was on delay in clearance of imported solar products, but we concluded it. The sixth Question was by the Member for Navakholo, Hon. Emmanuel Wangwe. We answered it partially because the CS was not available to answer it. We ask the Member to resubmit it. We are ready to conclude that case. The seventh Question was by Hon. Washiali who is the Majority Whip. We did not prosecute it. We ask my good colleague to resubmit the Question on supermarkets and parking. We have a new CS. We hope that she will be approved, so that at least we can prosecute that issue.

The eighth Question was by the Member for Westlands, concerning sanitary pads by *Always* brand. We are asking the Member to resubmit the Question because we are more than willing to tackle the issue. The ninth Question was by the Member for Kesses, Hon. (Dr.) Mishra, concerning inspection of goods. We were not able to prosecute the Question because of the issue with the Cabinet Secretary that I had mentioned before. We are also ready to prosecute that Question. The 10<sup>th</sup> Question was the by nominated Member, Hon. Gideon Keter, concerning pre-export verification on conformity of goods. We are ready to prosecute the Question once it is brought to our attention again.

The 11<sup>th</sup> Question is by Hon. Alfred Keter, the Member for Nandi, concerning tea. We will also be able to prosecute this Question if brought to us again. The last Question was by the Member for Githunguri, Hon. Gabriel Kago, about coffee, which is a very emotive issue. We beseech the Member to resubmit the Question. We believe, moving forward with the new Cabinet Secretary, we will prosecute this Question.

Hon. Speaker, I beg to submit that this Committee is committed to prosecuting the Questions and issues brought up by Members but, unfortunately, we had that challenge with the CS who has now moved to the Ministry of Agriculture.

**Hon. Speaker:** Very well. As I said earlier, Questions cannot cross the Session, so Members whose Questions fell victim of the end of the Session should resubmit them if they still desire to get responses.

The Next report is by the Chairman for the Departmental Committee on Transport, Public Works and Housing. Can you state the number of Questions that were filed with you because you cannot read all of them – the total number?

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Speaker for this opportunity. We had a total of 77 Questions in the last Session.

**Hon. Speaker:** How many?

**Hon. David Pkosing** (Pokot South, JP): They were 77. We were able to address 73, and only four remained. As you directed, those died a natural death and, therefore, those Members can resubmit for consideration, if they so wish. This Session we have three Questions. Four Questions died with the end of the last Session because they were filed on 4<sup>th</sup> December and we had only one day before the end of that Session. The Members concerned can resubmit them. They are Member for Magarini, Hon Michael Kingi and Member for Kilifi South, Hon. Richard Chonga, who had submitted two Questions. Member for Magarini had two Questions – one in the morning and the other in the afternoon. If they wish, they can resubmit those Questions for consideration, otherwise, we considered 73 Questions before my Committee and only four remained which died with that particular Session.

I thank you.

**Hon. Speaker:** Very well. The same fate befalls the pending Questions, but I hope Hon. Sankok can tell that the Chairman of that Committee has reported that he had 77 Questions. Had you been around, you would have heard that the Departmental Committee on Education also had about 73 Questions. The Committee on Administration and National Security had 101 Questions. So, your Committee with 24 Questions was also doing something but, certainly, as I had said earlier you can tell. That is not to show that the Committee was not working. I think it is important that even Kenyans know that when they talk about representation, there are certain issues which concern people in the constituencies more frequently than others. These are issues to do with administration, education, infrastructure and health. That is part of the reason Members raise them. You have heard other Committees had 11, others had three and others had

four Questions. So, Hon. Sankok, you are right to say that you are doing very well but you can imagine that even the other Committees did very well with so many Questions. I know your Committee has been dealing with other issues to do with Bills and reports. That should conclude that session, the final being the statement from the Chairman of the Budget and Appropriations Committee.

*(Loud consultations)*

Leader of Majority Party and team, Hon. Rasso, the Chairman of the Departmental Committee on Budget and Appropriations is supposed to make a Statement. The gentleman in a cap, yield to the Chairman and then you can deal with him later.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. Hon. Wario is a Member of my Committee, so we were consulting.

Hon. Speaker, as you are aware, the Budget Policy Statement, 2020, was tabled in the House on 13<sup>th</sup> February 2020 and forwarded to the Departmental Committee...

*(Loud consultations)*

**Hon. Speaker:** Order, Members. The consultations are too loud. Hon. (Dr.) Mishra, the level of decibels is too high, consult in lower tones. I know you are speaking to your Chair and the Member for Nairobi and there could be a reason for you to speak louder but be a little lower in tone to allow us to transact the rest of the business.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker, for that protection. The Departmental Committees were to review, in line with their respective mandates, and submit their recommendations to the Departmental Committee on Budget and Appropriations for inclusion in the final report. We are aware that the Departmental Committees started review of this Budget Policy Statement immediately and they have carried out consultations with their key stakeholders.

In addition, last week on Friday, the Departmental Committee on Budget and Appropriations held a successful pre-budget conference to review the Budget Policy Statement, 2020. Key stakeholders who took part in the conference were: Governor of the Central Bank of Kenya, the Chairperson of the Commission on Revenue Allocation (CRA), representatives from the Kenya Institute of Public Policy Research and Analysis (KIPPRA) and the Institute of Economic Affairs.

I would like to extend my appreciation to all Members who attended this important event. In particular, the three Chairpersons of the Departmental Committees on Health, Hon. Sabina Chege; Information, Communication and Innovation, Hon. Pkosing and Environment and Forestry, Hon. Kareke Mbiuki. The five Vice-Chairpersons of the Departmental Committee on Implementation; Departmental Committee on Education and Research, Hon. Kimunya; Departmental Committee on Defence and Foreign Relations; the Public Investments Committee and the Departmental Committee on Finance and National Planning; as well as other honourable Members who, cognisant of the importance of this conference, attended on their own accord. Specific mention goes to Hon. (Dr.) Nyikal and Hon. Martin Peters Owino, who attended and made valuable contributions.

The conference proved vital as the Committee was able to critically review pertinent issues with input from the CBK, CRA, KIPPRA and the National Treasury. In essence, the

conference provided a platform for critical deliberations on the state of the economy as well as the policy basis for the 2020 Budget and medium term. This morning the Budget and Appropriations Committee resumed its sittings and is in the process of receiving reports on the Budget Policy Statement from Departmental Committees albeit at a very slow pace. It is important, because we were to start our hearings at 9.00 a.m. but up to 10.30 a.m. even the first Chairs of the Committees that were to appear were yet to be traced. A number of Chairs who were to present today were not able to because their Committees were not ready.

Hon. Speaker, tomorrow, we will seek your guidance and leave of the House on this matter to conclude it.

As I conclude, I wish to remind the House that amendments to the Public Finance Management Act, now before the Senate, had proposed extension of the timeframe provided to review the Budget Policy Statement. However, the Bill is taking too long. It is my prayer that Parliament will expedite the approval of the amendments and review the timings to give Parliament at least one month to complete the review and processing of the BPS.

Hon. Speaker, allow me to use this opportunity to plead with Chairs of Committees, their Vice-Chairs and secretariats lined up to present before the Budget and Appropriations Committee. We seek your permission to sit tomorrow when the House will be sitting to give opportunity to Departmental Committees to appear before us so that we can finish this process expeditiously.

Thank you.

**Hon. Speaker:** Hon. Arati.

**Hon. Simba Arati** (Dagoretti North, ODM): Thank you, Hon. Speaker. Immediately after you asked the Committees to read out the number of cases they handled, I remember I rose on a point of order last Session and pointed out that we had found out that there was painting going on at the Senate. On that day, I remember Hon. (Dr.) Pukose was mesmerised by how I got the information about the danger posed by paint to human beings. As we speak, there is painting going on in the whole of Continental House.

Hon. Speaker, the poisonous elements found in paint are bad. They are worse than corona virus itself because they cause leukaemia, anaemia and if inhaled it causes pregnant women to give birth to premature babies. Therefore, Hon. Speaker, it is worrying because you are the Chairman of the Parliamentary Service Commission (PSC) and Commissioners are here and you are the people who look into our welfare yet the painting can continue when Members of Parliament are still in the offices and common *wananchi* visit the offices without any iota of concern of the danger it poses.

Hon. Speaker, we plead with you that the PSC looks into the matter. Otherwise all the Members of Parliament, including the ones who are talking, are potential clients of death because they are exposed to the poisonous elements in the paint. They need either masks or other things to save them from the death it poses. The Hon. Member may be the one going ahead of us, if he is not careful because of the danger of the painting going on at the Continental House, save for those Members of Parliament with offices at the Kenyatta International Convention Centre (KICC). But for those at Continental House, there is a big challenge you need to look into and advise accordingly.

**Hon. Speaker:** Is there a Member of the Commission in the Chamber? I thought the Commissioners are representatives of Members. How can Commissioners be out of the Chamber? Can anybody see Commissioner Ben Momanyi, Commissioner Aisha Jumwa,

Commissioner Naomi Shaban and Commissioner Wehliye Keynan? Are they all absent having decided they finished their work or what?

Hon. Simba Arati because...

*(Hon. Simba Arati stood in his place)*

If you want that for purposes of records, you have already raised it. The rest can only be dealt with administratively by the Commission. I am asking whether the Commissioners are here so that they can give responses. They have a Commission meeting tomorrow at 10.00 a.m. Therefore, the Clerk is directed to make sure that the matter is placed before the Commission meeting tomorrow.

Member for Wajir East.

**Hon. Rashid Kassim** (Wajir East, WDM-K): Thank you, Hon. Speaker. I rise on a point of order to remind the House on your last week's ruling regarding the crisis of education in northern Kenya. The Departmental Committee on Education and Research was supposed to submit a compounded report on the issues affecting northern Kenya so that the House can deliberate and find a solution to education issues on the matter.

We expected that the matter would be brought to the House today but up to now we have not seen any indication that the issue will be dealt with by this House.

Hon. Speaker, we need your intervention on that matter.

**Hon. Speaker:** The Chairman is in the Chamber. Hon. Melly, do you wish to respond?

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Speaker. As you directed on 18<sup>th</sup> February 2020, that the Cabinet Secretary of the Ministry of Education, the CEO of the Teachers Service Commission (TSC), and the Inspector-General of Police appear before the Departmental Committee on Education and Research to address the teacher crisis in North Eastern, we did as you directed. This morning, the said officers did not turn up. It is only the CEO of the TSC who turned up in person as you had directed. The Cabinet Secretary of the Ministry of Education sent the PS to represent him, and the Inspector-General of Police sent his Deputy, Mr. Mbugua, to represent him. So, in line with your directive, we asked that the said officers appear before the Committee in person so that the issue could be handled exhaustively and with finality because the said officers are the ones who have the actual answers. The officers who were sent to represent their bosses would have given us reference to their seniors. So, we agreed they appear before the Committee tomorrow at 10.00 a.m. without fail.

Thank you, Hon. Speaker.

**Hon. Speaker:** I reiterate that they must appear in person. If they do not, we need a report from you here in the plenary tomorrow afternoon. They need to appear in person so that the matter can be canvassed fully by yourselves as Committee Members for the benefit of the entire country and the House.

*(Hon. Omboko Milemba raised his hand)*

We do not operate like some organisations whose names I do not know. A matter like this one ends there. I know it takes long for people to get used to this because we are used to comment on many things but let it rest at that. The Committee has already taken a decision and the House has pronounced itself.

Next Order.

**BILL***Second Reading*

THE TEA BILL (SENATE BILL NO. 36 OF 2018)

*(Hon. Emmanuel Wangwe on 19.2.2020 - Afternoon Sitting)**(Resumption of Debate interrupted on 20.2.2020)*

**Hon. Speaker:** The Member for Gichugu Constituency, Hon. Gichimu Githinji, was on the Floor and has a balance of three minutes. If he is present, he can now finish but if he is absent, as appears to be the case, we will proceed. Just to inform the House that a total of 71 Members have contributed to this Bill so far. We may not spend much more time discussing it. I cannot keep reading the names. If you contributed to the Tea Bill and you make a mistake of speaking a second time, you will be in breach of the Standing Orders for which consequences are well known to you. The Members who have placed requests, to avoid a situation whereby you could find yourself on the receiving end, if I read out your name, you must own up. In the meantime, the list is being prepared for me. On the request list, the first person is Hon. Wakhungu Wamalwa but I know you spoke. The next on the request list is Hon. Atandi, Member for Alego-Usonga. Have you contributed?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): No.

**Hon. Speaker:** Do you wish to contribute to this?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Yes.

**Hon. Speaker:** Proceed.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker, for this opportunity to make my contribution on the Tea Bill. This Bill is very elaborate and appears to me as having been well researched. I am specifically interested in the section that is going to deal with the licensing of the tea brokers. You know that tea brokers are the reason the tea subsector is not paying very well to the farmers who are working very hard. Therefore, the proposal in this Bill to ensure that there is a proper licensing system for anybody who is interested in exporting, importing or marketing tea is something that will help in supporting the subsector.

The other thing that is going to help in promoting the tea subsector is the registration of tea farmers, tea growers and tea processors. Tea growers and tea farmers will register with processors in every location and a register will be put in place to ensure that there is a record of everybody who is involved in the tea industry. This will help eliminate fake farmers in the subsector. I also like the fact that there is established competent Board consisting of representatives from farmers as well as Cabinet Secretaries in charge of the sector.

There is an institution known as Kenya Tea Development Agency (KTDA) which has been in charge of marketing and basically working with the tea farmers in this country to ensure that they market tea and also register farmers. Over the years, KTDA has become a mongrel and they have been able to reap from the true tea farmers in this country. Therefore, this Bill, as I have read it, is going to ensure that farmers benefit from this important subsector. As you know, tea is one of the largest foreign exchange earners for this country. When I was in the financial sector as a banker, the sector relied more from the tea industry especially when sales are done to

ensure that we receive sufficient foreign exchange. Therefore, the effort to properly regulate the sector is going to ensure that this country achieves its intentions in the subsector. Therefore, I urge that we regulate all our key cash crops in order to eliminate brokers. Cash crops such as cotton and coffee require thorough regulation of this nature.

I support. Thank you.

**Hon. Speaker:** So that I do not disadvantage any Member by removing them from the list of request, if you have spoken on this Tea Bill, just say it so that I do not remove you from where you are because, perhaps, you want to contribute to the next business.

The next on the list is Hon. Paul Mwirigi and I know he has contributed. The next is Hon. Pukose. Do you want to contribute?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Yes.

**Hon. Speaker:** Very well.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I stand to support this Tea Bill of 2018. This Bill has provisions for the establishment of the Tea Board of Kenya. The Board has several responsibilities which include regulation and promotion of development of the tea industry. It will also co-ordinate the activities of individuals and organisations within the tea industry as well as facilitate equitable access to the resources, facilities and benefits of the tea industry by all interested parties.

The Bill, in its miscellaneous areas, states that the Board shall within a period of three months after the end of each financial year or within such a longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year and annual balance sheet and such other statements of accounts as the Cabinet shall require together with Auditor-General report. The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under sub-section (1) in such a manner as the Cabinet Secretary shall specify.

Farmers have suffered a lot in this country. Ships come in and auctions are done in them and benefits do not accrue to the farmer. This is a move in the right direction. Even as we discuss issues BBI and others, we have seen people from tea-growing areas like Kericho and the central region talking about dwindling fortunes of tea farming. It is high time tea-growing... We know that agriculture constitutes almost 60 per cent of what Kenya earns in Gross Domestic Product. We need to look at how to rejuvenate the tea industry. How do we view our farmers? At the end of the day our farmers should be able to take care of themselves. They should have money in their pockets. They should be in a position to send their children to school. Even as I support this Tea Bill, I hope this House will pass it very soon. If there are amendments, they should be in the right direction.

