

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

Tuesday, 6<sup>th</sup> October 2020

The House met at 2.30 p.m.

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

**PRAYERS****PETITION**

**Hon. Speaker:** Let us have Hon. George Theuri.

**PROVISION OF TOLL-FREE NUMBERS IN GOVERNMENT OFFICES**

**Hon. George Theuri** (Embakasi West, JP): Thank you Hon. Speaker. I, the undersigned, on behalf of the people of Embakasi West Constituency, draw the attention of the House to the following:

THAT, Article 10(2) of the Constitution identifies good governance as part of the pillars constituting the national values and principles of governance;

THAT, Section 7(6) of the Public Service (Values and Principles) Act, 2015 requires every public institution to facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services as well as to simplify its procedures and ease formalities related to access and delivery of its services;

THAT, a toll-free number is a dedicated phone line that allows callers to reach an institution without incurring charges, can usually be accessed from any network and are typically short-codes that are easy to remember;

THAT, whereas a few government departments run emergency toll-free numbers, the majority of government institutions still rely on normal mobile or telephone numbers as the point of contact with the public in case of emergency or for responding to general citizen inquiries;

THAT, in the ongoing COVID-19 pandemic period, access to valuable information from government institutions has proved difficult and expensive on account of the calling costs incurred by tax-paying citizens;

THAT, millions of Kenyans are unable to access information from various departments of government, primarily because the typical contacts provided by government offices are mobile numbers or landlines for both regular and emergency inquiries;

THAT, efforts to address this matter with relevant authorities have not borne much fruit and;

THAT, the matter in respect of which this petition is made is not pending before any Court of Law or Constitutional body.

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Therefore, your humble Petitioners pray that the National Assembly through the Departmental Committee of Administration and National Security:

- (i) Enquires into the matter with a view to securing the installation of Toll-Free Numbers in all vital and non-vital government departments that are manned by professional customer service agents around the clock;
- (ii) Secures the provision of civic education to sensitise the public on how to use Toll-Free Numbers in order to guarantee faster service delivery to the public, improve feedback mechanisms for the Government through this system, and facilitate communication during emergency situations, and
- (iii) Secures the drafting and publication of a policy guiding and directing the use of essential Toll-Free Numbers under use by the various offices and departments of Government.

And your petitioners will ever pray.

I thank you, Hon. Speaker.

**Hon. Speaker:** This will be directed to the Departmental Committee on Administration and National Security. Do I see the Hon. Koinange in the Chamber? Where is the Vice-Chairperson, Hon Fatuma Gedi?

Looks like the two of them have a different time when the House sits.

Let us have a Member, Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. I am a Member of that Committee and I thank the Hon. Member for raising up this very important issue. It is true that out there, most of the members of the public do not know where to turn to, in case of emergencies. It is only at that time that they realised that they needed to have some of these numbers somewhere within their reach.

So, we will take it very seriously and attend to the prayers of the Embakasi people.

I thank you, Hon. Speaker.

**Hon. Speaker:** How soon do you think you will take?

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Speaker. I am sure we will have sat within two weeks and considered the Petition.

**Hon. Speaker:** If you could extend it to the rest of the country, perhaps?

**Hon. Josphat Kabinga** (Mwea, JP): Yes. It is actually worse at county level. It just appeared to me that recently we had fire in my town Ngurubani and it took so long to get to the contacts of the fire brigade and ask them to come. So, it is a very serious issue. I have been told to give it one month so that we give it the seriousness that it deserves.

Thank you.

**Hon. Speaker:** Hon. Theuri, is that okay?

**Hon. George Theuri** (Embakasi West, JP): Yes, Hon. Speaker.

**Hon. Speaker:** Next Order!

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

Sorry Hon. Members. It looks like there are some Hon. Members who wanted to make one or two comments on that Petition. There is time and I could allow you to make one or two comments.

Hon. Barasa, the Member for Kimilili, is it about this?

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. I wanted to thank Hon. Kabinga because while the Standing Orders allow him to do this within 3 months, he has agreed to provide this information within a month. This is the spirit we should encourage because some

of the petitions sought will not only provide information, but bring improvements. They can also be replicated elsewhere across the country. So, Hon. Kabinga this is very good and God bless you.

**Hon. Speaker:** Hon. Wandayi, you have the Floor.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Speaker for the opportunity to put in a word. It is been a while since I spoke here. This is a very important petition. I am, indeed, happy that it is going before the Committee chaired by Hon. Paul Koinange which has Hon. Kabinga and others.

This is a serious matter that requires all the attention it deserves from the Committee and the House. Technology has really advanced in the time we live. It is inconsiderable that citizens have had to physically look for public officers in times of crisis and emergencies. While we could easily have in place a mechanism such as a toll-free number to make it possible for citizens to access government officers in times of emergency and even during ordinary times...

This is a very timely petition. I am sure the Committee chaired by Hon. Koinange will deal with it appropriately. It has really been effective in this Parliament compared to the previous one.

**Hon. Speaker:** Nominee 001.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. First of all, let me thank Hon. Theuri for bringing such a very important matter. Let me also thank the Committee led by Hon. Koinange who is represented ably by my desk mate Hon. Kabinga. Since they will address this issue fast and timely within 30 days instead of 90 days.

They should look into the whole country because these problems not only affect the people represented by Hon. Theuri, but they are the same ones seen in our places of representation, like Narok and others. So, I thank the Committee and let this be the spirit of all Chairpersons in every Committee, including Hon. ole Kenta. Let us be timely and effective in responding to such matters.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us hear the Member for Mavoko.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. Indeed, this petition is timely. When you look at the emergency numbers in this country namely; police, Emergency Medical Response (EMS), fire and Coast Guards they are all dead. Nowadays, it is very difficult to have a response on time. During this time of COVID-19 most people are suffering in their houses.

Indeed, the Petition is timely and the Departmental Committee on Administration and National Security charged with this should help all Kenyans who are in distress. I support Hon. Theuri and thank the Committee for responding to this within a month. If this is replicated in the whole country and particularly counties, it will be of great help. It is time we revived the emergency numbers of this country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I want to thank Hon. Theuri for this timely Petition. I think it will also be important that when the Departmental Committee on Administration and National Security will be looking into this, they will invite the Communications Authority of Kenya (CAK). This is because there are areas in this country that do not have network. Even if we have toll-free stations and are unable to access network, then Kenyans will not get the services they need.

I think CAK should ensure that every part of this country has network. So that, people can call for assistance in case of any emergency. Also, the issue of toll-free stations being introduced will help them communicate their issues without problems.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Bondo.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Speaker. In this country the government has tried very well in terms of how to get information on what it does. But it has done completely zero in terms of reporting and getting feedback.

There is a big problem on how to report and get feedback of services in one way or another. There are various mechanisms on how you can get information and this is commendable. The reverse of it is information for what? If you cannot get feedback and reports cannot get to the government in a proper manner that can help *wananchi*...

Therefore, this is a critical Petition that needs to be looked into seriously. As we mentioned, what exists does not work. So, what we should do is to bring in a system that can work and help the country? I have experience with this because some of our guys were stuck in the lake two years ago. It took me two days to get to the person responsible for the police airwing. I called 999, their number and headquarters and I was really taken round and round until back again to Eldoret. They said when you have anything to do with Nyanza, you must talk to somebody in Eldoret to get help from the police airwing.

Hon. Speaker, I think this is critical.

**Hon. Speaker:** Member for Kangundo.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you, Hon. Speaker, for giving me opportunity to deliberate on this Petition. It is true that communication is very important and key to developing nations like Kenya. Today, our communication is very poor, we normally have 999 and 991. Actually, the police department in this country is the only one that has shown proper communication.

Communication is key to proper governance and it is high time the department of Information and Communications Technology (ICT) moved faster and brought a toll-free number for every government department even Parliament. If you see our post office, it is doing very poor in terms of logistics because of failed communication. They failed to get modern communication technology which they could use to supply all departments of government with toll-free numbers.

Thank you, Hon. Speaker, I urge the department of ICT to move faster and give a toll-free number for every corner of this country.

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

**Hon. Joshua Kandie** (Baringo Central, MCCP): Thank you, Hon. Speaker. I want to add one or two points to this. Communication lines are very critical. Sometimes back in Baringo, I tried to bring emergency numbers for fire, police and other areas. But there is a big problem because of lack of awareness. Our people do not know the importance of these numbers. I think when the Committee comes up with a Report, it should ensure there is public participation; so that our people are aware of these numbers when they have emergencies.

Even in other countries they have toll-free numbers on highways. For us if an accident happens on the road, there should be a number which someone can call and be rescued very fast so that our people do not die just like that. I support the Petition by the Hon. Member and we need to come up with a systematic way of engaging the Government so they can bring those numbers into use.

Thank you, Hon. Speaker.

**Hon. Speaker:** Finally, we will have the Member for Marakwet West and the Chairman for the Departmental Committee on Information, Communication and Innovation.

**Hon. William Kisang** (Marakwet West, JP): Thank you, Hon. Speaker. I want to comment on the Petition by Hon. Theuri. Hon. Theuri is a Member of the Departmental Committee on Information, Communication and Innovation. I believe when we call the Communication Authority of Kenya (CAK) to come, we should be able to interrogate this. What Members are saying is true because in this day and age, we should have free hotlines and toll numbers across the country to help, especially along the road, as Hon. Kandie has said. If there is an accident or emergency, people should just call and we rescue lives. There are people who die due to internal bleeding because they are not rescued in good time.

I also wanted to say that two weeks ago we had a meeting with the CAK and we know that across the country there are areas that voice network is still very low. A tender has already been put out to improve on the network using the universal service funds and even these toll-free numbers. We should be using those same funds to give out toll-free numbers like the Ministry of Health with the COVID-19 pandemic was given the 719 number for free. So, even the other agencies including the police service should have. I believe when we deal with this Petition we will recommend and tell them they need to assist the country so that it will be easy for us to communicate across. By next week we should basically come out with the report.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us move to the next Order.

#### PAPERS LAID

**Hon. Speaker:** Leader of the Majority Party, you have the Floor.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The advisory of the Chief Justice to the President in the matter of the Petitions for the dissolution of Parliament pursuant to Article 261(7) of the Constitution and six related annexures as listed below:

- a) CJ Petition No. 1 of 2018 by Hon. Stephen Owoko & John Wangai;
- b) CJ Petition No. 1 of 2019 by Margaret Toili;
- c) CJ Petition No. 2 of 2019 by Fredrick Gichanga Mbugua'h;
- d) CJ Petition No. 3 of 2019 by Aoko Bernard;
- e) CJ Petition No. 4 of 2019 by Hon. David Sudi; and
- f) CJ Petition No. 1 of 2020 by the Law Society of Kenya.

The Report is not for any action by the House, but Hon. Speaker has permitted the reports to be laid so as to form part of the Journals of the House. So, it rests there.

The Sessional Paper on the Kenya Micro and Small Enterprises Policy from the Ministry of Industrialization, Trade and Enterprise Development.

The list of Nominees to three National Government Constituencies Development Fund Committees from the National Government Constituencies Development Fund Board for the following Constituencies:

- a) Kuria East;
- b) Shinyalu; and
- c) Emgwen.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2019 and the certificates therein:

- a) The National Assembly;

- b) Enable Youth Kenya Program - ADF Loan No. 2100150038895 from the State Department for Crop Development;
- c) The Small-Scale Irrigation and Value Addition Project - ADF Loan No. 2000130014530 and Grant No. 5570155000751 from the State Department for Crops Development;
- d) The Kenya Marine Fisheries and Socio-Economic Development Project - IDA Credit No. V1310-KE) from the Ministry of Agriculture, Livestock and Fisheries;
- e) The Agricultural Sector Development Support Programme II - SIDA Grant No. 51110109 from the Ministry of Agriculture, Livestock and Fisheries;
- f) The National Agricultural and Rural Inclusive Growth Project - IDA Credit No. 5900-KE from the Ministry of Agriculture, Livestock and Fisheries; and
- g) The National Police Service Commission.

The Performance Audit Report on Land Conservation and Restoration of quarries in Kenya from the National Environment Management Authority (NEMA).

The Performance Audit Report on Fire Safety Preparedness in Secondary Schools from the Office the Auditor-General.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Chairman of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Budget and Appropriations Committee on its consideration of the County Allocation of Revenue Bill 2020.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## NOTICES OF MOTION

**Hon. Speaker:** Hon. ole Kenta.

### ADOPTION OF REPORT ON THE CONSIDERATION OF THE PUBLIC PETITION

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT this House adopts the Report of the Select Committee on Implementation on its consideration of the public petition to reconsider resolution of the House on the Report on the crisis facing the sugar industry in Kenya laid on the Table of the House on Wednesday, 5<sup>th</sup> August 2020.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

## ORDINARY QUESTIONS

**Hon. Speaker:** Hon. Members, some of you have been writing requesting that your questions be deferred, but then, suddenly as I walk in, I find you comfortably seated here. So, I do not know. I have a report from Hon. Robert Mbuvi, the Member for Kathiani, who wrote to me

requesting that his Question be deferred. I believe he is not in the House and so the Question is deferred.

*Question No. 214/2020*

COMPENSATION TO LAND OWNERS AFFECTED BY  
EXPANSION OF KATHIANI LEVEL 4 HOSPITAL

*(Question deferred)*

**Hon. Speaker:** The next Question is by the Member for Runyenjes, Hon. Muchangi. When you have a Question just press the intervention button.

*Question No.223/2020*

STATUS OF CONSTRUCTION OF TUCHI DAM

**Hon. Eric Njiru** (Runyenjes JP): Hon. Speaker, I rise to ask the Cabinet for Water, Sanitation & Irrigation the following Question:

- (i) Could the Cabinet Secretary provide the status of construction of Tuchi Dam in Iriari Sub-location along the border of Runyenjes and Chuka/Igambangómbé Constituencies?
- (ii) What is the total expected cost of the construction of the said dam, how much has been spent to date, and when is it expected to be completed?
- (iii) What measures has the Ministry put in place to ensure that the construction of the said dam is fully funded?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources. The next Question is by the nominated Member, Hon. Gideon Keter. You do not have a card. You cannot just walk there. Why are you walking there? Were you coming to the House, or you came just on your two feet nothing else and you forgot some of the gadgets? Hon. Keter, next time you will not be allowed. Proceed to ask your question.

*Question No.228/2020*

HIRING OF QUALIFIED YOUNG PEOPLE BY  
THE PUBLIC SERVICE COMMISSION

**Hon. Gideon Keter** (Nominated JP): Hon. Speaker, sorry for that. I rise to ask the Cabinet Secretary for Public Service, Youth and Gender Affairs the following Question:

- (i) What is the progress of the recent recruitment undertaken by the Public Service Commission that was advertised in June 2020 on various job vacancies?
- (ii) How many people were actively recruited and in particular, how many youths were recruited?
- (iii) What measures the Public Service Commission is taking to ensure hiring of qualified young people as provided for in Article 55 of the Constitution?

Why is the delay?

**Hon. Speaker:** That is not part of the question. More importantly Hon. Keter, you asked how many people were actively recruited. That is what you have asked. What do you mean, actively? Did you mean active in recruitment?

**Hon. Gideon Keter** (Nominated, JP): Maybe there is an error in drafting. I meant recruited.

**Hon. Speaker:** Yes. Very well, the question will be replied to before the Departmental Committee on Labour and Social Welfare.

I had received a request to defer this a question, but I can see the Member in the House. Member for Westlands you have the Floor.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Speaker. I had requested to defer because I was in Mombasa, but I managed to arrive on time.

*Question No. 235/2020*

PRIVATE DAMS AND WASTE DISPOSAL  
MECHANISM IN EVERY CONSTITUENCY

**Hon. Tim Wanyonyi** (Westlands, ODM): Hon. Speaker, I rise to ask Question No. 235/2020 to the Cabinet Secretary for Environment and Forestry:

- (i) Could the Cabinet Secretary provide a list of all private dams in every constituency, indicating whether each of the dams currently conform to structural safety, the effect of each dam on surrounding environment and the mitigation mechanisms put in place by the respective dam proprietors, if any?
- (ii) Could the Cabinet Secretary provide a list of all industries in every constituency within a radius of 100 metres of residential areas and the waste disposal mechanism and plans in place, if any?
- (iii) Could the Cabinet Secretary explain the policy measures in place to ensure existences of buffer zones between residential areas, approved industrial zones, and regular inspections are undertaken to ensure compliance?

Thank you, Hon. Speaker.

**Hon. Speaker:** That Question is to be replied before the Departmental Committee on Environment and Natural Resources.

Next Question by the Member for Kimilili, Hon. Barasa.

*Question No. 244/2020*

A BRIDGE TO CONNECT KIMILILI AND KHWIRORO  
AREAS OF KIMILILI CONSTITUENCY

**Hon. Didmus Barasa** (Kimilili, JP): Thank you very much, Hon. Speaker for giving me the opportunity to ask Question No.244/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary consider constructing a bridge to connect Kimilili and Khwiroro areas of Kimilili Constituency noting the recent collapse of a key

connection bridge in June 2020 which has led to disruption of communication and transport in the two areas?

- (ii) What measures the Ministry will put in place to ensure that the bridge will be constructed to the set standards considering that the previous bridge was reported to have collapsed due to lack of adherence to set standards at the time of construction?

I thank you.

**Hon. Speaker:** That Question will be replied before the Departmental Committee on Transport, Public Works & Housing.

The next Question is by the Member for Sabatia, Hon. Alfred Agoi.

*Question No. 250/2020*

COMPENSATION FOR THE VICTIMS OF THE  
TERRORIST ATTACKS AT DUSIT D2 HOTEL

**Hon. Alfred Masadia** (Sabatia, ANC): Thank you very much, Hon. Speaker for giving me the opportunity to ask Question No.250/2020 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) What is the status of compensation for the victims of the terrorist attacks at Dusit D2 Hotel on 15th January, 2019, West Gate on 21st September, 2013 and the United States Embassy Bombing of 7th August, 1998?
- (ii) What measures is the Government putting in place to ensure that the said victims are fully compensated in time?
- (iii) Could the Cabinet Secretary explain whether there are plans so far to curb these terror attacks and consequently assure Kenyans of absolute security against such attacks? What measures have been put in place by the Government to assist persons affected by such attacks?

Thank you, Hon. Speaker

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Administration and National Security.

Next Question is by the Member for Webuye West, Hon. Wanyama Sitati.

Can you place your intervention button?

*Question No.260/2020*

DESIGN AND CONSTRUCTION OF KAKAMEGA– BUNGOMA  
BULK WATER SUPPLY AND SANITATION PROJECT

**Hon. Daniel Wanyama** (Webuye West, JP): Thank you, Hon. Speaker. I rise to ask Question No.260/2020 to the Cabinet Secretary for Water, Sanitation and Irrigation:

- (i) Could the Cabinet secretary provide a progress report on the call for tenders for the design and construction of Kakamega– Bungoma Bulk Water Supply and Sanitation Project under Lake Victoria North Water Works Development Agency considering that a list of firms who had express interest on the project was published in March 2020?

- (ii) When will the construction of the said project commence, indicating stages and timelines of implementations to the various phases of construction?
- (iii) What measures will the Ministry put in place to ensure that the said project is constructed to the required standard and completed within stipulated time so as to expeditiously assist thousands of households in the Counties of Bungoma and Kakamega to access clean water?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources. Next Question is by the nominated Member, Godfrey Osotsi.

*Question No.261/2020*

SALE OF NUCLEUS LAND LR NO. 7545/3

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Speaker. I rise to ask Question No. 261 of 2020 to the Cabinet Secretary for Agriculture, Livestock and Fisheries:

- (i) Could the Cabinet Secretary explain the circumstances under which 10,000 acres of Nucleus Land, LR No. 7545/3 leased to Miwani Sugar Company in Kisumu County was allegedly sold to Crossly Holdings Limited in December, 2007?
- (ii) Could the Cabinet Secretary state in details whether the alleged sale of the parcel of land was carried out in accordance with the law?
- (iii) Could the Cabinet Secretary consider acquiring back the said land for farmer's utilization and development noting the anticipated Special Economic Zones in the County?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied before the Departmental Committee on Agriculture and Livestock. Next Question will be by Hon. Anthony Tom Oluoch, Member for Mathare. I think he requested for deferment. I saw the letter. The request is acceded to.

The next Question is from the Member for Mwea. Hon. Wachira Kabinga.

*Question No.263/2020*

INVASION OF MWEA IRRIGATION SCHEME  
FARMS BY STRANGE SNAILS

**Hon. Josphat Kabinga** (Mwea, JP): Thank you very much Hon. Speaker for the opportunity to ask the Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives: -

- (i) Could the Cabinet Secretary explain and provide details on the recent invasion of farms in Mwea Irrigation Scheme by a strange variety of snails?
- (ii) Has the Ministry undertaken measures to assess the extent of damage caused by the snails on crops and human beings in terms of loss of crops and produce as well as health risks to the residents?
- (iii) What steps has the Ministry taken to eradicate or control the invasion of the strange variety of snails?
- (iv) Could the Cabinet Secretary (CS) consider compensating the affected farmers?

I thank you.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Agriculture and Livestock.

The last Question is by the Member for Sigowet/Soin, Hon. Kipsengeret Koros.

*Question No.264/2020*

CONSTRUCTION OF CHANGWARE-KEBENETI ROAD

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Hon. Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public works the following Question.

- (i) What is the progress of the construction of Changware-Kebeneti Road in Sigowet/Soin Constituency and the interconnection of the same road with Kaptebeswet-Chepnyogaa Road in Belgut Constituency?
- (ii) Why was a section of the road left un-tarmacked?
- (iii) What measures has the Cabinet Secretary put in place to ensure that the untarmacked section is completed?

I thank you.

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

What is your point of order, Hon. (Dr.) Robert Pukose?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, on 22<sup>nd</sup> September 2020, I asked Question No.024/2020, which was directed to the Cabinet Secretary for Interior and Coordination of National Government, on the status of investigations into the killing of Mr. Tom Wekesa Sirengo.

It was a Question by Private Notice. I was told that this was going to be responded to within a week, but to-date it has not been responded to. This is causing stress to the families and, apparently, nothing is happening on the ground. So, I need your urgent intervention on this matter.

I thank you.

**Hon. Speaker:** As you can see, for the two minutes since the House reconvened, the Chairperson of the Committee, Hon. Paul Koinange and his deputy, Hon. (Ms.) Fatuma Gedi, have not shown up. I do not know. Is the Committee sitting somewhere? Hon. Josphat Kabinga, is that Committee...

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Speaker, the Committee is not sitting, but we have a team that has been actively involved in the visiting of various police stations to ensure that we improve services in that direction.

On this particular one, we will be checking on that particular Question. But I also want to let the House know that we have Members who give us Questions and on the response day, they do not turn up. The Standing Orders provide that if a Member does not turn up, the Question is dropped.

Last week, we had so many Questions that fell under that category. Members brought in Questions. The Chief Administrative Secretary (CAS) in the Ministry of Interior and Coordination of National Government turned up, but Members were not there. Therefore, we had to drop those Questions.

I also want to note ---

**Hon. Speaker:** Tell your Clerk to provide a report so that it can be read out here. It is also another way of getting everybody to pull up their socks, not shaming them.

**Hon. Josphat Kabinga (Mwea, JP):** Thank you, Hon. Speaker. We already have a list and therefore, we will ask our Clerk to provide a report.

**Hon. Speaker:** But this particular Question by Hon. (Dr.) Robert Pukose is not one of them, is it?

**Hon. Josphat Kabinga (Mwea, JP):** Hon. Speaker, I have just said that we will be checking on the status of this particular Question.

*(An Hon. Member spoke off record)*

**Hon. Speaker:** There is no point of order. The Leader of the Majority Party on Thursdays reads out the list of the Cabinet Secretaries who will be appearing before various Committees the week that follows. So, we need to see whether this was one of them. But I suspect it was not. Let it be followed up.

In addition, Hon. Josphat Kabinga, because you are the one who is present and I am aware of the visit by the Members of your Committee, bring the list to the Leader of the Majority Party so that the names of those Members who asked those Questions are read out. Indicate that they did not appear and, therefore, the Questions were dropped so that their constituents know that they chose to do other things as opposed to representing them here.

**Hon. Josphat Kabinga (Mwea, JP):** Thank you, Hon. Speaker. I am well guided.

**Hon. Speaker:** Hon. Members, there is no debate on the Question by Hon. (Dr.) Robert Pukose. I remember hearing him ask the Question by Private Notice. Questions by Private Notice should always be answered, given the circumstances of this pandemic period, at least within a week. The Questions should be responded to. So, in this case, Hon. Josphat Kabinga, just liaise with the Leader of the Majority Party so that you can be provided with an answer and then we can get indication on Thursday.

Next segment is about responses to Statements. There are two responses. Hon. Peter Kimaru had sought a Statement and Hon. --- Sorry, Hon. Peter Kimaru is the one giving the response.

Proceed.

## STATEMENTS

### STATUS OF MZIMA II PIPELINE WATER PROJECT

**Hon. Peter Kimaru (Mathioya, JP):** Thank you, Hon. Speaker. I have two responses. The first one is to a Statement request by Hon. Danson Mwashako, Member for Wundanyi, on Mzima II Pipeline Water Project.

The Member for Wundanyi, Hon. Danson Mwashako, sought for a Statement on Mzima II Pipeline Water Project. Pursuant to Standing Order No.44 (2) (c), he respectfully sought information on the following:

- (i) preparations that the Government has made to fund Mzima II Pipeline Water Project, including the actual amount of money that will be required to actualise the project; when the project will commence, and when it is expected to be completed;

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- (ii) whether the Ministry of Water, Sanitation and Irrigation could confirm that the financing agreement has been signed, and why it has taken inordinate time to conclude negotiations;
- (iii) whether the Ministry could confirm that the first beneficiaries of the project shall be the people of Taita Taveta, and that the water will reach Wundanyi town and Kasushe locations; and,
- (iv) whether the Ministry could provide the project designs showing the scope of the project, and whether the residents of Taita Taveta will be given priority.

Hon. Speaker, the Committee engaged the Ministry of Water, Sanitation and Irrigation on the above concerns raised by Hon. Danson Mwashako. I, therefore, wish to respond as follows:

(i) The Mzima II Pipeline Water Project is a Vision 2030 flagship project projected to serve approximately 1.5 million people in the counties of Makueni, Taita Taveta, Kwale, Kilifi and Mombasa. The project will be implemented through the procurement of EPC plus financing contract model. The project will be completed within a period of three years plus one-year defects liability period. The procurement was done and the project awarded to M/s Avic International Holding Corporation on 17<sup>th</sup> July 2017. The signing of the commercial contract agreement was executed after due diligence exercise and the contractor was given the green light to source for funds from China Exim Bank, the financier of the project. China Exim Bank and the Office of the Attorney-General gave no objection to the loan agreement.

However, due to unavoidable circumstances, it took long for the loan agreement to be executed, leading to an expiry of the commercial contract in July 2020. The Coast Water Works Development Agency requested for an extension of one-year period to July 2021, which was granted. The Government is seeking US\$335.34 million which is approximately Kshs336.3 billion - based on the Central Bank of Kenya (CBK) exchange rate of 108.2129 - which was quoted by the contractor to actualise the project.

In line with the financing agreement, China Exim Bank will finance 85 per cent amounting to Kshs29,030,363,937 while the Kenyan Government will finance 15 per cent of the project amounting to Kshs7,725,759,098.425 comprising of the project safeguards, the cost of the environmental social impact assessment and the resettlement action plan.

On the second question by the Hon. Member, the commercial contract has been extended to July 2021. The new schedule and timelines towards signing the financing agreement is under negotiations between the National Treasury and the China Exim Bank. Once the negotiations on the financing agreement are concluded and cleared by the Attorney-General, the financing agreement will be signed to pave way for the commencement of the detailed designs and construction works of the project.

On question 3, water will be supplied to communities along the pipeline corridor in order to enhance access to water and improve the well-being of the people while at the same time ensuring integrity of the pipeline. Wundanyi and Kishushe locations are at a very high elevation compared to the pipeline, approximately 1,400 metres higher. Supplying water to those areas from the pipeline will not be feasible. This is because the cost of doing so would be unsustainable due to the high operational costs that would be required. In this regard, the solution to expanding water supply to Wundanyi Town would best be served from River Wundanyi which passes next to the town.

On question 4, the preliminary designs were done by Atkins in 1996 and have mostly been overtaken by time. The Cabinet Secretary suggested that the Hon. Member for Wundanyi could wait for the design review report that is expected to be one of the deliverables of the contractor.

The review of the design would be done with full participation of the counties of Makueni, Taita Taveta, Kwale, Kilifi, Mombasa and the shareholders to ensure concerns of each county are captured in the final designs of the project.

Hon. Speaker, I submit and thank you. Signed by Hon. Kareke Mbiuki, Chairperson, of the Departmental Committee on Environment and Natural Resources.

Hon. Speaker, I also have a second response. I do not know whether I could go ahead. The one by Hon. Bernard Shinali.

**Hon. Speaker:** Yes. Go ahead.

#### GOLD EXPLORATION IN THE LIHANDA GOLD CORRIDOR

**Hon. Peter Kimaru** (Mathioya, JP): Thank you, Hon. Speaker. Hon. Shinali requested a statement regarding Lihanda Corridor gold exploration.

The Member for Ikolomani, Hon. Bernard Shinali, sought for a Statement on the Lihanda Corridor gold exploration, pursuant to Standing Order No. 44(2) (c). He specifically raised the following concerns in his request.

- (i) The estimated value and quantity of gold deposits in the Lihanda Gold Corridor that Acacia Exploration Kenya Limited identified and the mining methods that the company intended to deploy in mining gold in this particular region in light of sustainability of the environment.
- (ii) The ownership of Acacia Exploration Kenya Limited that has been awarded the rights to prospect gold in the Lihanda Gold Corridor and whether it had local shareholding.
- (iii) The formula and structure that the Ministry intended to use in ensuring that there is equitable sharing of revenue and royalties between the national Government and the county government within the Lihanda Gold Corridor once economic exploration of gold commences.
- (iv) The services and infrastructure developments that the Ministry and Acacia Exploration Kenya Limited intended to roll out within the Lihanda Gold Corridor to benefit the locals.
- (v) The compensation plan for the locals who had been affected by exploration activities and those who may be affected at the commencement of commercial mining and the timelines for compensating the affected locals.

The Committee engaged the Ministry of Petroleum and Mining for responses on the above concerns raised by Hon. Shinali. I, therefore, wish to respond to the above issues as follows.

Since pre-colonial times, parts of the western belt, especially sections of the present Kakamega County, have been known to be rich in mineral deposits, especially gold. The name “Ikolomani” is the corrupted version of “gold mine” where locals have for long been earning a living through artisanal gold mining. In the recent past, Acacia Exploration Kenya Limited - an international mining company - has been prospecting for large scale and economically viable deposits of gold in the Lihanda Gold Corridor comprising of parts of Kakamega, Siaya and Kisumu counties.

On the estimated value and quantity of gold deposits in the Lihanda Gold Corridor in question 1 above, the Ministry responded that gold deposits in the Lihanda Gold Corridor have been discovered and contain an estimated resource of 1,182,000 ounces of gold, grading at 12.6 grams per ton. The resource is classified as Inferred. That is the lowest level of confidence within

the regulatory body called Standards of Disclosure for Mineral Projects that regulates resource deposits classification.

The realisable value of the gold has not yet been determined, that is, the likely value of the extracted gold less the cost of extracting it. Significantly, more exploration work is required to determine if the gold deposit is economically viable, that is, if it would make a profit if extracted. If it happens that the gold in the ground would not make a profit, it will not be mined and, therefore, the value of the gold while still on the ground is meaningless. If the discovered resource is proved to be economically viable and mined, it would be done so using underground mining methods given the ore bodies characteristics delineated so far. If other gold discoveries were proved viable in future, the mining methods would depend on the physical parameters of the deposits discovered.

On the ownership of Acacia Exploration Kenya Limited that has been awarded the rights to prospect gold in the Lihanda Gold Corridor and whether it has any local shareholding, the Ministry stated that Acacia Exploration Kenya Limited is wholly owned by Shanta Gold - a London Stock Exchange listed company. The company has no local shareholding.

On the formula and structure the Ministry intends to use in ensuring that there is equitable shareholding of revenue and royalties between the national Government, the county governments and the local communities within the Lihanda Gold Corridor once economic exploration of gold commences, the Ministry indicated that in ensuring that there is equitable sharing of royalties, Section 183 (5) of the Mining Act No.12 of 2016 provides that royalties are shared proportionately at 70 per cent to the national Government, 20 per cent to the county government and 10 per cent to the communities where the mining operations occur. Currently, all revenues are remitted to the Consolidated Fund.

However, in terms of order of operations and the royalty sharing formula, and in accordance with the Constitution, the Ministry of Petroleum and Mining, in conjunction with other State agencies - including the National Treasury - has drafted the Mineral Royalty Fund Regulations under the Public Finance Management Act for purposes of disbursement of the 20 per cent and the 10 per cent royalty shares to the counties and communities affected by mining operations, as well as providing guidelines on the use of the shared royalties.

Further, to ensure more benefits to the communities from the mining operations, the Mining Act provides the following:

(a) That all large-scale operators who are holders of mining licenses should sign a community development agreement with communities within the mining operations. As per the Mining Community Development Agreement Regulations, 2017, the operator is obliged to spend not less than 1 per cent of the gross revenue on community projects which are identified by the Community Development Agreement Committee.

(b) Requirement compelling operators to produce local goods and services as per Mining Procurement of Local Goods and Services Regulations. The companies are required to provide plans and budget at the time of application and licensing for scrutiny which are monitored for compliance during the term of operation.

(c) Preferential employment and training of locals and Kenyans. Large-scale mining operators are required to present, for approval, a programme for employment and training of Kenyans. Any specialised expatriate personnel is supposed to train Kenyans to ensure technology transfer within given timelines pegged on work permit issuance and/or renewal. Further, approval has to be sought for any importation of goods and sourcing of services from abroad to ensure that only specialised goods and services that are not available locally are sourced from outside the country.

Hon. Speaker, the Ministry calls on the local leadership and the county governments to team up with it in facilitating development of local entrepreneurship to prepare and enable the locals to participate in supply of goods and services. There was a question on the services and infrastructure development that the Ministry, under Acacia Exploration Kenya Limited, intends to roll out within Lihanda Gold Corridor. The company is still at the exploration stage. Therefore, it is not in a position to start planning for services and infrastructure development, until it is proven that the gold deposit is profitable to mine. Mining companies develop their infrastructure such as roads and water supply to serve the mining operations. If there is any need to share the said infrastructure with communities, negotiations can be initiated. If the Government wishes the company to develop services and infrastructure on its behalf, then the two parties will enter into negotiations on how to go about such projects. The Mining Act provides the community development agreements. The communities which are affected by mining enter into agreements with the mining companies which disburse at least 1 per cent of their gross mineral sales revenue to the community for social projects.

There is a compensation plan for the locals who are affected by the exploration activities. The company undertakes drilling operations in its effort to delineate gold mineralisation, in terms of depth and extent. There was a question on whether the company identifies any area for drilling. The Ministry of Agriculture experts quantify the value of any crop and trees that may be damaged in the course of exploration or drilling for adequate compensation of affected farmers and locals. Before the commencement of any mining, the land and development therein of the locals who will be affected will be valued for compensation. The compensation process will be guided by the Constitution 2010 which calls for prompt and fair compensation. The Mining Act, 2016; the Land Act and the World Bank guidelines on compensation and resettlement will be considered.