In the clause under transitional provisions, it talks of the assets, liabilities and everything that was initially being done by the Board. Clause 35 states:

“All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the tea sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be.”

Therefore, one of the key issues, especially when it comes to the Agriculture and Food Authority (AFA) Act, is about food safety which has not been addressed adequately. Currently, our country is facing a catastrophe caused by locusts that are now invading into almost 17 counties and moving on. We should not look helpless as a country. We should be able to have measures that can come into effect to contain the situation as it is.

Hon. Speaker, with those few remarks, I beg to support.

**Hon. Speaker:** Member for Bomet Central Constituency, Hon. Ronald Tonui.

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Speaker for this opportunity to add my voice on this.

I wish to strongly oppose this Bill because it does not go to the extent I expected. Going through this Bill, I found it to be too shallow. The intention of this Bill, majorly, is simply to create the Tea Board of Kenya, the same Board which we had before and which has been criticised by the farmers. I believe what we have here is a “cut and paste” of the same Act.

There are many issues which small-scale farmers are facing which are not addressed in this Bill and are completely ignored. First of all, going through this Bill, even when it comes to penalties related to issues in the tea sector, we are seeing a maximum fine of Ksh20,000. Surely, in a multibillion sector where there are so many issues under dealings, we are talking of a fine of only Ksh20,000. That is peanuts in an area where we are talking of billions of shillings being squandered.

Clause 33(1) of this Bill gives powers to the Cabinet Secretary to make regulations, which can be misused highly. That is like handing a blank cheque to the CS to write whatever he so wishes. Surely, that will not favour the small-scale farmers and it is going to be very unfair to them. It is specific in Clause 33(2)(d) where it gives the CS the power to decide on the fees which may be charged for anything done under this Act. I believe these are, surely, insane powers.

We used to have what we call *ad valorem* levy which we fought against for many years in the 11<sup>th</sup> Parliament until we removed it. Now, we want to introduce it, through the back door, by giving many powers to the CS. You know, of course, the people who will be more accessible to the CS are cartels in the tea sector not the small-scale farmers. Surely, by giving these powers to the CS, we are being very much unfair to the small-scale farmers.

The biggest problem which we currently have in the tea sector is the issue of marketing. We are relying on the same marketing strategy but, in this Bill, those issues are not included in the roles of the Tea Board of Kenya. They are not. It has created simply a regulator, but it is not touching on the marketing of tea. Somewhere in that Bill, under the regulatory provisions, one of the roles of the county governments is to regulate the markets of tea. It is somewhere in the regulatory provisions. I believe it is under Clause 20(1)(c). Surely, international trade is managed by the national Government. It is not managed by the county governments. I believe that it is really unfair.

So, if we want to ensure that we build a tea sector, we must invest in new markets. The role of getting the new markets must be under the national Government. That one is ignored completely in this Bill. It is not mentioned anywhere. It is just statutory clauses of this Bill which are there and are “cut and paste”, but the core issue which is affecting the small-scale farmers is not addressed.

When it comes to the issue of the members of the proposed Tea Board of Kenya, under the Council of Governors (CoG), I would have wished that the governors from tea growing areas should be the ones mandated to do this. However, here, we have reduced it into CoGs issues and ignored the specific interest of tea growing areas.

In Clause 25 from (a) to (d), the Bill talks of the sources of funds of the Tea Board of Kenya. All of them are fake. It talks of donations, money received from well-wishers, *et cetera*. If it is a Government institution, how can you not provide a specific source of funding for the Board? Surely, if it is not clear, I cannot support it. Possibly, that one is hidden in the so-called

powers given to the CS to make regulations. I believe that is going to be unfair and should be very clear. Nothing should be hidden.

The other issue is cartels in the tea auctioning in Mombasa. This Bill does not propose a way of sorting out this problem. I would have expected the Tea Board of Kenya to be given powers to monitor the tea auction in Mombasa or wherever they are to ensure that the interests of the small-scale tea farmers are protected. That one is also completely ignored in this Bill.

One of my expectations was to see the measures which were raised by His Excellency the President about the tea sector undertaken. He raised many issues which I expected to be captured in this Bill so that we can smoothen and ease the businesses we do in the tea sector. The idea that KTDA is concentrating on many businesses needs also to be captured in one way or the other so that it concentrates only on its core business of processing, self-reinsurance of the factories and marketing of tea. Anything else should be left to other people or provisions and the KTDA should not concentrate on that.

Since the issues of tea are emotive and it is a devolved function touching on the people who elect us nationally in the counties, I expected at least some powers to be given to the Senate and county assemblies to be able to summon the board members of these tea factories to appear before them and answer specific questions which are raised by the farmers.

The issue of tea buying centres should also be a county function which should be taken care of by the counties to ensure that the issues of hygiene are addressed so that our tea can be marketable and accepted internationally. It is a way of subsidising tea growing.

The other issue is the protection of tea farmers from multinationals through auctions. I understand the multinationals control the auctions. Although they can under-price their tea in the auctions, they are the same ones who are going to sell it outside there. The under billing can only be managed through the Tea Board of Kenya if such powers are given to them through the law. However, if it is not given such powers, certainly, they will not get them from the moon. Such should be provided.

The Head of State mentioned about the issue of value addition to our tea. This one is also not captured so that we can adjust the prices of our tea the Sri Lanka way. Sri Lanka produces the poorest quality of tea but gets at least twice the price of its tea as compared to the Kenyan tea. I believe that also needs to be taken care of. Regulations on the funds invested as they wait to be paid...

*(Loud consultations)*

Slow down. What is your problem?

Funds, as they wait to be paid as bonuses, need to be invested wisely, so that they are not misused by buying other commodities in-between. They should be invested in the interest of farmers. It needs to be captured in law. The current KTDA factories were constructed by tea growers. The sugar-cane farmers are using factories that were constructed by the national Government. The national Government must come in, especially when dealing with a foreign exchange earner like tea. Currently there is a lot of congestion in our tea factories. Farmers spend their nights in tea buying centers and their tea is collected after one or two days because of congestion. Also, in this law, we need to capture that the Government needs to chip in to protect this foreign exchange earner.

The issue of KTDA asking factories to pay their seconded staff from their national office at KTDA level can be made clearer...

**Hon. Speaker:** I had indicated that I will be enquiring from Members. I know those who have spoken. Since the debate on this Bill started, there have been many good ideas that have come through. I only hope that you have also thoroughly read the Bill to ensure that if these ideas are not contained in the Bill, you will find a way of improving it with these ideas when we go to the Committee of the whole House. So, I want to encourage you, please, do not just come for Second Reading; remember Second Reading is debate. It will not make a lot of sense if all these ideas will remain in *Hansard* and they are not captured in the Bill. I assume that you are raising them because of the challenges and the problems that you have seen in the tea sector. Please, I want to encourage you with all these many good ideas to first of all, thoroughly tooth comb the Bill to see whether they are contained in it and if they are not, you start preparing amendments to input into the Bill.

I want to know whether the Member for West Mugirango has spoken. I think you have spoken. Member for Kipkelion East, the Chairman for Departmental Committee on Finance and National Planning, I think you also contributed. Is it so?

**Hon. Joseph Limo** (Kipkelion East, JP): I have not contributed, Hon. Speaker.

**Hon. Speaker:** You have not?

**Hon. Joseph Limo** (Kipkelion East, JP): Yes, Hon. Speaker.

**Hon. Speaker:** How could it be? The Member for Kipkelion East, it is like you live in tea. Proceed.

**Hon. Joseph Limo** (Kipkelion East, JP): Thank you, Hon. Speaker. I chose not to speak earlier because there was a lot of interest on this Bill. This Bill is in the right place. The problems that have been facing tea farmers are many and they cannot be only resolved by way of talking in the streets. This Bill has brought in the Tea Board of Kenya. In fact, that begs the question: why was the Tea Board of Kenya removed in the first place? I have to say this for the benefit of Members. In the past, we used to have the Ministry of Roads and Public Works that was tasked with maintenance and construction of roads in the whole county. That time, construction of our roads was poor until the enactment of laws that gave birth to the Kenya National Highways Authority (KeNHA), and Kenya Rural Roads Authority (KeRRA). Since they were put in place, we have seen a lot of change on management of our infrastructure. In the same manner, it was sad that we decided to fold all authorities that were managing issues of farmers in this country. We amalgamated them into one. That issue of coming up with one authority to manage issues of agriculture in this country was a disaster. We need authorities that will take charge of particular crops. I have heard many Members ask: why can we not bring this or that? A lot depends on the profile of the crops, for instance, tea has been consistent in terms of bringing foreign exchange to this country. It has been leading for a long time. Coffee is another one. We cannot bury our heads in the sand and leave this crop to go down the drain.

As tea farmers cry that they are no longer getting any benefit, I have to say that I worked in the tea industry before I came to this House as an MP. I know the drivers of tea industry. To put money in the pockets of farmers we need to, one, work on pricing. We need to work on a way of sustaining growth in the price of tea in the market. The price of tea has stagnated for a long time. Two, we need to look at productivity. Productivity of our farms has been going down because of poor management of our farms. The Government has been doing very little especially now that agriculture is devolved. There is little that is being put in place to teach our farmers how to bring in good practices that will enhance productivity. In the wake of this, we need to curb the loss and ensure that the Government puts a lot of support in bringing farmers up to speed with the progressive agronomy practices.

Previously, we had a research station in Kericho called Tea Research Foundation. It has now been turned into an institute which has little impact on the farmers because it is not funded. So, we need to amend this law to have a certain percentage of revenue channeled to research. A country without proper research does not have a future. We need to ensure that there is future in tea industry by ensuring that the tea research foundation is properly financed and put in place so that it improves tea clones and practices that farmers are currently using. Some of the tea clones that farmers are planting are obsolete. The practices that are being used by farmers are obsolete. The Tea Research Foundation is no longer working well because there is no funding. It has been put as a department of a big organisation. We need to enhance the Tea Research Foundation. Any county that does not invest in research will be extinct in the near future.

We need to talk about the worst enemy of farmers. The worst enemy that farmers are currently facing is marketing. Without a strong marketing agent managed by the Government, our farmers cannot benefit. Currently, our farmers have been left in the hands of KTDA and brokers. We want to ensure that this particular Bill... Though many contributors have said it is hollow, this is a House of debate and law making. We are supposed to look at the Bill as a skeleton then we put flesh on it. So, we encourage Members to bring amendments to talk about how marketing will be enhanced and how the bad practices by brokers will be curtailed, so that our farmers will get direct benefits. I encourage Members to bring amendments. I will ensure I bring amendments which will enhance marketing of tea to ensure that the farmer gets the benefits instead of leaving it to brokers. Many multinationals are now focusing on direct sales, where the marketers go out to look for buyers, and they come and ensure that various factories produce what the market requires. If we produce without knowing who we are producing for, we will not produce as per the specifications from the market. So, we will ensure that the marketing arm of what is being suggested as the Tea Board of Kenya is strong enough to ensure that they are able to identify markets for our tea.

We must also put something in the Bill to ensure that our tea is not only exported in bulk. Rather, we must look for a way of ensuring that we do value addition in Kenya, so that we export after adding value. After adding value, obviously, the prices will be different. Because Kenya is the best source of tea, customers will not have an option. If we put a law that no tea will leave Kenya if it is packaged in more than one kilogramme, it will ensure that no one will play with our tea. Rather, we will encourage the investors who are trading in tea all over the world to come and set up their factories in Kenya, and that will have a multiplier related to tea production all over the world will then trickle down to Kenya.

With all those remarks, Hon. Speaker, thank you very much for this opportunity. I encourage Members in this House to support this Bill. And let us ensure that we put value into it so that it becomes a very good Bill. Thank you.

**Hon. Speaker:** Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker, for giving me this opportunity to contribute to this very important Bill. From the outset, I support the Bill with a few amendments which, as you said, need to be brought during the Committee of the whole House, so that we can polish this Bill further.

The tea industry has really suffered for quite a while. Although tea is one of the main cash crops of this country, it has not received its share of support in terms of legislation, support by the Government or bodies that run the industry. Because of these vices or failures having not been addressed in legislation earlier, tea farmers have suffered from the word go. They have not been getting value for their labour and efforts. The tea industry is still ever crying because of the

marketing problems, prices, fertilisers, labour and all those things bedevilling the industry. Therefore, with the formation of board which will run the activities of the tea industry, I strongly believe that it will do an overhaul and bring in a new face of this industry, where the farmer and the country will benefit and we shall rip apart the cartels which have been working in cahoots to rip off the poor farmer of his hard-earned labour.

The production cost of tea is very high, especially given that it is human-labour intensive. The circumstances under which these farmers grow and harvest this crop are very harsh, especially in the cold areas. At the end of the day, whatever value that farmer gets is not commensurate with the labour which that particular farmer has put in. Therefore, this Board should go out of its way to look for proper markets where tea can get the best value. That is why the Board should also be incorporated in the marketing and auctioning of tea, so that they will be the eyes of the farmers wherever this tea goes for best prices.

I suggest the Board should also put a fixed price for every kilogramme of tea, so that at the end of the month, if at all the prices are low and the prices go down, the Board should have a kitty through the Treasury or any other source, which should be incorporated in the Bill, and get some money which will cushion the farmer to get the real value of their tea. These days, farmers will struggle to harvest tea, sell it to their respective factories and at the end of the year what the farmer gets is what was sold by the Board. Either prices went down or cartels shared out the money because there are so many of them. If it is Ksh20 or Ksh30, that is what the farmer gets notwithstanding the inputs like fertiliser, harvesting labour, weeding labour and all that. Therefore, the Board should fix tea prices, so that if it is Ksh60 per kilogramme, it should be so. If at all sales are poor and the money is not enough, then the Board should go out of its way to get money to top up so that when a farmer sells his crop to a factory, he is assured of what he is supposed to get so that at least he can budget.

Part IV on financial provisions appears to be a bit ambiguous. We need a specific fund whose source will be known, leave alone donations and grants and monies from other sources. We need a specific levy which will spell out the funds specifically for the Tea Board, so that when we talk of marketing or when we want to do some benchmarking on where to get better markets we do not wait for donors. We should have a specific levy which will be used to cater for these things.

There are cartels which have been working towards poor tea prices. They should not be included on this Board. The Board should consist of people of integrity. They should do a total overhaul and bring in regulations which will keep those dirty hands away from the farmers' money. The innocent farmer knows that once tea has been taken to the factory, they just sit and wait for their money, whereas there are those brokers who will burn the midnight oil to see how they can share the same money. Therefore, we need a total overhaul of the systems. We do not want to create a Board which will just wear the old shoes of the defunct corporations. The problem will still continue. We might put in new faces but the game will continue the same way.

We need to do an overhaul or total change so that once we talk of a new board, it comes in with new projections and regulations that should benefit the common *mwananchi* and the farmer.

With those few remarks, I support.

**Hon. Speaker:** Member for Kanduyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you very much, Hon. Speaker for giving me an opportunity to also contribute to this important Motion.

Governments across the world ensure that an industry that has a direct impact on the livelihoods of the people is protected. Every effort must be made to ensure that the interests of tea farmers, coffee farmers, sugar-cane farmers and maize farmers, among others, are protected. Every effort must be made to ensure that those industries are properly regulated. Those industries must be supported to ensure that production is enhanced, and that farmers do not make losses. Farmers need to feel happy that the Government is supporting them.

Therefore, I support the Tea Bill, which seeks to provide a framework within which the affairs of the tea sub-sector will be managed – providing regulations, development as well as promotion of the tea industry as a priority.

It is important to note that the Board that will be established through this Bill will have clear functions, which will include regulation and promotion of the industry; and coordination of the activities of individual farmers as well as the stakeholders within the industry. The Bill seeks to ensure that there is proper facilitation of access to resources, and that farmers are supported to ensure that they access markets without difficulty.

One of the problems we have had even in other sub-sectors – the coffee and sugar industries – is amalgamation of the previous enabling Acts. That amalgamation has had very serious adverse effects on farmers in the country. Therefore, the effort we are making to re-enact the Sugar Act are in line with the efforts geared towards helping farmers in the country. In the sugar and coffee sub-sectors, middle-men comprising of marketers and others dealing in sugar importation and so on, have been the main beneficiaries at the expense of the ordinary *mwananchi*. Middlemen take most of the earnings. For instance, the people involved in marketing tea and coffee do nothing in terms of production. They are not involved in planting and the general process of management of sugar-cane, tea and coffee. They are not involved even at the processing level, but they turn up for marketing and take a big percentage of the earnings that would otherwise be due to farmers. They are the ones who reap the most at the end of the day, after everything has been done by ordinary farmers. Therefore, once enacted into law, this Bill will help to cure some of those problems. We must address the issue of marketing.

Hon. Speaker, I have noted that the membership of the proposed Board is 11. It will consist of the chairperson and members drawn from the parent Ministry, the Ministry of Industry, Trade and Co-operatives, two persons from the Council of Governors, four persons representing farmers, one person representing the plantation growers and one person representing tea traders, who would be like millers in the sugar industry. The Chief Executive Officer plays an *ex officio* role.

Hon. Speaker, I am not sure but the *Mwongozo* that has been given by the Office of the President pegs the number of board members at nine. I know there is no such law but there is a directive contained in a circular from the presidency, pegging the number of board members at a maximum of nine. We may have to look into ways of harmonising this provision with the President's directive in this regard. This will also apply to other proposals by Members in relation to enactment of such Acts and establishment of boards. I insist that there should be harmony in relation to this aspect. It is important for us to push through this Bill to ensure that the problems that we are experiencing, which came about recently, are dealt with. I wanted to add my voice to this Bill. I have a few other observations I may need to discuss with Members of the Committee and see how we will enrich the Bill during the Third Reading.

With those few remarks, I strongly support the Tea Bill and urge my colleagues to do the same so that we pass it as soon as possible.

**Hon. Speaker:** Member for Murang'a.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker. At the outset, I support the Bill, especially the proposal to come up with the Tea Board of Kenya. The Tea Board of Kenya existed before. I was actually wondering, with the new recommendations that we are going to have the tea sub-sector looked into, whether there can be a presidential directive instead of waiting for this Bill to go through the House.

All the same, I support the Bill but as you advised during the Third Reading, we need to do a lot of amendments because, as my colleagues have said, tea is our number one foreign exchange earner. The spirit of having the AFA following the passage of the AFA Act in 2013, was to look at other crops. It was ill-advised for tea and coffee to be put in the AFA. I would have expected AFA to deal with millet, sorghum and other crops that need a lot of attention for food security in this nation. Having said so, I not only envisage us having the Tea Board of Kenya, but my bigger dream is having a Ministry that can take care of cash crops, and especially tea and coffee – this country's leading foreign exchange earners.

Hon. Speaker, I have seen several recommendations with regard to the Board, the CEO and the Corporation Secretary. I would recommend, as part of the amendments, that we would have to do this in line with the State Corporations Act. I have seen recommendation to the effect that the Company Secretary should have seven years' experience while the CEO should have just five years' experience. I think it should be *vice versa*.

I am proud to say that we have 11 factories in my county. Some Members were asking me why I need to speak about tea. We have 11 factories and all the farmers are small-scale farmers. We need to look into the way board members are appointed at the factory level. With regard to shareholding, we know that they are mainly small-scale farmers and, therefore, they may not have sufficient shares. Therefore, we have some directors who are appointed by a few individuals whereas the majority would want to have their preferred directors. However, because they do not have the required number of tea bushes – we no longer have big farms – we have a few people controlling the industry. I hope this Bill will also address the issue of cartels. We know farmers have been suffering because of lack of subsidies, for instance, on fertiliser. They get fertiliser very late and it does not come cheap for them.

Even as we think of amendments, let us keep in mind that the purpose of this Bill is to benefit the farmer and not those people who wait at the auction to benefit from the toil of our farmers. Tea is heavily taxed. Almost at every stage there is massive taxation on tea. I am hoping that we will also address that issue so that we can take away the burden from tea farmers.

Therefore, as I finish, I have seen the recommendation on the formation of a board. There is the issue of two persons of either gender nominated by the Council of Governors. I hope the Council of Governors will consider having nominees who come from tea-growing zones. That way, we will have people who understand issues of tea sitting on the Board.

Hon. Speaker, as I look at the financial provisions, that is, where the money for the Board shall come from, I have not seen any recommendations on Government funding. We have new technology that has come up. We even have new types of tea that are now fashionable, for example, the green tea and the Orthodox tea. If we want to help our farmers, the Government must put in... We have seen the Government putting in a lot of money in maize and other sectors. The Government must put money into the tea sub-sector to help our farmers get the latest technology not only in the area of planting and taking care of tea, but also technology on machinery that can help our tea farmers move to the next level.

Therefore, Hon. Speaker, I support this Bill. I will be ready with my amendments in the Third Reading and would like to encourage the House to support and fast-track this Bill. If not

that, then the Government, through an Executive Order, can sanction the formation of the Tea Board of Kenya and help our farmers.

Thank you, Hon. Speaker.

**The Speaker:** Member for Mathioya. Have you spoken?

**Hon. Peter Kimaru** (Mathioya, JP): No.

**The Speaker:** Proceed.

**Hon. Peter Kimaru** (Mathioya, JP): Thank you Hon. Speaker for giving me this opportunity to also add my voice to this very critical Bill. At the outset, I support the creation of the Tea Board of Kenya which will mainly bring sanity and regulation to this very important industry. The tea sub-sector is one of the major foreign exchanger earners in this country. We have seen the suffering of our farmers in a very big way. In the last few years, our farmers' earnings have continued to dwindle. There are problems even at the KTDA level and, perhaps, they would need to be addressed by a body that is more neutral, and one that will come up with a regulatory framework for the industry.

Hon. Speaker, I remember earlier this year, His Excellency the President of this country did pronounce himself on what ails the tea sub-sector. I do not know whether the Ministry in charge of agriculture has done much. I think that is why we need a body like the Tea Board of Kenya that will look at what is ailing the tea sub-sector. The KTDA has continued to do many other things. It has not stuck to its core business. It has gone ahead to form other bodies, including lending companies and also got itself into insurance brokerage. All these issues have continued to take a lot of KTDA's energy and I do not think farmers benefit much from the earnings from those other side businesses that it is engaged in. Nothing much has been said about that. We also know that there are many brokers in between who can also be managed. A requisite regulatory framework needs to be put in place and the Tea Board of Kenya charged with the responsibility of ensuring that our farmers get better earnings.

Hon. Speaker, I picked a key issue from His Excellency the President when he did a comparison between Kenya and Sri-Lanka. Sri-Lanka also produces tea, but slightly under half of what Kenya produces and yet, its earnings are much more than those of Kenya. They do value addition on only 50 per cent of their tea. We must encourage our tea factories to do value addition. The Tea Board of Kenya will be looking for other markets so that Kenya stops depending on the predominant markets only. Our predominant markets, that is, Pakistan, Egypt, Sudan and Britain seem to be failing us. The many cartels here have formed bodies even outside the country and some even keep tea in godowns in Mombasa. They buy when the prices are low and later on sell when the prices outside are high.

Therefore, this is an area that needs regulation by a new body that is independent of the other actors. Such a body will come in handy to look at the prices so that farmers are the final beneficiaries. One of the key issues that I will be looking to see the Board do is automation. I am talking about automation of even the auction process. Let the buyers in the world market know that they can buy our tea through the automated system. In many countries, automation has been adopted. We buy cars from Japan through automated systems. You really do not need to know the seller on the other side. The same thing can happen here and I think it will enable us bring the prices back to where they were.

So, I support. During the Third Reading, we will look into issues about the board which should ensure that Kenyan tea gets to the market at the right price.

**The Speaker:** Member for Kigumo. Sorry, before you speak, let me recognise pupils from Nairobi River Primary School, Embakasi West Constituency, Nairobi County. They are welcome to observe the proceedings in the House.

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Thank you Hon. Speaker. I too, like my colleagues, rise to support the Tea Bill, 2018. We all know the contribution the tea industry has made to the economy of our country. It is rather unfortunate that the regulation of the industry was locked up in AFA. I am happy that this Bill has come at the right time and it will address many issues. I have read both the Bill and the Report of the Committee. I have seen various recommendations by the Committee. I have also listened to proposed amendments that seek to streamline some of the issues that were in the Act.

Hon. Speaker, the sales of tea last year were recorded at Kshs69 billion for the factories managed by KTDA. Out of that amount, Kshs46 billion, which is only two-thirds of the sales, went to the farmers. My concern then is to have a board that will strongly regulate on areas to do with the transaction costs. What eats into the earnings of the farmer after he has sold the green tea? Where can we do cost containment? How do we ensure there is efficiency?

Hon. Speaker, in my view, ensuring that the farmer gets a little bit more, by allocating Ksh24 billion to transaction costs out of a sale of Ksh69 billion is extremely high.

There are high labour and energy costs in the operations of the tea processing factories. Many of my colleagues have talked about automation of the factories. I believe that the Tea Board of Kenya will look into that. Over the years, the tea industry has continued to use old technology whose cost eats into the farmers' earnings. It is a pity because, while two-thirds of my constituency consists of tea growing farmers, they get much less than the tea pickers after input costs are deducted. So, there is an urgent need to come up with a tea board that will come and address all those issues and regulate the various players in the sector to ensure that the focus is more on the farmer. Debates around big industries such as tea and sugar mainly focus on the businesspeople and the middlemen. Many a times, we fail to focus on production. The Tea Bill was mainly to provide for the introduction of a tea board like it used to happen before.

I believe the CS will promulgate rules that will operationalise the Bill. I hope our Committee will help Members like me who come from the tea growing areas to be aware when the rules are in operation. We believe that such rules will look into production issues. That is because, at times, it is very hard to regulate prices of an input like fertiliser. Farmers need affordable farm inputs and credit. A lot of transaction costs and abuse of processes happen in the stage of procuring those inputs. We hope that the Tea Board will then play a proper coordination role on how the procurement of inputs like fertiliser is done.

Hon. Speaker, much has been said about marketing and value addition. The story of value addition to our crops such as tea and coffee has been over-emphasised for the last over one decade, but nothing has been done. The issue is we focus the times on the wrong market. It is very hard for you to take KETEPA tea and compete with Lipton tea. However, we have put a lot of efforts as a country on the area of intra-African trade. What we need to perfect through the Ministry of Industry and Trade and the Ministry of Agriculture is to ensure that proper tariff regime systems and market access issues are addressed so that when we add value, then KETEPA tea can reach DR Congo, South Sudan and Nigeria.

I worked with the Ministry of Trade. I once went to Nigeria and they had KETEPA tea in their kiosks. But they wanted to get it on a regular supply. I also went to Lubumbashi and encountered the same scenario and so, we need to get a mechanism. This did not come out clearly in the Bill. We need to talk to the Committee Members and the Ministry, and then

suggest amendments at the Committee stage. It did not come out clearly on how the Board will be financed in the area of marketing. This is because marketing is not just about putting an advert, but ensuring that the product that is value-added reaches the correct market where it will find value and buyers.

Hon. Speaker, tea is the most taxed crop after coffee. We have 42 taxes levied on tea and this is extreme. I hope the Committee will look into those areas and, at the time the CS for Agriculture will be allowing rules to operationalise the Tea Act, we will address how we can do away with some of those unnecessary taxes. The issue of affordable value addition also comes with the quality and we hope that the Tea Board will be strong enough to work with other players like the Ministries concerned to ensure that the quality of the Kenyan tea is not run down.

Hon. Speaker, it is hard to introduce amendments at the Third Stage. We will bring them at the Committee stage after talks with the Committee and the Ministry. The President addressed some of them when he talked recently and there was a lot of expectation from the tea farmers. He said that 90 days after the delivery of the green leaves, we expect payment of at least 50 per cent to the farmers.

However, those are the issues that ought to be looked into because the farmers get frustrated and we kill the goose that lays the golden egg. Somebody talked about liberalisation. Frequent changes in policy and liberalisation of the agriculture sector create unnecessary stresses in the market. So, we need to ensure there is stability and that changes are not done so frequently to cause confusion to the end markets that buy our commodity. Inconsistency hurts the farmers.

Licensing has been increased to three years. We know that certain brokers are not always straightforward and so, if we give them a licence that will last three years and they abuse their privilege, we will have to wait another three years before we cancel it. So, that is an area that, perhaps, I will be introducing an amendment at the Committee stage. I also agree with the previous speaker that there is no way a CEO ought to have an experience of five years and yet the Company Secretary has an experience of seven years. That should be reversed.

**Hon. Speaker:** Let us have the Hon. Member for Nandi County.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Thank you, Hon. Speaker. I support the Tea Bill. There is need to establish the Tea Board of Kenya so that it can take care of the tea farmers. I am where I am because I was educated through tea proceeds. My parents used to get a lot of money when we were young, but not anymore. They are now depending on other people.

So, the function of the Board is to regulate, develop and promote the industry. We know there are quite a number of brokers who buy tea at low prices and the farmers, at the end of the day, remain with very little money after subtracting costs for inputs. We need that Board so that our farmers can be taken care of.

One other function is to arbitrate when there are disputes. So, there will be a Board in place that will fight for the rights of farmers whenever there are disputes. In the regulatory provision, the brokers will obtain licences to export, import and market or process tea. We know very well that there is no good strategy of marketing of tea and we need equity during the payment of bonuses. In other places, farmers were given Kshs43 but in my place and Kericho, in particular, they were given only Kshs11 or Kshs14. So, with the Tea Board in place, the farmers will have their rightful share of bonus. Clause 26(1) states:

“(1) At least three months before the commencement of each financial year, the Board shall cause to prepare estimates of revenue and expenditure of the Board for that year.”

This brings out the issue of transparency and accountability. The farmers will know what is happening to their produce and will not complain because they will receive the financial statements.

There is a clause which states that the Cabinet Secretary will receive a report on the operations of the Board. In that report, farmers' issues will be well captured and they will know about their produce. The coffee farmers received Kshs3 billion through the Coffee Cherry Advance Revolving Fund. We all know that tea farmers are suffering and cannot take their children to school. Some are even selling sections of their land so as to improve their living standards. My prayer is that tea farmers should be considered like coffee farmers. So, they can have a better life like the rest of Kenyans.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you, Hon. Speaker for giving me this opportunity. I am a maize farmer and while growing up, tea was a major export earner for this country. As a country, we are doing poorly because we have not done much in as far as tea is concerned. Therefore, this Bill will help us establish the Tea Board which will revive our hope. It will ensure that tea regains its place as a major export earner for this country alongside coffee, pyrethrum and tourism.