Hon. Speaker, I beg to submit the Statement which is signed by Hon. Kareke Mbiuki who is the Chairperson of the Departmental Committee on Environment and Natural Resources. Thank you.

**Hon. Speaker:** Very well. That is more than a mouthful. I want to remind Members and the staff who craft some of those Statements that you do not ask questions or seek Statements on law matters. As a law maker, you are expected to know them. You have gone into what the Mining Act provides which was made by this House. When a Member is being told what the Mining Act, regulations and the Land Act say, we are getting into.... The members of staff who help Members to write requests for Statements and Questions must avoid questions or requests that result into somebody being lectured on what the law provides. As a lawmaker, you are expected to know the law. That is a standard world over. If you do not know it, please, begin looking at it now.

Can I get Hon. Danson Mwashako with regard to the Statement response?

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Speaker. First and foremost, I thank the Chair of the Committee and the Ministry for providing sufficient answer. However, I want to mention two things quickly. One, the time it takes for the Ministry of Water to process requests or contracts that involve big contracts like Mzima II leaves a lot to be desired. This project has been in the shelves of the Ministry for the last six or seven years. We were told that time elapsed. They have to extend the time, so that the financier agreement is made within the period.

Secondly, I am also glad because they mentioned that there will be the review of the designs. The truth is that 50 per cent of Wundanyi Constituency is on a hill. The other 50 per cent is a lowland. Kishushe location is on the same elevation with the source of Mzima Springs.

Therefore, I do not understand why the Ministry indicates that the water will not serve Kishushe, Paranga and Mulilu areas.

However, my colleague from the county, Mhe. Mlolwa and I will pursue that to make sure that the designs capture all the areas that are within the lowlands.

Lastly, they have mentioned Wundanyi River as a source of water for the highlands. I appeal to the Committee to push the Ministry to give an annexure into the contract, so that as we provide water to the lowlands, a certain percentage of that contract will also provide water for the people who live in the highlands. One, the water in Wundanyi River that they have mentioned is not sufficient. Two, it is not a very clean source of water. If Ksh36 billion is being used for the entire project, we need to be given Ksh1 billion to give water to the people who live in the highlands.

With those remarks, Hon. Speaker, I submit my Statement. Thank you for giving me this opportunity.

**Hon. Speaker:** Hon. Shinali. He is not in the Chamber. Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I wish to make a comment on that response by the Committee on the Lihanda Gold Basin. I am a Member of that county. Ikolomani Constituency is my neighbour and the undertakings there are good.

I want to thank the Committee for the substantive response that they have given to us. However, I want to urge them to do one or two things on behalf of this belt. They should push for the conclusion of the regulations, so that our people can be paid. The Ministry says that it cannot pay the locals because there is no formula on how to pay them, in terms of the 5 per cent which is in law. As we all know, the Public Finance Management (PFM) Act says that you cannot send money where you have not put the law in place. I wish the Committee can push for us, so that the regulations can be made.

I also wish to bring to the attention of the Committee what goes on in Acacia Exploration Kenya Limited. They do not test the gold in Kenya. They do not trust the Kenyan laboratories in ascertaining the fineness of the gold. They take it to Tanzania to test and then they bring it back.

I wish to ask the Committee to look into that aspect. Could it be just to hoodwink the locals by taking the gold out of the country? Or what could it be so that we get value for our gold?

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Once again, thank you, Hon. Speaker. On the issue of mineral exploration especially gold in that belt- that belt covers my constituency- indeed, as we speak, the act of mining by artisans is going on in my constituency. I have heard the Committee say that Acacia Mining Plc is fully owned by some British Company, which does not have Kenyan shareholders. What I did not get clearly is who the promoters of Acacia Mining Plc are. This is because we are witnessing a situation where specific companies are monopolising the mineral exploration business in this country. Unless it is checked, we might end up not reaping the benefits that we need to, if there is competition.

Hon. Speaker, as you know, the area of mineral mining in this country is still not well exploited and it requires that we be on the lookout, to ensure that no monkey business continues to happen. Finally, now that we are talking about exploration licenses and contracts, what therefore, is in the pipeline in terms of real mining? This is so that as soon as we do the exploration, those areas which have been explored can get into the real business, so that the country can reap the benefits.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us now have the Member for Bondo.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Speaker. Sometimes it is not very easy to understand the whole arrangement of gold and mining. As we talk about this here, Bondo is one of those areas that are apparently in the corridor- that spreads from Migori, through Bondo, partly in Seme and finally Ikolomani, it is basically one belt. Besides that, what is being discussed as exploration here is what amazes me because these are areas known to be producing gold in one way or the way. There are people, whether they are artisans or peasants who have been getting gold from these areas but the communities are really not benefiting yet there are cartels and individuals that are getting gold from these areas.

So, when we are talking getting licensed now to do the exploration, there is quite a bit of contradiction. I want to believe that this thing needs to be revisited in one way or the other, such that what we are calling exploration needs to be interpolated in a manner that we understand what is going on now. This is whether what we are getting and the little gold that we are producing is not the kind of gold that they are going to be looking for in the name of exploration. I think there is much more to this.

Thank you.

**Hon. Speaker:** Let us now have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, that is a very good Statement but again, the bottom line is, for over a decade we were talking about exploration. Even in the North, people get licenses. People in Nairobi and those in Government get their kickbacks but after five to six years, you hear that the companies have left. I mean, look at the story of Tullow, we were given a very good story about it, but today we are being told that Tullow is getting out. You will see so many exploration points in the North.

Coming back to the goldmine, I like the way the Member for Bondo has given the geological survey, it is like he has followed the gold. Again, even the people who live in Taveta and those areas are among the poorest in our country. A time should come when we should now also get value out of this mining and this House must decide to relook at the Mining Act. I totally agree with the Speaker that in the 11<sup>th</sup> and 12<sup>th</sup> Parliaments, we passed a number of very progressive laws. Now, it is the opportunity for Members and for the Government to feel how these laws are applicable. Are they working sub-sections?

So, instead of bringing the Statements... You know the Member for Mathioya is not a Cabinet Secretary (CS), he has just brought the message. I think we should bring amendments to those Acts for them to go through the Committee which then holds public participations in these areas and then we finally get value for our resources that our people can be proud of.

**Hon. Speaker:** Perhaps we need to find out whether we have the competencies to determine this because part of the answer was that we are not sure whether what is being found there is worth. How is it that the people there are able to pick certain things which are still of value? It may speak to the competence of our institutions because then we could be losing that which belongs to the people of Kenya. The people of Ikolomani are entitled to reap what is available there and from the sharing formula which was put in the Act. So, this could speak to the competencies of our institutions because... Is it Hon. Ochanda or Hon. Wandayi, who said that they take it to Tanzania and then come and tell you: "Oh, we discovered it was useless?" It is the same thing.

Hon. Members, I think this is important because we have also seen some of those somewhere in Kwale, who ferry sand in ships, take it away and then they say that what they carried was nothing worth paying for. Surely, that speaks to the competence of our ministries and people.

When you allow people to just come up and carry shiploads and they tell you it is salt and some of them call it rare earth, maybe our people do not understand which the common one is and which the rare one is. So, they pick both the common and the rare one and then they tell you that it was worth nothing and they continue. Even after getting zero, they still continue.

This is something that as a House, we should see what it is that we need to put in the law to address some of these problems.

Let us have the Member for Narok North.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. In fact, this is a very serious issue especially in places like Narok where we have the Lolgorain gold mines. In the last Parliament, I was lucky enough to be part of the Committee that formulated the Mining Act and all these things were provided for. Parliament was actually informed that there are a lot of minerals found in Kenya but, unfortunately, whenever we put money into the mapping out of these areas, somehow, these efforts are always frustrated such that the Government could not map out these areas. What has happened is that, a lot of these minerals are actually smuggled out of Kenya through porous borders like the Tanzanian border and such places.

Unless this Parliament ensures that money is put into mapping out these areas, I can assure this House that people are minting billions at the expense of the Kenyan people. So, this is something- as you said Hon. Speaker- that should be seriously looked into because if we do not, nobody will ever do it outside this Parliament because there are so many strong and powerful beneficiaries. For example, in Narok, I understand that there are very strange Chinese people found along the border of Kenya and Tanzania who are doing a lot of mining but no one in Kenya minds about it. It is something, as you said, that this Parliament should look into to.

Thank you, Hon. Speaker.

**Hon. Speaker:** In fact, Hon. Kenta you are just speaking to what is on the streets. It is said that even when you give them these road contracts, even as they send their people, they go looking for minerals. So, I do not know. We really need to revamp our institutions.

Member for Kiharu, you may have the Floor.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Speaker for the opportunity. I concur with you. This is because, I have sat in the Public Accounts Committee (PAC) and I do not think that there is any sector that is more shrouded...

*(Hon. John Mbadi spoke off record)*

Hon. Mbadi, kindly hold on.

**Hon. Speaker:** Just proceed.

**Hon. Ndindi Nyoro** (Kuharu, JP): Hon. Speaker, I concur with you because there is no sector that is more shrouded by cloud than mining, and even in terms of the royalties that we receive as a country. We need to deal with it more seriously, as a House and as a country, because I believe Kenya is very rich with minerals. However, unlike agriculture which we can see, touch, perceive and understand, there is a lot of ambiguity and lack of information around mining.

We give a wide berth to small local miners and of course, giving advantage to big corporations in terms of mining. It is good that we borrow from countries like Botswana, that we can mainstream the small miners and actually bring much more effect to the economy than the extractive big corporations. It is also worrying looking at the Acacia Mining Company. If you go to a place like Tanzania where they are still doing some works, they have five local companies that they deal with. I do not think it is correct or right for us to have a country making that kind of

amount of money from us because I believe they make a lot of money from Kenya and of course, they lack local presentation.

I also want to challenge even the Ministry to check the facts right because, in February 2020, Acacia Mining Company was actually bought by Santa Fe Gold Corporation and took over its operations in Kenya and East Africa at large, so that even as we report to the House, we report with the right names of the companies. This is because as it stands now, the operations of Acacia Mining Company are actually under Santa Fe Gold Corporation.

I concur with you and the other Members that we can drive a lot of money from mining. We just need to get the facts right and understand the sector so that we can remove the lid that shrouds the entire mining sector.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us hear from the Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I want to speak on this mining issue. Considering even the way the issues to deal with oil exploration in Turkana are concerned, apparently, an alarm was rung several months ago that Tullow Oil Company was not doing well. Apparently, there is a conspiracy within our own professionals and civil service, and it goes even to the mining area because you will find that there are people who have the licenses for exploration and they stay with them for a very long time. These people also cover certain regions and they do not allow other people to go and see what are within those areas.

For example, when you go to even my neighbouring constituency in the Pokot area such as Chepkarat area and other places, there are people still exploring and mining gold, but that gold is in small quantities and is not benefiting the country, but is benefitting individuals. As my colleague, Hon. Kenta, has said, it is also because of these porous borders where people are able to engage in smuggling of gold and other expensive minerals. We talk of other minerals like tanzanite, rubies and others which are illegally being taken out of the country. So, it is something that we need to streamline our civil service and the Ministry to be able to rake these benefits for the country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us hear from Hon. Omulele.

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Speaker. I wish to add my voice to this important matter. My constituency, especially the area known as Egwanda in Luanda South, is also involved in this so-called exploration of gold. The people there have been extracting gold on small scale mining, that is, artisanal mining. However, in the recent years, there have been companies which have been allegedly licensed by the Ministry of Petroleum and Mining, and which are purportedly carrying out exploration activities there.

These exploration activities have now been taken up by the local administration which are the chiefs there and the county government to take out these artisanal young miners who eke out a living from these activities. Yet these alleged licensed explorers still buy the rare-earth minerals from these young people and export them. I was informed of this two weeks ago when I was there, that they export this to Tanzania through the *panya* routes along the border in Migori County. When it reaches Tanzania, they actually make a killing from these alleged rare-earth minerals that come from Luanda yet our children from Luanda do not have jobs and they have to sell these rare-earth minerals to these companies through unregulated ways.

So, I agree that if there is gold and these people really feel that there is something to explore here, then let us regulate it and exploit it for the benefit of our people. I agree with the other Members.

**Hon. Speaker:** Perhaps you should take note of this, particularly, the Departmental Committee on Environment and Natural Resources, when it comes to budget making because the issue raised by Hon. Kenta, if you can recall a few years ago, there was some allocation to do mapping, but somehow, you – you know you are the ones who have the vote – decided that it was not necessary. So, you can see some of these decisions could have far reaching implications to the people of Kenya.

Let us hear from Hon. Ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker, for giving me this opportunity to also inject my voice to this very important issue. The pertinent questions that we should ask ourselves, and Hon. Duale had actually asked, is that: Why are the people who are around these mining areas the poorest in this country, and if really it is not very productive and profitable business, why are the companies still in the country and exploring? The other question is that: Is it that we do not have the capacity or our mineralogists have decided to collude with people outside the country so that they pretend not to be having the capacity hence our gold is taken out of the country, sold elsewhere and the result come as if there was no gold in whatever they had collected?

Hon. Speaker, you have said that they have been shipping out the rare-earth minerals with many ships, but when the report comes, they say: “No, there was nothing. So, you have gotten nothing from it.” Yet contrary to that, probably, they have made millions and billions of monies out of it.

It is time that this House considers setting aside that fund for mapping and making sure that our people benefit from whatever that come out of the rare-earth minerals. We can also see in the countries like Ghana, wherever there is a gold mine, the population there is very rich as well as in Qatar. However, that is opposite in this country. Therefore, there must be a real problem.

As Hon. Kenta has said, in a place called Gorja in Narok, there are a lot of mining activities going on, but the people around there are very poor. He has said, there were funny looking Chinese around there. I have never heard of the ones who look funny and the ones who look like Chinese, but they are there nonetheless.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Kihara, do you want to say the last thing on this because it is your Committee?

**Hon. Peter Kimaru** (Mathioya, JP): Thank you, Hon. Speaker, for this opportunity. I hear what the Members are saying. As a Committee, we have also toyed on this issue very much. The issue of the geo-survey was, indeed, before this Committee and approximately Kshs5 billion had been committed for that work. Indeed, that work had even started and the consultants had been picked. However, for some reasons, the Executive saw it fit to move this from the Ministry of Petroleum and Mining to the Ministry of Interior and Co-ordination of National Government under the National Intelligence Service (NIS).

So, some of these decisions are things which, as a Committee, should be ceased with. However, we are also trying to see how we can help this Ministry to be able to do the right thing and to ensure that we have the right laboratories in the country so that we can do the necessary tests. We have put some funds in the current budget to ensure that we can have a laboratory in Kenya, so that we do not, all the time, hear of ores that are being taken to Tanzania or shipped out of the country. As you said, it goes round. It is the same issue if you go to Kwale. If you go to other areas with precious stones like Taveta, it is the same issue. So, we want to ensure that we have the right laboratories here in our country, so that we do not export raw but finished products

right from here in our country. The geo survey is something that we have to get seized of as a Parliament. Perhaps our Committee, together with the Ministry of Interior and Coordination of National Government, should have a sitting because this is about mapping minerals. The purpose of this survey was to inform the interested persons where there are possibilities of minerals for them to exploit and help us get resources that can help this country. So, this is something over which we should come together and get to know where we are and how best it can help even the Ministry of Petroleum and Mining in its future endeavour to sell Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** But if the information is kept by the National Intelligence Service (NIS) and people come to apply to the Ministry of Petroleum and Mining, it is interesting. People will find it difficult because the people who may have the information are dealing with intelligence and people licensing are just giving licences all over. There is need for coordination, Hon. Kimaru. That is the point. Very well.

Next Order.

## BILL

### *Second Reading*

#### THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Speaker:** The Chairman of the Budget and Appropriations Committee.

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

I beg to move that the County Allocation of Revenue Bill (Senate Bill No.7 of 2020) be now read a Second Time.

In a matter of introduction, Article 218(1)(b) of the Constitution provides for the introduction of the County Allocation of Revenue Bill in Parliament to divide revenue raised nationally and allocated to the county governments through the Division of Revenue Act among the 47 counties. In line with Article 187(2) and 202(2) of the Constitution, the County Allocation of Revenue Bill has also made provision for conditional allocation for the Financial Year 2020/2021 highlighting conditional allocation from the national Government and share of revenue and from development partners.

The enactment of this Bill will allow the withdrawal of county funds from the Consolidated Fund and facilitate the transfer of the funds to the respective county revenue Funds. The Bill was published on 17<sup>th</sup> April 2020. It was passed by the Senate, with amendments, on 29<sup>th</sup> September 2020. That tells you there were five months the Senate stayed with the Bill, occasioning the current standoff or freeze of money flowing to the county governments.

When the Bill was referred to us, my Committee worked with speed and from Thursday, we have been able to deliberate and canvass on the issues. Within three days, we have been able to bring a Report to this House. It took the Senate five months. I also want to remind this House that the so-called new formula which had taken the Senate one-and-a-half years, my Committee was able to act on it in two or three days and it is the one that gave rise or gave birth to this CARA.

Hon. Speaker, given the highlights of the County Allocation of Revenue Bill of 2020, the Division of Revenue Act of 2020 made an allocation of Kshs316.5 billion shillings as equitable share of the nationally raised revenue to the county level of Government. The County Allocation

of Revenue Bill has shared these funds among the counties. In addition, the Bill provides for other allocations to county governments in form of conditional grants. The proposed total allocation going to county governments, therefore, for the current 2020/2021 Financial Year, stands at Kshs369.87 billion. It comprises of the equitable share the Senate and everybody keeps talking about; the Kshs316.5 billion. There is also the Government of Kenya grants which many Members do not pay a lot of interest in, which is Kshs13.73 billion. There is also the Roads Maintenance Fuel Levy at a factor of Kshs9.4 billion. Also, there are loans and grants which go to county governments totalling Kshs30.2 billion.