Tea farmers have been facing problems. If you go around the country, you will find places where tea does very well, but there are no extension services. I was talking to a colleague of mine who told me there is a problem of poor output of tea. This is because of lack of technical extension services. We hope and pray that, as we establish the Board, the membership will consist of technical people in this field. As we know, agriculture is devolved to the counties which are doing poorly as far as extension services are concerned.

So, with the establishment of the Board, we pray there will be proper extension services so that tea output is improved and we can compete with other countries. I had a chance to visit China...

*(An Hon. Member interjected)*

Hon. Speaker, please protect me from my neighbour because I did not go there recently. It was sometimes back. So, I am free from any ailment and I think the doctor knows that I am okay. In China, I saw tea drinking is a ceremony. They have consistently good production of tea because they are organised.

Marketing of our tea is poorly done by the auctioneers in Mombasa. The tea travels overnight from very far and by the time it gets there, its quality has gone down. We should look at the marketing part as we send our tea outside the country and ensure it is of very good quality. Also, I hope coffee and pyrethrum - which have been forgotten - will be revived. This is a great opportunity for us to look at tea as a major export earner for this country. During the Third Reading, I hope input from the Members will be incorporated, some of which will be very positive and can improve this Bill.

I support.

**Hon. Speaker:** Hon. Members, I still have six more requests. Please, just speak to the Bill because the general stories about people drinking tea continuously in one day is not speaking to it. Some of the teas you drink many not be the kind the Bill is addressing. So, speak to the Bill because there has been a lot of reference to some of the provisions in the Bill.

Indeed, when the Chairman moved, he also took the House through the various clauses. So, unless you have difficulties with particular clauses, there is no need of repeating what is stated and saying it is good. Also, that you were brought up by tea growing parents who got bonuses. Those are stories you can discuss out there at the Members' Lobby when having tea. It is now 4.37 p.m. and a good time to have tea.

So, Members, address the Bill and not general issues. The issue of brokers has been spoken to and is becoming tediously repetitive. So, just go straight to the issues covered by the Bill and any other you thing should be included in the Bill. There are too many generalities because more than 90 Members have spoken. But many are just telling us how sweet tea is and when growing up there was bonus of, I do not know how many shillings but now, people are complaining. Those are stories you can discuss over the weekend.

If you have any ideas about improving this Bill please state them. In the meantime, I want to alert the Chair of the Departmental Committee on Transport, Public Works and Housing to be in the House because of the next business since the Mover may be called upon to reply very soon. Member for Mwea.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker for giving me a chance to contribute to this Bill. In my county, tea is grown in the upper part near the mountains. We grow rice and we have observed that tea farmers face similar challenges to ours. We look forward to the success of this Bill which I highly support. This is because, very soon, we hope to have a Rice Board coming to this House.

As we look forward to the formation of the Tea Board, we urge that it lives to the tasks ahead and especially on coordination. Looking at the tea industry right from the farms, there are many challenges which need to be looked into. We hope the Board will be the only player in the market that will be charged with the responsibility of coordination. This is a good opportunity because we are now coming up with a specialised and focused institution which will look into the challenges that farmers are facing.

The tea industry has been characterised by a lot of malpractices where some players are gaining and over-exploiting farmers. It is for that reason that we highly support this Bill. We hope that that board will look at this industry as a whole; starting from the farmer himself and look at the challenges that he is facing. In particular, I want to bring out one area that has been forgotten many a time when we discuss farming, whether it is rice, tea, coffee and others - that is the strengthening of our research institutions. Over time, we find our farmers recycling their products because of lack of strong institutions for research. This is one area that I would urge this board that is coming up not to forget like others have done in the past. We need to continually look at the research area so that the tea varieties that we are growing may be reviewed from time to time, more so, looking at our climate changes. We are dealing with this industry as if we are living in constant climatic conditions in this country and yet, we acknowledge that climate change takes place. But our farmers do not have the liberty of going for new types of coffee seedlings.

The other area that I think needs to be looked into is the weighing machines that are used by various institutions; not just for tea, but other farm produce like maize and rice. Our farmers are exploited out there. Many people buy those products with adulterated weighing machines. I hope I am speaking to the Weights and Measures Department in this country. They need to up their game. They need to move out there. They need to protect our farmers. Our farmers are over-exploited. Some of the institutions that are charged with the responsibility of buying products from our farmers are the same institutions that are using those types of machine for

their own benefit. It is a shame that some of them are actually public institutions. Some of them are co-operatives and yet, they do not find it necessary to protect the interest of the same farmer they are supposed to protect.

Quite often than not, you will find a farmer going to some of those institutions with 100 kilogrammes of produce, but he ends up being given 60 kilogrammes. So, this is an area that requires to be really looked into. I also hope that that institution will look at how farmers are handled out there. Quite often than not our tea farmers sleep at the buying centres. For 12 hours, they wait for KTDA vehicles to come and buy their products. Nobody cares because they know they do not have any other choice. It is my hope that we will start valuing our farmers and knowing how they are helping us in this country not only monetarily, but also on food security and other areas so that we can respect and dignify them. Having a farmer sleep at a buying centre for 12 hours waiting for a vehicle is unacceptable in modern Kenya. I hope this board will look at some of those areas.

That board will be expected to regulate the licencing of the industry. At the same time, I hope that particular board will work closely with the private sector with a view to expand markets and ensure that the different players are fully capacitated to reach out to the markets out there because the private sector will continue to play an important role in the industry.

I want to turn to the counties which have a lot of responsibility in the agricultural sector. Counties in this area are not doing very well. We hope that the national Government will capacitate counties to play the role that is expected as spelt out in this Bill. We have realised across the board – and I have seen it even in the rice industry – before the agricultural sector was devolved, there was a lot of support to farmers. We had the national Government posting extension officers and other officers out there. The county governments have taken the responsibility, but they have not executed it. We do not have extension officers helping our farmers. For that reason, the production costs have increased because of lack of support from counties. For that reason, I hope that as we develop the operationalisation regulations for this Bill, we will look at the areas that have posed a major challenge to our farmers and also look at the areas that have increased the production costs even before we focus on the markets. That is because we may get markets and money out there but is it reaching the pockets of the farmer? How are we ensuring that the farmer, through the research and support of those extension services, is supported to ensure that the cost reduces?

I, therefore, call upon those that will be charged with the responsibility of writing the regulations that will operationalise this Bill to ensure that the responsibilities for the county governments, in particular, are well spelt out. If that is not done, we will see two entities – the national Government and the county governments – trying to focus and work on the same thing yet; it will be causing a lot of confusion even to the farmer. Therefore, we need very clear laws and responsibilities for the two levels of government and to know what to expect from whom. I have seen it in the rice industry. We are still suffering in many areas and I hope that the tea industry, now that we have this Bill... Before we bring in the Rice Board of Kenya, this Bill will be a good precedent.

Thank you and I support.

**Hon. Speaker:** I think it was appropriate that the Bill originated from the Senate reflecting the constitutional architecture in which agriculture is devolved. I encourage Members who attend some of those many meetings that you attend to tell the governors not to cry about agriculture because it is devolved. They should be telling Kenyans what it is that they have done for the last seven years in the field of agriculture. When they present memoranda complaining

that they want to grow a certain crop, who has prevented them from growing whatever crop? Everybody is just crying. It is not right. I congratulate the Mover of the Bill for having brought it to help the governors and the devolved units.

Next is the Member for Nambale.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Speaker. I rise to comment and contribute to the Tea Bill (Senate Bill No.36 of 2018). History repeats itself. I guess no nation should be embarrassed to have to repeat history. We had the Tea Board of Kenya for many years. I think whatever the rationale was at the time was obviously not too far-sighted. They amalgamated this into one monstrous organisation which we are now struggling to un-bundle to go back to where we were before.

We have wasted time and resources. Looking at this Bill, I do not see how it is significantly saving us from the failures of the previous one. The appreciation underlying the formation of the board has not gone sufficiently well into factors that are challenging – failed crops such as tea related to cost of labour and opportunity cost of land that goes up with population pressure. There are many things that you can do with the land that has long-term crops such as tea with population pressure on it. That puts enormous pressure on it.

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

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

Secondly, Hon. Temporary Deputy Speaker, one of the major failures was not within the sector. It was infrastructural. Earlier, there had been dedicated efforts to provide tea roads, power, and things like that, but when those utilities or infrastructure plans affecting roads failed, the tea sector was caught into it. During the old days, you could have bad roads but, as you enter the tea zones, you would get reasonably well-maintained roads. That was the way to go. When there is a general failure in the sector, off course, it affects commodities like those.

I support this revival, relooking and rewriting of history with the expectation that it is something that the Government will carry across all sectors, where there are major commodities – major commodities either by virtue of their trade size, import substitution, or the inclusion to the food basket that goes on. I hope the wisdom that we gain will be applied across the board. The expectations of the county governments and Kenyan citizens on the national Government are such that the national Government is forced to cast their eyes across the land to get this done.

Hon. Temporary Deputy Speaker, we justify many things by virtue of their importance as foreign exchange earners. Let us remember that a commodity or an activity might be very important because it earns foreign exchange, but it can equally be important because it saves foreign exchange. If you are unable to produce basic grains and cereals, you will import them. If you have grains or cereals that saves that import, it is very important in terms of the foreign exchange saving potential that it has. So, in looking at commodities, let us not get carried away simply by the earning aspect. We should look at their impact on foreign exchange. It could be earnings or savings, both of which are equally important.

I do not see in the Bill, anything that will tame either the size or appetite of the Board to get as big as possible, to buy the most expensive cars, and so on. The old model worked well in coffee. I do not know how well it worked for tea. The old model provided for a certain proportion of the earnings in the coffee sector to finance research. In the days when that was done, coffee research in Kenya was of world standards. In the Far East, Papua New Guinea

copied from Kenya. They even brought scientists from Kenya who worked with them. Many other countries learnt from Kenya. We also had the development of cultivars, which are now well known in the industry and have been researched on and written about. All this was fully developed in Kenya. Those were the days when all of that research was done within the context of the resources of the industry, with the national Government playing a regulatory role to ensure that they found a sanitary site and other regulations that conformed to international standards. The role was limited, and it kept the national Budget small.

In this Bill, there is no attempt to reign-in on what might turn out to be the size of the Tea Board of Kenya (TBK). There is no clarity as to who exactly is meeting the bill. We are treating all farmers as if they are poor, which is a big mistake. We should internalise this, and the national Government should put in additional resources over and above this because there are areas that are out of reach of the Board and the capacity of farmers. It should not simply be because the crop earns us foreign exchange; we shall put in the money that it takes.

Hon. Temporary Deputy Speaker, we should be looking at the future as well. The future is not going to be rosy for the tea crop. That is for sure. What is going to make us rich is services, new crops — like we have done in the case of... Who knew that Kenya would become one of the most significant suppliers of cut flowers? In fact, we were the second-biggest supplier in the world. I do not know whether we are still the second-biggest or we have moved to position one. We were competing with countries like Holland and Chile. That was not because there was a board, but sufficient entrepreneurship that had flourished from the industry that looked out for resources, both financial and material.

Much as we want to set up a Tea Board, we may be setting up a perimeter wire around the capacity of the institutions and growers. We may be disenfranchising farmers in putting up their own initiatives because everything was to go via the Board. The Board is a bureaucracy as they all tend to be. The Bill recommends that we shall have four farmers representatives on the Board — two from the Eastern Zone and two from the Western Zone. Why not just have two? Why do you want to have four? If you want to have gender parity, you can appoint one male representative from one zone and put the female representative from the other zone. Why are we increasing the expenses of the Board that is going to have to be carried, unfortunately, not by farmers but by the State? This means the cost curved out of the State will go one direction, and the reality of the earnings of the crop may go another direction.

We need to seriously look into this matter. We need to have lean boards. This is too big of a Board. This is typical of boards, where people go in to make an income. There will be in-fighting about who will be appointed to make what money. Since the chair will be a presidential appointee, who gets what patronage and so on? That is not what this country needs in the agriculture sector. We should have a leaner Board to deal largely with regulatory matters and allow tea growers, like the coffee growers, to look for their own identify markets and produce products in the factories that meet those market needs. That is what has helped the coffee sector a bit. If we do not do that, we will administer this sector using civil service processes. I do not see it being the savior of the tea industry. All the noises we hear now are that we helped this crop; we will not help the other crop. Most of our tea is exported much less than coffee in regards to ratio but, what is exported has been in speciality markets. This is not going to be done by a team of civil servants who move from one delegation to another. This will be done by farmers themselves, who invest their money. We need to have institutional arrangements that will allow this to happen. Looking at the proposed Board, as I said, I see a perimeter wall being built

around the tea industry. The architects of this Bill are not taking us to the next level that we want to go to.

Hon. Temporary Deputy Speaker, lastly, tea is grown in areas whose soil and climatic conditions are favourable, because it requires a lot of rainfall, specific soil types and so on. Therefore, it is amenable to a lot of other activities that can be done in those areas. We must acknowledge that, if that is not understood well, you will not get great expansion in the tea sector because the dairy sector will be competing with it. There are several other areas...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, Hon. Member ---

**Hon. Sakwa Bunyasi** (Nambale, ANC): Hon. Deputy Speaker, I kind of support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You kind of support? Very well, Hon Member. Now, as we had said earlier on, this Bill has had its fair share of extensive engagement and debate by Members. So, we will have the two Members and then the Mover will reply. We shall have Hon. Wainaina and Hon. Marselino Arbelle and then we will make progress.

**Hon. Wainaina Jungle** (Thika Town, Independent): Thank you, Hon. Speaker, for giving me an opportunity to contribute to this Bill. In the formation of the Kenya Tea Board (KTB), the CEO is a very important person. The qualification for this position is that the holder should have a relevant degree. It is very important to sit down and define what that degree is. That is because that is the person who will carry the vision of KTB. If we start on the wrong footing, we will end on the wrong footing.

Giving him a term of three years is very short. There is a lot of work that needs to be done at the KTB because of the shambles that is our tea industry today. If we are to do anything about it, I propose a renewable term of four years. That way, we can see some results from that person. What do I want to see from that CEO? It is good to start from top to bottom. Many a times, we put a lot of resources at the farmers' door forgetting that, if the market does not move, then the farmer loses all the time.

Let me start at the top with marketing. Why has our tea remained a commodity all this time? In the last two years, the prices have been really bad. Places like China have come in very strongly asking why they import tea from outside. They are also developing their own tea plantations. If we do not think outside the box, we will not be able to sell our tea. It is high time that we started packing our tea and branding it so that Kenya Tea Packers (KETEPA) becomes a renowned brand everywhere. What do we need to do so that we do not always talk about black tea? If you go to those countries - and I keep referring to China because they are very aggressive - you will find that they have green tea, black tea and purple tea. In fact, a friend of mine moved to California from Florida. He is growing purple tea which is from Kenya. Unfortunately, he only has two farmers who are growing purple tea. Why is everybody stuck on green and black tea while there is market for purple tea? Can we start evolving? KTB is in charge of research. Why do we not invest money so that we know what varieties are required in the world?

We are talking about organic tea. If you go to Europe or America, you will find that many people consume organic products. Why are we stuck with conventional methods of using fertilisers? Even when Corona Virus comes in, nobody knows where it hits. If we stick to natural organic farming which is chemical free, we will widen our market. In any case, those products have a premium for our farmers. If we can market our products wisely, farmers will have their money.

When it comes to distribution, a Member has said that she went to Nigeria and there was KETEPA tea in the kiosk. How does it get there? Right now, it is very expensive to take

anything to West Africa. Kenya Airways goes to West Africa on a daily basis. What can we do so that we can have a second flight going to West Africa with only cargo? If we can get down to it, we can tap the African market. Remember that after China, Africa is the next biggest growing market. It is good to take note of that.

Even as we talk of tea as a commodity, can KTB ensure that we have a buffer fund? Tea is a commodity and you cannot control commodity prices. One time the demand is high and another time it is low. If we have a buffer fund, the farmer will get some kind of equalisation in his or her earnings and wait until the following year when the prices improve.

When it comes to payment, you will find that a farmer gets 10 per cent and a 90 per cent bonus. The bonus comes after 12 months. What is the problem with this? The farmer needs fertiliser and is required to pay for labour. I prefer that if a farmer is paid 50 per cent on a monthly basis, he can also get a 50 per cent bonus so that he remains afloat.

KTB is responsible for licensing brokers. At the end of the day, those brokers are the source of the problem. Let us try to eliminate brokers as much as we can, especially for the green leaf tea. Let us ensure that the farmer can be reached so that they can deliver their tea to the factories or centres as it were.

Finally, there are 54 factories in this country. Those factories are sometimes run like kiosks. When you look at how those factories weigh the farmers' tea, you will find that a farmer has tea weighing 100 kilos but the factory records it as 70 kilos. We need professionalism in those factories. Is it possible for those 54 factories to make an apex body? While KTB remains a regulator, we could have an apex body that is quoted at the Nairobi Stock Exchange (NSE). Those factories will become corporate holders with direct ownership to that apex body. Every farmer will have the advantage of good audit and everything that goes with the accountability of the NSE.

I support that we create the KTB.

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

**Hon. Marselino Arbelle** (Laisamis, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to equally contribute to the Tea Bill of 2018.

Tea is a commodity that contributes to the economy of this country in terms of GDP. It must be protected. That sector must be protected by all measures to ensure our farmers are safe from exploitation. Sometimes back, under the former Cabinet Secretary for Agriculture, Mr. Kiunjuri, a taskforce was constituted to look into what is ailing the tea and coffee sectors. Subsequently, another taskforce was also constituted by the President to look into such matters. Unfortunately, there is nothing much that has been done to ensure that the report is put to use. That is because in this country, unfortunately, there are cartels everywhere. Therefore, in the tea sector under the jurisdiction of the Kenya Tea Development Agency (KTDA), there are cartels that are making sure that such a report will not see the light of day. That report is put on the shelves to accumulate dust. Therefore, I support the introduction of this Tea Bill of 2018 because it will bring recommendations in terms of formulation of policies and strategic regulation of the tea sector.

I do not speak as a tea grower. I am not a farmer. I am a pastoralist. I am a consumer. Generally, in Kenya, pastoralists are the biggest consumers of tea. I, therefore, stand here to defend the quality of tea which is produced by the tea growers. It is the consumer who knows the quality of tea which is produced by the tea growers in Kericho or across the country. Therefore, it is always very important to safeguard our farmers in terms of what they earn at the end of the day. We need to motivate such farmers, so that they can keep on growing tea. Our Kenyan tea is

number one worldwide. If you go to the United States of America (USA), Asia, Malaysia, Japan and Saudi Arabia, everyone prefers to use or buy Kenyan tea. Therefore, it is very important to bring about some regulation in tea production so that, as a country, our factories do not close.

For instance, just because we import sub-standard sugar from outside Kenya, you hear that it has some mercury content. This brings a lot of problems in our country because there is risk of health. Because of the fact that we have Corona Virus everywhere, people might refuse to take tea or other commodities.

With those few remarks, I support the Tea Bill, 2018. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. The time for that Bill is over. We shall have the Mover to reply.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, allow me to, first and foremost, thank my colleagues. As per your list, there is a long list of colleagues who contributed. I wish to thank them very much for the time they took and the input which they have made into the Bill.

I wish to confirm that I will also take time to read the *Hansard* because this is a Bill for posterity. It must be considered well. Kenyans anticipate that it will help the farmers. Colleagues raised various issues. There were issues on taxation which were raised by the Member for Kigumo. We will look into it. She alluded to 42 strata taxation that is a huge issue which I feel that we did not look into at the Committee level. When she brings up amendments to that effect, we will be very comfortable to accommodate them for the good of the country. Many Members have expressed issues on crop development. We will also invite them. It is my prayer and an appeal to those Members who have talked about it to bring forward any amendments to that effect, especially on speciality tea and black tea. We will accommodate them.

There was also the concern of the marketing structure of tea. In as much as we are going to produce tea, we will do crop husbandry. The joy of a farmer is to see that there is a market and good marketing structure. Hon. Mbarire expressed her interest to make some proposals in the administration and structure of Kenya Tea Development Agency (KTDA), which we will accommodate. We want to really encourage her to bring those amendments, so that we can enrich the Bill and make it farmer-driven, acceptable to all Kenyans and be supportive to the farmer.

As a Committee, we looked at various issues. We sought most of them because Members had expressed their concerns. For example, what you have just heard from Hon. Jungle. He has mentioned an issue which is already captured in the proposed amendments by the Report. What we, as a Committee felt, was expressed by Hon. Jungle. That means that we talk the same language. We feel for the same farmer whom we will also accommodate. Should there be any other opposition, we want to welcome it and be accommodative to as many Members' views as possible, so that we can build a Bill that is really good for all of us.

Finally, I wish to extend my appreciation to the Secretariat which was very good. They sat for long hours until we completed the Report. I also wish to express my appreciation to the Clerk of the National Assembly for allowing the Secretariat to be with us at that time. I wish to thank the Members for their participation in this very good Bill which is for posterity, especially in the agriculture sector.

Hon. Temporary Deputy Speaker, with those very few remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall not put the Question at this particular time. We will pend putting the Question on the Tea Bill (Senate Bill No.36 of 2018) to a subsequent time.

*(Putting of the Question deferred)*

Next Order!

THE COUNTY ROADS, WALKWAYS AND PARKING BAYS BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Chairperson, Departmental Committee on Transport, Public Works and Housing. I have been made aware that the Chairman, Hon. Pkosing, is doing consultations somewhere. So, we will step that Bill down.

Next Order!

*(Bill deferred)*

**MOTIONS**

REPORT ON AUDITED FINANCIAL STATEMENTS  
FOR THE AGRICULTURAL SETTLEMENT TRUSTEE FUND,  
THE UNIVERSAL SERVICE FUND AND THE WATER SECTOR TRUST FUND

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The Chairperson, Special Funds Accounts Committee.

*(Hon. Erastus Nzioka stood up in his place)*

The last time I checked, you were not the Chair of the Committee. You must be the Vice-Chair or a member of that Committee.

**Hon. Erastus Nzioka** (Mbooni, Independent): I am an authorised member of the Committee.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Please, you have the Floor. Proceed, Hon. Kivasu.

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

THAT, this House adopts the fifth Report of the Special Funds Accounts Committee on its Consideration of the Audited Financial Statements for the Agricultural Settlement Trustee Fund for the year ended 30<sup>th</sup> June 2016; the Universal Service Fund for the year ended 30<sup>th</sup> June 2017 and the Water Sector Trust Fund for the year ended 30<sup>th</sup> June 2017, laid on the Table of the House on Tuesday, 29<sup>th</sup> October 2019.

The Special Funds Accounts Committee is amongst the three watchdog committees of this 12<sup>th</sup> Parliament which are responsible for examination of the reports of the Auditor-General of the following Funds laid before this House to ensure probity, efficiency and effectiveness in application of public Funds:

1. The Equalisation Fund
2. The Political Parties Fund
3. The Judiciary Fund, and

4. The National Government Constituencies Development Fund (NG-CDF); and, such other fund which are established by the law or as the Hon. Speaker may direct.

Examination of audited accounts of Agricultural Settlement Trustee Fund, Universal Service and Water Sector Trust Fund is amongst the mandate of the Committee as provided under the National Assembly Standing Order No. 205A. In so doing, the Committee ascertains whether public funds have been utilised in a lawful, authorised, effective, efficient, economical and transparent manner. This is in line with Article 95(4)(c) of the Constitution which gives this House power to oversee national revenue and its expenditure. Article 229(8) of the Constitution mandates the House to consider audited reports and take appropriate actions within three months upon their receipt from the Auditor-General.

The Agricultural Settlement Trustee Fund, Universal Service Fund and Water Sector Trust Fund were established under various Acts of Parliament and have specific mandates which are geared towards improving the lives of Kenyans. The Agricultural Settlement Fund Trustees was established in 1963 and was meant for agricultural development and purchase of land. However, its current mandate is limited to purchasing land for Internally Displaced Persons (IDPs) and squatters with a running loan that is set to expire in 2022.

On the other hand, the Universal Service Fund is mandated to ensure wide spread access to Information and Communication Technology (ICT) and to support capacity building and to promote innovation in ICT. Further, the Water Sector Trust Fund is mandated to provide conditional and unconditional grants to counties, in addition to the Equalisation Fund; and to assist in financing the development and management of water services in marginalised areas or any area considered by the Board of Trustees to be under-served.

Hon. Temporary Deputy Speaker, based on the important role that the funds play towards national development, there is need for proper utilisation and accountability of public resources invested towards realisation of mandates of those institutions. It is on this basis that the Committee invited the accounting officers of the Funds to respond to the audit queries raised in the Report by the Auditor-General. During examination of the reports by the Auditor-General, the Committee came up with various recommendations arising from observations and findings made.

On the Universal Service Fund, the Committee found out that the Fund flagged out its first project in the Financial Year 2015/2016 where it connected about 212 sub-locations with ICT services. The connections benefited 889 public schools where computer kits were distributed to 47 counties. Its annual budget in the F/Y 2015/2016 was Kshs7 billion. This is expected to rise to Kshs27 billion in order to ensure connectivity in the whole country. Due to various players undertaking similar projects at the grassroots, the Committee felt that there is likelihood of duplication of projects initiated by this Fund in the Ministry of ICT, the Ministry of Education, the county governments and the National Government Constituency Development Fund (NG-CDF) at the grassroots. It is on this basis that the Committee recommended that the Universal Service Fund Board involves NG-CDF, the Ministry of Education and all other players in development at the constituency level during implementation of those projects, to enhance participation and non-duplication of projects. In addition, the Board should ensure equity in sharing of resources, particularly ICT connectivity to public schools.

On Water Sector Trust Fund, the Committee observed that the Board was yet to come up with a framework to monitor projects under implementation by various agencies or Community Based Organisations (CBOs) to ensure that they are carried out in line with Public Procurement and Assets Disposal Act 2015. The Committee further observed that the Ethics and Anti-

Corruption Commission (EACC) had commenced investigations regarding amounts totaling to Kshs16,709,882 given to various project-implementing agencies that were subject to audit query. It is on this basis that the Committee recommended that the Water Sector Trust Fund Board avails adequate resources and tools to strengthen, monitoring and evaluation of projects under implementation, to ensure conformity with the law. In addition, EACC should fast-track all ongoing investigations of the Fund and submit a status report to the National Assembly, within three months of adoption of this Report by this House.

Hon. Temporary Deputy Speaker, the Committee observed that most audit queries under the Agricultural Settlement Fund Trustees Fund remained unresolved given that the Ministry of Lands and Physical Planning was relying on manual records to reconstruct the accounts of the fund whose process was still ongoing during the period under review. This was as a result of crashing of the main-frame computer in the F/Y 1994/1995 when the fund was managed under the National Treasury, resulting into usage of a block opening balance without supporting documents to prepare financial statements in the FY 2007/2008 by the Ministry of Lands and Physical Planning when it took over the management of the Fund.

Based on the findings, the Committee recommended that the Directorate of Criminal Investigations (DCI) investigates the operations of the Fund as to the veracity of loss of documents as alleged by the Fund and to take action against any officers managing the Fund, whether current or past, for breach of Section 68, Sub-Section 2 (b) and (c) of the Public Finance Management Act 2012, which requires all financial and accounting records kept in any form to be adequately protected and backed-up.

The Committee also undertook field visits in farms purchased to settle IDPs at a cost of Kshs4,076,800,380, which was subject to audit query. The objectives of the visits were to conduct a physical verification of the information supplied by the accounting officer pertaining to the size and ownership of land purchased under the IDP program and to ascertain the actual beneficiaries settled in the purchased farms. The visits were undertaken in four farms located in Bonde Village, Suwera Location, Cherangany Constituency in Trans- Nzoia East Sub-county as well as various farms in Rongai and Kisima areas in Nakuru County. From the field visits in the two counties, the Committee found the following:

(i) Sub-division of the land in Kisima Farm in Nakuru County and Bonde Farm in Trans-Nzoia County was yet to be concluded despite the Presidential Directive of 25<sup>th</sup> September 2009.

(ii) Failure by the Ministry of Lands and Physical Planning to conclude surveying and sub-division of purchased land and issuance of title deeds, which had led to IDPs...

*(Hon. Erastus Nzioka's microphone went off)*

*(Hon. (Dr.) Chris Wamalwa interjected)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Member, take your time. Present without pressure. I can hear Hon. Wamalwa telling you to summarise.

**Hon. Erastus Nzioka** (Mbooni, Independent): Hon. Temporary Deputy Speaker, he knows I am a first timer.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It is a persuasion.

**Hon. Erastus Nzioka** (Mbooni, Independent): Hon. Chris, I have the time.

(ii) Failure by the Ministry of Lands and Physical Planning to conclude surveying and sub-division of purchased land and issuance of title deeds, which had led to IDPs being settled in makeshift structures thereby living in deplorable conditions where basic sanitation amenities were lacking.

(iii) The Ministry of Land and Physical Planning had not prioritised resettlement of IDPs since 2012 when the land was purchased.

(iv) The process of IDPs resettlement was not planned well, given the period it had taken for the process to be completed.

Arising from the findings on resettlement of IDPs, the Committee recommended the following amongst others, under the audit query:

1. The Principal Secretary (PS) Ministry of Land and Physical Planning ensures that the land purchased for IDPs settlement program is surveyed and sub-divided within three months of adoption of this Report by the House.

2. The PS Ministry of Land and Physical Planning ensures issuance of title deeds to beneficiaries of land purchased under IDPs Settlement Program, within six months of adoption of this Report by the House.

3. The Auditor-General undertakes a special audit on the land purchased under IDPs by the Agricultural Settlement Fund Trustees and report to the National Assembly, within three months of adoption of this Report by the House.

Hon. Temporary Deputy Speaker, as I conclude, allow me to thank your Office and that of the Clerk of the National Assembly for the support extended during the consideration of the Reports. I also extend the Committee's appreciation to the Office of the Auditor-General and the National Treasury for the complementary role they continue to play in overseeing public funds.

Finally, Hon. Temporary Deputy Speaker, I acknowledge with gratitude the Office of the Principal Secretary, Ministry of Lands and Physical Planning for availing information pertaining to the management of this Fund which enabled the Committee to finalise this Report on time.

I beg to move. I request the Member for Teso South, Hon. Omuse, to second the Report. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Omuse.

**Hon. Geoffrey Omuse** (Teso South, ODM): Thank you, Hon. Temporary Deputy Speaker. As I stand to second the Motion, I appreciate the support the Committee gets from the Office of the Speaker. However, we still have challenges. I request you to help and stand firmly with this Committee because it is the youngest in the House. We are supposed to go out to examine other reports, but we are unable to do that. I leave that to your Office so that it is addressed.