Just to pick two issues, one is on the shareable revenue. The projected revenue collection for the Financial Year 2020/2021 is estimated at Kshs1.856 trillion of which, Kshs1.6 trillion is of the national Government. In the Financial Year 2020/2021, the equitable share to the counties is maintained at the same level of the Financial Year 2019/2020. It is an allocation of Kshs316 billion shillings. The First Schedule of the County Allocation of Revenue Bill, 2020 specifies each county's allocation for the Financial Year 2020/2021. The import of this is that the new formula is not applicable in this financial year. So, we are going by the formula or the basis that was done in 2016. That tells you that the inordinate delay that was in the Senate where they were talking about the formula and the money could not be released will not be factored in this. So, to me or from where we sit, that inordinate delay was totally unnecessary.

The second one is on the Government of Kenya's conditional grants. It is worth noting for Members that there a lot of resources going to the counties in terms of conditional grants. Just to pick a few, we are giving Kshs6.2 billion to the leasing of medical equipment; Kshs4.3 billion to Level 5 hospitals; rehabilitation of youth polytechnics - Kshs2 billion; compensation for user fees foregone - Kshs900 million and construction of county headquarters - Kshs300 million. There is also the Road Fuel Levy Fund at Kshs9.4 billion. This is the money that should go to roads. But, of course, you only see the Kenya Rural Roads Authority (KeRRA) and the Kenya Urban Roads Authority (KURA) when you go to the counties.

I do not want to go to the fine details of other funds, but I want to pick one of the observations that our Committee picked, which is on conditional grants. If you remember, there is a case in court which relates to the Governor of Garissa, where my friend Hon. Duale comes from. It is in court basically because there is allegation that there is misappropriation of grants given to the county governments through the World Bank. The big issue that we have is that there is no follow up as to who does the oversight of all the conditional grants that we are getting. It is not little money - it is over Kshs30 billion going to county governments this financial year. Of course, I will be making a few observations and recommendations as the Committee saw it fit.

The other concern is the transfer of functions from county governments to the national Government under Article 187, specifically to the Nairobi Metropolitan Services. Cognisant of the transferred functions from the Nairobi City County Government to the national Government, the Bill has made provisions that where a county government has transferred functions to the national Government pursuant to Article 187 of the Constitution, the County Executive Committee Member (CECM) of finance, in consultation with the national Government, shall determine the cost of the transferred functions. Thereafter, the respective county assembly shall appropriate these funds and all the allocations shall not be less than the amount appropriated by the county assembly in the preceding financial year. The money appropriated shall be transferred to the national Government and the Cabinet Secretary for Finance shall prepare a report for each quarter of the financial year in respect of the expenditure of funds transferred to the national Government. An example is the

push and pull that has been witnessed between the Governor of Nairobi County and the Nairobi Metropolitan Services because the law is not clear.

Hon. Speaker, the Committee made the following observations:

(i) The Committee notes with great concern that over the years since the inception of devolved governments, there has been a recurring contestation of the vertical sharing of resources leading to mediation on the annual Division of Revenue Bill and in turn, delayed passage of the respective annual County Appropriation Revenue Bill. This often leads to disruption of service delivery, like it is being experienced at the moment. We are in the second quarter of the financial year and county governments have not received allocation for the first quarter.

(ii) Transferred functions from the Nairobi City County to Nairobi Metropolitan Services: Whereas the Bill provides that the County Assembly shall appropriate money as may be required for the transferred functions and transfer the money to the national Government, the Committee is concerned that there are legislative gaps that may hinder full operationalisation of the transferred functions. Indeed, there is no clear mechanism on how funds received in the County Revenue Fund will be transferred to the national Government under the Consolidated Fund.

(iii) Accounting and audit of the conditional grants: The county governments' audit reports do not report adequately on the utilisation of conditional grants as these are subsumed in the line Ministry's audit reports. It is a case I picked in all the areas that receive conditional grants.

(iv) Cash disbursement schedule: Each year, the National Treasury gazettes the cash disbursement schedule with the approval of the Senate. However, this is only for compliance. The reality is that cash flow is highly uncertain.

Having reviewed, scrutinised and examined the contents of the County Allocation of Revenue Bill, 2020, the Committee makes the following policy and financial recommendations:

Under policy recommendations, the Committee notes the following:

(i) An urgent need to legislate and make provisions on how to handle the delays in passage of any of the annual revenue bills, including delays that may arise out of any unforeseen eventualities. This will ensure smooth flow of resources at all times regardless of any delays in disbursement.

(ii) A special audit of all conditional grants to be undertaken in order to guide future allocations, allocation criteria and the necessity for continuation of such grants.

(iii) There is need for an *ad hoc* committee to be constituted to review and develop allocation criteria of conditional allocations and identify areas that may require intervention of the national Government to address specific needs, including challenges occasioned by climate change.

(iv) A comprehensive audit of all donor funds that have so far been expended at the sub-national level be undertaken and a report tabled before enactment of the County Allocation of Revenue Bill for 2021/2022 Financial Year.

(v) The National Treasury should adhere and comply not only to the gazetting of the disbursement schedules, but also in ensuring timely disbursements with no arrears.

Under financial recommendations, to unlock and guarantee the flow of resources to the county governments in order to protect county service delivery, the Committee recommends that this House concurs with the Senate. In this regard, the Committee recommends that the House approves:

(i) The First Schedule to the County Allocation of Revenue Bill, 2020 with respect to equitable share to each county for 2020/2021 Financial Year, amounting to Kshs316,500 million.

(ii) The Second Schedule to the County Allocation of Revenue Bill, 2020 with respect to conditional grants from the national Government share to county governments for 2020/2021 Financial Year of Kshs23,164.26 million;

(iii) The Third Schedule to the County Allocation of Revenue Bill, 2020 of conditional allocations to county governments from loans and grants from development partners for 2020/2021 Financial Year, amounting to Kshs30,204.35 million.

(iv) The Fourth Schedule of the County Allocation of Revenue Bill, 2020 setting the county government ceilings on Recurrent Expenditure for 2020/2021 Financial Year for county executives and county assemblies.

Hon. Speaker, with those remarks, I beg to move. I request, Hon. (Dr.) Makali Mulu to second.

**Hon. Makali Mulu** (Kitui West, WDM-K): Thank you, Hon. Speaker. I want to indulge you to allow me to remove my mask because I am alone here.

**Hon. Speaker:** Absolutely.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, allow me to thank my Chairman for moving the Bill. He was struggling with time since he had only 10 minutes. I have only five minutes. I will rush to see whether I can catch up. I want to thank him for focusing on the figures. So, I will not dwell on that aspect. I have seen Kenyans complain that the National Assembly has delayed this Bill, but I would like to inform them that the Bill was tabled last week on Thursday, the only sitting day from that day is today, and we are now debating the Bill. I am hopeful we will dispense of this matter by the end of today.

Hon. Speaker, this Bill focuses on horizontal sharing of revenue. The Division of Revenue Act passed in this House in April allows the vertical sharing of revenue. As the Chair has said, it has taken so long to have the horizontal sharing law passed by the Senate yet this is one of their key responsibilities. After all is said and done, we now have the Bill and we should dispense with it. I want to make a few observations as I support the Bill. We do not have a choice, but to support the Bill so that the counties can access resources.

Hon. Speaker, focusing on conditional grants, I would like to request my colleagues that it is time we asked hard questions. Last year, we had a long mediation. I remember Hon. Mbadi, and the former Leader of the Majority Party, were part of that team. One of our key recommendations was that the leasing of medical equipment be outsourced. The Senate took that recommendation, ran with it and they have not given us a report. This year, we have allocated Kshs4.2 billion to this programme. For how long are we going to do this? We have been doing this for the last seven years. Are we getting value for money?

On county headquarters, through this Bill, we are allocating funds to construct headquarters for counties that did not have any infrastructure. We have been allocating money for the last three years and we do not know the status of implementation. This House should come up with a mechanism to track implementation.

On Level 5 hospitals, every year, we allocate funds to these hospitals. They are about 11, but for how long are we going to do this without concentrating on the other county hospitals? In my view, the original thinking was that since they are referral hospitals, they should be supported to a certain level and we start supporting the other county hospitals. When people from Kitui seek medical services at the Machakos Level 5 Hospital, they are asked why they go there yet they have their own hospitals. We should address that challenge. In my view, we should reconsider our allocation to Level 5 hospitals and start sharing the allocation with the other county hospitals. In that case, we will improve the health system in this country.

The other issue I want to comment on is the transfer of functions. The Bill caters for transfer of functions very well. This targets the Nairobi Metropolitan Services. If you look at the budget for Nairobi Metropolitan Services, it is higher than the equitable share to Nairobi City County Government by almost Kshs23 billion. The question is: How do we have money coming from the County Revenue Fund to the Consolidated Fund so that it can be used by the national Government? That is an important question that needs to be answered. Financial experts will have to look at this matter so that we do not get complications in terms of implementation.

The other point I want to comment on is the issue of accountability mechanisms for the same funds. We send so much in terms of grants to so many counties, but when you look at how we account for the resources, how we monitor these resources, I think there is a gap. This House is in charge of oversight, and therefore, we need to address that gap, so that we do not have public resources being misapplied.

The last thing I want to say is on the issue of transfer of funds. The Bill says money should be transferred within seven days after approval, and I agree. With the delays we have already experienced, it is important that once we pass this law, the resources are released to the counties. Counties are suffering. We have been watching television every day and all over the country county governments are crying that they have no money. This time we supported them to get more money. So, once this Bill becomes law, let the money be released to the county governments so that they can start implementing projects.

With those remarks, I second, Hon. Speaker. Thank you.

**Hon. Speaker:** I think everybody now must understand that this Bill must pass in this House before they can start talking about money being available.

*(Question proposed)*

Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, allow me to rise to support this Bill that has been very ably brought by the Budget and Appropriations Committee. I commend them for the work they have done. We were worried when we saw that the Bill was passed in the Senate with amendments, which is very unusual. It is probably their nomenclature that has issues. We were looking for those amendments, but we could not find them. I must thank the Committee for going through the Bill and confirming to us that it conforms to the basis that we passed in this House.

As we said last time when we were discussing the basis, we are all concerned with the unjustified delay in the passage of this Bill. Counties are suffering. When I listen to Hon. (Prof.) Anyang' Nyong'o lamenting about what is happening in Kisumu and other governors, including the Chair of the Council of Governors (CoG), it is very clear that people are suffering. Even as we try to revive the economy and to put more money to stimulate the economy during this COVID-19 period, with Kshs316 billion stuck in Nairobi, a quarter of that money would have stimulated the economy. When you add a multiplier of six, Kshs90 billion going to the counties would have meant about Kshs500 trillion would have stimulated the economy. Thanks to our colleagues in the Senate dillydallying and forming themselves into groups and wearing fancy ties for a whole year, we have had this delay. We hope this is the last time it is happening, because even at the end of it all, nothing new seems to have come out of it. We are still allocating money the same way we did, which is what they would have agreed on from day one. County governments would have received their money.

Regrettably, even the amendment to the Public Finance Management Act that we passed to facilitate disbursement of money in a situation where the Division of Revenue Bill is delayed because of disagreement, is yet to be considered by the Senate. I remember, Hon. Speaker, you had several sittings with the leadership of that House - and I was there - and we advised them to make amendments to include the County Allocation of Revenue Bill in that Bill and bring it to us so that the counties could receive the money as the Senate continued with their dillydallying and all the games they were playing before passage of the formula. Regrettably, up to now, that Bill is still lying in the Senate. I do not see it being passed soon. I think Kenyans need to start asking themselves, as we discuss the future governance structures of this country, what the Senate should be doing and what the National Assembly should be doing. If I were to be asked, I would say all money matters should be brought to this House so that we finish everything and allocate money to the counties while the Senate, on the other hand, conducts oversight without having to play all these games that leave people suffering.

I do not want to say a lot because the debate here cannot help or change so much. I just want to underscore two things. County governments, at least, from where I come from, develop county annual development plans and county integrated development plans. They engage people through public participation. Then they prepare the approved development plans and annual county budgets. But when you look at what is actually happening on the ground, there is total variance between what the people wanted and what the governors want. Even as we put the limits which have been put here that you cannot spend so much on development and so much on recurrent expenditure, on the ground, things are different. When you add to this the poor governance structures and lack of oversight by members of county assemblies (MCAs), we have a problem. A half of MCAs are being controlled by the governors because they were nominated. They do not owe allegiance to the people but to the governors, hence instead of overseeing the county executive, they are leading the chorus for the passage of the budgets that are skewed towards areas that are politically correct for the governors. It is this clamour for equitable distribution that saw the Senate Bill No.34 on County Ward Development Fund being introduced in the Senate. But when it came here, it was not necessary. They were trying to solve the problem by creating a deeper problem. It was rejected by the House. I do not expect any different situation to emerge through the mediation process. I would want to urge the governors that we are watching; they should live within their oath of office and ensure there is equitable development in the entire counties regardless of the wards that support them and the ones they believe are not supporting them.

We are also looking, obviously, at what amendments we require in the PFM Act to provide that until the budgets show equitable allocation of money, the Controller of Budget should not release the money. I am sure we will get some section where we can insert that amendment so that the intention and original objective of the Ward Development Fund Bill, which was supposed to facilitate equitable development of money across the counties will still be achieved. The situation on the ground is so unfortunate. We have seen it in different counties. I have talked to the leadership of the County Assemblies Forum (CAF) and some people from different counties and they keep saying, "We need your help as the National Assembly to force governors to stop discriminating against some areas because those areas did not support them." I do not expect that assistance to come from the Senate. Because we have a bigger responsibility in terms of overseeing every State officer, which the Senate does not have, we can help through the PFM Act or any other law that we need to pass to ensure that that allocation of development money is not tied to political support, but to where the needs are.

Hon. Speaker, when we passed the Constitution of Kenya, 2010, and identified the 14 functions that are closest to the people, agriculture, health and even education were supposed to be part of it. The former President Mwai Kibaki said: “On this one, let us not experiment with it because education is critical.” Even if it was given to the governors, I am not even sure what could have happened. The 14 critical areas that are closest to *wananchi*, that would trigger development and create employment to *wananchi* are integrated in the Big Four Agenda. If all governors were doing what they are supposed to be doing, we would be talking of so much employment opportunities having been created. We would not be worried about giving tools to youths to try and empower them. They would have been empowered at the local level. At the national level we concentrate on policy, but at the local level, we use those policies to empower the youth and create employment and wealth so that, at least, we look at the bigger picture, the bigger industries, and the international trade, but with the base having been sorted by the governors. I hope they can start thinking this way. Hon. Mbadi, I hope when you become a governor one of these days, you will be the example of what local resource mobilization and utilisation can do to generate employment, wealth and the totality of the wealth of the 47 counties become total wealth for the Gross Domestic Product of this country. I could go on and on but because I would want many more to speak, let me stop there.

I support this Report and ask Members to support it. Finish with CARA and give money to the counties.

Thank you.

**Hon. Speaker:** Hon. Mbadi, kindly have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Allow me to also support this Motion to approve the County Allocation of Revenue Bill.

It is regrettable that we are in the month of October, more than three months into the financial year and today is when we are likely to finally pass the County Allocation of Revenue Bill. I hope the President assents to it because we do not direct the President. He may not assent to it as quickly as we would have thought. He may even return it back with a memorandum. Nothing stops the President from doing that. That means that even as at the end of today, you can effectively say that we are not sure when the counties will receive the first allocations for the Financial Year 2020/2021. That is regrettable and is a sign of failure in terms of leadership of this country. We are all into leadership and we must take responsibility collectively, but again also apportion blame to the leaders who are responsible for this kind of mess that we find ourselves in.

I assume that our county staff in our 47 counties have not been paid their salaries for the months of July, August and September. How can people survive for three months without receiving their salaries? Even if the counties went ahead and borrowed money from banks, our budget does not provide for financial costs of our budget. So, how will they pay the charges that the commercial banks will levy on the loans that are borrowed? We are exposing our counties to total failure, total crisis and total collapse. I think that this is something that as the leadership of this country, we must speak against and ask the Senate to be vigilant next time to make sure that the County Allocation of Revenue Bill is passed in the first two weeks of the financial year. This is so that by the end of July, all counties would have received the money. That is not asking for too much from the Senate. That is just asking for the bare minimum in terms of discharge of responsibilities.

As Hon. Kimunya said, up to now, over Ksh79 billion in terms of shareable revenue would have been disbursed to the counties. That would have included the salaries and other recurrent expenditure which would have spurred economic growth at those levels. We know that once

money reaches the villages in terms of county staff or employees, it is money that is devolved and it is going to help promote the economies of our rural communities. Further, Ksh23 billion out of that Ksh79 billion should go to development in line with the PFM Act. How much that would have helped in terms of helping spur economic growth is so much. By the way, the moment economic growth is not spurred at the local level and at any other level, even the projected tax collection cannot be realised. This is because the Treasury, those who are responsible for projecting economic growth and projecting tax collection, base their argument on the possible utilisation of our budgetary provisions.

Something that I think we need to look at is whether we still need the GOK conditional grants to the counties – the Ksh23 billion. I think we need to move to a level where the counties are allowed or given opportunity and space to make decisions at that level. If a county is not capable of making decisions well, then it would have problems and the national Government should intervene formally instead of having shareable revenue allocated then we go ahead and start giving conditional grants for functions that are basically devolved. That needs to be looked into. I have no problem with the Ksh30 billion which is grants and loans from our development partners because then those ones have to go to the counties as conditional grants.

Hon. Speaker, something else that I would probably want to talk about is matters regarding accountability. We have talked about it many times. However, it appears that the management of our counties led by governors do not listen to us. It is high time we brought legislation to tighten the accountability aspect. This is so that those counties with clearly defined parameters of assessing accountability... As we speak now, we are talking about issues of accountability generally and we have left it to the dictates of the reports of the Auditor-General. We now need to move and come up with legislation that would help in assessing accountability in our counties and with actions to be taken in the event that those counties do not follow the laid down procedures.