I want to echo one thing on the issue of settling Internally Displaced Persons (IDPs) especially in Kisima in Nakuru. I wish the recommendations that have been put across are implemented as soon as possible. The state of the families in that place is deplorable.

As I conclude, I wish to thank the House, the Office of the Speaker and the Office of the Clerk for the support they gave the Committee.

I beg to second.

*(Question proposed)*

Hon. Ganya Chachu.

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I stand to support the Report of the Special Funds Accounts Committee on the Universal Service Fund as well as the Water Sector Trust Fund.

These are Funds that were created to enhance services to the marginal, rural and remote communities of our country. The Universal Service Fund is supposed to provide ICT services to very marginal and remote areas of the country. The special funds are given by the State to undertake this special project. I am a Member of Parliament of a very rural constituency, namely, North Horr. These funds are supposed to be given to our schools, especially secondary schools, so that they are able to access ICT services. For this to be done, there is a requirement that the schools must have very modern laboratories, but most of our schools lack that. As a result, most of our schools do not benefit from the services. The fund managers can approach Members of Parliament and ask them to put up laboratories because we can easily do that under the National Government Constituencies Development Fund (NG-CDF). We are never told to do that. We are told that we are not able to access the funds because we lack the infrastructure. In essence, the Fund, which is supposed to enable marginal areas or schools to be at par with the rest of the nation does not do that. We are even further marginalised. From my research, I have discovered that most of the funds go to Machakos and some areas around here with similar facilities when they are supposed to go to remote, rural and marginal areas. I strongly request the Members of the Special Funds Accounts Committee to have a sitting with Members of Parliament from rural, marginal counties and constituencies who are willing to invest with them, so that our constituency primary and secondary schools and colleges in the regions benefit from ICT services that the Universal Special Fund is supposed to provide.

Equally, the Water Trust Fund is another Fund that was established to enable marginal counties with severe water scarcity to construct water infrastructure, be they rain water harvesting infrastructure, boreholes, dams or pans. These are grants given to county governments and the county governments implement the projects through companies that they establish. The companies are poorly managed. They are just channels for corruption and mismanagement. Because of this, a lot of funds are available from donors through the Water Trust Fund, but we hardly see any tangible benefits from the Water Trust Fund. We now and then see advertisements in newspapers and our people apply, but eventually, they are all cancelled simply because of mismanagement. The companies are poorly managed. Of course, they are answerable to the governors and other technocrats at the county level. Because of this, the Water Trust Fund is not able to provide the service it was created to provide. I speak for Marsabit and I am sure this is true for most marginal counties.

For the companies to be operational, they need to build their capacities and do a serious audit of what they have been doing since they were established. Before they are given the funds, let us have institutions that are viable and that can execute the mandate they are given. As they are now, the Universal Service Fund and the Water Sector Trust Fund do not serve us. I call upon our colleagues in the Special Funds Accounts Committee to take a hard look at what the funds are used for in our constituencies in the marginal counties and ensure they are up to the task for which they were established.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall now have Hon. Luyai Amisi.

**Hon. Caleb Luyai** (Saboti, ODM): Hon. Temporary Deputy Speaker, I am quickly perusing through the Report before I make my remarks. So, give the chance to the next Member then I will take the second chance.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I hope Hon. Angatia Savula has read the Report. Hon. Savula, you have the Floor.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity. I was behind the Mover when he was going through the Report.

It is very simple. We have to observe timelines. The Report is very clear and has indicated areas that we need to look into. The first area is misappropriation of funds because of lack of records. It has recommended to the Ethics and Anti-Corruption Commission (EACC) to look into the matter and report to this institution within three months. I doubt if that will happen because many reports of committees are gathering dust in rooms here because when they are presented to such big institutions with the mandate to do further investigations and report to the House, they take more time and Parliament gets dissolved before the reports are brought to the House for debate and action to be taken.

Furthermore, it is also shameful to be discussing issues regarding IDPs. Retired President Mwai Kibaki and retired Prime Minister Raila Amollo Odinga agreed on the National Accord in Parliament. The National Accord was developed and adopted by this House. People who were internally displaced during the post-election violence were supposed to go back to their land. What are we doing with issues of IDPs? Did they come from the air? Where did they come from? How long shall we take to solve the issue of IDPs? We know squatters are landless people. We know where squatters come from. They were not settled. There are IDPs because of post-election violence. We know where they come from. In Lugari, we identified them. We used the National Accord to create cohesive mood and resettled them back in their land. Lugari is a cosmopolitan constituency. We have all tribes in Lugari, namely, Kikuyu, Kamba, Meru, Luhya and Kalenjin, but we are living in harmony. Which part of the country still has issues of IDPs when we have peace in the country? Why can they not use another accord that is existing between President Uhuru and the people's president, Raila Amollo Odinga, to sort out this issue once and for all? The National Accord means Kenyans coexist. If I have land in Narok, I will stay in Narok. If I have land in Kirinyaga, I will stay in Kirinyaga. I am a Kenyan and I have a right to stay anywhere in this country.

I wonder why in this day and age we are still talking about issues of resettling IDPs. We have to be serious. There is a recommendation here that the records of purchasing of IDP land using loans is set to expire in 2022. We are talking about 2022. We are still pushing IDPs' issues further to 2022. Are we serious? Why can we not ask the IDPs to go back to their land and we will provide peace? Why can we not ask them to go back to their land and be part of the people who are participating in the national development of this country because cohesiveness exists?

The other issue that has been raised here by this Committee is the first nature in which the Auditor-General's office is acting on issues of the audit. Recently, we discussed the PAC and PIC reports which were presented by the Office of the Auditor-General. I am happy the Auditor-General's Office cooperated in giving their evidence because there are matters to be considered in this Committee.

Finally, I thank the Committee for having done a good job. Let us resolve the issue of IDPs once and for all because no one is an IDP in this country.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kirima Nguchine.

**Hon. Moses Kirima** (Central Imenti, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Motion. I support the work and the effort the Committee has put in to come up with this Report. It means a lot of input. There are a number of things which I feel should not be as they are like it has been said by my colleague on the issue of IDPs. As it is, it is the stand of the current leadership of the ruling party and the opposition that we should never experience violence after elections at any other given time from now henceforth. Taking into account the prevailing peace in the country, we should not be hearing of IDPs. As it is, the Constitution provides that one can stay in any part of the country, trade and can own property in any part of the country. The people who experienced violence in 2007/2008 were guaranteed security, peace and coexistence after the inauguration of the Constitution of Kenya, 2010, within their communities.

The IDPs should not be enjoying a monopoly of being called IDPs yet their pieces of land which they used to own then still exist. They have valid title deeds. They should go back to their land. There are those who took bold steps to go back to their land and they have never been bothered. It is high time we encouraged them. The Executive should encourage the people who refer to themselves as IDPs to go back to their pieces of land because there are many masquerading as IDPs yet they are not IDPs. They expect free money from different quarters because they expect even NGOs to chip in. For that, the idea of IDPs should not be addressed at this particular time because it should have been finished a long time ago. We should have cleared with this issue.

With regard to the unaccounted funds by the office that deals with the Agricultural Settlement Trust Fund and the Universal Service Fund, each officer should be liable of his own action. If one is entrusted with a responsibility of ensuring that public funds are secure in any office, the officer concerned should not be shifting blame and saying that they do not have books or computers crashed. One should be responsible for his actions and public money must be accounted for to the last coin. That is why we are shouting everyday about corruption without an end and we are not pinning anyone down. We are just shifting the idea of corruption to one person as if that person is an angel. Because of political connotations, we are shifting it to one direction and forgetting that the main corrupt characters are occupying big public offices.

To conclude my remarks, we have this Universal Service Fund which is supposed to be like the Equalisation Fund to marginalised areas. It is uttermost surprise to some of us who come from constituencies like Central Imenti. This is an interesting constituency because it starts at the forest side and goes down to Tharaka, which borders Kitui. It is one of the most remote parts of the constituency. People have no cash crops. They have nothing to rely on. In dry seasons, they beg. They are supplied with relief food, but when it comes to the Equalisation Fund, we are denied. When it comes to identifying schools to be assisted through the Universal Fund, we are denied the funds because Meru is generally branded a place with no problems. People in some areas rely on relief food and students cannot be maintained in school throughout the year because of dry seasons. We are praying that when it comes to the consideration of the Universal Service Fund which assists public schools through infrastructural systems to enhance education in marginalised areas, we should be considered. Meru, especially Tigania, part of Igembe North and the lower part of Central Imenti, should be considered. I do not know why nobody has ever stated that we are not the same. Even though we are serving one constituency, we have different climatic zones.

I hereby support the Motion as it has been submitted by the Committee. I feel that the work has been thoroughly carried out. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. First and foremost, I congratulate the SFAC committee for the good work they have done. In this Parliament, we have three watchdog committees, namely PAC, PIC and the SFAC. We know very well that PAC is mostly looking at ministries and PIC is mostly looking at parastatals. The SFAC looks at the special funds like the NG-CDF, Women Enterprise Fund (WEF) and the ones that have been done today.

Hon. Temporary Deputy Speaker, this Report touches on three funds only, namely, the Universal Service Fund, the Water Sector Fund and the Funds for Internally Displaced Persons. Most of the time, departmental committees are called morticians. They are morticians in the sense that whatever they do is historical in nature.

I want to comment on the Auditor-General because these reports originate from that office. As we speak, we have a problem because we do not have a substantive Auditor-General. I sit in PIC. Last time, we extended our sitting time and we are told to extend again. We do not know whether it is by design. So, we are calling upon His Excellency the President to intervene so that we have a substantive Auditor-General.

The primary function of the three watchdog committees is dependent on the audited accounts. For almost a year, we have not had a substantive Auditor-General. What is going to happen? That is what we are trying to put across, so that the Executive can intervene on this matter.

I know a selection was put in place. The responsibility of the selection panel was to interview candidates and forward names to His Excellency the President to pick one. Their responsibility was not to disqualify applicants.

On this Report, I want to talk briefly about the Universal Service Fund. Article 56 of the Constitution, under the Bill of Rights, is very clear. It talks of minorities and marginalised groups. It says that the State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups have reasonable access to water, health services and infrastructure. So, the objective in establishing these Funds is to implement Article 56 of the Constitution.

The Universal Service Fund is objectively looking at universal matters, for instance, ICT. As we are aware, we live in a global village. Technology is the in-thing, but we have a problem with the way these projects are being implemented. Research has shown that 70 per cent of the good plans in this country fail because of poor implementation.

Looking at issues of ICT hubs and what the NG-CDF is doing, there is a lot of duplication resulting in wastage of public funds. So, it is important that when it comes to implementation of ICT services, the implementers must liaise with the NG-CDF Board to ensure there is synergy. Where there is duplication, there will be wastage.

As Hon. Chachu Ganya has mentioned, one of the critical requirements for this service is to have modern laboratories. However, in most marginalised areas, the infrastructure is pathetic. So, instead of benefiting the marginalised groups, these funds find their way back to urban areas which are already at an advantaged position. So, the issue of liaising with the NG-CDF Board or maybe the affirmative board for purposes of avoiding duplication is critical and must be looked into.

When you move to the Water Sector Fund, it is where corruption is. The mother of corruption has been the water sector. When it comes to drilling boreholes, in most cases, the Bill of Quantities (BQs) are tripled or quadrupled. So, the “elephant” corruption in this country has

been in the water sector. This is where we look at the Directorate of Criminal Investigations (DCI). So far, the DCI has done a very good work. However, there must be synergy in terms of investigations. The DCI, the Director of Public Prosecutions (DPP) and the courts are three arms that must work together mutually. They cannot work separately. The core business of the DCI is to do investigations, so that they get evidence, which they take to the DPP for purposes of prosecution.

We have heard His Excellency the President lamenting about the courts, but the head of the Judiciary has also made it very clear that they can only move with speed if there is evidence that meets the threshold. Judges and magistrates can only give judgements based on evidence. So, we are calling upon the three arms of the Government to work together because they are very critical in the fight against corruption. The issue of blame game should not be there.

We want to support the recommendations of the Committee. The Mover mentioned very clearly that the DCI must move with speed. The EACC takes too long to conclude investigations into matters of corruption. The EACC is a very critical body responsible for the fight against corruption and it must work in synergy in a mutual manner with the DPP, the DCI and the courts. Those observations have been made by the Committee. We want to salute the Committee and support them on that particular recommendation because it cuts across the board. This has been the biggest problem in this country.

The Report of the Auditor-General shows clearly that 30 per cent of our revenue goes into wastage in terms of corruption. This country is bleeding because of corruption. At times donor funds come, but people do not follow the conditionalities pegged on them. It is, indeed, important that corruption be declared a national disaster.

In China, people who are found guilty of corruption are executed through shooting, but they are the same people you find importing corruption into this country. Most of their firms have been implicated in matters of corruption. In China, issues of corruption and the role of the party are very clear. So, we must borrow some of the good ideals from China, but the ones of bad manners, we leave them.

In this country, we have had a lot of conspiracy when it comes to IDPs and issues of compensation for land. People collude and ensure that a piece of land with a value of, say, Kshs10 million, ends up costing the Government Kshs50 million. If you carry out a verification exercise right now, you will find that the genuine IDPs are still suffering because of corruption. If you go to the ground, you will find that the beneficiaries of these funds are friends or relatives of people who are involved in the re-settlement process, mostly relatives of provincial administrators. That means the planning was done well, but when it came to the implementation, the work was done poorly. The real IDPs are still suffering. They are all over Trans Nzoia. Evaluation has been done in Trans Nzoia and Nakuru.

I remember in Trans Nzoia, we had IDPs relocated from Nakuru, who were to be settled in Trans Nzoia yet Trans Nzoia had its own IDPs. Up to now, IDPs from Trans Nzoia have not been settled, but the ones from Nakuru were settled. On the ground, the land has not yet been surveyed, subdivided and titled. The IDPs do not have any documents of ownership. This is the problem that we have.

The Government must be serious when it comes to issues of marginalised groups because when there is a calamity somewhere and we have marginalised or disadvantaged groups, we have special people who see an opportunity to make money. Where land costs Ksh1 million per acre, they make sure that the Government pays Kshs5 million per acre. It is a source of corruption.

I want to thank the Committee. I request that you move with speed to look at the Equalisation Fund. The Equalisation Fund is supposed to be an affirmative action to help. However, in this country, I have never seen any report on the Equalisation Fund. Where does the money go? I know that in some counties, including Trans Nzoia, there are some wards which are marginalised and they need affirmative action. They are hardship areas. We need to re-examine these areas. With the change of the weather pattern due to climate change, it is, indeed, important that some areas must be re-evaluated, so that these funds can benefit everyone.

As Parliament, we are here to provide oversight and I thank the Committee. However, we cannot move in the watchdog committees without the Auditor-General. I am reemphasising to His Excellency the President, wherever he is, that we need a substantive Auditor-General like never before.

Before I finish, I have seen a funny report going...

*(Hon. (Dr.) Chris Wamalwa's microphone went off)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! Hon. (Dr.) Chris Wamalwa.

*(Hon. (Dr.) Chris Wamalwa spoke off record)*

You seem to be very aggressive in that borrowing. Give him one minute. You seem to be very aggressive.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Hon. Temporary Deputy Speaker, I want to mention something on a matter that has been going on. I have seen a purported survey of the NG-CDF. The researchers in that survey were calling people to collect data. They even called my constituency office. How would you do an independent survey and you ask the person you want to rate to give you the figures? This is a fake thing that must be condemned. We have research methodologies which are scientific in terms of sampling framework and research design. We will not allow fake things to come here, especially the issue of trying to rate people without a proper framework. We know the NG-CDF Board is responsible and will do proper evaluation of NG-CDF projects. However, some fake bodies have come up. They do not understand the scientific methodology when it comes to research. For example, they called my constituency office asking for figures, so that they could rate me. If they are doing any rating, then it should be independent. It should be without the knowledge of the respondents. That is what we call objectivity.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Your point is made Hon. Wamalwa, and aggressively so.

*(Hon. Chris Wamalwa spoke off record)*

Order, Hon. Wamalwa! You may also want to check the Equalisation Fund that you mentioned earlier as to whether there was a disbursement of the Fund at all. I am not sure there has been a disbursement as yet. I could be wrong, but I am sure the Committee will pick the issue up.

Let us have Hon. Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, Ford-K): Hon. Temporary Deputy Speaker, thank you for the chance. Adding on to what Hon. Chris Wamalwa said, the initial purpose of establishing this Fund was to settle squatters.

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

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

In 1963, we got Independence and there were people who did not have land. That is why this Fund was established. The same Fund is being used to settle IDPs.

The Committee has done a good job. However, I want to encourage it to go back to Trans Nzoia where we have so many people who are unsettled. There are so many IDPs because of what happened. Trans Nzoia is a small Kenya. We have all the tribes in Trans Nzoia. We had problems with the General Elections of 1992 and 2007. I, therefore, want this Committee to find time and liaise with the leadership in Trans Nzoia. The Committee needs to determine whether or not the IDPs have been settled. I can tell you, as mentioned by my colleague, we have a serious problem in Trans Nzoia. These funds that were meant to settle squatters are now used to settle IDPs. If you do a physical verification, you will find that the funds have been misused. I know of a 30-hectares farm on which IDPs were to be settled in Saboti, whose price was inflated. It is time for us to look at it critically. This Committee should help us do a physical verification particularly in areas where there are IDPs and squatters from 1992. In my constituency, there are areas called Bosnia and Chechnya because those nations had similar problems at one time. Three months is good enough time to find out who were involved in any irregular purchase of land and bring them to book. I support the Committee in the recommendations.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the County Member for Lamu, Hon. Obo Mohamed.

*(Loud consultations)*

Order, Members! Please, consult in low tones.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii nami nichangie. Mwanzo ningependa kupongeza Kamati kwa kazi nzuri iliyofanya. Wabunge waliotangulia wamezungumzia kwa hamasa kuhusu wakimbizi wa ndani kwa ndani waliofurushwa au kukimbizwa almaarufu kwa lugha ya kimombo kama IDPs.

Ni vizuri wale waliofurushwa kutoka mahali walikokuwa wakikaa warejeshwe na haki zao zitimizwe. Sisi wengine tunasikitika tukiona haya. Tunasikitika kwa sababu ni kama Kenya hakujawahi kuwa na wengine kabla ya hawa. Sehemu zingine kukitokea mambo kama haya, hazionyeshwi na hazichukuliwi kwa uangalifu zaidi. Tukiangalia historia, waliofurushwa wa kwanza Kenya ni watu kutoka Lamu wakati wa “Shifita War”. Lamu ina miji tisa; nakumbuka mingine na mingine nimesahau. Kuna Mvundeni ambao sasa haupo, Rubu na Mwambore. Kuna miji tisa. Ilibidi watu wakimbie miji hiyo kwa sababu ya idhilali walizozipata wakati mashifita walipokuja. Watu walinajisiwa. Walipigwa na hata walipokonywa mali yao. Ilibidi wakimbie

wakaishi vijiji vingine. Watu hao walikimbilia Kisiwa cha Pate, Lamu, Mkokoni, na Kiwayu. Walifika mwambao wa Pwani, Malindi na Ngomeni. Wabajuni wako sehemu hizo zote kwa sababu walifurushwa makwao. Hakuna mahali mtasikia wao wamepangiwa nini. Kile tunachosikia ni kuhusu waliofurushwa huku. Kule Lamu hakuna kinachozungumziwa. Nalileta hili nalo lijulikane kwamba kuna Wakenya wengine waliopata idhilali hizi na mambo yao yanafaa kuangaliwa. Kama ni kurejeshwa, pesa iliyoko ipangiwe pia wao. kulingana na Ripoti, pesa iliyotolewa ya kununua ardhi ijumuishe pia watu wa Lamu kwa kuwa wao pia ni Wakenya. Sharti wajenge mashule na miji yetu irudi. Mimi ni mmoja wao. Nyanya zangu waliofukuzwa huko ikabidi tukae sehemu nyingine. Hata hivyo, huko hakutajwi. Kunatajwa sehemu zingine tu.

Katika hii Ripoti nimeona wanazungumzia maji. Maji ni uhai. Ningependa tena kuipongeza Kamati. Nasikia walizunguka na wakafika hata Lamu. Kamati ilitembea sehemu za Bargoni. Ilikuwa kujengwe kidimbwi cha maji. Pesa nyingi zimetumiwa lakini ukitembea kule hakuna kitu kule mashinani; utaona tu kwa vitabu. Ninawapongeza hata *Auditors*. Kwa lugha ya Kiswahili wanaitwa wahakiki. Wahakiki hawa wamefanya jambo la maana maanake wakienda sehemu kama za Lamu, hawatapata kufanya kazi zao vizuri. Wataambiwa sehemu hizo kuna *Al-shabaab*. Watakwamia hapo Lamu Town kisha hawataenda mashinani. Wakienda mashinani, watagundua kuna matatizo mengi. Wao ndio wanaoweza kufanya wananchi wapate huduma bora. Kwa hivyo, hili jambo la maji naomba Kamati ilianganalie vizuri. Kuna miradi mingi kama huo mmoja wa Bargoni. Kuna shida ya maji na ni jamii iliyotengwa. Pesa zilitengwa na serikali na mradi haukufanywa.

Watu wamezungumzia ile pesa inayojulikana kama Equalisation Fund. Kusema kweli, pesa hiyo itatusaidia sisi watu tuliitengwa. Lakini kama hao wanaona—naona Wabunge wenzangu wanaipigania sana ipelekwe sehemu zao—hatukatai ipelekwe, lakini mwanzo mhakikishe kule kwetu tuna stima kila pahali kama kwenu, tuna barabara, shule na vitu vyote.

Asante, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The next in line is the Member for Saboti, Hon. Luyayi Amisi.

**Hon. Caleb Amisi** (Saboti, ODM): Thank you, Hon. Temporary Deputy Speaker. First of all, I rise to support this Report. I want to commend the good Members of this Committee for a very good work, especially because there is a new Committee. They have done a very fantastic work by visiting the areas and coming up with a very wonderful Report, a Report that is very honest and clear in thought.

I happen to be a Member of Parliament for Saboti which is at the epicentre of IDPs. Saboti falls within Trans Nzoia, a very cosmopolitan county. During the political upheaval, we had influx of IDPs coming from all over in search of safety. So, there was a scramble for safety in Trans Nzoia. We have been having a lot of cases of people who are supposed to be genuine IDPs, having been left out. The list that was compiled consisted of people who were not genuine, or people who were previously landless and have found themselves as beneficiaries. So, this has been a problem that has haunted us as leaders. I appreciate the Committee for making physical visits. That is why they have come up with an open and honest Report. They made a physical visit to see the situation on the ground, not as reported or brought through accounting reports.

It is also good to look at the list of genuine IDPs and who keep knocking at our doors. These people are from disadvantaged backgrounds, but we have left them to fend for themselves for problems the cause of which is not their own. The problems arise because of political issues. We found them in a bad situation, without land and displaced. This was a Fund that was supposed to help them to settle and go back to their previous lives. We found other unscrupulous

business people coming in and were not committed to the purpose of the Fund. Therefore, we left a lot of gaps in establishing the real beneficiaries. The first thing was to establish the real beneficiaries because the list that came up was full of people who had unscrupulously colluded with each other and with the officers in charge. We left out many genuine people especially in Saboti. They keep knocking at our doors in Saboti and other constituencies and Trans Nzoia.

I think going forward, we need a new team to go there and establish the genuine people who were supposed to benefit from this Fund, so that we can have a new list or annexure to the already existing list of the people who are out in the cold, but are genuine and are well known by the community as IDPs. We have administrators like chiefs and sub-chiefs who can help us to identify them. Even local residents can help us to identify the people who have nowhere to go. My constituency happens to be at the epicentre of this imbroglio, especially because the land issue has been perennial. There are a lot of landless people and those who need their land to be documented and be given title deeds. On several occasions, I have met the Cabinet Secretary for Lands to try and sort out the issue of people who are continuously displaced from the neighbouring land that is gazetted as a forest and which was not previously a forest. We have problems at Kitalale, Ex-sorenzon and Muroki. It is almost everywhere. In the entire constituency, the people who have title deeds are countable. So, it is a very big problem that affects us as leaders. We know the Report of this Committee is going to be the beginning of a permanent solution to our people. They also deserve a living like the rest.

I support the recommendation that the DCI should intervene and look into the accounting materials and financial statements that were never submitted or the missing financial statements. This is clearly stated by the Committee. How do we have such an amount of money with accounting officers who cannot keep records properly? So, these are recommendations that need to be acted upon. Let us not have the wonderful job by the Committee going onto the shelves. We need this Committee to be proud that their Report led to the settlement of individuals. For the good work of the Committee, we will do them a great service if we make sure that the DCI, as recommended, swings into action immediately. The PSs in charge of Planning, Lands and the CS for Lands should jump in. There is some level of laxity at the Ministry of Lands. We keep procrastinating matters to do with land. People fear handling these matters head on. We keep procrastinating. My constituency has several historical land cases. Every minister keeps procrastinating. Whenever we appear before the Committee and the CS authoritatively commits to resettle people, she never does that. I think we need to rein in on the Ministry of Lands. We cannot keep coming before the Departmental Committee on Lands, assure our people that we are going to resettle them and then two or three years down the line, this does not happen. We need a lot of seriousness at the Ministry of Lands. We should not keep procrastinating issues of land. These are very emotive issues that can be explosive in terms of security. When people are constantly in collision on matters of land, it is a source of insecurity not only to the locals, but also to the entire nation.

We demand, as Members, that with the good work the DCI is doing on corruption, they should step in and arrest those who were given the responsibility of accounting for the special funds, but never did it. These are people who dipped their fingers into the funds that were supposed to settle IDPs. We need to see people being arrested and brought to book, so that the real IDPs are resettled and we get relieved of the problem of people knocking at our doors every morning. It is very unfortunate to have elderly people living in shelters. These are people who had lived well the rest of their lives but are displaced at their prime age and have nowhere to go. They have to come to your home. As a leader, you keep assuring them, but you have no land to

give them. Let us have actions instead of assuring them. Let the DCI swing into action. Let us have the ministries and PSs mentioned in this Report swing into action. It is a matter of life and death. If a nation cannot take care of its citizens, we cannot stand proud as a nation. This is the cornerstone of our nationhood. This is where we need to focus and put our energy in.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Ainabkoi Constituency, Uasin Gishu County, Hon. William Chepkut. Please, use the Dispatch Box.

**Hon. William Chepkut** (Ainabkoi, Independent): Thank you for giving me this opportunity although I am still mourning. We lost our second President of the Republic of Kenya. I thank his Excellency, President Uhuru Kenyatta, for according him a State burial. I am the Vice-Chair of the Special Funds Accounts Committee and accountability is the basis for any meaningful achievement. It is a clear and open Committee.

I led the Committee to Trans Nzoia and met the County Commissioner. We were given Government support. Before we went there, we called the Cabinet Secretary for Lands, Ms. Farida Karoney and the Principal Secretary, Dr. Muraguri, who came with the members of the Agricultural Settlement Trust Fund. We saw their statements and went to the area. When we reached Trans Nzoia, we met IDPs who have been there for the last seven years. President Uhuru Kenyatta has been assisting them. Their only problem was survey and settlement because the land is there. They were around 100 people, but now they are almost 1,000.

I have a practical example in my constituency. In Chemusian, people who were chased away during the post-election violence in Molo live there. When they came, the Government bought them land and they were all settled. They still live there. Hon. Erastus, if you remember, Hon. Chutney was not there because he was attending a funeral though we were with the chiefs. The Chairman is Mr. Mutitu who came from Ukambani a long time ago. The secretariat comes from Sabaot, Kalenjin and Elgeyo Marakwet. It is a cosmopolitan area and there is cohesion. There is love, peace and intermarriages. Let us leave the historical issues. All we want is accountability. We want people to be settled. We want them to do businesses and have a good environment. What is the problem if the Government is supporting us? In our recommendations, we have asked the Ministry to allocate about Ksh2 million to survey the land and settle the people. That is all. People are settled in Chemusian, Nakuru and all over the country. This country belongs to all the 43 tribes of this republic and people can settle anywhere as long as they have the purchasing power. We are nationalists.

I am a student of the late President Moi and I believe in peace, love and unity. Anything other than that is history. I am a perfect student and a living testimony of the late President Moi and President Uhuru Kenyatta philosophy. I support the handshake. As long as we are living in peace, harmony and cohesion, what else do we want? I ask for cohesion in this nation. Let us bear with one another. I want tolerance. I want people to calm down and do development. Let us be sensitive to the needs of our people. Let us support the President in his Big Four Agenda of manufacturing, food security and nutrition, universal healthcare coverage and affordable housing. We need to create jobs. Let us approve the CSs he appoints with speed. Let us do development, be accessible and available. Let us support the policies of this Government.

I have earned experience over a period of time. Let us avoid emotions. You can vote because of emotions, policies and desires. Everything is on sale depending on what is the right price. However, let us vote on policies and not act on emotions. I want us to be natural and realistic. I want all Kenyans to be very objective and reasonable. Let us bear with each other. I want every Kenyan, starting with the Members of Parliament, to plant trees, so that we can

protect the environment. I want the CDF Committee to allocate some money for tree planting, so that we can protect the environment. In doing so, we shall be a classical example for this country in future.

It is the mandate of the Special Funds Accounts Committee to audit account books for the NG-CDF and the Agricultural Settlement Trustee Fund. We always do the right thing. The end of accounting is the beginning of auditing. The end of auditing is to the overall overview on whether the institution has made profits or losses. It is all about profit and loss accounts. At the end of the day, we want realities. We do not want dreams. Dreams are imaginations. We want sacrifices for us to get to the next step. You must be committed and consistent in life. You must be competent, disciplined and cultured.

Hon. Temporary Deputy Speaker, what is killing this nation is culture. Culture is a habit that you do every day which means you keep on repeating it. I want us to be disciplined. If it means going to work, you report at 8.00 a.m. and leave at 5.00 p.m. During Moi's time, he used to go to the office at 5.00 a.m., and would always be very available throughout. Therefore, the issue of accountability is critical. We must remain devoted. We must be very committed. Otherwise, I am very happy, but also sad because it was a personal loss to William Chepkut and the entire country because His Excellency President Uhuru Kenyatta is a student of the late President Moi. His Excellency Deputy President, (Dr.) William Ruto, is a student of the late former President Moi. Even Rt. Hon. Former Prime Minister, Raila Odinga, is a student of the late President Moi. So, we lost a great person, but he left Sen. Gideon Moi and Hon. Raymond Moi.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): For that matter, I can add you one minute. Just finish.