My final comment on this, because I am sure many Members want to contribute and we want to pass this Bill quickly and go to the Committee of the whole House is on the issue of the Bill that is in the Senate. If the Senate is listening to us, they are doing a lot of injustice to our counties. Let them approve that Bill with amendments including the County Allocation of Revenue Bill so that in the event we are faced with similar circumstances that we have found ourselves in this year, counties would be able to run even as we sort out our political differences, political discussions and mediations.

With those remarks, I support.

**Hon. Speaker:** Hon. Mbadi, I thought the counties are not yet in a position to approve their budgets until this law becomes an Act of Parliament.

Hon. Duale, kindly have the Floor.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I support the County Allocation of Revenue Bill of 2020 which was timely introduced in Parliament by April 2020 as provided for in Article 218(1) of the Constitution in anticipation of enactment and assent by 30<sup>th</sup> June. However, the politics at the Senate delayed the enactment of this important piece of legislation.

Before I go to the crux of this Bill, I heard Senators and even their Speaker, with all respect, this morning, on radio, saying that they are waiting for the President to assent to the Bill. That is far from the truth. They are lying to the people of Kenya. They are lying to the county governments.

Moreover, the problem was them. Until this House concurs, we do not have the power to change anything. However, until this House concurs in all the stages and a velum is produced by the Clerk's office to the President.... Again, the President can apply the Constitution and return the

Bill with a memorandum. Therefore, I really want to ask the Senators to, please, read the law, especially Article 218 of the Constitution. This is the only Bill that originates from the Senate. It is their Bill, but they are the ones who delayed and made Kenyans working in the counties not to earn their salaries for three months.

Hon. Speaker, I am happy the Budget and Appropriations Committee stuck to the Ksh316.5 billion that we passed in the Division of Revenue Bill. All the other monies that were being said outside there were just stories. They were not based on law including the Kshs56 billion. This is because Article 135 of the Constitution is very clear that if the President makes a decision, he must do it in writing and he must sign it and he must put his seal. Therefore, all the other proposals including the one on the Kshs56 billion was just political gimmick Senate was playing.

Hon. Speaker, Ksh316 billion is an equitable share and Kenyans must know the amount of money.... Those of us who voted for a devolved system of government wanted devolution to be felt in terms of the health sector, agriculture, livestock, water, Early Childhood Education (ECD), the Ksh9.4 billion road maintenance levy fund and so on. I do not think where I come from the fruits of devolution have been felt. In fact, if you go to counties they are violating the Public Finance Management (PFM) Act. There is more allocation on salaries and personal emoluments than development. Development Expenditure and Recurrent Expenditure are stipulated. However, if you go to counties, you will find there are those spending less than 15 per cent on development. The rest go into Recurrent Expenditure.

Hon. Speaker, there are additional allocations from the share of national government revenue amounting to Kshs13.7 billion. There are very clear things that the Jubilee Government believed in, for example, Level 5 hospitals. There were 11 Level 5 hospitals including the one in my constituency that every year receives between Ksh300 million and Ksh500 million depending on the location. Today, if you go to Level 5 hospitals in Garissa County that have been receiving this conditional grant for the last eight years, you will be shocked. Look at the money going to the health facilities for free maternity, rehabilitation of youth polytechnics, the construction of the headquarters, and the road maintenance levy. The elephant in the room, and this morning even the Public Accounts Committee (PAC) was grappling with the matter, is this conditional finance in the form of loans and grants from our development partners. You know, this money is close to Kshs30.2 billion. This money comes to the National Treasury and then it goes straight to the governors. In fact, it does not pass through the State departments.

This morning the State Department for Devolution said it is we who are not aware of these programmes. We only do policy. We only go and inspect. In addition, the bone of contention was a project in Migori. Therefore, we were asking ourselves: 'Who is the Authority to Incur Expenditure (AIE) holder?' The AIE holder happens to be the governor. Furthermore, that is why you see people have eaten the Ksh316.5 billion. They have eaten the conditional grant from the national government and now they are eating the donor fund. Therefore, Hon. Speaker, I think we should just concur but I am sure the Senate and the county assemblies...

**Hon. Speaker:** Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. I rise to support this Bill. First, I want to thank the Budget and Appropriations Committee. Hon. Kanini Kenga we salute you. Even though you are new, you have done very well because you have managed to do this within the shortest time possible. I was also surprised. When I was in the village I heard people saying that the Senate has agreed that they are going to release the money. This was without them knowing that we have two chambers and one of the objectives of the two chambers

is to provide checks and balances. Therefore, once a Bill has been passed in the Senate it has to come to the National Assembly and as a matter of fact, it should also undergo public participation.

I really want to thank the Budget and Appropriations Committee because they did this within the shortest time possible. However, the report was tabled today. We did not have the benefit of looking at it because the debate was coming within the same session. However, we listened carefully when they were moving and when they were seconding. One of the critical issues lies under Article 95(4) which clearly stipulates that the National Assembly determines the allocation of national revenue between the levels of government. We have the two levels of government and on the way forward, maybe we need a legislative proposal to provide the framework in terms of operationalization. Let the Division of Revenue Bill be a responsibility of this National Assembly. Let the Senate, as per Article 96 of the Constitution concentrate on the interests of the counties. Once they focus on their core business and we focus on ours, I think the delays will be gone.

Hon. Speaker, it has been very shameful for the Senate. The Commission on Revenue Allocation (CRA) had submitted this to them in April, 2019, that is, more than a year ago. They are now pretending, the last minute, to be busy. Ten attempts you do not get a solution! They have caused an embarrassment. Look at the time they have taken and look at the time the National Assembly has taken.

It is important for the future that when it comes to such matters it should be for the benefit of the common *mwana*. We should count out politics because part of that delay was because some people wanted to settle political scores. I heard people celebrating that Kakamega was to get a certain amount but because we did not vote now we have got more money. Where is more? When the President talks of Kshs56 billion where is he going to get it from? There was no more money that we were going to get. When the President talks of Kshs56 billion he is not the Kenya Revenue Authority (KRA). So, there is no more money. Let counties know they are going to get their money based on the Division of Revenue Act, which was assented to by His Excellency the President. This House, on matters of budget and funds, we are being magnanimous. We do not want to bring any amendments for the sake of the counties. This is because when you look at it there were other anomalies that this House has a right to amend. However, for the sake of the counties, we want it to pass. We are telling our governors wherever they are as they cry and lie on this national revenue: remember you also have a responsibility when it comes to raising the local revenue. Maybe it is high time there was a partnership with KRA in terms of their revenue raising measures. These counties, when they were county councils and municipal councils, were actually raising a lot of money. How come, all of a sudden, they are raising less money? The people who have been there tell us that, that is the pocket money for the governors. They collect money but they under-declare. Therefore, we must look into that issue so that local revenue is declared. This is because when you go to the locals like the *mama mbogas and boda boda*, they pay levies. Measures of raising revenue, as a matter of fact, have been increased. However, the amount of money being raised is being under-declared.

Hon. Speaker, may be it is high time the Ethics and Anti-Corruption Commission (EACC) does a follow up and give a projection in terms of the trend analysis as to where this money is going to because it is not being declared.

The money being felt on the ground in terms of development is that of the National Government Constituencies Development Fund (NG-CDF). The fruits of devolution in my county cannot be felt except those of the NG-CDF. Some of us have gubernatorial ambitions and want our governors to lead by example. We want the money meant for devolution to be felt by the

common citizen. In Trans-Nzoia County, there are potholes all over. One wonders where the money has gone to. We have seen funds from KURA construct roads but governors claim that the roads have been done by the county government. It is high time we labelled them to create the difference.

I thank you, Hon. Speaker and I support.

**Hon. Speaker:** Hon. Wamalwa you captured something about provisions of Article 95(4) (a) *vis a vis* 96 (3). If one were to read them horizontally against Article 218(1)(a) and (b), what you have said makes a lot of sense. Indeed even though Article 218 talks about the documents to be tabled before Parliament two months before the end of the financial year, that should be the argument that the Division of Revenue, 218 (1)(a), should be tabled in the National Assembly and the County Allocation of Revenue Bill, (218)(1)(b), in the Senate and that would work miracles.

Very well, let us have Hon. Wachira Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. I Support this Bill and also commend the Chairman of the Budget and Appropriations Committee, Hon. Kanini Kega, for moving fast and ensuring that we do not have the delay that we had in the Senate on this particular Bill.

Hon. Speaker, I would like to comment more so on the usage of the money that we approve in this House that goes to county governments. As my brother, Hon. Wamalwa, the hopefully incoming governor of Trans Nzoia stated, what we are seeing out there is work by the NG-CDF. When you walk around, you find stalled structures that were either started by previous regimes, but not completed and structures that would give our people services and have devolution felt out there.

In my own constituency, I have more than five dispensaries that today would be of great help to my people, but they are stalled simply because they were started by the previous regime and the current regime cannot work on them. It is high time that even as the Senate approves these funds to counties, they should follow them up and ensure there is value for what we are giving to the counties.

We again found cases where governors are using resources to punish MCAs' constituencies and wards that are not supporting them. This is disturbing, that five years can lapse without any service given to a particular ward simply because a certain governor is not in good terms with the MCA there. We would also want to highlight the fact that the fuel levy money that goes to counties is not being felt. We are not hearing of any money getting back to the National Treasury on this, and we can only assume that this money is being misused. What we see out there is work by KeRRA and KURA, but rarely are we coming across roads that are being done by county governments. It is high time we encouraged them to buy equipment so that they can be maintaining the rural roads instead of money going to them directly.

It is also disheartening to see transferred functions, especially with the Nairobi Metropolitan Services that is doing a very good job, experiencing wrangles emanating from resources. The Nairobi Metropolitan Services that falls under our Committee had to come to us crying. The presentation they made was full of frustrations despite the good work they are doing. It is high time we streamlined some of these processes and ensure that governors do not transfer services and at the same time hold onto the implementation of those services. It is high time that even as we have this County Allocation of Revenue Bill process taking much longer as it did in the Senate, to have budgetary provisions so that some services within counties do not suffer. It is unfortunate that most of our brothers, sisters and MCAs in the counties have gone without salaries for three months.

It is annoying and disturbing to find a whole leader out there in the village with no salary for three months and yet we know how many people visit them every morning expecting support and they will not explain to them that they do not have money. Therefore, as I support this Bill, it is my humble opinion that Senate needs to be much more careful and keen on seeing how to get rid of the misuse of money by counties and see how effective the money being utilised out there is, more so on the development of infrastructure that is core.

**Hon. Speaker:** Let us have the Member for Ugenya.

**Hon. David Ochieng'** (Ugenya, MDG): Thank you, Hon. Speaker. I also rise to support the Bill from the Senate. It is unfortunate that we are doing this in October when we should have done this sometime back in July. I believe devolution will be with us for a long time. We must accept the fact that we wanted to have resources devolved. Devolution is the best way of ensuring that there is equitability in the country. We must accept that now we have been through this for the last eight years. It baffles me that eight years down the line, we are still struggling with very mundane issues. The Senate's major role according to me is this particular Bill, but they took so much time on it. I would imagine the Senate would engage this Assembly when necessary to ensure that some of these things that arise are avoided because every year, we have to quarrel over this particular Bill whose competence is largely the Senate.

Hon. Speaker, if you look at the Constitution I believe the Senate would have done all that pertains here in terms of ensuring that there are disciplines in law that would ensure that governors do what they are supposed to do within the law but they did not do that. They want to look around and guess what it is they can do on health at the national level or on foreign affairs. They keep poking their fingers in things they do not know, understand or have no experience at all.

So, the Senate is better advised that they are indeed the potential for a revolution in this country. They should always try and do that. At times I see them and wonder how far people can go in trying to make themselves relevant when what should be made relevant is so clear.

Hon. Speaker, I have an issue with the conditional grant. Grants are going down to counties unconditionally. Every year, there is so much money that is called conditional. I would also imagine that the Senate should have been at the forefront saying no. Every year, we cannot be having a long list of money that goes to the counties as grants. Why not turn them into the normal budget money because they are not from donors, but from the national budget? Why can we not get a way of ensuring this money goes into the mainstream budget of the counties?

Money coming from donors also has issues. The Senate by now would have got a way of dealing with the Ministry of Finance to ensure this is done the right way. The other day, a governor was charged because of donor money. I am happy that donors are looking to see if their money is used well. It is a failure of the Senate that they cannot get county government money used well yet that is the only role they have.

The intermittent disbursal of money to counties every year is like a song now. It is like the Council of Governors' job is only to come out and address the press that money has delayed. The only time you hear and see them is when money has delayed. Why can they not sit down as adults together with the Senate and the Ministry of Finance to agree on a good way of getting money to the counties?

This is because every month or three months salaries delay. This is because someone is not following the law. We cannot devolve and give the Ministry of Finance so much powers and monies at the national level are not trickling down and governors are crying every day because they cannot get them.

I want to support and advise this House that we should not try to undermine devolution because of teething problems. Our job as the National Assembly is to support the Senate where they are doing a good job, and where they are not doing a good job, we refuse to support them, so that devolution can be anchored truthfully and with big long roots. In future, we should not have these kinds of teething problems. Ten years down the line, we are still talking about agreeing on formulas and others. It is a shame.

I support.

**Hon. Speaker:** Member for Kiharu.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Speaker for the chance to contribute. I rise to oppose. Even after incorporating the Kshs56 billion, which is not available and referencing on how we have been giving money to our counties, I do not think we are observing equity and equality in so far as disbursing money to our counties is concerned.

Therefore, I believe the whole process is fraud. Hon. Speaker, if you do not mind, can I relax my mask. If you look at the per capita allocation of the money we give to our counties per person, per region and at both horizontal and vertical equity, we are leaving a lot to be desired.

I come from a county that is densely populated. The way we have been disbursing money to our counties is not correct and right. It does not exhibit equity in our country, if we are to divide even after incorporating the Kshs56 billion. If we are to divide the money we apportion per county, every Kenyan is supposed to receive Kshs7,800 per annum per capita. But there are a lot of disparities that cannot be justified by anything including the expansiveness of land or even poverty index.

Murang'a County's per capita even after incorporating the Kshs56 billion is around a partly Kshs6,700. Compare the same with a county like Tana River which is receiving around Kshs20,000. I do not think that is the route that we should take as a country. If you are to look at the population of Kiambu County and compare it with Turkana County, Kiambu County's is like three times that of Turkana County. I do not think there is any justification that Turkana County should receive more money than Kiambu County which has a population more than thrice.

But there are some issues beyond which I would like to highlight even as we talk about counties and disbursing money to them. I have talked about vertical equity. When you come to horizontal counties that are homogenous for example, Murang'a and Nyeri, why do we have disparities within these two counties? Also putting Kiambu in the same category, Kiambu County has a per capita allocation of below Kshs4,000. You compare the same to a county like Nyeri which is approaching Kshs8,000. These are people who live around the same conditions, their parameters are the same and they are homogenous.

The new formula that came from the Senate, I believe is the one we are debating here today, even if we cannot alter, I do not think it represents the Kenya we want to build as we go on especially in terms of devolution. But there are some issues, if you look at our counties, and what is more visible is conditional grants. If you go to my county or any other area, we are having money coming from the World Bank, and even from KeRRA. This is the only money we can see on the ground and I think we need to enhance this.

I think the counties are also borrowing from the financial imprudence at the national Government. This country is borrowing more than Kshs2 billion every day. Therefore, we need to streamline everything money in this country and we cannot purport to say it is urgent. When we want to do wrong in this country, we invoke urgency. Therefore, I oppose until it is one man, one vote, one shilling.

**Hon. Speaker:** Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker for giving me the opportunity to contribute to this very important Bill. I want to congratulate Hon. Kanini Kega and the Budget and Appropriations Committee for moving very swiftly.

Kenyans have waited for this Bill to pass for quite some time. What has been happening in the counties should never happen again in this era of devolution. Devolution is a very good concept and it seems not to have been implemented well so far. I believe there are Members of this Assembly who aspire to become governors. Since they are used to dealing very well with the NG-CDF, maybe there will be a change and people will see a difference and development happening on the ground.

When it comes to the money allocated to counties, definitely, development has quite a lower amount compared to expenditure. I believe in future we should look at a balance, so that development receives more allocation than money spent by counties to run their activities. One of the biggest questions that has not been addressed all this time is the revenue collected in the counties. We are aware revenue is collected every day. Most probably there lacks a mechanism to ensure that whatever *mama mboga* pays reaches the county coffers and becomes part of the revenue collected.

Administratively, counties could have a pay bill number. I believe if they streamline their method of collection, a lot more money will be realised. There must be a way of ensuring that this money is appropriated, either through the county assemblies or what we are doing now. In most occasions, this money cannot be accounted for. It is known to exist, but does not form part of the revenue we appropriate. Therefore, there is a missing gap that needs to be addressed quickly and especially even if it means amendment of the laws like the Public Finance Management Act to ensure the amounts of money are known and used.

For employees of the county government to go for three months without a salary is absurd. Some counties borrow not only for salaries, but for other expenditures. Definitely, for commercial banks, there will be interest which is not budgeted for. This is a missing gap which in future needs to be addressed by law, so that borrowing is guided and controlled by law. If it is just allowed anyhow, then they can borrow even to pay pending bills where there are pressures or they have been taken to court. It is a concern. The other matter is the conditional grants. It is true they have done a few activities. Most of those activities have not been completed or utilised. That is money which also needs to be audited. Kenyans have to get value for it because some of these conditional grants or even some of the grants given to the counties by donors form part of what we appropriate and what we budget. The moment it is not audited and cannot be ascertained, it raises a lot of issues. It also begs the question as to what the money we appropriate for development does since development has not been seen anywhere. Any roads and repairs in towns are done by KeRRA. The Government is doing quite a number of other projects within towns. For example, in Wote Town, KeRRA has done six kilometres of tarmac in Makueni Constituency, but there is no way Kenyans can know that. Most of the time, governors claim to have undertaken projects that have been done by donors and other Government agencies, and the people think that their money has been used properly.