**Hon. William Chepkut** (Ainabkoi, Independent): Thank you, Hon. Temporary Deputy Speaker. That is great. You now want to tell this country that the late Hon. Jaramogi Oginga Odinga was allowed by Her Majesty the Queen of England at Lancaster House to be sworn in as the first president of the republic. He declined and said that he was insisting that Jomo Kenyatta, who was in jail, be released and sworn in as the first president. He was sworn in, but luckily enough, His Excellency Uhuru Kenyatta was one year old. Now he is the fourth President of the Republic of Kenya and so, history repeats itself.

Therefore, in 1974/75, there was clamor and intelligence was called the Special Branch and together with James Kanyotu and Charles Njonjo, swore Moi as the President.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Indeed, you are a student of President Moi and you are still mourning. Let me have the Member for Funyula, Hon. (Dr.) Wilberforce Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, for giving me an opportunity to comment on the Report by the Special Funds Accounts Committee. Some of these things we forget about them until they rear their ugly head or appear on the national front. The Agricultural Settlement Fund was established in 1963/64. Essentially, the purpose of this Fund was to raise funds to purchase land to settle Kenyans who had been robbed off their land by the colonialists. For historical perspective, when the colonialists came to Kenya, through various land ordinances, they took land belonging to natives as they called them, and put them in camps and *manyattas*. At Independence, obviously out of fear, a number of them sought to leave the country. At the point of leaving the country, they had an agreement with the Government to purchase those large parcels of land in the white highlands and other parts of the country.

So, the Agricultural Settlement Fund was created - and I am reliably informed by history - by funds that were given by the British Government to have a smooth transition from the colonial government to independent Kenya. It did wonders for all those years. So many settlement schemes all over the country were acquired through the Agricultural Settlement Fund. Of course, it had trustees and over the years, it has metamorphosed through various forms. Imagine, it had collapsed in the early 1990s only to learn that the collapse could have been man made when the computer that contained documents crashed. It is unbelievable that there was no manual backup. So, obviously, any able minded or reasonable minded Kenyan will read a sinister motive in the collapse and crash that literally wiped out all the data, but we must hail the initial one for the wonderful job it has done.

If you visit Bungoma, Trans-Nzoia, Nakuru and all over the country, you will find settlement schemes that were bought by funds raised by the Government through the Consolidated Fund and donors towards settling the landless Kenyans at the onset of Independence.

Let us move forward and generally deal with this matter following the clashes that occurred after the 2007 General Elections. Indeed, for some years since the introduction of multiparty, either by design or coincidence, we had so many clashes all over the country, namely, the Molo clashes along the border between Kisumu and Kericho and the border between Kisumu and Nandi that displaced a large number of Kenyans who had nowhere to go. Of course, most of them lived along the road in deplorable conditions. Somewhere along the line, it was decided that they needed to settle the IDPs and squatters.

Unfortunately, if there is any program that has been badly managed and that became a cash cow, it was the resettling of IDPs. It is documented everywhere that people in the Government - technocrats - literally abused this process and took land to enrich themselves and stole the money. The Report is fairly telling and I must commend the Committee for being bold enough to say it as it is. Many occasions in committees, at times we sugarcoat issues and downplay issues. I am happy they have picked it out.

Hon. Temporary Deputy Speaker, allow me to mention two issues. First, if you give someone a piece of land, it is of no use to him unless it has a title deed. Indeed, since 2012, it has taken inordinately too long to prepare and give these squatters or IDPs titles to the land. Section 26 of the Land Registrations Act is explicitly clear that the only *prima facie* evidence of ownership of a piece of land is a certificate of title or a certificate of lease. Without that, we can say that the IDPs are literally squatters and have no claim at all in respect of the parcel of land they occupy. What begs a question and, indeed, it is a question the country must address and answer, is what happened to the parcels of land. What happened to the farms where they were evicted from? Who are the beneficial owners? What has been taken? What action has been taken against the persons who appropriated land that was left behind by those who were evicted? As we proceed to grant titles to the IDPs, we must ask those hard questions and seek answers.

I support the recommendation by the Committee that all those involved should be investigated, past and former or current, and appropriate action taken against those who have misappropriated the funds. Action should be taken against those who have failed to act as required by the various land laws to afford or provide titles to the IDPs. As a country, we must have that conversation and have strong answers to avoid the recurrent of these kinds of actions. We are going to run out of money to buy land for IDPs. We are going to run out of large parcels of land to buy for these kinds of people. So, as a country - and I concur with Hon. Chepkut - we must be peace loving Kenyans. Peace, love and unity as propagated by the late President Daniel

Toroitich Arap Moi. Some of us who drank his milk have very fond memories of him. Those of us who pledged the loyalty have very fond memories and those of us who sang those patriotic songs are very proud to have had him as the President for the 24 years.

Hon. Temporary Deputy Speaker, there will always be challenges in leadership. Allow me make two comments concerning the Universal Service Fund under the ICT sector. It is interesting that the Communication Authority of Kenya (CAK) collects a lot of money from the various operators. I must tell you without fear of contradiction that many Kenyans have no idea where the money goes to. Many schools in the country, especially in the rural areas, have no access to ICT. Many schools have nothing to show from this Fund. The NG-CDF is being forced to set up ICT hubs and yet there is so much money lying in the Fund. About two years ago, there was a tiff between the CAK and the Executive when they were requested to provide some Kshs2 billion towards some funny projects that could not be supported by legislation. It is, therefore, crucial that we get back to the fund managers and put them to account. Let them give us the schedule of projects. For example, where I come from in Funyula Constituency, there has been no project under the USF. We are using the NG-CDF to undertake ICT connectivity projects for various schools and yet there is a national Fund for that purpose.

Finally, on the issue of the Water Sector Trust Fund, looking at the regulations, it would seem that they are more or less interested in dealing with the county governments on the fact that water is a devolved function, but honestly speaking, many county governments have not done much and many of our rural areas remain without water. In Funyula Constituency, we see none of such projects despite the much funding. There is scarcity of water and yet we border Lake Victoria. So, there must be equitable distribution of water projects throughout the country.

I thank you and support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have Hon. Osotsi and then the Mover will reply.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for the opportunity to make my comments on this Motion.

There are three aspects to this Report, but allow me to talk about the USF. I have listened to the debate and realised that many speakers have not talked about it, except Hon. Oundo.

I am very familiar with the telecommunications industry. I am very concerned about the USF, particularly about the aspect of utilisation of the Fund. You are aware that this Fund is established under the Kenya Information and Communication Act (KICA) to allow telecommunication operators like Safaricom, Airtel and others to partner with the Government to support a widespread ICT access initiative, promote capacity building and enhance innovation in the ICT services. Since its inception, this Fund has not done as much as it was supposed to do. The kind of projects they have undertaken cannot convince anyone that they are going to achieve universal access to ICT as stipulated under the International Telecommunication Union (ITU) and many other international conventions. This Report indicates that they have about Kshs5.7 billion in cash and cash equivalent, and they have taken another Kshs2.4 billion to a fixed deposit in a commercial bank. This is a lot of money. We are wondering why it is lying idle. There is a lot that can be done in terms of enhancing universal access to ICT.

The Kenya Communications Authority, which is supposed to manage and administer the Fund, says that they are trying to collect money so that they can initiate the project. I do not think that is an efficient way of doing things. As we speak, the only tangible project that has been done under the USF is connectivity to public schools. About 800 schools have been connected.

Hon. Temporary Deputy Speaker, most of the schools' connectivity is not working. I have reports that every time the KCA inspectors go on the ground to monitor the service, the providers switch it on, but immediately they leave, it is switched off so that they can activate the next cite where they are going to. This service is poorly managed. There is no local support. This is because even the teachers who have been told to support the project do not understand the technology. So, we have put money in a project that is not serving the purpose.

Operators who contribute money to this Fund, such as Safaricom, have been raising issues on the usage of the Fund. To them, the Fund can be used for many things such as infrastructure, so that we can have infrastructure sharing. We do not want to see every operator setting up base stations. Safaricom has its own, Airtel and Jamii telecom is trying to set up their own base stations. We are going to create confusion in the industry. The best scenario would be that the CA, using funds from the USF, can set up a uniform infrastructure that can be shared by all the operators.

That is the vision that will reduce competition in the industry. We have been complaining about Safaricom dominance, but that is because we have not regulated the industry in the right way. One of the ways is to properly utilise the USF Fund. We are also seeing a challenge of duplication of projects. The USF is being used to connect schools. We have another project by the ICT Ministry called the National Optic Fibre Backbone Infrastructure (NOFBI), which is connecting counties to fibre. Recently, under the Big Four Agenda, the Government started connectivity to health facilities and manufacturing projects. We are creating confusion. I thought the best thing would be to have a uniformed approach to this, so that we can deliver connectivity to all parts of the country. I know this House passed a Motion to have free access to WIFI. I sponsored that Motion, so that the USF, KCA telecommunications operators and private companies can work together to ensure that we have connectivity across the country by ensuring that we have a streamlined process of infrastructure development. As I speak, we have a lot of money lying in the bank under the USF and we wonder when it will be used. At one point in time, the President directed that part of that money goes to security, but the then Director-General of the Communication Authority refused. The President had realised that we had money which was not being utilised.

I want to tell Communications Authority of Kenya, because I am a Member of the Departmental Committee on Information, Communication and Innovation, that they must pull up their socks. They should ensure they have good sustainable programs which will ensure utilisation of this Fund. If this Fund was utilised well, we would be having almost 100 per cent connectivity in this country. For example, if National Optic Fibre Backbone, which is under the Information and Communication Technology Authority could partner with the Universal Service Fund and all other private investors, some of these connectivity challenges would be addressed. So, I think the Special Funds Accounts Committee has done a good job. But next time, they should look at the utilisation of this Fund in terms of projects it is supposed to deliver. The projects under the school connectivity program are poorly done and will not help us achieve universal access. This can only be achieved if we develop the infrastructure.

We are talking of many good things, but we are not aligning all of them. Right now, the Government has released what we call Digital Economy Policy. How does it lie with the USF? They are now talking about connectivity to the Big Four Agenda. How does it lie with the USF? I have a lot of concern about this USF. As a Member of the Committee on Information, Communication and Innovation, I think we should do something about it.

I am aware that a Member of this House, Hon. Elisha, has brought a Bill focusing on the utilisation of the Fund. I have issues with his proposal in the Bill, but the general problem is how the funds should be utilised. This is something which if CA sat together with the operators and the Government, they can come up with a common approach on how to integrate all the efforts being done in the ICT industry. This will ensure we have a quicker way of achieving universal access without waiting for money to pile in the bank and say they can start the project.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover to reply. Member for Mbooni.

**Hon. Erastus Nzioka** (Mbooni, Independent): Thank you, Hon. Temporary Deputy Speaker and Members for the good contributions you have given. When coming up with this Report, we had officers from the Agricultural Settlement Fund, the Universal Service Fund and the Water Trust Fund. A lot came out as we have discussed and that made us come up with the observations and recommendations which I am happy we have ventilated through.

My request is for the recommendations to be implemented, so that these Funds can be shaped to be honest in the way they carry out their duties. I had Members talk about corruption and others about dishonest information provided. I also heard Hon. Chris Wamalwa talk about the Equalisation Fund which we are supposed to look into, but we have not yet looked at. It is within our mandate and we will look into it. I heard Hon. Osotsi well on the USF. Some of his questions are similar to the ones we raised. What we came up with basically addresses the audit issues. From the ICT sector, some of the issues can be addressed. Equally, I heard Hon. Oduol's recommendations. My request is for the recommendations to be implemented, so that this Report can meet its expectations.

With that, I beg to Reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I am not in a position to put the Question on the Report on the Audited Financial Statements for the Agricultural Settlement Trustee Fund, the Universal Service Fund and the Water Sector Trust Fund. So, I order the Question to the Report be put as it will be indicated on the Order Paper.

Next Order!

*(Putting of the Question deferred)*

#### INQUIRY INTO CHALLENGES FACING THE COFFEE RESEARCH INSTITUTE

THAT, this House adopts the Report of the Departmental Committee on Agriculture and Livestock on its inquiry into the challenges facing the Coffee Research Institute, laid on the Table of the House on Tuesday, 26<sup>th</sup> November 2019.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Is the Chairperson of the Departmental Committee on Agriculture and Livestock in and ready? Communication from the desk is that the Chairperson is consulting. I order that Order No.11 be deferred.

*(Motion deferred)*

Next Order!

AGREEMENT BETWEEN KENYA AND ITALY ON  
LUIGI-BROGLIO MALINDI SPACE CENTRE

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio-Malindi Space Centre, laid on the Table of the House on Wednesday, 26<sup>th</sup> June 2019.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Departmental Committee on Defence and Foreign Relations is not in the House. What do you have to say as a Member of the Committee? You are not the chairperson. Let me hear from the ranking Member. What is it?

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Are you moving?

**Hon. Vincent Tuwei** (Mosop, JP): The Chair is not in and I am a Member of the Committee. I wish that the matter be on the Order Paper the next day, so that we are able to deliberate on it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): That is quite in order. You are on record that you are a Member. The Motion was to be moved by the chairperson and we have communication that he is not in the House. Thank you for speaking on behalf of the chairperson and representing the Committee very well in the House. I order that Motion No.12 be deferred.

*(Motion deferred)*

Next Order!

REPORT ON AUDITED FINANCIAL STATEMENTS FOR UWEZO  
FUND AND WOMEN ENTERPRISE FUND

THAT, this House adopts the Report of the Special Funds Accounts Committee on audited financial statements for the Uwezo Fund for the Financial Year 2016/17; and the Women Enterprise Fund for the Financial Year 2017/18, laid on the Table of the House on Tuesday, 5<sup>th</sup> November 2019.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson, Special Funds Accounts Committee.

**Hon. Erastus Nzioka** (Mbooni, Independent): Hon. Temporary Deputy Speaker, we also request, on behalf of the Chairman, to have that Motion deferred to tomorrow. We will be ready.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Mbooni is a Member of the Special Funds Accounts Committee. Now that the Chair is not in and with that request from the ranking Members, as they call themselves, I order that Order No.13 be deferred.

*(Motion deferred)*

Next Order!

ANNUAL REPORTS ON STATE OF THE JUDICIARY

THAT, this House notes the annual reports on the state of the Judiciary for the financial years 2016/2017 and 2017/2018, submitted to the House pursuant to the provisions of Article 254(1) of the Constitution, and adopts the recommendations of the Departmental Committee on Justice and Legal Affairs as contained in the Reports of the Committee laid on the table of the House on Thursday, 9<sup>th</sup> May 2019.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs. Again I am sure, following our deferring of the previous Motions and Orders, the Chairperson of the Departmental Committee on Justice and Legal Affairs is not ready and not in the House. I order that Order No.14 be deferred.

*(Motion deferred)*

Next Order!

**BILL**

*Second Reading*

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT  
OF ECONOMIC AND SOCIAL RIGHTS BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Again, it is the Chairperson of the Departmental Committee on Justice and Legal Affairs. I confirm that the chairperson is not in the House at the moment to move the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.27 of 2018). So I order that Order No.15 be deferred.

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a House of rules and procedures. The time being 7.00 p.m., the House stands adjourned until Wednesday, 26<sup>th</sup> February 2020, at 9.30 a.m.

I thank you all.

The House rose at 7.00 p.m.