With those remarks, I beg to support.

**Hon. Speaker:** Hon. Members, the only problem is that many of you are lamenting that county assembly employees have not been paid. Many of you contribute and then you take off. I wonder how you are going to ensure that they are going to be paid if you do not stay in the House to pass this Bill. It does not make sense to lament and then take off. Somebody must be here to

pass the law. It just means that you are not any different from those who are wearing ties on the other side and doing all manner of crazy things.

Next is Hon. Lessonet.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Thank you, Hon. Speaker, for giving me an opportunity to contribute to the County Allocation of Revenue Bill. This is the Bill that divides money among counties. As the Budget and Appropriations Committee, which I am the Vice-Chairperson, we were shocked by the time it took the Senate to propose and agree on the revenue sharing formula. After taking almost a year working on the formula, we thought they would come up with a very special formula and one that would meet the expectations of Members, including Hon. Ndindi. However, for this financial year, the amounts are the same as in the last financial year. Going forward, looking at the formula to be used in subsequent years for the next five years, it is fairly speculative. It is hinged on the promise that there will be additional funding under the equitable share to bring the figure to Kshs370 billion. Suppose we do not achieve that? Even in the next financial year, we are unlikely to raise it to Kshs370 billion because of constraints of resources. We hope the Senate will not take us one or two years back in another further dispute on this matter of formula.

One of our main concerns as the Budget and Appropriations Committee is the value for money aspect in terms of the money that is shared out amongst counties, especially money which the national Government donates to counties. A sum of Kshs2 billion is being shared out amongst the counties to refurbish polytechnics. However, nothing much is happening in polytechnics. In Baringo County, where I come from, there are only 1,400 students in polytechnics despite the effort by the national Government to donate money every year to support polytechnics. I was in the 11<sup>th</sup> Parliament which initiated the conditional grants to Level 5 hospitals, but it is worrying. As the Budget and Appropriations Committee, we ask for reports to see how the money was applied at the Level 5 hospitals. We have realised that the conditional grants, which this House has always ring-fenced for use by Level 5 hospitals, are diverted to other areas. You may find that the Level 5 hospitals in Nakuru, Garissa or Mombasa do not receive their rightful shares for refurbishment.

This House, again, continues to give 15 per cent of the fuel levy fund to counties for them to improve rural roads, but if you go to the counties, you will find that KeRRA, which receives more or less the same amount as the counties, does 10 or 20 times more work than the county governments. This is despite the fact that counties have been receiving funds specifically for development of rural roads.

I wish we could do something to make sure that counties collect more money. For four months, counties have been complaining because the National Treasury has not disbursed funds to them due to the revenue sharing formula stalemate. Each county government is expected to collect some revenue. We expected them to use their own revenues as the Senate worked to agree on the revenue sharing formula.

**Hon. Speaker:** Member for Matungulu.

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you very much, Hon. Speaker, for allowing me to add my voice on this Bill. From the outset, I urge my colleagues that we move with speed to finalise debate on this Bill, so that it can be assented to for the counties to get money.

I want to confine myself to the issue of conditional grants to county governments. It is high time we came up with a very clear follow-up mechanism for the conditional grants that go to the counties. If you look at the entire Bill, the conditional grants are about monies going to the Level 5 hospitals. For the last five or six years we have been giving conditional grants to Level 5

hospitals. I doubt whether this House has been given a clear report of how the money has helped those counties. There are conditional grants for construction of county headquarters. We need to make sure that the conditional grants are not grants being given to the county governments because...

**Hon. Speaker:** What is your intervention about, Hon. Osotsi?

**Hon. Godfrey Osotsi** (Nominated, ANC): Hon. Speaker, I rise under Standing Order No.95. Considering that Members have debated sufficiently this matter, and considering that the counties need money as soon as possible, I move that the Mover be now called upon to reply.

**Hon. Speaker:** Let us give the Member for Matungulu time to finish his contribution then I put the Question.

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you, Hon. Speaker. The conditional grants which are going to the counties must be audited to ensure that we get value for money. We have been giving so much conditional grants to the counties, but I am not very sure that the money has been used for the intended purpose.

The second thing is the conditional grants which go to the counties to maintain roads in the rural areas. I believe the money is supposed to maintain feeder roads within the counties. But the end of the day, you will find that very little is being done on the feeder roads within the counties and this is one concern this House must address. We must make sure that we get value for all the conditional grants which are going to the county governments and ensure that the money is used for the intended purpose.

We know that several counties collect revenue within their counties. Surely, I cannot understand how county governments cannot tell Kenyans how they spend the money they collect as revenue at the local level. Where does that money go? Which vote do they allocate that money to? That is revenue. I think in future, as a House, we definitely need to make a recommendation that the Kenya Revenue Authority opens offices in the 47 counties to make sure that revenue collection is enhanced,

I want to urge my colleagues that counties are suffering. They are our brothers and sisters in this country. Let us move with speed to approve the County Allocation of Revenue Bill for the counties to get money. However, we will put a caution that governors must be accountable and responsible for the money, so that it can help Kenyans.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Very well. Hon. Members, Hon. Osotsi rose in his place and claimed that under Standing Order No.95, the Mover be called upon to reply.

*(Question, that the Mover be called upon to reply, put and agreed to)*

Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, thank you so much. I want to take this opportunity to thank the Members who have contributed. We have taken very seriously the valuable input that you have given us. I want to confirm to this House that in our Report which we have properly captured all concerns especially on policy observations, those are some of the things that we are going to take into account.

I want to say that it has been confirmed that the ties, the caps and all that paraphernalia that the Senators would don and say that they have had a breakthrough was purely an exercise in futility because even that formula is not being used in this financial year.

With that, I beg to reply and thank all Hon. Members for their support.

Thank you so much, Hon. Speaker.

**Hon. Speaker:** Hon. Members, just to repeat what I said earlier, many of you have been expressing sympathies to the plight of the many people some of whom are businesspeople, others are employees in county governments, who have stayed for more than three months without salaries. Certainly not because this House did not act, but I think there are few steps which are remaining here. If you can do them, you will go down in history as the people who actually rescued the counties.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)*

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*(The Temporary Deputy Chairman  
(Hon. Christopher Omulele) took the Chair)*

### THE COUNTY ALLOCATION OF REVENUE BILL

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Order, Hon. Members. We are now in the Committee of the whole House. From the Communication of the Speaker, we understand how important this exercise we are about to undertake is and I hope we shall give it due consideration and that we will be patient to go through it.

We are now considering the County Allocation of Revenue Bill in the Committee of the whole House.

*(Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*(Fourth Schedule agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we have concluded that business. I now call upon the Mover to move the reporting.

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the County Allocation of Revenue Bill and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**Hon. Speaker:** Chairperson.

## REPORT AND THIRD READING

### THE COUNTY ALLOCATION OF REVENUE BILL

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Speaker. I beg to report that the Committee of the Whole House has considered the County Allocation of Revenue Bill, (Senate Bill No. 7 of 2020), and approved the same without amendments.

**Hon. Speaker:** Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Moses Lessonet to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Speaker:** Hon. Moses Lessonet.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Thank you, Hon. Speaker. I second.

*(Question proposed)*

**Hon. Speaker:** Is it the desire of the House that I put the Question?

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

*(Question put and agreed to)*

**Hon. Speaker:** Mover.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move that the County Allocation of Revenue Bill (Senate Bill No. 7 of 2020) be now read the Third Time. I request Hon. Moses Lessonet to second.

**Hon. Speaker:** Hon. Moses Lessonet.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Thank you, Hon. Speaker. I second.

*(Question proposed)*

**Hon. Speaker:** Hon. Junet Nuh.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker, for giving me this opportunity. I stand to support this Bill. This Bill should have been assented to on 30<sup>th</sup> June 2020, but the Senate delayed this Bill for no reason. Counties have been complaining all the time that they have no money. I think counties did not understand where the Bill stuck.

If you look at the kind of things that this country has witnessed for this Bill to reach here, they took four good months — Sitting after Sitting, Tuesday after Tuesday — just to agree on a small formula on how counties can share money. It became so political that people lost track of what the formula was about. Some of them started crying, some started acting, while some started blaming their ancestors. We cannot allow this country to go through that again.

Hon. Speaker, that is why the matter of revenue sharing should be transferred to this House. This House understands, in a better way, how to deal with this issue.

*(Applause)*

This House shares almost Kshs2.7 trillion among ministries and you will never hear any complaint from any ministry. By the time we do the sharing here, the ministries are all happy. Every ministry will have gotten its equal share. To share Ksh316 billion only, took some characters; some old men who nowadays sit three times a week... When COVID-19 came, we changed our Sittings to sit on Tuesday afternoon - like today - and on Thursday in the morning and afternoon. We removed the Wednesday Sitting because of COVID-19. The Senate does not sit in the morning. It only sits in the afternoon because they are old and cannot wake up in the morning.

*(Laughter)*

Look at their Calendar! They only sit in the afternoons. So, people who sit in the afternoons only, when they have taken lunch, cannot pass a small formula. Can you imagine?

Just to cut it short, Hon. Speaker, another thing that has shocked me is this: I saw the Speaker of the Senate in a public forum two days ago - in a funeral actually - saying that when the President lands, he is going to assent to this Bill. How can the President assent to a Bill which has not been passed in this House? I think an induction course is required to teach some characters the process of legislation in the Parliament. Not in the National Assembly but in Parliament. The President can only assent to this Bill today, after it has passed through this House.

With those few remarks, I am very sorry because of what this country went through with the sharing of the formula. Now that they have finished the major business that a Senate is

supposed to do, I think they should close until 2022. There is no any other business to discuss in the Senate.

I thank you.

**Hon. Speaker:** Hon. Katoo ole Metito.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. I had a lot to say on this Bill in the Second Reading. I know that this is not the time to talk much. But allow me to point, very briefly, three things.

One, once this Bill is assented to, the first thing that the counties should do is to pay salaries and all the pending bills. Those pending bills are crippling the economy of this country as well as the economic position of the individuals who did county jobs and have not been paid.

On this issue of conditional grants, there is need for proper audit on them by the Ethics and Anti-Corruption Commission (EACC), Controller of Budget and the Auditor-General. Many of those conditional grants are going to the main issues of devolution like water, health and roads; but not much is being seen.

Finally, Hon. Speaker, I know Members who contributed during the Second Reading talked about un-declared revenue at the county level. There is so much un-declared revenue. It is high time that this House thought of a possibility of letting Kenya Revenue Authority (KRA) be the sole collector of revenue, both at the county and national Government levels. When that county revenue is properly used, it is going to be a good chance to have an economic stimulus post-COVID-19 that can stimulate the economy at the county level. Unfortunately, we are going to an electioneering period and instead of stimulating the economy, the un-declared revenue at the county level will be the campaign money for the governors.

Otherwise, I support the Bill.

**Hon. Speaker:** Hon. Members, having to put an end to the long suffering that has been witnessed in the counties, it is in the public interest that I put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read a Third Time and passed)*

Next Order!

## MOTION

ADOPTION OF REPORT ON THE IMPLEMENTATION STATUS OF THE REPORT ON A PETITION  
ON AN INQUIRY INTO THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

**Hon. Speaker:** Hon. Richard ole Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Speaker. I beg to move:  
THAT, this House adopts the Report of the Committee on Implementation on Report on the Implementation Status of the Report of the Departmental Committee on Agriculture and Livestock on a Petition on an Inquiry into the Crisis Facing Sugar Industry in Kenya, laid on the Table of House on Thursday, June 20, 2019.

I do this pursuant to Standing Order No. 209 of this House.

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

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

Hon. Temporary Deputy Speaker, the Committee...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Order, Hon. Members! Hon. Raphael Wanjala, Member for Budalangi, if you are withdrawing from the Chamber, do so in an orderly manner. Those Members rubbing shoulders, the COVID-19 rules are still applicable. Just observe social distancing since it is for your own good.

Proceed, Hon. Richard ole Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker.

This is a very important Motion especially for Western Kenya, which is the most affected region in this particular matter.

The Committee on Implementation was seized of the Report by the Departmental Committee on Agriculture and Livestock on the Crisis Facing the Sugar Industry in Kenya after it had been adopted by the House on 24<sup>th</sup> February, 2016, and resolved to appraise itself on the implementation status of the recommendations contained in the Report. This Report covers the findings of the Committee on Implementation on the Status of the Report on the Petition on Inquiry into the Crisis Facing the Sugar Industry in Kenya.

Pursuant to Standing Order No.201, the Committee on Implementation resolved to consider the implementation status of the recommendations contained in the aforesaid Report. During its scrutiny of the adopted Report, the Committee not only invited relevant stakeholders to make submissions, both oral and written, but conducted site visits to ascertain the implementation status. The Committee invited the Cabinet Secretaries for Agriculture, Livestock and Fisheries and the National Treasury and Planning, the Commissioner-General of the Kenya Revenue Authority (KRA), the Director of Kenya Bureau of Standards, the interim Head of the Sugar Directorate and the acting CEO of Mumias Sugar Company, on various dates to appraise it on the implementation of the recommendations which fall under their purview.

The Committee also met with the acting Managing Director of SONY Sugar Company, the Chairperson of Kibos Sugar and Allied Industries, the Director of Kwale International Sugar Company, the Managing Directors of West Kenya Sugar Company, Sukari Industries Limited, Butali Sugar Mills Limited and Dantes Peak Limited. The Committee also met the acting Managing Director of Chemelil Sugar Company Limited, the receiver managers of Muhoroni and Miwani Sugar Companies and farmers' representatives at Mumias, Chemelil, Miwani and Muhoroni sugar factories.

The Committee also wrote to other Government agencies like the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) and received submissions from them all.

The Committee resolved to visit various sugar factories in Western Kenya to establish the implementation status of the recommendations of the Departmental Committee on Agriculture and Livestock. During the visit held from 26<sup>th</sup> to 29<sup>th</sup> September 2018, the Committee held meetings with various stakeholders from the region. Even as the Committee undertook the exercise, the country underwent a crisis in the sugar industry which was about the contaminated sugar. Every Kenyan knows what happened.

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Further, during the scrutiny, Kenafric Industries Limited, a company adversely mentioned in the Report by the Departmental Committee on Agriculture and Livestock, appealed that they had not been accorded an opportunity to be heard. The Speaker directed this Committee to act as an appellate forum. After consideration of the matter, the Committee tabled a report recommending to the House to review its earlier decision and expunge the name of Kenafric Industries Limited from its records. The same happened with the Shree Sai Industries. Unfortunately, it came to light that most of the people mentioned were never accorded a hearing. Parliament should in future ensure that anybody mentioned should be accorded a fair hearing to ensure that nobody thinks that Parliament or this House is there to settle scores with anybody or treat any Kenyan in a way they are not supposed to.

Of concern to the Committee was the revelation by some implementing agencies that they were unable to attend to whatever was directed at them simply because they never received the Report! I take this opportunity to advise Parliament to ensure that anybody who is supposed to implement any resolution of this House should be given a copy of the resolution and the decision arrived at by Parliament to ensure that we do not act in vain.

In light of the submissions received and the observations made, the Committee recommends that:

- (1) There is need for an inter-agency task force to promptly invite the Sugar Directorate and the Agriculture and Food Authority (AFA) to be members of the inter-agency unit because of their critical role in the agricultural and sugar industries whose importance cannot be gainsaid. Further, the legal status of the inter-agency task force should be cleared by expeditiously publishing it in the Kenya Gazette. This will make it legal and ensure that whatever passes is enforceable.
- (2) Public millers are also encouraged to form associations and information sharing platforms to curb the issue of farmers holding more than one contract with millers. You will find that a farmer gives one miller a contract and goes to another one such that there is always conflict of interest.
- (3) Land belonging to any public miller and where cane is grown should revert to the communities in the event of privatisation of millers. It is well known that most of those lands are taken from communities. They were supposed to assist those communities in their economic activities and livelihoods. Unfortunately, it has become a poisoned chalice such that outsiders come, exploit those lands and ensure that the mills are run down for purposes of destroying them with an intention to grab those lands. The Committee strongly insists that the most important thing is that if those mills are unable to run, the lands should revert back to the communities because those lands were given out by the communities to benefit them and not exploiters, which we realised is happening in Western Kenya. Communities have been destroyed by greedy land grabbers, sugar importers and by the worst that this country can give the world.
- (4) The Sugar Development Levy directed to sugar-cane development, factory maintenance, research and extension services and road infrastructure should be reinstated with a clear management structure and review of its functions. Originally, roads were accessible to farmers and produce could reach the market as fast as possible. That Road Maintenance Levy was removed to the detriment of the farmer.

- (5) The Cabinet Secretary for Agriculture, Livestock and Fisheries, having been granted until August 2019 to make regulations under the Crop Act, expedites actions necessary to enable the publication of the Crops (Sugar) (General) Regulations and the Crops (Sugar) (Imports, Exports and By-Products) Regulations. The regulations must address all issues raised by the stakeholders including zoning - where millers in certain regions compete amongst themselves thus giving the farmers a choice of millers they can sell their crops to - cane poaching, contracting of out growers, minimum and uniform prices based on weight or sucrose content and all sugar-cane by-products. This is because there is a *lacuna* in the law and this has been exploited.
- (6) The Kenya Agricultural Research and Livestock Organisation (KALRO) and the Sugar Research Institute should be adequately funded to promote research and development of cane varieties, especially specific to sugar growing regions.
- (7) The importation of sugar into the country should strictly adhere to the sugar deficit as advised by the Ministry of Agriculture, Livestock and Fisheries. Any Gazette notices issued to permit importation of sugar must not be ambiguous. Further, the Ministry should consider restricting importation of sugar to the Kenyan National Trading Corporation and sugar millers on a pro-rata basis, depending on the sugar deficiency in the country and capacity of millers to address gaps. This is because we have sugar barons whose aim is to exploit, not only the poor farmers, but the country such that all the money that we get goes to individuals' pockets at the expense of the majority of Kenyans, especially the farmers. Those corrupt sugar barons should be reined in. They should be stopped. We should not encourage them at all. They should not be trillionaires at the expense of ordinary Kenyans.
- (8) The national Government should strengthen the fertilizer subsidy program and gazette regulations on the importation quality, quantity and repackaging of fertilizer. Hon. Wamalwa had raised this issue. There is the Fertilizer Board Act, 2015 which, as he said, was assented to in 2015. We are all wondering why it has never been implemented. This is to the detriment of the farmers.
- (9) The Cabinet Secretary for Lands should also provide information on the implementation status of the recommendation under paragraph 111, which stated that the national Government should implement the National Land Policy to mitigate further land subdivisions for improved productivity, failure to which appropriate action, including censure, should be taken by the House. This is a very important component of farming, especially sugar farming. It is something that should be pushed as much as possible. I would like to call upon my colleagues from those areas to ensure that we follow up on this together, because it will be for the benefit of our people. Sometimes, we pass things and we want our people to benefit, but they are not implemented.
- (10) The Departmental Committee on Agriculture and Livestock should look into the plight of frustrated investors in the sugar industry to avert the likelihood of investment losses. We had investors who were willing to ensure that the production of sugar is cheap in Kenya, but they were locked out because of the so-called entrance fees whereby officials who are supposed to ensure investment in sugar create bottlenecks to make themselves indispensable. That is gatekeeping, if I may call it that.

Hon. Temporary Deputy Speaker, any private audit firms which is established in the country should conduct its affairs in a professional manner, without the intention to misleading the shareholders and stakeholders on the financial status of companies. In future, any such private company which is proved to aid in such unprofessional acts should be barred from operating in the country. This is informed by the issue of Mumias Sugar Company. Innocent Kenyans were.... Give me one minute, please.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. ole Kenta, I will give you three minutes. You are doing a good job.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. Many Kenyans put in a lot of their money in factories and companies like Mumias Sugar Company because they believe in profitability and that they are for the benefit of the people. Audit companies mislead the people by cooking figures which show that those companies are profitable while they have failed. The ordinary people buy shares but, unfortunately, they do not benefit.

If these companies are privatised, the local people should be given first priority and substantial shares before other people get them. That is because that economic activity takes place in a particular area. Why should those people be disadvantaged? Why should foreigners benefit? We insist that those people should be given an opportunity to own those shares, to ensure that they do not suffer after sacrificing so much.

This is a very detailed Report. I request the Members to read it. Almost 60 years after Independence, it is wrong for our people to be poorer than the way they were after Independence. Western Kenya is one of the most fertile places in our country. However, it is one of the most neglected areas by the Government. This is the time that we must make sure that the people of western Kenya and other sugar growing areas are treated the same as the ones who grow coffee, tea and other cash crops. If there is a waiver of any fund like the one of taxes, they should also benefit like anybody else. I believe that all Kenyans are equal. They should all benefit from the resources as Kenyans.

Hon. Temporary Deputy Speaker, I would like to thank you and cry out to the Members, especially the ones from Western Kenya, that we need to fight for our people. There is no shortcut. The economy can be revived without any sweat because we have the land and know-how. We have so many people who are poor. The fabric of the economy has been destroyed by the malicious and greedy activities of a few Kenyans who import sugar at the expense of our factories. I would like to request Hon. Osotsi to second the Motion.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Osotsi. Very well spoken, Hon. ole Kenta. That is very impressive.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Osotsi, proceed.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you. Hon. Temporary Deputy Speaker, I beg to second the adoption of the Report of the Committee on the Implementation Status of the Report on a Petition on an Inquiry into the Crisis Facing the Sugar Industry in Kenya.

The Chair has mentioned most of the things in the Report. However, I would like to add that this is a very important Report. If the issues that are raised in this Report are addressed, we will resolve most of the challenges that are faced by the sugar industry. There are several issues that arose which will require the engagement of the House. The first one is the communication of the resolutions that are made by this House. Most of the people who appeared before us, including the Ministry of Agriculture, claimed that they did not receive any communication from Parliament

regarding this Report. Therefore, there was no implementation of most of the resolutions that this House passed. The Clerk of the National Assembly needs to take note of this because this is among the many reports that this House has passed. We continue getting similar comments from other implementation agencies that they were not communicated to. We need to streamline that area.

The second thing is the unwillingness by the investigative agencies to share information with committees, particularly the Directorate of Criminal Investigations (DCI). We wrote several correspondences to the DCI on the malpractices in Mumias Sugar Company. However, we did not receive some of the answers that we sought. That is a very important issue that Parliament can assist committees. Even though the DCI deals with sensitive information, Parliament is also important in interrogating some of that information.

I would like to touch on some of the resolutions or recommendations by the Committee. One is the issue of Mumias Sugar Company Kenya Revenue Authority (KRA) staff who were involved in import malpractices with regard to import permit requirements of 10,000 metric tonnes from Sudan. This issue did not come out very clearly because the Ethics and Anti-Corruption Commission (EACC) investigated that matter and forwarded the file to the Director of Public Prosecutions (DPP) who closed this matter in 2017 and yet, Mumias Sugar Company lost a lot of money in that transaction.

We also have the issue of Mumias Sugar Company and KRA officials who were responsible for the fictitious export of sugar between 2006 and 2012. We got communication from the DCI that substantial funds that were involved in this transaction were transferred to foreign accounts. They needed the International Criminal Police Organisation (INTERPOL) assistance because the origin of that crime was Kenya. They promised that they would give this Committee a report in one month. By the time we tabled this Report, we had not seen any communication from the DCI. Once this Report is passed by the House, I hope that Parliament shall officially write to the DCI on that issue.

The Committee travelled to various sugar companies, including Mumias Sugar Company. We witnessed the kind of plunder and misuse of public resources that has led to the collapse of Mumias Sugar Company. We were concerned because the individuals who were involved in all those pilferages are still walking scot-free and enjoying their ill-gotten money and yet, our farmers and employees of Mumias Sugar Company are suffering. This Report should be looked into seriously by the various implementation agencies, so that serious action can be taken.

I also want to add my voice to the issue of KPMG and Deloitte Touché Tohmatsu Limited for professional misconduct that is noted in the Report. I hope that action will be taken. As we are speaking now, the KPMG Audit Report on Mumias Sugar Company has not been availed. Even Mumias Sugar Company did not give us the Report. This is a very important Report because the public invested money in that company. Parliament is an institution that deals with the issues that concern the public. Therefore, that Report should have been provided to this Committee. I hope that we still follow-up and get this Report.

On the issue of the revival of Mumias Sugar Company, the National Treasury promised that it would develop a well-structured consolidation plan. By the time we were concluding this Report, the National Treasury had not submitted their plan. We also ask that this matter be followed-up, so that the National Treasury can give us a well-structured consolidated report as they undertook to give to the Committee. I hope that after 60 days, which is the period provided for in the Standing Orders, we, as a Committee, will still follow-up on the implementation of our Report because, if the issues that are here are well followed, we will be able to deal with issues affecting Mumias Sugar Company and other sugar companies.

Lastly, Hon. Temporary Deputy Speaker, is the issue of reintroduction of the Sugar Development Levy (SDL). You remember that this levy was abolished and this Committee has proposed that it be reintroduced. If this is done, most of the challenges that are being experienced in the sugar industry will be addressed.

With those few remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wangwe, you may have the Floor.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, allow me to really appreciate Hon. ole Kenta for the good work he has done. Last week, I pronounced myself on the same when he brought a very wonderful Report here. Today, I stand here again to appreciate him for the good work. This time, he has touched on my nerve. I am a product of sugar-cane farming.

Hon. Temporary Deputy Speaker, allow me to confirm that I began farming sugar-cane in 1984 and to date, I still farm sugar-cane. Without sugar-cane, I would not be in this House. Therefore, if you talk about sugar-cane production, you have really touched my nerve. In 1984, an acre of sugar-cane would give you about Ksh35,000. It is a shame that today, you could plant sugar-cane on a 10-acre piece of land but the returns would be close to nothing. I wish to invert the Report. Hon. Kenta, you called it: "The Crisis Facing the Sugar Industry". I would say that, that time the industry was in the High Dependency Unit (HDU) but, today, it is in Intensive Care Unit (ICU).

Mumias Sugar Company was functioning even at the time the crisis report was being done. Today, the company is under receivership. All the 22,000 employees of Mumias Sugar Company are now jobless; they are now out of employment. Any employee who is still there now is a casual labourer. Those are people who used to live well. Why am I giving that background? It is a great shame that people have looted funds belonging to sugar-cane farmers. It is not only Mumias Sugar Company, but also Nzoia Sugar Company and Miwani Sugar Company Limited. Today, the Government is intending to privatise those sugar mills.

Hon. Temporary Deputy Speaker, if Hon. Kenta's Report will be adopted, we wish to ask that he implements it. Where we can explicitly reveal that someone imported 10,000 metric tonnes of sugar, we have the bills of clearances at the borders. Why should that person acquire apartments in this town in prime estates and yet, the cane farmers are languishing at home? It is a shame that those people who work in cahoots with the KRA can walk scot free just because they could be connected one way or another. This is a challenge to the Committee on implementation but I am sure, Hon. Kenta, being a very stable lawyer, will push for the implementation using his skills.

Issues that came out from the initial report were to do with delayed payments to sugar-cane farmers, thus resulting in arrears, high cost of production and acute cane shortage. I want to dispute and say that there is no acute sugar-cane shortage. This is purely intentional because when you do not pay a farmer, how do you expect him to produce sugar-cane? Also, there was low productivity, ineffectiveness in the cross-chain value and a weak regulatory framework. The Report that Hon. Kenta has come up with references on the sugar task force, which was also part of the initial report. I want to agree that it will be a good thing if the taskforce reports and recommendations are also incorporated in this Report that Hon. Kenta and the Committee have produced, especially where it is talking about issues to do with the SDL.

In as much as we are talking about sugar-cane production, how do we get the cane produced without putting emphasis on agronomy? We need to have studies to show which cane is to be grown where. Not all cane is grown in the same soil type. We also want to look at the issues of pricing. If pricing is now going to be based on weight, I feel like this is what has demoralized farmers. Let us now go back and change our sugar pricing formula such that we now get the pricing from the....

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wangwe, you know that we usually just have five minutes. I hope you had completed. I add you one more minute.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker for adding me one minute. It is very important that, as we discuss this Report, it should also form... There is a Bill that is being prepared by the Departmental Committee on Agriculture and Livestock through Hon. Wamunyinyi. If that comes, we will be looking at such issues like the SDL, the zoning, marketing, trade and compliance with the Common Market for Eastern and Southern Africa (COMESA) safeguard conditions. These are the issues that we should be discussing as we wait for the sugar Bill which is being proposed by Hon. Wamunyinyi.

With that, I beg to support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Now, let us have Hon. Melly, Member for Tinderet.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report by the Committee on Implementation. Hon. Temporary Deputy Speaker and Members in this House, Hon. Kenta has moved a very passionate Report on how farmers have been impoverished by poor policies, corruption and by a Government that does not listen to the people.

I come from a region where we grow sugar-cane. Over 70 per cent of my constituency is occupied by sugar-cane and we supply it to factories in Chemelil, Muhoroni and Miwani. Those days when we were growing up, our parents could pay fees very easily. Today as we speak, many of the communities living along the Nandi Escarpment within the Nyando Region of Kisumu, Nandi and Kericho counties live in abject poverty – that is manmade poverty. The founding father of this nation was quite visionary especially in establishing those factories in the mid-1960s. Those factories employed many people in my constituency, Nandi, Kericho and even Kisumu.

As we speak now, sugar is one of the most sought after commodities in this country. Kenya, for the information of Members, is the largest sugar market in the East African region. We consume almost one million metric tonnes of sugar. Farmers in the western Kenya region are supposed to produce 500,000 metric tonnes. But if you check what the barons are doing... The western region, in terms of sugar-cane, supports about 14,000,000 Kenyans, both directly and indirectly. Those Kenyans are now staring at poverty. Hon. Kenta and the Committee on Implementation have just said it loud and clear. That, one, the barons have their say and they laugh all the way to the banks. They are able to import. They have enough money and, hence, they will buy their way and they will still bring the sugar to the Kenyan market.

Hon. Temporary Deputy Speaker, if you look at the neighbouring countries, for example, Sudan, South Africa and even Egypt, they are producing sugar. Right now, we cannot even be compared to our neighbour, Uganda and yet, we were leaders in sugar production. What happened to us? Every aspect of farming in Kenya is going down. The last affected crop is tea which is now facing a crisis again. Coffee and pyrethrum went under. Sugar was deliberately put down by greedy importers. Now, we are talking about unemployment in this country and yet, we know very well that if we are going to revive the sugar sub-sector, we will have over 500,000 jobs from that sector

alone. They will be well-paying jobs; not just jobs. Now, talk about other connected linkages in the industry, we will have over two million jobs.

I just want to urge this House that it is time to act and put the Government on its toes to ensure that we, as Members of Parliament (MPs), do not legislate in vain. We make laws and those laws, the way Hon. Kenta has put it, are not taken seriously by the concerned Ministries and Government agencies to an extent that even a very good Bill... Right now, we are working on the Sugar Bill which has very good clauses on how to revive the sector. The Bill intends to create the Sugar Board and Sugar Development Levy. All that is going to revive the sector, but you will find that an individual will come...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Melly, we may legislate with pain from where we come from, but we will never legislate in vain. I agree with you. Let us have Hon. Mbui.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support this Report by the Committee on Implementation, which is really timely. Many issues that I wanted to raise have just been ably canvassed by the Hon. Member for Tinderet. It is also my observation that our founding fathers were visionary because they came up with a plan for the country. They said: "We want to deal with the issue of poverty and hunger." This is what this kind of industry kind of deals with because if farmers are successful, then the issue of poverty is eradicated and the issue of food is also sorted out. Unfortunately, many years after the Independence of this country, farmers are getting poorer. Actually, it is a fact that they were able to feed, educate and clothe their children. But now, the poorest Kenyan is actually a farmer. This is unfortunate because many Kenyans are basically still involved in farming activities.

So, what has led us to this? First and foremost, I want to agree that it is really as a result of poor policies. It is due to poor policies in the industry especially in the sugar industry where we allow cheap imports that come to compete with locally produced sugar which, of course, is also expensive because of the inputs that are expected. There is also the problem of poor management of the mills which has been one of the major issues from time immemorial. I remember mentioning another time that I had a neighbour – and this is directly related to corruption – who was doing so badly financially that he tried to sell his piece of land. Fortunately, he got recruited into the sugar industry and he was working in one of those sugar authorities in the country. Within no time, actually, a turnaround period of six months, that gentleman stopped selling his own land and bought all his neighbours off. He bought everyone off from left, right and centre. Clearly, his salary could not have been able to afford that. So, that was obviously coming from the hard-earned income of the farmers that they are denied because the corrupt cartels are always able to do that. So, that industry also ends up collapsing.

Many times, you have seen the Government attempting to inject funds to rescue it, and even those funds somehow find their way into the pockets of the people. So, it is important that this Report be implemented to the letter so that those people who are culpable are identified and dealt with accordingly.

It is true that all our other agricultural sectors are affected such as cotton, maize, milk, coffee, *et cetera*. All those are affected severely. Recently, as a member of the Committee on Delegated Legislation, we have been involved in a matter to do with tea. It is so shocking how Kenyans perceive their own Government. If you go to the Rift Valley region, you will find everybody in that area wants nothing to do with the regulations proposed by the Cabinet Secretary that have already been gazetted and yet, if you go to the Central region, you will find everybody is fully in support. It is like two different worlds. The regulations and players are the same, and

the effect will obviously be the same for all farmers but, unfortunately, just because they mistrust the Government from one area more than another, you will find that they do not want anything to do with the Government's proposals. That is why I am happy to note that the Government decided that even our livestock industry would be saved by ensuring that even the Kenya Meat Commission (KMC) is taken over by the military because it looks like the civilians are now becoming too corrupt to manage Government funds.

With those few remarks, I wish to support and hope that the implementation will be followed up by this Committee until it is actually done. It is unfortunate that, sometimes, we come up with excellent reports and then they are not implemented. Now if the Committee on Implementation does not get this Report implemented, then it will beat the logic of having such a Committee in the House. So, I wish to support.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mbui, we must not give up on this beast called corruption. We must slay it, and Hon. Kenta and his Committee have been brave enough to point fingers to where it lives so that those with the knives can go and slay it for us.

Hon. Koyi Waluke, Member for Sirisia, the Floor is yours.

**Hon. John Waluke** (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance also to add my voice to this Report about the poor sugar-cane farmer who has been crying since the first day. He is a sugar-cane farmer, but he cannot afford even to drink tea because he cannot afford to buy even a half kilogramme of sugar.

Time has come and let me take this opportunity to thank Hon. ole Kenta, the Chairperson of the Committee on Implementation, for the good work that he has done. Sometimes, he has decided to bite the bullet, which is not easy for many of us here. The sugar-cane farmers have big problems and this Report should be implemented word for word. If we fail to implement it, we will also just be the same. Maybe, we would have joined those whom we are calling corrupt or thieves, which should not happen. The laws are made by us; we are the lawmakers. A Report like this one should be implemented so that those companies or people we are complaining about and pointing the finger at should be arrested. I was arrested myself and jailed for 74 years allegedly because I was corrupt.

In the history of Kenya, this has never happened. I believe and trust that I am not corrupt. I am not a thief, but I was jailed. So, the policies must be followed. The laws must be followed. The rules must be followed. There should be no exemption for others who are deemed to be important than others. We are all Kenyans. It should not matter which family you come from. Even if you are in Government, it should not matter. The Government is Government, and it was voted in by the people of Kenya.

I agree that those factories have collapsed because there are civil servants who are involved in those cartels. Last time, I pointed out about Telkom and Orange. It is important that as Parliament, through Committees, we follow up on those cases. The Public Investments Committee (PIC) and other Committee are responsible. Many of our parastatals have been taken up by foreigners and senior people in Government, just because of that. That is something which Hon. ole Kenta has pointed out. This should come to a stop if we want to help Kenya.

There were industries in my area which were set up by the first President of Kenya, Hon. Jomo Kenyatta. They were all doing well during his time. They later on collapsed. An example is Mumias and Nzoia sugar companies, and Pan Paper Mills.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I will add you one more minute, Hon. Waluke.

**Hon. John Waluke** (Sirisia, JP): I need more time because I have been away for 74 years, you know!

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Okay, you have two minutes, Hon. Waluke.

**Hon. John Waluke** (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker.

So, this thing should come to an end. In the areas that have been mentioned, people plant sugar-cane. It extends to the Rift Valley near Eldoret Town. It extends to Kolongolo in Trans Nzoia. Sugar-cane is very important to us. We import sugar even from our neighbour Uganda, who sell the commodity at a good price. How do they produce sugar using little money and why do we produce it at a high cost? These are things which should be looked into properly. There are people who are just there to make sure that Kenyan farmers and industries fail so that they buy them. The people who have bought the collapsed factories are big people. They are not small people. They are big people in this country who collude with foreigners to make sure that factories collapse.

As lawmakers of this House, let us adopt this Report. Let us support it fully so that we can stop the selling of those factories.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Waluke, time has run out on you now. We will have contribution from Hon. Obo Mohamed, Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante Naibu Spika wa Muda, kwa kunipa nafasi hii nichangie Hoja hii.

Moja kwa moja, nataka kuipongeza Kamati kwa Ripoti yao nzuri. Lakini Kamati hii imeangazia sana upande wa Magharibi. Kwa hakika, sio upande wa Magharibi peke yake ambako miwa inapatikana. Miwa inaweza kupatikana kwa wingi upande wa Tana River na Lamu hata kushinda upande wa Magharibi. Kunaweza kutoka miwa nyingi eneo la mto Tana. Kilomita chache kutoka Mto Tana kunaweza toka miwa nzuri zaidi kushinda upande wa Magharibi. Utafiti uliofanywa unaonyesha kwamba miwa ya upande wa Magharibi inavunwa baada ya mwaka mmoja na nusu. Lau ingefanyika upande wa Tana River na Lamu, sana sana Lamu, miwa hiyo inawezavunwa baada ya miezi kumi. Utafiti tena ukaonyesha kwamba tunaweza kuzalisha miwa na kupata tani 100 kwa kila ekari moja. Upande wa Magharibi mwa Kenya, ekari moja huzalisha tani 80. Lamu inaweza kupatikana tani 360 kwa siku.

Tunajua kwamba kila tunapokwenda tunaliliwa mambo ya kazi. Watu wanatafuta kazi. Hizi ndizo nafasi za kazi. Kamati hii ikitia akilini jambo hili, inafaa kufikiria kaunti nyingine pia; sio upande wa Magharibi peke yake. Sekta hii itatoa kazi nyingi. Pia tutakuwa tumechangia katika zile Agenda Nne za Rais. Tutakuwa na uzalishaji mwingi. Tunaweza mpaka kusafirisha. Na sisi Lamu tuna bandari ambayo iko karibu. Twaweza kuitumia ile bandari kwa faida ya Wakenya na wakazi wa Lamu pia. Tusingojee kutoa miwa au sukari kutoka huku. Twaweza pia kutumia bandari ya Lamu kusafirisha. Pia itakuwa ni faida kwa Serikali.

Mhe. Naibu Spika wa Muda, ndio tunasema pesa zipelekwe mashinani ndio tuweze kuzalisha mashinani na watu watoke kwenye miji waende wakatafute kazi mashinani. Tukisema pesa ipelekwe tu kwenye watu wengi, basi tutasababisha kuwe na idadi kubwa ya watu katika miji. Naiomba Kamati hii au Bunge, tafadhali, lipitishie hii Ripoti au mtaandika nyingine na mhakikishe mmeiweka Lamu ndani ili tuweze kuzalisha sukari. Watoto wenu watakuja kufanya kazi kule. Haimaanishi mkipeleka pesa Lamu ni watu wa Lamu tu ndio watafaidi. Hapana! Bandari iko Lamu au Mombasa lakini wanaofanya kazi kule ni Wakenya wote. Narejelea: Pelekeni pesa mashinani ili tutoe watu kwenye miji waende wakafanye kazi mashinani. Mkiweka pesa huku, watu watajaa

huku. Kwa mfano, pesa zikiwekwa Nairobi zaidi, watu watatoka Lamu waje wakae Nairobi kutafuta kazi.

Ahsante Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Obo, you have spoken well but, if you look at the Report, it is a Report that was trained squarely on the industry as it exists. I am aware that there are good reports that there can be excellent farming of sugar-cane in the Tana River Basin and also the Ramisi area in Kwale. This Report does not in any way deny development of those areas.

In my view, as an industry, those are issues, as you have correctly pointed out, that this Report does not deny those areas development.

Hon. Nguna Ngusya, Member for Mwingi West, you have the Floor.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I want to thank our Chairman, Hon. Kenta, for bringing a wonderful Report. I would like to inform you that I was part of the delegation of Members who travelled to Western Kenya and Nyanza to investigate this matter. I recall that the effort took two days traversing and criss-crossing Muhoroni, Chemelil, Mumias, Miwani and all the way to South Nyanza Sugar Company. I am not emotional but I am one of the biggest losers because I was a shareholder in Mumias Sugar Company. I lost millions of shillings because of this.

While carrying out this investigation, we traversed many areas and witnessed dilapidated structures. There were no access roads to some of those companies. We are seeking the reintroduction of the sugar levy so that we can revive some of that infrastructure. In Mumias, we met 4,000 farmers and without doubt, sugar farming was their only source of income. Their livelihoods depended on sugar-cane farming. They were so desperate. They requested us to recommend for the revival of Mumias Sugar Company. I am agitated because this Report has not been prioritized even after two investigations. We did this Report last year and we are discussing it this year. I hope we are not legislating in vain.

Hon. Temporary Deputy Speaker, careless management was an issue that was cutting across all the sugar factories. I recall that the Chairperson of Mumias Sugar Company addressed us, but she did not have any information regarding the company. Some of the staff were from other sectors and have never managed in the economic sector. The staff had not been properly constituted. I recall an incident between Mumias Sugar Company and the KRA where there was collusion of exports and money was deposited in a foreign account. The Committee tasked the EACC to investigate that matter, but it has not done so.

There was also misuse of resources. There are individuals who were mentioned in the matter, but they are still walking free. The auditors of those companies have not been disclosing their financial status. For example, Mumias Sugar Company was a going concern, but that was not mentioned in the report of the auditor.

As I conclude, I would like to request you to add me a minute. We should revive the sugar industry. If the President is serious with the Big Four Agenda, and agriculture being one of them, sugar has more potential of attracting exportation than coffee.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nguna Ngusya, you have your minute.

**Hon. Charles Nguna** (Mwingi West, WDM-K): We need to revive the sugar sector if at all we are serious. The National Treasury made a commitment to come up with a strategy to revive the industry, but nothing has been done so far. Members of Parliament from Western and Nyanza must follow up on this issue as we co-operate to ensure that those industries are revived.

With those few remarks, I want to call for the reintroduction of...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nguna, your time is up. Hon. Mwambu Mabongah, Member for Bumula, you have the Floor.

**Hon. Mwambu Mabongah** (Bumula, Independent): Thank you, Hon. Temporary Deputy Speaker. I want to thank the Chairman and his team, who traversed our region to come up with this Report. This is a serious matter, and as my colleagues have said, we will not give up in pushing the agenda of our people and the interest of this country. I am happy you are from the sugar region and I do not need to belabour so hard to convince you that almost 3,000 people lost their jobs because of poor management. As we speak, I am just wondering how this Report was tabled here last year, and we are debating it today. How long will it take before it is implemented? There is lack of commitment on our side. As it has been pointed out in this Report, if there is a serious commitment from the Government, people from my region will be happy.

Last year, I visited Mauritius, a small country with a small portion of land, but they are doing farming. They export many tonnes of sugar. Through their Minister for Agriculture, we noted that people are serious and the management of those industries is in the hands of professionals who are ready to deliver. In our country, we reward people who have no knowledge of running factories. I am happy that the Committee has pointed out that there are serious management gaps in those industries. We must ensure that people who are hired to work in our factories that generate income and boost the economy are professionals.

Hon. Temporary Deputy Speaker, cheap sugar imports are coming into the country under the watch of the Government. There is always an open window given to some of those cartels to import sugar. Last year, we debated an issue of sugar that had been discovered at the former Pan Paper Factory. However, the report was not handled well. The factory is still there and imports are coming in. Once the window is opened and cartels import sugar, these other industries close. The little sugar from our industries has no market because the cost of production for our farmers is a challenge. If it were not for sugar-cane, some of us would not be here. Most kids have gone to school because of sugar-cane farming. We now have children who will miss education because their parents cannot afford to engage in any other activity. It is not easy to change a culture that has been built overtime, especially of the old farmers.

As we cry right now, people are suffering. Our children are at home because they cannot pay schools fees. What is going to be done? I would request the Chairman, *Mheshimiwa* ole Kenta, to have a specific timeline of implementing this good Report. Hon. Temporary Deputy Speaker, I request that you add me just a minute to finish my point.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mabongah, I will add you two minutes.

**Hon. Mwambu Mabongah** (Bumula, Independent): Thank you very much. There is something that we have been battling with every time we meet industry stakeholders and farmers. You know very well in our region there are over 200,000 farmers. The Government is planning to lease those factories without engaging the farmers. Even if you are a doctor and you know everything to be done to a patient, somehow, you have to ask how the patient feels. Farmers have not been seriously involved in those processes. The same cartels who want to enjoy monopoly in our region and continue to mistreat our people are the ones championing this process. So, I want to ask the Chairman to have specific timelines and engage people who are involved in this process to ensure that the sugar industry is revived.

If today we revived the five industries that we have just talked about here, what would stop them from employing more than 5,000 Kenyans in a month? It is about serious commitment. The

billions of shillings we are wasting on things that do not add value at all to this country should go to the sugar industry to revive the backbone of the economy in our region. The Committee and the entire team that traversed the country should not tire. What we want is the implementation of this Report so that our people are happy and appreciate what the Government is doing and what this House has done. We should establish good policies and engage the Treasury immediately so that we have a timeline of engagement. We also want good management of the factories. Even those factories that still operate are struggling right now because of bogus management. You find a factory running without a board. How are they responsible? The report has talked of auditors. Who audits those people? Reports come out but nobody makes a follow up of the same. I submit and support this Report. Let us carefully follow up these resolutions to the letter to ensure our people are safe.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Well spoken, Hon. Mwambu. I know you come from the Nzoia region, where the failure of the factory is a tragedy. It is hoped that something will be done.

We shall have Hon. Mboko Khamisi, Member for Likoni.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Ahsante sana, Mhe. Naibu Spika wa Muda. Hata mimi pia ningependa nizungumzie suala hili la ukuzaji wa sukari. Kila sehemu katika Jamhuri ya Kenya iko na uti wa mgongo wa uchumi wake. Hakika kwa watu wa Magharibi na Nyanza, sukari imekuwa uti wa mgongo katika uchumi wao. Suala hili la sukari ni suala nyeti kwa sababu viwanda hivyo vya sukari vilikuwa vimeajiri zaidi ya watu 40,000. Pia, vilikuwa vinafaidisha watu zaidi ya laki moja ambao ni wakulima wa miwa na, hivyo basi, kuweza kufaidisha zaidi ya watu milioni mbili katika taifa letu la Kenya. Ni masikitiko makubwa ya kwamba viwanda hivi vyote vilikufa na hivyo basi tukapoteza ajira na maisha kwa Wakenya wenzetu. Hivi sasa, Rais wetu amezungumzia ajenda zake nne. Katika ajenda moja, amezungumzia mambo ya viwanda. Basi iwapo ako na ajenda kama hio, ni wazi kabisa Ripoti kama hii itekelezwe ili tufufue viwanda hivi.

Tumeona ya kwamba changamoto nyingi zilikuwa katika sera. Kumekuwa na sera duni ambazo zimesumbua sana wakulima wetu kuendelea na kilimo kwa njia ilio sawa. Vile vile, kumekuwa na ushindani. Wakulima wetu hawana uwezo wa kushindana na wakulima kutoka nchi za nje katika biashara ya sukari. Vile vile, soko ilikuwa changamoto kwa sababu nchi yetu iligeuka ikawa ni sehemu ya kutupia sukari kutoka nchi za nje. Sukari ile inahujumu juhudi za wakulima wetu na kufanya sukari inayokuzwa na wakulima wetu kukosa soko hata hapa kwetu Kenya, mbali na zile nchi zingine za nje. Kwa hivyo, jambo kama hilo, kama tunataka kuenda mbele kama taifa la Kenya, lazima tulizingatie sana. Vile vile, tunafaa kujenga taaluma zaidi kwa wakulima wetu katika ukuzaji wa sukari. Hivi sasa, tuna lengo na madhumuni ya kufufua viwanda kama hivi. Hilo litakuwa suala muhimu sana. Vile, vile, lazima kuwe na fedha na hazina maalum kwa sababu hivi ni viwanda vilivyokuwa vizuri na vimeboresha maisha ya Wakenya na kuboresha uchumi wa taifa la Kenya. Hivyo basi, katika harakati za kuvifufua, lazima kuwe na hazina maalum ambayo itahakikisha ya kwamba Ripoti hii na yale ambayo sisi tumeyapendekeza yanatekelezwa bila taswishi yoyote.

Suala lingine ni kuwa wafanyakazi walikosa mishahara. Swali ni: Je, mishahara ilikosekana kwa nini? Katika Ripoti, tunaona kuna ufisadi ambao ulikithiri kwa kiwango ambacho hata wakulima walishindwa kupata mapato yao. Hata wafanyakazi walishindwa kupata mishahara yao. Hayo yalihujumu ukuzaji wa miwa na kuhujumu viwanda vyetu vilivyokuwa wakati ule.

Jambo lingine ambalo nataka kuzungumzia ni utekelezaji wa sheria. Yale ambayo kama Bunge la Taifa tumezungumzia lazima tuyachukulie kwa upeo wa juu sana. Tusiwe tu

tutazungumza kisha ripoti inawekwa kando bila utekelezaji. Sasa ni wakati wa Bunge kuhesabika katika kufufua ukuzaji wa viwanda vya sukari. Leo tunaona katika miji yetu watu wengi wamejaa; kumekuwa na msongamano kwa sababu kule nyanjani, kule mashambani, hakuna ajira yoyote wala viwanda vyovyote. Wakenya wote wanakimbilia mijini. Kwa hivyo, iwapo tunataka kukabiliana na mambo kama hayo, lazima kuwe na viwanda mashinani na viboreshwe kwa hali ya juu kwa tekinolojia.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mishi, have you finished? Very well! We shall now have Hon. ole Kenta, the Chair, to reply, there being no further interest in this Motion.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to thank Members who have spoken and supported the Motion. Some things which are already in the Report have come out, like the zoning issue that Hon. Wangwe has raised. That is a very pertinent issue. What has been happening is that you confine farmers to a particular area, but they are not paid. They say that it is not viable. They want to be able to sell their produce to whoever is going to give them the highest price. Zoning will be a big issue. As everybody said, our people have become poor. I can assure you as a House that we shall not retreat on this matter because a lot is at stake. The lives of our people are at stake. When somebody says that the cost of production is too high, why is it not too high in Uganda? Why is it not too high in Sudan? Why is it not too high in other countries that are not even better equipped than ours? It is because we are intentionally killing the sugar industry.

Hon. Ruweida has raised a very pertinent issue about the Coast. I would like to assure her that in our Report, we have talked about the Kwale International Sugar Company at the Coast. Most of the employees there are from Western Kenya. As you have said, and I agree with you, any Kenyan can get employment where there is a sugar company. That is something we must do. The other good thing about sugar production at the Coast is that sugar-cane there matures at half the time that the one in western Kenya matures. This is something that we must all come together and support.

I will call upon Members from the sugar-cane growing areas: Let us, kind of, create a caucus to follow this up. If we are going to wait for the so-called taskforce or the so-called works-- Without the input of the representative of the people, I can assure you that it will never happen. This is because those are still the beneficiaries of those corrupt parties. They are the ones who are eyeing the land and trying to make sure that our people are poor. Unless the people, through the Members that they elect to Parliament come together and say: "Enough is enough, let us call back our rights. This thing can be done and we have seen it," we will go nowhere.

I would like to thank the Office of the Speaker, the Office of the Clerk, my staff and the Members because they facilitated this Report. I can tell you that this Report has a lot of goodwill from all over the place. I think it is goodwill that we must ride on and ensure that all this is adopted. Even though our role is actually to report on the implementation status, I think as you have said, we can go beyond that and ensure that we follow up. But we can only do so with the assistance of the Committee concerned. There are some regulations and laws that we are supposed to pass to enable those farmers to get the fruits of their labour.

I would like to thank all the Members and I beg to reply. Thank you so much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Job well done. We are proud of you, Hon. ole Kenta.

Hon. Members, for good reasons, I direct that the next step with regards to this Report be undertaken when it would be set down for consideration of the House again.

*(Putting of the Question deferred)*

Hon. Members, looking at the time, and for convenience of the House, I direct that, that would be the last business that we will have today.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Therefore, Hon. Members, the time being 6.52 p.m. this House stands adjourned until Thursday, 8<sup>th</sup> October 2020 at 10.00 a.m.

The House rose at 6.52 p.m.